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# Understanding discrimination effects in private rental housing



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The logo for AHURi, featuring a red curved line above the text "AHURi" in a bold, black, sans-serif font.

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## Acronyms and abbreviations used in this report

<b>ACT</b>	Australian Capital Territory
<b>ACAT</b>	Australian Capital Territory Civil and Administrative Tribunal
<b>AHURI</b>	Australian Housing and Urban Research Institute Limited
<b>CaLD</b>	Cultural and Linguistically Diverse
<b>DHW</b>	Department of Housing and Works
<b>EOC</b>	Equal Opportunity Commission of Western Australia
<b>HUD</b>	Department of Housing and Urban Development
<b>LLC</b>	limited liability company
<b>NSW</b>	New South Wales
<b>NT</b>	Northern Territory
<b>NCAT</b>	New South Wales Civil and Administrative Tribunal
<b>NTCAT</b>	Northern Territory Civil and Administrative Tribunal
<b>PRS</b>	Private Rental Sector
<b>QLD</b>	Queensland
<b>QCAT</b>	Queensland Civil and Administrative Tribunal
<b>RA</b>	Research Assistant
<b>SA</b>	South Australia
<b>SCAT</b>	South Australia Civil and Administrative Tribunal
<b>SAT</b>	State Administrative Tribunal
<b>SES</b>	Socio-economic status
<b>TAS</b>	Tasmania
<b>TUNSW</b>	Tenants' Union of NSW
<b>UK</b>	United Kingdom
<b>US</b>	United States
<b>VIC</b>	Victoria
<b>VCAT</b>	Victoria Civil and Administrative Tribunal
<b>WA</b>	Western Australia

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# Executive summary

## Key points

- **Discrimination in the private rental sector (PRS) occurs throughout the entire rental system, from property procurement and investment prior to the search for a rental property, through to eviction.**
- **The aims of this scoping project were to:**
  - examine discrimination across age, gender, race and indigeneity
  - determine the mediating impact of informal tenancies, increases in sharing and non-standard accommodation, and the increasing role of digital technologies
  - identify omissions in existing policy, law and practice
  - inform a wider research and policy agenda to further understand and address discrimination in Australia's PRS.
- **Socio-economic status and income shapes choice and intersects with age, race, gender, disability, and other factors. There is an intersectional experience of discrimination in the PRS with differing effects for those facing one or more areas of structural disadvantage. There is also an accumulative burden—financial, psychological, and physical—in those who experience discrimination.**
- **The growing number of informal and shared tenancies increases the potential for discrimination. Informal tenants have few renter's rights and those in share-housing can also face discrimination by other tenants, including via little-regulated digital technologies.**

- **Digital housing technologies—and their differential use and regulation—mediate discrimination across the rental system. At present, they reflect the power imbalance between landlords and tenants, however international examples show they can be used to support tenants.**
- **The COVID-19 pandemic has highlighted systemic problems in Australia’s PRS, particularly relating to: income and employment-based discrimination; threat of eviction; energy costs; and social security.**
- **An intersectionalised response is needed, which attends to the complex issues facing people in the rental market and works to rebalance disparities that enable discrimination in the PRS, particularly between landlord and tenant. More work is needed to better understand intersectional discrimination across the rental system to better shape responses.**
- **These responses should be holistic, addressing structural discrimination—with attention to health, energy, social security, labour, transport, climate, ageing, immigration and cyber security policies—and multi-scalar, through direct mechanisms to reduce discrimination in the PRS and by reshaping the broader property and rental markets. The latter requires foci on domestic and foreign investment, construction and planning, and specific regulations affecting public, social and private renters.**
- **The power imbalance between landlords and tenants in Australia is profound; it drives discrimination in the PRS. This imbalance cannot be addressed without relieving pressure from the PRS (particularly at the lower end) by increasing public and social housing and low-cost rental supply, and by reducing incentives for investment properties, among a wide range of other measures, to discourage private accumulation of multiple housing assets.**
- **Attention to the incentives, rights and responsibilities of landlords, agents and tenants is needed. Specific and minimum standards needed include: clear and comprehensive rental agreements; agent professionalisation; and minimum dwelling standards.**



- **There is a key, collaborative role for government, researchers, and the tenancy advocacy sector in data-driven efforts to address discrimination. Data gaps exist in terms of residence, ownership, and investment, as well as bond returns, and eviction numbers and causes. More research is also needed to understand the potentially discriminatory effects of decision-making algorithms increasingly used in digital real estate technologies, and to examine the use of technologies for tenant monitoring.**
- **Differential outcomes of policies in place points to the need for improved understandings of historical housing policies and local context to appropriately target housing strategies. Relatedly, cultural understandings and perceptions of private renting are profoundly tied to national contexts. Shifting perceptions of renting in Australia, generally seen as inferior to home ownership, is a necessary medium to long-term policy project to be supported by advocacy and research.**
- **Targeted responses to the issue of discrimination in the PRS should be based on up-to-date and accessible data and should be used for timely responses to issues facing particular groups. ‘Bad’ (such as violent or destructive) tenants, for example, are a vulnerable group that may require specific efforts to be housed.**
- **Critical policy areas for immediate action, relate to evictions, housing supply, social security, negative gearing, property standards and access to data sets.**
- **Collaborative opportunities for policy, research, and advocacy should focus on the actions and motivations of agents and landlords; data for discrimination auditing; geographical (including urban, regional, rural) differences; developments and the impacts of digital real estate; and pro-tenant digital development.**

## Key findings

Discrimination in the Australian PRS is a common, but difficult to pin down, problem. There is a nebulous distinction between discrimination and discretion, and discrimination occurs in both subtle and overt ways across the rental process. As a result of these challenges, discrimination is often a tangential concern in regulation of the PRS. Policies that have led to the commodification of housing as a financial asset have placed growing pressure on the private rental market, unevenly weighted at the lower end of the market. Exacerbated by inadequate supplies of public, social, and affordable housing, this pressure has created a profound power imbalance, between landlords and tenants, that drives discrimination. A highly competitive private rental market creates more opportunities for discrimination to take place when agents, landlords, and (sharing) tenants exercise discretion. As a result of this power imbalance, undesirable costs, quality, size, location, and sharing situations are commonly endured; these unfavourable conditions are experienced unevenly, with certain people more likely to experience them as a result of discrimination based on one or more factors. Socio-economic status and income shape choice and intersect across all other social categories subject to discrimination.

New and emerging mechanisms of discrimination in the PRS also require improved understandings and increased attention in policy. Growing dependence on the informal housing sector, for instance, means a greater number of renters are not protected by formal rental agreements. Share-housing in the informal sector is also on the rise. The expansion of digital real estate technologies (PropTech), increasingly used to manage, mediate, and control rental properties and tenants has reshaped how tenants, landlords and agents navigate the PRS. These changes are profoundly reshaping Australia's PRS, and pathways for discrimination within it, and are currently not sufficiently addressed by policy.

This is the Final Report of an AHURI Scoping Project that examines these issues, focusing on understanding discrimination effects in Australia's PRS. Through an international evidence review and expert panel conducted with housing and discrimination experts and tenant advocates, the project finds that the multifaceted Australian policy landscape in relation to private renting obfuscates attention, and solutions, to individual experiences of discrimination. These experiences are intersectional and complex, mediated by differential state rental policies, local and national housing markets, the highly variable use, and regulation of housing technologies, as well as individual (and broader societal) prejudices.

Beyond those direct influences in the areas of renting and housing more broadly, the project finds that discrimination cannot be addressed in isolation. Key to individual experiences of discrimination in the Australian rental market are policy-driven inequities that exist beyond the areas of housing and renting. The structural nature of discrimination means that its effects are embedded in policy areas that intersect with housing such as energy, ageing, taxation, and the environment, and therefore discrimination in the PRS cannot be addressed independently of the broader policy landscape. Addressing discrimination in the PRS requires holistic policy solutions.

By impacting the numbers of those who can access private rental housing at all, such inequities obfuscate the true scale, types, and modes of discrimination in accessing private renting. Such inequities therefore also present problems for housing researchers. Relatedly, important gaps in data and its access exist relating to the following: residence, ownership, and investment; rentals, bonds, and evictions; and technology. For instance, data on attempts to access the private rental market, and locations of renters and evictions does not accurately reflect the quality, size and location of rental properties accessed. These data gaps represent barriers to understanding discrimination, and to responding through policy and technology design and use. Presently, limited-scale projects that have access to data around private renting provide valuable information for understanding the sector and, hence, for research and policy development. Similarly, there are international examples where technologies have been used to benefit tenants.

COVID-19 has underscored precarity in areas of Australia's PRS by making long-term and systemic problems in housing more visible (Maalsen et al. 2020). The differential impact of the pandemic on renter's experiences of discrimination reveals the unsuitability of the market in relation to rental needs. Home was positioned as a key site of defence against the pandemic but the ability to access secure and appropriate housing, and security of

tenure was unevenly felt (Rogers and Power 2020; Maalsen et al. 2020). A temporary moratorium on eviction, rent deferrals and rent reductions showed that it was possible to address precarity and improve tenant outcomes. However, rather than addressing the long-term systemic issues, the Australian Government's intervention was to protect the significant economic impact of the PRS as both a site of employment and a place to house labour (Maalsen et al. 2020).

## Research and policy development options

This scoping report lays out a framework for a wider research and policy agenda to further understand and address discrimination in Australia's PRS. Research and policy development through this framework should be intersectional—with holistic and balanced responses for people-focussed policy—and data driven—for informed and targeted solutions. The project identifies a critical need to address discrimination in the PRS by reforming rental policy and reforming policies that intersect with housing as part of the broader policy landscape in which housing and renting is situated. In other words, the structural nature of discrimination means that addressing discrimination in the PRS also requires addressing policies that exacerbate housing inequality such as taxation, retirement, and energy policies. Addressing discrimination cannot be done in policy silos.

The report also finds several areas where immediate policy responses are necessitated, which adds to an existing weight of evidence for urgent reform of Australia's housing system. In those cases, highlighted below as 'priorities', there is an abundance of evidence for the validity of these specific interventions, and these actions will have an immediate impact on the extent of discrimination across Australia's PRS. The other 'intersectional' and 'data-driven' responses discussed below are no less critical. However, research, advocacy and policy should work urgently to determine and target specific solutions through the framework identified in this scoping report. Along this vein, the report also scopes collaborative opportunities between researchers, renter advocates and government, to better understand the issues of discrimination in the Australian PRS and hone responses.

### Intersectional: people focussed and holistic

Structural discrimination results from broader societal inequalities and reproduces these structures of disadvantage in the way that the PRS operates. Addressing structural discrimination in the PRS requires shifts across the policy spectrum: in the labour market, social security system, transportation, healthcare, energy, climate, immigration, ageing, and cyber security.

Structural factors also play a key role in determining the size and scope of the informal rental system. Due to the added issues with the dwelling quality, standards, and tenant rights in the growing informal market—and added difficulty in regulating it—those policy areas tied to its growth should be given substantial attention. This includes those that shape employment and income level stability, such as labour market restructuring and social security. Addressing stagnant wages and the adequacy of income support payments should be prioritised.

Mechanisms that reshape the housing market to remove pressure from the PRS are essential to reduce discrimination. These mechanisms require a recognition of the interrelatedness of the PRS with public and social housing and homeownership, and hence, consideration of the tax and other financial regulations that shape these markets. Unsustainable pressure at the lower end of the private rental market must be alleviated as a key enabler of an affordable PRS. Where people live—and in many cases are forced to live—can have significant impacts on their cost of living, particularly where transportation is limited or inaccessible. Therefore the location of housing is an important factor that should be considered in tandem with other policy concerns, in the areas of development application processes, urban planning, construction, taxation settings, and the supply and availability of housing across private, social and public rental properties. Some important changes required include:

- increasing public and social housing stock, particularly by attending to the geography of need. This stock could also set industry-wide quality, amenity, and energy efficiency standards
- construction tied to renter demand; addressing unsolicited proposals, market-led proposals and exclusive mandates, and uneven developer influence in planning processes

- financial and tax incentives to build for and rent to low socio-economic status tenants; and to provide housing for tenants who experience discrimination along other lines and who may have different needs
- reducing incentives for multiple investment properties including negative gearing, limiting corporate buy-ups in distressed housing contexts, and zoning to limit co-living spaces likely to exacerbate unaffordability
- rental controls
- crisis housing for victims of domestic violence or other highly vulnerable groups must also be available and suitable, including being adequately secure and allowing pets
- financial assistance to accompany labour mobility policies through, for example, Australian Government regional funding models
- real estate foreign investor rules to limit interference with housing supply availability
- taxing vacant properties.

While at the individual level, discrimination may manifest as prejudice based on race, age, gender, household size, income and so on, these prejudices are most commonly driven by biases tied to perceptions of risk. It is the institutional settings in which these biases are permitted (or not) that result in discriminatory behaviours.

Institutional exclusion mechanisms in the PRS relate to the technologies, policies, and laws in which private renting operates. Their importance is enhanced beyond their direct impacts since experiences of discrimination are shaped and compounded by existing discrimination and disadvantage. Additionally, the impacts of discrimination are exponential. Those who are discriminated against, for example, along the lines of age, gender, and race, are more likely to be forced to accept substandard properties and move frequently. In turn, this compounds the costs associated with utilities, health and mobility. Evidence suggests a growing link between housing costs in the PRS and poverty, with low rents and housing benefit payments both seen to dramatically reduce poverty levels (Tunstall et al. 2013).

Numerous institutional mechanisms in the PRS enable discrimination. Many strata arrangements, for example, prevent tenants from having pets or children. State legislated Tenancy Acts that still allow no-grounds evictions are complicit in discrimination, enabling landlords to evict tenants without reason. Other important institutional levers to reduce discrimination emerging from this report include:

- longer term and secure tenancies
- regulating rent increases. Although there are current regulations that limit increases to once per year or once per six months depending on the lease agreement, stronger regulations around the amount it can be increased, the condition of the property and the frequency of increases are encouraged
- limiting grounds for evictions, removing no grounds evictions where in place, and requiring proof of grounds
- meaningful dispute resolutions including compensation, such as partial rent refunds where repairs are not made in a timely fashion
- anti-discrimination regulation across jurisdictions
- removal of potentially discriminatory clauses in rental agreements, for example around banning pets and excluding children
- increasing rights for informal tenants by extending protections of residential tenancies Acts
- professionalisation and standardisation in property management practices and rental application processes (see 4.1.2)
- property standards (see 4.1.2 and New Zealand Healthy Homes), around such things as heating, insulation, ventilation, mould, drainage and draughts
- addressing strata regulations to remove added opportunities for discrimination, for example, noise complaints.

## Technologies

Regulating new digital technologies (see 1.2.1), their design and use, should also be a key institutional focus of efforts to address discrimination in the PRS. The ways in which users of such technologies are unwittingly practicing or experiencing discrimination through use of these technologies is little understood and may be entirely obfuscated within algorithm designs. Regulations should for example, consider transparency of data collection, use and potential sharing; provide a choice for opting into the service or not; ban rent bidding apps; and restrict the use of surveillance technologies. With the rise of informal tenants and digital 'flatmate-finding' technologies, more research is also needed to understand these technologies themselves, and the motivations and decisions of those using them. For example, platforms such as flatmates.com.au and spareroom.co.uk, among others, have become popular avenues for finding flatmates. Such platforms usually require users to enter personal and demographic information, like age, gender, rent range and employment status, alongside a photo and a personal description. While this data is ostensibly used to algorithmically match users to potential flatmates and refine their searches, it can be used to discriminate and essentialise, particularly when it relates to sexuality, religion, and culture (Maalsen and Sadowski 2019: 122). Technologies are also inclusive of rent bidding apps, property management technologies, surveillance technologies, smart locks, and biometric entry systems, which are increasingly being used in managing tenants and automating evictions, particularly in the United States (US) (McElroy et al. 2020).

## Balanced: managing incentives, rights, and responsibilities

The power imbalance between landlords and renters in Australia amplifies the potential for discrimination across the entire rental system. Anti-discrimination policy must focus on diminishing this imbalance on multiple scales. In particular, managing the incentives, rights, and responsibilities of landlords, as well as agents and renters, is a complex and essential requirement. The responsibilities of landlords and agents are often unclear and can be circumvented—particularly when tenants have few alternative options—and the distinction between discretion and discrimination can be ambiguous.

In Australia, a range of policies that have encouraged the financialisation of housing, including negative gearing and the expectation of capital gains, have over-incentivised housing as an asset for those who can afford it. These incentives have primarily benefitted existing owner-occupiers and created profound imbalance in the system that must be remedied by directly addressing these policies.

Discretion by landlords and agents around financial and legal risk places many groups at substantial risk of discrimination. Improving supply (especially in the middle and lower end of the PRS as well as in public and social housing) is necessary to minimise this risk. In addition to rebalancing the rental supply, responses that address discrimination should utilise incentives for non-discriminatory behaviours and disincentives for discriminatory behaviours.

The following were identified as points of tension and suggest possible interventions:

- There is substantial variation in the professional standards of landlords and agents. Differences in the information provided to potential tenants about properties for rent, including emphasising rules over features for example, underscores the need for standards in agent behaviour and information provided to tenants. Professionalising standards within property management could also include standardising practices around housing inspections and the need for repairs.
- Competing incentives and motivations of agents and landlords relating to length of tenure (see Box 1) and property upkeep that should be understood more fully to better manage incentives, rights, and responsibilities in order to diminish discrimination. For example, new digital technologies can potentially be used to link tenants with landlords (where the former meet appropriate standards), thereby removing some of these competing incentives.

- Setting specific and minimum standards for repair and dwelling condition (see the Aotearoa/New Zealand Healthy Homes standards) and improving enforcement mechanisms through, the inclusion of standards in rental agreements and clear and functioning processes for their enforcement.
- Easy to understand and comprehensive rental agreements to be signed by landlords as well as tenants. Rental agreements should clearly set out rights and responsibilities of each party—including around bond returns—as well as processes for disputes where onus of proof is fairly placed. Contact information for relevant tenants' associations should be provided in rental agreements in case of disputes. Access to assistance (financial, linguistic, legal) should be available.
- Redressing the power imbalance between tenants and landlords will make it easier to address discrimination. Pathways for redress must be worth pursuing for tenants; they must be affordable, not overly time consuming, straightforward, and where appropriate, compensation should be paid and/or the opportunity to continue in a tenancy. More broadly, financial penalties and disincentives should apply when landlords behave poorly, such as delaying or avoiding repairs.
- The decline in home ownership, which coincides with the growth of the PRS, has likely produced another troubling secondary effect. Exclusion, both real and imagined, of renters from urban planning consultation processes, has the effect of diminishing the input of this large and growing group in planning decisions. Tenants should be made aware of their rights, and this should extend to encouraging their inclusion in such public debates and discussions. This issue is undoubtedly tied to the problem of length of tenure, as well as the pre-determined character of 'consultation' outcomes.

### **Informed: knowing contexts and addressing data gaps**

There is a critical need to address key data gaps on experiences of discrimination in Australia's PRS. The Report identifies key gaps that relate to both specific rental data and discrimination in Australia's PRS more broadly. The data gaps identified by the report are not exhaustive but rather are key areas identified by the expert panel as necessary for addressing discrimination. The need for more consistent, temporally, and spatially granular and quality data on the following areas was identified:

- residence, ownership, and investment: including primary place of residence, landlord ownership and accumulation patterns, and geographies of housing need
- rental rates and bonds: including accurate rents and bond returns monitoring, with discrimination markers, and calculating the cost of the bond trust system compared to alternative options
- eviction: including more consistent and accurate monitoring of numbers and causes across jurisdictions, data on landlord and agent motivations and good landlord-tenant relationships
- technology use: for the production of advocacy tools, as well as data to better understand the discriminatory effects of certain PropTech algorithms, and to better understand the extent and scope of tenant monitoring by landlords and property managers.

Recognising gaps in data is a crucial step in implementing more effective tools against discrimination. Addressing data gaps allows for ongoing monitoring of the types and modes of discrimination and hence, the ability to address it in targeted ways.

There are significant opportunities to leverage new digital technologies that offer significant opportunities to better inform anti-discrimination strategies and tools for the PRS. At the same time, the current and emerging local and global landscape of digital technologies adds another layer to discrimination in Australia's PRS. To date, policies have largely been reactionary, where significant issues have arisen because of such technologies. Ongoing research is required to inform a comprehensive typology of PropTech, and how it impacts the rental market. Such a typology is necessary to pre-empt new discrimination drivers and respond in a timely way to gaps in existing regulation.

### Targeted: utilising data for responsive and pre-emptive policy

The complexity of discrimination in the PRS that emerges throughout this report highlights the need for data to inform specific, targeted responses. Policy should be responsive rather than reactive. That is, where regulatory gaps or other issues are identified, timely and targeted responses should follow. Data can also be used to pre-empt where issues may arise. Understanding the lessons from global research on Artificial Intelligence (AI), PropTech and other housing market trends, for instance, will help Australia prepare for potential new avenues of discrimination in the PRS.

The following should be addressed to develop targeted responses to the issue of discrimination in the PRS:

- Suitable data requires ongoing funding and availability to produce useful, sound data; Chapter 2 demonstrates the importance of correct, up-to-date data underpinning targeted responses.
- Data access by advocates is essential for ongoing auditing of discrimination. The Australian Government and state and territory governments can enable this through open access data sets.
- Advocates and researchers should inform the types of data collected to ensure its utilisation and address security concerns.
- Specific regulation of discriminatory elements, particularly those targeting the most vulnerable, such as predatory payday lenders and certain bond insurance products, as well as the issue of pets in rental properties.
- Specific changes in many policy areas including mental health, superannuation, and energy are essential to address discrimination in the PRS.
- PropTech also needs to be better regulated. Developers, users, and legislators need to be aware of the assumptions coded into the tools and how they may discriminate and perpetuate existing inequalities. The pace of development requires a highly attentive approach to regulation in this area.
- Although most PropTech currently appeals to landlord and agent interests, technology can be used to benefit tenants. The Anti-Eviction Mapping Project, for example, uses digital technologies to enable housing activism, and map and visualise housing dispossession, while also providing tools for resistance (Anti-Eviction Mapping Project).
- Priorities and opportunities for policy, research, and advocacy

Discrimination is widespread in the Australian PRS. The dearth of research on the subject to date reflects poorly on the urgency in which responses are required. The report identifies several critical policy areas demanding immediate action. These are:

- removing 'no-grounds' justification for evictions where in place
- increasing supply of public and social housing and low-cost private rental options particularly in, and proximate to, labour-dense locations to decrease pressure on the lower end of the PRS
- developing specific and minimum quality, efficiency, repair, and maintenance standards for all Australian rental accommodations, and meaningful tools for their enforcement
- making existing Australian Government, state and territory government rental data sets available to tenant advocacy groups and housing researchers
- developing professionalism standards for all real estate agents and property managers and standards for rental applications and agreements
- removing negative gearing incentives for investment properties.

Finally, the report also scopes collaborative potential, with researchers, renter advocates and government, to better understand the issues of discrimination in the Australian PRS. These include:

- more research to understand the actions and motivations of good and bad agents and landlords and discriminatory behaviours
- the development of a discrimination auditing system in the rental sector informed by up-to-date data;
- further research on geographic differences to understand, for example, rural, regional and urban differences
- collaborative work to hone the specific data requirements to enable improved monitoring of discrimination in the PRS, and to enable the development of technologies to diminish discrimination in the PRS
- further collaborative research to understand the practicability of the report's recommendations in different Australian policy contexts, to determine more specific policy actions
- improving understandings of PropTech across the stages of the rental system associated with discriminatory outcomes and specific regulations to address these outcomes.

## The study

This scoping study establishes a better understanding of discrimination in Australia's PRS. Discrimination in the PRS is widely acknowledged as a problem among housing advocates, yet is difficult to identify in practice. To date there has been limited research about the scope of and solutions to this problem in the Australian context. The risk that particular groups will be unable to access rental accommodation because of their race, gender, age, or other factors will likely increase with growing dependence on the informal housing sector. A growth in property technologies, which are increasingly used to manage, mediate and control rental properties and tenants, is also likely to exacerbate discrimination.

