

Shared room housing in Sydney: regulatory and enforcement challenges and policy responses

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Abstract: As a response to housing affordability pressures facing Australian cities, a growing number of low-to-middle-income tenants are choosing to (or being forced to) live in shared housing within the private rental market. Shared housing emerges as a flexible and affordable housing option as rents, utility costs and housing resources are shared between multiple non-related tenants. Shared room housing – where tenants share a bedroom or living room (for sleeping arrangements) with non-related residents – is a growing subcategory of shared housing. Shared room tenancies are usually arranged under multi-layered sub-letting rental arrangements which lack formal protection. These practices raise a series of questions for city authorities for regulatory enforcement where the issues of tenure insecurity, overcrowding and exploitative housing conditions emerge. However, the research base to inform policy and regulatory responses for the growing shared room housing sector remains scant. This paper explores the opinions/experiences of tenant policy advocates who provided reflections, practices and recommendations for regulating the shared room housing market in Sydney. The findings highlight that existing regulatory frameworks provide a patchwork approach to protecting the tenancy and housing rights of shared room tenants. At the same time, regulatory authorities face multiple challenges in enforcing regulations for the changing shared housing sector. The paper argues that there is a need for regulatory and policy reforms, such as reviews of tenancy regulations for secure occupancy, affordable housing models/designs, and efficient monitoring and reconciliation systems to address tenants' challenges in the shared housing sector.

Key words: *Shared room housing; marginal rental tenancies; housing informality; shared housing regulations; policy responses*

Introduction

Shared housing – where tenants live with non-related members as group households – has long been a part of the private rental sector in Australia. The ongoing housing affordability crisis has escalated the growth and poor quality of shared rental housing, along with the emergence of new forms such as shared room housing, especially in high-demand areas close to education and employment centres in the capital cities (Hulse, Martin, James, and Stone, 2018). These shared housing choices primarily appeal to low-income populations such as students, recent migrants, people on government rental assistance and early professionals who have difficulties in accessing the entire rental properties on their own (Goodman et al., 2013). Maalsen (2020) argues that new groups of sharers are emerging, with a rising number of older Australians, families (single parent) with children, and couples living in shared housing. Homeowners (with mortgage) are also viewed as a group for whom renting part of their properties to non-related tenants has benefits of generating extra income for mortgage payments (Gurran, Pill, Maalsen, Alizadeh, and Shrestha, 2019). Similar trends in shared housing are observed in the UK (Clarke and Muir, 2017; Heath, Davies, Edwards, and Scicluna, 2018), the USA (Ahrentzen, 2003; Mykyta, 2012), New Zealand (Clark, Tuffin, Frewin, and Bowker, 2017), Canada (Mifflin and Wilton, 2005), Germany (Steinführer and Haase, 2009), and Italy (Bricocoli and Sabatinelli, 2016).

The existing shared housing literature has largely explored the experiences of residents who live in private bedrooms but share common areas such as kitchen, living room and bathroom/laundry (Clark, Tuffin, Bowker, and Frewin, 2018; Maalsen, 2019). With the changing shared housing sector, an emerging body of research explores the motivations and challenges of those living in informal shared room housing, and informs policy reforms (Parkinson, James, and Liu, 2018; Nasreen and Ruming, 2019). Shared room housing is arranged through multi-layered sub-lettings where tenants share a bedroom or living room for sleeping arrangements with non-related members, which in extreme cases can go as far as sharing beds (Nasreen and Ruming, 2019). There has been a growing concern about the issues of tenure insecurity, exploitation, overcrowding and health and safety risks emerged in this form of shared housing (Desmond and Wilmers, 2019; Gurran et al., 2019). These issues raise a series of questions for city management authorities which seek to monitor shared room practices which are 'illegal and harmful', provide conflicts/complaint resolution services, and implement registration and enforcement mechanisms.

To date, shared housing practices are largely governed under the residential tenancies legislation and boarding/rooming house legislation in Australia and elsewhere (Mifflin and Wilton, 2005; Goodman et al., 2013; Green, Barratt, and Wiltshire, 2016). However, the changing shared housing sector brings new/distinct regulatory challenges which are difficult to address under existing regulations; primarily that these practices are mostly informal, accessed through third-party online platforms, relatively short-term, and hidden/scattered across the existing residential properties. The shortage of affordable housing has exacerbated local governments' inability to enforce health and safety regulations as strict law-enforcement require many overcrowded and substandard housing practices to close down, and tenants are vulnerable to become homeless. These precarious living arrangements, nonetheless, meet the Australian Bureau of Statistics (ABS) definition of 'homelessness' considering where tenants live in overcrowded housing, lack tenure security, and have limited control over the use of space and resources (ABS, 2012). Hulse et al. (2018) argue that there is a need to develop a research base which analyses the regulatory and enforcement challenges in governing shared room housing practices and informs policy responses.

