Tenancy databases: risk minimisation and outcomes

authored by

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EXECUTIVE SUMMARY

Tenancy databases are electronic databases operated by commercial market providers from which, for a fee, property managers can obtain information regarding prospective tenants. They have been developed and are marketed as a professional tool to protect the interests of property owners and lessors. They are used to screen prospective tenants and so reduce property owners' exposure to rental tenancy risks. Their use has become widespread in Australia and elsewhere.

With increasing dependence on the private rental market as a longer-term housing option by low-income households in Australia the use of tenancy databases has several critical policy implications.

The research reported here started with an extensive review of the literature and an analysis of the electronic information provided by and on tenancy databases. The core of the research, however, was a series of face-to-face semi-structured interviews in Queensland, New South Wales and Victoria, with tenants, tenant advocates and representatives of the property management industry.

There are several kinds of tenancy databases. Some offer only the database service and collect and disseminate their own primary information. Others may offer additional advisory and training services to property managers. Some offer their services based on the use of secondary data (eg from another database operator). In Australia there are databases based on both primary and secondary information, as well as those offering only database services and those offering additional services.

A major difference between Australian databases and many of those overseas is that the Commonwealth Privacy Act 1988 prevents Australian operators from providing credit information, as this can be used only by organisations who are solely credit providers. Tenancy databases provide information provided by subscribers on breaches of tenancy agreements, defaults on payment, and similar tenancy history matters.

Australian property owners and their agents view tenancy databases as an essential (if not completely effective) professional tenancy management tool. It is used to reduce owners' risk of exposure to rent default or damage to their property. Property managers were concerned about risks to rental income flows rather than to risks to capital gain. They use tenancy databases to reduce their exposure to risk, even though the financial risk is not quantified. Although they cannot provide comprehensive data on tenants because they rely on subscribers for data entry, tenant information is organised and sold by database operators. Listing practices vary considerably across the industry. Accessing, checking and updating information involves several organisations and stakeholders.

Legislative controls on the accuracy and appropriateness of personal information stored on databases is partially addressed through privacy laws and fair trading laws; but because databases screen prospective rather than current tenants their operations are not captured by State residential tenancy laws (except in Queensland where recent amendments to the Residential Tenancies Act specifically address the operation and uses of tenancy databases).

Tenancy databases impact on tenants in two quite different ways. First, they are one of a number of avenues by which tenants can demonstrate a satisfactory tenancy history. Not being listed, or having been removed from a listing, is an indicator (along with getting a full bond refund, references from previous landlords, and so on) that helps construct a satisfactory personal rental history. But, on the other hand, being listed is potentially disastrous for obtaining a tenancy and may negate other positive indicators. Because of

this, tenants and tenant advocates are concerned about issues of fairness, transparency and accountability in record keeping and about their rights to access their information. Some listings are seen to be unfair or vexatious, or are incomplete, out of date or inaccurate.

Clearly tenancy databases can have a powerful impact on a person's ability to access private rental accommodation. The power relationships between property manager and prospective tenant involved in their use are very much in favour of the manager. Several informal uses of databases have developed, including property managers 'warning' tenants they might be listed as a way of getting them to comply with tenancy agreement conditions prior to issuing notices of breaches under tenancy legislation. They claim this kind of approach enables them to overcome what they see as inordinate time delays and rent recovery problems through implementing tenancy breach procedures. Implementing constraints on such informal practices is highly desirable from a social justice perspective, but is likely to lead to property managers developing other informal strategies to protect their interests.

Both tenants' advocates (who were more aware of the impact and workings of tenancy databases than were tenants themselves) and property managers identified shortcomings in the entry and updating of the information they contain. The unreliability of tenancy database listing practices is problematic for property managers and tenants alike. Some managers subscribed to several databases in order to be more certain they were effectively screening out 'high-risk' tenants. In buoyant rental market conditions, when managers have several applicants to choose from, listing is sufficient to have an applicant refused accommodation; when the rental market is tighter, or where there is lower demand for certain types of accommodation, property managers are prepared to negotiate with prospective tenants, through offering opportunities to remedy the actions that lie behind the listing, or through shorter leases tied to stringent probationary conditions.

Tenants identified as 'high-risk' through their listing on a tenancy database are in an extremely vulnerable position. The research showed that they can be forced into the more volatile and less secure informal rental market: sharing accommodation, informally sub-letting, relying on parents or friends, and so on. It is clear that many of these 'high-risk' tenants require non-housing support in addition to housing. In this sense, through their impact on reducing financial risk to the property owner tenancy databases add to wider social risk.

Certain implications arise from this analysis. The report notes that:

- Other States and Territories should consider amending tenancy legislation, as has been done in Queensland. A national response is required as databases operate across the country. This is necessary to standardise the use of tenancy databases and the associated listing practices of the residential tenancy industry, to ensure accuracy of records and fair treatment of database subjects.

- Some attention should be given to the development and refinement of systems and protocols for tenant access to and use of certified brief records of their personal rental history based upon official rental bond authority records. The tenant could then use these certified records to their advantage as a reference.

- The onus to ensure accuracy and fairness in the listing of database subjects should lie with the database operators and not with the database subjects.

- Tenancy database operators should consider measures to improve the reliability of data-entry protocols. They also might wish to consider the commercial benefits of adopting systems of procedural and ethical accounting to demonstrate the reliability of their data-entry and storage procedures, their compliance with relevant legislation and, especially in the absence of appropriate legislative constraints, their consistency and fairness in the treatment of all categories of database subjects.

- To complement formal legislation, industry peak bodies should be encouraged to develop industry standards for self-regulation of the lawful, just and ethical use of tenancy databases. Industry regulation of tenancy database usage, for example, through codes of practice or codes of ethics, is warranted to promote professionalism and best practice within the industry while providing tenants with some degree of protection from arbitrary actions.

- Industry peak bodies should be encouraged to continue to develop and incorporate specific guidelines on the use of tenancy databases in best-practice models of communication, negotiation and mediation between property managers/ landlords and tenants that are consistent with statutory requirements and with the rights of property owners and tenants expressed in relevant legislation.

- A concerted public education campaign that informs tenants and potential tenants, property owners and property managers of the limits of lawful operation and use of tenancy databases in the residential tenancy industry should be undertaken.

- State housing authorities and specifically State residential tenancy authorities should actively encourage and work with other State agencies and private residential housing providers to promote 'private regulation' of tenancy database (and other) practices through provider contracts

- State and non-government agencies, along with private providers, should be encouraged to develop strategies to strengthen low-income and high-risk tenants' social and economic capacities to maintain tenancy agreements through inter-agency support programs linked to housing provision.

- Further research and development of best practice models of provider partnerships for sustainable housing for low-income, high-risk tenants should be undertaken with the aim of reducing the actual risk to the industry of having such high-risk groups in the market without support.

1 INTRODUCTION

During the last decade, tenancy databases in the Australian private rental market have received growing attention (Seelig, 1997, 1998; The Age, 1997; Gregory, 2001). These are electronic databases operated by commercial market providers and established to assist property managers to identify 'difficult' or 'problem' tenants. Generally, access to the databases is available to real estate agents and property managers, but not self-managing landlords. For a fee, agents and managers can obtain information regarding prospective tenants from the databases, and on the basis of this information, individuals can be refused accommodation. This results in listed tenants either seeking accommodation elsewhere in the private market or looking for alternative housing.

Reponses to their emergence in Australia have been generally oriented to an examination of appropriate legislation at a state and federal level, in relation to their operation, their use by property managers and the rights of tenants as consumers.

This research argues that there is also a need to understand the implications of tenancy databases from a tenure management perspective. Property managers have routinely screened tenants in various ways, yet little is known of these practices in Australia.

Harloe (1985) points to a historical tendency to screen tenants in a post-war European context. He also points out that while tenants' rights to tenure are legislated, the potential interplay of interests in the field can lead to a gap between officially sanctioned behaviour and actual practices. Winter (1994) points to the dearth of information on the dynamics of housing tenure in Australia. Seelig (1997) has also observed a similar gap with respect to the operation and use of tenancy databases. Understanding the practices that lead to the listing of tenants on databases, and tenants' responses, then, requires an approach that attends to the housing context and the broader practices of private rental tenure management.

The widespread use of tenancy databases raises several concerns. As outlined in this project's Positioning Paper (Adkins et al., 2003), these concerns are important, given the increasing use of the private rental sector as a longer-term housing option for low and middle-income earners. The Positioning Paper argued that the legislative and policy frameworks within which tenancy databases operate emphasise self-regulation on the part of property managers and database operators. They require tenants to be proactive in seeking information and redress for inaccuracies. Two key issues that arise from this are private property managers' approaches to risk management in the context of a disadvantaged tenancy sub-market; and tenants' responses to the requirements entailed in being pushed into the role of data subject. The paper argued that it was important to consider the issues of social risk management raised by the exclusion of listed tenants from the formal part of the private rental market.

In this context, the study addressed the following questions:

- What is the role of tenancy databases in the context of broader risk minimisation strategies in the private rental sector in Australia, USA and the UK?

- What are the current management practices adopted by tenant databases in Australia?

- Are there uniform procedures or variations within Australia, and how do these compare with those adopted overseas?

- What processes and strategies are pursued by Australian private real estate and property managers (including estate agents and self-managing private landlords) to screen and minimise exposure to risk?

- What screening and risk management strategies are pursued by those landlords who do not have access to the databases, or who choose not to list tenants?

- What are the impacts on current and future housing and tenure options for tenants?

Chapter Two of this report first outlines the research design and methodology employed. Then Chapter Three locates tenancy databases within two contexts. The first is a comparative perspective, examining the organisation of tenant screening in several countries, and situating Australian approaches within this. The second is the managerial context of risk management. The report identifies key characteristics of the policy and legislative context of tenant screening in Australia, updating and drawing out the regulatory implications of the framework outlined in the Positioning Paper, as well as locating the approaches within a risk management framework.

This is followed in Chapter Four by an analysis of research findings in relation to property managers' listing and screening practices. Chapter Five deals with tenants' strategies associated with their role as data subjects, and the issues of social risk management raised by tenants' actual and potential exclusion from the formal private rental sector due to database listing.

The report concludes in Chapter Six with an overview of the implications of the findings for policy and practice.

2 THE STUDY APPROACH

2.1 Background

The research was conducted in the states of Queensland, New South Wales and Victoria to enable a broad coverage of the areas where databases are used in Australia across different market and state (legislative) contexts. In keeping with the focus of risk minimisation in the management of private rental tenure, the research methodology was designed to generate knowledge of the contexts of risk management in this sector, risk-management practices and strategies adopted by both property managers and tenants.

2.2 The Research Strategy

The research method followed two major stages. The first was a discrete scoping exercise to understand the operation and use of tenancy databases as part of broader risk management strategies in the rental housing market. The principal research strategies used in this stage were:

- literature and internet searches,

- documentation and analysis of relevant legislative and policy frameworks, and

- approaches to stakeholders and database gatekeepers for initial mapping of the uses of tenant databases in 'risk management' processes and practices.

This allowed an examination of current empirical findings in relation to risk minimisation in property management and the role of tenant screening, as well as an indication of the rhetoric of risk employed in the property management industry itself. The results of these are reported and discussed in Chapter Three of this report. It should be noted that Guthrie's report (2002), which became available during the early stages of this research was a key point of reference in Stage One. Her comprehensive review of tenant databases drew upon a significant body of literature and this was used as a basis for further search and review. The Tasmanian Office of Consumer Affairs and Fair Trading (2001) also provided a significant point of departure for this aspect of Stage One.

Stage Two involved focus group interviews and semi-structured face-to-face interviews in Brisbane, Sydney and Melbourne with representatives of key stakeholder groups. These included tenants and tenant advocates, third sector property managers and informants from different kinds of landlord and property management groups. Initial focus group interviews were conducted in order to ascertain the general normative orientations and practices of key stakeholders in relation to tenancy databases. These identified commonalities and differences within the specific stakeholder groups. Individual interviews were conducted on the basis of differences that arose from the focus group data. This methodology provided an effective voice for a range of stakeholder perspectives. A more detailed overview of the strategy is presented in the Positioning Paper (Adkins et al., 2003).

Figure 2-1 provides an outline of the main participants or participant groups in the second stage of the research. A broad range of participants were included and, in all, 19 individual interviews were conducted and 10 focus groups. The face-to-face interviews and focus group interviews included 10 professional property managers, 9 owner-managers, 38 tenants and 15 tenant advocates participated in the research at this stage. Copies of interview guides for each stakeholder group are included in Appendices A-D.

Figure 2-1: Range of Interview Participants

| QUEENSLAND | Pilot | Interviews
Property managers |
| | | Focus Groups
Tenants |

| NEW SOUTH WALES | Interviews
Property managers
Tenants
Tenant advocates |
| | Focus Groups
Tenant advocates
Private landlords
Property managers |

| VICTORIA | Interviews
Property managers
Tenants
Tenant advocates |
| | Focus Groups
Tenant advocates
Tenants
Property managers |

| QUEENSLAND | Interviews
Property managers
Tenants
Private landlords
Tenant advocates |
| | Focus Groups
Tenants
Private Landlords |

Various recruitment strategies were adopted as appropriate for each group of participants. Most professional property managers were recruited through the Property Management Chapters of the Real Estate Institutes in each state. In Queensland, we were assisted by the Property Management chapter of REIQ in seeking property managers' perspectives through a brief on-line questionnaire, circulated on the site www.propertymanagementjournal.com.au (see Appendix E)[1]. Property owners were recruited through the Property Owners Association in each state and through newspaper and Internet advertisement.

Tenant Advocates were approached from larger organisations such as Tenants Union and Shelter in Queensland, New South Wales and Victoria and also from smaller agencies who manage tenancies for particular, high-risk groups such as those recently released from jail.

Various tenant advocacy groups in each state recruited tenants through referral and advertisement. Examples of flyers and advertisements are included in Appendix F-G. Although some difficulties were encountered in recruiting some participants, by using different and appropriate strategies in different contexts we were successful in reaching participants from all key stakeholder groupings. In recruiting tenants, we sought participation specifically from tenants who (a) were considered 'at risk' by advocates and/or (b) believed or knew that they were 'listed'. It is a matter of note that few of the tenants recruited *knew* that they were listed on tenancy databases.

Interview guides were designed with a semi-structured format for both individual and focus group interviews. Questions were formulated on the basis of prior consultations with the Project Reference Group, literature search and review, and with some consideration of relevant legislative and policy frameworks. With respondents' consent, interviews were taped.

Whilst attention in interviews was directed at the uses and impacts of tenancy databases, interviews were structured to explore their uses and impacts at different stages of tenancy (acquiring a tenancy, maintaining a tenancy and finalising a tenancy) from different stakeholder perspectives. In discussing each stage, questions were asked about uses/experiences of tenancy databases and about strategies to avoid risk at that stage. This approach emerged from two fundamental features of rental tenancy as a social and economic arrangement that arose from our focus on risk management in rental tenancy:

- rental tenancy is a process involving different forms of risk-taking and risk-management by different parties, over time, and

- rental tenancy is accomplished through strategic relationships between tenant/s and landlord/agent.

Initial pilot face-to-face interviews and focus group interviews were conducted to test and fine-tune the interview instrument. These pilot interviews tested the three stage format to ensure it was sufficiently flexible to allow key issues to be explored from the perspective of property managers, tenants and tenant advocates. Each particular stage was comprehensively explored before moving to discuss the next stage. This aided comparison among different stakeholder perspectives. For example, a property manager could relate the professional procedures they followed when a prospective tenant made application for a tenancy, while the tenant could relate their strategy to acquire a tenancy. Figure 2-2 shows the relationship of the two research stages. The composition

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[1] Although we received only 7 returns from this exercise, responses were consistent with data from interviews and focus groups and thus provided some further confirmation of the patterns emerging from other primary data sources.

of focus groups was also tested in the pilot stage. It became evident that recruitment of participants into homogeneous rather than mixed groups was the best strategy to ensure appropriate numbers. This influenced the development of the flexible, 'three-stage' format of the interview guides.

All focus groups and interviews were conducted by two facilitators[2] – (1) a moderator/interviewer who informed participants of the aims of the research and the procedures for the discussion/ interview, and (2) a monitor whose role was to prompt the moderator/interviewer if any participants were not being involved in group discussion, to record main points in note form and to assist with discussion/interview summaries. The presence of two researchers at each focus group/ interview enabled effective debriefing and also assisted in corroborating outcomes.

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[2] One focus group interview was conducted on a teleconference phone hook-up because one group of property managers was not able to be available at a mutually convenient time during the period of research fieldwork in one of the southern states.

Figure 2-2: Research Stages

Stage One

- Literature search and review
- Analysis of legislative and policy frameworks
- Approaches to key stakeholders and database gatekeepers

Focus group interviews in each state with representatives of key 'property manager' and tenant advocacy groups

Semi-structured interviews with key informants from property manager and tenant advocacy groups

Up date overview of tenancy databases and listing practices within Australia and comparison with information from overseas

Stage Two

Focus group interviews in each state with tenants from different market/risk positions identified from Stage One

Semi-structured interviews with key informants from tenant groups in each state

Patterns of risk management in the private rental sector, and impacts, especially in relation to the use of tenancy databases and with respect to low-income tenants.

2.3 Procedures for analysis

Analysis of materials gathered in Stage One was focused upon developing a descriptive typology of tenant database products and documenting and contextualising the range of products currently operating in different legislative and market contexts internationally. Data were gathered in the broadest possible sweep of sources including existing research literature and current internet sites. Ultimately, the latter were the most informative since there was little existing literature on tenant databases. The features of these databases that were, at this stage, systematically recorded, where possible[3], included the range of data subject information held, how the data were provided, whether they were obtained from primary (e.g. property managers) or secondary (e.g. another database) sources, the geographical scope of data and subscribers, who could access data (e.g. subscribers and/or data subjects), the services provided by the database operator and any related protocols or legislative frameworks noted. Appendix J lists the principal database websites accessed at this stage of research. The Tenancy Database Typology presented in Chapter Three was derived from analysis and summary of these features. Several members of the research team were involved in establishing, differentiating and verifying the categories in the typology.

In Stage Two, analysis proceeded by 'convergent analysis' (Dick, 1998) begun during the period of data collection. The core strategy of this technique involved review and corroboration of interview themes by the two field researchers and continuation of data collection until agreement was reached that further interviews would yield no additional significant information (Dick, 1998). In Stage Two of the research, thematic analysis of focus groups/interviews began immediately after the conduct of each interview at a debriefing session. The central strategy for analysis was a process of 'constant comparison' (see Tesch, 1990 and Silverman, 2000 for illustrations) aimed at discovering patterns of risk management and risk management behaviour. Initial identification of themes was undertaken after each interview by both researchers, at first independently, and then collaboratively. Themes or categories of phenomena were established by consensus, the content or the qualities of each theme or category were summarised and any contradictory evidence that might lead to re-defining themes or categories was taken into account.

This progressive debriefing after interviews served not only to identify emergent themes but also questions or focal issues for further inquiry. Changes to the interview protocol were made but only with the agreement of the two participant researchers. This on-going process of convergent analysis produced clear themes and a process for detailed post-hoc analysis. A third researcher was involved in the post-hoc analysis of taped interviews and all members of the research team were engaged in the determination and verification of principal themes for detailed analysis and reporting. The key themes and issues that emerged progressively from this process now form the bases of reporting in Chapters Four and Five.

