

It is crucial current protections for impacted renting households continue

The Eviction Moratorium announced in July 2021 was a welcome and necessary public health measure implemented to ensure impacted tenants could stay safe in their homes and minimise social movement during the COVID-19 pandemic. Recent research examining how evictions can accelerate COVID-19 transmission by decreasing individuals' ability to socially distance found the expiration of eviction moratoriums in the USA was associated with increased COVID-19 incidence and mortality. The research findings make clear the necessity of preventing evictions as a public-health measure to limit COVID-19 cases and deaths.¹

The NSW Eviction Moratorium in 2021 has been accompanied by crucial financial supports from the State and Commonwealth government, including income support via the Covid-19 Disaster Relief Payment and rent relief via the Residential Tenancy Support Payment. We particularly welcome Minister Anderson's announcement yesterday, Monday 17 August, that a further \$1500 Residential Tenancy Support Payment will be made available for landlords to pass on as a rent waiver to impacted tenants, bringing the maximum payment available up to \$3000 during lockdown. This will make a difference for those tenants currently struggling as a result of lost income or employment during the extended lockdown, providing something of a buffer against the significant debt they may have otherwise accrued through this period.

The Residential Tenancy Support Payment must, however, sit alongside the current protections against eviction if the intention is to ensure impacted renters are able to save their tenancies and keep a roof over their head. The current protections against eviction for impacted renting households should be continued throughout lockdown, with enough flexibility to also allow protections to remain in place for an appropriate period following the lifting of restrictions so that impacted households have some time to recover.

We expand on this recommendation below and outline further protections and supports required, including:

- An extension of the Eviction Moratorium until 31 January 2022, and an expansion of exemptions to include section 84 and 85 to ensure landlords are not able to evade the current protections in place
- Protection against eviction into homelessness for boarding house residents

¹ Kathryn M Leifheit, Sabriya L Linton, Julia Raifman, Gabriel L Schwartz, Emily A Benfer, Frederick J Zimmerman, Craig Evan Pollack, *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality*, American Journal of Epidemiology, 2021; kwab196, <https://doi.org/10.1093/aje/kwab196>

- Strengthening current restrictions around access to occupied residential rental premises in the public health orders to make clear that routine property inspections and access for valuers is not considered essential during lockdown
- Access to \$750 per week income support for all adult residents in lockdown areas who do not have employment or who have lost income during lockdown
- A broad based 'cost of living' payment or voucher for use against energy or other utility bills for all households impacted by lockdown

Extend measures restricting evictions for impacted households

A 60-day Eviction Moratorium was announced 14 July. When the 60-day stop was announced, the lockdown applied to Greater Sydney through until the end of July. The lockdown has now been in place for over 7 weeks. It has been extended a number of times, stricter restrictions have been implemented, and the lockdown currently (as at 17 August 2021) encompasses all of NSW. The Delta outbreak will likely require strict health orders to remain in place until at least October for Greater Sydney, and possibly regional NSW or until community transmission rates are brought to near zero and/or more than 80% of the population is vaccinated.

