



Response to

*Issues Paper 31: Review of Privacy*

Australian Law Reform Commission

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## Introduction

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Anglicare Tasmania Inc. welcomes the opportunity to respond to the Australian Law Reform Commission's inquiry into the Privacy Act. Anglicare is not responding to the entirety of the discussion paper but to the area in which we have particular and relevant expertise: those issues relating to residential tenancies and in particular, the operation of residential tenancy databases in Australia.

Anglicare is one of Tasmania's largest community organisations, and provides a broad range of services to the Tasmanian community in the areas of accommodation, employment, counselling, family support, alcohol and other drugs, disability and acquired injury support and mental health. Anglicare employs over 630 staff and 100 volunteers in six offices state-wide as well as through a number of outreach and in-home services. Of particular relevance to this submission are our accommodation support services, which offer support to people at risk of homelessness as well as early intervention and long-term accommodation options. Two of our largest services in particular provide support to clients who are either currently in or seeking to enter the private rental market:

- **ACCESS** provides assistance to families and individuals who are homeless or at risk of homelessness, through supporting them to stabilise their existing housing or find alternative long-term housing, brokering crisis accommodation and providing case management.
- The **Private Rental Support Service** provides financial assistance to households seeking to enter or remain in the private rental market. It provides support with bonds, rent in advance or arrears and the cost of removals, as well as related support such as information and referral.

Many of Anglicare's clients are particularly vulnerable in the private rental market. They do not have stable tenancy histories: they may have had to move regularly due to unaffordable increases in rent, the property being poorly maintained or sold or family breakdown. They experience high levels of financial stress and may be in difficult family situations. The vast majority are dependent on Centrelink payments as their main source of income. Stable, appropriate and affordable housing with ongoing support from community services is critical for them to be able to address other issues in their lives such as relationship breakdown, poor employment prospects or substance use. With the chronic shortage of medium-term crisis accommodation and the long waiting lists for public housing, private rental housing is often the only option, yet many of our clients experience high levels of discrimination from landlords and agents. The difficulties our clients face in the private rental market and the need for intervention on their behalf is the primary reason Anglicare has chosen to respond to this inquiry.

## Renting in Tasmania

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In 2004, there were 32,600 Tasmanian households renting through a private landlord, 16.4% of all households (ABS 2006). These households tend to be on lower incomes: 54.5% of private renters are in the bottom two income quintiles with a further 22.2% in the middle income quintile and 36.6% are dependent on government benefits as their main source of income. A significant number of private renters experience financial stress: 35.1% say that they would be unable to raise \$2,000 in a week for something important and 47.5% say that they have had at least one cash flow problem in the last 12 months (ABS 2004).

Private renters are also more likely to experience housing stress – that is, earning in the bottom two income quintiles and spending more than 30% of household income on housing costs, a situation which leaves households with inadequate funds to purchase other essential items such as food or heating. Just over one fifth of all private renters nationally were in housing stress in 2004. This is compared to 9.4% of mortgage holders, 5.1% of public renters and 8.8% of the population as a whole (Powall and Withers 2006). Twenty four thousand Tasmanians receive Commonwealth rent assistance, a cash payment provided by Centrelink and intended to improve housing affordability for low income earners, but 36% remain in housing stress even after receiving the payment (FACSI 2004 cited in Blake 2005).

Tasmanian renters are also competing in a significantly constrained rental market. The Affordable Housing Crisis Coalition conducted a survey on 4 March 2006 which found that, of 300 properties advertised state-wide in Tasmania's three regional newspapers, only 48, or 16%, would be affordable for a low income earning household. Of these, one of the properties was a caravan and three were a room in a share house (AHCC 2006).

## Regulation of the private rental market

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The private rental market in Tasmania is regulated through the Residential Tenancy Act 1997, which effectively applies to all residential tenancy agreements in Tasmania. The Residential Tenancy Act is administered by the Office of Consumer Affairs and Fair Trading, (CAFT) which is part of the Tasmanian Department of Justice. A review on the impact of the Residential Tenancy Act was conducted in 2000, and concluded that the Act was working well, requiring only minimal amendments to deal with a range of technical issues (CAFT 2000). However, the consultation process raised a number of issues, including concerns about the use, storage and transmission of personal information about tenants, such as the use of residential tenancy databases.