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[3]   In many instances, limited information was available about the operations and scope of databases as full access was only available for subscribers.

3 POLICY CONTEXT AND RISK MANAGEMENT

3.1 Introduction

Tenancy databases are represented as a professional tool for minimising risk to property managers and to their landlord clients, through the capacity they provide to identify defaulting tenants and tenants seen to have poor rental histories. The information on tenant databases is provided by subscribers (mainly property managers or agents) and used by property managers to screen prospective tenants. Most are open only to registered real estate agents or owner-managers with large property holdings, although databases for the use of other lessors are now starting to emerge in Australia (Guthrie, 2002).

3.2 Tenancy databases in comparative perspective

Tenancy databases are used in several countries by property managers and their agents. An extensive review of tenancy databases and tenant screening websites in the United States, Australia and the United Kingdom enabled a simplified model to be developed based on the functions and services offered. Appendix J lists a range of tenancy databases. This list of databases is not exhaustive of the sites available nor of the sites accessed, but is indicative of the variety of the databases, and the way that they interact with each other. The information from database sites was used to construct the model presented in Figure 3-1.

Essentially the types of tenancy database enterprises fall into two categories, those that collect, compile and manage primary data for their clients; and those that supply secondary data to their clients. Under these two categories further sub-categories were identified showing different foci and levels of complexity of dealings. In total, five types of database were identified.

The first type is the single purpose tenancy database. This has the single purpose of collecting and managing primary data about tenants for property managers. Individual property managers collect and contribute information about their tenants to the database, which collates the information and then makes it available to other property managers for tenant screening. It is difficult to identify international examples of this type of database. Many of the tenancy database websites accessed for this research did not identify the source of their data and had links to sites that highlighted the possibility that they were using secondary and not primary data for tenant reports.

The second type consists of companies that still collect, compile and manage their own tenant data, but provide other non-data services as well. Services include landlord advice, referral to legal services, information about landlord and tenant disputes, and standardised letters for the property manager to send to defaulting tenants, software packages, IT support and the like. An American example is *Tenant Screening Services* which offers tenant screening services to property managers, landlords, and others in the rental industry. They have over 80 million criminal, eviction, and tenant history records within their databases and offer members credit and social security reports, criminal checks throughout 38 states, eviction searches [14 states] and tenant history nationwide.

A third type provides tenancy databases services, other database services and non-data services. These companies not only collect, compile and manage their own data and provide other non-data services, but also subscribe to other databases on behalf of their clients. This type is common in the United States, where cross-referencing of data is extensive. It is common for subscribers to be offered information such as credit checks, criminal records, employment histories, tenant tracing and (dependant on state

regulations) other details pertaining to the background of a potential tenant. In addition, this type of database company often provides services such as landlord support, software, and IT support. The *Tenant Verification Service Inc*. [TVS], an American credit reporting agency that targets delinquent tenants illustrates this type of database. The TVS maintains a database of information provided from its members as well as obtaining information from either *Trans Union* or *Equifax Inc*. Landlords can obtain a credit history, tenant history and risk assessment on prospective tenants within minutes of their request whilst property managers with numerous monthly queries can have direct access to the TVS database.

The fourth kind provides tenancy databases, other databases and other services relating to tenant screening to their clients through the use of secondary data. They do not collect, compile or manage their own data, but access data by subscribing to other databases that do. The non-tenancy databases they subscribe to include credit reference databases. Thus, they provide multi-database services to their clients. In addition they also provide other non-data services such as landlord support and advice. An American example is *USA –Tenant Check*, an automated tenant screening company that uses several databases managed by other companies that maintain consumer information.
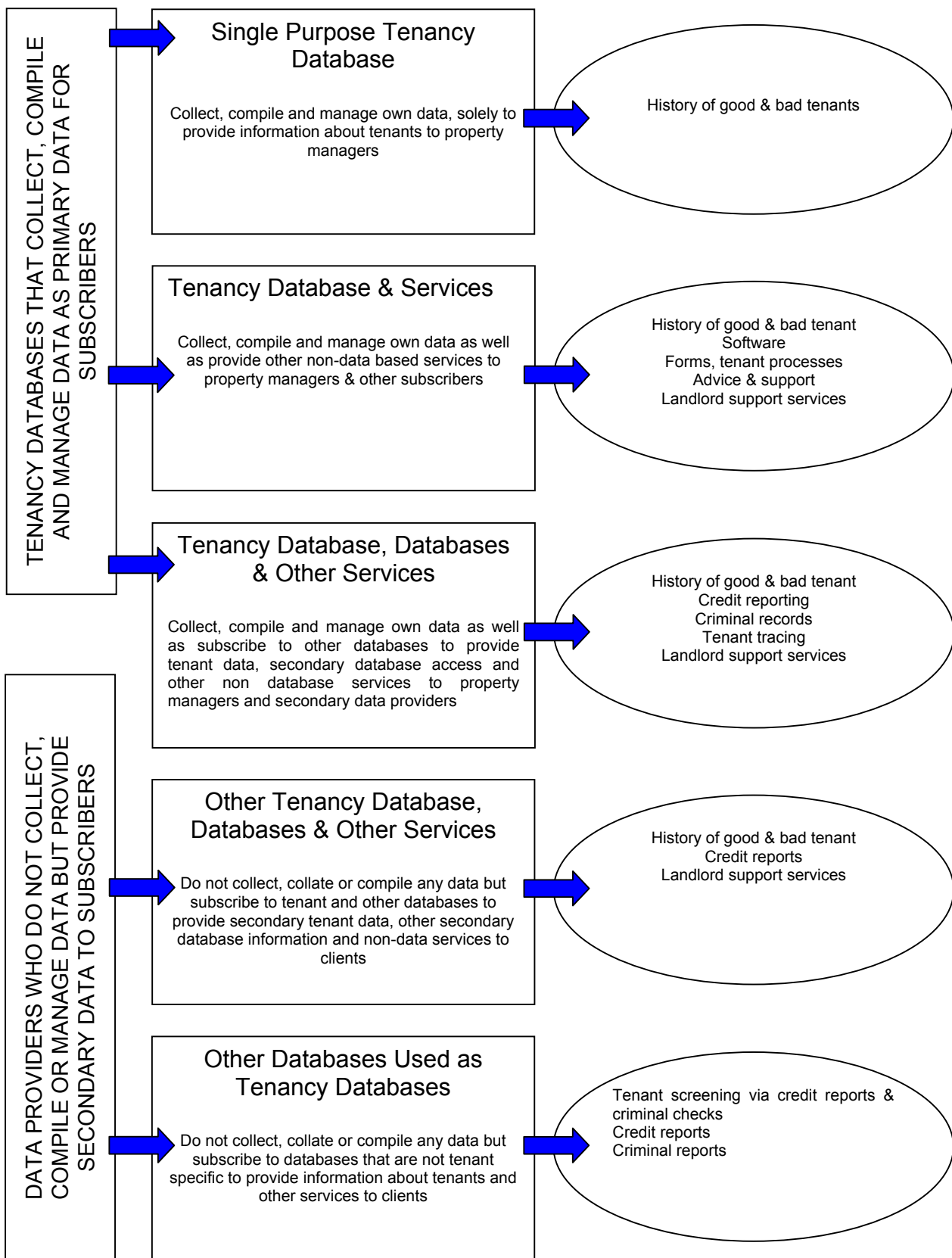
The final type identified by this research provides services where a non-tenancy database is used. This type does not collect, compile or manage data, but subscribes to existing databases or pays for one-off data collections. However, the data is not about tenancies, but is provided to clients as references for tenant screening. These references are gleaned from alternative databases of personal information, such as credit references and criminal checks. An example of this type is the American company, *Info Center Inc*. founded in 1982 as *Landlord Reports Computer Service* to deal with risk associated with renting to unknown tenants. Four years later the company incorporated as *Info Center Inc*. The centre is a tenant credit bureau and assists owners/property managers to select residents through a credit screening process. Reports intended for tenant screening include two retail credit reports, an eviction report, and a criminal record check.

The key differences identified through these categories are reflections of the regulations under which tenancy databases operate. Tenancy databases operating in the USA, although subject to State regulations, have fewer restrictions on accessing an individual's personal information from a variety of sources. American internet sites advertise the cross referencing of databases to provide a plethora of personal information about prospective tenants. Lane highlights the extent and variety of information available, stating:

> Many databases have been built specifically for tenant screening. In fact, approximately one hundred companies maintain proprietary tenant screening databases across the country. First American Registry is an automated computer service that links some of these databases, allowing property managers access to landlord-tenant court records from more than 1,000 courthouses in 25 states. This service also allows access to credit reports, landlord-reported tenant histories, wanted fugitive searches, skip tracing, risk scores, and many other services designed for the property management industry *(Lane, 2002:80).*

Some idea of the range of data accessible through databases in the US and their linkages, can be seen from the examples listed in Appendix J. This disproportionate access to personal data of American citizens is not mirrored in the EU or UK but in Australia, databases are increasingly being used as a tool considered essential to managing risk.

Figure 3-1: Tenancy Database Typology

TENANCY DATABASES THAT COLLECT, COMPILE AND MANAGE DATA AS PRIMARY DATA FOR SUBSCRIBERS

Single Purpose Tenancy Database

Collect, compile and manage own data, solely to provide information about tenants to property managers

History of good & bad tenants

Tenancy Database & Services

Collect, compile and manage own data as well as provide other non-data based services to property managers & other subscribers

History of good & bad tenant
Software
Forms, tenant processes
Advice & support
Landlord support services

Tenancy Database, Databases & Other Services

Collect, compile and manage own data as well as subscribe to other databases to provide tenant data, secondary database access and other non database services to property managers and secondary data providers

History of good & bad tenant
Credit reporting
Criminal records
Tenant tracing
Landlord support services

DATA PROVIDERS WHO DO NOT COLLECT, COMPILE OR MANAGE DATA BUT PROVIDE SECONDARY DATA TO SUBSCRIBERS

Other Tenancy Database, Databases & Other Services

Do not collect, collate or compile any data but subscribe to tenant and other databases to provide secondary tenant data, other secondary database information and non-data services to clients

History of good & bad tenant
Credit reports
Landlord support services

Other Databases Used as Tenancy Databases

Do not collect, collate or compile any data but subscribe to databases that are not tenant specific to provide information about tenants and other services to clients

Tenant screening via credit reports & criminal checks
Credit reports
Criminal reports

3.3 Tenancy databases in Australia

As is the case outside Australia, commercial market providers operate tenancy databases. The majority of the Australian databases are open only to registered real estate agents or owner-managers with large property holdings (Guthrie, 2002).

Within some databases (e.g. National Tenancy Database Pty Ltd) a 'risk' tenant is not listed unless they have lost a Tribunal hearing. In other cases listing information is not drawn necessarily from a Tribunal matter (such as can be the case with Tenancy Information Centre Australasia Holdings Pty Ltd (TICA)). Tenants may not be aware that information about them has been listed. Tenants may access listed information, although this is often at a cost to the enquirer. The scope of subject records, the breadth of the subscriber base as well as the access arrangements for data-subjects are variable. Comparison of Australian operators in terms of these factors is extremely difficult, given different contexts of privacy and tenancy legislation. Figure 3.2 summarises the main database operators in Australia, the kinds of services offered and the regions they cover.

Tenant Check is solely a tenancy database and uses its own primary information. It is an example of the first category indicated in Figure 3-1, the single purpose tenancy database. TICA uses its own primary data but also offers additional services to subscribers, such as landlord support services. It is an example of the second category in Figure 3-1. The company, ntd, provides tenancy database services, other database services and additional support services, and conforms to the third category in Figure 3-1. The LAS is an example of a tenancy database using only secondary data, but also providing additional services (the fourth category). There appears to be no examples in Australia of the fifth category.

As noted in the project's Positioning Paper (Adkins et al, 2003), the recent report by Guthrie (2002) provides a substantive overview of databases in Australia. Her research started at about the same time as this current project and her report has proved invaluable, although it was not available for the early period of the research.

Guthrie (2002) attributes the emergence of tenancy databases in Australia to two factors. Firstly, databases provide the technological ability to enable personal information to be readily stored and accessed at relatively little cost. Secondly, under Part 111 of the Commonwealth Privacy Act 1988, access to an individual's credit history is restricted solely to credit providers. Thus, real estate agents are specifically prohibited from accessing information on the credit history of individuals through the use of credit databases. Tenancy databases, on the other hand, presented a legitimate means of tenant screening.

Clearly, the management of risk is an important element in their adoption and use (Seelig, 2001; Guthrie, 2002). Information technology also provides a tool for speeding up the approval process for applicants, and thus minimising the time taken to lease rental property (Kipnis, 2000).

Consumer affairs and tenant advocacy interests have registered concern about the formalisation of information exchange about 'bad' tenants. Services and agencies have reported difficulty finding other forms of housing outside the formal private rental market for clients listed on databases; the result is that some clients are becoming homeless (Tweed Interagency Group, 2001). Further, these groups have raised concerns about the way the databases operate, referring specifically to problems associated with inappropriate listings, inadequate dispute resolution processes, breaches of privacy, and inappropriate threats to list (Guthrie, 2002: 16-17). Johnston (1999) has argued that such problems also create inefficiencies in the management of private rental tenure through the institutionalisation of misinformation and disinformation. These issues form the critical staring point for the research reported later in this report.

Figure 3-2: Overview of Australian Tenancy Databases

Company	Lists	Region covered
LAS Landlords Advisory Service http://www.landlordsadvisory.com.au/tenantcheck.shtml	Subscribes to National Tenancy Database Pty Ltd	Australia wide
ntd National Tenancy Database Pty Ltd [formerly Rent Check & Remington White] http://www.ntd.net.au/	Lists tenant history and referrals	Australia wide
TICA Tenancy Information Centre Australasia Holdings Pty Ltd [TICA Default Tenancy Control System] http://www.tica.com.au/	Lists recommended tenants and those who default	Australia, New Zealand and the United Kingdom
TRA Trading Reference Australia [was Tenant Reference Australia] http://www.tenantreference.com.au/tra/home.asp	Lists tenants who default	Australia wide
TC Tenant Check http://www.tenantcheck.co.nz/	Lists tenants who default	Australia, United States of America, New Zealand and Canada

3.4 Legislative and policy responses

Responses to the emergence of tenancy databases in Australia have generally been to amend appropriate legislative and policy responses at the State and Commonwealth levels. An overview of the appropriate legislation is provided in this project's Positioning Paper (Adkins et al., 2003), from which greater detail can be obtained. A summary of the legislative aspects of tenancy databases is included below.

Tenancy databases are, in fact, but one of the areas where changes in electronic data storage and communications technology have impacted on public policy, especially with concerns about privacy. The European Union's Data Privacy Directive responds to this situation (Salbu, 2001). Some of the European initiatives are reflected in recent changes to Australian privacy legislation. The Commonwealth Privacy Act 1988 was extended through the Commonwealth Privacy Amendment (Private Sector) Act 2000 requiring compliance of the private sector with 10 National Privacy Principles (NPPs) when dealing with personal information (See Figure 3-3).

Figure 3-3: The Ten National Privacy Principles

NPP1: Collection — describes what an organisation should do when collecting personal information.

NPP2: Use and Disclosure — outlines how personal information can be used and disclosed.

NPP3: Data Quality — sets the standards that must be met for the accuracy, currency and completeness of personal information

NPP4: Data Security — sets the standards that must be met for the security of personal information.

NPP5: Openness — requires organisations to be open about how they handle personal information.

NPP6: Access & Correction — gives a general right of access to personal information, and the right to have that information corrected if it is inaccurate, incomplete or out of date.

NPP7: Identifiers — says that Commonwealth identifiers can only be used for the purposes for which they were issued.

NPP8: Anonymity — where possible, requires organisations to provide the opportunity for personal interaction with personal anonymity.

NPP9: Transborder Data Flows — outlines privacy protections that apply to the transfer of personal information out of Australia.

NPP10: Sensitive Information — requires consent when sensitive information is collected about a person. Sensitive information is a subset of personal information and special protection applies to this information.

Source: Adapted from: Office of the Federal Privacy Commissioner, 2001

These principles identify required standards for accumulating, utilising, divulging, protecting and transferring personal information. They also give individuals the right of access to - and verification of - personal information collected by an organisation, with avenues of redress if the information is inaccurate.

At the end of 2002 all database operators involved in the collection of personal information were included within the ambit of the Act. Key relevant changes to the use of databases by property managers as the result of the Commonwealth Privacy Amendment (Private Sector) Act 2000 are as follows:

- Real estate agents and property managers are subject to the Act.

- Real estate agents need to advise tenants that the agency uses a database.

- The use of information collected must be limited to the completion of tenancy arrangements, checking databases for existing listings and adding a new listing in the case of default behaviour.

- Tenancy databases are required to be readily accessible by data subjects.

While the amended Privacy Act will have a positive impact on key concerns such as data quality and data access there are still unresolved problematic issues (See Guthrie 2002). The amendments are seen to represent a "light touch" approach, placing emphasis on discretion and self-regulation in the context of specific industry practices. The onus is placed on tenants to complain and seek redress if they believe that they have been listed in a way that contravenes legislation. In the event of disputes about the use of databases by property managers, database subjects have access to the Privacy Commission's complaint service which does not necessarily lead to redress.

Other legislation also deals with business practices. The Commonwealth Trade Practices Act 1974 and various Australian State Fair Trading laws attempt to cover conduct of property managers in the context of power imbalances in practices associated with taking unfair advantage of clients.

Recent State legislation relevant to tenancy databases also includes the Queensland Property Agents and Motor Dealers Act 2000 (PAMDA 2000), the Property Agents and Motor Dealers Amendment Act 2001 and its subordinate legislation the Property Agents and Motor Dealers Act 2000 Code of Conduct. This Act includes in its Code of Conduct a specific section dealing with the listing of tenants on databases. This Code includes the parameters under which real estate agents and property managers can record information about tenants on tenancy databases, covering property management practices with respect to the accuracy of recorded of information. It precludes listings that are vexatious. There are, however, still unsolved problems with this legislation, including the fact that it does not extend to caravan park operators who can access tenancy database information as subscribers.

Across Australia, the various State Residential Tenancy Acts delineate the relationship between lessors/agents and tenants. They set out clearly defined rights and obligations for both parties in relation to matters such as what constitutes a 'breach', remedial timeframes for breaches and procedures for dispute resolution. In the event that specific disputes are unable to be resolved, the parties then have the option of proceeding to a Small Claims Tribunal. Tenancy Acts apply specifically to the relationship between tenants and landlords in the context of tenancy agreements (or leases). However, tenant advocates have argued that tenants may be reluctant to use existing dispute resolution processes for fear of retaliatory database listing by property managers. Furthermore, property managers have indicated that they use databases, in some instances, to avoid the delays inherent in following tenancy legislation processes. Thus, some uses of tenancy databases can undermine the effectiveness of Residential Tenancy legislation.

Concerns about the impact of tenancy databases in Queensland, the Queensland Residential Tenancies Authority commissioned a research project (Guthrie 2002) that investigated the operation of tenancy databases in Australia and clarified policy issues. The Queensland Government, after further investigation, sought to amend the *Residential Tenancies Act 1994* to regulate listing practices to address ongoing concerns such as the lack of control over information contained on a database and the lack of independent processes to deal with disputed listings. A Special Government Backbench Committee, chaired by Ms Linda Lavarch MP, conducted an inquiry into tenancy database listing practices and issues and established recommendations to amend the Queensland legislation. The report (Lavarch 2002) formed the basis of the Queensland Government's policy position on listing practices identifying who could be listed, at what time and for what reasons.