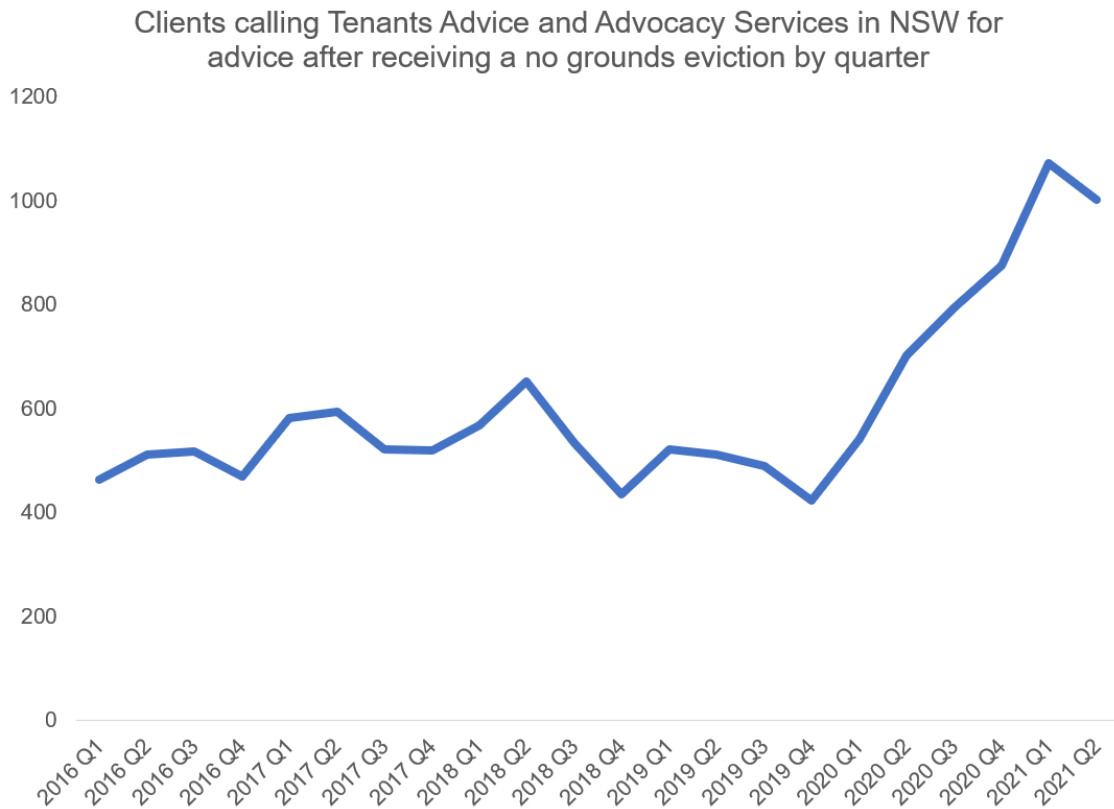
The moratorium period as it is currently defined in Part 6A Exemptions – response to Covid-19 pandemic in the Residential Tenancies Regulation will end 11 September 2021. Part 6A is set to repeal 30 September 2021. We believe the moratorium period must be extended at least in line with the extension of lockdown/s across the state.

We recommend extending the moratorium period for a further 4 months, until 31 January 2022.

There is significant uncertainty about the duration and level of restrictions required in the various lockdowns in place across NSW. Extending the current exemptions through until at least 31 January 2022 provides ongoing certainty about the protections available.

We further recommend the following measures be implemented to strengthen the current protections, and better ensure the current restrictions are working as intended.

- Prohibit the use of 'no grounds' terminations for rent arrears accrued after 26 June 2021 for impacted tenants by exempting the use of sections 84 and 85 for this class of persons. Across the Tenants' Advice and Advocacy Program (TAAP) network of services there has been a significant increase in the advice we are providing to renters who have been evicted for 'no grounds', and we are concerned landlords are using these as a way to evade the protections in place and/or retaliate against tenants who request a rent reduction.



- Allow impacted tenants to end a fixed term tenancy agreement early with no break lease fee payable where their landlord will not agree to a rent reduction. This can be done by exempting this class of tenants from section 107. Allowing these impacted tenants to leave without penalty provides a clear incentive for landlords to agree to a rent reduction. This should not be considered a significant hardship on landlords, given that landlords are now able to claim up to \$3000 as a relief payment to pass on as a waiver to their tenants.
- Extend the notice period for an end of fixed term notice to 60 days for all tenants, or at least for impacted tenants if section 84 continues to be available to be served on impacted tenants (see our recommendation above).

Martin lost his job during lockdown. He received a 90-day 'no grounds' notice after his landlord rejected his request to reduce rent.

"We have had to keep paying full rent while we went without normal living needs and food. We've had to cut off our home phone and internet service. I could keep going but I just need to know in my situation that we will all have a home to go to, especially with Covid-19 circulating. Some days I just break down and cry thinking of when I have to leave in October, probably facing nowhere to go."

Access in occupied rented properties

We continue to see landlords and real estate agents require access to occupied residential properties for routine inspections and valuations, and other non-essential reasons. Local Tenants Advice Services are hearing from many concerned tenants who are upset about the access they are required to provide for viewings and inspections throughout lockdown, including in local government areas of concern.

We have heard directly from over 100 tenants who report requests for access through lockdown for a number of routine or nonessential activities such as routine inspections and house valuations. Many report multiple people being brought through their homes a number of times a week for sale viewings. They feel deeply uncomfortable about allowing so many people through their home during this time.