Adopting an intersectional approach, the Project included an evidence review of Australian and international literature on discrimination in the PRS. Existing evidence of discrimination across a range of social categories, as well as on the mediating role of digital property technologies, was identified. This review was followed by an expert panel discussion with Australian and international experts in housing, technology and discrimination including from academia, tenant unions, and housing peak bodies, to calibrate the evidence with Australian experiences and conditions.

The study sought to:

- examine discrimination across age, gender and sexuality, and race and indigeneity
- determine the mediating impact of informal tenancies, increases in sharing and non-standard accommodation and the increasing role of digital technologies
- identify omissions in existing policy, law and practice
- inform a wider research and policy agenda to further understand and address discrimination in Australia's PRS.

Corresponding with these aims, the research was conducted in two stages:

1. an international review of the literature
2. an expert panel with peak bodies and housing researchers.



## Evidence review

To establish existing knowledge on the topic of discrimination in the PRS, the first phase of the project consisted of a review of Australian and international research evidence on discrimination in the housing sector in two parts.

In the first part of the review, there was a focus on informality and digital technologies as enabling new mechanisms of housing discrimination. The first part also established the intersectional framework for examining discrimination.

The second part of the review used the intersectional framework to seek to understand discrimination in the PRS across selected categories of discrimination: socio-economic status, age and the life course, gender and sexuality, and race.

The review drew on literature relating to policy from Australia and comparative housing market settings, such as the United Kingdom (UK), New Zealand and countries in Europe with a substantial PRS.

## Expert panel with peak bodies and housing researchers

The review of Australian and international evidence on discrimination in rental housing was tested and calibrated to current Australian conditions through an expert panel hosted on the video conferencing software, Zoom. The expert panel included three representatives from Australian tenant advocacy groups, including the Tenants' Union of NSW and Shelter NSW (TUNSW). The other panel members were housing academics involved in the Anti-Eviction Mapping Project in the US with particular expertise in digital real estate technologies—a focus of the project. A further eight academics with expertise across the areas of housing, digital real estate, and discrimination from Australia also participated.

The panel's time was structured using five housing stages identified in the evidence review as points where discrimination can take place and be addressed:

1. procurement and investment
2. advertising and tenant selection
3. rental agreement and bond management
4. tenancy, repairs, and maintenance
5. eviction and advocacy.

The panel helped to identify priorities for policy, gaps in the evidence-base, opportunities for collaboration, and areas for further research.

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# 1. Research background

- **This project scoped the little-understood issue of discrimination in the Australian PRS by examining discrimination across the rental system, from procurement and investment to eviction and advocacy.**
- **The growing influence of the informal sector and digital housing technologies were identified as particular foci of the project given their potential to increase discrimination. Informal renters lack rental agreement protections, while digital technologies offer new modes of discrimination for the sector that demand attention.**
- **An international literature review and expert panel were used to understand the intersectional character of discrimination in the PRS, the types and modes of discrimination, and the policy levers that shape experiences of discrimination throughout the sector.**
- **Despite existing legislative protections against discrimination at Australian, and state and territory government levels, mechanisms permitting discrimination remain embedded in structural and institutional settings that frame the PRS. Perception of financial and legal risk is a key factor influencing discriminatory behaviours in the sector; these behaviours can be mediated by regulatory mechanisms.**
- **The project also identifies some key data gaps to shape a policy and research agenda for the Australian PRS, by making recommendations drawn from the two research stages. Omissions in existing data contribute to a policy and research agenda for discrimination in the PRS.**

This chapter introduces the report by outlining the significant motivation for the project (1.1), key settings and concepts (1.2), research methods (1.3), limitations (1.4), and the structure of this report (1.5). As discussed in 1.1, below, rates of private renting in Australia are increasing largely due to a decline in housing affordability tied to the financialisation of housing. With this growth comes an increased likelihood of discrimination in the PRS, with concerns around quality and affordability of dwellings, and security of tenure. The related increase in informal housing, and the expansion of digital housing technologies, present further potential for discrimination.

Based on a preliminary review of the literature (as distinct from the evidence review presented in Chapter 2), Section 1.2 discusses: informal housing and digital technologies as new mechanisms for discrimination in the PRS (1.2.1); and discrimination and intersectionality as key concepts framing the report. In Section 1.3, we provide details of the evidence review and expert panel that informed this report, and 1.4 describes the impacts of the COVID-19 pandemic on the design and application of these methods. The structure of the report, which is detailed further in 1.5, is shaped around findings and analysis of the evidence review (Chapter 2) and expert panel (Chapter 3). Chapter (4) ties the lessons together to present a framework of approaches to address discrimination in Australia's PRS, as well as laying out priorities and opportunities for policy, research and advocacy in this setting.

### 1.1 Why this research was conducted

Housing unaffordability, stagnant wages and policies that encourage the financialisation of housing mean that, as home ownership declines, more people in Australia are renting for longer—and increasingly for life. The predominance of individual households as landlords of investment properties has been enabled by tax incentives, such as negative gearing, and expectation of capital gain. Housing is increasingly viewed as an asset and site of investment rather than as a place to live (Madden and Marcuse 2016).

Those with an existing stake in the property market are at an advantage, while those without property are disadvantaged by this system. The inflation of the housing market has seen home ownership decline and more people renting for longer. Consequently, the PRS is central to housing provision for an increasingly diverse range of people (Hulse et al. 2018a: 2). There are concerns, however, about the quality and affordability of dwellings, and for the security of tenure and outcomes of private tenants.

In this context, discrimination is a widely acknowledged problem among researchers and housing advocates. It is difficult to identify in practice, however, and there is limited research evidence about the scope of and solutions for discrimination in the Australian setting. Such concerns are accentuated by the growing role of informal housing and digital housing technologies (see 1.2.1), which have the potential to increase discrimination due to race, gender, age, disability, and other factors.

Such technical and structural changes may embed barriers to accessing or sustaining private rental accommodation and suggest the need for a better understanding of discrimination as it is currently occurring in Australia's PRS, across different social categories. This project provides insight into these issues by synthesising current research evidence (see Section 1.2 and Chapter 2), grounding this evidence with the expertise of frontline housing practitioners (see Chapter 3), and developing an agenda for policy and further research and advocacy (see Chapter 4). Specifically, the study sought to:

1. examine discrimination across age, gender, race and indigeneity
2. determine the mediating impact of informal tenancies, increases in sharing and non-standard accommodation, and the increasing role of digital technologies
3. identify omissions in existing policy, law and practice
4. inform a wider policy, research and advocacy agenda to further understand and address discrimination in Australia's PRS.

This first chapter of the report reviews key settings and concepts associated with discrimination in the PRS (1.2) and describes the research methods for the study (1.3).

### 1.2 Key settings and concepts

In Australia, the PRS refers to rental housing that is provided by the private sector and subject to market rental costs, as compared with housing provided through government, or affordable or community housing providers. The PRS is the fastest growing component of the nation's housing system (Hulse et al. 2018a: 2). The percentage of private rental accommodation, in comparison to homeownership and social and public housing, has been steadily growing since the mid-1990s and is set to continue (Hulse et al. 2018; Hulse et al. 2019). Between 2006 and 2016, Australia's PRS grew by 38 per cent, with almost a third of households (2.3 million) renting by 2017–18 (ABS 2019; Hulse et al. 2018). In addition to this growth, there are another two factors that have important implications for discrimination in the PRS: practices of informal renting including 'share housing'; and the increasing use of digital platforms to mediate access to housing.

A growing number of renters are also 'sharers', many of whom are without a formal tenancy agreement, and so fall into the category of 'informal' renters (see 1.2.1). The rise of informal and non-traditional renting coincides with a decline in the rights of renters, as informal renters are not protected by formal rental agreements. Outside of these formal agreements there is a widened scope for discrimination by landlords, real estate agents, and potential housemates, each of whom have the power, based on their own prejudices and interests, to deny people a place to live (Nelson et al. 2015). Private rental is further 'disrupted' by digital technologies (also see 1.2.1), which are increasingly mediating access to housing and transforming the rental sector (Fields and Rogers 2019; Rogers et al. 2019; Pettit et al. 2018). Both informal renting and digital platforms are increasingly important players in the PRS.

This section outlines key settings and concepts to ground the insights to follow. In 1.2.1 we focus on informal renting and digital rental technologies as new mechanisms of discrimination in the Australian housing setting. This background is followed in 1.2.2 by an overview of discrimination in the Australian PRS and a laying out of the report's framework of intersectionality. Chapter 2 presents the remainder of the evidence review, which reports on the impacts of discrimination based on socio-economic status (2.1), age (2.2.1), gender and sexuality (2.2.2), and race (2.2.3).

#### 1.2.1 New mechanisms for discrimination in the PRS

##### Informal rental housing

Informality in housing markets is understood to mean accommodation or tenures that violate 'formal' building or rental tenancy legislation and/or offers residents lower levels of protection under those laws (Harris 2018; Gurran, Pill et al. 2020). In Australia, the definition of informal housing includes many secondary dwellings ('granny flats'), some forms of homelessness—such as improvised dwellings—and some boarding houses. While formal tenancies offer some protections to tenants, renters in the informal sector without a legally binding lease have very limited security of tenure and other rights, which places them at higher risk of homelessness.

Share-housing also frequently falls in the category of informal housing, due to tenancy arrangements that are often without a formal contract. People who live in share housing can have variable status both socially within the home and legally, dependent on whether they are a co-tenant, head-tenant, sub-tenant, boarder or lodger, or informal tenant (informal tenancies have no written agreement between the tenant and head-tenant or landlord, and therefore have no protection from the *Residential Tenancies Act 2010*) (Maalsen 2019: 318). Share-housing is growing in Australia as people increasingly cannot afford to live on their own (Maalsen 2019). This growth accounts for much of the substantial increase in informal tenancies. The 2016 Census showed that across Australia, the number of 'group households' grew 10.5 per cent between 2011 and 2016 (ABS 2017). This increase relates to the declining affordability of key urban housing markets and (prior to COVID-19, at least) an increasingly mobile labour force.

Informal tenancies are typically lower cost when compared to formal tenancies meaning, in many contexts, that their tenants have fewer rental options. The informal rental sector can provide accommodation for those who cannot access formal arrangements due to a variety of issues. Vulnerable households, in particular, may be provided accommodation by the informal rental market that they would otherwise be unable to access (Gurran,

Maalsen et al. 2020: 19). Informal rental housing is also typically associated with poor quality housing (although this issue is also apparent in the formal PRS). Recent research has shown that de-regulation and the codification of informal dwelling types has promoted a growth in unauthorised and substandard accommodation (Gurran, Maalsen et al. 2020: 19).

The in/formality of housing may shape issues of discrimination across the rental system. The growth in informal dwellings translates into poorer—and often illegal—conditions being endured more often. For those who experience further discrimination based on their race, gender, age and/or other factors, such issues may be compounded in the informal rental sector. Informal tenancies often advertise on un- or under-regulated digital platforms that provide further opportunities for discrimination.

The increased demand for rentals also has enabled the growth of an informal rental sector. Barriers to renting in the PRS include affordability, rental history, inflexible lease periods and so on, have pushed many renters to the informal sector (Gurran, Maalsen et al. 2020). Informal tenancies provide more risk for renters as there is limited protection or security of tenure if there are problems with their tenancy. Research conducted by TUNSW showed that people who live in share house arrangements are unlikely to have all tenants covered by written tenancy agreements, which means that the majority of tenants have no legal protection against eviction or access serviced that assist with tenant dispute resolution (TUNSW 2017). Some informal arrangements may also be illegal and pose greater risks including health, lack of fire compliance and overcrowding (Gurran, Maalsen et al. 2020). However, the informal rental sector does provide accommodation and agency for those who cannot access formal arrangements due to a variety of issues (Gurran, Maalsen et al. 2020: 19). People may also choose informal tenancies due to the flexibility of the living arrangements.

### Rental Technologies

Alongside the growth in renting is a rapid increase in digital real estate startups, backed by venture capital. The tech industry views the increasing cohort of renters as a new business opportunity and, as Australian renters become more numerous, the practices of renting are being targeted by real estate tech companies. Their new digital technologies have profoundly reshaped how tenants, landlords and agents navigate the real estate market, including the PRS. These technologies have driven dramatic shifts in property procurement and investment (Casselman and Dougherty 2019). Automated, data-driven decision-making has radically altered landlord and agent operations (Fields 2019), and the experience of living in the home has been transformed (Maalsen and Sadowski 2019). The real estate industry talks about these technologies as property technology (PropTech) or real estate technologies (RealTech), and academic literature frames these developments as platform real estate (Shaw 2018; Fields and Rogers 2019).

The growth of the digital real estate industry has been substantial. Globally, real estate tech companies experienced a 1,200 per cent increase in global capital investment from A\$279 million in 2012 to A\$3.2 billion in 2016 (Maarbani 2017: 17), and a sharp rise to \$14.85 billion in 2018 (Unissu 2018). In Australia, A\$339 million has been invested in the Australian real estate tech sector since 2011, with almost A\$120 million invested in 2018; this was double the amount invested in 2017 (Unissu 2019).

These technologies are emerging in highly financialised housing markets that are underwritten by property-led accumulation. As such, PropTech has been heavily critiqued for serving the interests of those with real estate assets while further disadvantaging renters and those without real estate assets. PropTech has been charged with accelerating existing social, economic, and political inequalities and creating new discriminatory environments and dynamics (Kitchin 2014; Porter et al. 2019). As Fields (2019a; 2019b: 578) argues:

As digital platforms intervene in housing markets, they are both transferring 20th century mechanisms of racialised exclusion into 21st century technologies, and actively shaping content in ways that can (and do) mimic calculated discrimination.

Attention to PropTech is therefore critical when examining discrimination in the PRS, and when seeking to balance the rights and responsibilities of landlords and tenants. The types of information recorded and digitised, the ways it is algorithmically transformed into data products, and who has access to those products, are crucial considerations for discrimination-focussed research and policy.

While these real estate tech companies may not own, or be in the same country as, the physical real estate assets on their platforms (e.g. Airbnb), the global tech industry is operating at the global scale and is profoundly altering the relationships between properties, landlords, tenancy managers and renters (Crommelin et al. 2018; Fields 2019; Fields and Rogers 2019; Rogers et al. 2019). There are concerns that digital rental technologies, platforms and apps are being built on private property and rental models that will further compound generation rent in Australia (Gurran and Phibbs 2017; Rogers 2017).

Digital technologies, whether apps, automated management systems or online housing markets, are at risk of reproducing existing and creating new housing inequalities. These digital technologies are being incorporated into the everyday life of the renter and landlord in ways that shape the provision, consumption, and management of rental housing (Rogers 2017; Shaw 2018). For example, the Australian tech company BrickX sells shares in their buy-to-let property management portfolios to individual investors, thereby changing the way rental housing stock is funded and procured (Rogers 2016). With platforms such as RentBerry, landlords can choose the winning 'rent bid' in an eBay style max-bid rental auction (Fields 2019). Tenants' advocates have strongly campaigned against these apps. A landmark case in Victoria to ban rent bidding apps in 2018 (Knaus 2018) highlights the importance of tenant advocacy in the real estate tech space.

In Fields' (2019) framing of the 'automated landlord', the digital does more than mediate real estate and tenant management. Data-driven and algorithmic technologies are shown to have been used to increase rental asset values and rental incomes (Fields 2019). Yet, digital technologies also govern through 'smartphones, digital platforms, and apps, and the data and analytics these devices and infrastructures gather and enable' (Fields 2019: 1). These tools represent a scaling up and acceleration of disruption in the PRS, in ways that further benefit landlords and investors and further disadvantage tenants.

Beyond investing in and accessing the rental market, technology is also used to screen, surveil, and manage tenants. Tenants of the Atlantic Towers in New York resisted plans to replace keys with facial recognition access. In the context of already high levels of surveillance in the building, they claimed the technology represented unreasonable invasion of privacy (Durkin 2019; Maalsen and Dowling 2020). As McElroy and colleagues observe in the US, biometric access and surveillant systems have predominantly been applied in public and rent stabilised housing (2020: 122). Amplifying the impact of these technologies is that the 'algorithms and training models used in these systems have been proven to discriminate against people of colour and, as many of the tenants fighting such systems have argued, are intended to displace them and instigate gentrification' (McElroy 2020: 122).

Avenues of rental housing discrimination can occur across various platforms, however online marketplaces and informal digital spaces provide unique circumstances for discrimination (Edelman and Luca 2014). Studies have also shown that real estate agents are less likely to discriminate than private landlords (Flage 2018), which has implications for the use of different technologies in the rental system.

In the studies cited above, discrimination experienced in-person was more likely to be subtle (e.g. showing less amenities, less enthusiastic about offering an application), however almost all applicants were still afforded an opportunity to apply (Langowski et al. 2018). Where applications were submitted via email, discrimination against certain applicants resulted in prospective tenants not being responded to, and therefore their housing options were limited (Bengtsson et al. 2012; Flage 2018).

Where avenues for applying were not face-to-face, such as leaving messages on answering machines, there is the danger of non-response (Barata and Stewart 2010). Discriminatory behaviours in in-person interviews can, however, be more direct and upsetting for the applicant (Levy et al. 2017; Langowski et al. 2018).

Digital, online and removed forms of communication between housing providers and applicants can be beneficial for groups that have visible signs that open them up for discrimination, such as visible bruising for domestic violence victims (Barata and Stewart 2010), or for applicants where their transgender status is made known (Levy et al. 2017; Langowski et al. 2018). This type of visibility also occurs in some digital platforms, as landlords and prospective tenants provide personal profiles, to establish trust, which can then be an avenue for discrimination as found in studies of Airbnb and other sharing platforms (Edelman and Luca 2014).

Noting that online housing markets are predominantly digitally segregated by race, class and cultural preferences, Boeing (2020) observes that online rental listings mediate access to housing by reinforcing existing inequalities and traditional information segregation patterns. White, wealthier and better educated users were overrepresented in the listings meaning that the more privileged have a ‘surplus of information available online to aid their searches, while seekers in other communities face a digital information deficit’ (Boeing 2020: 450).

Differences in access to and the ability to use the internet—commonly referred to as the digital divide—also impacts on who benefits from online housing markets. This divide is mediated by both cultural differences and social inequalities including race, age, class, skills, and cultural norms around usage (Boeing 2020: 450), underlining the intersectional character of disadvantage. For example, in the US, older, low-income, Black or Hispanic adults, have lower rates of internet use (Boeing 2020: 451).

This divide is particularly critical when it comes to navigating the informal sector. Further, online share housing platform advertisements can specify tenant characteristics about gender, race, age, and sexuality, which are not permissible in the formal rental sector. This informal practice reflects the intimate household relationships that sharers must form to secure housing.

In a context where tenants are traditionally in an already unequal power relationship with their landlord and property manager, the increase in rental technologies has the potential to exacerbate these differences and discrimination. Tech companies in the US point to the future directions of platform real estate. For example, ClickNotices outsource the eviction of tenants to a software-as-a-service tech product, which makes it possible to be evicted by an algorithm. Boeing (2020), however, has recognised the digitalisation of the rental housing market as potentially offering divergent futures—namely either making access to housing more equitable or reproducing existing inequalities.

## 1.2.2 Discrimination and its intersectionality in the PRS

### Discrimination

Discrimination in its simplest terms means ‘treating someone unfairly because they belong to a particular group of people’ (TUNSW n.d.). Discrimination can be based on race, gender, age, disability, and religion, among other factors, and is amplified by the intersection of two or more of these characteristics (Crenshaw 1989). In Australia, there are laws at the Australian, state and territory government levels that are intended to prevent discrimination (Table 1). Since discrimination in the PRS reflects, and reproduces, wider structures of disadvantage, it is critical to address the issue beyond the PRS, in addition to tackling it within the sector.

Table 1: Australian discrimination laws

Federal	State and Territory
<ul style="list-style-type: none"> <li>• Age Discrimination Act 2004</li> <li>• Australian Human Rights Commission Act 1986</li> <li>• Disability Discrimination Act 1992</li> <li>• Racial Discrimination Act 1975</li> <li>• Sex Discrimination Act 1984</li> </ul>	<ul style="list-style-type: none"> <li>• Discrimination Act 1991 (ACT)</li> <li>• Anti-Discrimination Act 1977 (NSW)</li> <li>• Anti-Discrimination Act 1996 (NT)</li> <li>• Queensland – Anti-Discrimination Act 1991 (QLD)</li> <li>• Equal Opportunity Act 1984 (SA)</li> <li>• Anti-Discrimination Act 1998 (TAS)</li> <li>• Equal Opportunity Act 2010 (VIC)</li> <li>• Equal Opportunity Act 1984 (WA)</li> </ul>

Source: Author research.

There is often overlap between Australian and state and territory laws pertaining to the type of discrimination that is prohibited, but compliance is mandatory for both laws at an Australian Government and those at a state or territory level (AHRC n.d.). These laws address discrimination at broader levels but are relevant to legislating against discrimination in the PRS. In addition to anti-discrimination laws, there are a series of residential tenancies acts, regulations and tribunal offices that are intended to provide legal protection and recourses for tenants. Each state and territory has a form of residential tenancy Act, residential tenancy regulation, and a civil and administrative tribunal that hears tenancy and landlord disputes. Table 2 identifies the relevant acts, regulations, and amendments. These, in conjunction with the discrimination laws at the Australian, state and territory levels, form the regulatory landscape intended to protect discrimination in the PRS.

Despite existing legislative protections, discrimination is a key issue in the private rental market. In the PRS, structural exclusion resulting from broader societal inequalities reproduces disadvantage in the operation of the sector. These structures of disadvantage are embedded in, and intersect with, individual and institutional forces of discrimination. For instance, when the technologies, policies and laws adopt mechanisms of exclusion, structural biases become embedded institutionally in the PRS. Individual bias means that specific subjective judgements are often made by landlords, real estate agents and tenants about the characteristics of potential renters, beyond what may be apparent on their rental applications. The judgements may be based on negative stereotypes, ideology or generalising of experiences (Williams and Rucker 2000; Verstraete and Moris 2019) and are inextricable from structural and institutional drivers of discrimination.

The potential for discrimination in the PRS is linked to the availability of suitable rental properties. As Lister (2006: 147) explains, the power relationships between tenants and landlords relates to the dependence of parties on one another. In pressurised markets, where tenants typically have less power than their landlords, landlords frequently actively withhold or passively fail to provide services or meet their contractual obligations (Lister 2006). The relative power imbalance between tenant and landlord is further mediated by other social categories (see Chapter 2).

In the PRS, perception of risk is a key factor in discriminatory choices—primarily financial risk and risk of litigation (Short et al. 2008). Real estate agents give primary importance to the 'ability to pay' and the 'ability to care' for the property, and construct these criterion as 'objective, fair and reasonable' (Short et al. 2008: 34). Agents play a key role in affecting discriminatory choices by evaluating potential tenants and providing advice to the landlord (Bate 2020).

Table 2: Existing tenancy regulation and acts at state and territory level

Tenancy regulation	State and territory
<b>Residential Tenancies Acts</b>	<ul style="list-style-type: none"> <li>• Residential Tenancies Act 2010 (NSW)</li> <li>• Residential Tenancies and Rooming Accommodation Act 2008 (QLD)</li> <li>• Residential Tenancies Act 1997 (VIC)</li> <li>• Residential Tenancies Act 1995 (SA)</li> <li>• Residential Tenancy Act (TAS)</li> <li>• Residential Tenancies Act 1987 (WA)</li> <li>• Residential Tenancies Act 1999 (NT)</li> <li>• Residential Tenancies Act 1997 (ACT)</li> </ul>
<b>Residential Tenancies Regulation</b>	<ul style="list-style-type: none"> <li>• Residential Tenancies Regulation 2019 (NSW)</li> <li>• Residential Tenancies and Rooming Accommodation Regulation 2009 (QLD)</li> <li>• Residential Tenancies Regulation 2020 (VIC)</li> <li>• Residential Tenancies Regulations 2010 (SA)</li> <li>• Residential Tenancy Regulations 2015 (TAS)</li> <li>• Residential Tenancies Regulations 1989 (WA)</li> <li>• Residential Tenancies Regulations 2000 (NT)</li> <li>• Residential Tenancies Regulations 1998 (ACT)</li> </ul>



Tenancy regulation	State and territory
<b>Residential Tenancies Amendments</b>	<ul style="list-style-type: none"> <li>• Residential Tenancies Amendment (Review) Act 2018 (NSW)</li> <li>• Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013 (QLD)</li> <li>• Residential Tenancies Amendment Act 2018 (VIC)</li> <li>• Residential Tenancies Amendment (Miscellaneous) Act 2016 (SA)</li> <li>• Residential Tenancies Amendment Act 2020 (ACT)</li> <li>• Residential Tenancy Amendment Act 2018 (TAS)</li> <li>• Residential Tenancies Amendment Act 2011 (WA)</li> <li>• Residential Tenancies Amendment Act 2018 (NT)</li> </ul>
<b>Civil and Administrative Tribunal</b>	<ul style="list-style-type: none"> <li>• NSW Civil and Administrative Tribunal (NCAT)</li> <li>• QLD Civil and Administrative Tribunal (QCAT)</li> <li>• VIC Civil and Administrative Tribunal (VCAT)</li> <li>• SA Civil and Administrative Tribunal (SACAT)</li> <li>• State Administrative Tribunal (SAT) (WA)</li> <li>• Northern Territory Civil and Administrative Tribunal (NTCAT) (NT)</li> <li>• ACT Civil and Administrative Tribunal (ACAT)</li> </ul>

Source: Author research.