The very recent amending legislation in Queensland (the Residential Tenancies and Other Legislation Amendment Act 2003, passed in May, 2003), has a section dealing specifically with tenancy databases and their use. The Act came into effect on 1st August, 2003. It is intended to ban discriminatory or vexatious listing on tenancy databases.

The Minister for Public Works and Housing issued a press release stating:

> "…this legislation clearly sets down in law who can be listed, when they can be listed and for what reasons they can be listed… Some property managers have been concerned about where the bar has now been set with regard to listing criteria, but others have said that the changes enshrined in the legislation are really just good business practices" *(Schwarten, 2003).*

Following the introduction of this legislation in Queensland, a Sydney Morning Herald article indicated the demand in New South Wales for similar legislation, stating:

> 'The NSW Tenants Union wants state legislation introduced that will enable renters to seek faster recourse at a tribunal, so they are not locked out of the housing market for months … [and] wants databases to also be restricted to allow only verified information - such as an order from a tribunal that money is owing - to be listed' *(Needham, 2003).*

In Queensland, there has been little public reaction to the amendments, with legislation too new to be tested as yet. Property managers although aware of the additional time required for tribunal processes appear confident that tenants who prove to be 'high risk' will still be 'listed' and caught in the screening process for their subsequent tenancies. The general perception is that the majority of property managers who operate under the Property Agents and Motor Dealers Act 2000 Code of Conduct will only need to minimally modify business practices.

3.5 Risk Management

Property managers have routinely screened tenants. It is in their interests to try to obtain and retain tenants that will create the least difficulties for them and thus who will lead most directly to better returns. They will try to reduce the risk to themselves of tenants defaulting on payments, or damaging the property or acting inappropriately in other ways. Such screening is most visible in times of housing shortages.

There are a number of ways that risk and its management are important to the field of housing (and within that, the field of tenancy management). One approach is that upon which Hall and Berry base their methodology for more efficient housing assistance provision. They start from the common project- or program-based concept of 'risk', using the definition of the NSW Department of Public Works. Thus, risk is

> [T]he possibility that an expected outcome is not achieved or is replaced by another, or that an unforeseen event occurs. This is a broad view of risk that includes both uncertainty due to future events and the consequences of limited knowledge, information or experience *(NSW Dept. Public Works, 1993: 6; cited in Hall and Berry (2002): 6).*

Hall and Berry then define 'risk management' as:

> The set of activities concerned with identifying potential risks, analysing their consequences and devising and implementing responses so as to ensure that project or program objectives and delivery goals are achieved. This includes management of ongoing risks associated with the ownership of assets *(Hall and Berry, 2002: 6).*

They further identify both systemic risks (those 'stemming from the general economic or natural environment – i.e. from movements in the economy (business cycles of boom and bust) and natural disasters') and unsystemic risks (that are 'specific to the asset or investment sector in question (residential property) and the agencies involved') (Hall and Berry 2002: 7).

This is a relatively focused approach to risk, starting from the viewpoint of an asset manager or investment manager. It applies economic concepts to the policy environment. Nonetheless, this approach to risk and how it can be managed is crucial in housing policy.

Another approach adopts a broader conception of risk as it relates to housing. For example, Greive et al (2003) implicitly expand the concept of risk to include non-housing factors. Their study of home ownership support schemes cites two UK studies (Davis and Dhooge, 1993; and Ford et al, 1995) that identify several factors that may lead to people 'sliding into arrears'. Such factors as disruption to employment, small business failure and personal relationship breakdown may underpin the kinds of systemic and unsystemic risks evident in the field of housing.

These approaches deal with risk as an objective phenomenon. They assume that risk is, if not quantifiable then at least capable of estimation. Risk is seen as mainly an economic phenomenon, or at least as something that impacts on policies concerned with financial and economic outcomes. Thus, they do not directly address the full social context of housing provision. The approaches do imply, however, that the social context (seen as a 'systemic risk') can have an impact. Clearly the need to address risk and risk management must include the perceptions of risk in the wider society.

For property managers, the rhetoric of risk establishes their responsibility to acknowledge and act upon the risk that tenants may default or damage property. Thus, tenancy databases are promoted as a means of informing the processes and choices associated with tenant screening, which in turn opens up new arenas of choice and discretion.

Beck's account of risk society provides a conceptual framework for understanding of the causes and consequences of a growing societal emphasis on individualised choice and discretion. The rhetoric of risk, according to Beck, Giddens and Lash, informs an increasingly central logic of practice in contemporary society. They describe the implications of this for everyday thinking as follows:

> The notion of 'risk' is central to modern culture today precisely because so much of our thinking has to be of 'as-if' kind. In most aspects of our lives, individual and collective, we have regularly to construct potential futures, knowing such very construction may in fact prevent them from coming about. New areas of unpredictability are created quite often by the very attempts that seek to control them *(Beck, Giddens and Lash, 1994: vii).*

The importance of identifying this rhetoric is that it draws our attention to a key aspect of the emergence of the risk society. This term refers to a process where ways of life become disembedded from the networks and relationships on which industrial society was based. Life is then re-embedded with a presumption of the individual as:

> actor, designer, juggler and stage director of his or her own biography, identity, social networks, commitments and convictions. Put in plain terms individualisation means the disintegration of the certainties of industrial society as well as the compulsion to find and invent new certainties for oneself and others without them *(Beck, Giddens and Lash, 1994: 14).*

This approach raises questions about the importance of individualised choice and discretion on the part of property management. However there is no research that currently documents the exercise of this in relation to the use of tenancy databases in Australia. The notion of risk society and an attendant focus on the importance of individualisation also directs attention to the practices of tenants as data subjects. It can be argued that in the private rental field, the rhetoric of risk establishes a practice of abstracting tenants from the contexts that have led to tenancy problems, positioning them as individual data subjects.

The Australian legislative emphasis points to the need for data subjects to exercise considerable initiative in accessing information and seeking rectification. Forrest and Kennett argue that this kind of individualisation creates new dimensions of division and difference. Households living side by side and on similar incomes may have widely differing capacities to cope with uncertainty and change, due to differences in informal support networks, employment security and tenure and so on (Forrest and Kennett, 1997:352). It is highly probable that some will have far greater capacity than others to negotiate the relationships designated by tenancy databases for seeking redress by virtue of specific sets of resources that may not be reducible to traditional dimensions of social difference. This possibility raises questions about the nature of the resources and their combinations that may enhance or hinder tenants' capacities to negotiate relationships with property managers over tenancy database issues.

Electronic tenancy databases clearly play a part in the management of tenancy risk. The personal networks of communication of real estate agents and property managers are now supplemented by electronic access services provided for profit by private agencies. In wider social terms the enhancement of personal connections (and possible development of trust) between tenant and property manager is being replaced by more readily available electronic database access. At the same time, this is seen as enhancing the professionalism of the property management sector.

Thus, in the private rental market sector there are a number of stakeholders who may each see risk and the ways it is managed in different ways. Tenancy databases are a component of the management of rental tenancy risk.

The main stakeholders in the private rental housing sector are identified in this report as tenants, tenant advocates, rental property owners and rental property managers. The research showed that each has their own set of interests and that tenancy databases mean something different to each. The earlier Work in Progress Paper for this project (Adkins et al, 2003) identified that in the discourse of tenancy management, property managers are constructed as professionals but not 'experts'. There is an imperative for property managers to conduct themselves in a professional manner and engage in risk screening through databases or other 'expert' technologies. Risk management is seen as a group imperative; property managers are constructed as part of a community with a responsibility to reciprocate in risk management. For tenants, on the other hand, risk

management is viewed as a practice engaged in primarily by individuals. It is up to the individual tenant or prospective tenant to take responsibility for their own investigation of whether they are listed on a database or not; and it is their own individual responsibility to check and if necessary seek amendment of the information it contains.

The more individualised approach to tenants' management of risk as data subjects can be better understood by recent work proposing a framework for understanding 'social risk management' as a key aspect of contemporary social policy (DeNeubourg and Weigand, 2000). The central contribution of DeNeubourg and Weigand's work is that it provides a framework for locating social risk management as potentially occurring in three sectors: the state, the family and the market. This provides a systematic approach to studying the context of tenants' experiences and practices, and raises questions about the respective roles of these sectors in social risk management.

Figure 3-4: Residential Tenancy Stakeholders - Interests and Risks

	Property Managers	*Property Owners*	*Tenants*	*Tenant Advocates*
Interests	To protect and maximise the interests of property owners (their clients). To protect and maximise their professional interests.	To protect and maximise their own/ family investment in the rental property market. To maintain rights to control use of their property.	To obtain and maintain access to appropriate and affordable accommodation To maximise tenants' rights before, during and after occupancy.	To protect and advocate the interests of tenants.
Risks	Loss of income Litigation (for negligence in their duty to clients)	Loss of income Capital loss Infringement of lessor rights	Exclusion from rental housing Infringement of tenant rights	Poor outcomes for tenant clients Not have capacity to respond- disempowerment

Clearly several concepts of risk and its management need to be considered when dealing with the use of tenancy databases. They range from narrowly-focused, relatively objective financial risks to far wider and more subjective social risks.

There are several useful distinctions and points that are made in De Neubourg and Weigand's work. Firstly, they note that social risk management is social in that it always requires the subject to have what they term a 'counterpart'. This refers to the need for individuals to have at least one other person who will guarantee to provide for basic needs in the case of an unfortunate event occurring that prevents the individual from providing for him/herself. An obvious example may be found in arrangements between employer and employee for sick leave payments. Leaving aside the issue of contingency, market, family and state solutions are also inherently social even in the short term. This is because there is an implied minimum level of reciprocity in all of these solutions. For example, a market solution requires that someone is willing to purchase what one produces, either labour or goods. Similar situations are also evident in the family and state spheres.

Secondly, risk always involves a time dimension. Risks do not exist in the here and now but are rather possibilities. They define the management of social risk as 'the problem of synchronizing the income stream of individuals with their consumption stream'. Importantly, they note that it is necessary for the counterpart at least to share 'the definition of the probabilities of the contingency' (DeNeubourg and Weigand 2000, p404).

Each of the four groups of stakeholders, have different interests. For each, tenancy databases have different impacts. Yet each needed to be considered within a tenancy risk management framework. Combining the four sets of stakeholders with the idea of interest and risks leads to the model shown in Figure 3-4. This model will form the basis for the discussion of tenant and property manager responses analysed later in this report.

The next Chapter explains tenancy databases and tenancy risk management from the viewpoint of property owners and managers.

4 PROPERTY MANAGEMENT PRACTICES

4.1 Property managers

This chapter reports on the findings from interviews from a property management perspective.

Some clarification of terminology is necessary at this point. The 'property management' perspective is recounted through the views of professional property managers (operating out of licensed real estate agencies) and owner-managers, some of whom have large holdings of rental stock and for whom rents provide their major source of income and others who may hold only one or two properties as investments and whose main source of income is not rent[4]. Mostly, the perspectives of these two groups, in both their perceptions of and responses to risks, appeared to be congruent. Therefore, the term 'property managers' is used here to refer to both.

However, they expressed different perspectives in relation to some circumstances. Different interests of 'professional property managers' and 'owner-managers' have been noted in Figure 3-4 above. In the discussion that follows, where differences of perspectives are significant, the more specific terms 'professional property managers' and 'owner-managers' are used to denote these different groups of property managers.

4.2 Risk management and property-owners' interests

Property managers, both professional managers and owner-managers, articulate property owners' interests very clearly in terms of securing favourable and immediate financial returns on investments. The focus of discussion of 'risks' for property owners was set squarely, in all cases, upon immediate and ongoing balancing of costs and income benefits from rental property investments. Frequently, property managers pointed to difficulties that property owner-investors face in servicing their housing debts, and some spoke of 'highly vulnerable landlords' who were dependent upon their rental income as their primary source of household income or retirement income. Investors who need the rent return to service a mortgage on their investment property, such as 'Mum and Dad investors' illustrate this type of vulnerability.

In their discussions about the job of property management, few of the professional property managers spoke of property owners' interests in terms of financial benefits or costs in the medium to long-term through capital gains or losses. Seldom did they discuss investment risks in terms of buying and selling of rental housing stock and when they did, this was in the context of discussion of supply and demand issues in local rental markets that are likely to affect vacancy rates and rental incomes as well as re-sale values.

Not surprisingly, when asked about the key aspects of their work, professional property managers emphasised their primary responsibility to act in their clients' interests. From this perspective, they articulated three key aspects of property management:

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[4] Third sector community non-housing service agencies that provided some housing support were consulted in their role as property managers as part of this study. It is clear that they play an important role in managing some rental arrangements in the private market where their agency leases housing from private property owners directly or through professional property managers. However, whilst their role includes aspects of 'property management', their primary responsibility is advocacy including tenants' interests on a case by case basis, assisting in the provision of accommodation and some security of tenure for tenants. Most often, they reported operating through professional property managers (commonly, boarding house operators) or acting directly on behalf of the community agency as the lessee of privately owned property or as an owner-provider of housing.

- Undertaking all possible 'duties of care' in minimising clients' risks, especially at the stage of screening and selection of tenants and including being mindful of conditions of landlord insurance policies (and related obligations to minimise risk),

- Ensuring continuing occupancy and financial returns through strategies such as careful assessment of tenants' ability to pay the rent, clear and ongoing communication of the conditions of tenancy and the consequences of rental arrears, and negotiation with tenants for remedies of breaches, and

- Overseeing property security and maintenance through regular inspections for upkeep.

Both groups of property managers asserted, in different ways, that a key parameter of property management/ownership was the 'implicit credit' offered by property owners in tenancy agreements. Owner-managers alluded to this aspect in expressions of concern (and, in several cases, dissatisfaction) about procedural 'barriers' to timely reclamation of the use of their property in situations where tenants had been issued with notices of breaches of agreements or notices to leave.

A notion of 'implicit credit' in tenancy agreements was emphasised by professional property managers in the ways they outlined the extent of their professional obligations and responsibilities to their clients. It figured strongly in statements about the need to act swiftly and unwaveringly in addressing tenant breaches of agreements. Principally, the notion of 'implicit credit' was proffered as justifying expressed needs for access to a centralised, accurate record of tenants' credit (not just rental) histories. The Commonwealth Privacy Act 1988 prohibits them from doing this. The following comments from property managers illustrate their sentiments on this issue:

> You go and hire a video and they'll do a check on you … yet you go into a million dollar property and you spin the wheel of fortune … [PM 1].[5]

> Can't for the life of me see why we can't have something like CRA. I mean you're not dealing with a 24 thousand or a 40 thousand dollar car. You are dealing with people's property and most times, their future. You know 500 thousand, a million, whatever. That's their future [PM 2].

> … they cut us off. Because they said that we were not providing credit. But if you look at a tenancy agreement, the tenant agrees to pay over a 26-week period … paying it off on a two weekly, monthly basis [PM 2].

Owner-managers also emphasised thoroughness in screening as an essential strategy for survival in the rental property market. Most expressed their need to use tenancy databases, either as subscribers or through property agents, not only in terms of directly reducing risks but also in terms of the need to comply with conditions of landlord insurance policies[6].

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[5] The quotations in this and the following chapter are from people interviews for the research. Their names are not given to maintain confidentiality. PM = Property Manager, PO = Property Manager, T = Tenant, and TA = Tenant Advocate.

[6] As central players in risk-management, insurance companies may have expanded, in a very explicit manner the influence of tenancy databases. Several property managers explicitly stated their understanding that 'for insurance purposes', they were obligated to use all available means to avoid risk and this included using tenancy databases to check all tenant applicant rental records. We were unable to confirm any such specific requirements of landlords' insurance but landlords' insurance is promoted

Tenancy databases, in comparison with credit reference services[7] were regarded by professional property managers as less comprehensive and less reliable tools for accessing the information needed to assess the potential risk for their client of entering into a tenancy agreement with a tenancy applicant.

> It's silly for us not to have access to CRAA … you can go and hire a TV and those people can get access to CRAA. The TV is worth about $600.00. We're giving people a key to a house. Not a key worth $1.50. A property … and a minimum property … worth $250,000 up to … three, four, five, ten million dollars. And we can't check them. And that is a whole problem [PM 3].

Nonetheless, all professional property managers interviewed, through their employer companies as subscribers, used tenancy databases diligently to exclude prospective tenants perceived to be 'risks' and/or provide information about tenant subjects to clients engaged in selecting tenants for their property. Among the professional property managers, thoroughness in the checking of prospective tenants' rental histories and of their ability to afford the rental property they sought was viewed as a hallmark of professional practice.

Importantly, for professional property managers and owner-managers alike, doubts about the accuracy, reliability and scope of information stored on tenancy databases did not discourage their use as a screening tool. Rather, in some cases, property managers' employer companies subscribed to two or three databases on the assumption that this would decrease the likelihood of missing information about potentially delinquent tenants.

4.3 Risk management and 'collective' interests

Professional property managers also frequently alluded to other 'interests' and risks involved in their work - risks to them and to their professional colleagues, and to the wider group of property owners and managers whose interests align with those of their clients.

Some professional property managers expressed concerns about the risk of being seen as negligent in the exercise of their duties. Several property managers expressed concerns about the potential for litigation against landlords arising from tenants' grievances within the current regulatory frameworks[8], and landlords' public liability for the health and safety of tenants in their rental properties. These concerns weighed heavily in professional property managers' feelings about their 'professional responsibility' to supply to clients all available information about potentially troublesome tenants prior to making recommendations for tenancy.

Property managers also expressed concern to protect the collective interests of themselves and 'others' in the same position in the market from the risks arising from granting tenancy to high-risk tenants. To counter the passing on of risks by providing and sharing information about such high-risk tenants was seen as ethical practice within the industry.

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by property managers for the properties they manage and it may be seen as an element of good faith that property managers do routinely take the precaution of checking a database.

[7] Property managers previously had access to credit references from CRAA (Credit Reference Association of Australia Limited) now Baycorp Advantage.

[8] In making this point, several focus group and interview participants specifically referred to 'The Swain Case' i.e. ROADS AND TRAFFIC AUTHORITY v Joy SWAIN and Terence GOLD AND RESIDENTIAL TENANCIES TRIBUNAL OF NEW SOUTH WALES (95040165), 7 May 1997 Available at: http://www.austlii.edu.au/cgi-bin/disp.pl/au/cases/nsw/rtt/94004763.html?query=%7e+swain

4.4 Weighing up risks

Relations between providers and consumers are shaped by conditions of supply and demand in specific segments of local rental markets (defined variously by housing types, quality of housing, location, rents etc). Property managers emphasised how fundamental economic conditions ('buoyant' or 'depressed') can shift an 'owners' market' to a 'tenants market' over time and so shape relations between property managers and tenants.

The availability of housing stock (as a result of building booms or the movement of stock from owner-occupiers to owner-investors/ renters) is a key factor affecting local markets. Vacancy rates are crucial indicators of market conditions but property managers tended to cite vacancy rates in broad terms (e.g. whole of Sydney, whole of Melbourne, or state-wide). Variability in local markets was acknowledged but property managers generally did not draw attention to the fact that low-cost housing was in short supply; they focused much more upon the risk of having a rental property vacant. To avoid rental vacancies, they were prepared to be flexible to maintain rental arrears.