This paper fills this research gap by providing a detailed analysis of regulatory and enforcement challenges for protecting the tenancy and housing rights of residents in shared room housing in Sydney. The research used a mixed-method approach for data collection, including an online survey [n = 103] and in-depth interviews with residents [n = 35] to explore their tenancy and residency challenges in shared room housing, and interviews with key informants [n = 9] to explore expert opinions to address these challenges. This paper draws on qualitative data of interviews with key informants. These key informants are representatives of different organisations categorised into tenant policy advocates, tenant advice and advocacy services and local councils. In total, 9 key informants were interviewed from Tenants' Union of New South Wales (NSW), Shelter NSW, Eastern Area Tenant Service, International Student Legal Service NSW, the City of Sydney Council and the City of Parramatta Council. The findings provide insights on the key drivers and monitoring and regulatory challenges for (informal) shared room housing in Sydney. This study will help policymakers and practitioners to understand the growing informal practices of room sharing, the impacts of the room sharing sector for residents and the wider urban systems, and the ongoing challenges for regulatory enforcement and policy reforms.

Shared housing in Australia

The Australian housing system is undergoing fundamental change, with a decline in outright homeowners from 43 per cent in 1996 to 30 per cent in 2016 (ABS, 2017). In contrast, there has been growth in ownership with mortgage, with almost 37 per cent households under mortgage-debt, and 47 per cent of those households are in 'mortgage stress' (Stone, Reynolds, and Burke, 2017). Social housing has seen a decline in investment and supply as the number of households renting in social housing dropped from 5.5 per cent in 1996 to 3.5 per cent in 2016 (ABS, 2017). Private rental housing has experienced long-term growth, increasing from 16 per cent in 1996 to 26 per cent in 2016 of Australian households renting from private landlords (ABS, 2017). Australia's private rental market has been highly competitive and expensive, with 68 per cent of lower-income households in 'rental stress'¹ (Shelter NSW, 2018). Housing aspirations of younger generations are changing, with increased dependence on renting (Parkinson et al., 2019), as over half (57 per cent) of Australian younger households (household reference person aged under 35 years) lived in private rental dwellings in 2016, which is a 42 per cent increase from 1996 (ABS, 2017). These households live in private rental housing for relatively longer periods, with at least a third of people having lived in rental housing for 10 years or more (Stone, Burke, Hulse, and Ralston, 2013), thus labelled 'generation rent' (Hoolachan, McKee, Moore, and Soaita, 2017).

Low-income populations (such as students, early career professionals, and recent migrants) face the most difficulties in affording private rental properties, especially near education and employment centres, and their housing choice is often limited to shared renting (McNamara and Connell, 2007). This population group is labelled 'generation share' (Maalsen, 2020). It is a generation that includes those who have never owned their own home and are sharing with non-related tenants, as well as those who have fallen out of homeownership and are re-entering share households (or sharing for the first time) (Maalsen, 2019). There is a growing number of low-income and first-time tenants who choose to (or are forced to) live in shared rooms (Nasreen and Ruming, 2019). These tenants are usually marginalised from the formal rental market due to unaffordable rents and tight eligibility

¹ Households in the lowest 40% of the income distribution, who spend more than 30% of their gross income on rents are considered in 'rental stress'

criteria. Shared room housing provides flexible and affordable rental arrangements for tenants to live with non-related people, and share rents, utility bills and furniture costs among multiple members.

Shared room properties are increasingly accessed through online platforms, such as Gumtree.com.au, Flatmates.com.au and Facebook groups. These third-party platforms exert an 'agency' to connect tenants with potential landlords and housemates without formal real estate agents, and mediate (online) negotiation of tenancy and occupancy requirements between tenants and landlords (Parkinson et al., 2018). The growth of online access to shared properties has occurred across Australia, but more prevalent in Sydney, Melbourne and Perth (Parkinson et al., 2018). These technological connections open up questions of reforms in monitoring and regulating shared (room) housing practices (Hulse et al., 2018). The proportion of people living in (informal) shared housing has increased in Australia's capital cities over recent decades (Hilder, Charles-Edwards, Sigler, and Metcalf, 2018; Gurran et al., 2019), with Sydney showing a higher rate of increase in shared housing listings (Sarkar and Gurran, 2017).

Sydney's private rental housing market is the most expensive in Australia, with 55 per cent of low-income households are in 'rental stress' (Shelter NSW, 2018). Sydney has seen increased youth mobility for employment and education purposes, but local housing markets have been unable to meet the demand for affordable housing (Ruming and Dowling, 2017), pushing them to live in shared rooms with non-related members (Nasreen, 2018). Evidence shows that the overcrowding rate and exploitative tenancy conditions are increasing in shared housing, with about 27 per cent of shared rooms are deemed to be overcrowded in Sydney (Nasreen and Ruming, 2019). Tenants' Union of NSW (2017) found that more than three-quarters of occupants in shared housing live without written agreements and legal protection for conflicts/disputes resolution. The vast majority (three-quarters) of shared room tenants are international migrants and first-time renters who are unaware of the rules and regulations governing the shared rental market and advocacy/support services available for these tenants (Mowbray, 2013). In this sense, shared room tenants are vulnerable to experiencing sub-standard housing and exploitative tenancy conditions, and they are unable to access support services due to limited English skills and understanding of legal frameworks (Tenants' Union of NSW, 2017).