Selection based on a belief that certain groups have less ability to pay and hence, present greater risk, is known as 'statistical discrimination'. This 'cherry picking' of tenants is used to protect rental income and minimise management problems. As Bonnet and Pollard (2020: 1) assert, 'real estate agents use many different categorical stereotypes related to... unobservable characteristics to dismiss applicants, just as employers on the low-wage labour market rely on stereotypes to identify soft skills of prospective employees'. This focus on risk shapes perceptions of tenants 'as the 'other', unknown and problematic' (Bierre et al. 2010: 29). As Heylen and Van den Broeck (2017: 224–225) explain:

Since landlords are confronted with groups of vulnerable home seekers, risk aversion may lead to strategies of selection and discrimination. Because landlords do not have perfect information about the future behaviours of their tenants, a part of them may try to minimise the financial risk by—among others—using stereotypes about potential tenants.

This risk perception means that those in the PRS may encounter further discrimination in addition to experiences of discrimination in a broad range of settings (on the basis of age, gender, race etc.). In the case of the PRS tenants are also discriminated against for having pets (Power 2017) or children (Kerr et al. 2018), or for being single parents (Lauster and Easterbrook 2011).

Institutional settings profoundly shape the potential for discrimination by regulating and informing the selection strategies used by agents and landlords. As Verstraete and Moris (2019: 591) note, there is a difference between selection and discrimination, based on whether 'the decision is informed by relevant and objective criteria or not' (see also Heylen and Van den Broeck 2015). This distinction is often unclear. A recent review of literature on the barriers to housing identifies a 'lack of monitoring and systematic evidencing of housing exclusion and discrimination [that] can be mobilised to give plausible deniability of knowledge of housing exclusion, and to assert that cases which do come to light are isolated issues, rather than representative of a more systemic problem' (Preece et al. 2020: 23). As Short et al. (2008: 36) describe, the 'tension between lawful and unlawful discrimination is palpable in the talk of property managers; the bottom line of business profitability is also evident'. Verstraete and Moris (2019: 603) further confirm that many property managers install, throughout the entire rental procedure 'a series of strategies to filter out financially vulnerable households in accordance with prejudice or a statistical rationale to reduce financial risk'. In many contexts there is evidence of a growing range of pre-tenancy checks and conditions in the PRS.

Discrimination in the PRS has also been exacerbated by the growth of the informal sector, which exposes more people to the threat of unregulated rental discrimination (Parkinson et al. 2018). For example, the increase in share households—as housing affordability pressures affect people’s ability not only to buy a house but to rent individually—creates additional opportunities for discrimination. This is because access to share housing is influenced by the prejudices of not only real estate agents and landlords (Nelson et al. 2015), but tenants themselves (Clark and Tuffin 2015). To date, there is limited research on this type of discrimination in the PRS.

Existing research on discrimination in the PRS primarily derives from Europe, the UK, North America, New Zealand, and Australia. As a category of discrimination, ethnicity is the most studied, reflecting its dominance as a category of discrimination (Heylen and Van den Broeck 2016). Research on discrimination in the PRS typically examines one social category or a combination of two, such as ethnicity and gender. Most research finds socio-economic status (SES; see 2.1) to be a key intersection across all other categories of discrimination. In the US, the Department of Housing and Urban Development (HUD) undertakes regular largescale national research using the paired testing method, a technique used around the world (see Section 2.2.3). In the housing context, paired (or audit) testing involves sending sets of trained actors or ‘testers’ (of varied ethnic backgrounds) to rental property inspections and recording their experiences during the rental inspection process. Testers are carefully selected to ensure that they ‘match’ on as many relevant characteristics as possible. Over a large number of ‘tests’, discrimination is determined based on the relative treatment of each of the ethnic minority testers.

Discrimination can take various forms and may be subtle. For example, ethnic minorities may be required to provide more information when applying for a property including employment, relationship status and family size, or be given misinformation about available properties (Turner et al. 2002 in Verstraete and Moris 2019: 591). Real estate agents may invest less time in assisting an applicant from a particular background, use less positive language and be less courteous (MacDonald et al. 2016; Hanson et al. 2011; Verstraete and Moris 2019). These experiences of discrimination are not always overt and, as such, it is difficult to identify and respond to discrimination effectively.

Short et al. (2006; 2008) recognised that exclusionary behaviours occur across the rental system; in applying for a rental property, during the occupancy, and in the process of vacating the premises. Relatedly, Roscigno et al. (2009) differentiate between ‘exclusionary’ and ‘non-exclusionary’ discrimination in the rental sector. The former includes discriminatory practices that deny tenants access to a dwelling, while the latter includes discrimination against a tenant living in a rental property. Non-exclusionary discrimination includes unequal conditions and maintenance, rent increases, issues with pets (Power 2018) and harassment (sexual and otherwise) of tenants.

Despite the term, ‘non-exclusionary’ discrimination can result in a tenant being forced to leave, and it has been shown to have profound, and often prolonged, negative impacts on both physical and psychological wellbeing (McKee and Soaita 2018). As Verstraete and Moris (2019: 592) note, ‘research on non-exclusionary discrimination is still relatively scarce today, and at times not inscribed in discrimination literature’. Stress caused by exposure to discrimination is also known to negatively impact health, leading to psychological distress and higher rates of disease (Ahmed et al. 2007).

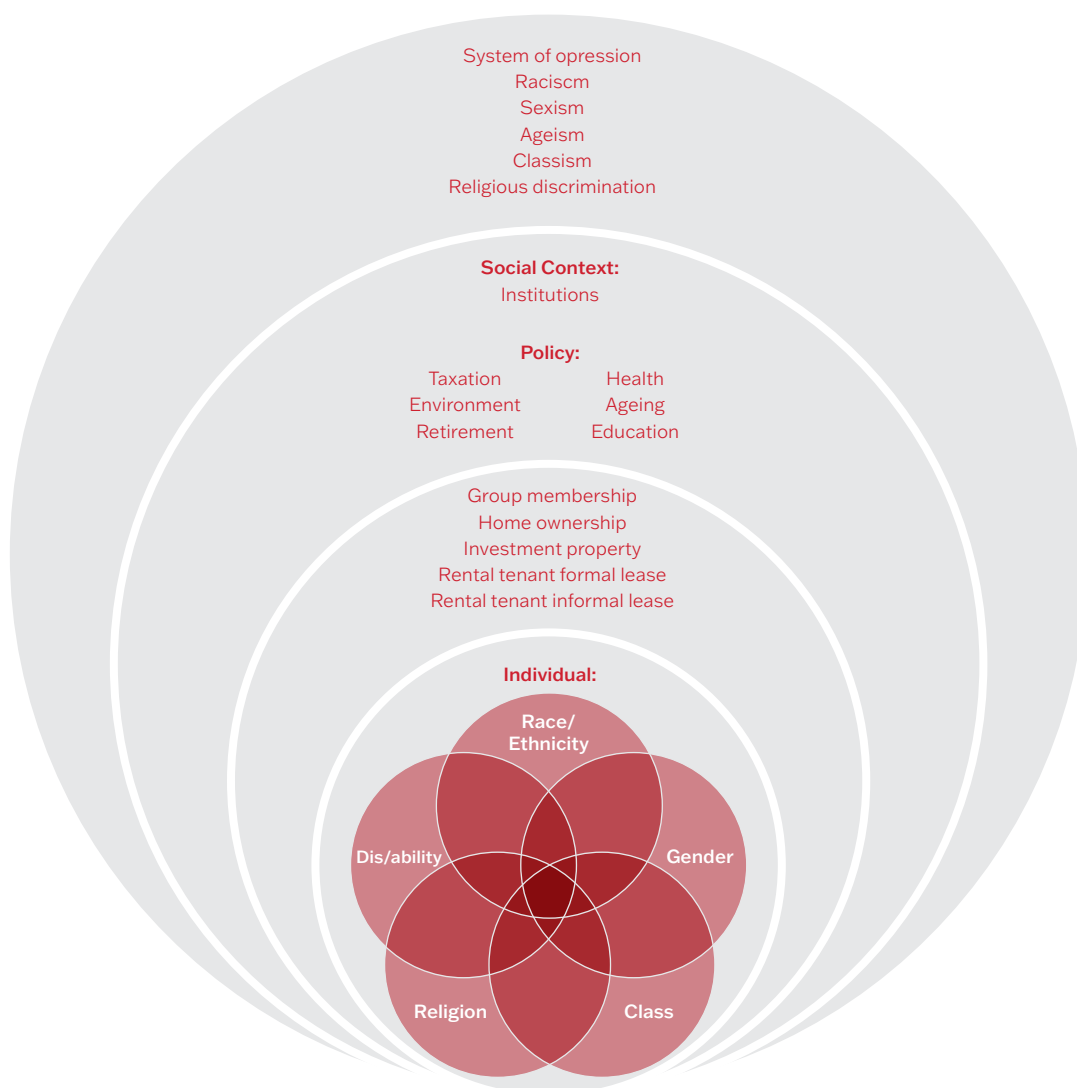
### Intersectionality

Intersectionality posits that social identities—like class, race, gender and age—are interdependent. The theory recognises that a person may experience prejudice across more than one social identity. This combination or intersection of factors will impact the individual in different ways. Rather than seeking to understand their effects separately, our approach recognises the complex and differential character of these identities in relation to both a person’s other identities and the societal circumstances and systems in which they operate (Crenshaw 1989). Figure 1 illustrates how an individual’s intersecting identities are situated in broader social and systemic contexts that effect their experience of privilege and/or discrimination. In Figure 1, for example, a person’s individual characteristics such as race and gender, contextualised in broader systems of discrimination will influence their ability to access home ownership and where they are placed within the PRS. In turn, their experience is further impacted by the broader social context and policy landscape, which will continue to shape their experience and opportunities within the housing system.

Our review of the literature highlighted the need for a more intersectional approach to effectively understand, and respond to, discrimination in the PRS. Much of the literature discussed in Chapter 2 attends to one type of social identity—race or gender, for example—and, consequently, does not consider variations in discrimination within and across those broad groups. Differences in situational context and geography are also critical to understand and respond to discrimination in this sector. The literature highlights key differences in how discrimination functions in different rental markets, differences evident within national regulatory settings as well as between them. Structurally, cultural differences between regional, rural, and urban settings have an impact in addition to institutional settings. Consequently, the interplay of structural, individual, and institutional settings produces different experiences for different people.

An intersectional approach is useful to examine discrimination across the entire rental system. As Remedios and Akhtar (2019: 186) write, ‘stigmatised individuals who attribute outcomes to discrimination are regarded by others as ‘troublemakers’ and as ‘hypersensitive’. Differential perceptions of those who confront prejudice has impacts across the rental system, often compounded by other factors. These perceptions may, for instance, contribute to an unwillingness by some to request property repairs, while some may be unwilling to challenge unjust evictions or assert their right to bond returns.

Figure 1: The intersectional experience of housing (adapted from Bešić, 2020).



Source: Author research.

Consequently, while components of the private rental system may work in theory—or, indeed, for some—they may not function in a way that addresses issues of prejudice for everyone. Recognising institutional gaps—as this research project seeks to do—is critical since, ‘to confront prejudice, it is necessary to first recognise that prejudice has occurred’ (Remedios and Akhtar 2019: 187). In this report, we use an intersectional framework to examine discrimination in the PRS in two ways: 1) by renter characteristics or groups as illustrated by the evidence review in Chapter 2; and 2) by stages in the rental process, as outlined in Chapter 3.

### 1.3 Research methods

The project used two phases to investigate discrimination in Australia's PRS; 1) an international review of the literature; and 2) an expert panel (summarised in Table 3). The review of Australian and international evidence on discrimination in rental housing was tested and calibrated to current Australian conditions through an expert panel hosted on Zoom with housing and discrimination experts and tenant advocates. The review and panel both sought to scope the intersectional nature of discrimination in the private rental context and understand the growing role of digital technologies and informal tenures in shaping such discrimination in particular.

Table 3: Overview of research methods

Research method	Data sources	Research aims
<b>Evidence Review of Types and Modes of Discrimination Relevant to Private Rental Housing Access</b>	<ul style="list-style-type: none"> <li>• Australian and international academic literature</li> <li>• Australian and international grey literature</li> </ul>	<ul style="list-style-type: none"> <li>• Establish existing knowledge of types and modes of PRS discrimination</li> <li>• Identify knowledge gaps on discrimination in Australia's PRS</li> <li>• Uncover key intersections in categories and experiences of PRS discrimination</li> <li>• Identify key Australian and international policy case studies and unpick learnings to address PRS discrimination in Australia</li> </ul>
<b>Expert Panel with Peak Bodies and Housing Practitioners</b>	<ul style="list-style-type: none"> <li>• Australian and US housing research experts</li> <li>• Australian discrimination research experts</li> <li>• Australian anti-discrimination advocates</li> <li>• Australian and US digital housing technology experts</li> <li>• Australian rental housing advocates</li> </ul>	<ul style="list-style-type: none"> <li>• Uncover the specific modes of discrimination that exist in the PRS</li> <li>• Identify intersections of discrimination across different cultural, technological, and economic geographies in the Australian PRS</li> <li>• Identify research gaps relating to experiences of discrimination or policy levers targeting PRS discrimination</li> <li>• Illuminate strengths and weaknesses in existing and potential legislation or other strategies to address PRS discrimination</li> </ul>

Source: Author research.

#### 1.3.1 Evidence review

To establish existing knowledge on the topic of discrimination in the PRS, the first phase of the project consisted of a review of Australian and international research evidence on discrimination in the housing sector. Recent academic and grey literature was favoured, however there was a longer-term scope for research on discrimination effects where relevant. The evidence review was undertaken in two steps. The first provided background and framing (see 1.2.1 and 1.2.2 above, respectively), and the second examined discrimination in the PRS across selected social categories (Chapter 2).

The focus on new mechanisms of housing discrimination, through digital technologies and higher rates of informality (1.2.1) was applied to the second stage of the review to understand how these trends may structurally embed barriers to accessing or sustaining private rental accommodation across selected categories of discrimination in the PRS. The intersectional framework for examining discrimination, established in the first stage (1.2.2), ensured the evidence relating to the social categories was viewed through an intersectional lens.

The second stage of the evidence review, laid out in Chapter 2, was employed to inform the expert panel stage of the project and ultimately scope an intersectionalised policy agenda to address rental discrimination in the Australian setting. This review drew on literature relating to policy from Australia and comparative housing market settings, such as New Zealand, the UK, and other countries in Europe with substantial PRS, including France, Belgium and Germany. Drawing on the wider history of discriminatory housing practices in nations such as the US (where, concerns about exclusionary zoning and discriminatory lending led to the passage of the Fair Housing Act of 1968), Chapter 2 highlights the ways in which landlords and their agents may discriminate against prospective tenants on the basis of their socio-economic status (2.1), age (2.2.1), gender and sexuality (2.2.2), and race (2.2.3).

These themes formed the basis for testing and adjustment with Australian tenancy researchers and advocates, that is, with those who are at the front line of changing rental practices and their implications for vulnerable populations.

### 1.3.2 Expert panel with peak bodies and housing researchers

Phase 2 of the project involved an expert panel to identify priorities for policy, gaps in the evidence-base, and areas for further research. Operating as both a focus group and a critical discussion, this panel provided valuable data about the scope, intersections, and impacts of discrimination, and contextualise the evidence review. Findings of the expert panel are discussed in Chapter 3.

The expert panel included three representatives from Australian tenant advocacy groups including the TUNSW and Shelter NSW, as well as two members of the Anti-Eviction Mapping Project in the US who are also housing academics with particular expertise in digital real estate technologies, which was a focus of the project. A further eight academics with expertise across the areas of housing, digital real estate, and discrimination from Australia also participated. Building on the scoping review, the expert panel discussed the following:

- the specific modes of prejudicial discrimination that exist in the Australian PRS, and the relationships that may exist between them
- the intersections of discrimination across different cultural, technological, and economic geographies in the Australian private rental setting
- research gaps relating to experiences of discrimination or policy levers targeting discrimination in the rental sector
- strengths and weaknesses of existing and potential legislation or other strategies to address discrimination in the rental sector.

Due to COVID-19, the expert panel was conducted via the video conferencing software, Zoom. The audio was recorded through Zoom and transcribed and analysed alongside the Zoom chat text, where participants provided additional comments. To ensure an expansive discussion relating to discrimination in Australia's PRS in this limiting online setting, the panel was structured using the stages of discrimination across the private rental system as drawn from the literature and outlined in Section 3.1. This structure allowed those present to draw from their extensive knowledge and experience.

### 1.4 Research limitations

Due to the COVID-19 situation at the time this project was undertaken, the expert panel was conducted via video conferencing software Zoom. Initially intended as an all-day, in-person workshop, the revised format meant that the panel was limited to two hours, with much of the content delivery provided beforehand by text and pre-recorded video. To maximise the time with the panellists, the attendees were sent a workshop package the week prior to the panel. This package contained an introductory video outlining the format of the event and an information sheet. The video introduced the participants to the researchers conducting the panel and explained the structured format of the panel—a further element used to maximise the panellists' time. This two-part format focussed the discussion during the Zoom session and was suitable for the scoping purposes of this project. In particular, the Zoom discussion went through each stage in the rental system, as reflected in the outline of Section 3.1 of this report. The information sheet provided information on discriminatory forces and policy levers at each stage of the rental system—informed by the literature review—and acted as a scaffold for discussion and to identify any missing policies, regulations, laws or types of discrimination.

### 1.5 Structure of this report

From this first chapter, the next section of the report brings together international evidence on discrimination in the PRS (Chapter 2). Socio-economic status is outlined as grounding and shaping experiences of discrimination in the PRS (2.1) before the other key social categories of discrimination are discussed: age and the life course (2.2.1); gender and sexuality (2.2.2); and race (2.2.3). The chapter also provides selected case studies that reveal lessons for addressing discrimination through both the pitfalls and benefits of their approaches (Boxes 1, 2 and 3). These case studies also highlight the importance of historical and adjacent policy settings for an intersectional approach to addressing discrimination. Table 4, in Section 2.3, synthesises findings from the evidence review into key lessons, with examples of specific policy interventions for each.

Discrimination in Australia's PRS (Chapter 3) incorporates the results of the expert panel, which tested and calibrated the lessons drawn from the evidence review (Table 4) for the Australian experience and setting. The expert panel examined Australia's PRS across five stages outlined in 3.1: procurement and investment (3.1.1); advertising and tenant selection (3.1.2); rental agreement and bond management (3.1.3); tenancy, repairs and maintenance (3.1.4); and eviction and advocacy (3.1.5). Section 3.2 outlines discriminatory forces across Australia's rental system in Table 5. Key themes relating to financialisation of housing, technology, geography, tenant, and landlord (and agent) power imbalances, low industry standards, and discriminatory rental agreements and bonds, are expanded upon. Additional stressors observed or anticipated as a result of the COVID-19 pandemic are outlined in Section 3.3. Section 3.4 identifies particular groups discussed by the panel as experiencing discrimination in Australia's PRS. Throughout Chapter 3, case study character vignettes (Boxes 4, 5 and 6) appear, which elucidate the multifaceted and intersectional character of both individual experiences of discrimination and the policy areas that mediate them. Policy and regulatory areas (Section 3.5) points to the intersecting policy areas requiring attention in order to address discrimination in Australia's PRS. Table 6 presents these policy and regulatory levers at each stage of the private rental system, also noting specific interventions raised by the panel. Section 3.6 outlines key data gaps identified by the panel as necessary to address in relation to discrimination in Australia's PRS, relating to residence, ownership and investment (3.6.1), rental and bonds (3.6.2), evictions (3.6.3), and technology (3.6.4).

Finally, Chapter Four draws together the data presented in Chapters 1, 2 and 3 to outline intersectionalised (4.1) and data-driven (4.2) approaches to addressing discrimination in Australia's PRS. While Sections 4.1 and 4.2 set out a framework for a policy, research and advocacy approach, Section 4.3 lays out some more immediate priorities identified as urgent and actionable, as well as collaborative opportunities for policy, research and advocacy.

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## 2. International evidence on discrimination in the PRS

- This chapter draws on the review of existing international and Australian evidence relating to discrimination in the PRS, employing recent academic and grey literature relating to Australia and comparative housing market settings, such as the United Kingdom, New Zealand, and other countries in Europe with substantial PRS.
- Socio-economic status is a key category of discrimination, mediating power dynamics between landlords, agents, and renters. Socio-economic status further intersects with other social categories to shape discrimination, while also limiting choice especially in highly uneven rental markets, such as Australia's. Financial risk is a legitimate and central concern for many landlords and agents, and the distinction between discretion and discrimination can be unclear.
- Social categories of discrimination, such as age, race, gender, sexuality, and disability intersect and compound to complicate policy responses aiming to address discrimination of one type. Discrimination is experienced by people across these categories in different ways throughout the entire rental system.
- Selected case studies underline the importance of understanding and addressing contextual specificities in terms of discrimination. Attention to the experiences of vulnerable people in the housing sector such as unaffordable rents, unhealthy housing, and insecure tenure, reveals the compounding burden of discrimination and disadvantage. It highlights the need to target regulatory gaps that permit such discrimination. The case studies reveal further lessons for addressing discrimination in the Australian PRS through both the pitfalls (for example the requirement of an upfront bond payment) and benefits (for example, tenure security and rent stability) of their approaches.

- **The need to address broad structural, as well as institutional, levers in a holistic policy landscape found support in the reviewed studies. This includes creating meaningful, updated data and strong government outreach to advocacy and enforcement agencies to ensure its utility. Addressing security of tenure, supply and quality as policy priorities; and improving understandings of digital property technologies was also supported.**

This chapter presents the results and analysis of the evidence review. The evidence review was undertaken to establish existing knowledge on the topic of discrimination in the PRS. Socio-economic status is discussed first, in 2.1, below, as it was found to ground and shape experiences of discrimination in the PRS. In 2.2, the other key social categories of discrimination are discussed: age and the life course (2.2.1); gender and sexuality (2.2.2); and race (2.2.3).

Across this chapter, there are three boxes with selected case studies that elaborate on issues and responses to discrimination in the PRS. Lessons are drawn from the pitfalls and benefits of the approaches presented. These boxes are also used to highlight key learnings from the literature relating to the transferability of policy tools; in underscoring the importance of historical and adjacent policy settings, and the relationship between national housing/rental cultures and discrimination, the boxes demonstrate the need to attend holistically to local cultural specificities and market settings in shaping policy.

Seven broad lessons, presented in Table 4, emerged from the evidence review. While the table lists examples of specific policy levers alongside these lessons, it is noted that these levers are not transferable without first considering the Australian context. This consideration, and calibration, was undertaken following—and informed by—the evidence review, with the results of the expert panel presented in Chapter 3.