Such databases are not covered by the Act. In response to the issues raised by the review, CAFT concluded that while some database operators were quite responsive to privacy issues, there remained some concerns about local practices. CAFT acknowledged the then current review of the Privacy Act, and suggested that it may be appropriate, if the Privacy Act review did not resolve all problems, that specific, additional requirements be created for the Tasmanian context. Currently, CAFT advises that no work is underway on any legislation to regulate residential tenancy databases in Tasmania.

The main arbiter of residential tenancy disputes in Tasmania is the Residential Tenancy Commissioner. However, under the Residential Tenancy Act, the Commissioner only has powers to “determine disputes arising in relation to the disbursement of security deposits and, in the case of boarding premises, act in the mediation or conciliation of any disputes between the parties” (Part 2, 8.1). This means that tenants in the private rental market with concerns about other issues, such as privacy, cannot appeal to the Commissioner – instead, the Act contains provisions enabling tenants or landlords in some circumstances to apply to the Courts for an order relating to a breach of the agreement, which is a far more significant undertaking in the eyes of many tenants. The upcoming establishment of a bond board in Tasmania is expected to resolve some of the existing issues surrounding the way in which landlords treat security deposits, but many other concerns with the Act’s enforcement regime and the accessibility of dispute resolution mechanisms remain.

Some issues of concern outlined later in this submission, particularly around the use of application forms to discriminate against tenants, do fall under Tasmania’s anti-discrimination legislation. The Anti-Discrimination Act 1998 prohibits discrimination against a person based on race, age, sexual orientation, lawful sexual activity, gender, marital status, relationship status, pregnancy, breast-feeding, parental status, family responsibilities, disability, industrial activity, political belief or affiliation, political activity, religious belief or affiliation, religious activity, irrelevant criminal record, irrelevant medical record and/or association with a person who has, or is believed to have, any of these attributes. The Act applies to employment, education and training, the provision of facilities, goods and services, accommodation, membership and activities of clubs, the administration of state law and awards, enterprise agreements and industrial agreements. In relation to accommodation only one exemption is routinely permitted – a person may discriminate against another on the grounds of gender if the accommodation in question is shared accommodation for less than five adults. However, as Anglicare points out later in this submission, the balance of power between landlords and tenants means that many tenants are reluctant to engage with formal complaints procedures, such as exist under the Anti-Discrimination Act, for fear of jeopardising their chances of finding housing in the future. Discrimination is also extremely difficult to prove.

## Residential Tenancy Databases in Tasmania (Q 7.3)

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*And the questions they ask! One real estate agent asked ‘are you on a Centrelink pension? What is your customer reference number?’ Your Centrelink reference number! I think that should be outlawed, that’s a breach of privacy. The agent we have now, we had to sign an agreement that all the information we gave him could go on a national database or we would risk not having our application considered so we had to do that. I don’t know how they get away with it.*

Carol, Anglicare research participant<sup>1</sup>

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<sup>1</sup> Quotes used in this submission taken from Cameron 2002

Real estate agents in Tasmania do make use of residential tenancy databases, with application forms including privacy notices that advise tenants that their personal information may be disclosed to database operators, or that existing information about them contained in databases may be accessed by the agent.

Some of the most pressing issues in the Tasmanian housing market at present surround the retention of bonds by landlords. Tasmania does not currently have an independent body overseeing security deposits. However, one is due to be established and operational by mid 2007 and this should stamp out abuses around failure to complete condition reports and unjustified retention of bonds. With this problem reduced, it may be that issues around tenants' personal information move to the fore. Certainly the issue of discrimination against tenants on the basis of personal characteristics such as family status or receipt of Centrelink benefits is already widespread. Anglicare workers advise that residential tenancy databases are an emerging problem rather than an established one. Many tenants are unaware of the full implications of a listing, but are aware that the databases exist and can be used against them. This contributes to tenants' sense of intimidation and vulnerability within the market<sup>2</sup>.

The most common perception of databases is that they are a "black list" and there is a significant lack of transparency. Even if databases do provide avenues by which tenants can access and correct their personal information, our workers indicate that tenants are quite unaware of how to use them or even that they exist at all.

The particular problems, including abuses, that can arise with residential tenancy databases and options for their reform have been well canvassed (see for example Griffith University 2001, Guthrie 2002, Lavarch 2002, Short et al 2004, Mission Australia 2004, MCCA/SCAG RTDWP 2005 and VLRC 2006). The recent Senate inquiry into the Privacy Act (LCRC 2005) and the Privacy Commissioner's review of the private sector provisions of the Privacy Act (Curtis 2005) have also highlighted a range of privacy concerns in relation to databases.