Shared housing tenancies are regulated mainly under the residential tenancies legislation and boarding/rooming house legislation in Australia. However, the existing regulations are inadequate in terms of governing shared room accommodation which are often arranged under multi-layered sub-letting tenancies, usually on an informal basis (Hulse et al., 2018). Informal housing practices generally refer to those that fail to adhere to established tenancy and building regulations (Harris, 2018). These sub-rental arrangements can include: owner-renters where landlords (owners, mortgage-holders) rent out their spare rooms to multiple non-related tenants; renters-sub-tenants where families having rental leases sub-let their spare rooms to non-related sub-tenants or property investors (head-tenants) leasing private rental properties sub-let to multiple tenants willing to live with strangers; and, co-renters-sub-tenants where friends (co-tenants) taking rental leases to live together sub-let beds/spaces to accommodate more friends (Maalsen, 2019). A single shared household may contain any or all of these rental relations (Martin, 2012). In NSW, shared room sub-tenants who lack written agreements are not protected under residential tenancies legislation for their tenancy/occupancy rights, and they are classified as 'marginal renters'. These marginal renters such as boarders and lodgers can claim their occupancy rights under boarding/rooming house regulations, but they have limited 'secure occupancy' as landlords (owners, head-tenants or co-tenants) retain control over the use of housing resources and premises (Martin, 2012; Goodman et al., 2013).

While shared room housing fills a housing need of low-income marginal renters, it raises a series of issues for residents and the wider housing market. Shared room tenants have limited power to make their rental properties 'home' due to a lack of 'secure occupancy', and they can be evicted without reasons (Hulse, Milligan, and Easthope, 2011; Nasreen and Ruming, 2020). These tenants are often exploited to pay higher rents for sub-standard housing, face frequently increased rents, and lose their bond/security deposits (Mowbray, 2013). Further, these tenants can be forced to live in overcrowded housing where bathrooms and living rooms are converted into bedrooms, and smoke detectors and fire alarms are removed to create extra space (Dole, 2015). Such overcrowded housing conditions potentially lead to deaths and injuries during fire incidents, noise- and safety-related issues, conflicts/stress over the cleanliness and privacy, and limit access to facilities, such as hot water for showers and gas pressure for cooking (Nasreen, 2018). Thus, in addition to tenancy regulations, built form regulations and health and safety standards also need to be enforced for shared room housing practices.

Shared room housing creates distinctive regulatory and enforcement challenges for city management authorities. These practices are mostly hidden within the existing residential stock and embedded within the formal rental market, making it difficult for local governments to collect data and enforce regulations (NSW Government, 2016). Local governments are often ill-equipped to detect practices that are illegal and harmful; thus monitoring and enforcement is limited to only where tenants or neighbours lodge complaints (Gurran et al., 2019). In response to the rise in the number of complaints and a series of tragic incidents (Dole, 2015), many councils have established research and enforcement teams to monitor shared (room) housing practices. For example, Sydney City council established the 'Unauthorised Accommodation Investigation Team' in 2015 to inspect overcrowded and substandard shared houses/apartments (City of Sydney, 2015). Nonetheless, shared room housing practices are mostly in violation of multiple regulations such as tenancy, built form and health and safety standards which could be in the jurisdiction of different departments. Such multiple illegalities require effective coordination between enforcement agencies to initiate legal proceedings against the defaulters. Local governments often do not proceed with strict enforcements because of the lack of alternative affordable housing (Payne, 2002). Enforcement agencies have limited capacity to negotiate with state governments and private investors to provide affordable housing for low-income tenants and maintain rent controls. Thus, local authorities often 'turn a blind eye' for these practices, and shared room tenants continue to live in overcrowded and exploitative housing circumstances (Gurran et al., 2019). In this sense, the shared room housing sector is complex to regulate, having both positive and negative implications for tenants and wider urban systems.

Regulatory challenges for shared (room) housing in NSW

In NSW, the private rental market is primarily regulated under the Residential Tenancies Act 2010 (RTA). The *RTA 2010* introduces special provisions for tenancy/occupancy procedures for shared housing, and landlords', head-tenants'² and sub-tenants' rights and responsibilities. These conditions require head-tenants to take the written consent from the landlord to sub-let properties for shared housing, and sub-tenants/residents to have the written tenancy agreement with the 'head-tenant'. With these conditions fulfilled, the occupant/resident in shared housing is recognised as a 'tenant' under section 10 and have the protection of the *RTA 2010*. The policy rationale for the introduction of these conditions was to ensure shared housing occupants have the defined tenancy status, and bonds and regular rent amount are set under the written agreements (NSW Government, 2016). These written agreements can protect tenants to claim their rights during disputes/complaint resolution in the NSW Civil and Administrative Tribunal (NCAT), which otherwise has difficulties in making decisions on verbal witnesses/proofs alone (NSW Government, 2016).

