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The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales. We are a Community Legal Centre specialising in residential tenancy law and policy, and the main resourcing body for the statewide network of Tenants' Advice and Advocacy Services (TAASs) in New South Wales.

This briefing provides an overview of the basic framework of the NSW Evictions Moratorium implemented through the [Residential Tenancies Amendment \(COVID-19\) Regulation 2020](#). We welcome the measures introduced via the NSW Evictions Moratorium that seek to support renters impacted by the COVID-19 health crisis and provide greater certainty about their living situation and ability to stay home during the COVID-19 period.

However, we are aware many vulnerable renters are falling through the gaps. We are concerned many are still losing their homes and many others are struggling which is putting their tenancies at risk. We have identified the following key issues:

- Continued evictions including retaliatory evictions, evictions in social housing, and evictions of lodgers and renters in share housing
- Many impacted tenants are being forced to break their lease because of failed rent reduction negotiations and their anxiety about accumulating unmanageable debt
- Impacted tenants are facing significant penalties when forced to break their lease
- Lack of clear guidelines with regards to the framework for 'good faith' rent reduction negotiations is creating considerable confusion for tenants, landlords and their agents
- The need for an explicit baseline standard when considering hardship and determining 'fair and reasonable' offers of rent reduction to help set expectations for both parties regarding outcomes
- The inability of the Tribunal to apply 'fair and reasonable' rent reductions for impacted tenants
- The need for further rent relief measures
- Some landlords are continuing to increase rents in the private rental market during the crisis

Many people will lose their homes, be forced further into financial hardship, or possibly face homelessness during or as a result of this crisis unless a number of these measures are strengthened, further protections implemented and additional relief provided.

In preparing this briefing, we draw on the experiences of the thousands of renters who have sought assistance from the network of Tenants' Advice and Advocacy Services since the COVID-19 health crisis began. We also draw on the experiences shared with us by renters via our social media pages and website, as well as those reported by service providers. We have experienced significant demand for information and resources regarding COVID-19 impacts on renting.

Our [COVID-19 and Renting Information](#) page received half-a-million hits in just over two weeks at the start of the crisis and has now been visited in 1.2million sessions. Website sessions seeking information on tenants leaving their tenancy early increased 602%, and rent arrears factsheet increased 493% in the period 23rd March to 4 May compared to equivalent period last year. Visits that sought contact details for local TAAS services increased 900% and average 10,000 each week over the period.

In this document, a reference to a section (e.g. s115) is a reference to the *Residential Tenancies Act 2010*.

Background

The COVID-19 pandemic is a public health crisis that will be made worse by evictions. The COVID-19 pandemic is causing significant economic harm through the cancellation of events, closure of workplaces and schools, the disruption of supply chains, and a general reduction in public activity and commerce. Many workers, especially contractors and casual workers, have suffered lost income or employment.

This crisis is a whole community problem – the whole community has a role to play. We need to support households to navigate through health crises limiting financial and health impacts as much as possible, ensuring as much as we can that everyone is able to stay safe in their homes - during this immediate crisis, and in the longer term.

The implementation of the Evictions Moratorium in NSW provided a 60 day stop and then further 6 month restrictions on evictions for rental arrears where the tenant has been impacted by COVID-19. After the 60 day stop lifts, the restrictions that follow require a landlord applying to evict for rental arrears to demonstrate they have first attempted to negotiate with the tenant in 'good faith'. The NSW Civil and Administrative Tribunal (the Tribunal) can then only order an eviction where they determine an eviction would be fair and reasonable in the specific circumstances, considering a range of factors including the nature of any rent reduction negotiations entered into, the financial positions of both parties, whether the tenant has alternative accommodation, and public health objectives.

A number of other measures will be implemented to support renters including further protections for impacted tenants against blacklisting, the extension of notice periods for some other evictions, additional resourcing of Fair Trading and the NSW Civil and Administrative Tribunal, and a one off funding boost for tenant advocacy services. In addition, land tax relief of up to 25% is being provided to landlords who pass on this discount as a rent reduction (waiver) to impacted tenants.