Anglicare will not restate all of these issues in detail, but notable concerns for low income households are:

- Databases do not allow for any assessment of the context in which defaults arise. Damage to property may occur in a situation of family violence, for example, but be held against the victim as well as the perpetrator, making it difficult for the victim to find independent accommodation if they decide to leave the relationship. People may fall into rental arrears because a critical appliance has broken down and needs to be replaced or because of an unexpected medical bill. People suffering from serious mental illness who are experiencing psychosis may not be able to cope with the requirements of a tenancy agreement. All of these circumstances must be taken into account for any fair and comprehensive assessment of risk to occur, yet residential tenancy databases only allow for snap judgements that may be based on landlord prejudice. The length of time for which records are retained on databases also places tenants in a position where they may be denied a property on the basis of something that occurred years before when they were in very different personal circumstances. Given the extremely low incomes many tenants survive on, denying someone a property on the basis of a listing related to rent arrears is in many cases discrimination against them for being poor.
- Inability to obtain secure housing is devastating for anyone, but when combined with the other issues that face low income earners, such as ongoing financial stress, it can be particularly damaging. Public housing and crisis accommodation services are under pressure and are not necessarily able to absorb all people excluded from the private rental market. People facing ongoing personal, financial or other crises need stable housing in order to address those issues. The consequences of a negative listing can often far outweigh the original fault.

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<sup>2</sup> This is backed up by a Mission Australia report on residential tenancy databases (Mission Australia 2004), which surveyed clients of accommodation support services in the Newcastle and Hunter region of New South Wales. Of those surveyed, 44% believed that a listing on a database was one of the primary causes of their homelessness, and 65% of those clients who were listed on a database considered themselves to be homeless. There were higher rates of listings among people who had experienced domestic violence and Aboriginal people. None of the people listed were renting through a private real estate agent at the time of the survey.

- Tasmania has a Residential Tenancy Act that explicitly requires landlords, for example, to provide tenants with completed condition reports, perform any maintenance promptly, provide adequate notice for the termination of a lease and not terminate a lease except under certain circumstances. Yet in the experience of our housing services, these requirements are frequently ignored, and many breaches occur. They are, however, not reported, because of the vulnerability of tenants and their reluctance to take any action that may lead to them having trouble finding alternative housing. In the hope of getting a good reference from the landlord or agent, for example, they will keep quiet about problems experienced during the tenancy. In this environment, where the housing market and a lack of enforcement measures within the Act combine to tip the balance of power significantly in favour of the landlord, tenants generally, and vulnerable populations in particular, are disinclined to take advantage of the protections currently provided by the Privacy Act. They would be unlikely to seek to examine the information held about them on residential tenancy databases, lobby for the correction of inaccuracies or complain about a breach of their privacy rights. Yet this same information can be used freely and with devastating effect against them.

Real estate agents and landlords argue that databases are a legitimate risk management tool (see Mission Australia 2004; Short et al 2004). However, the current rental market is weighted very heavily in favour of landlords over tenants. This is not just a function of the current housing crisis: the Australian rental market is structured in a way that pitches the balance of power away from tenants. Burke (1999) has argued that the focus in Australia on home ownership as an expression of Australian values means that private rental is seen as transitional housing before people move on to either home ownership (for the majority), or public housing (for the minority). Because it is transitional, the private rental market caters to the needs of owners, not tenants, and because most investors are small-scale, short-term and focussed on capital gains, leases are kept short and tenure is insecure so that investors can easily sell their investment at an opportune moment. Horn (2002) argues that most homelessness in Australia is caused by market failure within the housing system and particularly within the private rental market.

Housing is an essential service – access to housing is recognised as a human right in the Universal Declaration of Human Rights (Article 25) – and where government-funded housing (social housing) is unable to provide adequate shelter to all who need it, and the market fails to do likewise, Anglicare would argue that intervention in the market through strong and enforceable regulation is justified to ensure that all people have access to housing. Databases are a very powerful tool for landlords which are open to abuse, and it is Anglicare’s position that legislative reform is required to ensure that tenants are both adequately protected and able to take action where their rights are ignored.

The Attorney-General (Ruddock 2006) has recently announced the extension of the Privacy Act to remove the ambiguity that currently exists around whether residential tenancy database operators are covered by the Act. He also announced that uniform legislation was being developed across all states and territories to ensure that the activities of databases are regulated even when they operate across state boundaries.