The online survey [n=103] revealed that less than 33 per cent of participants had written agreements and their bond deposits were lodged with NSW Fair Trading. One-third (33 per cent) of tenants paid through cash with a limited or no record of payment receipts. These sub-tenants who do not have the written agreement with the head-tenants are excluded from the protection of the *RTA 2010*, and labelled 'marginal renters' (see figure 1). Figure 1 highlights regulatory frameworks for tenancy and safety rights of sub-tenants who do not have their names on the formal residential tenancy lease/agreement. Figure 1 shows different shared room tenancy pathways, including: tenants having written agreements; tenants lacking written agreements but retaining control on use of premises where landlords/head-tenants do not live in the same properties; and, tenants lacking written agreements as well as control on the use of properties in the presence of landlords/head-tenants:

"The legislation that covers them, the Residential Tenancies Act, is designed for one tenant, one landlord. Where the tenant controls the whole premises, and the landlord is absent... It doesn't also really deal with tenants who share rooms. Arguably, the legal structure would generally think of people as not tenants. They would be lodgers... So we have either full tenancy rights or no tenancy rights often... There's not like a halfway point in our legislation."

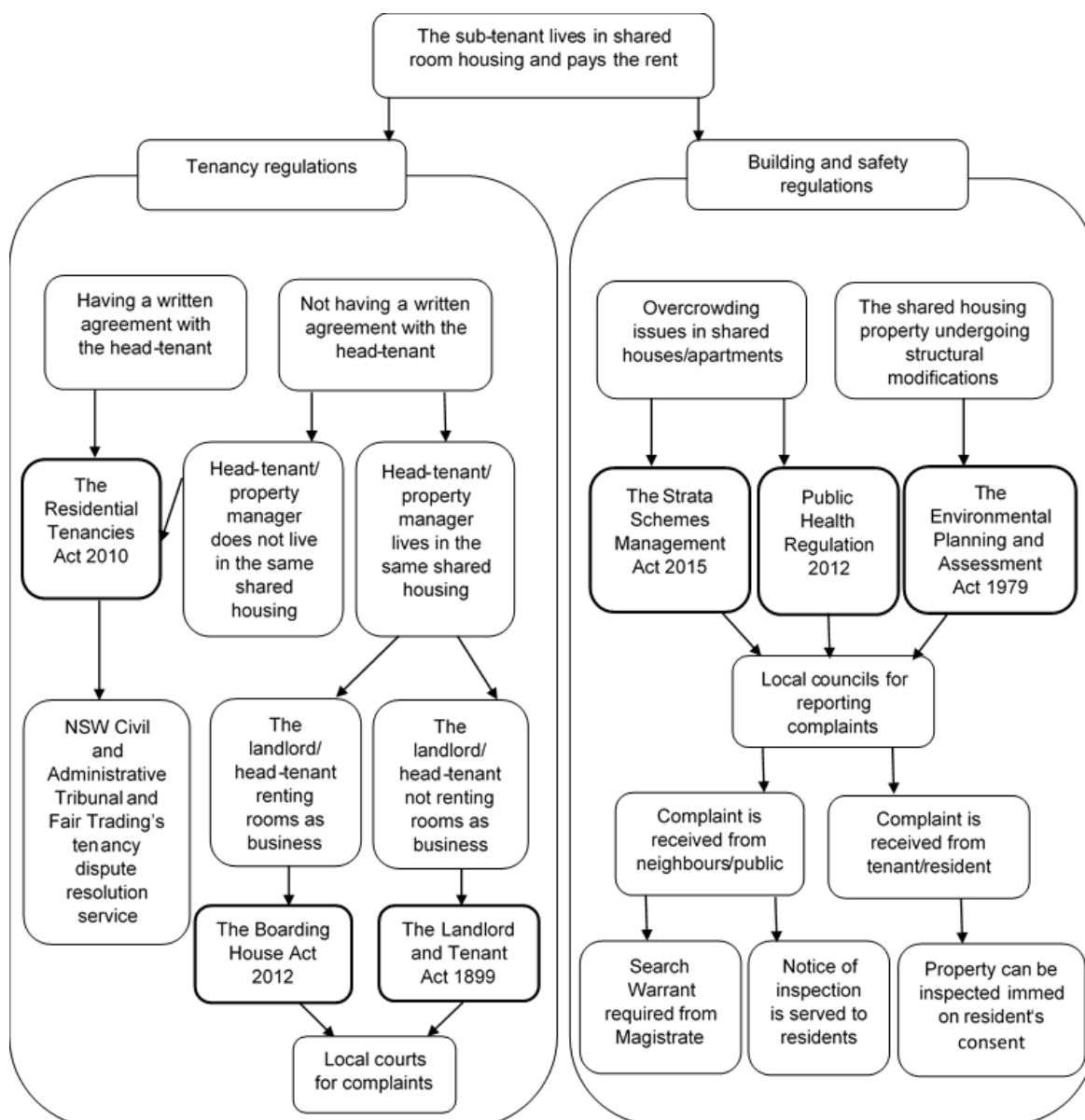
Key Informant 4, Tenants' Union of NSW

In NSW, marginal rental tenancies are regulated under the Boarding House Act (BHA) 2012. Renters who pay for the right of occupancy of rooms in shared properties and usually get meals as part of the agreement are called 'boarders', and who do not receive meals are called 'lodgers' (Redfern Legal Centre, 2011). The *BHA 2012* provides conditions for registration of shared housing properties offering five or more beds for a fee or reward. However, a large number of shared room properties do not meet the registration requirement standards (Tenants' Union of NSW, 2014). Tenants' Union