> Most of our landlords do have mortgage problems … but my advice to them is it's better to get some money at least if they are paying the rent plus a little bit on the arrears … it's better to get that. It's much better to get some money out of them [PM 3]

> Anyone can have a problem for 2 weeks, or 4 weeks. We would try very much in this office, to actually talk to our tenants and have the relationship with them if there is a problem. We try to ride out the problem. We try to get our landlords to ride the problem out [PM 2]

> Landlords are much happier when you as an agent say … look ... this is a good person ... lost their job… someone's been sick… may take them a month or two to get back on track … but we'll get there [PM 3]

4.5 Vacancy vs 'bad tenants'

Having access to reliable information about tenant applicants was viewed as essential if risks were to be assessed. The principal categories of information required were those that enabled property managers to assess each tenant applicant's ability to afford the rent being asked, their capacity to pay on a regular basis without interruption and the likelihood that they would not damage the property. A variety of methods used to obtain such information were reported - practices that are likely to vary substantially from the more formal end of the rental market through to the informal/familial and unregulated 'black' rental market.

At the formal, 'professional' end of the market, identifying risk has been codified into a set of industry practices that centre around a written application for tenancy and the supply of sufficient information to make checks on an applicant's rental history[9]. Among professional property managers, it has become routine practice to use this information not only to obtain references from listed referees and verify the information supplied but also to check for and access any entries on tenancy databases. Under the requirements of the Privacy Act, applicants must be informed of and consent to their information being verified - but if they do not consent to checks being made, they are unlikely to be considered for tenancy. Refusal to consent is tantamount to disqualification.

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[9]   Example applications can be accessed on line. A typical tenant application form with TICA Annexure to Tenancy Application at http://www.honeycombesproperty.com.au/tenantapplication.asp and typical terms and conditions applicable to the Tenancy Application Form at http://www.mcgrath.com.au/renting/index.cfm?fuseAction=rentalterms.

> *[We]* verify employment; talk to current agent/private landlord. If [the] applicant has sold [their] own property and is moving to a rental – they need to produce an old rate notice. We check passports; ensure visa is valid for rental period; ensure they are allowed in Australia. [We] routinely check that they are allowed in Australia via passports and visa and photocopy them …everybody. If applicant does not want to provide these details …they don't come back as they feel uncomfortable. This results in a process of elimination [PM 4].

> If a tenant doesn't agree to be approved … through a database …we won't even bother to put the application through …and we'll explain to the landlord why [PM 5]

Owner-managers, especially those who are members of property owner associations or syndicates, are also, increasingly, adopting routinised practices for screening applications from prospective tenants. Most owner-managers, however, unless they have large rental holdings, are not eligible to subscribe directly to commercial tenancy databases. They may employ professional agents at the point of advertisement of a vacancy and tenant selection (and hence gain the benefits of a database check) but, if not, they reported relying heavily on verifying applicant references and obtaining as much information as possible on the applicant's rental history.

Indeed, a stable rental history (a continuous, long-term, clean record of rental accommodation) has become an essential means of access to rental housing. Through the requirements and practices of proving a good rental history, an 'ideal tenant' is discursively constructed. They are someone who can provide passport or other photographic evidence of identity; supply current and previous addresses verified by rent books, electricity/gas accounts or rate notices and real property descriptions in the case of previous owner-occupiers; and provide verifiable and positive references from previous rental agents or landlords. Tenants are held responsible for 'making their own (rental) history'. They are expected, over time, as individuals, to actively work to construct their reputation as a 'good tenant'. However, the details of their rental history are recorded, not by the tenant subjects themselves but by property managers, public authorities, providers of basic amenities, and, importantly, tenancy database operators.

> With regard to 'rental history', if an applicant says they have been 'living with friends' or 'living with parents', these are signals to run further checks… these people [tenants] have to go away and 'form their own history'. You have to start forming your own history … permanent employment … personal references … *What is a 'stable history'?* More than six months [PM 6]

> Rental history is needed … [We] unfairly require people to live in reverse and [sometimes] have to make exceptions to capture 'good' young people… [Often, we] end up discriminating [against young tenants] [PO 1]

Beyond requiring applicants to demonstrate a viable rental history, property managers and owner-managers also require evidence that the applicant can, in their present circumstances, pay the rent for the full period of tenancy. Therefore, they routinely request proof of continuing employment or income verified by a recent pay-slip or Centrelink payment advice. Government income supplements, though usually an indicator of low-income, are not necessarily a disqualifier. If a property manager has good reason to believe that the applicant intends stay at least for the period of an agreement (usually six months or more) and is eligible for rent assistance, these factors may, especially in a 'tenants' market' weigh in the applicant's favour. If applicants

indicate further their willingness to enter into a 'Centrepay'[10] arrangement that would ensure regular payments of rent directly to the agent/landlord, this, too, can improve applicants' chances of access to rental housing.

According to property managers, assessing risk is a complex and multi-faceted process, the outcomes of which depend on the relative economic power of the lessor and lessee - that is, on local demand and supply. When all facets of information have been taken into account, the dominant strategy of selection is, quite simply, to 'pick the best and dump the rest'. This is a clearly 'rational' strategy for minimising risk in rental property investment but the effect of property managers having access to database information is that the riskiest prospective tenants can be, ever more efficiently, 'dumped' into other segments of the market. Among the most frequently mentioned categories of 'risky' tenants were known defaulters, tenancy database listed applicants (who may or may not be defaulters), low-income single and family households[11], and those 'new' to the rental market (with no or limited rental history) such as young renters, refugees and recent migrants. From the professional property managers' perspective, the tenants they (and their colleagues) reject 'go into private rental', where both routinised surveillance and checks but also (protective) statutory processes may be less stringently applied.

The sharing of information (however unreliable), by electronic means, clearly sharpens and speeds up the process by which 'risky' tenants can be dumped (perhaps progressively) into less formal and more marginal segments of the rental market such as caravan parks and boarding houses. This 'dumping' may progress into areas controlled by 'unprofessional' property managers, or into informal share housing arrangements. A person's name may never appear on a tenancy agreement, in the informal economy of kinship provision or in 'black economy', 'backyard' arrangements. These strategies are also identified by tenants as ways of dealing with database listings as discussed in Chapter Five.

4.6 Industry practices and risk management

Importantly, property managers emphasised that, in the screening process, they only occasionally found applicants 'listed' and, in most cases where they had done so, the 'reason for listing' was not recorded. Rather, the entry would include advice to 'refer to lister' which they may follow by contacting the listing agent/manager, if the tenant applicant appeared suitable on other grounds.

Listing practices have changed over the duration of this research project, through the amendments to the *Commonwealth Privacy Act 1988* outlining collection, use, disclosure, access and accuracy of data held on databases (see Figure 3-3).

Most property managers indicated that, normally, they would only pursue the application of a listed tenant and raise the matter with the tenant applicant if there were or were

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[10] Centrepay is a free direct bill paying service offered to customers receiving Centrelink payments. Through Centrepay regular money for rent, electricity, gas, water and other 'essential living' expenses can be deducted from a payment. The organisation to be paid must be registered with Centrepay. These payments are voluntary. See - http://www.centrelink.gov.au/internet/internet.nsf/services/centrepay.htm

[11] Whilst 'low-income' households were frequently mentioned in discussion of potential or actual rent arrears, property managers also emphasised that low income tenants were not necessarily the greatest risk. One example was related in some detail where a tenant who had provided 'evidence' of substantial financial collateral (from the sale of real estate) and high income had agreed to rent an inner-city, high cost rental property and had fallen into arrears and was unable to pay. It appeared that the tenant had provided fraudulent 'evidence' of his financial status. The estimated cost to the landlord of this breach was some $10,000.

likely to be few other applicants for the property or if, on the basis of other information, the applicant appeared very suitable. Thus, only when a risk of vacancy seemed very possible, or when there were no clearly preferable applicants, would property managers be likely to pursue the application of a listed tenant. Mostly, 'listed' tenants are rejected outright very early in the screening process.

Some property managers did indicate that they would inform an applicant of the discovery of a listing, up front, but most were more likely to inform them only when directly asked to give a reason for rejection of their application. They felt that most tenant applicants accept that other, more suitable, applicants have been granted the tenancy and very few of those rejected inquire about reasons until they have experienced rejection over and over. In these cases, applicants are likely to be unaware that they have been listed and that this could be the reason for their continued rejection.

In contrast to this, in 'tight market' situations, where there is an over-supply of rental stock or few applicants interested in renting in an area, property managers may, out of necessity to fill a vacancy, consider even 'listed' applicants. Depending upon the nature of the default or offence that led to the listing and whether or not there is evidence that it has been resolved or rectified, property managers may decide or recommend to the landlord that an offer of tenancy be made subject to the applicant taking remedial action to address any breaches occurring in a prior tenancy. They may also request that the prospective tenant set up secure rent payment arrangements such as a direct debit or Centrepay (especially where applicants have previously defaulted on rent payments) and/or they may propose some form of conditional tenancy agreement (e.g. limited term with possibility of renewal subject to satisfactory tenancy during the initial short period).

Some property managers also indicated that, from their perspective, other forms of 'rent guarantee', for low-income tenants, managed through 'partnerships' with the state or community organisations, would be desirable. Such arrangements were perceived as a way of meeting the needs of property owners for income and preventing situations likely to lead to warnings of listing, formal notification of breaches or actual listing.

Clearly tenancy databases are not always relied upon, but their use plays into and reinforces well established risk-management practices in quite complex ways.

4.7 Tenant management practices

A central theme that emerged in property managers' discussions of on-going tenant management practices was the importance of 'communicating'- between property owner-manager and tenant or between professional property manager and tenant on the one hand and between manager and landlord, on the other. References to 'communications' were varied, and carried several meanings. Owner-managers stressed the importance of 'keeping in touch' with tenants by responding to calls for services and by doing regular inspections. Some property owners described the difficulty of maintaining effective direct (and dispassionate) communication with their tenants and indicated that they employed professional agents to manage their properties because of their need to distance themselves from their tenants. Professional property managers' references to 'communication' ranged from 'informing tenants of the rights and obligations' and 'being clear, up front, that you're never going to tolerate late rent' to 'listening to tenants and landlords', being the 'meat in the sandwich' (a conduit between tenant and landlord) and 'building trust', through to 'reality checks' and issuing 'warnings' to tenants that they may/will be 'listed'.

The forms of such communications range from informal, verbal exchanges through to written notices to tenants that they risk being listed if they do not comply with the conditions of their agreement and/or formal notices of breaches of agreements. Most professional property managers indicated that they had, on occasions, used a pro-forma letter provided by a tenancy database (see Appendix H for an example) to increase pressure on tenants to comply.

It is a matter of some significance, in the present context, that 'warnings' of possible listing on tenancy databases are typically issued prior to or instead of any formal, legal notices of breaches. Such strategies may be seen as operating outside or alongside the legal framework of state Residential Tenancy Acts[12] and they may be effective precisely because of this since tenants believe they have no legal recourse to these actions. It is clear that these communication strategies are used, in part, to circumvent what is perceived, by property managers, as a too-lengthy process of legal redress.

The waiting periods in statutory processes were a matter of considerable concern for all property managers. Several expressed, very strongly, their feelings of frustration, annoyance, and even powerlessness at not being able to seek redress and obtain the authority to act against delinquent tenants within shorter time periods. The principal concern was the extent of potential loss of rent monies during the period of due legal process. For owner-managers, an underlying (but clearly articulated) concern was their perceived lack of power, during statutory waiting periods, to maintain or wrest back control over their housing investment stock.

Property managers also made it clear that the non-statutory processes of communication noted above are used as levers in negotiation with tenants. Many also spoke at some length about their personal strategies for negotiating with tenants (and landlords, in the case of professional property managers) on interim arrangements to address rent arrears in cases where tenants were 'genuinely' unable to meet the cost of their rental housing for a period of time.

> … what we would try to do is get the tenant to start paying the weekly rent and maybe 20 or 50 dollars off the outstanding. And I'd have to say to you that I've had very few … landlords who have never agreed to that. And probably it's the fact that if you disagree its going to take at least 8 weeks, 10 weeks to get them out anyhow. So you're better off having them try to rectify the situation by having them pay this debt off. And most tenants are nice people. It's a very small, small percentage that cause the problem [PM 7]

Arrangements arising from such negotiations may be favourable for both landlord and tenant, securing continuing (even if reduced) income for the landlord and renewal of tenure for the tenant. Nonetheless, when negotiations over special arrangements to address rental arrears or property damage involve 'reality checks' and 'warnings' that invoke the risk of being listed, these strategies of communication may be seen as a central aspect of non-statutory power exercised by property managers. The highly targeted marketing of subscriptions and access to tenancy databases, along with limited public knowledge (see also Chapter Five on tenant perspectives) and the ambiguity of conditions and procedures for entry and deletion of database records support such strategies of control.

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[12] Queensland – Residential Tenancies Act 1994, New South Wales - Residential Tenancies Act 1987 and Residential Tribunal Act 1998, Victoria - Residential Tenancies Regulations 1998, Tasmania - Residential Tenancy Act 1997, South Australia - Residential Tenancies Act 1995

4.8 Tenancy database management

Subscription sales for access to commercial tenancy databases are pitched at property managers (and their clients) to identify uncertainties and risks associated with the unknown. This risk can be 'alleviated' through use of a 'professional' task oriented tool. The database being associated with the 'professionalism' of the industry, implies that if a property manager does not subscribe to the professional tool, they can be considered to be unprofessional and conducting business with undue care. Although some database agencies offer one-off searches, the most economic approach is via an annual subscription. The variability of 'protocols' for entry and alteration or updating of records was another salient aspect of the descriptions by property managers of their uses of tenancy databases. Owner-managers who were subscribers spoke only of using databases for screening tenant applications for tenancy. Professional property managers detailed varied practices and conditions for viewing and entering data, and ensuring security of information and compliance with privacy provisions. Most indicated that they or their employer company had established specific procedures for limiting access to databases (in some cases, to only one staff member), secure storage of tenant data on computers and timing of advice to tenants of possible listing as well as the timing of listing of delinquent tenants. At the same time, some property managers expressed their belief or claimed to know that other, less scrupulous 'professional' property managers did not have established protocols and were likely to be more ad hoc in their practices.

The protocols that professional property managers described for accessing records and listing tenants were evidently established and understood as ethical guidelines for professional practice. They were clearly motivated also by concerns about the vulnerability of property managers and their employers in a (high-risk) litigious environment that was perceived to be likely to develop in the context of tightened privacy legislation. Nonetheless, the fact that professional property managers described such varied practices (among themselves and more broadly, across the industry) for accessing and entering data may be seen as indicative of the light weight of industry self regulation in the current context of tenancy database usage[13].

Importantly, none of the property managers spoke about 'listing' tenants who were not delinquent or not judged to be a risk for future, potential lessors. 'Listing', as a practice, is very clearly intended to be a barrier or, at least, a hurdle to tenants' future access to rental accommodation. It is a strategy that works to exclude delinquent or offending tenants from the 'formal' end of the rental market whether they know of their listing or not. Some property managers voiced explicitly, their commitment to protecting others in the industry.

All property managers who were consulted as informants for this study said that, as a matter of routine practice, they endeavoured to notify[14] tenants of their 'listed' status but they also indicated that they were not always - indeed, not often - provided with a forwarding address for tenants. Therefore, although they may make every effort to notify a tenant, the tenant's last known address may be the premises that they had vacated or from which they had been evicted. Until recent amendments to the Commonwealth Privacy Act, a tenant had little opportunity to access their personal information held on tenancy databases. Yet, the onus is upon the database subject to take action to correct

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[13]   The Real Estate Institute of Australia has produced An Introduction to the New Privacy Issues in the Real Estate Industry to inform its members as well as Guidelines to the National Privacy Principles and the Code Development Guidelines. See http://www.reia.com.au/government/privacy.asp

[14]   Under amendments to the Commonwealth Privacy Act 1988, property managers have to take reasonable steps to notify the individual of listing particulars. In Queensland this has been reinforced with amendments to the Residential Tenancies Act, effective September 1 2003.

wrongful listing and/or inaccurate data. New legislation now requires that a database organisation must take reasonable steps to make individuals aware of what personal information is held and how to get this information.

Most property managers indicated that they do not usually 'list' a tenant until the tenancy has been terminated. In these circumstances, more often than not, tenants are not informed, at the time of their being listed, of their status as a 'listed' tenant.

Figure 4-1: Tenant databases in management strategies

SCREENING

- Application rejected
  - Tenant not informed of reason
  - Tenant informed of reason
- Conditional / trial agreement
- Agreement
  - Ongoing management
    - Communication
    - Negotiation
    - Sanction
    - Warnings
      - Written / formal
      - Verbal / informal
    - 'Reality checks'
    - Building trust

- Notified breach/es of agreement
  - Not remedied
- No breach/es of agreement
  - Unsatisfactory tenancy
- Notified breach/es of agreement
  - Remedied
- No breach/es of agreement
  - Satisfactory tenancy

- Tenancy database listing (bad tenants)
  - No formal proceedings
  - Irrespective of Tribunal outcome
  - After Tribunal outcome in favour of landlord
    - Listed tenant not informed
    - Listed tenant informed
- No tenancy database listing (good tenants)
  - Return / reduction of bond monies at end of tenancy (as appropriate)
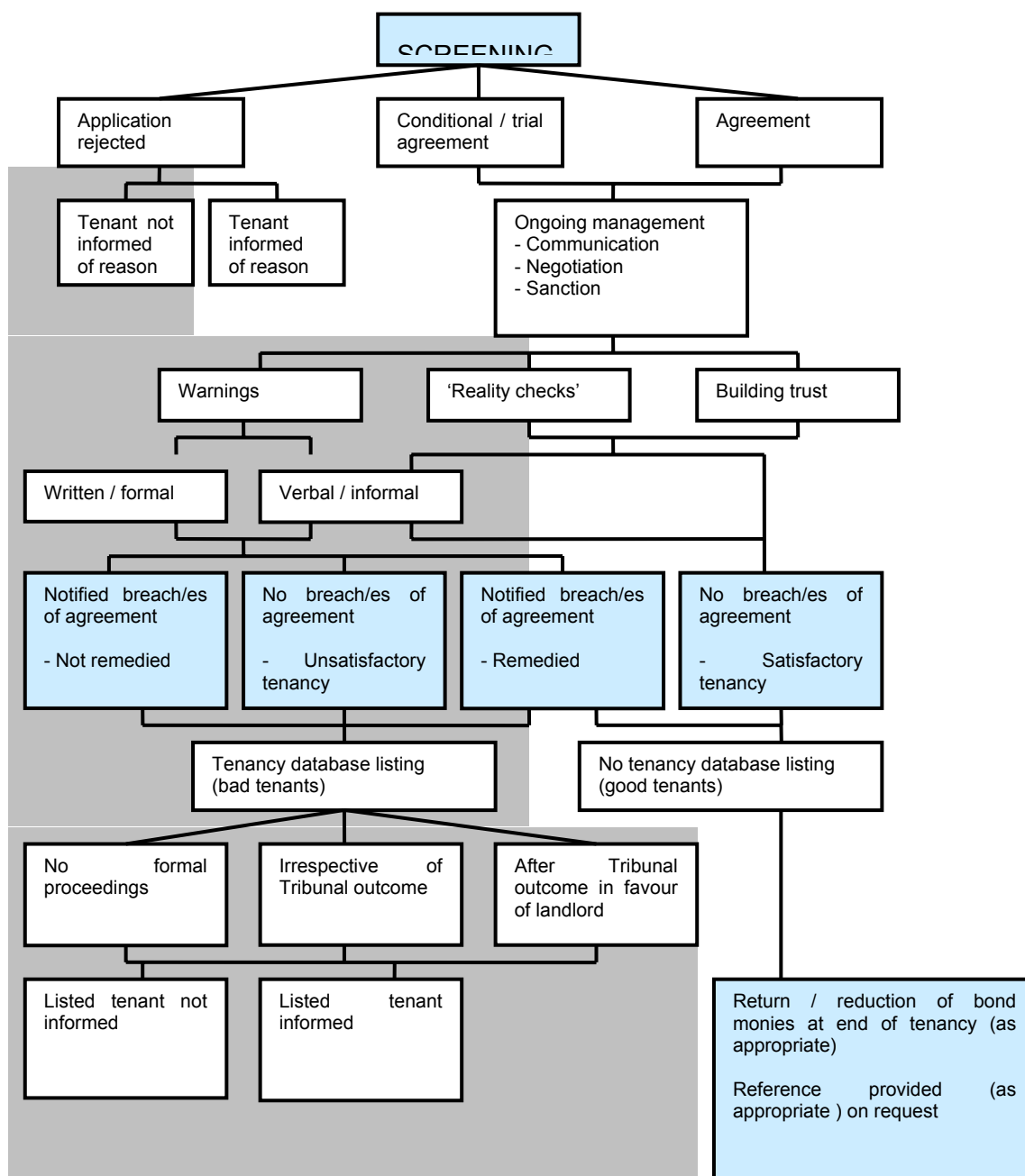 - Reference provided (as appropriate) on request

Figure 4-2 illustrates the choices and options in the use of tenancy database as a property risk management tool. Two matters are important to note here. The first is that the tenancy databases in use in Australia are compiled from information solely provided by subscribers. The second is that property managers who participated in the study emphasised that subscribers do not have the capacity or the 'authority' to remove or

erase data subjects' records from the databases currently in use. Although several property managers reported that they had 'updated' data on tenant listings when notified breaches were remedied and/or tribunal orders adhered to, the practice of updating or amending tenant records was evidently not integrated into professional practice nor routinised as were the practices of viewing or entering tenant records. Whilst this suggests that the interests of affected, exiting tenants are, generally, a matter of little concern to property managers, the reasons provided by property managers for not routinely amending records were pragmatic and reflected, more explicitly, the limited time they had, within the range of their professional or business practices, to maintain database records.