Key issues

Forced moves: evictions

- Renters in hardship prior to the COVID-19 health crisis
- Use of 'no grounds' evictions to evade rent reduction negotiations
- Evictions in social housing
- Lack of protections for lodgers including many renters in share housing

Forced moves: tenants forced to leave

- Uncertainty about rent reduction negotiation framework (process and outcomes)
- No requirement for landlords to engage in rent reduction negotiations
- Impacted tenants facing significant penalties for ending leases early

Additional rent relief measures required

Limits on rent increases during health crisis

Recommendations

Further protections against eviction

- Safeguards for tenants in hardship who do not meet the 25 per cent income drop criteria. The new regime could be extended to any tenant experiencing housing stress.
- Retrospective extension of notice period for those served a notice of termination before 15 April
- Tribunal provided with discretion to ensure tenants [at high health risk during COVID-19](#) are not required to vacate during the health crisis
- Suspension all social housing evictions except in serious cases such as threats of violence.
- Strengthen current retaliatory provisions (s115), including deeming all no-grounds evictions where tenant has initiated a rent reduction negotiation under the new COVID-19 provisions as retaliatory.

Greater certainty and clarity about rent reduction negotiation process regards outcomes

- Clear guidelines are required regarding consideration of “good faith” negotiations, including expectation setting for a ‘fair and reasonable’ rent reduction offer
- Explicit guidance provided that the primary consideration as to whether a rent reduction offer is ‘fair and reasonable’ should be whether either party faces financial hardship, having regards to: housing stress the reduced rent places a household in; an absolute baseline minimum healthy living standard and/or budget standard for the NSW context

Allow the Tribunal to apply a ‘fair and reasonable’ rent reduction where ‘good faith’ rent reduction negotiations have failed

- Provide the Tribunal with discretion to apply a ‘fair and reasonable’ rent reduction where a landlord has applied for eviction for rental arrears, and where the Tribunal finds eviction would not be ‘fair and reasonable’ in the circumstances. The Tribunal, in determining the rent reduction to be applied, would have regard to any financial hardship experienced by the impacted tenant or landlord, including the general financial position of each party.
- Allow COVID-19 impacted tenants to apply for a ‘fair and reasonable’ rent reduction as above.

Allow impacted tenants to break their lease early without significant penalty

- Introduce temporary provisions for tenants facing financial distress as a result of the COVID-19 health crisis (impacted tenants) allowing them to break their lease early without substantial penalty.
- Failing this Tribunal could be provided explicit discretion to apply hardship retrospectively, allowing impacted tenants to confidently rely on existing hardship provisions and act immediately once they'd given their landlord appropriate notice of their intention to apply to end their tenancy for hardship.

Further rent relief required

- Further rent relief measures be provided to support renters and landlords facing financial hardship during the crisis. Consider concurrent provision of the two models discussed in this paper.

Freeze rent increases during the health crisis

- Freeze rent increases for the duration of the pandemic and a reasonable subsequent recovery period

Discussion

Forced moves: evictions

Renters in hardship prior to the COVID-19 health crisis

The Evictions Moratorium in NSW as currently implemented does not protect against eviction for a range of vulnerable renters who are evicted for reasons other than rental arrears, for example people who receive 'no grounds' evictions. Many vulnerable tenants were experiencing hardship before the health crisis. Renters on very low incomes may not qualify for protections because their income may not have reduced by the 25 per cent required, but nonetheless be experiencing significant hardship because of the relative impact on their household budget of even a modest income reduction.

Use of 'no grounds' evictions (s84, 85) as a loophole

The moratorium does not provide protection from evictions for 'no grounds'. The notice period for ending a fixed term tenancy ('no grounds' evictions under s84) has been extended to 90 days in line with 'no grounds' evictions (under section 85). We are already aware some landlords served 'no grounds' after 15 April to tenants who had been seeking a rent reduction. We are very concerned these landlords are making use of ['no grounds' evictions as a loophole](#), to evade the requirement to enter into 'good faith' negotiations on rent reduction.