² Who is a sub-lease of their own and occupy the position of the landlord in relation to the sub-tenant.

of NSW (2018) assessed that a mere 2 per cent of shared room properties are deemed to be 'registrable' boarding houses. It is unlikely that a shared room property will be registered as a 'boarding house' where landlords/head-tenants do not know how long they will be converting their properties for shared housing, where head-tenants are not renting for profit-generating (friends living together), and where they are accommodating less than five renters or renters turn-over is not consistent. Furthermore, as registered boarding houses are liable for routine inspections of building and safety standards by the local council, many shared room properties are unlikely to be approved by the councils for registration. For example, properties that are converted into shared housing without the consent of the landowners, where living rooms are converted into bedrooms, and/or where health and safety standards are violated (Green and McCarthy, 2015). In this sense, the shared room housing sector is unable to be regulated under the *BHA 2012* (Gurran et al., 2019).

Figure 1: Regulatory framework for shared room occupants' tenancy and safety rights



Source: the author

In terms of overcrowding and safety issues, various regulatory measures, such as occupancy standards, built form regulations and health and safety rules are applied for tenants' protection (see figure 1). The ABS measures overcrowding under the occupancy standard of 'no more than two adults per room' (ABS, 2012; Herath and Bentley, 2018). The Public Health Regulation 2012, clause 46 requires 'the minimum area standard for long-term accommodation is 5.5 m² per person'. In apartments, the Strata Schemes Management Act 2015 introduces by-laws reforms in section 137

to limit the number of people to 'no more than two persons per room' and impose financial penalties in case of violations. However, these most common occupancy standards – persons per room or area – are difficult to enforce in shared room housing given the variety of room sizes are available, tenants' living conditions are different from case to case, and enforcement procedures are not described in the relevant legislation such as the Environmental Planning and Assessment (EPA) Act, 1979. The *EPA Act 1979*, however, provides restrictions and financial penalties for works which landlords/head-tenants can undertake to facilitate a larger number of occupants per dwellings that 'any changes with the carrying out work, demolition of building or work, cannot be done without the consent/approval of the concerned authority' (see section 1.5 and 4.2). Key informants mentioned that much work in shared housing such as partitioning in living rooms are done without structural changes which may not require approval from the concerned authority. However, these can be precarious housing conditions for residents, where regulations cannot be enforced:

"There's a lot of grey area because there's no offense on overcrowding as such under the Environment Planning Assessment Act or the Local Government Act or any other piece of legislation. There is nothing in the legislation that clearly stipulates how many people can share a house... What does two persons per room mean? It's an unenforceable law... People are sharing... There is nothing unlawful about that... but what we don't want to see is people living in circumstances that are unsafe. So it might be lawful, but it can still be harmful... I think we have a responsibility to work out well how can we assist here to mitigate the harm but taking legal action is not available to us if it's not unlawful... Let's say it was 10 people in each bedroom. But it depends on how they're occupying those rooms... So each case needs to be judged on its merits as to A) whether we need to do anything and B) whether it's lawful or not. See the sort of impact that it's having. This is not straightforward stuff to regulate."

Key informant 9, the City of Sydney

Enforcement challenges for building and safety regulations

Multiple challenges emerge for enforcing building and safety regulations in shared room housing, primarily stemming from the fact that shared room housing is hidden within the existing residential properties, these properties are found on informal online networks and tenancies are taken on an informal basis without bonds registered with NSW Fair Trading. These characteristics create difficulties for the local councils in collecting data on 'illegal and harmful' shared housing properties and enforcing regulations (Nasreen and Ruming, 2019). Key informants mentioned shared room tenants connect with exploitative landlords through informal pathways using different online platforms which lack security check of advertisements (Mowbray, 2013). Key informant 9 mentioned the City of Sydney Unauthorised Accommodation Team is keen to explore these online platforms to identify overcrowding and safety issues, where many listings provide descriptions or pictures of such living arrangements. However, these online listings are often problematic datasets for enforcements as the residential addresses are missing or information is protected under the digital privacy laws and advertisers' names are usually incomplete or fake (Gurran et al., 2019). In this sense, councils' data on illegal structural works and overcrowding issues are limited to reports/complaints lodged by tenants or neighbours. Shared room tenants, especially international migrants, are often unaware of or unwilling to report these issues because of their limited understanding of the support services available or fear to be identified by their landlords and lose their accommodation:

"If you're coming from a system where the government takes a much more active regulatory role - and is inspecting and has building inspectors going out regularly and checking things. That doesn't happen here. Everything relies on the tenant and the individual to enforce the law."

Key informant 4, Tenants' Union of NSW

Local councils face substantial difficulties enforcing regulations in shared housing properties where they receive complaints. Existing inspection procedures under the *EPA Act 1979* require the building inspectors to serve the 'notice of intention' to landlords/residents to enter the premises. This notice of intention is a requirement to serve to the owner/applicant for inspecting the properties where a development application is afoot. Given the inadequacy of regulations in providing enforcement procedures for issues emerging in shared housing, building inspectors serve the same 'notice of intention' for inspecting shared housing properties. Key informants mentioned landlords/head-tenants use the notice period to rectify the structural and material defects and hide the number of tenants on the inspection day, limiting the inspectors to take enforcement actions against the defaulters. Furthermore, the building inspectors 'need enough evidence to convince a magistrate to give a search warrant to enter those premises' as mentioned by key informant 9 (see figure 1).