“My real estate agent wants to do a routine inspection. I live in an LGA area of concern. There is no reason this can’t be delayed.”

“They want to allow four separate people to inspect our property in one day. There are so many new cases and exposure sites daily. I don’t want to be put in unnecessary risk in my own home.”

“I don’t understand how the real estate could bring 2 – 3 people through at a time to view my unit, which is in a small block of units.”

“At a time when we are (rightly) not permitted to invite a visitor or relative into our home to help care for our four-month-old baby, we are now told by the agents that two of them plus 4 – 6 buyers (strangers) will visit our house on Saturday. We will have to walk the streets with our baby for any hour, not allowed to visit anyone or eat out or sit down anywhere because of current restrictions. Or we can sit awkwardly in our own home and put ourselves at greater risk. All this at a time when currently our son rarely goes this long without needing a nap!”

We suggest strengthening current restrictions around access in the public health orders, to clarify:

- No routine property inspections across the whole of the Greater Sydney area, and any regions in which lockdown has been implemented. Routine property inspections should not be considered essential work during lockdown.
- No access for valuers unless it is as a result of a sale of premises and required by the bank in writing.

We also recommend the current requirements for landlords and/or agents to develop a Covid-19 safety plan be required to address specific safety measures for entering occupied residential premises (i.e. tenants’ homes), rather than the current basic requirement that there be a “Covid-19 plan” for the business. For example, consideration should be given to more stringent requirements such as: a recent

negative result from a Covid-19 test; face masks to be worn at all times; foot coverings to be worn; practicing of social distancing; mandatory electronic check in of all those entering the home; and an appropriate time limit for any individual viewing or inspection.

Virtual inspections and viewings offer a practical and appropriate alternative. We believe it is a reasonable expectation in the current circumstances that agents and landlords only offer virtual inspections for potential new tenants and/or purchasers where the property is for sale, until

- an applicant has made a successful application for the property, but prior to a landlord/agent taking a holding fee as deposit.
- a potential purchaser has indicated strong interest in purchasing the property, but prior to the potential purchaser arranging for building or pest inspections of the property.

Protection against eviction for impacted residents in Boarding Houses

We are aware of a number of instances in Boarding Houses where residents have been evicted at very short notice and without cause. There is not adequate exemption making power in the current Boarding House Act to introduce protections via the *Boarding House Act 2012*. A public health order may be required to ensure residents of a boarding house cannot be evicted into homelessness. We suggest consideration of a public health order with wording to the effect:

A person is not to request or demand another person leave their place of residence, or cause or permit another person to be removed from their place of residence unless:

- *the other person has another appropriate and safe place of residence to move to,*
- *there is immediate risk of harm or damage to a person or property*

There could also be consideration given to allowing a proprietor of a Boarding House to claim the Residential Tenancy Support Payment where they are able to demonstrate they have passed this on as a waiver of rent to a resident of a registrable Boarding House who has lost income or employment during lockdown.

Expanded access to adequate income and other financial supports

The Covid-19 Disaster Payment provides crucial financial support to ensure households who have lost income and/or employment are able to stay safe in their homes, at least in the short term. However, many people are not eligible for the full Disaster Payment. These households may be accumulating debt putting them in significant financial stress, especially in the longer term. Further consideration should be given to the accessibility of payments, and level of financial support currently being provided. We believe all adult residents in affected areas who are currently not

employed and/or have lost income should be given access to support payments of at least \$750/week.

A broad scale 'cost of living' support for households impacted by lockdown should also be considered. We are aware of a significant increase in the numbers of household seeking assistance from charity and community organisations to meet weekly bills for essentials such as food, utility bills, and medications.

In particular households across NSW will currently be facing increased housing costs as their energy use increases throughout lockdown, especially as lockdown has been through a cold winter. This will impact renting households disproportionately, as the lower standard of energy efficiency of rental housing means renters are likely facing higher energy bills this quarter than other households.

A 'cost of living' support payment targeted via energy or other utility bills would help address the financial stress many households will be placed under when they receive their winter energy bill this year. The 'Dine and Discover' vouchers might provide a useful model for delivery, that is the financial assistance could be provided to all households who have been under lockdown as a 'cost of living' voucher to be applied against an energy or other utility bill.