Existing retaliatory evictions provisions (s115) require extensive documentation, are difficult to engage and in any event only provide to the Tribunal a discretion to decline to terminate an agreement. They are not designed in a way that prevents the use of retaliatory evictions to undermine negotiations. In their current form they do not provide adequate protection in these instances.

Retaliatory provisions can be strengthened with the following 5 points. We recommend this change broadly, but it can be adopted only in relation to COVID-19 impacted tenants:

- Removing the Tribunal's discretion as to whether a notice should be declared invalid once a finding has been made that the landlord was wholly or partially motivated to give the notice in retaliation.
- Reversing the onus of proof to require the landlord to show that the notice wasn't issued in retaliation once a tenant has satisfied one of the criteria in s 115(2).
- Introducing a preclusion period during which the landlord may not issue a further no grounds notice. If the Tribunal finds that the notice was invalid as it was issued in retaliation, the landlord should be barred from issuing a further no grounds notice for a specified period.
- Introducing a penalty. Currently there is no reason for a landlord seeking to avoid obligations not to serve a retaliatory notice. At worst, the eviction does not proceed and the landlord must simply serve a new one, break the causality. There must be a clear signal that retaliatory evictions are not an acceptable tool in the property management kit. This is clearly done through a penalty notice.

- [A broadening of S115\(2\)](#) this could include a general provision that the Tribunal may consider any other matter it considers relevant, or a specific provision concerning COVID-19 impacted status.

Evictions in social housing

Tenants in social housing are exempt from the current Evictions Moratorium protections. We are aware that despite a commitment from most social housing providers to proceed with evictions only as a last resort that TAASs are continuing to assist tenants facing eviction during the crisis for non-serious issues. These tenants will end up homeless with their health and safety at risk.

Lack of protections for lodgers, including many renters in share housing

People in share housing are also finding it tricky to access protections. Many remain excluded from coverage of any tenancy legislation and they, along with other lodgers, are not provided any protection under the moratorium. These renters, always vulnerable, and often in this form of accommodation because they cannot afford anything else, are even more at risk of eviction during this period. Another particularly vulnerable group here is international students who have lost casual employment but ineligible for the Commonwealth Government's income support.

Recommendations

- Safeguards for tenants in hardship who do not meet the 25 per cent income drop criteria. The new regime could be extended to any tenant experiencing housing stress.
- Retrospective extension of notice period for those served a notice of termination before April 15
- Tribunal provided with discretion to ensure tenants [at high health risk during COVID-19](#) are not required to vacate during the health crisis
- Suspension of all social housing evictions except in serious cases such as threats of violence.
- Strengthen current retaliatory provisions (s115), including deeming all no-grounds evictions where tenant has initiated a rent reduction negotiation under the new COVID-19 provisions as retaliatory.

Forced moves: Tenants forced to leave

Uncertainty about rent reduction negotiations framework (process and outcomes)

At present there is no clear guidance as to expectations regarding what might be considered a 'fair and reasonable' offer of rent reduction. Without this, the current framework fails to [adequately address the imbalance of power between tenant and landlord](#) in negotiations. Tenants and landlords come to the table with very different

negotiating power, but given the lack of clarity regarding what might be considered a 'fair and reasonable' offer they are also bringing very different expectations.

The National Cabinet released a [Mandatory Code of Conduct](#) for negotiations between commercial tenants and landlords. It includes principles including the need to provide rent reductions in line with income reductions, a requirement that reductions are minimum 50 per cent waiver, and minimum timeframes for payment of any deferred rent. There is no equivalent guidance for residential tenancies, only a requirement for parties to negotiate in good faith and then attempt dispute resolution with Fair Trading before the landlord pursues an eviction at the Tribunal.