The Law Reform Commission asks, following the Privacy Commissioner’s recommendation, whether or not the activities of residential tenancy database operators should be protected by a binding code. Anglicare would certainly support this move to ensure even more protection was applied to tenants, but the Tasmanian experience of residential tenancy legislation demonstrates that any code needs to be backed up by accessible enforcement mechanisms or it would be empty legislation. We would also retain our support for state-level uniform legislation and will continue to follow the progress of this legislation with interest. If a binding code were to be developed (provisional upon the Privacy Commissioner being given the power to issue binding codes), Anglicare would recommend the approach suggested by the Victorian Law Reform Commission in relation to the development of legislation in Victoria (VLRC 2006).

## RECOMMENDATION

**Anglicare recommends that a binding code be developed and promulgated by the Privacy Commissioner, requiring agents and database operators wishing to list tenants to abide by the following guidelines:**

### *Making a listing*

- Only people who have legal status as tenants (i.e. are party to a residential tenancy agreement) should be listed, because they are the ones with legal obligation to uphold the agreement.

- Content of listings should be restricted to when a court order has been issued against a tenant for a breach of their agreement. When requesting a listing agents would be required to provide copies of the order to the database operator. A listing cannot be made if the court order has provided the tenant with a period of time in which to comply and that period of time has not yet expired. If the time period has expired, the agent must provide both a copy of the order and a statutory declaration stating that the tenant has not yet complied.
- Where the court order relates to payment for damages to the property, the tenant can only be listed if the cost of the damages exceeds the bond on the property.

#### *Changes to listing*

- If a tenant successfully appeals or subsequently complies with an order, the operator must delete the listing.
- Listings should otherwise be deleted after three years.
- If a tenant is listed in the absence of an order, within the order's compliance period, without the documentation required or for more than three years, then the operator should pay the tenant a nominal fee for every day that the unauthorised listing remains in place.

#### *Informing tenants about the listing*

- All tenancy agreements should include a clause notifying the tenant of the conditions under which a listing might occur and all tenants should be provided with clear, plain language instructions about how to access information about them held on the database and their rights to change it if it is incomplete or incorrect.
- All notifications of court orders sent to tenants should include notification (in plain language) that a listing might result from non-compliance with the order.
- A real estate agent should be obliged to inform tenants of any information found when searching a database. They must also inform the tenant of the listing and provide them with a copy of it if the tenancy is refused.

#### *Access to information*

- If a tenant asks for a copy of their listing from a database operator, they should be given a copy for minimal charge if urgently required (within 48 hours) and for free if not urgently required. The listing can only be given to the tenant or their nominee. Any application form for access should be readily available, uncomplicated and in plain English. Even if the copy of the listing is not required within 48 hours, it should be provided within a reasonable amount of time.

#### *Current tenants*

- The binding code should be retrospective, to provide existing listed tenants with protection. Tenants who are already the subject of a listing should be able to apply to have a listing removed if it is inaccurate/misleading, the dispute has been resolved or the order complied with, the breach was beyond the tenant's control and the tenant poses no current risk to prospective landlords.

#### *Ensuring compliance*

- The Privacy Commissioner should have access to enforcement mechanisms, including the power to order fines and other appropriate penalties for database operators and real estate agents who do not comply with their obligations.

### **Bundled consent (Q 4.11)**

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Linked to the issue of residential tenancy databases is the issue of "bundled consent", that is, where a real estate agent or other organisation seeks consent for multiple uses of a person's personal information in one consent form. The person is unable to specify which uses they consent to – it is either all of them or none of them.

Many Tasmanian real estate agents use quite complicated consent forms, usually as a part of the tenancy application form, which means that tenant must consent or risk not having their application considered. The following example is taken from a Launceston agent's current rental property application form.

*The personal information collected about the Applicant may be disclosed ... to other parties, including media organisations, the landlord, tradespeople, referees, solicitors, financial institutions, parties engaged to evaluate the property, third party operators of tenancy reference databases, government and statutory bodies and other third parties as required by law. ... [The agent] may also disclose such information to The Real Estate Institute of Tasmania Ltd (REIT) for the purpose of documenting all leasing data in the area for the benefit of its members as part of membership services and for others in the property or related industries.... ... [The agent] will only disclose information in this way to other parties to achieve the purposes specified above or as otherwise allowed under the Privacy Act.*

This agent includes disclosure to the media, the landlord, residential tenancy databases and the local real estate industry body in the one consent form, even though each of these organisations or individuals would use the information in quite different ways and for different purposes. The language used would be particularly inaccessible for people with literacy issues and those for whom English is a second language.