4.9 A tool for 'professional' management

Differences among property managers in their access to and use of tenancy databases in strategies of risk management (see Figure 4-3 below) effectively create different social (and ultimately, material) conditions of operation of different rental market segments.

Figure 4-2: Property Managers' Interests and Risks

	Professional Property Managers	*Property Owners*
Interests	To protect and maximise the interests of property owners (their clients). To protect and maximise their professional interests.	To protect and maximise their own/ family investment in the rental property market. To maintain rights to control use of their property.
Risks	Loss of income Litigation (for negligence in their duty to clients)	Loss of income Capital loss Infringement of lessor rights
Risk Management	Screening Communication/ negotiation Protecting rights in formal proceedings Initiating formal proceedings	Screening Communication/ negotiation Landlord Insurance Protecting rights in formal proceedings Initiating formal proceedings
Tenancy database impacts	Greater efficiency in screening through routinised practices Leverage in communication/ negotiation Greater capacity to limit sector-wide risk (i.e. not pass the risk on to other subscribers).	Subscribers: Greater efficiency in screening Leverage in communication/ negotiation Greater capacity to limit sector-wide risk (i.e. not pass the risk on to other subscribers). Non-subscribers: Limited capacity to screen by comparison with subscribers. May increase risks of non-subscribers through the 'dumping' of high-risk tenants in less formalised segments of the residential tenancy market.

The evident differences among property managers in their capacities to access and use database information to reduce owner-investor risks suggest that the distribution of tenancy database subscriptions plays into existing structural divisions in the market. The stringent application of 'formalised' practices in the use of databases by professional property managers under buoyant market conditions means that two key risk management strategies - surveillance and price-setting - work in tandem. Where the market dictates reductions or levelling of rents, the strategies of surveillance available at the most 'professionalised' end of the market through subscription to tenancy databases come more strongly into play in establishing an hierarchy of tenants, with those at the top being closest to the 'ideal'. Those at the bottom, the least 'ideal', are most likely to be 'passed down', progressively, into other market segments - where rents are more depressed (for example, in less desirable, less well serviced localities) or where there is an over supply of rental stock. Under these conditions or in local markets where there is a concentration of 'private landlords' who are not tenancy database subscribers, scrutiny of individual tenants becomes less intense.

One outcome of these processes of segmentation of the market that has implications for housing policy is that the most vulnerable tenants are likely to be pushed through into those market segments where landlords have the least capacity to screen tenants and the least capacity to offset income losses. Thus, it is possible that the most vulnerable property owners (for example, small-scale owner-investors who have mortgaged their investment property to secure an investment loan that is close to, if not up to, the full market value of their property) and the most vulnerable tenants (those perceived to be high rental risks) are being concentrated in the same segments of the market.

One of the ways in which small scale, private landlords co-operate to protect their interests is by joining associations such as the Property Owners' Associations in each state. Through these associations, information about property ownership and management is shared and so too is information about 'risky' tenants, though, to date, the means of doing this without subscription to tenancy databases, is limited.

As 'private landlords' become more 'professionalised' in their management practices and improve their capacity to screen applicants (and financially offset risks) through the services of their association, they increasingly distinguish themselves from other, less professionalised, less well organised (in a political as well as a professional sense) landlords. Those landlords who operate alone in the market were characterised by most property managers who participated in this study as either highly vulnerable to the risks posed by 'bad' tenants or engaged in exploitative practices of one kind or another. Our investigations revealed another type of 'private' landlord, however.

The 'sole operator' property owners (i.e. private landlords who were not members of any property owners' association or a syndicate) consulted as part of this research, expressed a distrust of 'professionals' in the industry and a disinclination to 'professionalise' their own practices. They appeared to distance themselves from both the ideals and practices of the professional rental market[15] and they gave accounts of 'unconventional', informal ways in which they had sought tenants (e.g. by referral through tenant networks) and/or how they had acquired property as part of a conscious strategy to provide housing for family members who otherwise might have been excluded from the rental market because they were perceived as 'high risk' tenants (e.g. sole parenting mothers with young children). These landlords revealed an almost complete lack of knowledge about (except what they had obtained from media reports) and little interest in the nature and operations of tenancy databases; tenancy databases lay entirely outside their range of management practices. At the same time, they appeared, as property owners, to be actively managing some of the 'social risk' created by the tightening of risk-management practices, through the use of tenancy databases, in the more formalised, more professionalised segments of the market.

4.10 Implications for policy and regulatory practices

There is an important qualifier on all that has been reported in this account of property managers' perspectives and their uses of tenancy databases. As has been noted above, property managers all expressed doubts about the accuracy, reliability and scope of information stored on them. Whilst this did not discourage their use of the databases, their lack of confidence in the reliability of data available on those currently operating led to their calling for a centralised and accurate record of tenants' rental histories (specifically, tenants' 'rent credit' record) available to 'accredited' property managers. Some also expressed a lack of confidence in the 'commercial' nature of current database operations.

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[15] This is not to say that they did not have in common, with other property owners, an interest in maintaining the investment value of their rental property and the income they derived from it.

> …in our office, we are on three database systems ... find being on the three … we can catch up with someone [who] has … been put on by another agent on another database … but in saying that, a lot of agents don't put their bad tenants on the database …and … you're back to square one again [PM 8]

> One of the challenges of databases is the inconsistency of how they are utilized … the problem occurs where you leave private enterprises in there to run databases, and that is where you have problems …[PM 1]

Several, independently, called for state residential tenancy authorities to make available in an easily accessible form (i.e. electronically) to accredited property managers, records of rental bond transactions, tribunal hearings and outcomes.

Whilst it is unlikely that such an arrangement could occur under the provisions of the Commonwealth Privacy Act 1988, property managers' expression of their felt need for some reliable, state regulated source of information about tenants' histories and/or information that could be used to verify that provided by applicants, indicates some openness to having the process of screening tenants formalised under the same regulatory framework as the broader range of practices involved with tenancy agreements. At the same time, several property managers clearly expressed opposition to more state regulation of the industry. These contradictory tensions in the views held by property managers may, however, suggest a regulatory strategy that might be acceptable.

In discussing the difficulties of providing housing for 'high-risk' applicants, property managers made several recommendations to assist in providing accommodation for low-income renters:

- 'partnership' arrangements (for example Public Equity Purchase scheme between NSW Housing and AMP),

- guaranteed rents and head leasing (for example, the Defence Forces arrangement in several states), and

- direct rent assistance transfer arrangements (through Centrepay).

Therefore property managers, in discussion of a range of different contexts, have envisaged at least three possibly acceptable forms of government intervention that may provide incentives to ethical practice and further protection for both landlords (and their agents) and tenants. The property managers' suggestions are congruent with Ross and Rowan-Robinson's (1997) distinction among three forms of regulation - (i) public regulation, (ii) private regulation and (iii) industry regulation.

> First … **public regulation** involves the designation through primary or secondary legislation of certain conduct as unlawful. …Secondly, reliance may be placed on the forces naturally occurring in the market through business relationships and contracts, which we refer to as **'private regulation'**. …Thirdly, industry may perceive commercial advantage in [regulating practices within the industry and] …control is left entirely in the hands of industry. There is no obligation to act; the motivation is the perceived commercial advantage in doing so. …We refer to this as **'self-regulation'** in the sense that certain conditions in the market operate to bring about a voluntary adjustment of behaviour. (Ross and Rowan-Robinson Jeremy, 1997:2/11)

This framework of regulation is taken into account in identifying policy implications in Chapter Six based on property managers (and tenant) perspectives.

4.11 Summary

From the property management perspective tenancy databases are a tool that can be used to reduce the risk of loses of income from an unsuccessful tenancy. They are used despite their known shortcomings as part of a professional management approach to protecting clients' and owners' interests. They are available only to larger agencies and subscribers, and the data are supplied by subscribers. Property managers use tenancy databases alongside a range of other means of checking an applicant's rental history. The importance of database information in the screening process varies according to the supply of and demand for rental stock in a particular sub-market. But overall, databases are seen by most, through not all, property managers as an essential adjunct to professional risk management in the private rental market.

We now turn in Chapter Five to the tenants and tenant advocates' views on tenancy databases.

5 TENANT RISKS AND OUTCOMES

5.1 Tenants and advocates

This chapter analyses tenancy databases from a tenants' perspective. The research identified a clear distinction between tenants on the one hand and tenants' advocates on the other hand in terms of their knowledge about tenancy databases. This difference is reflected in the structure of this Chapter. The first part reports the results of the analysis of interviews with individual tenants. The later section analyses interviews with tenants' advocates. Note that in the discussion the term 'tenant' applies both to people who are in an existing tenancy and to people who are seeking or have recently lost a tenancy. In other words, the term refers to both existing and potential tenants.

5.2 Tenants' perspectives

As explained in Chapter Two the analysis in this Chapter draws on the experiences and understandings of tenants raised by them during semi-structured interviews and focus group interviews. The tenants who participated in these interviews either knew they were listed or had a strong belief they were listed on a tenancy database[16].

Tenants were asked and talked about how they negotiated various stages of a tenancy. The interviews used three structured stages to explore tenant's experiences and perceptions. Initially they were asked to talk about the strategies they put in place when they were looking for a place to live. Second, they were asked to talk about their experience during a tenancy. Finally they were asked to talk about leaving a tenancy. They were asked what they believed would make a tenancy easier or more difficult at each of these stages.

There was a clear realisation amongst tenants that a listing excluded them from the formal rental tenancy market. The interview data shows quite clearly that tenancy databases impacted on the way that these tenants approached each stage of a tenancy.

As explained in the previous Chapter, tenancy databases are utilised by property managers to assess tenancy risk. Their use in screening potential tenants is increasingly considered part of professional practice. Tenants viewed the role of tenancy database in a different way. Both, however, derive their perspectives from their relative positions within the general field of rental tenancy. While property managers talked about databases in terms of risk minimisation and professionalism, tenants talked about them in relation to broader issues of power and identity. Tenants consider that property managers are gatekeepers who have a disproportionate and relatively unregulated amount of power that can be used to exclude potential tenants from the market. For tenants, tenancy databases are yet another tool available to property managers that further supports the presence of a clear power discrepancy in the field of rental tenancy. They see that the odds are constantly and explicitly stacked against them.

5.2.1 Knowledge and experience

For property managers, knowledge about the way that tenancy databases work and their role and function in the rental tenancy market is considered an explicit part of their professional practice. Tenants, on the other hand, lack clear and concise information about privately run tenancy databases. The interview data suggests that tenants draw their knowledge of tenancy databases from a variety of sources. Some of their

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[16] The discussion in this Chapter is based on points raised by tenants within a broader discussion of perceived barriers in the rental tenancy market. Tenants often referred to 'blacklists' rather than 'tenancy databases'.

information comes from the media. A number of tenants interviewed mentioned that they had seen or heard about the use of databases on television, radio and/or in newspapers.

Despite this, most of the information held by these tenants about tenancy databases is 'experiential'. Many of the tenants who were interviewed and particularly those who knew they were listed, learnt about the existence of tenancy databases and the consequences of being listed on one, only after they, or someone they knew, had been informed that their name was on such a list. Several tenants only became aware of tenancy databases and their listing after applying for tenancies and repeatedly having their applications rejected. Some of these tenants had been informed that their database listing had excluded their application from being considered and some had been advised that it was in their best interest to rectify the situation as soon as possible.

> Finally this lady [property manager] told me that I was not going to
> get a house until I cleared my blacklist [T 1].

Many tenants, particularly those who had not had their beliefs about being listed verified, talked about 'blacklists'. Their beliefs about 'blacklists' are based largely on informal information networks and are, for the most part, based on speculation, hearsay and rumour. The tenants viewed 'blacklists' as the principal way that tenants were excluded from the rental tenancy market; they understood these as lists put together by professional property managers employed by real estate agencies and used both to screen applicants who approached their agency and to provide information (to verify rental histories, supply tenant references and, most particularly, to provide information about tenants' breaches and misdemeanours) to other agents.

> I've heard of people being rejected, like having their applications
> rejected, … we usually discuss sort of things, like you know,
> conspiracy theory based on that idea, well they probably all collude
> in handing information between each other in terms of estate
> agents and so I mean I'm not surprised to discover that there's
> actually these databases at work…[T 2]

> For me I feel dis-empowered in the relationship, despite their
> denials … and claims to the contrary, there is no way I could be
> convinced that database operators, are not sharing them around
> and cash in on whatever information they can, … you know, selling
> of databases to whoever.. [T 3]

Tenants held strong beliefs that this information could exclude those people on the 'blacklist' from gaining a tenancy. Tenants suggested that this information is distributed via networks between property managers in a particular geographical area or through real estate chains. These 'blacklists' were believed by tenants to be relatively informal and/or localised. Tenants believed that there was little or no form of redress and that tenants' particulars were noted and distributed at the discretion of property managers.

The way tenants talked of 'blacklists', and their lack knowledge about commercially operated tenancy databases, reflect their position in the field of rental tenancy. It is consistent with their feelings of disenfranchisement within the field. As identified previously, tenancy databases sell information about tenants to subscribers. The operators are marketing a resource and a tool for minimising risk to property managers and owners through minimising uncertainty in the processes of screening, recommending and selecting tenants. The product they sell is information recorded about database subjects, extracted from the circumstances of subjects' lives and delivered to customers in an easily accessible format. Across the Australian States tenancy laws regulate the relationships between tenants and landlords. However, the respective rights and responsibilities of tenants and database operators and subscribers is far less

regulated. For example, until the recent Privacy legislation changes database operators were not obligated to inform tenants of what particular information constituted their listing. Even under these conditions the onus is on the tenant to make the enquiry. In Queensland, it is only since August 1, that property managers are obliged to inform tenants of the content of their listing made on a tenancy database. Consequently tenants tend to be excluded from the flow of information that is vitally important to their position within the rental tenancy market.

Tenants, particularly those who knew they were listed, were concerned about the accessing, verifying and correcting the information. Yet for the most part they did not know how or if they could ever repair their tenancy record.

> What do you do? Once you're on there and you're a bad tenant
> what on earth can you do? You can't do anything [T 4].

Tenants were concerned about the accuracy of information contained in their listing. Some tenants did not know the exact reason for their listing, they were not sure what details were contained in their listing and they were also unsure of where and how to get this information.

Tenants were also concerned about issues of redress. Mostly, tenants did not know who to contact if they believed that their listing was 'unfair', 'retaliatory' or 'incorrect'. Those who did had been discouraged by the cost of telephone access to confirm a listing[17] and the requirement to make a written request for information about their record[18]. Furthermore, seeking information, at considerable cost, about a personal record over which they believed they had little recourse to change, was not an action that tenants felt able to pursue at a time when their need for accommodation was urgent. Strategically, tenants usually turned their attention to their most urgent need, which was actually finding accommodation.

Thus tenants have been, for the most part, removed from the circulation of information contained in tenancy databases, information that determines their reputation in the field of rental tenancy. Despite this, they feel that the onus is placed squarely, by all the parties involved, on tenants themselves to 'fix' the situation. The importance of 'sorting out' a listing becomes clear when we look at the tenancy application process in more detail.

5.2.2 Identity and tenancy

Tenants are expected to actively work to construct their reputation as a 'good tenant'. As discussed in Chapter Four, verifying the nature of a tenant's reputation takes place when an application for a particular tenancy is submitted. Tenants consider applying for a private rental tenancy as similar to applying for a job. The application process involves prospective tenants providing property managers with a range of information about themselves, including an overview of their rental history. The application assessment also involves property managers having a tenant's credentials verified by a third party. For tenants, being considered a 'good' or 'bad' tenant can be the difference between getting and not getting a particular tenancy. Like property managers, tenants understand that it is important to have certain aspects of their identity 'in order' for an application to

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17 For example, TICA has a helpline for a tenant to make enquiries or correct incorrect information. In Australia, calls to TICA are charged at $5.45 per minute with a higher rate applicable from mobile / pay phones. As an alternative to this, TICA recently offered an option to make enquiries by mail which costs the tenant $11.00. The tenant has to supply their personal details [including driver licence or passport number] and can have information returned to them in 10 working days.

18 It is important to note that both tenants and tenant advocates recognised that vulnerable tenants are very likely to be disadvantaged also by personal difficulties with literacy and social skills.

be successful. Tenants suggest that tenancy databases play a particular and definitive role in constructing their reputation as tenants.