Tenants and landlords will benefit from further clarity regarding rent reductions. At the moment local Tenants' Advice and Advocacy Services are reporting that, in a majority of the rent reduction matters they have provided assistance for during the crisis, the landlords have responded in one of two key ways:

- refusing an initial request by tenant to reduce rent or significantly delaying any response to the tenant's request and/or
- offering a reduction but insisting this all be repaid at a later date (i.e. any reduction is offered as 100% deferral of any unpaid rent, no temporary waiver offered).

Landlords are very often resisting further discussion after an initial offer has been made, and tenants' requests for information about their landlords' financial situation (as per 'good faith' negotiations) are being ignored.

Without further expectation setting and guidance about the negotiation process, we expect high numbers of matters will not be resolved at the informal or formally mediated stage (that is, through the Fair Trading Dispute Resolution Process). Many matters will continue through to Tribunal, clogging up Tribunal at a time when it is least able to handle a significant increase in applications. Many more will see the delays and failure at the negotiation stage force tenants to leave the tenancy and their homes, because of the significant risk to the tenant that their landlord will not engage any further and with no real reduction in rent the tenant fears they will simply continue to accumulate unmanageable debt for an unaffordable rent and eviction once the moratorium lifts.

It should be made explicit that at any Tribunal hearing, the key consideration for determining whether a 'fair and reasonable' rent reduction offer has been made will turn on the financial hardship faced by both parties – both in the immediate and longer term.

A baseline for determining hardship would appropriately be ensuring the reduced rent offered does not put a household in housing stress, that is housing costs should be no more than 30% of household income. At minimum, any consideration of financial hardship should require an absolute baseline to ensure households will have sufficient income after housing costs for other essentials. There is published research regarding financial hardship and minimum standards and poverty that can be relied on as an appropriate guide for absolute minimum income or budget standards in the NSW context - see ACOSS &

UNSW [Poverty in Australia 2020](#); UNSW Social Policy Research Centre, [New Minimum Income for Healthy Living Budget Standards](#) (2018).

Providing clearer guidelines for negotiations and certainty with regard to expected outcomes may reduce the adversarial nature of negotiations, supporting vulnerable tenants who currently feel locked out of the framework due to their relative lack of power and/or ability to engage, for example because of disability and/or previous trauma or lived experience (e.g. of homelessness). It will also assist landlords and agents who have expressed their confusion, and desire for clarity.

Recommendations

Greater certainty and clarity about rent reduction negotiation process regards outcomes

- Clear guidelines are required regarding consideration of “good faith” negotiations between landlords and tenants, including expectation setting for a ‘fair and reasonable’ rent reduction offer taking into account reduction total; proportion of reduction that is waiver and/or deferral; and appropriateness of timeframe for repayment of any deferred rent.
- The primary consideration as to whether a rent reduction offer is ‘fair and reasonable’ should be whether either party faces financial hardship, having regards to:
 - any housing stress the reduced rent places a household in
 - an absolute baseline minimum healthy living standard and/or budget standard for the NSW context

No requirement for landlords to engage in rent reduction negotiations

The current framework encouraging rent reduction negotiations in practice is not binding. While it protects a tenant from eviction if the landlord applies to the Tribunal and the eviction is not found to be fair and reasonable in the circumstances, the Tribunal even at this point has no power to apply a fair rent reduction with an appropriate mix of waiver and deferral components. This allows the tenant to stay in the tenancy but they will likely be accruing a substantial debt. Many will be forced to leave in these circumstances, and may well face a heavy penalty in the process (see discussion re early break fee below).

The discussion above highlights a key flaw in the current framework encouraging ‘good faith’ negotiations. There is currently no obligation on the landlord to negotiate on a rent reduction except where they are seeking eviction at the Tribunal. A landlord may simply attempt to force the tenant out by letting rental arrears accrue and ignoring any request for rent reduction. If the tenant decides to stay, they will - without any agreed reduction - potentially be faced with a significant debt once the moratorium lifts and the landlord is again able to evict. At this point in time, they may be forced to contemplate bankruptcy, with all its consequences, and no-one is the better off.