Shared housing properties are typically in violation of multiple regulations, requiring efficient coordination between different departments for initiating enforcement actions and legal proceedings against the defaulters (NSW Government, 2016). Key informants described that strict enforcement of safety regulations require unsafe shared housing properties to shut down, which can result in homelessness of occupants (Gurran et al., 2019). Given these contexts, enforcement teams often overlook illegal practices and tenants continue to face health and safety risks:

“It may be a breach of [the] legislation but the City [of Sydney] doesn’t administer so just this morning I got a complaint sent to me where a couple of Canadian backpackers have contacted the City [of Sydney] and said we rented that unit and there were four of us in one room. We paid per bed, and is this legal? Because the guy won’t give us our bond back. So the answer is well there’s no breach of planning laws that makes me need to respond to this situation... But Fair Trading will administer the tenancies... Because potentially there is a breach but it’s nothing to do with the City [of Sydney]. This is a problem for regulators as well as that there’s often not good enough collaboration between different regulatory agencies. We’re all acting in siloes at times... But trying to get other agencies to work collaboratively to deal with this is really difficult.”
Key informant 9, the City of Sydney

Challenges for conflicts and disputes resolution services

Shared room tenants report various kinds of tenancy disputes/conflicts with their landlords/head-tenants as they experience forfeit of bond deposits, increased rents, eviction without notice and interference with their use of space (Goodman et al., 2013). Local services for tenants’ advice and advocacy³ are established which provide free phone call ‘advice’ to tenants for guiding them where and how to proceed their legal cases. Key informants mentioned that shared room housing tenants are mostly international students and recent migrants who are unaware of these local services, let alone report their issues. These tenants are mostly unaware that they have limited access to formal dispute resolution services, such as NSW Fair Trading’s tenancy dispute resolution service and NSW Civil and Administrative Tribunal (NCAT), due to the lack of written agreements (see figure 1). These tenants are, in some cases, able to initiate legal proceedings against their landlords/head-tenants in community justice centres and local courts (Redfern Legal Centre, 2011):

“Those people who are excluded - so they go to the Tribunal, if they've found there's no jurisdiction, their only other option is under common law to go to court - to local court, which is time-consuming, expensive and, if you don't win, you may be ordered to pay costs... Totally overwhelming for somebody who is from - a lot of situations that you'd be thinking of. The people who are in room sharing, especially, they just don't have the capacity, or the resources within their community to draw on, to give them the support to think.”
Key Informant 3, Tenants’ Union of NSW

These tenants have limited proofs/witnesses to win their cases in the courts because of informal tenancy arrangements and their limited understanding of the legal proceedings. Shared room tenants are often unable to prove the legal relationship with the landlords and conditions of tenancy agreements in the courts where their only proof of what agreed before is verbal or online text messages. Furthermore, many tenants pay their bonds in cash with no record of written receipts, and they do not know the name of the landlords/head-tenants to claim their bonds. Key informant 6 mentioned shared room tenancies are mostly taken on less-informed decisions and tenants are vulnerable to sign unjust and unlawful conditions, which can turn legal proceedings against themselves. Furthermore, these dispute resolution processes take a long time, while many shared room tenants living in shared rooms for short-terms are unwilling to pursue their cases. Given these circumstances, enforcement of court orders is difficult to pursue for these tenants:

“Most of the situations, most if not all, we know that there is some legal pathways to get a resolution or solution, the problem is that where we are able... to assist the entire process, we know that quite often students do not persuade it any further. I think that’s for a couple of reasons 1) legal language is perhaps more difficult - English is second language for a majority of international students, and 2) as such the whole idea of trying to persuade through the Tribunal or court is incredible daunting... The problem is even you get a successful order,

³ There are 7 local tenant’s advice and advocacy services in Sydney including Eastern Area, Inner Sydney, Inner West, Northern Sydney, Southern Sydney, South West Sydney, and Western Sydney. Also some universities such as the University of Sydney and the University of NSW have established their tenant’s legal services which can represent/defend the complaint cases of students in local courts or NCAT.

like members say to the landlord/head-tenant that you need to pay X amount of money, try to get that enforced is incredibly difficult. So there are so many steps students need to go through and clients don't know the name of the head-tenant or landlord."