## 2.1 Socio-economic status

Socio-economic status can result in discrimination in tenant selection and throughout the rental system in many forms, and often intersects with other factors (Heylen and Van den Broeck 2016). Socio-economic status also grounds individual choices around rental property options, thereby shaping the level of competition for rental properties, rooms, and beds across the PRS. In highly pressurised markets, including many urban Australian settings, socio-economic status particularly impacts the middle and low end of the market. Structural shortages allow for higher levels of (especially subtle) discrimination (Verstraete and Moris 2019). Overburdened public and social rental markets exacerbate this problem by forcing more people at the lower socio-economic level into the PRS. Several studies have found that renters depending on social security payments were less likely to be accepted by landlords (Moons 2016; Verstraete and Moris 2019; Smith, Albanese and Truder 2014).

With important exceptions of overt prejudicial discrimination, it is likely that most cases of discrimination by property managers are tied to their perceptions of social categories in relation to SES. As Verstraete and Moris (2019: 596) explain:

As a general rule, landlords and brokers look for solvent tenants. Their main concern is the avoidance of rent arrears and negligent maintenance of the property. With these expectations in mind, they are reluctant to rent out to social categories which they assume unable to meet their expectations. Prejudice based on ideological arguments, stereotypes or extrapolated negative experiences play an important role when describing suitable or avoidable tenants.



Grounded in systemic forms of discrimination, such (often legal) judgements of financial circumstances with exclusionary outcomes serve to exacerbate systemic inequities. Bonnet and Pollard (2020: 10) recently found that French landlords and agents ‘admitted to discrimination against... blended families, single mothers, and older people’. As they explain, ‘[s]ingle mothers and older people are more likely to have a low-income and be ineligible for most apartments. Single mothers are proverbially poor, and older people are supposed to either own or have stable home in public housing’. Baker et al. (2019: 43) found that those more vulnerable in the housing market ‘moved more often, and often to slightly more disadvantaged places’, have a greater negative impact on their physical and mental wellbeing. Further, discriminated tenants at the lower end of the market are less willing to invest their time and energy to challenge decisions, which may include lengthy legal procedures, such as to challenge wrongful eviction or bonds not being returned (Verstraete and Moris 2019). They are also less inclined to ‘rock the boat’ by requesting repairs, reflecting their lack of relative power in the tenancy situation (Bierre et al. 2010).

Although renters searching for co-habitants have a different set of considerations to property managers, they are often similarly guided by prejudice around socio-economic status in relation to other social categories. In these instances, past rental experience may weigh on decisions, as well as a desire for housemates to live with people like themselves—including class as well as age, ethnicity and lifestyle factors (Clark et al. 2018). Because sharing a home usually involves sharing other items, such as furniture, televisions and cooking appliances, potential housemates who can contribute more, or higher-quality, elements to the household may be looked on favourably. As share-housing is increases across all stages of the life course, this preference for those who can leverage their socio-economic status to contribute to ‘home making’ is increasingly likely.

## 2.2 Key social categories of discrimination

While these categories, and the literature incorporated, are wide in scope, they are not exhaustive of the social categories subjected to discrimination in the PRS. In particular, while there is some discussion of mental illness and disability in 2.2.1, illness and disability were not made a focus of the review.

### 2.2.1 Age and the life course

Our review of literature in relation to ‘age’ and discrimination in the PRS utilises the notion of the ‘life course’ (Heath et al. 2017). Life course approaches recognise different stages of life as produced by traditions, institutions, and community and family expectations. An individual’s ability to ‘fit’ societal and context-driven expectations of a certain age or life stage is determined by intersections with gender, family status, race, socio-economic status, disability, education, employment, sexuality, and a myriad of other factors. For instance, while low-SES renters face discrimination across the life course, students, single mothers, and older single renters may face discrimination based on the assumption of a low-SES. Geography is also important, as life course expectations differ based on cultural and political context.

Private rental housing (and, indeed, share housing) is seen as a transitional stage in many contexts. It has become ‘a cultural norm and financial necessity’ for many (Heath et al. 2017: 43). The expansion in renting and sharing in recent years has been commensurate with an extension and broadening of the types of discrimination in the PRS. The evidence underscores how discrimination plays out differently for groups viewed as traditional renters and those who are not. A life course approach allows for greater recognition of the variable impacts of existing institutional factors, and underscores a need for legal and policy responses to attend to all types of discrimination amid the expansion of the PRS.

### Young people

Young people face significant discrimination in the PRS across the entire rental system (Mackie 2016; Lister 2006). As a dominant group of renters, young people are greatly impacted by issues with quality and availability of rental housing (Mackie 2016), particularly at the lower end of the market. 'Cherry-picking' of new tenants by landlords in order to minimise management problems and protect rental income streams is likely to discriminate against young people and those perceived to have limited experience of living independently (Preece et al. 2020: 38; Mayock and Parker 2020). With less experience, and more likely than other age groups to experience financial precarity, young renters exist in a state of wider power imbalance with landlords and agents, with tenancies characterised by uncertainty and confusion. As Lister (2006: 148) has explained 'landlords can exert considerable power in the quality and safety of the physical condition of the property they provide, in addition to the range of services they provide to maintain the property.' This situation facilitates discrimination across the entire rental system, and disproportionately affects young people. Internationally, the evidence points to a widespread challenge for young people asserting their rights or influencing their landlords' behaviours.

Sometimes illegal, and often poor and unsafe, conditions, such as mould, damp, and broken electrical and gas appliances, are frequently experienced by young people and exacerbated by long delays in, or non-existent, repairs (Lister 2006). In Baker et al.'s (2019: 44) study of health outcomes relating to housing in Australia, they found a clear age pattern, 'where increasing age is broadly related to exposure to healthier housing'. Young people are more likely to have to follow-up repeatedly for repairs and are often granted fewer permissions to personalise properties (McKee and Soaita 2018). Lister (2006: 150; see also Chisholm et al. 2018) found that young people were often 'prepared to accept risks in their accommodation as a result of inadequate safety measures' and have also been found to put themselves at risk while attempting to fix problems that landlords had not (Lister 2006). Lister (2006: 147) also found that '[d]ifficulties often arose as a consequence of inadequate exchange of information or lack of clarification about a range of issues at the setting up stage of the tenancy'. Such initial problems (that can have prolonged impacts on comfort and enjoyment) reflect a 'disinterest' that was interpreted by young people as being symptomatic of [landlords] 'just wanting our money' (Lister 2006: 147).

The outcomes of such disinterest frequently have profound effect on young people's experiences living in the PRS. More broadly, young people's mental health can be affected both by poor and ineffective relationships with housing providers (and co-tenants) and an inability to feel comfortable and content in their own home. Often feeling unable, or afraid, to voice their concerns, young people can be left feeling 'powerless and anxious' (Lister 2006: 151). Differences in approaches to landlords and agents between tenants may also cause friction within young people's households. Stress and anxiety also result from having to move frequently 'often at short notice and at considerable expense' (McKee and Soaita 2018: 4; Hoolachan et al. 2017).

The sharing market within the PRS adds to the mental health burden by providing more opportunities for discrimination. Lower socio-economic status young renters are more likely to share out of necessity than lifestyle choice (Barratt and Green 2017) and may have to settle for less-than-ideal housemates. This state of sharing can result in stress, and worsen mental health (Heath 2004). Young people suffer from feelings of rejection when 'failing' at interviews to be a prospective housemate, sometimes repeatedly (McKee and Soaita 2018).

For vulnerable young people, exclusion from the PRS can result in homelessness and require the use of emergency and short-term housing (Maynock and Parker 2020). For young people transitioning from child welfare services, or forced to move out of the family home, there are numerous challenges involved in navigating the PRS (Maynock and Parker 2020). Those under the age of 18 are particularly vulnerable (Stewart 2019). Their inexperience requires 'more significant safeguards of their rights and... a greater degree of responsibility on the part of landlords for making them aware of those rights' (Huws 2019: 595). LGBTQI+ young people may be similarly vulnerable, particularly if lacking family support and financial assistance to navigate the PRS (Bachmann and Gooch 2018). Those with learning disabilities (Mackie 2012) or limited English ability may face similar barriers. As Maynock and Parker (2020: 473) have observed, most young, vulnerable prospective tenants 'had little or no prior experience of dealing with landlords or letting agents and talked about their limited ability to supply references from a previous landlord'. Many in this situation find themselves forced to reluctantly accept extremely low-quality

rental housing. As Maynock and Parker (2020: 473) also record, challenges in the PRS (including discrimination) mean that many vulnerable young people end up back in homelessness services, accompanied by the emotional upheaval of an absence of a discernible path to long-term housing. This trend suggests that navigating the PRS poses too many barriers for vulnerable young people learning to live independently.

### Sharing

Affluent young renters are more able to exercise agency when choosing housing and housemates. Clark and Tuffin examined selection and rejection of potential housemates in New Zealand (Clark and Tuffin 2015; Tuffin and Clark 2016). While young adults prefer to share with those similar in age, or 'parallel life stages' (Clark et al. 2018: 31), there is also a preference for 'similar values, morals and interests' (Clark et al. 2018: 6). Tuffin and Clark (2016) note this type of selective discrimination results in actual discrimination, producing barriers for people with mental illness, addiction, disability, with certain (or no) jobs, or even based on ethnicity and sexuality. Lower socio-economic status young renters are more likely to share out of necessity than lifestyle choice (Barratt and Green 2017) and may have to settle for less-than-ideal housemates or situations of 'undesired sharing'. Undesired sharing refers to situations of sharing with people whose lifestyles and backgrounds are very different, which can increase household tension. As Clark and Tuffin (2015: 26) note, people want to share with 'someone like myself'. This state of sharing can result in stress and worsen mental health (Heath 2004).

Experienced sharers are shown to look disapprovingly at younger, less experienced sharers, with independence highly sought after and displaying a lack of independence a key driver or tensions leading to housemates being asked to leave (Clark and Tuffin 2015). In relation to criteria requested in advertisements for a housemate, '[a]ge and travel experience becomes a code... implying experience, worldliness, and a cosmopolitan lifestyle. Differences in lifestyle, linked to age and values, underscore the importance of similarity and tolerance' (Clark et al. 2018: 31). Lacking a rental history can be mark against a young person in the eyes of an agent or a prospective flatmate. Shift workers may also be excluded by potential housemates who prefer keeping similar hours (Clark et al. 2018: 32). Single people generally prefer other singles over couples (Clark et al. 2018), as couples are considered more likely to spend time with each other rather than other housemates, and may also be seen to exert disproportionate household power (Clark et al. 2018).

Differing power dynamics within share households can result in discrimination throughout the tenancy period, which results in housemates being unable to assert their wants and needs. As Heath et al. (2017) have discussed, subtle hierarchies exist relating to length of tenure—or tenure status—and furniture ownership. Given that resource-sharing is a key reason for sharing, potential housemates with equal or greater material wealth are likely to be favoured (Hubbard 2009; Soaita et al. 2020). These hierarchies can be mobilised to evict housemates for any number of reasons that may extend into prejudicial discrimination. Such hierarchies also shape 'the established social order' which, as Clark et al. (2018: 35) state, 'is unconsciously reproduced, maintained, and perpetuated, creating preferences and implicitly shaping behaviour'.

### Students

Research on students in the PRS shows variations between undergraduate and postgraduate, as well as between domestic and international students, typically grounded in socio-economic status (Fincher and Shaw 2009; Ruming and Dowling 2017; Holton 2016; Heath 2004; Petrova 2018). As Ruming and Dowling (2017: 814) have asserted, it is possible that international PhD students, in particular, experience discrimination in the rental market given their socio-economic positioning because of the 'reliance on scholarships, casual teaching and legislation limiting working hours'. Mature and PhD students are also more likely to experience barriers relating to low-income and having a family (Ruming and Dowling 2017). Although PhD students on a scholarship receive the payments regularly through the course of the degree, 'it appears as though this income source was viewed with some suspicion from real estate agents/landlords who preferred tenants in paid employment'. Huston et al. (2015) emphasise the many barriers facing international students in navigating the system, which required onerous paperwork, high deposits, and other fees, and sometimes a domestic guarantor. Domestic students, and young people generally, may also face discrimination outside the student targeted PRS subsector, as they are sometimes seen by the local, more stable population as noisy and environmentally uncaring residents (Smith 2008). An assumption that students will accept poor-quality accommodation supports a reality of such poor conditions.

Box 1: German rent control, security of tenure and tenant advocacy

While, as in comparable countries, the German real estate market has seen a rapid increase in rents over the past decade due to foreign investment, the PRS is in less dire straits than elsewhere due to a number of factors. Grounded in historical regulation, a substantial and affordable supply of good quality housing in the private sector, alongside ample social housing supply has combined with targeted rent regulations in more recent years. The longstanding national culture of renting has created a strong tenant advocacy sector that has prevented a substantial power imbalance between tenants and landlords; long tenancies underpinned by stable rents are shown to benefit both parties. Although improvements are needed in terms of enforcement and the data underpinning it, the 'rent brake' system provides a model for standardising rents through property quality and location, diminishing the opportunity to discriminate.

**Historical policies shaping supply and a culture of renting**

- Germany has more of a culture of renting compared with other comparable economies, and their rental supply and uptake reflects this culture (though is shifting). The country has a substantial historical stock of quality PRS housing, based on housing subsidies post-WWII, including tax relief for repairs and upgrades. Substantial stock of social housing caters to a broad demographic of low to middle income earners.
- It is important to note the different paths of development between the former Federal Republic of Germany (West Germany) and German Democratic Republic (communist East Germany). The PRS was built with subsidies to individual landlords in the West not in the East. In the East, 'public'/'state' housing' was the only form of housing, accommodating all income categories.
- Although there was a considerable sell-off of social housing from 1989, the strong existing culture of renting meant that housing was largely sold to investors rather than renters, maintaining the culture of renting and a good supply of quality housing.
- Most households in Germany rent their home and renting is viewed as a genuine choice.
- As a result, German private renters comprise a significant political powerbase underpinned with influential tenant advocacy groups that also support tenants with arbitration and legal disputes.

**Contemporary policies for more stable renting**

- On top of the existing base, Germany has delivered relatively good growth of housing supply to keep pace with demand, thereby managing price inflation and rental costs.
- Most tenancies are indefinite and there are few reasons allowed for eviction. Consequently, tenancies average 11 years. Landlords must supply supporting evidence for a change of circumstances to meet fixed-term requirements to evict a tenant from an indefinite lease. Notice periods range from three to nine months depending on how long tenant has resided there. Tenants can issue an objection if eviction would result in hardship. The longer-term character of tenancies ensures predictable, consistent returns for owners and stable costs for renters, while long notice periods allow both tenants to find new accommodation and landlords to find new tenants and avoid empty properties and income loss. 'Immediate notices' can be pursued with evidence by landlords or tenants who wish to end a tenancy agreement early under certain conditions.
- First and second generation rent controls: capped rents in line with comparable local rents, and restricted increases to 20 per cent in any three-year period. Then, from 2015 a 'rent brake' (Mietpreisbremse) system of rent ceilings was implemented in pressured markets, limiting rents based on a local average but only applying to new tenancies.
- Letting agent fees banned for tenants.
- The German Tenants' Association (DMB) represents around 320 distinct tenants' associations who represent approximately three million tenants. 97 per cent of disputes are settled (more cheaply) outside of the judicial system by local arbitration services, tenancy association negotiations and other local formal and informal mechanisms; the DMB handles 1.2 million legal consultations per year who use membership fees to finance legal costs (making membership popular).

- Restrictions linked to tenure change mean that in some multi-unit housing, tenure is attached to land use, hence can only stay in the PRS, with the implication that when such units are sold, they are sold with the tenant (they cannot be sold into homeownership).
- Tenants can personalise, decorate, and furnish their tenancy giving them a further sense of agency and the ability to make a home.

#### **Room for improvement and reacting to changing contexts: concerns with the settings**

- Foreign real estate investment has rapidly driven rents up across key German cities over the past decade.
- Enforcement of the 'rent brake' requires tenants to accept the rental agreement, and there is a reluctance by renters to immediately legally challenge the rent; no backdating for charging excessive rent.
- Challenges with compiling and classifying local reference, especially for older properties.
- There are no penalties for those charging excess rent even when the rent is forced to change because of 'rent brake' arbitration.
- Bonds can be a hurdle for low-income tenants, especially when awaiting previous bond return.
- Costs of upgrades including energy efficiency improvements can be passed on to tenants through rent increases that then remain once paid off, acting as a strategy to circumvent rent controls.

#### **Potential lessons**

- The potential for discrimination is drastically reduced with adequate supply of private rental properties and social housing.
- A strong tenant advocacy sector has profound implications for mediating the power imbalance between landlords and renters through longstanding and ongoing engagement with the regulatory process, maintaining the cultural position of renters in the national policy setting with the consequence of minimising discrimination.
- Longer term tenancies with stable, affordable rents benefit both landlords and renters, and effectively act as a rent brake by providing fewer opportunities for rent increases.
- Ongoing, localised market monitoring is required to identify pressurised areas and implement targeted interventions; such data can also be used to regulate rents that do not sit within a reasonable price range for the area and type and quality of property, and would provide tenants with data to challenge unreasonable rents through arbitration processes.
- Problems with classification underscore the importance of a thorough and consistent standards system, and the independence of the monitoring system.
- Bonds act as a discriminatory force especially for low-income earners.
- Housing quality standards including energy efficiencies should be met and paid for by agents.
- New digital technologies can potentially be used to directly link tenants with landlords (where the former meet appropriate standards), thereby removing some of the competing incentives of letting agents, landlords and tenants. Following from this, clear standards, rules, protections, should be established so that there is no difference if a tenancy is being offered by a landlord or agent.
- Wider international and corporate interventions can reshape local housing markets and substantially impact supply and rental costs.
- Tenants should be given more freedom to personalise their tenancies.

Sources: Cooper and Kurzer 2020; Davies et al. 2017; Elsinga et al. 2014.

### Families and over 35s

'Unaffordable rents, poor quality properties, and shared accommodation are no longer the preserve of young renters, but increasingly also the experience of older renters, some of whom have been in the sector long-term' (McKee et al. 2019: 23). Changes to traditional life course patterns—such as delayed marriage and parenthood—in broader contexts of societal change have meant that young people are more likely to rent for longer (Lister 2006; Clark et al. 2018). More time in the rental sector means being subjected to longer periods of exposure to potential discrimination resulting from the property manager-tenant power dynamic. Numerous studies demonstrate that informal housing has expanded from mostly groups of students to people in their 30s and older (Clark et al. 2018). The growth in sharing has also created an expanse of share-homes comprised of professionals, especially in their 30s and 40s (Maalsen 2019; 2020), whose socio-economic status and longer-term renting circumstances allow for more discretion in choosing properties and housemates. In the 35–54 age group in the UK, McKee et al. (2019: 19) found a 'reluctance amongst landlords' to rent to lower income prospective tenants, with requirements of proof of savings or guarantors, and exclusion of people receiving government payments, including housing benefits. Discriminatory attitudes from agents were also shown to deter prospective tenants.

In relation to family households, lone parents experience greater discrimination when trying to access housing in the PRS, a factor that disproportionately affects women. Tenancies advertised as 'adults only' can discriminate against single parents (Barata and Stewart 2010). Some parents at the lower income end have been forced to accept living arrangements that meant they could not have their children stay overnight. Heylen and Van den Broeck (2016: 233) found single mothers were more likely to be discriminated against than a childless male. In Vancouver, Lauster and Easterbrook (2011) concluded that discrimination against single parents is primarily grounded in economic factors, finding discrimination against singles mothers to be 15 per cent, compared to a heterosexual couple. Dual (full-time) income households are seen as the ideal in the eyes of agents and landlords, however these are underrepresented in the PRS (Verstraete and Moris 2019: 596).

In McKee et al.'s (2019) look at renters aged 35–54, they found discrimination was common among families with children. Bierre et al. (2010: 31) found discrimination against large families with many children—a characteristic that often intersects with race and SES. This type of discrimination is rationalised through the need to protect the property. One property investor stated that they 'specify the maximum number of occupants in a house... [t]hat disadvantages some groups, but you need to do it to protect the house'. While this type of discrimination is likely more common in apartment settings, they also found instances of rejection in family-sized homes. Families with low-incomes experienced even more discrimination.

Families with children have additional needs that limit their options, such as proximity to good schools, day-care and amenities such as parks. For children in particular, security of tenure affects their ability to maintain social ties, as well as impacting proximity to family-member carers, day-care spots and school disruption. Tenure insecurity can also affect children's wellbeing, especially in low-income households (Morris et al. 2017). The physical conditions of rental properties are a concern to many parents who rent and are worried about lasting health consequences for their children (McKee et al. 2019). Comparatively, a study of mid-income households with children in New York, London and Berlin found they were largely content with their housing (Scanlon 2015). Another study in the UK, however, found that '[t]he average share of income that young families spend on housing has trebled over the last 50 years, and private renters spend an average of 41 per cent of (joint) household income on rent' (Shelter 2019 cited in Preece et al. 2020: 18).

### Older renters

Strongly tied to SES, older people in the PRS are subject to discrimination in several contexts. One Japanese study by Nakagawa (2003: 26) found elderly prospective renters were 'offered fewer units than young home seekers by 30 per cent'. Traditional life course expectations mean that older people who are not in a position of homeownership, or in care or public and social housing, can find themselves in a precarious position within the PRS. The housing situation of older renters can have significant implication for issues such as 'care-giving status, social isolation, availability of informal care and shared financial resources' (Taylor et al. 2019: 698).

Increasing numbers of older people accessing private rentals have faced growing attention in recent years. Szabo et al. (2019) found that in old age, homeowners are more protected from the harmful effects of loneliness than renters, with a significant impact on control, autonomy, and pleasure. Substantial research from Australia and elsewhere shows that baby boomers (those born from 1946 to 1965) who rent, are more likely to suffer from chronic health conditions (except osteoporosis) and mental health problems, compared with those who own or have a mortgage (Taylor et al. 2019; Hungerford 2007; Laaksonen et al. 2009). Discrimination against this group in terms of accessing private rental accommodation and throughout tenure is an area in need of research and one with significant implications for the wellbeing of this demographic.

Older people in the PRS can face discrimination in the form of harassment, verbal and financial abuse by landlords, disrepair, and eviction (Izuhara and Heywood 2003). Those older tenants reliant on social security payments for rent may also be discriminated against, deemed a financial risk. Insufficient public and social housing is seen to impact on this age group in particular (Hulse and Saugeres 2008). Most literature discussing discrimination against older people in the PRS focuses on their reasons for being there, discussions dominated by socio-economic status and other drivers of disadvantage (Preece et al. 2020).

Older people have varying experiences with housing insecurity and with the PRS. Some may have spent a lifetime in the sector while others may be experiencing renting for the first time in their lives, or since their youth (Taylor et al. 2019; Angelini et al. 2014; Faulkner 2007; Pinnegar and van den Nouwelant 2012; Wulff et al. 2010). While individual life course circumstances can lead to such circumstances, institutional factors have driven a growth in older people in the PRS in recent years. Inadequate pensions and government rental support places many increase rental stress (Morris 2016; 2012).

Gender is a key factor, with women more likely to be placed into the PRS at an older age due to an unexpected life event, such as illness, divorce, widowhood, loss of employment, or motherhood (Morris 2013; Taylor et al. 2019). They may also face abuse in institutions or family homes. Women are also more likely to have taken time out of the workforce as carers, so may be less financially secure than their male counterparts as they get older. Single women—either newly divorced or never married—often with inadequate superannuation, as well as long-term low-income earners are particularly vulnerable (Taylor et al. 2019). Many older men in the PRS have experienced a lifetime of mobility, insecure and low-paid work, while others may be re-entering the market after time in prison. This latter group may face significant discrimination in the PRS (Berry and Wiener 2020; van Tongeren 2020). Goodman et al. (2013) and Izuhara and Heywood (2003) explain that the poor living conditions such men find themselves in are endured as a trade-off for landlords tolerating their lifestyles e.g. heavy drinking.

Across all low-income groups, older low-income renters may find themselves in poor conditions, experiencing discrimination across the period of tenancy. Neglect in the form of landlords not carrying out necessary repairs is a common problem (Izuhara and Heywood 2003). For older people in particular, such poor conditions exacerbate health problems (Taylor et al. 2019). Moreover, Parkinson et al. (2014) found dissatisfaction with safety and overall neighbourhoods for renters, which can exacerbate social exclusion, to be a key problem for older demographic groups. Izuhara and Heywood (2003) found that in some cases it is the older tenants who refuse repairs. This refusal may be due to perceived stress or inconvenience, however, the authors also found that 'older tenants on fixed incomes may... fear rent increases after improvements are made' (Izuhara and Heywood 2003: 216).

