

# Tenancy databases and risk minimisation

**VARIABLE DATA QUALITY STANDARDS AND LESS THAN TRANSPARENT LISTING PROCEDURES LIMIT THE EFFECTIVENESS OF TENANCY DATABASES AND RESULT IN PRIVATE RENTERS AND – POTENTIALLY – THE PUBLIC HOUSING SYSTEM, BEARING THE RISK ASSOCIATED WITH TENANCIES.**

## KEY POINTS

- Tenancy databases in Australia contain information provided by subscribers on breaches of tenancy agreements, defaults on payment, and similar tenancy history matters.
- Electronic databases do enable property managers to exclude high-risk tenants efficiently and effectively. However, the private rental tenants who are potentially most likely to be listed on a tenancy database are also least likely to have the personal resources, monetary or otherwise, to investigate their listing.
- In Australia there are databases based on both primary and secondary information, as well as those offering additional tenancy management services. A major difference between Australian databases and many overseas databases is that the Commonwealth Privacy Act 1988 prevents Australian operators from providing credit information.
- The Privacy Act has already had a positive impact on key concerns such as data quality and data access but there are still unresolved issues. 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.
- Improving the accuracy and accessibility of tenancy databases may offer protection to 'marginal' tenants, ensuring that they are treated more fairly in the processes of screening and tenancy management.

## CONTEXT

Property managers view tenancy databases as a professional tool for minimising risk on behalf of their landlord clients, through screening prospective tenants and helping to identify tenants with poor rental histories. Subscribers who purchase the tenant databases also enter the information into them. Most databases

*This research, by the AHURI Queensland Research Centre, used a qualitative approach to explore, from the perspective of property managers and renters, the use of tenancy databases to manage risk in the private rental market.*

are only accessible 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.

Policy responses to the emergence of tenancy databases in Australia have generally been to amend relevant legislation at the State and Commonwealth levels. Tenancy databases are, in fact, only one of the areas where changes in electronic data storage and communications technology have impacted on public policy. 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.

As preempted by this research, in 2004 the Federal Privacy Commissioner issued four complaint determinations resulting from identified breaches of the Privacy Act by Tenancy Information Centre Australasia Holdings Pty Ltd (TICA). The new requirements of TICA are intended to improve private tenants' privacy rights by increasing the accuracy and relevance of the data as well as ensuring the fee for accessing a personal tenancy history is not excessive.

## **METHOD**

The initial stage of the research involved 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. During the second stage of the research focus group interviews and semi-structured face-to-face interviews were conducted in Brisbane, Sydney and Melbourne with representatives of key stakeholder groups. Views were sought from tenants and tenant advocates, third sector property managers and informants from different kinds of landlord and property management groups.

## **FINDINGS**

Types of tenancy database enterprises fall into two basic categories, those that collect, compile and manage primary data for their clients; and those

that supply secondary data (e.g. from another database operator) to their clients. Under these two categories further sub-categories were identified as part of the research showing different foci and levels of complexity of dealings. In total, five types of database were identified.

1. The single purpose tenancy database that collects and manages only 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.
2. 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.
3. Providers of 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. 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.
4. Providers of 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. The non-tenancy databases they subscribe to include credit reference databases. In addition they also provide other non-data services such as landlord support and advice.

5. 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. 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.

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.

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, such as inappropriate 'listing' even though a problem has been rectified. 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.

From the property management perspective, tenancy databases are a tool that can be used to reduce the risk of loss of income from an

unsuccessful tenancy. They are used despite their potential 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 in addition to 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. Overall, databases are seen by most, through not all, property managers as an essential adjunct to professional risk management in the private rental market.

Tenants in the focus groups and interviews were aware of the impacts of tenancy databases in effectively preventing '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. 'Listed' tenants are forced to pursue alternative accommodation strategies that are pushing them to the more volatile, insecure and informal rental market.

## **POLICY IMPLICATIONS**

Electronic databases do enable property managers to exclude high-risk tenants more efficiently and effectively (with effects stretching beyond local rental markets). Improving the accuracy and accessibility of these databases may offer protection to 'marginal' tenants, ensuring that they are treated more fairly in the processes of screening and tenancy management.

The scope of electronic record keeping means that tenants whose rental histories suggest that they are likely to breach agreements or offend property managers, landlords (or neighbours) will be excluded from the formal private rental sector. Effectively, this ensures that the risk associated with private rental tenancies is ultimately passed down to state and territory governments

that are obliged to house those who are unable to access private rental accommodation as a result of their 'blacklisting'.

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. Again, any risk is shifted to the government sector, which supports the majority of homelessness services.

Rigorous self-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, also has the potential 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.

## **FURTHER INFORMATION**

This bulletin is based on AHURI project 20094 entitled *Tenancy databases: risk minimisation and outcomes*. Reports from this project can be found on the AHURI website ([www.ahuri.edu.au](http://www.ahuri.edu.au)) by typing the project number into the search function.

The following documents are available:

- Positioning Paper
- Final Report

Or contact the AHURI National Office on +61 3 9660 2300.



Australian Housing and Urban Research Institute

[www.ahuri.edu.au](http://www.ahuri.edu.au)

---

HEAD OFFICE Level 1, 114 Flinders Street Melbourne Victoria 3000 TELEPHONE +61 3 9660 2300  
FACSIMILE +61 3 9663 5488 EMAIL [information@ahuri.edu.au](mailto:information@ahuri.edu.au) WEB [www.ahuri.edu.au](http://www.ahuri.edu.au)

**ACKNOWLEDGMENTS** This material was produced with funding from the Australian Government and the Australian States and Territories. AHURI Ltd gratefully acknowledges the financial and other support it has received from the Australian, State and Territory Governments, without which this work would not have been possible.

**DISCLAIMER** The opinions in this publication reflect the results of a research study and do not necessarily reflect the views of AHURI Ltd, its Board or its funding organisations. No responsibility is accepted by AHURI Ltd or its Board or its funders for the accuracy or omission of any statement, opinion, advice or information in this publication.