As noted in Chapter Four, property occupancy rates and demand for particular types of housing influence the amount of risk property managers are willing to tolerate. It is important to note that the market also influences other aspects of the application procedure. Tenants understood that the judgments made during the application process by property managers are made in relation to and in direct competition with other potential tenants. Tenants also understand that the final decision about their application rests with the property owner. Tenants generally agreed about the characteristics that gave potential tenants an advantage in the application process. For example, tenants considered that it was advantageous for a tenant to have a history of stable long-term full-time employment. They also viewed issues related to presentation and dress as important. Tenants suggested that it was important to make the 'right' impression on property managers. Several attributes were considered to be a distinct disadvantage when applying for a tenancy. For example, some suggested that being a single mother with young children negatively affected their chances at gaining a tenancy. Several tenants also suggested that young people were less likely to be trusted by property managers.

Figure 5-1: Relationship between Tenants and Property Managers
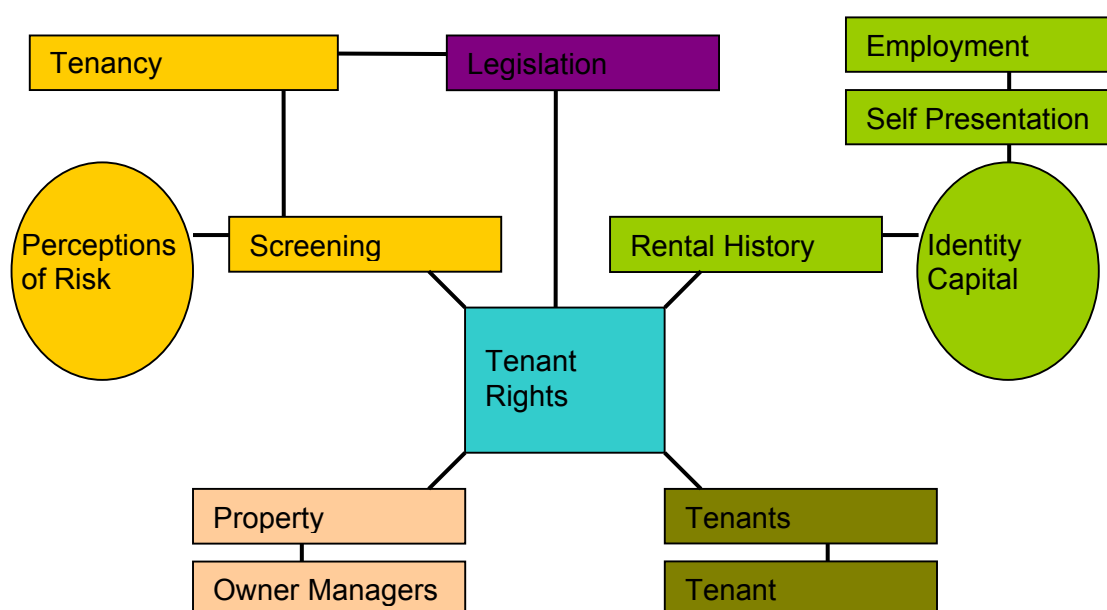
Most importantly, potential tenants needed to show a strong and clear rental history. It is also preferable that a third party verifies this history. For example, most tenancy applications require tenants to provide their current address and also a list of previous tenancies. This allows property managers to verify the reputation of a tenant through the eyes of existing or previous landlords or property managers. Tenants realised that if they have a history of paying their rent on time and had avoided breaches they would be viewed favourably. Tenants also realised that if these records were not 'in order' property managers would consider them an unacceptable risk. As this discussion suggests, tenants have more control over some of these issues than others. For example tenants may choose to leave a particular tenancy off their application sheet or modify their dress if they believe it is inappropriate. Figure 5-1 represents relationships in the field of rental tenancy that impact upon tenants' rights and ultimately their access to housing.

Within this whole process tenancy databases present a particular quandary for prospective tenants. This is mainly because a listing effectively overrides all other aspects of a tenant's application. Tenants also consider that databases are problematic because they are mediated and controlled by private business.

> Yeah they contribute to an atmosphere, the emotive atmosphere, often people will be reluctant to exercise their rights because they're scared about being blacklisted, and because the information is not up front … its not very public. I mean we really don't know how they operate. Rumour tends to feed that sort of fear (T 5).

The objective of the operators of tenancy databases is to make a profit selling the information they have about tenants to property managers and owners. It appears that database operators do not feel a moral obligation to tenants to correct listings or to take up issues of redress. Instead their obligations rest with property managers who make up the majority of their subscribers. For the most part tenants view databases as existing outside of the sets of checks and balances present in the wider rental tenancy market. Tenants feel that they have been completely removed from the flow of decisive information about themselves.

5.2.3 Strategies and actions

Tenants identified several potential strategies they could put in place when they knew (or believed) they were listed. For the most part these revolved around avoiding the formal rental tenancy market. These strategies could be triggered even if tenants were not sure that their name was on a database; for some the mere suspicion was enough. Here, the 'formal rental tenancy market' refers to tenancies controlled by property managers working in licensed real-estate agencies. Tenants thought that these professional property managers 'always' utilise databases to screen tenants and that their listing, or potential listing, excluded them completely from the formal rental market.

Alternative strategies for finding accommodation included seeking to rent directly from an owner manager – a 'private landlord'[19]. Tenants believed that private landlords were far less likely to subscribe to tenancy databases or to have access to 'blacklists'. They thought that private landlords, on the whole, were relatively lax in their screening processes. This presented tenants with a better opportunity to gain a tenancy. Tenants suggested that owner managers were also more likely to be open to negotiation and that gaining a tenancy might just be a matter of 'getting along' with a particular owner.

> … she [the landlady] bought this place as an investment … we are her first tenants … she is very nervous and if she found out I was blacklisted there is no way I would ever have got it … she liked the baby … [T 1]

Another way tenants negotiated their exclusion from the formal rental tenancy market was through informal arrangements with partners, friends and family. This, for the most part, involved moving into a pre-existing tenancy that is formally held under another name or through other people.

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19 This term 'private landlord' was used consistently by both tenants and professional property managers to refer to those landlords who dealt directly with their tenants rather than through professional agencies.

Since then I've just been staying with friends… we're actually moving into a place around the corner in two weeks. Another three New Zealand guys got their own flat around there and I'll directly pay them cash and I don't have had to sign an agreement [T 6].

… at the moment I'm at mum and dads, … I'm trying to save to actually get a deposit on the place, … a girlfriend has a investment property, she let me rent there. I'm just lucky I guess. Another friend had a six bedroom house and he was looking for some people to occupy that, so I moved in there [T 7].

'I rented a house through my Mum … in Mum's name … the agent didn't know … [VIC 1]

For some this involved moving into share house accommodation where they were not obligated to place their name on a lease or formal tenancy agreement. Others moved in with partners who had a tenancy arrangement. Some suggested changing their names, or getting parents or friends to sign a lease for them. These opportunities were not open to all people and, in any case, were often forced choices that might ultimately lead to further insecurity and vulnerability[20]. Some tenants made an active decision to completely remove themselves from the rental tenancy market - for these, particularly younger tenants, moving back into the family home was considered the only option available.

For the most part, a listing moved people into less secure and less stable tenancies. They were then more likely to depend on other people - friends, family or acquaintances - to certify any formal tenancy arrangements or to provide them with a place to live. None of the tenants preferred their current living arrangements. For some tenants the stopgap measures provided short-term security, with many questioning the long-term stability and appropriateness of their existing living arrangements.

Issues in the broader rental tenancy market also play a role in pushing these tenants further away from stable living arrangements in the formal rental sector. Low-cost housing close to services, especially in the major capital cities, is scarce and in high demand. Tenants with a database listing find themselves completely excluded from a market that is already highly competitive.

5.3 Tenant advocate perspectives

Individual tenant's perspectives on tenancy databases are somewhat different to those of tenant advocates. Unlike most individual tenants, tenants' advocates have an extensive knowledge of databases and the way they work. The tenant advocate's central concern and role in the field of rental tenancy is the protection of tenants' 'rights'. Developing a comprehensive knowledge of tenancy databases has become an important part of their practice. Tenant advocates were unified in expressing their concerns about breaches of tenants' privacy and freedom of information rights. Their accounts of specific cases and of their efforts to advise and/or achieve redress for tenants adversely affected by database listing revealed the complexity of the field of landlord-tenant relations and the intractability of some listing practices to statutory forms of redress. The practices of tenant advocates are enabled, mediated and controlled by legislation that designates tenant's rights within the law. Within this context, the tenant advocates interviewed for the project identified a number of concerns about the operation, uses and effects of commercial tenancy databases.

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[20] Professional property managers indicated that 'stayed with parents/ family/ relatives' entered on a rental history was a cause for suspicion and equated to a poor or non-existent tenancy record.

The first set of issues focuses on the ability of legislation, to deal with concerns about tenants' rights. Tenants' advocates perceive there are issues that arise as a consequence of the increased use of databases. A point that needs to be made here, and which is also discussed elsewhere in the report, is that tenancy legislation is essentially about the rights of people prior to the commencement of the tenancy, for the duration of the tenancy and after the tenancy is finalised. Tenancy databases may act as a barrier to people gaining a tenancy at all. Tenants' advocates are concerned with people who have a tenancy as well as those who are seeking to gain one. They may have to seek redress for their clients through privacy legislation, for example, rather than through tenancy legislation.

The second set of issues raised suggests that databases accentuate existing inequalities in the field of the rental tenancy and push already vulnerable tenants into less regulated and more volatile areas of the rental market.

Tenants' advocates are fielding an increasing number of enquiries from tenants related to the use of tenancy databases. Requests for assistance fit mainly into two broad categories. First, there are those people who have been listed or threatened with being listed recently and are urgently seeking advice about ways to exit or retain tenure and/or need urgent assistance to find a place to live. The focus for them is on finding accommodation. They do not necessarily see addressing their listing as their first priority. Tenant advocates reported the difficulties that they and their clients faced in trying to 'balance' strategies to claim and protect consumer rights to fairness and justice in regard to database listings with strategies to achieve access to appropriate, affordable accommodation for these clients. The fact that many tenancy database practices fall outside statutory frameworks means that tenant advocates cannot use legal process or reference to rental tenancy legislation to achieve justice for their clients.

Second, tenants may contact advocacy groups after they have been listed and have experienced difficulties in obtaining accommodation and want to get their tenancy record sorted out. In such cases tenants may have several different concerns about their database record including its accuracy (whether or not a breach or offence has occurred and/or has been recorded accurately), currency (whether or not a record has been updated, especially where past breaches have since been remedied) and fairness (especially with respect to the severity of any breach or offence and the consequent impacts). Here, too, issues about the power and scope of legal mechanisms and statutory processes available to tenant advocates to address tenants' concerns emerge.

The technology used by tenancy databases increases the speed and scope of exclusion, in direct contrast with the pace and scope of statutory processes and legal jurisdictions. Internet access to tenancy database records allows subscribers to check the rental history of a tenant applicant instantaneously and across Australia and, in some cases, internationally.

Tenants' advocates raised questions about the suitability of legislation. They indicated, quite clearly, the difficulty of advocating for tenants to obtain redress of incorrect, false or retaliatory listings when the information is stored and distributed by private companies. Database operators do not make the listing process open or transparent. The existing legal mechanisms do not adequately regulate the practices of tenancy databases. Tenant advocates have been frustrated by the absence of regulation and statutory process that could enable redress and provide tenants with a legal capacity to challenge and change or remove their record from the database. Advocates strongly expressed the view that the lack of legal recourse available to tenants reinforces the power of property managers across the whole field of rental tenancy:

> Listing erodes people's faith in the legal process. "If I do everything right, follow legal process, I can still be listed, so why bother?" There are so many ways to address a [database] listing it is hard even for the tenant advocate to address let alone advise others what path to take [TA 1]

The outcome of an instantaneous check on an electronic database is that tenants can be immediately labelled 'bad' (or if not identified on the database as 'not bad'). Beyond the labelling at the point of screening, tenant advocates identified a range of other 'uses' of tenancy databases apparent from the experiences of tenants they had assisted. From the tenant advocate perspective, some property managers were seen as exploiting the vulnerability of tenants and exercising inordinate control over tenants in a tenancy arrangement by threatening to list, by undertaking not to proceed with a listing if the tenant met certain conditions (whether or not a notice of breach had been issued) or, when agreeing to offer a tenancy to an already listed tenant, setting highly restrictive conditions on renewals of the tenancy in short intervals (e.g. a month trial period to be followed by another month if the tenant is not delinquent during the initial trial period, and so on). Figure 5-2 outlines the uses of tenancy databases that tenant advocates had encountered in their work of supporting tenants and prospective tenants. Although reflecting a different perspective from those of property managers, this range of strategies is highly consistent with property managers' own descriptions of the various ways in which they utilise tenancy databases (or, at least, knowledge of their existence and effects) as tools for managing risks in rental tenancy (See Chapter Four).

Figure 5-2: Tenants and Tenants' Advocates - Interests and Risks

	Tenants	*Tenant Advocates*
Interests	To obtain and maintain access to appropriate and affordable accommodation. To maintain tenants' rights during occupancy.	To protect and advocate the interests of tenants.
Risks	Exclusion from appropriate and affordable housing Infringement of tenant rights	Poor outcomes for tenant clients Exclusion from appropriate and affordable housing Infringements of tenant rights
Risk Management	Possessing 'identity capital' Maintaining and documenting 'rental history' Avoiding breaches of tenancy agreements Protecting rights in formal proceedings Initiating formal proceedings	Reliance on legal frameworks, especially state Residential Tenancy Acts to protect and advocate tenants' interests during occupancy
Tenant database impacts	'Public' documentation of rental history Commercial nature of tenant databases constrains database subjects' capacity to access and amend records. Speed up and broaden the process of exclusion	Areas of operation and use of tenant databases and negative impact on tenants may lie outside the jurisdiction of law

Clearly, tenancy databases have a powerful impact upon a person's chances of obtaining and maintaining appropriate housing in the private rental sector. They also, very clearly impact upon tenant advocates' capacities to represent their clients - both with regard to securing suitable housing and obtaining redress for negative impacts of tenancy database uses upon their tenant clients.

Tenants' advocates were unanimous in their view that a database listing has a detrimental effect on a tenant's position in the field of rental tenancy. They also agreed that listings, for the most part, started tenants on 'pathways' to less secure housing. Listed tenants usually have no other choice but to put in place various informal arrangements with friends, partners or family to cope with their exclusion from the formal rental tenancy market. Some tenants have been forced to accept inappropriate accommodation in hostels, boarding houses or caravan parks where a database listing did not exclude them but was used as a mechanism of control. Tenant advocates were

aware also, of cases where people had become homeless because of a tenancy database listing and where listed tenants had experienced discrimination and exploitation.

Although tenants' advocates supported the idea that, for the most part, being listed on a tenancy database made tenants less desirable to property managers, some suggested that listed tenants were in fact more attractive to a small number of property managers who operate on the fringe of the legitimate rental tenancy market.

> [With] a 'black economy of housing' that soaks up some of those rejected from the mainstream tenancy market. … 'tenancies at the pub' and 'backyard tenancies' … sheds … informally divided houses … options attractive to those who have difficulty in the mainstream rental market. This is where databases come in… push[ing] low-income tenants out of the mainstream market and into 'fringe tenancies' [TA 2]

These property managers exploited listed tenants and took advantage of their situation by supplying over-priced and substandard tenancies. Tenants were told that they 'had no other choice' but to accept the property manager's terms and conditions. Our discussions with advocates and community housing managers suggest that it is only in the field of social housing that social risk is being managed proactively.

Tenant advocates suggest that tenancy databases heighten the inequalities in the rental tenancy market and accentuate existing power differences in the field of rental tenancy. They suggested that the power and popularity of databases highlights a much broader problem for some low-income tenants in the rental housing sector. Tenancy databases will, despite their inaccuracies and unreliability, identify tenants whose tenancies have been disrupted through their own serious behavioural and other problems. These tenants present a 'high risk' to themselves as well as to the providers of rental accommodation, in both the public and private sectors. As the stock of community and public housing is reduced these people have fewer housing options available to them.

> [They go to] caravan parks and rooming houses and … public housing ... Difficulty of public housing is that they've got to eligible to begin with and [I] would suspect that not everyone on tenant blacklists are actually … eligible for public housing and if in fact they are, they may in fact have had outstanding bond loans perhaps even been a tenant in public housing before with … rent arrears [TA 3].

Their plight is a policy problem for low-cost housing providers rather than for tenancy database regulators, even though it is the use of tenancy databases that spotlights them.

5.4 Summary

Tenants were aware of the impacts of tenancy databases in effectively negating the possibilities of listed people getting rental accommodation. They were, however, very unclear on their rights in relation to the information databases contained or how they could change it. Tenants were aware they needed to construct a suitable tenancy history. Tenant advocates were far more aware of databases but pointed to serious gaps in tenancy legislation (except possibly in Queensland) that made protecting tenants' interests difficult. Clearly 'listed' tenants are forced to pursue alternative accommodation strategies that are pushing them to the more volatile, insecure and informal rental market.

6 CONCLUSIONS AND POLICY IMPLICATIONS

This research has attended to the key research questions stated in Chapter One. The three key aspects of the operation, uses and impacts of tenancy databases in the private rental sector that have been addressed are:

- Tenant database operations in the Australian and international contexts,

- The use of tenancy databases in property management practices and the respective rights and practices of tenants and landlords (and/or their agents) within the field of private rental tenancy, and

- The policy implications of the operation and impacts of tenancy databases on future housing and tenure options for tenants, especially low-income tenants in the private rental sector.

Each will be discussed in turn.

6.1 Tenancy Database Operations

Four sets of issues concerning the operation of tenancy databases were evident in our investigation:

- issues of privacy and the scope of databases

- issues arising from (un)reliability/ inaccuracy of database records

- issues of procedural (in)justice in protocols for listing/'unlisting'

- issues arising from (in)capacities for rectifying wrongful listing

From the perspective of tenant groups, the infringements of tenants' right to privacy and freedom of information were of grave concern. Despite specific changes to Commonwealth privacy legislation, the operations of tenancy databases continue to sit largely outside the statutory framework of rental tenancy regulation. The Commonwealth Privacy Act 1988 as well as Commonwealth and State Fair Trading laws presently provide the main vehicle of redress for tenants who believe they have been wrongly listed or unfairly treated[21].

Legislative controls over the use of tenancy databases as, for example, the enactment of the *Property Agents and Motor Dealers Amendment Act 2001, Queensland* serve to better protect tenants from unfair or vexatious listing and from inaccurate, incomplete or potentially misleading listing of their details. However, a national response that more specifically addresses the use of databases in the field of rental tenancy is warranted as these databases operate across the country.

A national framework for the regulation of the operations of tenancy databases would serve as a basis to standardise the use of tenancy databases and the associated listing practices of the residential tenancy industry, to ensure accuracy of records and fair treatment of database subjects. Rental tenancy legislation has been amended in Queensland to address these matters; other States and Territories, likewise, may wish to consider amending tenancy legislation.

Public regulation and record keeping, however, will not control the more or less arbitrary and highly variable patterns of listing by subscribers to commercial tenancy database services. Even among those cases where listing is sanctioned by law, some tenants will be listed for breaches and some will not. Who will be listed and who will not potentially remains open to circumstances. Such unreliability of tenancy database listing practices is

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[21] In Queensland, new tenancy legislation specifically addresses the issue of tenancy database uses.

problematic not only for tenants but also for property managers. Tenancy database operators should consider measures to improve the reliability of data-entry protocols. They also might wish to consider the commercial benefits of adopting systems of procedural and ethical accounting[22] to demonstrate the reliability of their data-entry and storage procedures, their compliance with relevant legislation and, especially in the absence of appropriate legislative constraints, their consistency and fairness in the treatment of all categories of database subjects. The onus to ensure accuracy and fairness in the listing of database subjects should lie with the database operators and not with the database subjects.