These fears are not unfounded, especially for long-term renters. Insecurity of tenure is a common problem among older private tenants. Research shows that the psychological impacts of moving/insecure tenure are exacerbated in older age (Preece et al. 2020). New landlords in particular may offer repairs or improvement and subsequently ‘impose rent increases or, in the worst cases, seek unlawful eviction’ (Izuhara and Heywood 2003: 216). Other landlords required tenants to temporarily move out for repairs, in efforts to move them to a less secure tenancy or evict them entirely (Izuhara and Heywood 2003). In some jurisdictions, efforts to evict older, long-term residents may be driven by such tenants having more security of tenure or strictly regulated rents under older regulations. In other areas however, older tenants may be preferred, perceived to be more likely to look after property and capable of doing minor works themselves. Older tenants may also reside in older dwellings that require a disproportionate expenditure on repairs (Izuhara and Heywood 2003). In jurisdictions where rent increases are limited to certain circumstances, including new tenants, some landlords will favour younger renters due to the resulting higher turnover allowing for more opportunities for rent hikes.

Financial stress can have a detrimental impact on social networks and lead to declines in physical and mental health (Morris 2018). Older people are particularly vulnerable to financial abuse in the form of overcharging for amenities and services and withholding bonds (Izuhara and Heywood 2003). Older tenants can also experience discrimination that leads to them being unable to feel ‘at home’ in their dwelling. These behaviours can include unwelcome visits by landlords and overly strict instructions about the use of the property.

Izuhara and Heywood (2003) found that some landlords went to extreme lengths to evict tenants, including by preventing tenants from paying rent so as to claim they were in arrears. Izuhara and Heywood further found that while some landlords were unaware of the distress they caused to tenants, others wilfully harassed older tenants, including through ‘direct and implied threats, the use of insults and abuse, and occasional bribery’, behaviours that at times ‘could slowly and skilfully build up fear and distress among older tenants’ (Izuhara and Heywood 2003: 216–217).

For older renters, as with younger renters with physical disabilities, it is also difficult to find properties with—or indeed willing to add—aids and adaptations to meet their needs (McKee et al. 2019). Many low-SES older renters are forced to make trade-offs about location and quality of rental properties and may be required to share with others due to affordability issues. Consequently, older renters can find themselves in a poor position of power when seeking sharing accommodation, required to fit into the household culture of younger tenants who dominate the PRS. The predominance of digital technologies to find housing in the PRS—including share housing—can also present a barrier for some older people (Parkinson et al. 2019). As Parkinson et al. (2020: 8) note in relation to group membership sites,

Some networks require knowing other members or the rules of the game in how best to present their online profiles to increase competitiveness with other potential housemates... [raising] concerns for some, especially older singles not well versed in the practices of networked access or already part of a membership group.

Discriminatory barriers to older tenants can result their being found in unconventional dwellings and marginal housing, such as cars, shipping containers and caravans, especially following eviction (Bates et al. 2019).

### 2.2.2 Gender and sexuality

There is substantial evidence of prejudicial discrimination across gendered lines in the provision of rental housing worldwide. Differences in biases against men, women, and non-gender-conforming persons highlight the intersectional character of prejudicial attitudes. Research on discrimination based on sexual orientation highlights the importance of geography and cultural and political context in understanding prejudice in the PRS. In Australia, under Section 23 of the *Sex Discrimination Act 1984*, it is unlawful to discriminate against a person seeking accommodation on the grounds of sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy status or breastfeeding. Despite this, and other laws around the world, prejudiced tenant selection on such grounds still frequently takes place.



Multiple studies have revealed gender bias through testing rental housing providers with identical (or almost identical) applications with only a female or male name change. One such Swedish study found that males were more discriminated against than females on a popular informal housing platform (Ahmed and Hammarstedt 2008). The female applicant received greater positive responses and offers to show the property (Ahmed and Hammarstedt 2008). Similar studies conducted in Norway, Finland and other OECD countries found a similar positive bias for females (Andersson et al. 2012; Öblom and Antfolk 2017; Flage 2018; Schwegman 2019). Gender preferences can be tied to stereotypes or past experiences of men as less likely to engage in housework, or perceptions of women as better behaved, less noisy, and less likely to cause property damage or disturbance (Natalier 2003).

Positive bias towards female applicants may be negated when tested against race, and criminal conviction, which are typically based on context. In some studies where non-Anglo-sounding names were added to the fictitious applications, the positive bias towards female applicants with non-Anglo names was less pronounced or negligible compared with non-Anglo male or Anglo male counterparts (Bengtsson et al. 2012; Flage 2018). In one study from Finland, however, a fictitious non-Anglo male was discriminated against significantly more than the non-Anglo female applicant (Öblom and Antfolk 2017). In a US-based study, gender was noted as less of a factor when the fictitious applicants had a prior criminal conviction (Evans et al. 2019).

The effect of non-binary status and disclosure of transgender status has a large discriminatory effect on housing availability (Levy et al. 2017). In one US study, transgender and gender non-conforming testers were subtly discriminated against in 60 per cent of tests, where they received less information, fewer positive interactions and gestures, or less favourable treatment (Langowski et al. 2018). The same study found that transgender people were discriminated against significantly more than other protected groups, such as disabled persons or based on race.

### Discrimination against victims of domestic violence

Despite women being less discriminated against in as a wider group within the PRS, women can be discriminated against through indirect means in this context. Victims of domestic violence—predominantly women—are regularly directly and indirectly discriminated against in rental housing. Victims of domestic violence are seen as unfavourable tenants for such reasons as believing they will bring crime and nuisance to the property, or further assault due to their past or ongoing relationship with the perpetrator of violence (Hirst 2003; Fais 2008).

Victims can be burdened by chronic nuisance laws, breaches of 'quiet enjoyment' and law enforcement citations due to the actions of perpetrators, impacting their rental records and ability to provide satisfactory rental applications (Hirst 2003; Adams 2012; Kastner 2015). Indicators of past domestic violence occurrences can be revealed during the screening process for rental housing, such as leaving a women's shelter number or bad references due to noise or nuisance complaints (Fais 2008; Barata and Stewart 2010). In a Canadian survey, outright discrimination against victims was found to be due to stereotyping of victims as incompetent, where landlords pitied victims but still considered them to be undesirable tenants (Barata and Stewart 2010).

Jurisdictions where responsibility to ensure safety and quiet enjoyment of other tenants is passed to the landlord can perpetuate discriminatory behaviour against domestic violence victims, where landlords avoid or refuse to rent to them to prevent liability (Ross 2007). In the US, zero-tolerance violence policies apply to victims, where the victim is seen as responsible for any violent offences that occur on their premises and can be evicted after one incidence of violence.

Box 2: The Renting Homes (Wales) Act 2016

Welsh tenancy regulations have in recent years reoriented around remedying the power imbalance between tenants and housing providers through increased renter protections, and on improving housing quality. Education of rights and improved pathways to redress have been key elements to reduce the discriminatory impacts of social and economic disparities in the PRS. The Welsh case also recognises the holistic character of the housing market more broadly, with an approach that targets both the public and PRSs and seeks (with varying success) to address the complex multi-scalar policy setting. The regulatory shifts recognise the particular vulnerabilities of young people navigating the PRS, particularly those facing additional social and economic barriers. However, there are also clear gaps and shortfalls of the regulations and their enforcement mechanisms that provide important lessons.

**A legacy of housing need in a renewed regulatory context**

Since the UK's devolution of power into separate jurisdictions in 1997, Wales' approach to its rental sector has diverged considerably to focus on stronger and clearer tenant rights and landlord regulation. The Act's development recognised and targeted key issues around rights and obligations and the need for certain housing for those with specific needs. These issues were identified in the broader context of a UK reform process (which was not carried through), however, and so concerns have been raised relating to the indirect legal impacts of the reform in the Welsh context. Regardless, it represents many substantial improvements and is part of wider regulatory reform in Wales – a recognition of the importance of housing in a holistic, interconnected policy landscape.

Historically seen as a 'transitional' tenure, the Welsh PRS has (as elsewhere) grown since the GFC, particularly with longer-term renters unable to afford to buy. However, it is still relatively small, making up around 14 per cent of Wales' housing market. Demand growth is also tied to the decline in social housing and longer-term housing privatisation in the UK during the 1980s, meaning growth is disproportionately at the lower ends of the sector, including vulnerable households. Many of these are young adults receiving government payments. Such uneven growth in the PRS by those on lower incomes can exacerbate disadvantage and inequities and, unless mediated by appropriate regulatory reforms, have discriminatory outcomes for those already disadvantaged.

**Rental agreements, security of tenure, and quality of dwellings: targets of the Act**

- A clear statement of rights and obligations through 'occupational contract' rental agreements applies to a greater spread of rental types and is standard across public and private rentals. Contract terms can only be modified to improve the renter's position, and there are financial penalties payable to hard-done-by tenants for non-compliance.
- Private landlords must register with a national scheme and obtain a property management license (or use a licensed agent) requiring them to undertake training and comply with a code of practice.
- To improve security of tenure there are clearer rules to ensure adequate grounds for possession claims, safeguard against eviction for minor breaches, and provide compensation in cases of eviction based on concealed or misrepresented facts. Eviction rules also allow for the removal of one contract holder while others can stay. Further, family members and carers can succeed a contract if the contract-holder dies, improving scope for contract rights to be inherited.
- There are specific provisions around quality of dwellings and state of repair for local authorities and landlords, although these standards require improvement to be adequate, particularly in the context of widespread poor-quality housing. Quality standards are enforceable both at the start of the contract and throughout, and there are opportunities for redress where standards are not met, however this only applies at the point where failure to repair has caused damage to person or property.

### Missing targets and falling through gaps: potential pitfalls

- Rental agreement breaches are challenged formally through Court processes, which may deter some renters. Compensation for breaches may be offset against rent, raising the possibility that landlords will increase rent and effectively deny the owed compensation; the offset is also problematic if the contract is terminated before compensation is recovered.
- Supported contracts provide accommodation with support services for people overcoming addiction, needing help finding employment, or support due to age, illness, or disability. The absence of a need to prove exclusion of such a contract-holder from a dwelling due to an act of violence or harm places the provision open to abuse by landlords wishing to exclude difficult contract-holders, allowing them to bypass the Act's formal procedures and acting as a potential discriminatory pathway against some of the most vulnerable renters. Other indirect exceptions of the Act can also be manipulated by landlords to their benefit, such as holiday accommodation classifications.
- While vulnerable young people (16- and 17-year-olds) were identified as specifically likely to benefit from rental regulation in Wales, the regulation stopped short of allowing them occupational contracts. This group therefore does not benefit from the safeguards of rights designed into the Act.

### Potential lessons

- Rental agreements should centrally consider improving the tenant's position to correct existing power imbalances.
- Mandatory registration of landlords and property managers can be tied to training and compliance to improve professionalism and diminish opportunities for discrimination by raising overall property standards.
- A holistic, interconnected policy landscape – improvements in access to the PRS can affect wider societal and economic improvements, and vice versa (utilising other policy areas). The complexity of multiscalar policy settings highlights a need for researchers and government to be attentive to the wider significance of adjacent policy settings on discrimination in the PRS.
- Approaching the rental sector as a whole – public and private – in a regulatory sense, can remove unnecessary differences and improve outcomes across the board. Removing differences can help with standard setting to reduce discrimination.
- Removing discrimination against young people entering and within is critical to improving their opportunities across the life course. Young people are particularly susceptible to discrimination and power imbalances due to their age and inexperience, and this imbalance is compounded by added vulnerabilities.
- Improvements to, and increased coverage by, rental agreements can force improvements in the professionalisation of the rental sector. Adequate financial incentives and disincentives provide important opportunities to shape landlord behaviour.
- Potentially discriminatory regulatory gaps can and will be taken advantage of by opportunistic landlords. Targeted regulation must protect 'bad' tenants (as well as good ones) and other discriminated-against groups from housing exclusion, particularly where social housing and other support services are inadequate. Such regulation should be built on a thorough understanding of the rental landscape to identify who is vulnerable to discrimination.

Sources: Huws 2019; Moore 2017.

Due to the disproportionate effect domestic violence has on women, discrimination based on domestic violence has been challenged on the grounds of gender or sex discrimination where explicit domestic violence protections are not available to victims (Fais 2008; Adams 2012). In the US, legal challenges have been made against landlords by domestic violence victims under the *Fair Housing Act 1968* as disparate treatment based on sex and gender (Lapidus 2002). However, these avenues of recourse are not well known, or accessible to victims without legal aid and knowledge.

### Discrimination based on sexual orientation

Some studies, like the investigation into gender and race bias (Ahmed and Hammarstedt 2008), Ahmed et al. (2008) and Lauster and Easterbrook (2011) have explored bias in the Swedish and US housing markets against homosexual couples. While bias observed was lower than the identified gender and race bias in the Swedish studies, the fictitious homosexual male couples received significantly fewer responses and invitations to view the apartment in both US and Swedish cases (Ahmed and Hammarstedt 2009; Lauster and Easterbrook 2011; Levy et al. 2017). There was little or no significant bias discovered, however, against the fictitious lesbian couples (Ahmed et al. 2008; Lauster and Easterbrook 2011; Schwegman 2019; Friedman et al. 2013; Levy et al. 2017). This revealed the intersections between both gender and sexual orientation. Geography and political climate can also influence results, with greater discrimination against homosexual couples found in rural regions and states that do not define LGBTQI+ individuals as protected persons (Swank et al. 2013; Schwegman 2019). Mixed results have been revealed to the intersecting effect of sexuality and race. In a German study, Mazziotta et al. (2015) found that housing providers were more likely to discriminate based on race than sexuality. While Levy et al. (2017) found the reverse was true in the US, they also found that white homosexual couples were shown more properties than non-white homosexual couples.

### 2.2.3 Race

Discrimination in private rental housing is a significant issue for:

1. Indigenous Australians
2. members of established ethnic minority groups, particularly non-white Australians
3. new migrants and refugees in Australia.

Parkinson et al. (2018) argue that discrimination is likely to push these groups into the more precarious room rental sector or even homelessness. Racism in housing, and poor housing experiences more broadly are also identified as a critical intervention point in improving Indigenous health and wellbeing (Anderson et al. 2016; 2018).

#### Indigenous Australians

Displacement of and discrimination against Indigenous Australians in housing has a long history, from invasion onwards. Anderson et al. (2016; 2018) conducted focus groups with Indigenous people accessing a health service in western Sydney to explore their housing experiences.

Participants described a landscape in which their housing experiences were materially affected by their Aboriginality and inextricably linked to racial discrimination, poverty, marginalisation, the lack of social and affordable housing and disempowerment, all with negative implications for their psychosocial wellbeing. (Anderson et al. 2018: 635).

Participants in the focus group reported profound experiences of racism in seeking rental housing through private real estate agents. These experiences were especially the case for those who 'looked black' or were most readily identifiable as Aboriginal (Andersen et al. 2018). Discrimination took multiple forms, such as being told there were no properties available; submitting high numbers of applications with no success; and not securing rental leases despite having a good income and work history.

For some, experiences of discrimination continued once a tenancy had been secured, with focus group participants reporting racism from non-Indigenous neighbours. In several focus groups, participants referred to neighbours mounting organised campaigns against them to their landlords. These experiences of racism not only materially affect Indigenous Australians housing experiences but have cumulative and detrimental effects on health and wellbeing (Anderson et al. 2018; Paradies 2006). Participants in Anderson et al.'s (2018: 642) focus groups used language that evoked images of physical violence. 'Phrases such as 'it's a kick in the guts', being 'knocked back' or 'knocked right down' appeared frequently through the transcripts.'

Box 3: Acknowledging discrimination in the *Finding a Place* inquiry

In 2002 the Equal Opportunity Commission of Western Australia (EOC) conducted an 'Investigation into the Provision of Public Housing to Aboriginal and Torres Strait Islander people in Western Australia'. The findings from this Inquiry into discriminatory practices in the provision of public housing are reported in *Finding a Place* (EOC 2004).

- The *Finding a Place* Inquiry received many submissions that referred to the existence of racial discrimination in the private rental market. One of the recommendations of the Inquiry (Number 52) was that the Western Australian Department of Housing and Works (DHW) conduct training sessions to raise awareness of the prevalence of racial discrimination in the private rental market.
- Recommendation 53 also related to experiences of discrimination in the private rental market. Prior to the Inquiry, Aboriginal and Torres Strait Islanders applying for public housing were required to demonstrate that they had tried on multiple occasions, and failed, to secure housing through the private rental market. Given how common experiences of racism were in the private market, it was recommended that the DHW discontinue this requirement. Failure to do so would amount to knowingly putting Aboriginal and Torres Strait Islanders into a situation where the Department knew that there was a strong chance they would experience discrimination.
- Experiences of discrimination in the PRS revealed through the Inquiry were significant enough to lead to another Inquiry that more specifically investigated this issue (*Accommodating Everyone*, EOC 2009).

**Potential Lessons**

This example relates to the need for a change to the process by which Aboriginal and Torres Strait Islander people access public housing and shows the way in which discrimination within the private and public housing sectors are interconnected. The recommendations referred to above were not targeted at addressing discrimination itself, but rather changing the system so that the DHW was not implicated in the discrimination that they knew to be occurring within the private rental market in Western Australia.

Source: EOC 2004; 2009.

Poor housing has been identified as a key determinant in the health disparity between Indigenous and non-Indigenous Australians (AIHW 2014; Baillie et al. 2010). Andersen et al. (2016) argue that improving housing experiences, both prior to and while living in rental housing, may be a crucial point of intervention for improving the health of urban Aboriginal Australians.

The issue of racism in housing was the subject of a formal inquiry in Western Australia. The *Finding a Place Inquiry* examined direct or indirect 'discriminatory treatment of Indigenous persons in Western Australia in the provision and accommodation and/or services, because of their race or characteristics of their race' (EOC 2004: 16). Many submissions to the Inquiry referred to experiences of racism in the private rental market. Experiences of discrimination were so common that a recommendation of the Inquiry was that the DHW discontinue the practice of requiring Indigenous prospective tenants to make multiple attempts to access the private rental market before they (DHW) facilitate access to community or social housing (EOC 2004: 24). This requirement was abolished after the inquiry, because 'it was humiliating for [Aboriginal people] to face often blatant discrimination from agents or owners' (EOC 2004: 24).

The Finding a Place Inquiry led into an inquiry into discrimination in the private rental market specifically, *Accommodating Everyone* (EOC 2009). Although the Inquiry stated that ‘very few formal complaints of race discrimination in the private housing rental market [had] been received by the EOC or other similar jurisdictions in Australia’ (EOC 2009: 5), it found ‘substantial evidence of racial discrimination in the private housing rental market’ (EOC 2009: 6). One of the most common forms of discrimination reported was being told over the phone that a property was available, but then being informed the property was not available upon arrival in person. The Inquiry documented the effects of discrimination in securing private rental housing continued even once housing had been secured. Those experiencing discrimination were pressured to accept housing in poor condition, or that required significant maintenance. Aboriginal and culturally and linguistically diverse individuals were reluctant to make formal complaints or seek statutory forms of remedy, such as those available for residential tenancy matters through the Magistrates Courts.

### Non-white Australians

In a national survey conducted by the Challenging Racism Project and the Special Broadcasting Service, Australians with Asian heritage reported higher rates of discrimination when renting or buying a house than those without Asian heritage (Dunn et al. 2018). Rates of discrimination were highest amongst those who were themselves born in an Asian country—59 per cent reported experiencing at least some discrimination. Rates declined for those who were born in Australia with both parents born in Asian countries (44%) and were further reduced amongst those with one parent born in an Asian country (18%). Dunn et al. (2018) reported that those with south Asian backgrounds were most likely to encounter racism in housing.

International students were identified as a group at high risk of housing discrimination in Australia in the *Accommodating Everyone* Inquiry. Consultations with student representatives in the wake of the racist attacks on international students in 2009 (see, for example, Dunn et al. 2011), identified discrimination in rental housing as a key issue (see Australian Human Rights Commission and New Zealand Human Rights Commission 2009). Exploitative treatment of international students in the private rental market was also reported at the 2009 Australasian Race Relations Roundtable (Nelson et al. 2015).

Humanitarian entrants to Australia experience discrimination in seeking rental accommodation. Fozdar and Hartley (2014) describe the racism experienced by a Sudanese housing support worker in Western Australia, who is ignored at housing inspections until they indicate their association with an official service provider organisation. Direct discrimination is coupled with more indirect forms of discrimination, with humanitarian entrants indicating that their large family size, lack of rental history or referees, and poor English contributed to their difficulties in securing accommodation on arrival (Australian Survey Research Group 2011). One-third of refugees reported some intolerance towards them in seeking housing, while eight per cent experienced ‘a lot’ of intolerance (Forrest et al. 2012). These direct reports of discrimination underestimate its prevalence, while many forms of discrimination are subtle and not necessarily visible to those targeted (Nelson et al. 2015).

An alternative method to explore race-based discrimination is through ‘paired testing’. In late 2013, Australian academics conducted a ‘paired testing’ experiment to look at race-based discrimination in seeking private rental housing (see Nelson, 2015; McDonald et al. 2016; McDonald et al. 2018; Galster et al. 2018). The experiment was based in Sydney and conducted with Research Assistants of white or Anglo, Muslim Middle Eastern and Indian appearance. The pairs of white and non-white research assistants were matched on as many relevant characteristics as possible, including, for example, age, gender, level of extroversion and education level. Research assistants were allocated advertised rental properties each week and were required to inspect, or attempt to inspect, each property they were allocated. They recorded details of their experiences during the process. Each member of the pair was allocated the same rental properties to allow a direct comparison of treatment to be made. This is a method that is well established in the US and internationally. These paired tests are conducted every few years in the US by HUD and have been conducted in Finland (Öblom and Antfolk 2017). Nelson et al. (2015) reported that there were no significant differences in treatment in areas regulated in Australia, such as the amount of security bond required. Differences between white and non-white rental seekers were more likely in regard to informal interactions and amount of information provided, which are of course outside

of regulation. MacDonald et al. (2016: 373) found that white or Anglo prospective renters were more likely than minority rent seekers ‘to be offered an individual appointment to inspect a property, to discuss their housing needs with an agent and to be told about other available housing, to be given additional information about the application process, and to be contacted by the agent after an inspection’.

For agents, risk factors associated with Aboriginality and non-white Australians include family size, ‘cultural practices’ and housekeeping. Agents and owners also often invoke the financial vulnerability of these groups to justify their exclusion, demonstrating the cumulative and systemic effects associated with the intersection of financial capacities and ‘cultural’ characteristics.

No submissions from real estate industry representatives were received to the *Accommodating Everyone* inquiry, despite their attendance at information sessions and a concerted effort by the Commission to engage with the industry. Despite the presence of racism in Australian housing, the willingness of the real estate industry to address race-based discrimination is unclear (Nelson et al. 2015).

## 2.3 Lessons from international evidence

Table 4 summarises key learnings from the literature review into nine areas for policy attention. While the table provides examples of policy levers drawn from the literature, it is understood that specific levers are not contextually transferable, but that local context should be considered. Regardless, these examples hold valuable lessons, many of which are highlighted in Boxes 1–3 (pages 32, 38, and 41). The need to attend to local cultural specificities and market settings in shaping policy levers underscores the phase of this research outlined in Section 3, informed by these lessons from the international evidence reviewed above.