We have heard from local Tenant Advice and Advocacy Services that this is occurring. A concerning number of tenants are reporting their landlords are 'stonewalling' or delaying responding to a tenants' request for a rent reduction. Some are responding to requests to negotiate by suggesting tenants 'just pay what they can, we'll sort it out later', while being explicit any unpaid rent will accrue as arrears to be paid back at a later date. These responses suggest that a significant number of landlords are seemingly happy to wait until they are able to evict once the moratorium lifts and are confident they will be able to collect any unpaid rent (or any deferred rent) as a debt at that point.

Tenants have no mechanism for ensuring that a landlord does enter into fair negotiations.

Even where a landlord has engaged in a limited fashion with rent reduction negotiations and then applies for eviction, and where the Tribunal then refuses to evict because they determine the landlord has not negotiated in 'good faith', the Tribunal has no power to apply a 'fair and reasonable' rent reduction. The rent will remain unchanged.

Recommendations

Allow the Tribunal to apply a 'fair and reasonable' rent reduction, where 'good faith' rent reduction negotiations have failed

- Provide the Tribunal with discretion to apply a 'fair and reasonable' rent reduction where a landlord has applied for eviction for rental arrears, and where the Tribunal finds eviction would not be 'fair and reasonable' in the circumstances. The Tribunal, in determining the rent reduction to be applied, would have regard to any financial hardship that might be experienced by the impacted tenant or landlord, including the general financial position of each party.
- Allow COVID-19 impacted tenants to apply for a 'fair and reasonable' rent reduction. Again, the Tribunal in determining the appropriate rent reduction to be applied must have regard to any financial hardship that might be experienced by the impacted tenant or landlord, including the general financial position of each party.

Impacted tenants facing significant penalties for ending lease early

Many renters impacted by COVID-19 - those impacted financially as per current eligibility, but also those renters, for example international students, who haven't been able to travel back to Australia or have been told to return overseas - have been forced to break their leases early. Tenants who can no longer afford to pay their rent and want to break their lease to return to their home country or live with their parents for example, incur hefty penalties if their lease began before fairer provisions were introduced in March.

Existing provisions allowing tenants to apply to the Tribunal to terminate their agreement for hardship (s104) are not practically useful in these instances. At the moment, if a tenant applies to the Tribunal, they can face a wait of 6 weeks and up to 8 weeks for a scheduled telephone hearing. These wait times may blow out further as the impact of telephone hearing limitations on scheduling is felt.

It is also not entirely clear how the Tribunal will consider these applications. The key concern being that if a tenant leaves prior to their scheduled hearing even where they have served a termination notice outlining hardship (though notice is not legally required) the Tribunal is unlikely to retrospectively determine hardship. In pre-COVID-19 matters Tribunal has generally determined this to be abandonment by tenant and, accordingly, made orders for compensation to the landlord. We are also aware of at least one Tribunal decision made in the current context of COVID-19 in which the Tribunal has not considered an impacted tenant to be facing undue hardship, despite significant loss of income and/or sudden unemployment as a result of the health crisis.

Allowing impacted tenants to leave a tenancy without significant penalty will also ensure landlords are further encouraged to genuinely engage in negotiations, and take more account of market conditions.

Recommendations

Allow impacted tenants to break their lease early without significant penalty

- Introduce temporary provisions for tenants facing financial distress as a result of the COVID-19 health crisis (impacted tenants) allowing them to break their lease early without substantial penalty.
- Failing this, the Tribunal could be provided explicit discretion to apply hardship retrospectively, allowing impacted tenants to confidently rely on existing hardship provisions and act immediately once they'd given their landlord appropriate notice of their intention to apply to end their tenancy for hardship.

Further rent relief measures required

The current Land Tax Relief announced will provide the landlord with a waiver of up to 25% on their land tax where they have reduced rent (in the form of waiver) for an impacted tenant. However only a relatively small proportion of landlords in NSW (approximately 16%) are required to pay land tax. Many renters will have landlords who will not benefit from the proposed land tax relief; this is especially true for low and very low income tenants. However, not receiving relief in this way does not release a landlord from a requirement to enter into rent reduction negotiations with impacted tenants, It should also not set a limit on the reduction that is appropriate in the circumstances. Clearer communication regards this may be useful.