However, at the same time, access to information by database subjects needs to be low-cost and simple and a framework of protocols within which tenants or their advocates can seek redress for grievances arising from wrongful or inaccurate listings needs to be developed.

6.2 Tenancy databases, property management and tenants rights

Tenancy databases have been developed and are marketed specifically to protect the interests of property owners. Property owners and their agents view them as an essential (if not completely effective) tool to protect the rights of property owners. Any grievances about the operations of tenancy databases voiced by this group of stakeholders related to the unreliability of the processes of data entry and the inability of property managers to access customer credit records that they believe provide information that is more reliable. Because commercially operated databases are reliant on subscribers for data entry and because listing practices vary quite widely within the industry, they cannot provide a comprehensive or up-to-date listing of tenant breaches and defaults. Property managers (as well as some groups of tenants) mooted the possibility of access to State records (e.g. records of start and finish dates of tenancies and return or withholding of bond monies) operated by a body such as the State rental bond authorities.

Statutory regulation of listing practices, information storage and retrieval will also serve as a constraint upon some informal, disciplinary practices in the industry e.g. property managers 'warning' tenants that they might or will be listed as a way of putting pressure on tenants to comply with conditions of tenancy agreements prior to issuing notices of breaches.

To complement formal legislation, industry peak bodies should be encouraged to develop industry standards for self-regulation of the lawful, just and ethical use of tenant data. This would include consistent protocols for acquiring and updating information, for identifying risk, and for expunging tenant records.

However, it should be noted again at this point that the extension of legislative controls over listing practices and the operation of databases are likely to further frustrate property managers/owners. The present ambiguity in listing protocols (e.g. when and why to list or inform a tenant) allows property managers to use tenancy databases as levers for informal negotiation with tenants and to avoid, in many instances, proceeding to engage formal statutory processes and comply with statutory waiting periods. Implementing constraints upon such informal strategies of negotiation is highly desirable

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[22] For examples of ethical accountability see: 'Have separate rights based claims for equal opportunity reached their use by date? Ethics and Equal Opportunity (EO)', paper presented at the Annual Consultation with Women by Eva Cox, UTS Faculty of Humanities and Social Sciences, February 2002, available at http://www.equity.unsw.edu.au/evacox02.html#sear, The Institute of Social and Ethical AccountAbility at http://www.accountability.org.uk/default.asp, and the New Economics Foundation at http://www.neweconomics.org/gen/newways_socialaudit.aspx.

from a social justice perspective, but property managers will want to maintain their current capacity to resolve difficulties as quickly as possible in the landlord's best interests. Some industry regulation of such practices (e.g. through codes of practice/ codes of ethics) is warranted, as it would promote professionalism and best practice within the industry while providing tenants with some degree of protection from arbitrary actions.

Industry peak bodies, such as the REIs in each state should be encouraged to continue to develop and incorporate specific guidelines on the use of tenancy databases in best-practice models of communication, negotiation and mediation between property managers/ landlords and tenants that are consistent with statutory requirements and with the rights of property owners and tenants expressed in relevant legislation.

In addressing the use of tenancy databases in the private rental sector, tenants also indicated that they saw some potential advantages for them in having accurate, verifiable records of their rental history available for their use in establishing their credentials. Some tenants further indicated that they saw it to be in their interests to have potential neighbours screened by a reliable and fair process. Tenants expressed grievances that were less about the existence of databases and the practices of screening tenants and much more clearly about issues of fairness, transparency and accountability in record keeping, and about their rights to access information.

Some attention should be given to the development and refinement of systems and protocols for tenant access to and use of certified brief records of their (personal) rental history. Such records would need to be linked to the State bond authorities' records and might be compiled by an independent authority. State bond authorities may need to record more detailed information about withheld bond monies e.g. where by agreement between the lessor and tenant, some monies are withheld to cover cleaning and or final rent payments. Tenants could use such certified records to their advantage, as a reference. It may also be in the tenant's interest that tenant advocates encourage, educate and assist tenants to keep a personal record of their rental history.

It is clear that the 'customer power' of individual, high-risk tenants is extremely limited, especially under buoyant market conditions. However, a public education campaign promoting awareness of ethical practice in tenancy database use may provide industry with further incentive to promote ethical practice for broad market advantage. A campaign should include identification of property managers' and tenants' rights and obligations under laws relating to privacy, fair-trading and residential tenancy.

A concerted public education campaign that informs tenants and potential tenants, property owners and property managers of the limits of lawful operation and use of tenancy databases in the residential tenancy industry should be undertaken.

6.3 Housing impacts and housing policy

Neither state regulation of the operations and uses of tenancy databases nor public education campaigns will reduce all risk of inappropriate housing among low-income tenant groups or the risk of homelessness among truly high-risk tenants. Though these strategies may offer protection to 'marginal' tenants, ensuring that they are treated more fairly in the processes of screening and tenancy management, the scope and efficiency of electronic record keeping means that tenants whose rental histories indicate that they are highly likely to breach agreements or offend property managers, landlords (or neighbours) will continue to be excluded from the formal private rental sector. Truly high-risk tenants may also be ineligible for or excluded from public housing.

Electronic databases do enable property managers to exclude such high-risk tenants more efficiently and effectively (with effects stretching beyond local rental markets).

High-risk tenant vulnerabilities arise, however, not only from their 'listed' status but from the fundamental incapacities – economic, social and personal - that are likely to lead to their being 'listed'. Therefore, the social risk of homelessness cannot be addressed solely through the tightening of legislative controls over rental tenancy and risk-management practices in the private rental sector. Nor can it simply be shifted (back) into the public sector though an element of State responsibility in meeting the housing needs of low-income and high-risk tenants must remain.

State housing policies and programs need to reduce the actual risks of insecure and/or inappropriate housing and homelessness. In this context, it may be possible to develop 'best practice' models for private regulation of risk-management practices as part of arrangements between state agencies and particular market providers. For example, it may be possible to specify ethical requirements, housing types/standards[23] and audit procedures as part of Centrepay arrangements for rent transfers and direct transfers of rent assistance. Inter-agency support (including non-housing support) might also be part of such arrangements so that the 'root causes' of rent arrears and property damage might be addressed to minimise these risks.

State housing authorities and specifically State residential tenancy authorities should actively encourage and work with other State agencies and private residential housing providers to promote 'private regulation'[24] of tenancy database (and other) practices through provider contracts

State and non-government agencies, along with private providers, should be lobbied to develop strategies to strengthen low-income and high-risk tenants' social and economic capacities to maintain tenancy agreements through inter-agency support programs linked to housing provision.

Models of rental housing provision that identify the role of the state and develop the notion of 'shared responsibility' for the provision of (social) housing might also be explored. Provider partnerships (across all sectors, including the community housing sector) that entail guaranteed rental income in return for supply of appropriate social housing stock have the potential to manage both economic risk (for providers) and the social risk of homelessness. It may also be possible to address wider systemic risks through such partnerships. For example, some protection may be afforded for 'Mum and Dad' investors who have bought rental housing stock as a way of providing themselves with retirement funds. The prevalence of small stock-holders is a widely documented feature of the private rental market in Australia and a key aspect of risk and 'insecurity' in the market.

Further research and development of best practice models of provider partnerships for sustainable housing for low-income, high-risk tenants should be undertaken with the aim of reducing the actual risk to the industry of having such high-risk groups in the market without support.

The regulation of risk-management practices, including the operation and use of tenancy databases in the private rental sector in Australia whilst protecting tenants from unjust treatment, is also likely to improve the reliability and efficiency of screening practices. It is only by providing and/or supporting the provision of appropriate and affordable housing for low-income and high-risk tenants and by acknowledging the non-housing issues that shape risk in the private rental sector that risks for both property owners and tenants will be reduced.

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[23] Two key aspects of risk were identified by property managers, namely, rental arrears **and** property damage. Descriptions by tenants of the standards of housing and the incidents that had led to property damage point, amongst other things, toward a need for 'sustainable', 'smart' rental stock i.e. purpose built to withstand some damage/ neglect.

[24] See Chapter 4 (p. 38) above for clarification of this terminology

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APPENDIX A: INTERVIEW GUIDE - PROPERTY MANAGERS

Manager/Group I.D.   ………………………………………………………………………………………………
Date: ………………………………………………………………………………………………
Interviewer: ………………………………………………………………………………………………

Management practices

We'd like to talk to you about property management, about managing 'tenancy' or 'tenants'. What would you say were key aspects of the job of managing tenancies?

Probe on:

- (perceived) risks,
- categories of tenant/ risky tenants
- rights/interests of property owners/ tenants/ managers
- protocol/ practices for selecting tenants
- protocol/ practices for handling tenant information
- protocol/practices for dealing with 'difficult' tenants
- database use/ protocol/ practices
- specific database(s)
- uses/ protocol/practices – for *selection* and/or *breach/eviction*
- access/ users/ protocol/practices
- tenants knowledge of their listing/ reasons for listing
- scope of data
- reliability of information/ what checks?
- tenants' access to/ capacity to correct or clarify information
- effects/benefits on/for management/ managers ('you')
- effects/benefits on/for clients/ property owners
- problems/difficulties of database use for property managers

Effects on low-income tenants

Thinking about all this from the tenants' perspective, how do you think your way of managing things affects them? …how do they respond? …what are the consequences or the outcomes for tenants of your way of doing things?

Probe on:

- exclusion/ where do they go?
- market
- state
- community
- personal networks
family/household

APPENDIX B: INTERVIEW GUIDE - PROPERTY OWNERS

Manager/Group I.D. ……………………………………………………………………………………

Date: ……………………………………………………………………………………

Interviewer: ……………………………………………………………………………………

Management practices

We'd like to talk to you about being a rental property owner, about how you manage 'tenancies' or 'tenants'. What would you say were key aspects of the job of managing tenancies?

Probe on:

- (perceived) risks,
- categories of tenant/ risky tenants
- rights/interests of property owners/ tenants/ managers
- protocol/ practices for selecting tenants
- protocol/ practices for handling tenant information
- protocol/practices for dealing with 'difficult' tenants
- database use/ protocol/ practices

If property-owner uses tenant database/s

- specific database(s)
- uses/ protocol/practices – for *selection* and/or *breach/eviction*
- access/ users/ protocol/practices
- tenants knowledge of their listing/ reason(s) for listing
- scope of data
- reliability of information/ what checks?
- tenants' access to/ capacity to correct or clarify information
- effects/benefits on/for property owners ('you')

Effects on low-income tenants

Thinking about all this from the tenants' perspective, how do you think your way of managing things affects them? …how do they respond? …what are the consequences or the outcomes for tenants of your way of doing things?

Probe on:

- exclusion/ where do they go?
- market
- state
- community
- personal networks
- family/household

APPENDIX C: INTERVIEW GUIDE – TENANTS

Manager/Group I.D. ....
Date: ....
Interviewer: ....

What are the risks?

Access - We'd like to talk to you about finding a place to rent (privately, in the private rental sector). What are the things that make it easier or more difficult for you to find a suitable place?

- experiences/what happens? - application/selection process
- knowledge of databases/checks
- negotiating terms of tenancy agreement e.g. termination if public housing becomes available
- (perceived) risks/barriers
- strategies/responses to risk/barriers/problems
- categories of landlord/ agent

Security of tenure/maintaining tenure/breaches - What about while your renting, during the period of the tenancy agreement of lease? What things make it easier or more difficult for you as a tenant once you've got a place to rent?

- relationships with landlord/agent – what helps? what hinders?
- problems/difficulties/conflict - experiences/what happens?
- rights/interests of tenants/ property owners
- risk of database listing

Leaving rented premises - What about when you leave a place you've been renting, what usually happens then? What makes it easier or more difficult for you when you're leaving a place?

- terms/breaches of tenancy agreement
- negotiating/ release of bond monies
- risk of database listing

Database use/ protocol/ practices

How much do you feel you know about tenant databases?

- specific database(s)/ database operators/ users
- uses/ protocol/practices – at *selection of tenants* and/or *breach*
- tenants knowledge of their listing
- scope/detail of data recorded
- reliability/accuracy of information
- access to records
- tenants' capacity to correct or clarify information

Effects on tenants

If agents or property owners use databases, what do you think are the main consequences for tenants? How do you feel if you hear that your application to rent a property has not been successful? What do you do if you're not successful? Where do you go if you can't get a place to rent (in the private rental sector)?

- exclusion/ where do they go?
  market/ other market sector, state, community, personal networks, family/household
- benefits for tenants?

APPENDIX D: INTERVIEW GUIDE – TENANT ADVOCATES

Manager/Group I.D.   …………………………………………………………………………………………
Date: …………………………………………………………………………………………
Interviewer: …………………………………………………………………………………………

What are the risks?

<u>Access</u> - We'd like to talk to you how people on low-incomes find a place to rent (privately, in the private rental sector). What are the things that make it easier or more difficult for them to find a suitable place?

- what happens? - application/selection process
- negotiating terms of tenancy agreement e.g. termination if public housing becomes available
- (perceived) risks/barriers
- strategies/responses to risk/barriers/problems
- categories of landlord/ agent
- role/protocol/practices of tenant advocate

<u>Security of tenure/maintaining tenure/breaches</u> - What about while they're renting, during the period of the tenancy agreement of lease? What things make it easier or more difficult for them as a tenant once they've got a place to rent?

- relationships with landlord/agent – what helps? what hinders?
- problems/difficulties/conflict - experiences/what happens?
- rights/interests of tenants/ property owners
- risk of database listing
- role/protocol/practices of tenant advocate

<u>Leaving rented premises</u> - What about when they leave a place they've been renting, what usually happens then? What makes it easier or more difficult for them when they're leaving a place?

- terms/breaches of tenancy agreement
- negotiating/ release of bond monies
- risk of database listing
- role of tenant advocate

Database use/ protocol/ practices

How much do you feel tenants (especially those on low household incomes) know about tenant databases?

- specific database(s)/ database operators/ users
- uses/ protocol/practices – at *selection of tenants* and/or *breach*
- tenants knowledge of their listing
- scope/detail of data recorded
- reliability/accuracy of information
- access to records - users' protocol/practices
- tenants capacity to correct or clarify information

Effects on tenants

If agents or property owners use databases, what do you think are the main consequences for tenants? Where do tenants go if they can't get a place to rent in the private rental sector?

- exclusion/ where do they go?
  market/ other market sector, state, community, personal networks, family/household
- role of tenant advocate
- benefits for tenants?

APPENDIX E: ONLINE QUESTIONNAIRE

Tenancy Databases in the Context of Tenure Management: Risk Minimisation and Tenant Outcomes in the Private Rental Sector

CHIEF INVESTIGATOR

Dr. Barbara Adkins

Australian Housing and Research Institute, Queensland University of Technology

2 George Street, Brisbane Qld 4000, Phone (07) 3864 1492

PRINCIPAL RESEARCHERS

Elspeth Mead (QUT) and Trisch Short (UQ)

PROJECT TITLE

Tenancy Databases In The Context Of Tenure Management: Risk Minimisation And Tenant Outcomes In The Private Rental Sector

THE RESEARCH

Recently in Australia there has been a significant growth in tenancy databases. These databases have been introduced to identify 'difficult' or 'problem' tenants, and are made available exclusively to real estate agents and property managers. For a fee, managers may obtain information regarding specific prospective tenants from these databases, and, on the basis of this information, tenants can be refused accommodation. This results in listed tenants either seeking accommodation on the private market or looking for alternative housing. Serious concerns have been expressed about the lack of regulation associated with the use of these databases.

The growth of tenant databases in the private rental sector in Australia has prompted policy researchers, government senate committees and community sector workers to register concern about legal and privacy issues associated with their use. However, there has been far less consideration given to the tenancy management practices associated with listing tenants and the outcomes for listed individuals in terms of future housing and tenure options. This research will argue that the emergence of tenant databases raises issues associated with management practices in relation to 'high risk' tenants, and the outcomes for listed tenants with respect to their future access to private rental tenure. Thus, this research seeks to understand the way tenant databases operate in Australia, the management processes that currently lead to 'listing' tenants, and the outcomes for listed tenants in terms of tenure options.

THE RESEARCH STUDY

The aim of this research is to identify the way real estate managers and private landlords use tenancy databases in listing and screening tenants, and to examine outcomes of being listed on databases for tenants.

It will achieve these aims by examining the following questions:

- What is the role of tenant databases in the private rental sector in Australia?

- What are the current management practices adopted by tenant databases in Australia?

- Are there uniform procedures or variations within management practices of tenant databases in Australia?

- What processes and strategies are pursued by Australian private real estate and property manages to screen and list tenants?

- What screening strategies are pursued by landlords who do not have access to the databases or who choose not to list tenants?

- What are the impacts on current and future housing and tenure options for tenants?

- Your participation in the study will involve answering questions about your experiences of tenancy databases either in a focus group, a survey or in an individual interview.

DATA CONFIDENTIALITY

Only the Chief Investigator and the Research Assistants involved in the focus groups, surveys and interviews will be aware of the identities of participants. All records and summaries of these will be kept in a secure place and only the Chief Investigator and Research Assistants will have access to them. No identifying information about the participants will be used in any paper that may result from the research. When the results of the study are published, we will ensure that you will remain anonymous.

ETHICAL CONDUCT: QUESTIONS OR CONCERNS

You are welcome to contact the Chief Investigator regarding any questions or concerns you may have about this project. Should you have any concerns regarding the ethical conduct of this research, please feel free to contact the secretary of the University Human Research Ethics Committee on (07) 3864 2902.

PROJECT INQUIRIES

Questions related to this project are welcome at any time. Please direct them to the Chief Investigator Dr Barbara Adkins. If you are at any time not satisfied with the response, you may direct your inquiries to Dr John Minnery who is the Co-ordinator of the Australian Housing and Urban Research Institute at the Queensland University of Technology. He can be phoned on (07) 3864 2673 or e-mailed at j.minnery@qut.edu.au.

FREEDOM OF CONSENT

Participation in this project is entirely voluntary. You are free to withdraw consent before or during participation without comment or penalty. If you withdraw from this project once you have participated your termination will be immediately recognised and the Chief Investigator will destroy any information that you have contributed to the project.

ACKNOWLEDGMENT

Thank you for your consideration of participation in the study. Your assistance in helping us to understand the uses and impacts of tenancy databases is greatly appreciated.

ON-LINE QUESTIONNAIRE FOR PROPERTY MANANAGERS

1. Please list the things you consider to be the **most** significant aspects of property management?

_____

_____

_____

2. Thinking about your own way of managing rental properties, please describe, very briefly, the things you usually do when -

Screening and recommending tenants to property owners:

_____

_____

_____

Handling personal information that tenants provide to you when they apply for a rental property or during their tenancy:

_____

_____

_____

Dealing with 'difficult' tenants:

_____

_____

_____

3. Do you/your agency subscribe to a tenancy database such as TICA, TRA, ntd or RP Data?

Yes   (☐ease go to Question 5.)

No   (☐ease go to Question 4.)

4. If "No"

What are the main reasons you do not subscribe to a tenancy database?