Table 4: International policy recommendations

Lesson	Overview	Examples of policy levers
<b>1. Structural, individual, and institutional levers</b>	<p>Discrimination is often a tangential concern in regulating the PRS. Addressing discrimination requires hard and soft interventions and attention to the contextual characteristics of the market and society, to address discriminatory practices that have “become more subtle and dispersed through the [rental] process” (Verstraete and Moris 2019, 604).</p> <p>Approaches must address societal inequities, individual prejudicial attitudes and behaviours, and issues with the legal and regulatory frameworks within which private renting operates.</p> <p>Governments should focus on addressing issues of discrimination rather than absolving themselves of responsibility (see Box 3)</p>	<ul style="list-style-type: none"> <li>• Labour market and social security adjustments to diminish discrimination based on income, employment stability, or receipt of social security.</li> <li>• Social security/rent assistance should be at a level to avoid undesired sharing.</li> <li>• Foreign investment regulations (see Box 1).</li> <li>• Appropriate and timely court and arbitration processes for rental agreement breaches (see Box 2).</li> </ul>
<b>2. A holistic approach to the entire housing market</b>	<p>Mechanisms that reshape the housing system to take off much-needed pressure from the PRS are essential to reduce discrimination. Such mechanisms require a recognition of the interrelatedness of the private rental market with public and social housing and homeownership, and hence, consideration of the tax and other financial regulations that shape these markets (see Boxes 1 to 3).</p> <p>Unsustainable pressure at the lower end of the private rental market must be alleviated as a key to enable an affordable PRS. Attempts to address discrimination in such pressurised settings will fall short without addressing this key issue (see Box 2).</p>	<ul style="list-style-type: none"> <li>• Increasing public and social housing stock (see Box 1)</li> <li>• Financial and tax incentives to build and rent for low-SES tenants</li> <li>• Rental controls (see Box 1)</li> <li>• Taxes for empty properties</li> <li>• Increasing supply of affordable housing (see Box 1)</li> <li>• Attention to housing classifications e.g. addressing use of holiday homes to avoid legal responsibilities (see Box 2)</li> </ul>

Lesson	Overview	Examples of policy levers
<b>3. Government communication, resourcing, and outreach</b>	<p>Adequate communication and resourcing between different levels of government, advocacy groups (see Box 1), and enforcement agencies is necessary for anti-discrimination tools to be meaningful, effective, and up to date.</p> <p>Where national-level policy and regulation is introduced to address discrimination, it is often state or local governments that are required to carry out enforcement and maintain updated databases.</p>	<ul style="list-style-type: none"> <li>• Hotspots or pressure zones (see Box 1)</li> <li>• Rent controls</li> <li>• Targeted regulation underpinned by good quality data (see Box 3)</li> <li>• Ongoing monitoring of local rental markets with accurate, up-to-date systems (see Box 1)</li> <li>• Education of rights and responsibilities (see Box 2)</li> </ul>
<b>4. Attuning to local contextual factors in the housing market</b>	<p>Historical housing policies, the overall shape of the local and national housing markets, and the related cultural understandings and perceptions of private renting and the sector must inform attempts to counter discrimination (see Box 1).</p> <p>While the literature review reveals typical modes of discrimination and outcomes across the rental system, different settings produce different challenges (see Boxes 1 to 3).</p> <p>Localised data needed to identify and respond to housing market issues and better target interventions (see Box 1).</p>	<ul style="list-style-type: none"> <li>• Section 3 of this report attends to this recommendation, contextualising this evidence review to provide meaningful recommendations in the Australian context.</li> <li>• As suggested in Section 3, more research is required to further hone policy recommendations in state and local contexts.</li> </ul>
<b>5. Targeted strategies</b>	<p>Targeted actions can be particularly essential where systemic discrimination renders groups more vulnerable to the physical and psychological impacts of rejection (see Box 2 and 3). Groups that have compounded experienced systemic discrimination across different aspects of their life and/or are similarly required to navigate multiple systems of intervention should be alleviated of these challenges (see Box 3).</p>	<ul style="list-style-type: none"> <li>• Fast-tracking groups into public and social housing or purpose-built private housing</li> <li>• Protections from evictions for vulnerable people (see Box 1)</li> <li>• More nuanced regulations around exclusion based on violence or harm to ensure non-discriminatory eviction outcomes (in contrast see Box 2)</li> </ul>
<b>6. Balanced regulations</b>	<p>Rent deregulation, often mobilised to support the PRS, can swing the balance in the landlord's favour (see Box 2).</p> <p>The motivations of landlords and renters must both be considered to incentivise landlords into non-discriminatory practices (see Box 1).</p> <p>A careful balance is required with regards to housing improvements to limit added scarcity at the lower ends of the market while creating appropriate health-based standards across the PRS (see Box 2).</p>	<ul style="list-style-type: none"> <li>• Regulating timing and amount of increases for sitting tenants</li> <li>• Protections for renters in cases of housing improvements (in contrast see Box 1)</li> <li>• Zoning and quality-based rent-capping</li> <li>• Rent subsidies and financial support</li> <li>• Penalties/disincentives for overcharging rents and other non-compliance (see Box 2 and, in contrast, Box 1).</li> </ul>



Lesson	Overview	Examples of policy levers
<b>7. Security of tenure</b>	<p>Longer-term, secure tenancies are one of the most critical factors in reducing discrimination across the rental system. Landlords also favour the consistent returns of secure tenancies (see Box 1).</p> <p>At the same time, long tenancies can encourage more discrimination at the point of advertising and tenant selection due to the risk of being stuck with a (perceived) high-risk tenant. Reducing discrimination at the point of tenant selection through adequate and appropriate supply and a strong tenant advocacy sector is critical, particularly in competitive rental markets (see Box 1).</p>	<ul style="list-style-type: none"> <li>• Restrictions on rent increases (see Box 1)</li> <li>• Long-term leases (see Box 1)</li> <li>• Trial periods or short-term contracts followed by long-term leases, or alternatively, open-ended and flexible leases</li> <li>• Rights of succession (see Box 2)</li> <li>• Automatic rollover of lease</li> <li>• Renter protections from property sale</li> <li>• Limited grounds for eviction (see Boxes 1 and 2)</li> <li>• Ceasing no-grounds evictions</li> <li>• Compensation for forced moving of low-SES tenants due to reasons not their fault (see Box 2)</li> <li>• Lengthen notice periods from landlords and adequate provisions to avoid evictions (see Box 1).</li> <li>• Clear and binding rights and responsibilities in rental agreements (see Box 2)</li> </ul>
<b>8. Sufficient, suitable, and quality housing</b>	<p>Links between housing quality and short and long-term health and wellbeing are significant and well established. Discriminatory practices resulting in variances in property upkeep are likely to exacerbate systemic discrimination and its outcomes.</p> <p>In Australia, the issue of housing types meeting tenant (especially over investor) demands requires better management. In a growing sharing economy, adequate supply in the PRS means more appropriate housing types (see Box 1, also Mackie 2016).</p>	<ul style="list-style-type: none"> <li>• Construction of housing types linked to renter needs and affordability</li> <li>• Address uneven developer influence in planning processes</li> <li>• Landlord accreditation (see Box 2)</li> <li>• Increased tenant rights over changes to property (see Box 1)</li> <li>• Rent reduction and other rights where repairs are not made in a timely fashion (see Box 2)</li> <li>• Adequate dispute resolution procedures (see Box 1)</li> <li>• 3rd party inspections</li> <li>• Required funds for maintenance put aside</li> <li>• Set enforceable quality standards of design, safety and maintenance and requirements for repair (in contrast see Box 1)</li> <li>• Tax relief for repairs and upgrades (see Box 1).</li> </ul>
<b>9. More research to understand the role of digital technologies and tenants in the PRS</b>	<p>Further analysis of emerging research on digital technologies in the PRS to understand how they potentially promote or reduce discrimination.</p> <p>Perception of financial risk is the key factor determining landlord and agent preference, a tenant searching for a person or people to live with will typically have a much wider set of preferences. Relatedly, it is also clear that technologies used by landlords, agents, tenants, and prospective tenants differ from one another, and are regulated to varying degrees.</p>	<ul style="list-style-type: none"> <li>• Expert panel (see Chapter 3)</li> <li>• Research on landlord and agent decision-making and their use of digital technologies (see Box 1)</li> <li>• Research on share housing preferences and renters' use of digital technologies</li> </ul>

Source: Author research.

## 2.4 Summary

This Chapter presented the results of the evidence review on discrimination in the PRS along the lines of age, gender and sexuality and race in line with the intersectional framework used in this report. Nine lessons were identified along with examples of productive policy levers. Context is important to the success of these policy levers, and this underpins the research outlined in Section 3 below. Chapter 3 will look at how discrimination plays out across stages in the rental process.

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## 3. Findings from the expert panel: discrimination in Australia's PRS

- This Chapter presents findings from the expert panel discussion. The panel was structured to discuss discrimination in the PRS deriving from: procurement and investment; advertising and tenant selection; rental agreement and bond management; tenancy, repairs, and maintenance; and eviction and advocacy. Across these five stages, the panel discussed the groups and issues raised in the evidence review, elaborating and calibrating for the Australian context and based on expertise in emerging digital housing technologies.
- The panel raised issues of discrimination on behalf of a wide range of groups in Australia's PRS. The financialisation of housing and power imbalances between tenant and landlord (and agent) were seen as driving forces. Other discriminatory forces identified were digital technologies, discriminatory rental agreements, bonds, and low industry standards.
- Geography was seen as a factor in Australia's PRS, in the sense that some renters were discriminated against based on their previous place of residence and that geography intersects with other social factors in determining housing choices. These choices can further compound disadvantage by diminishing access to a range of services and amenities, increasing travel times and declining productivity and income. This corresponds with the international evidence that also notes geography is a discriminatory factor.
- The COVID-19 pandemic has made several systemic problems in Australia's PRS more visible, particularly in terms of the relationality of (mobile) labour and housing, and the threat of eviction. The concerns raised by the expert panel relating to COVID-19 underscore the need to address the unsuitability of the housing market in relation to rental needs more generally.

- **The panel supported a holistic approach to addressing discrimination in the PRS, by identifying several intersecting policy areas. Several policy areas and levers are identified across each stage of the rental system. These range from broad taxation settings, housing market adjustments and urban planning to energy, social security, and health policies, and tenancy regulation.**
- **Key data gaps in need of addressing were identified, both to improve understandings of discrimination in the PRS and to address the evident issues. Availability of existing data is a crucial consideration.**

Findings of the evidence review were put to the expert panel for discussion, verification, and identification of any additional issues. The discussion was structured to give equal time to each of the five stages of the rental system, outlined in 3.1, below. Table 5 outlines points raised by the panel across these stages. The table below provides more detail on some of the discriminatory forces identified by the panel to be issues in the Australian setting. While each of these were previously discussed—either explicitly or implicitly—in Chapter 2, the panel provided additional insights based on their expertise and/or experience in the Australian setting. Trends and potential effects of the COVID-19 pandemic on discrimination in Australia's PRS complete Section 3.1. Section 3.2 summarises the key data gaps identified during the expert panel. However, we recognise that this list is not complete and limited by the scope of the discussion, and the panellists in attendance. Section 3.3 overviews the holistic policy and regulatory areas in need of attention to address issues of discrimination across the PRS, and points to specific potential interventions raised by the expert panel.

Three subject vignettes (Boxes 4, 5 and 6) are interspersed throughout the chapter to capture experiences of discrimination in Australia's PRS. The vignettes reveal some of the common ways in which the discriminatory forces discussed by the panel play out in the Australian context. They also speak to the intersectional nature of discrimination and the need for a holistic policy approach to PRS discrimination.

### **3.1 Panel-identified discrimination forces across the rental system**

The structure of the panel, informed by the evidence review, examined each stage of the rental system in turn. These stages of the private rental system are outlined below. Table 5 then summarises discriminatory forces identified by the panel across these five stages. This is not an exhaustive list. Rather, it reflects the composition of the panel and the dialogue that took place.

#### **1. Procurement and investment**

The first phase in which discrimination becomes embedded in the rental system occurs before the prospective tenant even sees the property. Planning, taxation, and policy levers have underpinned the financialisation of housing, which has seen governments shift to regarding housing as a site of investment, rather than a site of home (Madden and Marcuse 2016). Such policies benefit those who are already home owners and investors, which has driven inflation in house prices compared to stagnant wages and has led to declining rates of home ownership as a growing demographic are priced out of the market. This decline in home ownership increases inequity between home owners and renters, and investors and renters. The capacity to acquire a home is based less on individual responsibility and more on structural factors, which benefit those with existing assets (Adkins et al. 2020).

2. Advertising and tenant selection

Discrimination in advertising and tenant selection is experienced across a broad range of social, economic, and geographical factors. The primary axis of discrimination is economic, mediating discrimination upon the basis of gender, race, disability and so on. The existence and mechanisms of the private rental system is itself situated in income-based discrimination. People primarily rent because they cannot afford home ownership, and housing options diminish as income decreases.

3. Rental agreement and bond management

The intersection of economic, social and cultural factors continues to underpin discrimination in the third phase of the rental system: the rental agreement and bond management. These are also key sites for property technology disruption which have the potential to further entrench discriminatory practices.

4. Tenancy, repairs, and maintenance

Discrimination during the tenancy phase of the rental system often asserts itself through the uneven power relationships between tenants and landlords. This particularly pertains to repairs and maintenance requests and fears of retaliation through rent raises and eviction.

5. Eviction and advocacy

Discrimination in the eviction stage is characterised by the power imbalance between landlords and tenants but is also complicated by existing regulations. A landlord may evict a tenant on a no-grounds basis because they dislike the tenant. In states where a tenant cannot be evicted without grounds, it is likely that pre-existing biases about potential undesirability of a tenant will influence a landlord's decisions on tenants. Rent increases were seen to enable eviction and retaliation to tenant behaviour. Technology also plays a dual role in eviction. Technologies facilitate eviction through automation, but they can also enable tenant activism and resistance.

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Table 5: Summary of panel-identified discriminatory forces in Australia's PRS

Tenancy steps	Discriminatory forces in each stage of the rental process
<b>Procurement and Investment</b>	<p>Financialisation of housing:</p> <ul style="list-style-type: none"> <li>leveraging of wealth into more property ownership; impact of low-interest rates; tax advantages of depreciation</li> <li>lower socio-economic status people excluded from buying property</li> <li>uneven housing market favouring investors creates more opportunity for discriminatory outcomes against anyone subject to prejudicial discrimination (see Boxes 4 to 6)</li> <li>housing options and sizes can often cater to investor rather than renter demand; rural, regional, and urban areas experience this in different ways</li> <li>build-to-rent models are primarily for high income households</li> <li>landlords have underestimated risk, relying on rent and capital gains to pay mortgage. COVID-19 is impacting on this.</li> </ul> <p>Other COVID-19 observations and potential impacts:</p> <ul style="list-style-type: none"> <li>COVID-19 and work from home opening up CBD space to co-living raising affordability and regulatory issues</li> <li>employers tying salary to place of residence: elite professionals retain and informally sublet urban properties while also driving regional rent increases and displacement through treechanges.</li> <li>Corporate landlord buy-ups of distressed housing post-crisis:</li> <li>in US remobilising during COVID-19, e.g. Blackstone and Housing Canary. Target investment based on projected value increase. Likely to exacerbate gentrification</li> <li>tech companies moving into this space (i.e. build-to-rent).</li> </ul>
<b>Advertising and tenant selection</b>	<p>Socio-economic status:</p> <ul style="list-style-type: none"> <li>shapes access to housing options, limited by the market forcing undesirable and unsuitable rental situations, e.g. quality, location, and sharing</li> <li>precarious and gig economy workers (see Box 5)</li> <li>lack of rental history (see Box 4)</li> <li>Informal/non-compliant housing (high competition) and low-paid jobs (see Box 4)</li> <li>Lack of knowledge of rights; esp. students and young people</li> <li>Income-based discrimination: <ul style="list-style-type: none"> <li>welfare recipients (see Box 6) e.g. reports of less assistance and no call-backs from agents</li> <li>low quality housing for those on low-incomes (see Box 4)</li> <li>no market provision for Q1 households</li> <li>displacement – move to cheaper locations and loss of community connections; fewer amenities and less employment further away from major centres (see Box 4)</li> <li>unwanted sharing and/or limited privacy (see Box 4).</li> </ul> </li> <li>Flawed 30 per cent housing stress measurement, driving further poverty</li> </ul>

### 3. Findings from the expert panel: discrimination in Australia's PRS

Tenancy steps	Discriminatory forces in each stage of the rental process
<b>Advertising and tenant selection</b> <i>(continued)</i>	<p>Age and life course factors:</p> <ul style="list-style-type: none"><li>• household size discrimination (see Box 5)</li><li>• tenant's previous place of residence: interactions with criminal justice system.</li></ul> <p>Gender and sexuality:</p> <ul style="list-style-type: none"><li>• single parenting/divorce/marital status</li><li>• older women lower lifelong incomes, assets, and superannuation (see Box 4), especially newly divorced; older women's performance of class impacts their offerings.</li><li>• Domestic violence<ul style="list-style-type: none"><li>• and pets - those leaving urgently may face delays with a pet; some reports of staying in violent situations because of inability to bring pets to new rental property</li><li>• and welfare - reliance on income supports to leave</li><li>• issues around disclosure of previous violence.</li></ul></li><li>• Male (and Under 35s) prospective renters treated unfavourably/more likely to leave to buy a home compared to women who are seen as better long-term rental bets given they are more economically vulnerable</li></ul> <p>Racial discrimination during tenant search (see Box 5):</p> <ul style="list-style-type: none"><li>• focussing on tenancy rules and regulations compared to 'selling' the positives of house and neighbourhood</li><li>• visa and residency status impacts</li><li>• lack of rental history in Australia</li><li>• lack of knowledge of rights and greater willingness to accept substandard and informal conditions</li><li>• household size can be an associated factor.</li></ul> <p>Geography:</p> <ul style="list-style-type: none"><li>• tenant's previous place of residence: suburb-based discrimination</li><li>• jobs tied to accommodation especially in regional areas (e.g. fruit picking) and urban hospitality</li><li>• smaller markets and more concentrated decision-making at agent or property manager level in rural and regional areas.</li></ul> <p>Technology:</p> <ul style="list-style-type: none"><li>• rent bidding via RealTech</li><li>• US legislation to reduce the Housing Act protections to permit algorithms that result in (for example) racist discrimination (following CoreLogic case) if landlord can prove discrimination is profit-driven.</li><li>• algorithms and key word searches to cull down and screen bulk applications; discriminatory effects may be unknown</li><li>• Snug's Snugmatch and Trustbond's Trust Score (Australia).</li></ul> <p>Pets (can still generally be refused despite some recent policy changes; see Box 4).</p> <ul style="list-style-type: none"><li>• in cases of domestic violence and disability can have profound impacts.</li></ul>

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Tenancy steps	Discriminatory forces in each stage of the rental process
<b>Advertising and tenant selection</b> <i>(continued)</i>	Disability: <ul style="list-style-type: none"> <li>welfare payments, housing provision issues (including NDIS)</li> <li>pets – assistance animals</li> <li>requiring modifications.</li> </ul>
<b>Rental agreement and bond management</b>	Professional standards and information: <ul style="list-style-type: none"> <li>landlord and tenant lack knowledge of rental system/ diverse equity of tenure (see Box 6)</li> <li>low real estate professionalism standards e.g. mismanaged occupancy numbers and issues with new children (see Box 5)</li> <li>differences in long-term and small-scale landlords. See especially corporate landlords (US trends)</li> <li>claims about longer leases (e.g. Mirvac's Live at Sydney Olympic Park) unsubstantiated in practice/ marketing tools, especially given no-grounds evictions.</li> </ul> Rental agreements: <ul style="list-style-type: none"> <li>unintentional discriminatory impact of many rental agreement clauses e.g. noise complaints, mental health episodes and whether landlord owns neighbouring properties (see Box 5).</li> </ul> Informal and short-term tenancies (see Boxes 4 to 6): <ul style="list-style-type: none"> <li>limited legal security; relations with landlords or agent (see Box 4)</li> <li>moving costs (bond, utilities, time off work) can be prohibitive to moving or debt-creating and keeps people in unaffordable situation (see Boxes 4 and 6)</li> <li>women and older people at higher risk (see Box 4)</li> <li>'move somewhere cheaper' not always a solution (e.g. COVID-19; see Box 6) and doesn't account for moving costs and financial resources</li> <li>government approach to housing generated mobility for profit, disproportionately impacting low-income and precarious groups.</li> <li>mobility-generating policy emphasis with little supports compared with community-building policy.</li> </ul> Bonds: <ul style="list-style-type: none"> <li>income-based discrimination, bonds are increasingly a barrier to entry into the PRS</li> <li>bond cover with interest on loan</li> <li>insurance see Tech company's e.g. Rhino; discriminatory potential</li> <li>bond loans as deterrent</li> <li>bond return process can be disputed and traumatic; many won't challenge or dispute real estate agents false claims</li> <li>pet bond (WA) in addition to standard bond</li> <li>build to rent without bonds increasing inequality – longer term leases and improved tenancy conditions for high income houses.</li> </ul> Technologies: <ul style="list-style-type: none"> <li>PropTech startups shifted from tenant to landlord and agent oriented</li> <li>online rental opportunities for discrimination.</li> </ul>

### 3. Findings from the expert panel: discrimination in Australia's PRS

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Tenancy steps	Discriminatory forces in each stage of the rental process
<b>Tenancy, repairs, and maintenance</b>	<p>Power imbalance (see Boxes 4 to 6):</p> <ul style="list-style-type: none"><li>• fear of eviction or rent increase if ask for repairs</li><li>• no landlord register which retains data on bad landlords</li><li>• fear of bad reference or blacklisting</li><li>• lengthy delays on repairs and maintenance (see Box 4)</li><li>• tenants paying repair costs; doing their own repairs to demonstrate worth</li><li>• fear of asserting rights</li><li>• landlord attending property; esp. with mental health problems, racialised treatment, and (rise in) informal housing, facilitating eviction/harassment/rent increases (see Box 4)</li><li>• misinformation by agents and unsubstantiated threats of bond loss esp. with furnished properties (esp. international students and temporary migrants) have more repair and maintenance complications.</li></ul> <p>Socio-economic status and other factors:</p> <ul style="list-style-type: none"><li>• low quality housing linked to further costs associated with health, energy, and climate change impacts.</li><li>• low efficiency appliances only option for many</li><li>• fear of disconnection from essential services and utilities, (esp. those w health issues re. extreme weather) driving vulnerability, self-eviction, informality (see Boxes 5 and 6)</li><li>• COVID-19 work from home increasing energy consumption</li><li>• higher rents associated with proximity to education, employment and other services and amenities, creating longer travel times and limiting access for some</li><li>• current Department of Communities and Justice housing agreement (NSW) has a 'hoarding' provision likely discriminatory.</li></ul> <p>Holistic policy areas:</p> <ul style="list-style-type: none"><li>• rental affordability should account for home running costs and transport; policy discussion should include energy and sustainability levers (see Boxes 5 and 6)</li><li>• lack of landlord incentives for more efficient (cheaper) energies (see Boxes 5 and 6)</li><li>• capital gain as mostly driven by land debt and scarcity (not housing quality) disincentivises repairs</li><li>• rental identity and limited security shapes and diminishes participation in urban planning.</li></ul> <p>Technologies:</p> <ul style="list-style-type: none"><li>• tech can give landlords data on tenant energy use to discriminate</li><li>• communication between agent/landlord and tenant increasingly mediated through apps</li><li>• some landlords are limited liability companies and shell companies, who tenants do not know and do not know how to navigate relationships with.</li></ul>

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Tenancy steps	Discriminatory forces in each stage of the rental process
<b>Eviction and Advocacy</b>	<p>Eviction and threat of eviction:</p> <ul style="list-style-type: none"> <li>• no grounds eviction continues in NSW (see Boxes 4 and 6)</li> <li>• self-eviction – tenant forced to leave (affordability, accessibility, other reasons; see Box 4)</li> <li>• tribunal (and threat of eviction) used to engage w tenants around rental arrears</li> <li>• improvements or renovations used to justify eviction (see Box 4)</li> <li>• older renters twice the rate of notice to vacate compared with other renters; physical and financial costs of moving increase with age (see Box 4)</li> <li>• divergent interests of landlords, agents, and tenants</li> <li>• greater risks of eviction or pet removal from complaints (noise, pets) w strata (see Box 5); subject to additional layer of regulation through body corporates</li> <li>• regional and rural evictions and blacklisting forces unwanted substantial geographical movements.</li> </ul> <p>Technology and data:</p> <ul style="list-style-type: none"> <li>• obfuscation of landlord and (consistent) eviction data and large corporate property investment poses barriers to activism</li> <li>• even small-scale investors using corporate ownership structures to distance from (accountability to) tenants</li> <li>• tech-based tenant advocacy models preferable to consumer-based models e.g. bad landlord databases/rating platforms are v. limited in identifying drivers</li> <li>• smart home tech being used in tenant disputes; Smart locks used for evictions New York City cases.</li> </ul> <p>Gender:</p> <ul style="list-style-type: none"> <li>• smart home tech being used in domestic violence cases</li> <li>• men more likely to monitor, evict, contain (through domestic violence) their partners (see Bowles 2018; Freed et al. 2018).</li> </ul>

The issues raised by the panel, presented in Table 5 above, broadly reflect the findings of the evidence review as presented in Chapter 2. The expert panel provided additional context for the Australian setting and provided the latest expert knowledge (particularly relating to digital property technologies). Some issues discussed less explicitly throughout Chapter 2 emerged as being of substantial import for policy, research, and advocacy in the Australian PRS setting. These are discussed more fully below.