Key informants 6, International Student Legal Service NSW, Redfern Legal Centre

Affordable housing policy gaps

Sydney's shared housing market, once perceived as an affordable housing pathway for friends and like-minded people to live together and divide rents, especially during transitional housing circumstances, is changing to overcrowded housing arrangements as the competition between low-income tenants to find affordable housing increases (Maalsen, 2019). Key informant 3 from Tenants' Union of NSW criticised '*how to define affordable when it is exploitative, there's often no security of tenure, it's often unsafe and unhealthy, and it's often overcrowded*'. In this sense, it is important to take a step back to understand the context that is creating these conditions. Key informant 1 from Shelter NSW mentioned that '*Australian housing system has created the space for this black-market in the room sharing to thrive*'. Government has stopped investing in social and affordable housing, and landlords/head-tenants have given power under the existing tenancy legislation to become investors in the private rental market. There is no rent control mechanism in shared housing, and, in turn, tenants (are forced to) pay higher rents for sub-standard housing conditions (Gurran et al., 2019). Furthermore, the existing purpose-built student accommodation and built-to-rent models exclude a vast majority of low-income tenants to access the accommodation – affordability is approved on the definition of 'less than market rent' rather than 'less than 30% of low-income individuals' income', forcing them to live insecure and overcrowded housing conditions (Troy, Nouwelant, and Randolph, 2018). Key informant 1 mentioned that Australian housing policy objectives are broadly set for homeownership issues, and less emphasis is placed for renting regulations and enforcement mechanisms:

"So looking at how we regulate that - through a consumer protection angle or through the way that we penalise people who do the wrong thing, through our strata laws or whatever... I think it's pretty weak, but it's also you can see why governments and policymakers would go there rather than say okay, we have got some cultural assumptions that we need to challenge [homeownership to private renting]. We have got some conceptions about how our system actually works that we really need to unpack and start thinking about a lot more differently."

Key informant 1, Shelter NSW

The existing policy approaches have achieved limited outcomes for affordable rental housing supply for low-to-middle-income tenants (Gurran et al., 2018). In NSW, councils can submit affordable housing contribution scheme to state government which is responsible for providing consent conditions under State Environmental Planning Policy (SEPP) No. 70, Affordable Housing⁴ (NSW Department of Planning and Environment, 2019). In this sense, local councils are unable to approve affordable housing, and strict state legislation emerges as a barrier for local councils to achieve their targets (Gurran et al., 2018). Local governments face difficulties in enforcing building and safety regulations in shared housing as they have limited capacities to provide alternative affordable housing for tenants:

"So the explanation of how local government and state government intersect in relation to affordable housing is quite complicated... So council here, the City of Parramatta, we have a policy that is called SEPP 70, adopted now, and we have to go through a process with the state government to get that permission... So it's not just we click our fingers and acquire affordable housing through the SEPP 70 process. We have to do a whole lot of work. We have to basically prove to the state government that the rate of contribution we apply to different places isn't going to negatively affect the feasibility development."

Key informant 7, the City of Parramatta

Another policy response is the State Environmental Planning Policy (Affordable Rental Housing) (ARHSEPP) 2009. This policy aims to facilitate the private development of diverse housing options

⁴ SEPP 70 was commenced in 2002 and applied to City of South Sydney, City of Sydney, City of Willoughby and Leichhardt Local Government Areas (LGAs). An amendment to SEPP 70 was notified in 2018 and applied to five additional LGAs, City of Randwick, Inner West, Northern Beaches, City of Ryde, and City of Canada Bay. Now all LGAs across the NSW state are included in SEPP 70.

such as infill affordable housing for a density bonus to encourage affordable rental housing⁵, 'new generation' boarding houses⁶, and secondary dwellings (granny flats) to be developed in residential and mixed-use zones (Gurran et al., 2018). Troy et al. (2018) claim that these models received limited outcomes for increasing the supply of affordable housing. For example, the rents in new secondary dwellings and new generation boarding houses remained higher, and very few dwellings were formally entered in the private rental market (Troy et al., 2018).

Informing policy and regulatory reforms

Australia's private rental market is changing significantly, with the rapid expansion and reach of online platforms, combined with growing diversity among landlords/investors, tenants and their housing arrangements (Parkinson et al., 2018). Existing housing policies and renting regulations have significant gaps in protecting the 'right to housing' and 'secure occupancy' of all tenants, especially low-income individuals and households. Low-income tenants, especially students, international migrants, and first-time renters are particularly vulnerable to living in overcrowded and unsafe arrangements. These tenants are excluded from the formal rental market due to unaffordable rents and tight eligibility criteria, requiring significant rental reforms (Gurran et al., 2019). These reforms can include reviewing the eligibility criteria (such as income and rental history checks) to increase access to the formal market for low-income and first-time tenants. Rent control measures should be introduced for setting rent caps on initial and increased rents, not only for properties but also for rooms and beds relative to property rents. As tenants can be blacklisted on tenancy databases in the event of a breach of the residential tenancy agreement (Parkinson et al., 2018), so too should there be a capacity to identify and blacklist landlords and head-tenants for violations of the *RTA 2010*, such as sub-tenants' exploitation. The Residential Tenancies Amendment Bill 2018, Victoria, for example, introduces reforms to end 'no ground evictions', to create black-listing datasets of landlords available for tenants, and early bond repayments (Victoria Government, 2019).