We are also aware many landlords are reporting to agents and their tenants they are not able to reduce rent or alternatively provide any reduction in rent except as deferral, because they will not be able to successfully make a claim on a landlord insurance policy for any loss resulting from their offer to reduce rent as a waiver.

Without further relief for tenants and landlords we are very concerned that most tenants, even those able to access the dispute resolution process via Fair Trading, will not

successfully be able to negotiate a reduction in rent that will keep them out of rental stress and/or poverty. We are concerned many renters will only be offered inadequate reductions, and are particularly concerned agents and landlords will continue to offer rent reductions as deferrals only.

Delivery of adequate rent relief - two options

Option 1 Tribunal is given powers to apply a 'fair and reasonable' rent reduction, having regard to financial hardship of both parties (as above). Where the Tribunal's application of a 'fair and reasonable' rent reduction nevertheless results in demonstrable hardship to the landlord, the landlord is eligible for relief via a no interest loan scheme delivered by NSW Government.

Option 2 Where the Tribunal's application of a 'fair and reasonable' rent reduction results in a rent that exceeds 25% of the tenant's income the tenant is eligible for relief payments or a grant towards rent. If a cap or limit is placed on rent relief payments available, such that the rent relief does not adequately support the impacted tenant for the moratorium period, the tenant is eligible for further relief via a no interest loan scheme delivered by NSW Government.

Both options could be delivered concurrently. It may be that funding for relief of this nature might be adequately and appropriately sourced from the Property Services Interest Account.

Rent relief packages for impacted tenants similar to the relief payment or grant model outlined in option 2 have been provided to renters in a number of Australian jurisdictions, including Victoria, Queensland and Western Australia.

Recommendation

- Further rent relief measures be provided to support renters and landlords facing financial hardship during the crisis. Consider options provided above.

Limits on rent increases during health crisis

An omission in the current measures is an element addressing the issue of rent increases. By including a freeze on rent increases for the duration of the pandemic and a reasonable subsequent recovery period in the National Code, Governments recognised it as an important tool to lessen the financial burden on tenants during this crisis.

For lower income households just managing their rent payments the imposition of an increase can lead to financial hardship that may have otherwise been avoided. While it may seem unpalatable that at a time when the focus is on providing rent reductions and sharing the burden, there are landlords increasing the rent. Tenants' Advice and Advocacy Services have seen examples of this occurring.

While the *Residential Tenancies Act 2010* does currently provide a mechanism for tenants to apply to the Tribunal for a review of the increase, when making its determination the Tribunal cannot consider a tenant's income or whether they can afford the increase.

Addressing this issue could see people manage to stay in their homes and not need to negotiate reductions, use Tribunal resources or fall into arrears.

Recommendation

- The simplest and clearest action that would avoid confusion is to reflect the commercial code. Freeze rent increases for the duration of the pandemic and a reasonable subsequent recovery period.

Case studies: Renting during the COVID-19 health crisis

Anne: 'we just haven't been able to get the agent or landlord to come to the table to talk'.

Anne and her husband rent their home in the Tweed. Her husband is a self employed handyman. As the pandemic began work started to die down. He now has absolutely no jobs: 'people aren't calling a stranger to come into their home to work at the moment'. Her husband is the primary wage earner in the household, and this has meant a 60% drop in income.

An initial approach to her landlord was made via the real estate agent on 25 March. When they followed up with the agent the next week it didn't appear they had passed this on to the landlord. Anne called the agent to chat about the possibility of a reduction over the phone and was told the agent didn't want to start negotiating because there hadn't been a government announcement yet. She was told: 'we won't kick you out, just pay what you can afford'. Anne felt very uncomfortable with this as she had nothing in writing, and also no clear idea about expectation of how and when any gap would need to be repaid - though the agent did make explicit any amount she didn't pay now would need to be repaid later.