### 3.1.1 Financialisation of housing

The expert panel verified the central importance of the financialisation of housing (discussed in Section 1) to shaping the landscape of discrimination in Australia's PRS. It emerged as the key discriminatory factor in the rental market, with a recognition across the panel that without attending to this issue, other recommended solutions would be less than wholly effective. This is because the property market, driven by speculative investment, not only excludes those who cannot afford to buy, but also because the housing form and quality will begin to reflect investor demand, rather than tenant needs.

Currently in Australia, property and landowners can leverage that wealth into more property ownership. Financialisation and investment in rental housing makes ownership less accessible for many renters who would prefer to become home owners. Current low interest rates increase the attractiveness of property investment and rental returns.

While financialisation emerges in the procurement and investment stage of the rental cycle, it underpins the rest of the rental process as many rental properties are investment properties. The relationship between the landlord and tenant can play out unevenly. For example, as capital gains are predominantly driven by land debt and scarcity rather than housing quality, there is little incentive for landlords to provide repair and maintenance. However, rental insecurity disincentivises property upkeep from the tenant's perspective, and can contribute to the loss of investment value for the landlord.

The financialisation of housing also effects the type of housing built. Strong investor demand can mean that housing options and sizes will often cater to the investor rather than the renter's needs. This illustrates the material effects of prioritising housing as an asset rather than a place to live. This compounds the impacts on people who are excluded from the property market. The result is an uneven property market that favours investors and creates more opportunities for discriminatory outcomes for those who experience prejudicial discrimination.

The impacts of COVID-19 have exposed additional risks in the system. A key insight from the panel was that the pandemic illustrates how landlords have underestimated investment risk and relied on rent and capital gains to pay their investment property mortgage. COVID-19 has shown that relying on rental income to repay a mortgage is risky in a context when there are widespread economic impacts that have affected many peoples' ability to pay rent or a mortgage. Additionally, the panel observed the remobilising of corporate landlords purchasing distressed housing, like what occurred in the US following the Global Financial Crisis. The panel noted that tech companies are also moving into this space, for example, through build-to-rent models of housing provision.

Therefore, the discriminatory effects of financialisation are felt throughout the different stages of renting. The effects are compounded by different areas of prejudicial discrimination that are experienced at these other stages.

### 3.1.2 Tenant and landlord (and agent) power imbalances

Identified across the social categories discussed in the evidence review in Chapter 2, power imbalances with landlords (and agents) emerged as crucial to tenants' experiences of discrimination in Australia's PRS. The panel drew a clear link between the severity of these imbalances and the profound financialisation of housing in Australia.

The panel noted that tenants are reluctant to assert their rights particularly around necessary repairs and maintenance, or the landlord visiting the property, because they fear retribution. This reluctance unevenly affects discriminated-against groups. This power imbalance can also result in tenants doing their own repairs, to demonstrate their value as a good tenant, which adds to other disincentives for landlords to perform repairs and maintenance (Power and Gillon 2020). Expectations about how tenants are treated by landlords and the information tenants are asked to provide also differed dependent on background, race, religion, gender and age.

The impact of structural inequalities and discrimination at the procurement and investment level has broader impacts on the urban. Limited rental security and the prejudices against renters compared to property owners more generally, ties into feelings about participation in urban planning discussions, with high rates of renting effectively diminishing community participation.

There are also divergent interests of landlords and agents that can impact upon the tenant in different ways depending on the power dynamic between landlord and agent. While landlords typically prefer stable, long-term tenants, agents have a vested interest in tenant turnover.

Although informal tenancies can be more flexible and accessible to those unfamiliar with the rental system or without a rental history, they have limited security of tenure as most lack a formal agreement. This situation deepens power imbalances between tenants and agents and landlords, as well as between sub-letters and formal tenants, which limits the right of recourse if a dispute arises.

Examining the point of eviction underscores the interactional links between discrimination across the entire rental system. As Verstraete and Moris (2018: 602) note 'when landlords dislike a renter but has no grounds to justify legal eviction, they might try to chase them away.' In other words, the process leading to eviction may begin much earlier, with 'landlords who willingly let property fall into disrepairs, illegally increase rent, directly harass, exploit or intimidate.'

Conversely, landlords may make renovations or improvements to the property such that it justifies a substantial rent increase, untenable for the sitting renter. Such circumstances also reflect likely underestimations of eviction rates. Renters may be forced into a situation of self-eviction, where they have little or no choice but to leave their rental property, although they may not have been officially given a notice of eviction.

#### Box 4: Kathy

From the '70s to the 2000s Kathy played bass, touring with several Australian and international bands. Now she is in her 70s, retired, and lives with her six-year-old chocolate Labrador named Cookie. In her 40s, Kathy bought a modest, two-bedroom house in a beachside suburb of Sydney – she would have bought one earlier but was denied a mortgage as a single woman. Three years ago, Kathy was seriously injured when she was hit by a car. With minimal superannuation and limited savings, Kathy was forced to sell her house to pay for four surgeries and an ongoing legal battle. Her injuries have left her with pain most days, and diminished mobility.

Since selling her house of almost 30 years, Kathy has moved three times. Having lived in Sydney's eastern suburbs for most of her life, Kathy's financial situation has forced her to look for properties further out of the city, separating her from her social network and familiar shops and cafes, and in particular her friend Jen, who sometimes helped Kathy with her shopping and other chores since her accident. Finding a rental property that will accept her large dog has proven difficult.

While never one for a flashy lifestyle, Kathy's been shocked at the poor quality of some of the properties she has looked at since leaving her house. Her first rental after her accident was a formal tenancy signed for a year – a house of a friend of a friend. The house had countless problems in need of attention, including a broken bathroom door replaced with a curtain, a leak inside when it rained, and rising damp, but Kathy had struggled to find a place in her price range without a rental history and with Cookie in tow. Kathy made increasingly frustrated requests for repairs over the course of a year that were largely ignored. On one occasion she overheard her landlord call her a 'crazy old bat'. Soon after Kathy's tenancy period was finished her landlord decided to renovate the property, and Kathy was evicted.

With her budget tightening as her legal case continued, Kathy struggled to find somewhere in her price range the second time around. She settled for a third-floor walk-up apartment that she sub-leased for a below-market rate from a young woman who had to move interstate for work at short notice. Although more affordable, and otherwise a much better-quality home than her previous rental, it was less than an ideal size for her dog, and Kathy's mobility issues increasingly made it difficult to use the stairs. Realising it was not a long-term prospect for her, Kathy decided to move after one day taking a fall down the stairs.

For the third move, Kathy had to borrow money to pay for her moving costs. She is now living in the granny flat of a house in the inner western suburbs of the city. Being on the ground floor, it is much more accessible for Kathy and her dog has more space in the backyard of the main house. The property is also located near a light rail station, making it easier for Jen to visit than the previous two rentals. The granny flat is new and well maintained, although it does not have a full kitchen – only a fridge and a microwave, which Kathy is not used to cooking with. Although Kathy is friendly with her landlords, she misses the privacy of her own home and suffers constant stress from worrying that she could be evicted if the landlord's adult child decides to take occupancy of the granny flat.

Source: Author research.

Issues at the eviction stage also highlight the importance of balancing the rights of landlords and tenants. Regulation that makes it too difficult to evict a problematic tenant can make landlords and agents even more risk-averse when choosing a tenant, resulting in more discriminatory choices during advertising and selection. On the other hand, where it is too easy to evict a tenant or raise rent, renters face the financial and psychological risks of tenure insecurity and frequent moving costs. For discriminated-against groups, recurring evictions can be particularly traumatic and stressful.

In Australia, insecurity of tenure and eviction is a significant issue, and fear of eviction has grown worse during the COVID-19 pandemic (Baker et al. 2020: 11). For the increasing numbers of people in informal tenancies, there are severely limited rights when it comes to eviction. In NSW, 'no-grounds' eviction continues, which means that even for those in formal tenancy agreements there are often few options. Advocates cite the commonplace use of the Civil and Administrative Tribunal (or state-specific equivalent), and the threat of eviction by landlords and agents as a tool to engage with tenants around rental arrears, which adds to the financial and psychological burden of those already vulnerable.

### 3.1.3 Technology

Technology was identified as a key tool to enable discrimination by the US property technology experts on the panel. It was also identified as a key issue by the Australian tenant advocacy groups who are increasingly responding to issues of discrimination relating to the design, regulation and use of these technologies. The panel referred to recent legislation in the US to reduce Housing Act protections to permit algorithms that result in discrimination (e.g. race) if the landlords can prove discrimination is profit driven (HUD 2020). Algorithms and key word searches can be used to screen bulk applications and cull applicants based on algorithmic parameters. Using tenant selection tools that rely on algorithmic decision-making may increase existing inequalities and users may be unaware of the discriminatory effects inherent in the outcomes of their application. In Australia, bond insurance providers use similar algorithmic tools to rate the risk of tenants.

PropTech startups are also moving into the bond space. Recognising the prohibitive costs of moving, tech companies have begun to offer bond loans and bond insurance. Bond loans allow tenants to access capital upfront but as with most loan systems, the overall cost is larger either through charging interest or fees (TUNSW 2019). As an upfront investment, the bond insurance is less expensive. However, it has the potential to cost more over time.

The panel also noted that communication between tenants, agents and landlords is increasingly mediated by apps and digital platforms. Digitally mediated communication in this context can frustrate tenants' attempts to have their queries dealt with. For example, some corporate landlords are limited liability companies and shell

companies who tenants do not know how to communicate with. The increase in property management platforms for smaller scale landlords also has similar barriers to communication. Certain technologies can also be used to monitor the energy use of tenants and discriminate on those grounds.

The use of automated property management tools favoured by both corporate and small-scale investors, increases barriers to accessing information and landlords. These structures and technologies distance tenants from landlords, which makes it more challenging to know who the landlord is, and to hold them accountable.

While they have not yet entered the Australian marketplace, technologies such as ClickNotice, which automate some of the processes of eviction, provide opportunities for discrimination. They do so through removing individual right of reply and therefore consideration of particular circumstances that underpin the cause of eviction.

Smart technologies such as 'smart locks' and biometric automated entry systems can automate the eviction process and increase surveillance on tenants. There are associated privacy concerns with who can access the data and how the data is shared. The Atlantic Towers case in New York City, is a recent example of the problematic nature of such technology in relation to surveillance and privacy. The building's property management company attempted to install facial recognition access but was stopped by tenant activists. The tenants cited the move as an invasion of privacy considering the existing high levels of surveillance of tenants and a technique to encourage more white residents to the neighbourhood (Maalsen and Dowling 2020; Durkin 2019).

### 3.1.4 Geography

The panel identified suburb-based discrimination as an issue, with tenants' previous place of residence impacting their opportunities. For example, a 'bad' suburb makes the tenant less desirable. This trend reflects recent research on the online rental markets potentially reinforcing existing information inequalities and subsequently inequalities in access to housing (Boeing 2020).

Reiterating existing literature (see Soaita et al. 2020; Hulse et al. 2019; Petrova 2018), the panel also saw geography, income and social factors intersecting in their impact on housing. Those who are on lower incomes are unlikely to afford higher rents associated with housing close to amenities such as education, employment and services, and are subsequently forced further out, which increases travel time and decreases the ability to access those services and amenities. Unwanted frequent mobility can also result from insecurity at the lower end of the PRS, where options are more limited, with added risk of eviction.

These impacts highlight the intersectional character of rental discrimination. For example, Australians who are geographically disadvantaged are less able to access employment and may have their productivity and health outcomes limited. Being forced to move away from familiar locations, friends and communities, as well as into what are often poorer physical housing conditions, can also have detrimental health impacts (McKee et al. 2019). In regional and rural areas, where decision-making is more concentrated, perhaps to one or two agents, renters can find themselves effectively blacklisted from entire towns.

The panel identified a substantial disconnect between the desired and actual locations of the homes of private renters, as well as an inability to accurately report this disconnect through available data (see Section 3.3). Policies of decentralising public and social housing in NSW, for example, exacerbate the impacts of these geographies of advantage and disadvantage, tied to geographically uneven historical underinvestment in public infrastructures.

Relatedly, and tied to issues of housing procurement and investment, the panel also acknowledged a substantial disconnect between the types and sizes of available housing and demand. There were notable, and often contrasting geographical distinctions in the character and extent of these disconnects, particularly between urban and regional areas. Improved policy making to relate rental housing need to construction were seen as critical.

There was a recognition by the panel that the geographies of Australia's PRS (and relatedly the discrimination therein) were undergoing a shift due to the impacts of COVID-19 and associated shifts in working from home trends. The extent that these changes will remain in the longer-term remains to be seen. However, some observed impacts from these newly identified geographies are discussed in 3.1.1.

### 3.1.5 Low industry standards

The panel identified multiple areas of mismanagement by agents, for example, around occupancy numbers and growing household size with the addition of children. A lack of knowledge and familiarity with the rental system creates problems for tenants. Differing assumptions around tenancy agreements, including what can legally be asked for (e.g. requiring payment pet bonds which is not legal), have impacts on equity of tenure. Recent claims of greater tenant security from some build-to-rent developers who offer longer leases are also unsubstantiated in practice, considering no-grounds eviction.

The costs of poorly maintained rental properties are compounded for tenants in the broader context of utilities. Affordability needs to account for the costs of running the home, particularly energy consumption. There is little incentive for landlords to install sustainable and cheaper energy systems and many renters can only afford low-efficiency appliances, which increase costs in the long-term. The impacts of the costs of energy, including heating and cooling, will only increase as climate change drives more extreme weather events. This will make renters even more vulnerable. Affordable housing is intertwined with energy and sustainability policy.

Self-eviction may occur because of a previous eviction if the tenant has been unable to access suitable accommodation in time. In such circumstances, they might be forced to accept accommodation that is unaffordable, inaccessible, or otherwise unsuitable. Such tenants may stay for a short time while they find a more appropriate option, adding to their moving costs on top of the costs of the unsuitable temporary accommodations.

#### Box 5: The Sayed Family

The Sayed family have recently migrated to Australia. They are staying with family while they are looking for a place for them and their four children. Despite both being qualified engineers, Mr and Mrs Sayed have not been able to find employment within their profession. To make money Mr Sayed is driving taxis and Ubers, while Mrs Sayed has found casual employment at her cousin's business. They have a limited budget for rent and are finding that there are very few places large enough for their family which they can afford. Additionally, they have no local rental history, which they find most agents require.

On one occasion, after introducing herself Mrs Sayed was told the rental she was enquiring about was no longer available, yet she saw that it remained advertised online. The property was clearly still available, so she assumed she was deemed an undesirable tenant based on her name and accent.

The challenges the Sayed's faced in finding appropriate accommodation in the PRS led them to the informal rental sector. A friend of a relative mentioned they had a two-bedroom apartment to rent. Although the apartment is small for a family of six, the Sayed's had little choice but to take it. The three eldest children sleep in one room and the youngest sleeps in the parents' room. While happy that they have secured accommodation, the Sayed's are facing some challenges in their new home. Neighbours have complained about the noise the children make and strata has imposed a ban on children playing in common areas, which makes the apartment less than ideal to raise a family. Additionally, despite being reasonably new, the apartment is poorly built. Cracks have appeared in the wall and sometimes the doors are hard to shut, signs that there is building subsidence. It is also poorly designed for hot weather with little insulation and air flow. Soon after they moved in, there was one of the hottest days on record and the youngest child suffered severe heat exhaustion and had to receive medical treatment. To keep cool, they are running fans via extension cords from a non-compliant electrical outlet in the garage of the main house.

Despite the faults with the apartment and the challenges of bringing up a young family in a small space, the Sayeds view the apartment as a steppingstone to more housing options. Although it is leased informally, they are able to demonstrate their reliability as tenants including bank statements showing regular rent payments, and although not perfect, the apartment is a pathway to the PRS where they believe they will have more rights and options.

Source: Author research.

### 3.1.6 Discriminatory rental agreements and bonds

Rental agreements were discussed as containing multiple clauses that have unintentional discriminatory impacts. Different obligations and expectations around behaviour and noise were identified. For example, in cases where owner-occupiers can disturb neighbours, but tenants are not allowed to.

As an additional cost, bonds limit entry into the PRS and by whom. Bonds also compound the costs of moving, particularly when required to pay a bond to secure a new rental while still waiting for the bond on the previous rental to be refunded. People become locked into unaffordable rental situations because they cannot afford moving costs including bonds. Costs can be prohibitive and create debt. This is especially pertinent for lower income groups when considering typical moving costs include: four weeks of bond; two weeks of rent in advance; disconnection and reconnection of utilities; time from work and the cost of moving.

While most tenants get refunded the full bond, it can be a traumatic and disputed process. Many tenants feel they are unable to challenge or dispute real estate agents' false claims. The lack of knowledge about rental agreements noted above, also impacts this. Agents may withhold bond for items which can be attributed to fair wear and tear or request extra cleaning without tenants being aware of their rights in relation to this.

### 3.1.7 COVID-19 trends and effects

The impacts of COVID-19 were not the focus of the report. However, as the research was undertaken during the pandemic, the expert panel raised issues around additional stressors that are likely to occur—or were being observed—due to its impacts.

#### Corporate landlord buy-ups of distressed housing

Following the Global Financial Crisis, the US saw a rise of corporate, private equity-backed buyout of housing, which impacted older, more racially diverse suburbs and were enabled by the efficiency and automated affordances of digital technologies (Fields 2019). Similar processes are expected in the context of the current COVID-19 pandemic with large investors such as Blackstone and Housing Canary already being mobilised. Impacts of corporate land buy-ups are likely to increase inequity, displacement, and gentrification.

#### Working from home and the evacuation of CBD office spaces

Key concerns associated with this shift include:

- Central business district spaces being opened-up to co-living investors with the potential to create affordability and regulatory issues.
- The trend of employers towards tying salary to place of residence while allowing 'work from anywhere', encouraging elite professionals to retain urban properties/leases while they move to regional areas causing likely increases in informal urban sublets.
- The flow-on impact of these shifts on lower income renters in both urban and regional areas. The identified trend of urban dwellers moving to regional areas during the pandemic is likely to result in rent increases and displacement of lower income renters in these areas.
- COVID-19 has revealed that landlords have underestimated risk of investment, with a reliance on growing rent and capital gains. Rent moratoriums and reductions during COVID-19 have been generally contested by landlords who rely on these payments to pay their mortgage.
- Working from home increasing energy costs during tenancies.

#### Labour and social security shifts

COVID-19 is exacerbating income and employment-based discrimination, with gig-economy workers, and those (increasing numbers of people) reliant on government assistance viewed by landlords and agents as risky tenants.

### Threat of eviction

Eviction during the COVID-19 pandemic has posed risks for private renters beyond those ordinarily faced. Eviction during the pandemic could place people in circumstances where they might be exposed to the virus, which is a particular concern for people with underlying health conditions. For those in informal rental situations, the risks of evictions markedly increased. Stay at home orders and official health recommendations caused conflict among tenants in sharing situations, many of whom are informal renters. Differential impacts on employment and income based on industry of employment added to these challenges.

State-implemented moratoriums on evictions have varied during the COVID-19 pandemic. In NSW, no-grounds evictions provided a loophole for determined landlords, and eligibility requirements meant that people at financial risk of eviction before the pandemic hit were unlikely to be protected.

Informal renters, including those in share housing, were also not covered under the moratorium. Advised 'good faith' rent-reduction negotiations failed to address the power imbalance between tenants and landlords, particularly for those in informal situations with few rights. Rent deferral agreements may only serve to delay eviction and may put tenants in a situation of untenable debt.

Concerns have been raised about the potential blacklisting of renters unable to pay during COVID-19 by tenant screening companies and technologies.

#### Box 6: Otto

Otto works in hospitality in the city. In 2019 he was living in a house in the city that he had been renting for a few years. While previously subletting at the house, he had taken over the lease when his housemate moved out and he had chosen to stay. He had two housemates who were subletting. During the 2019-20 summer bushfires, Otto's asthma was particularly bad and, after being hospitalised one night with an asthma attack, he was forced to purchase an air filter for his bedroom. During the COVID-19 pandemic the bars Otto worked at shut down and he became reliant on government payments. At the time he was living in a house with two housemates who also lost their employment, and one of them moved back home with their parents. Otto and his remaining housemate looked hard to find another housemate but were forced to cover the rent between the two of them until they find a replacement. They advertised on flatmate finding websites and, while desperate for a new housemate, they were wary of getting a housemate without well paid, secure work. Although rental prices in major cities have declined since the pandemic, Otto's landlord would not reduce their rent and although Otto considered moving to a cheaper property, he could not afford the upfront costs of moving. Otto did not consider asking for a rent deferral because he will not be able to repay the debt.

In winter Otto's asthma was triggered by the cold air in the house, and to manage it, he was forced to sleep with a heater on most nights. As a result of the additional appliances, the household electricity and gas bills were significantly higher than normal. Otto has had to arrange an instalment plan to pay his electricity and gas bills. He has since had many arguments with his housemate, about a fair division of the bills given their relative usage, during which his housemate threatened to move out if Otto did not pay a larger share of the bills.

The real estate agent has suggested that Otto access his superannuation to pay his rent but after checking with his local tenants' union, Otto is advised that ASIC has advised any agent requesting tenants to draw upon their super, is likely in breach of the Corporations Act. Otto tells the agent he will not pay with his super. Within a few days, Otto is given an eviction notice. Despite an eviction moratorium being put in place to stop evictions during the pandemic, Otto's landlord is claiming that he is suffering genuine hardship and Otto and his landlord have taken the case to the Tribunal. Regardless of the outcome, the ban on evictions ends in March 2021 and Otto fears that he will be evicted because of the impact COVID-19 and his health has had on his ability to pay rent.

Source: Author research.



## 3.2 Policy and regulatory areas

Discrimination in the PRS is influenced by policy and regulatory areas, which are beyond the housing sector. The panel noted a range of policies and actions that have uneven effects on individuals, and frequently compound the experiences of discrimination. Table 6 details relevant policies and regulatory areas that intersect at each stage of the rental process. The list is not exhaustive but was informed by evidence review and panel. For each stage, the policies that can influence discrimination are listed alongside a column listing potential interventions that acknowledge and redress the links between policy and systemic discrimination.

Here, we elaborate on one example to illustrate this intersection at play. Retirement policies are listed across three of the stages. This is because being a home owner by retirement significantly effects outcomes in later life, and the ability to access home ownership, which is influenced by structural inequity. For example, women typically have earned less than men over their lifetime because of time out of the work force for caring duties and the gender wage gap. Women typically accrue less wealth, which impacts their access to home ownership and effects their ability to provide for their retirement. Superannuation and home ownership are key tenants of current Australian Government policy on retirement, characterised by increasingly individualised responsibilities of care. Home ownership is assumed and prioritised, with the home positioned as an asset to fund a productive and consumer-oriented retirement (Power 2017).

Here, ageing and retirement policies are inextricably linked to housing provision. For those who rely on the pension, additional policies come into play. There is a dearth of affordable housing for those on social welfare (Anglicare 2019). This underpins geographies of discrimination, and also makes energy policy and the subsequent cost of household utilities, key factors in determining who can access and afford housing.

When considering discrimination in the PRS, researchers and policy makers must consider policy holistically. This requires thinking beyond housing policy to other areas that impact on the experience of housing including health, energy, environment, retirement, and ageing policies among others.

## 3.3 Key data gaps

The expert panel revealed some key data gaps necessary to address in relation to discrimination in Australia's PRS. These gaps relate both to the need to enhance understanding of the PRS and to address the issues recognised at present. We list these gaps here and recognise that there are undoubtedly many more that were not raised in the discussion. These are broadly grouped into the following themes.