The Privacy Commissioner raised the issue of bundled consent in her review of the private sector provisions of the Privacy Act (Curtis 2005). She noted that while consumer organisations are highly critical of bundled consent, business groups argue that separating out consent would be complex, costly and inconvenient for consumers and suppliers, and would result in long and complicated privacy notices. (The example above shows that bundled consent does not necessarily result in simplicity). Bundled consent in relation to residential tenancy databases was singled out as a particular issue of concern. The Privacy Commissioner's recommendation was that the Office of the Privacy Commissioner should develop guidelines on bundled consent.<sup>3</sup> To date, such guidelines have not been made available on the Office's website, although Anglicare notes that in the past, the Office has been strongly opposed to the practice of bundled consent on the grounds that it is not good practice and is contrary to the spirit of the Privacy Act (Crompton 2002).

## RECOMMENDATION

**Anglicare recommends that the Privacy Commissioner fast-track Recommendation 22 of her review, the development of guidelines on bundled consent.**

## Application forms

*It's disgusting. For information they have really no right to know and have nothing to do with you renting the house... and 'what's your licence number, what's your Centrelink number?' I actually had one that asked me to give my parents' names and numbers. I said (a) they're both dead and (b) I'm 40 years old. She just stared at me and I said 'It wasn't my fault! It's not because I was a bad tenant.' I'm a married woman with 3 children, why do I need my parents' permission?*

Julie, Anglicare research participant

An issue not explicitly canvassed in Issues Paper 31 but a real and significant privacy problem for Anglicare clients and for low income tenants more generally is the level of detail required on tenancy application forms. The information that is required can leave tenants vulnerable to discrimination yet tenants must complete the forms in full or their application will not be considered.

Anglicare is concerned that requests for such information could breach the spirit of National Privacy Principle 1.1, 'An organisation must not collect personal information unless the information is necessary for one or

<sup>3</sup> The Australian Privacy Foundation was disappointed at the lack of stronger recommendations on this issue (LCRC 2005).

more of its functions and activities'. We would argue that while some of the information collected by agents in the course of the application process is necessary in order for them to process an application and manage any tenancy that results, the degree of detail required and the types of questions asked in some cases are superfluous at best and intrusive at worst. The Privacy Commissioner raised the issue in her review of the private sector provisions of the Privacy Act: "NPP 1.1 limits the collection of personal information by an organisation to that necessary for its 'functions and activities'. The organisation itself, however, determines what its functions and activities are and the limitation on the collection of information may be seen to be illusory" (Curtis 2005:83). As participants in the review pointed out, when real estate agents collect information from tenants, tenants have little choice but to provide it or risk their application not being considered.

Anglicare conducted an analysis of eight randomly selected application forms from Tasmanian real estate agents. In our analysis we assumed that, in order to confirm the identity of the applicant, assess their suitability and conduct reasonable reference checks, it was legitimate for agents to request

- two forms of identification, one of which would be photo identification;
- one unique identifying number for the applicant (in most cases this would be a drivers' license number);
- a current credit check<sup>4</sup>;
- whether the applicant smokes cigarettes;
- if the applicant has pets and if so, what type (e.g. a cat, a dog, a bird);
- the names of all people, and the ages of any children, who will be residing at the property;
- the name and contact details of the applicant's previous landlord, so that they can provide information on the applicant's recent tenancy history or, if the applicant has not rented in the recent past, their employment status and the name and contact details of a referee or referees who can attest to their character and capacity to meet the obligations of the tenancy agreement; and
- the name and number of a contact person in case of emergency.

If an applicant smokes or has pets, it would be legitimate for an agent to ask for further information to ascertain whether the tenancy would be likely to result in damage to the property, for example, does the applicant smoke inside? or are the pets to be kept indoors or outdoors?

But we have noted below questions included on these eight forms that we believe do not have any direct bearing on the tenant's capacity to meet the obligations of their residential tenancy agreement.