The Residential Tenancies Act (RTA) 2010 NSW should be reviewed to keep pace with the changing rental market. The tenancy rights of sub-tenants should be equally recognised in the *RTA 2010*, which currently specifies different conditions to grant tenancy rights for different tenants in shared households. For example, the tenancy agreement between landlord and head-tenant/co-tenants can be granted with the condition that 'the residential tenancy agreement may be express or implied and may be oral or in writing, or partly oral and partly in writing' (see section 13 (2) of the *RTA 2010*). These conditions should be applicable for sub-tenants (who are currently excluded from the *RTA 2010* protection if they lack written agreements) so they can access services for dispute resolution and claim their rights. Further, conditions should be imposed on landlords/head-tenants to provide the sub-tenancy agreement to tenants for giving them tenancy rights such as the return of bond deposits, notice of rent increase, and rights to use and enjoy the space and furniture (NSW Government, 2016). This could be further extended to include all boarders and lodgers who are currently excluded from the *RTA 2010* (Martin, 2019). In this sense, a standard sub-tenancy agreement (for sub-tenants in shared housing) and possible reasons to evict tenants should be prescribed to include in the *RTA 2010* (NSW Government, 2016).

Existing policies and renting regulations have many inadequacies for city management authorities in their efforts to enforce regulations on the changing private rental sector. Policymakers need to formulate regulatory frameworks for governing the digital housing markets such as online platforms (Pettit, Crommelin, Sharam, and Hulse, 2018). The capacity of enforcement authorities should be increased to negotiate with third-party platform administrators and impose liabilities for rent control and measures on posting overcrowded and unsafe living arrangements. These platforms should be (re)designed to provide user-generated feedback on their experiences of finding misrepresentation in properties and paying higher rent than advertised. Online platform datasets should be available to enforcement authorities, which can be used to measure the extent and type of informal housing practices, which are otherwise hidden. Furthermore, digital applications should be introduced for tenants, especially for international students, where they can find basic tenancy information in the desired language, and provide feedback about the issues with landlords. These apps can serve to increase awareness for tenants about their rights and create an efficient dataset for NSW Fair Trading and local authorities for monitoring purposes.

The private rental sector is undergoing some reforms to include purpose-built student accommodation and build-to-rent models (Hulse et al., 2018). However, limited considerations are

⁵ Rents are set at below-market rates (at least 20% below) for 10 years.

⁶ Self-contained units of a minimum of 12 m² for singles and 16 m² for couples, which may be rented separately but are not able to be strata subdivided houses.

given to include shared housing models designed for multiple non-related tenants living together. Existing shared housing accommodation are provided by converting rental properties which are designed for (nuclear) family households. This creates housing challenges for both family households (experiencing housing shortage in high-demand areas) and shared households (inabilities to perform day-to-day routines in limited space). Diversity in housing supply and design parameters are necessary to consider the needs of various types of sharers such as older generations, tenants with disabilities, and students. Purpose-built student accommodation models, in partnership with academic institutions, should be implemented at larger scales, especially in states with higher international student migration.

Conclusion

This paper provides an analysis of different challenges emerged in regulating shared room housing, enforcing health and safety standards and providing conflicts/complaints resolution services for tenants' protection and safety. These challenges are exacerbated at an intersection of inadequate regulatory frameworks, incapacities of enforcement authorities, informality of the shared room housing sector and tenants' low socio-economic status. Shared room tenants have limited tenancy rights and protection under existing tenancy regulations which provide a patchwork approach to govern the issues emerging in informal shared room housing. These legislative patchworks leave tenants in a vulnerable position to understand their legal tenancy status and the relevant authority to whom they should report their issues and seek support.

Informal shared room practices are diverse in arrangements, masked in the formal rental market and scattered in the existing residential stock, making it complex for regulatory authorities to identify illegal and harmful practices and enforce regulations. The enforcement mechanisms are inadequate which do not provide procedures for buildings inspectors on how to enforce health and safety standards, who decide each case on their wits. Informal and overcrowded housing practices have peaked also because of states' inability to provide affordable housing to low-income tenants and/or local governments' incompetence to monitor and control illegal housing practices.

This paper demonstrates a way forward for policy reforms. Australian housing policy objectives are not set for shared room housing of 'marginal renters'. Existing tenancy regulations largely benefit the landlords/head-tenant investors rather than low-income tenants. While 'secure occupancy' is an essential condition to reform, it is not sufficient in itself, to achieve broader policy objectives. A holistic approach is needed to integrate affordable housing supply, secure occupancy, and rent control measures in existing and new private rental dwellings. Shared room housing offers unique benefits for tenants and the wider housing market in terms of creatively using existing residential properties in high-demand areas where the government might be unable to supply new housing. The question facing enforcement agencies, therefore, is how these options cannot turn into overcrowded and exploitative accommodation for these tenants.

Local governments' capacities to efficient building control need to be empowered by introducing new enforcement procedures and encouraging collaboration between different departments. The main reason why people resort to informal and overcrowded living arrangements is that rents are too high, and eligibility criteria are too restrictive in the formal rental market. Thus, it is vital to introduce diverse affordable housing options with adequate eligibility criteria to meet the housing needs of diverse sub-groups such as students, early professionals and migrants. These reforms will need extensive amendments in existing legislation which inevitably cannot be delivered, at least in short-term; thus short-term and long-term policy objectives should be set to achieve these reforms.

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