_____

_____

_____

5. Do you/your agency routinely use a tenancy database such as TICA, TRA, ntd or RP Data?

Yes   ☐

                        ☐

No

If "Yes":

Please list the main reasons you/your agency routinely use a tenancy database in your work:

_____
_____
_____

Please describe, very briefly, the things **you** usually do when:

Doing a check on a tenant's record on a tenancy database (e.g. TICA, RTA):

_____
_____
_____

Listing a tenant on a tenancy database:

_____
_____
_____

In your opinion, are there any problems/ difficulties in using tenancy databases?

_____
_____
_____

If "No":
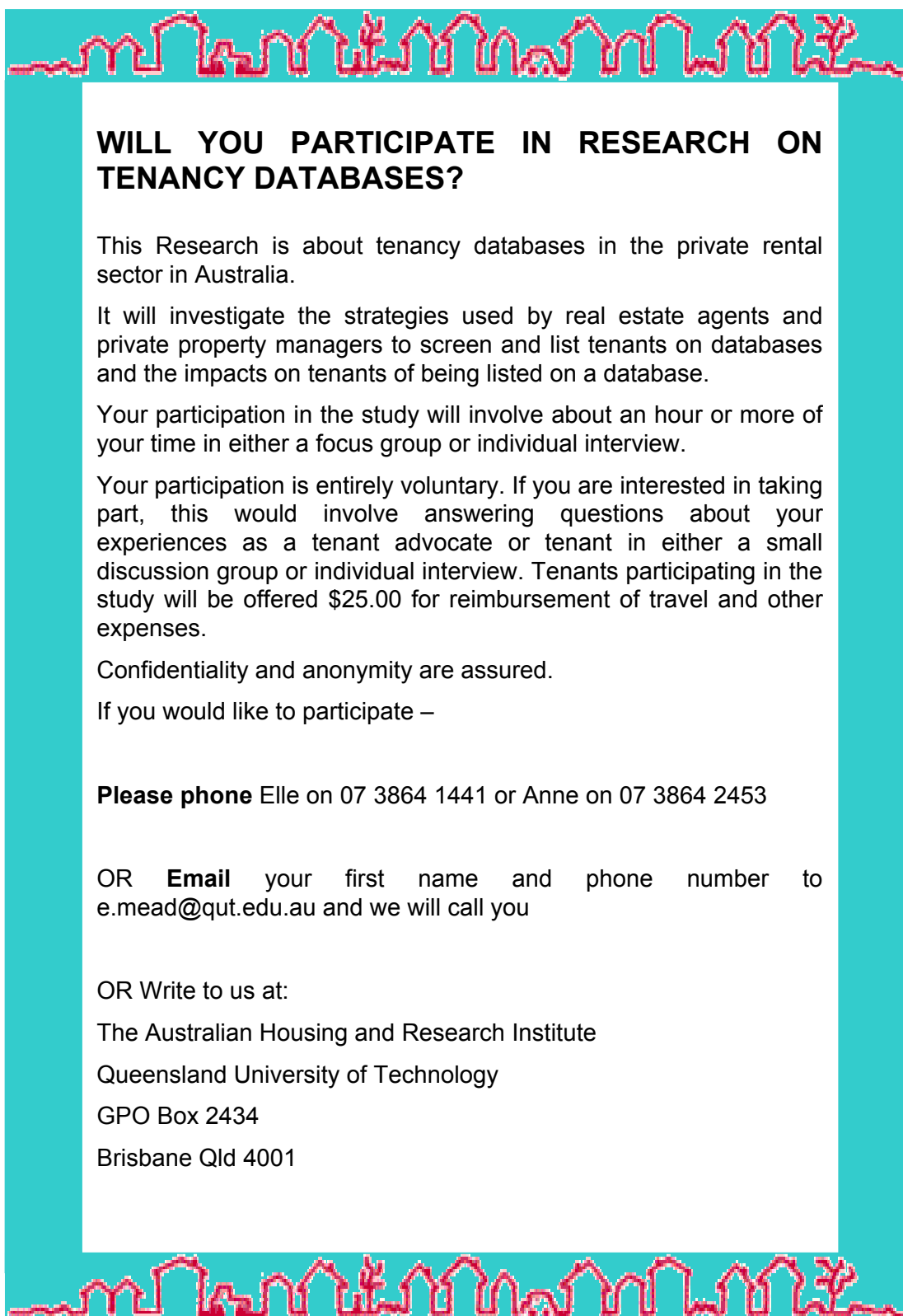
What are the main reasons you do not routinely use a tenancy database?

_____
_____
_____

6. If you feel there are further issues relevant for this research, please comment below.

_____
_____
_____

We would like to take this opportunity to thank you for participating in this survey.

Could you please send your response via email to e.mead@qut.edu.au , fax 07 3864 1827 or mail to AHURI, QUT, GPO Box 2434, Brisbane, Qld 4001.

APPENDIX F: TENANT FLYER

WILL YOU PARTICIPATE IN RESEARCH ON TENANCY DATABASES?

This Research is about tenancy databases in the private rental sector in Australia.

It will investigate the strategies used by real estate agents and private property managers to screen and list tenants on databases and the impacts on tenants of being listed on a database.

Your participation in the study will involve about an hour or more of your time in either a focus group or individual interview.

Your participation is entirely voluntary. If you are interested in taking part, this would involve answering questions about your experiences as a tenant advocate or tenant in either a small discussion group or individual interview. Tenants participating in the study will be offered $25.00 for reimbursement of travel and other expenses.

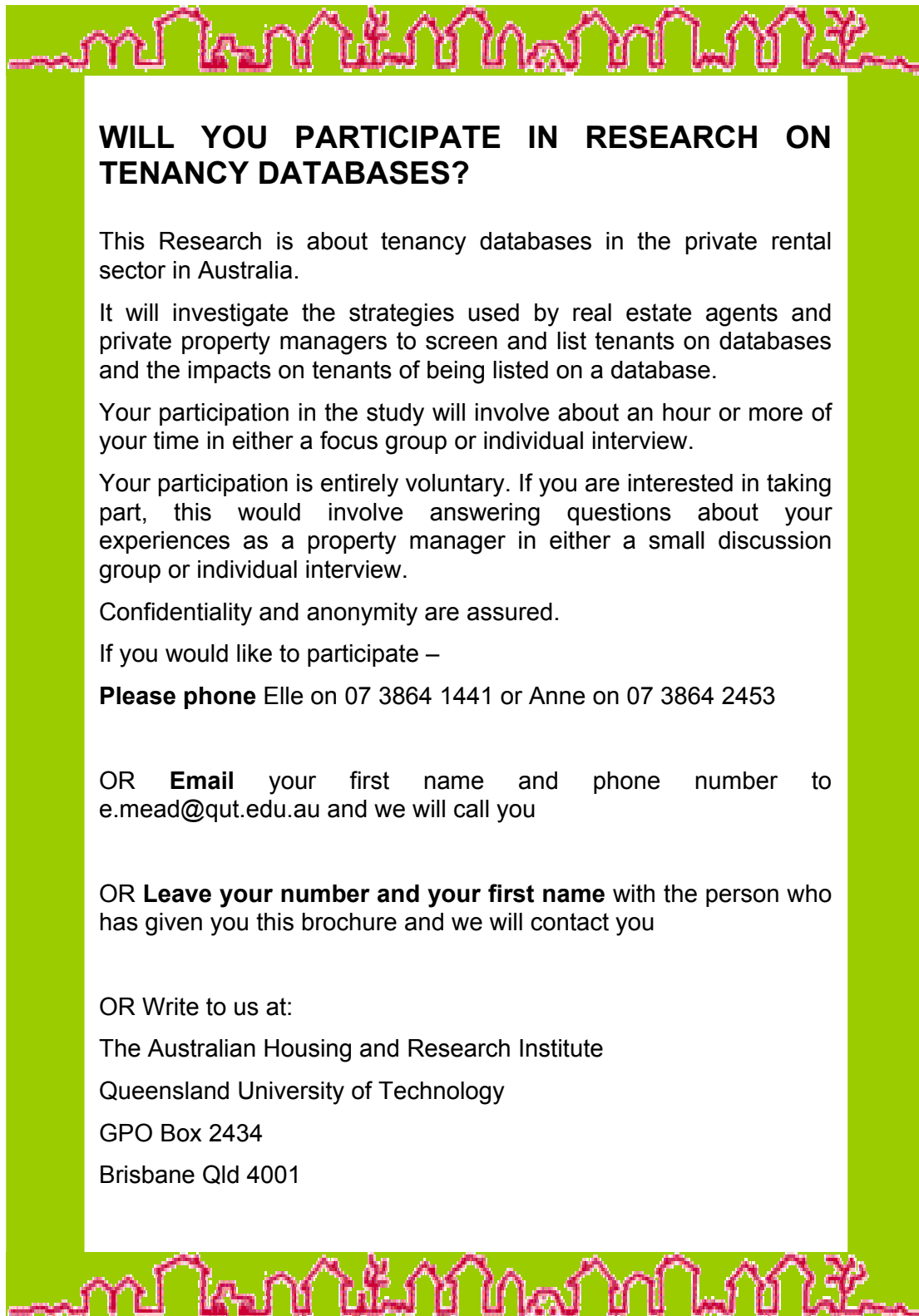Confidentiality and anonymity are assured.

If you would like to participate –

Please phone Elle on 07 3864 1441 or Anne on 07 3864 2453

OR **Email** your first name and phone number to e.mead@qut.edu.au and we will call you

OR Write to us at:

The Australian Housing and Research Institute

Queensland University of Technology

GPO Box 2434

Brisbane Qld 4001

APPENDIX G: LANDLORD FLYER

WILL YOU PARTICIPATE IN RESEARCH ON TENANCY DATABASES?

This Research is about tenancy databases in the private rental sector in Australia.

It will investigate the strategies used by real estate agents and private property managers to screen and list tenants on databases and the impacts on tenants of being listed on a database.

Your participation in the study will involve about an hour or more of your time in either a focus group or individual interview.

Your participation is entirely voluntary. If you are interested in taking part, this would involve answering questions about your experiences as a property manager in either a small discussion group or individual interview.

Confidentiality and anonymity are assured.

If you would like to participate –

Please phone Elle on 07 3864 1441 or Anne on 07 3864 2453

OR **Email** your first name and phone number to e.mead@qut.edu.au and we will call you

OR **Leave your number and your first name** with the person who has given you this brochure and we will contact you

OR Write to us at:

The Australian Housing and Research Institute

Queensland University of Technology

GPO Box 2434

Brisbane Qld 4001

APPENDIX H: PRO-FORMA LETTER TO TENANT[25]

Re: BREACH OF YOUR TENANCY AGREEMENT

As you have been made aware your rent is still in arrears. This letter serves to advise you of the position you may be placing yourself in should you fail to pay rent owing. You may not be aware that our office is a member of a tenancy checking system known as TICA Default Tenancy Control Pty Ltd.

TICA is a national default tenancy control system, which operates throughout every state and territory in the country. In addition the TICA system is available to members outside Australia. Members are able to inquire if applicant has had any breaches under their tenancy agreement recorded against them to prior to approving the application.

Should a person's name and details be recorded on the TICA database, it could have a serious effect on a person's ability to obtain future rental accommodation. It is in your best interest to prevent registration by abiding with the terms and conditions of the tenancy agreement.

This is your last chance to bring your rent up to date. The amount of $500.00 is to be paid by Saturday 19th July 2002. Should you want to discuss this situation please phone to make an appointment.

Yours faithfully

Property Management

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25   This letter has been de-identified to protect the names of the sender and receiver.

APPENDIX J: TENANCY DATABASE INTERNET SITES [26]

First American Registry

http://www.residentscreening.com/

First American Registry provides risk management expertise for property managers to screen rental applicants. Through corporate offices in Rockville, Maryland, and 30 branch offices, First American Registry provides services to over 20,000 property management executives that manage more than 8 million units.

First American Registry offers subscribers:

- internet access to The National Registry Check™ - a comprehensive proprietary database of over 33 million landlord/tenant eviction court records. The National Registry Check also includes information supplied by landlords on rental histories and payment trends of renters nationwide. Additionally, First American Registry can provide instant access to each of the three national credit bureaus.

- RegistrySCOREX™, a scoring model that combines 33 million landlord/tenant eviction court records with applicant data and standard credit information.

- Online national criminal screening either county or state to identify felony, misdemeanor and criminal convictions.

- Software installation, technical support, training, and free credit reference materials.

First Advantage Corporation (Nasdaq:FADV)

http://www.fadv.com/

First Advantage Corporation was created in June 2003 with the merger of The First American Corporation's Screening Technologies division with US SEARCH.com. First Advantage Corporation provides a single-source screening solution to minimise risk. Services offered include:

- Employment screening

- Resident screening

- Occupational health services

- Resident screening

- Motor vehicle records services

- Investigative services

- Consumer location and verification

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26 This is not an extensive nor exhaustive list of the sites accessed, but indicative of the variety of database sites available.

The National Registry Check

[First American Registry is a subsidiary of First Advantage Corporation]

http://www.residentscreening.com/1prod_natl_reg_check.html

The National Registry Check was exclusively developed for the property management industry, to supply fast, accurate and complete access to over 33 million landlord/tenant eviction court records covering over 80% of the U.S.

RegistrySCOREX

[First American Registry is a subsidiary of First Advantage Corporation]

http://www.residentscreening.com/1prod_scorex.html

RegistrySCOREX ranks the 'degree of average risk' in renting property to specific tenants. Using statistical analysis payment patterns are identified and First American Registry determines the factors that best predict an applicant's ability to pay the rent. RegistrySCOREX integrates applicant data with landlord/tenant court records and credit information to arrive at a score that characterizes the level of risk an applicant presents. The assigned numerical score is then assessed at a local level based on local criteria.

Certified Tenant Services Inc

http://www.ctsone.com/frmain.htm

Certified Tenant Services Inc [CTS] uses the slogan 'We keep the bad apples out!'. They have the sole objective of assisting Property Owners/Managers in the evaluation and selection of tenants. A full tenant screening report includes a nationwide credit report, a public records review, landlord/residential verification, employment verification and offers that option of a criminal background check. The site links to the Interquest Information Services site and does not state if primary or secondary data is sourced

Interquest Information Services

http://www.interqst.com/

Interquest Information Services offers online background checks, criminal records check [arrests, sexual offences, embezzlement, drug convictions at a county, state, or federal level] and public records check [credit, workers' compensation claims, driving, assets, educational and professional license verification].

Tenant Screening Services

http://www.tenantscreening.com/home.cfm

Tenant Screening Services [TSS] offer tenant screening services to property managers, landlords, and others in the rental industry. They have over 80 million criminal, eviction, and tenant history records within their databases and offer members credit and social security reports, criminal checks throughout 38 states, eviction searches [14 states], tenant history nationwide.

AGoodTenant

http://www.agoodtenant.com/

AGoodTenant has linked TenantAlert, TenantMail and Rent Recovery Service for integrated tenant management. The results in a one-stop effective tenant-management tool for property managers.

USA-TENANT CHECK

http://www.usatenant.com/default.htm

USA-TENANT CHECK is an automated screening company that uses several databases managed by companies that maintain consumer information. Services offered include:

- Tenant credit score
- Eviction history [6 states] and
- County criminal check

Tenant Screening Credit

http://www.tsci.com/

Tenant Screening Credit [TSC] provides information from across the United States and Canada. Services include:

- Credit Information
- Eviction Search
- Skips, damages, monies owed (reported to TSC)
- Social Security Search
- Verification of employer, present/previous landlords,
- Business reports
- Criminal Checks

TenantAlert

[A division of Fidelity Information Corporation]

http://www.tenantalert.com/

TenantAlert is an online tenant screening service, with tenant screening reports available 24 hours per day. TenantAlert has established alliances with national and regional databases to guarantee the most accurate and complete information. Services include:

- National consumer credit data [Access Experian, Equifax or TransUnion]
- TenanatAlert Predictor Score (TAPS) – that analyses credit data and statistical predicts tenant risk
- Fraud detection
- Eviction and 'skip' searches

- Delinquent Tenant Cooperative search

- Social security number verification

- National address history

- Public records and bankruptcy search

- National criminal and terrorist search

The Delinquent tenant cooperative is a forum for property owners to share information regarding tenants. Membership is only available to registered members of CREDITMATCHPLUS.com Members can either contribute names of delinquent tenants or review online data re delinquent payment history patterns, property damage, suspected criminal activity, uncleanliness, and chronic disturbances.

Coastal Credit Bureau

http://www.coastalcredit.com/

The Coastal Credit Bureau operating from California offers national tenant screening services, background checks and credit reports to landlords, real estate agents, brokers, property managers, mortgage brokers, employers, businesses, and collection agents. Reports can include details such as: social security number/identification, previous name and address verification, birth date, spousal information, employment history/verification, public records and civil judgments, liens and bankruptcy, rental history, eviction, consumer trade details, payment and loan history, previous/current credit information, professional/reference verification as well as FICO and BEACON Scores/Summery.

Tenant Verification Service Inc.

http://www.tenantverification.com/

TVS is a Credit Reporting Agency that targets delinquent tenants. The Tenant Verification Service [TVS] maintains a database of information provided from its members as well as obtaining information from either Trans Union or Equifax Inc. Landlords can obtain a credit history, tenant history and risk assessment on prospective tenants within minutes of their request whilst Property Managers with numerous monthly queries can have direct access to the TVS database.

Landlord Zone: The UK Rental Property Resource

http://www.landlordzone.co.uk/tenant_screening.htm

Tenant Screening page offers advice, information and support to landlords

Info Center inc.

http://www.infocredit.com

The Info Center was founded in 1982 as Landlord Reports Computer Service to deal with risk associated with renting to unknown tenants. Four years later the company incorporated as The Info Center Inc. The Center is a tenant credit bureau and assists owners/property managers to select residents thru a credit screening process. Reports

intended for tenant screening include two retail credit reports, an eviction report, and a criminal record check.

Credit Screening Services

www.aaacredit.net/

Tenant screening reports are nationwide, and include rental history and employment verification, optional criminal record checks, and include a full credit report. Credit reports include social security number and address check, available public records [tax liens, judgements for last 7 years, Chapter 7 bankruptcies reported for 10 years following bankruptcy, Chapter 13 bankruptcies (reported for 7 years following bankruptcy), collection items and their status, and credit history up to 7 years including creditors' details and those making inquiries into the individual's credit file).

Rent Check Credit Bureau

www.rentcheckcorp.com/

Rent Check Credit Bureau is a Canadian company and offers personal reports, debt recovery, landlord advice, forms, resources and tenant screening services. A tenant report will draw from data compiled from public records and contributions by member Landlords. Rent Check will search their archives to determine if applicant has a Gold Star rental history, damaged property or owes rent to a social housing or private sector rental housing provider.

The TICA Group

http://www.tica.com.au/

The TICA group operates in Australia, New Zealand and the United Kingdom. The Group has a heavy emphasis on managing tenancies, minimising risk and screening tenants. TICA offers membership essentially to property mangers who then have 24/7 online access to the databases and who can list both recommended and default tenants.

AHURI Research Centres

Sydney Research Centre
UNSW-UWS Research Centre
RMIT-NATSEM Research Centre
Swinburne-Monash Research Centre
Queensland Research Centre
Western Australia Research Centre
Southern Research Centre

Affiliates

Northern Territory University
National Community Housing Forum