Question on Form		Number of forms in sample asking for this information
Identification	100 point ID check required	5
	One additional identification number, after a drivers' licence number or similar has already been requested, (excluding a student identification number, a vehicle registration number or a Centrelink customer reference number, all listed separately below)	2
	Two or more additional identification numbers (excluding those named above)	1
	Passport, Australian Visa documentation, travel itinerary, airline ticketing both to and from Australia if visiting from overseas	1

<sup>4</sup> Anglicare does have concerns about this practice as applicants are required to pay for credit checks themselves. This imposes an additional barrier for low income earners. There are also issues around discrimination against tenants who may have a poor credit history for a range of reasons and inconsistency in the age of credit checks – some agents will accept a sixty day old check, others require one only two days old or less, which means a tenant may potentially have to pay for several checks when searching for housing if the search takes longer than two days. However, this issue is outside the scope of this inquiry.

<b>Personal</b>	Occupation	7
	Marital status	3
	Ages of children (if children will be living in the property)	8
	Criminal convictions	1
	Tasmanian Police Report ('in some instances')	1
	Relationship to other applicants	1
	Relationship of emergency contact person to the applicant	6
	Occupation of emergency contact person	1
<b>Vehicles</b>	Vehicle registration number	5
	State of vehicle registration	1
	Car make, model and year	4
	Is vehicle car or motorbike?	2
	Number of cars to be kept on premises	1
<b>Previous rental history</b>	Rent paid in current property	8
	Bond paid in current property	1
	Length of time in current property	8
	Rent paid in previous property	7
	Bond paid in previous property	1
	Length of time in previous property	7
	Ownership of other rental properties	1
	Reason for seeking new accommodation	1
	Name of real estate agent if had previously owned home and sold it	1
<b>Personal finances</b>	Net income (excluding income from Centrelink payments, which is listed separately below)	6
	Ever been bankrupt	3
	Outstanding debts (non-related to tenancy history)	3
	Proof of income required (e.g. bank statement)	1
	Income source if unemployed or retired	1
	Income from savings and investments	1
	'Other' income	1
<b>Employment</b>	Length of employment in current position	8
	Length of employment in previous position (4 agencies only ask for previous employment history if currently employed for less than 6 months, 6 months, 12 months and 2 years respectively)	8
	Whether employment is full time, part time or casual	2
<b>Self-employment</b>	ABN if self-employed	7
	Length of time in business	6
	Accountant's name and contact details	6
	Solicitor's name and contact details	2
	Trade creditor's name and contact details	1
<b>Students</b>	Institution	6
	Faculty or department	4
	Course name	4
	Course length	2
	Whether course is full time or part time	1
	Student identification number/enrolment number	5
	Student Union number	1
	Income source	3
	Parents' names and contact details	2
	Applicant required to provide documentation if a student	1

	Course coordinator	2
	Campus contact	1
	Sponsor	1
<b>Centrelink recipients</b>	Centrelink Customer Reference Number (CRN)	5
	Name/type of Centrelink payment	6
	Amount of Centrelink payment	3
	Reason for being on Centrelink payment	1
	Length of unemployment if unemployed	1
	Applicant required to provide documentation if unemployed or retired	1
<b>Private rental support services</b>	Applying for assistance through private rental support program (one form refers to this on the Office Use Only section only)	5

Anglicare has lobbied and will continue to lobby for the Tasmanian Residential Tenancy Act to be amended to regulate the types of information that can be required by agents on application forms. However, it is our view that clarification of NPP 1 is urgently required to ensure that tenants are not put in a position where they are asked to provide more personal information than legally required under threat of not having their application processed.

There are a number of methods by which this could be achieved. In her review of the private sector provisions of the Privacy Act, the Privacy Commissioner raised the option of implementing binding guidelines (Curtis 2005:158). She also raised the possibility of amending NPP 1.1 to make the test of what is necessary for an organisation's functions or activities an objective one, but concluded that this would be difficult to implement in practice and that it was unlikely that the benefits would outweigh the costs (Curtis 2005:91). Anglicare does not have the expertise to comment on whether or not similar abuses of NPP 1.1 occur in other industries that would warrant extensive legislative amendment. For this reason, at this stage we would support the issuing of binding guidelines for the real estate industry (provisional upon the Privacy Commissioner being given the power to issue such guidelines).

## RECOMMENDATION

**Anglicare recommends that the Privacy Commissioner issue binding guidelines permitting real estate agents and landlords to require tenants to provide only that personal information that has a direct bearing on ascertaining the identity of the tenant and enables them to conduct reasonable reference checks for the purposes of ensuring that the tenant is likely to abide by the tenancy agreement.**

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