By mid-April Anne could simply not afford to continue paying the full rent. Despite not having received any formal confirmation of an offer or arrangement from the landlord she decided she had to start paying a reduced rent. Anne has continued to request further negotiations and a formal offer of reduced rent. The only real response from the agent has been at the end of April informing her the landlord can't negotiate with her as their insurance won't cover them if they enter into negotiations.

"We feel like we have no voice. We can't contact the landlord directly, and we're not sure if the agent is actually passing on any of our communications. It's really very frustrating. I can't keep just accumulating a \$250 debt that we have to pay back. It's adding up really quickly. But to pay our full rent of \$600 a week would be more than two thirds of my wage. I can't cover other bills if we can do that. At the moment I'm panicking. This week we'll have already accrued \$1000 in debt, and I feel like we're never going to get out of it.

We feel we're being ignored by everybody. We were hoping to start a conversation with the landlord about what might be fair – it's hard to know exactly what to offer given we don't know their situation. We want to know how it would impact them to reduce our rent, then possibly meet in the middle so we all bear some of this burden. You know - half the arrears - we wore half, they wore half. But we just haven't been able to get the agent or landlord to come to the table to talk"

Mary: evicted after raising concerns about possible financial impact of COVID-19

Mary contacted her agent in March to let them know her household might be affected by the COVID-19 restrictions. She wanted to be proactive in starting a dialogue. After a few failed attempts to get a response from either the landlord or agent, Mary received an end of fixed term termination notice in April. This notice was issued on 16 April and had a vacant possession period of only 30 days, not the amended 90 days.

Mary doesn't want to have to move from her home, and thankfully her work hasn't been impacted as significantly as she feared. She'd like to continue her tenancy, and is currently trying to renegotiate and renew her lease agreement. Mary's not sure how her landlord will respond.

Mario: 'stuck between a rock and a hard place.'

Mario lives with his family - his wife and two kids. They have lived in their Illawarra home for just under 5 years. He's proud he's never missed a payment for rent or water his whole life, and in previous rented homes always received his bond back. Mario is a warehouse manager in the local area, and during the pandemic he's received a pay cut and lost bonuses. His wife has had her hours reduced at the local medical practice she works at. Overall their family has seen a 40% reduction in their income. They aren't eligible for any of the relief packages announced so far. When the pandemic began Mario worried about being evicted:

"In my current location I have had no issues for 5 years, but I worried when this started I'd be on the street in a matter of weeks. If I was evicted I'd have no place to go with my family of 4. One of my children has special needs."

At the end of March Mario contacted his real estate agent to inform him of the family's reduced income. He supplied copies of payslips and bank statements going back to September, but was told this wasn't enough information and a letter from his employer would also be required. He was encouraged to consider applying for a bank loan and accessing his super. The agent only made an initial offer of reduction at the end of April.

Mario and the landlord (via his agent) are now negotiating a reduction. Mario's been told that any reduction will need to be paid back, that is – any reduction will simply be a deferral that will require him to pay it back at a later date. The landlord is currently offering to defer 25% of his current rent, to be paid back once the household's wages return. Mario worries the reduction isn't enough to ensure his family can cover all other essentials at the moment. He's responded with a counter offer that would see a greater reduction in line with the household's reduced wages (i.e. 40%) with a portion of the reduction a waiver. He's waiting for a response, but doesn't feel optimistic.

"I feel like I'm stuck between a rock and a hard place. I can't really afford to move anywhere else, so I might have to accept living with the fact that a debt of a few thousand dollars will accrue, even though I don't know how we'll afford repaying this on top of rent".

Mario said he'd earlier expected a stop from banks on mortgages with no capitalisation on interest. This would have taken the pressure off the landlord and could have flowed through to tenants to allow rent reduction via waiver. Unfortunately that hasn't happened yet.

Vanessa: good outcome, stressful process

Vanessa is freelance artist working in the creative industries. Her work began to dry up in March, and she has now lost all income. She applied for Centrelink a few weeks ago but is still waiting to receive payments.

Vanessa notified her agent at the beginning of April that she was in financial distress. Her agent responded immediately with what she felt were very invasive questions into her private life and finances. Despite her hesitation about whether all the information was relevant or required, and no reciprocal offer of similar information about the landlord's financial situation, Vanessa provided the information requested. At this point her agent advised her to 'skip a meal', and encouraged her to access her super. She was then offered what felt like a generic rent reduction and payment plan by her agent that did not seem to her to have taken account and be empathetic of her situation. She did not accept the initial offer and was able to negotiate a better outcome with the landlord.

In the end Vanessa has achieved a 25% discount (waiver) on her weekly rent for the next six months, unless she is able to start working again earlier. She's not sure what will happen if her current employment situation continues past 6 months. She's happy with the outcome, but found the negotiation process very stressful. She would have liked to have been able to rely on clearer, fairer suggestions about the process and anticipated outcomes from the start.

Deanna: changed circumstances but no consideration

Deanna is a single mum. She's lived in her apartment in the eastern suburbs with her three kids for the last 5 years. At the beginning of the year Deanna was planning to move, but when the pandemic began she was impacted significantly. All three of her children contracted COVID-19, though likely she did not. Her family was forced into isolation just as her vacate date was approaching. This was early March, and as a private or freelance chef her work was very quickly drying up. Her last job was 14 March, and all subsequent jobs were cancelled.

She approached her real estate agent to let them know of her changed circumstances and to negotiate to stay, and hopefully secure a rent reduction. The agent refused to negotiate to allow her to stay, simply asking her for a new vacate date – though they did eventually offer to waive the final week of rent. Discussions with her real estate agent through this felt hostile, with the real estate blaming Deanna for the impact on his business of having to get his staff tested for the virus after they'd been in the property prior to her receiving her children's test results.

Deanna was forced to vacate end of April with her children. She's aware that despite refusing to enter into negotiations for an extended lease and reduced rent, the landlord has since been forced to drop rent on the empty unit by \$50.

Caitlyn: 'sounds like the landlord has made up their mind'

Caitlyn and her family have been renting their home on the Central Coast for roughly two and a half year. Her husband is a photographer, and lost almost all jobs as the pandemic emerged. He also drives Uber to supplement his income but this has been very quiet. Caitlyn does some part time work, but their family have lost 70% of their household income.

She approached her real estate agent at the beginning of April about her family's changed financial circumstances. There have been constant delays in a response, with to-ing and fro-ing between agent and landlord. Eventually she was offered a reduction, but only as a deferral.

The real estate agent has told Caitlyn that her landlord is in hardship also. But while she and her partner have had to fill in lots of paperwork and provide evidence of their hardship, the landlord hasn't provided any. Instead the agent has reported deferral is the only option for a reduction because while the landlord could request a mortgage freeze they would still have compounding interest on their loan, which they simply won't do.

"I haven't considered going to Fair Trading, I'm not really sure about it and it sounds like the landlord has made up their mind. We've continued to pay our full rent and we're struggling. But we really don't feel comfortable with having a lot of debt at the end of this. Who knows where any of us will be and how we'd repay that. We're just asking for a temporary reduction, just until we get back on our feet."

David: told rent arrears could leave a 'bad mark' on your ledger

David and his flatmate (as co-tenants) received a 'generic' letter in late March advising them that any missed rent due to COVID-19 would be considered arrears and could leave a 'bad' mark on their ledger and possibly have a lasting effect on their ability to rent other properties going forward. David was really upset about this, as both he and his flatmate have lost their jobs due to COVID-19 and following this communication were really unsure as to how best to address the situation.

Since then, after a formal request for a rent reduction negotiation, the agent has not been helpful in trying to assist. Because of the nature of their work (they are both freelancers) it has been harder to provide the information the agent is requiring (such as employer letter, etc). David has sought assistance from a Financial Counsellor, but they are not having much luck with facilitating negotiations through the agent either.