### Residence, ownership, and investment data

- primary place of residence data
- landlord ownership patterns to enable better monitoring of property accumulation and monitor corporate buyouts
- determine geographies of social (and affordable) housing need based on who would live in an area if they could (more holistic affordability) not simply the need given the housing stress of current inhabitants determined through displacement measurements.

### Rental rates and bonds data

- improved recording and monitoring of rental rates
- calculate the cost/benefit of the bond trust system by calculating the bond funding pool (and interest earned on that) alongside the bond burden on renters
- calculate viability of eliminating bonds or reversal of bond system through landlord contributions to a moving/mobility/housing disruption bond to discourage landlords from ending tenancy agreements—possible utilisation for repair funds
- increased availability of data around bond returns rate and bond return discrimination markers.

Table 6: Intersecting policy and regulatory areas and interventions

Rental stage	Policy and Regulatory Levers intersecting with Discrimination	Interventions
<b>Procurement and investment</b>	<ul style="list-style-type: none"> <li>• Taxation, e.g. negative gearing</li> <li>• Retirement policy, superannuation, aged pension, and home ownership nexus</li> <li>• Data and PropTech</li> <li>• Urban planning, ownership, and community participation</li> </ul>	<ul style="list-style-type: none"> <li>• Taxation <ul style="list-style-type: none"> <li>• taxation settings and levers such as negative gearing are key drivers of inequity, should be reconsidered; design with awareness.</li> </ul> </li> <li>• Retirement Policy <ul style="list-style-type: none"> <li>• increase affordable rental housing for those on pension.</li> </ul> </li> <li>• Technology <ul style="list-style-type: none"> <li>• tenant advocacy technology</li> <li>• design with awareness.</li> </ul> </li> <li>• Planning <ul style="list-style-type: none"> <li>• inclusive planning</li> <li>• community consultation inclusive of tenants as well as owners and investors.</li> </ul> </li> </ul>
<b>Advertising and tenant selection</b>	<ul style="list-style-type: none"> <li>• Tenancy</li> <li>• Housing market/planning</li> <li>• Immigration and refugee policy</li> <li>• Social security</li> <li>• Energy Policy (affordability)</li> <li>• Environment Policy (Adequate housing)</li> <li>• Health and ageing policies</li> <li>• Retirement policies</li> <li>• Tenancy Acts (pets)</li> </ul>	<ul style="list-style-type: none"> <li>• Tenancy: Anti-discrimination legislation</li> <li>• standardised rental applications</li> <li>• tying together employment and accommodation regulation</li> <li>• regular data and auditing of policy levers through a discrimination lens</li> <li>• shift community perception of 30% housing stress</li> <li>• housing: Real estate foreign investment rules</li> <li>• housing: Addressing supply to address mass applications as an easy source of discrimination.</li> <li>• Housing: <ul style="list-style-type: none"> <li>• building social housing to address demand, alleviate income support needs and set quality standards; attending to the geography of social housing need more critically</li> <li>• expand social housing eligibility to include non-permanent residents.</li> </ul> </li> <li>• Social security: <ul style="list-style-type: none"> <li>• wealth redistribution and increased social security/ universal basic income.</li> </ul> </li> </ul>
<b>Rental Agreement and bond management</b>	<ul style="list-style-type: none"> <li>• Tenancy Regulations and Acts</li> <li>• Discrimination Laws</li> <li>• Social security/planning/stimulus</li> <li>• Retirement policies</li> </ul>	<ul style="list-style-type: none"> <li>• Tenancy: <ul style="list-style-type: none"> <li>• rebalancing information access re tenants/landlords – e.g. property ownership, eviction practices etc.</li> <li>• community education around bonds; education of rights for tenants (inc. school) and of responsibilities for landlords and agents.</li> </ul> </li> <li>• Social security/planning/stimulus: <ul style="list-style-type: none"> <li>• government to bear some of the costs of mobility (e.g. with regional movement and other recession-based and non-recession-based mobility).</li> </ul> </li> </ul>

Rental stage	Policy and Regulatory Levers intersecting with Discrimination	Interventions
<b>Tenancy, repairs, and maintenance</b>	<ul style="list-style-type: none"> <li>• Tenancy Regulation and Acts:</li> <li>• Discrimination Laws</li> <li>• Taxation</li> <li>• Energy</li> <li>• Climate and sustainability</li> <li>• Planning</li> <li>• Health</li> </ul>	<ul style="list-style-type: none"> <li>• Tenancy: <ul style="list-style-type: none"> <li>• set minimum quality standards for property upkeep, as well as for internet speeds, low-efficiency appliances, and furnishings (where applicable).</li> </ul> </li> <li>• Taxation: <ul style="list-style-type: none"> <li>• capital gains; incentives for high-efficiency homes.</li> </ul> </li> <li>• Planning <ul style="list-style-type: none"> <li>• housing supply and affordability</li> <li>• energy-efficient housing.</li> </ul> </li> <li>• Health: <ul style="list-style-type: none"> <li>• minimising out-of-pocket costs for people with chronic health conditions</li> <li>• provision of home modifications for elderly, disabled, or those with limited mobility.</li> </ul> </li> </ul>
<b>Eviction and advocacy</b>	<ul style="list-style-type: none"> <li>• Tenancy Regulations and Acts</li> <li>• Discrimination Laws</li> </ul>	<ul style="list-style-type: none"> <li>• Tenancy: <ul style="list-style-type: none"> <li>• Create standards around collecting and accessing data</li> </ul> </li> <li>• Digital Technology for Advocacy: <ul style="list-style-type: none"> <li>• provide tenants with more information</li> <li>• make data around landlords and corporate investment accessible</li> <li>• track eviction: e.g. Anti-Eviction Mapping Project</li> <li>• landlord tech watch.</li> </ul> </li> </ul>

Source: Author research.

### Eviction data

- There are issues around the consistency, accuracy, and access to eviction data. Combined with research on what constitutes good landlord and tenant relationships, these data sets could produce better tenant outcomes and improved security of tenure.
- No official tracking in NSW or Australia of eviction numbers or causes. In NSW, the rental tribunal lists are the current data source. Documenting land titles associated with owners would improve visibility of ownership and bond tracking. Finding information on the numbers and causes of eviction in informal tenancies is particularly challenging.
- The bond survey (NSW) is used to track eviction causes but is currently voluntary nor available nation-wide. Making this survey mandatory and expanding into more jurisdictions would provide useful data to understand who is at greatest risk of being evicted, and not receiving bond returns. Such expansion requires a commitment of government funding and public access to the data to ensure researchers and advocates can utilise it.
- Data is needed on what motivates landlords and agents to evict tenants. This data may help to provide a better understanding of the divergent interests between agents and landlords. Agents have a vested interest in tenant turnover and rent increases while landlords typically prefer a stable income. This data need is also relevant to strata situations.
- Enhanced understanding of the characteristics of a good landlord-tenant relationship and what motivates landlords to not evict tenants in certain circumstances. Such an understanding would also help enable better tenancies and improve tenure security.

### Technology

- Algorithmic discrimination: detailed research is needed to understand the discriminatory effects of decision-making algorithms used in specific property technologies.
- More understanding of tenant monitoring by landlords and property managers, including with new digital technologies.

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## 4. Conclusion: approaches to address discrimination in Australia's PRS

- This concluding chapter draws together the findings of the evidence review and expert panel to outline a framework for addressing discrimination in Australia's PRS. For Australian policy, research and advocacy, more immediate priorities for action and opportunities for collaboration are also laid out.
- Addressing the intersectional character of discrimination in Australia's PRS demands a holistic and a people-focussed approach. Policy responses should be holistic with attention to health, energy, social security and labour policies, and multi-scalar, with foci on foreign investment, construction and planning, and specific rental regulations.
- Researchers, government, and renter advocates should have access to data sets to allow for ongoing monitoring and scrutiny of the PRS, and identification of shifts in instances of discrimination. Such advocates provide critical perspectives to government through their understanding of policy through the experiential lens of renters.
- The power imbalance between landlords and tenants in Australia must be addressed in part by relieving pressure from the PRS, particularly at the lower end. This requires increasing public or social housing and low-cost rental supply and removing negative gearing, among a wide range of other measures.
- Mechanisms to adjust the incentives, rights and responsibilities of landlords, agents and tenants are important further tools to amend this imbalance. Such mechanisms should include clear and comprehensive rental agreements; agent professionalisation; and dwelling standards. The growing proportion of informal tenants—particularly 'sharers'—in the Australian PRS, underscores the need to for protections to be put in place for this group.

- **The growing number of informal tenants (many of whom live in shared accommodation) in Australia's PRS increases the potential for, and complexity of, discrimination across the rental system. Informal tenants have few renter's rights. Those seeking, or residing in, share-housing can also face discrimination by other tenants including via little-regulated digital technologies.**
- **Digital housing technologies—and their differential use and regulation—is an emerging area in need of more research and policy attention. Currently, the PropTech landscape markedly benefits landlords and agents over renters and can exacerbate discrimination and its effects. Property technologies should be developed to address discrimination in Australia's PRS. Government can facilitate this sector with meaningful collaboration and by providing rental data sets to advocate groups and housing researchers on an ongoing basis.**

This Chapter ties together lessons from the preceding three Chapters to outline approaches to addressing discrimination in Australia's PRS. Sections 4.1 and 4.2 lay out a framework for intersectional and data-driven approaches (respectively) including specific levers for consideration in the Australian settings. Section 4.3 outlines priorities and opportunities for Australian policy, research and advocacy, including policy areas demanding immediate action and specific opportunities for collaboration. In 4.4 we provide some concluding thoughts.

This chapter also draws important lessons from the information synthesised in Boxes 1–6 across the preceding sections. Boxes 1–3 speak to policy interventions that directly, or indirectly, have sought to address discrimination in private renting. Mechanisms with relative success are placed in longer-term national contexts to demonstrate the importance of multi-scalar and structural changes and well as institutional levers for holistic change that impact on longer term national cultures around housing and renting. The pitfalls of the approaches discussed speak to the need for informed and targeted policies. While limited, the expert panel findings presented in Chapter 3 demonstrate the importance of grounding specific responses in contextual, collaboratively informed understandings. Boxes 4–6 explain the lived experiences of discrimination. These vignettes highlight the intersectional character of disadvantage and discrimination and point to the need for holistic, intersectional, approaches to address the compounding discriminatory forces in Australia's PRS.

#### **4.1 Intersectional approaches: people focussed policy**

The character of discrimination in Australia's PRS as highlighted in this report demands an intersectional response. This first section responds to the intersectionality of discrimination with an approach that orients around the experiences of those discriminated against. The key priorities identified in this approach are:

1. holistic policy changes that attend to the complex issues facing people in the rental system—changes that go beyond those directly regulating the PRS
2. to rebalance disparities—particularly between landlord and tenant—that enable the types and extent of discrimination in Australia's PRS.

This scoping report has highlighted the need for a more intersectional approach to effectively understand, and respond to, discrimination across the entire rental system. This section focuses on the need for policy responses to discrimination in Australia's PRS to focus on the people being discriminated against. Overlapping and co-constituting identities are complex (Crenshaw 1989 and Collins 1990) and produce multiple different outcomes of discrimination in the PRS. A greater understanding of these intersectionalities as they interact within and across the rental system is needed (see 4.2). Policy responses must also be intersectionalised to encompass these interactions, overlaps and co-constitutions of experience. An orientation around policy settings—particularly in the PRS alone—cannot sufficiently address the sector's discrimination problems.

Beyond expanding understandings of the intersectional character of experiences of discrimination in the Australian PRS, this report has also begun to reveal the substantial—and uneven—burden this discrimination places on Australia's substantial and growing renting population. The stories of Kathy, Otto and the Sayed family (Boxes 4–6) are indicative of the ease through which discrimination takes place in both subtle and overt ways across the entire rental system. Their stories illustrate the profound and compounding effects such discrimination has on the everyday lives of ordinary people. They also hint at the enormity of the wider burden of discrimination in Australia's PRS.

Expanding understandings of these experiences, and the burden they produce, dictates that appropriate policy responses be considered across intersecting policy areas, beyond, yet inclusive of, rental regulation (4.1.1). A siloed focus on policy will leave gaps in regulation and enforcement that are likely to be exploited. Such circumventing of anti-discrimination intent by discretionary and opportunistic agents and landlords is a recurring theme emerging from this report (see also Boxes 1 and 2). Moreover, while components of the PRS may work in theory—or indeed, for some—they may not function in a way that addresses issues of discrimination for everyone.

A key example of the need for people-focussed policy emerging from this report is in the (previously little-considered) area of discrimination within tenancies (as opposed to barriers to entry and circumstances of eviction). This area includes energy, repairs, and maintenance, which can place substantial additional burdens (financial, psychological, physical) on renters. In this vein, the report's inclusion of procurement and investment as a stage in the rental process also illuminates under-recognised areas of discrimination. Many people do not appear as discriminated against across the usual processes of renting because they have been excluded from the market entirely for financial or other reasons. This exclusion is reflected in the substantial and growing homeless population and lengthy lists for public or social housing in Australia and elsewhere (Faulkner et al. 2019).

Central to comprehending and responding to discrimination in Australia's PRS is understanding experiences of the power imbalance between tenants and landlords and/or agents (4.1.2). Countless instances of discrimination in the PRS are obfuscated by this imbalance. People-focussed policy in the Australian PRS requires a fundamental shift in political priorities to better balance the rights of renters and home owners. Existing imbalances mean that any changes are unlikely to put renters in a position of power any time soon. Preventing the widening of this disparity must be an immediate priority.

Section 4.1.2 demonstrates how the managing of incentives, rights and responsibilities of all parties is critical to addressing this imbalance and, hence, the ability to discriminate in the PRS. Discrimination in the PRS can be overt, but is often subtle, and may occur unbeknownst to those being discriminated against. Therefore, beyond improving understandings of tenants' experiences of discrimination, greater understanding of the motivations and behaviours of landlords and agents is also needed to better understand the modes of discrimination in the PRS. Understanding these motivations and behaviours enables more effective targeting and regulation of the incentives, rights and responsibilities of landlords and agents, as well as tenants.

Finally, a central ingredient for producing meaningful people-focussed anti-discrimination policy is to ensure effective and ongoing communication and resourcing between different levels of government, advocacy groups and enforcement agencies. A strong advocacy sector is essential to provide meaningful links between renters and policy makers to identify and address the structural issues and regulatory and enforcement gaps that result in discrimination. The case of German rent regulation (Box 1) evinces the substantial benefits for tenants where

advocacy and legal aid is readily available, widely representative, and wields political power. Strong advocacy and the ability to produce people-focussed policy relies on up-to-date data and research. This will be discussed more fully in 4.2. Including, but also beyond broad tenancy advocacy, peak bodies representing groups who experience discrimination should have the opportunity to audit policy levers through a discrimination lens. Alongside strong advocacy linked to renters themselves, paired testing (see Chapter 2) is an important research tool for understanding how discrimination takes place in real world settings.

#### **4.1.1 Holistic: policy approaches beyond rent regulation**

A holistic approach to addressing discrimination in Australia's PRS recognises the ways in which discrimination plays out in subtle and overt forms across the entire rental system. The ingrained and dispersed character of discrimination necessitates attention across a range of policy areas beyond rental regulation—areas identified at each tenancy stage, as outlined in Chapter 3. This section summarises some of the key areas, recognising that there are many more that are also contiguous to the issue of discrimination in the PRS. The necessity for a holistic policy approach also reflects the interactional and intersectional character of discrimination in the PRS.

Shifts in access to the PRS are intractably entwined with wider societal and economic change, and vice versa. Relatedly, a holistic approach demands consideration of the complex multi-scalar character of efforts to address discrimination in the PRS. These efforts must involve mechanisms shaping the rental market as a whole—including public and private sectors—and the housing market more broadly.

The cultural dominance of the ideal of home ownership no longer reflects the reality of the Australian residential landscape. Despite the substantial growth in numbers of Australian private renters, including those in the informal sector, the political power of this ideal contributes to those policies driving the imbalance discussed further in 4.1.2. Box 1, in Section 2, demonstrates the way in which cultural change around renting and home ownership develops through the cumulative, holistic policies shaping the housing market. Cultural change to shift the mindset of Australians around renting—led by a key role for advocacy groups in consultation with government—is an important component of addressing discrimination in the PRS. This long-term project requires sustained pressure and the addressing of multi-scalar, structural issues as well as institutional levers.

#### **Multi-scalar and structural: reshaping the broader housing market**

Structural discrimination results from broader societal inequalities and reproduces these structures of disadvantage in the way that the PRS operates. Addressing structural discrimination in the PRS requires shifts across the policy spectrum in the labour market; social security system; transportation; healthcare; energy; climate; immigration; ageing; cyber security.

This report has revealed how shifts in these areas ostensibly tangential areas are entwined with discrimination in the PRS. The intersections are many and complex. As one example, gender pay disparities have profound implications for who can afford to buy a house and who ends up as lifelong renters.

Structural factors also play a key role in determining the size and scope of the informal rental system. Due to the added issues with the quality, standards, and rights in the growing informal market—and added difficulty in regulating it—those policy areas tied to its growth should be given substantial attention. This includes those that shape employment and income level stability, such as labour market restructuring and social security. Addressing stagnant wages should be prioritised.

Mechanisms that reshape the housing market to remove pressure from the PRS are essential to reduce discrimination. These mechanisms require a recognition of the interrelatedness of the PRS with public and social housing and home ownership, and hence, consideration of the tax and other financial regulations that shape these markets. Unsustainable pressure at the lower end of the private rental market must be alleviated as a key to enable an affordable PRS. Where people live—and in many cases are forced to live—can have significant impacts on their cost of living, particularly where transportation is limited or inaccessible. The location of housing is therefore an

important factor that should be considered in tandem with other policy concerns. These include development application processes, urban planning, construction, taxation settings, and the supply and availability of housing across private, social and public rental properties. Some important changes required include:

- increasing public or social housing stock, particularly attending to the geography of need and setting industry-wide quality, amenity and energy efficiency standards
- construction tied to renter demand; addressing the ability for problematic developer influence in planning and development application processes
- financial and tax incentives to build for and rent to low-SES tenant.
- reducing incentives for multiple investment properties including negative gearing, including efforts to limit corporate buy-ups in distressed housing contexts and zoning to limit co-living spaces likely to exacerbate unaffordability
- rental controls
- crisis housing for victims of domestic violence or other highly vulnerable groups must also be available and suitable, including being adequately secure and allowing pets
- financial assistance to accompany labour mobility policies
- real estate foreign investor rules
- addressing strata regulations to remove added opportunities for discrimination e.g. Noise complaints
- taxing empty properties

Regulating the private rental market demands attention to the supply and availability of properties at levels of affordability that meet demand. Low-cost rental accommodation—and indeed all dwellings—should meet minimum standards that do not pose risks to tenants. At the same time, ensuring there is availability across the rental market requires limitations on renovations and improvements used to justify rent increases that exacerbate discrimination against vulnerable tenants.

The multi-scalarity of the housing market also underscores the need to attend to local market differences, particularly between urban and regional markets. Labour mobility has emerged as a key intersection in the Australian context of this report, with the COVID-19 pandemic impacting the shape and location of rental need (Rogers and Power 2020; Maalsen et al. 2020). Relative location of amenities such as education, employment and services are key considerations and inform discrimination through increasing travel time and decreasing ability to access such services and amenities. Diminished productivity, health, and wellbeing as a consequence of inconvenient housing locations highlights the structural and holistic character of discrimination and disadvantage.

Discrimination is by no means a phenomenon only within pressurised urban markets. Smaller rural and regional markets provide distinct challenges (as shown in Table 5 and Section 3.1.4), with decision-making often more concentrated, especially at the agent or property management level. Discrimination in such contexts can therefore have more profound impacts as people may find themselves unable to access any properties in an entire town or region.

#### **Institutional levers for individual change**

While at the individual level discrimination may manifest as prejudice based on race, age, gender, household size, income and so on, these prejudices are most commonly driven by biases tied to perceptions of risk. It is the institutional settings through in which these biases are permitted (or not) to result in discriminatory behaviours.



Institutional exclusion mechanisms in the PRS relate to the technologies, policies, and laws within which private renting operates. Their importance is enhanced beyond their direct impacts since experiences of discrimination are shaped and compounded by existing discrimination and disadvantage. Additionally, the impacts of discrimination are exponential; those who are discriminated against are more likely to be forced to accept substandard properties and move frequently, compounding the costs associated with utilities, health, and mobility. Evidence suggests a growing link between housing costs in the PRS and poverty (Tunstall et al. 2013)

Numerous institutional mechanisms in the PRS enable discrimination. Many strata arrangements, for example, prevent tenants from having pets or children (Power 2017, 2018). State legislated Tenancy Acts that still allow no-grounds evictions are complicit in discrimination, enabling landlords to evict tenants without reason. Other important institutional levers to reduce discrimination emerging from this report include:

- longer term and secure tenancies
- regulating rent increases
- limiting grounds for evictions, removing no grounds evictions where in place, and requiring proof of grounds
- meaningful dispute resolutions including compensation, such as partial rent refunds where repairs are not made in a timely fashion
- anti-discrimination rental regulations, especially around advertising and tenant selection processes
- removal of potentially discriminatory clauses in rental agreements
- increasing rights for informal tenants
- professionalisation and standardisation in property management practices and rental application processes (see 4.1.2)
- property standards (see 4.1.2 and New Zealand Healthy Homes).

Regulating new digital technologies, their design and use, should also be a key institutional focus of efforts to address discrimination in the PRS. The ways in which users of such technologies are unwittingly practicing or experiencing discrimination through use of these technologies is little understood and may be entirely obfuscated within algorithm designs (Eubanks 2018; Noble 2018). With the rise of informal tenants and digital 'flatmate-finding' technologies, more research is also needed to understand these technologies themselves, and the motivations and decisions of those using them.

#### **4.1.2 Balanced: managing incentives, rights, and responsibilities**

The power imbalance between landlords and renters in Australia amplifies the potential for discrimination across the entire rental system. Anti-discrimination policy must focus on diminishing this imbalance at multiple scales. Managing the incentives, rights, and responsibilities of landlords, in particular, as well as agents and renters, is a complex and essential requirement. The responsibilities of landlords and agents are often unclear and can be circumvented—particularly when tenants have few alternative options—and the distinction between discretion and discrimination murky.

In Australia, a range of policies that have encouraged the financialisation of housing, including negative gearing and the expectation of capital gains, have over-incentivised housing as an asset for those who can afford it (Hulse et al. 2020). This incentive has primarily benefitted existing owner-occupiers, creating profound imbalance in the system that must be remedied by directly addressing these policies.

Discretion by landlords and agents around financial and legal risk places many groups at substantial risk of discrimination. Improving supply—especially in the middle and lower end of the PRS as well as in public and social housing—is necessary to minimise this risk. In addition to rebalancing the rental supply, responses that address discrimination should utilise incentives for non-discriminatory behaviours and disincentives for discriminatory behaviours.

Substantial variation in the professional standards of landlords and agents further obfuscates the landscape of discrimination. Differences in the information provided to potential tenants about properties for rent underscores the need for standards in agent behaviour and information provided to tenants. Contrasting interactions between agents and tenants are a commonly observed, yet difficult to monitor, mode of discrimination. For some tenants, agents may focus on responsibilities of the prospective tenant and rules of tenure. However, for others, they may focus more positively on selling the features of the property. Professionalising standards within property management could also ensure agents do not unfairly favour landlords over tenants. This could include standardising practices around housing inspections and the need for repairs.

Moreover, this scoping report identifies competing incentives and motivations of agents (see Box 1) and landlords that should be understood more fully to better manage incentives, rights, and responsibilities in order to diminish discrimination. For example, new digital technologies can potentially be used to link tenants with landlords (where the former meet appropriate standards), thereby removing some of these competing incentives. More broadly, clear standards, rules, and protections around discrimination should be established and consistently applied. Hence, there is no difference regardless of whether the tenancy is being offered by a landlord or an agent.

Setting and enforcing specific and minimum standards for repair and dwelling condition (see the Aotearoa/New Zealand Healthy Homes standards, for example) is necessary. Enforcement could be supported by the inclusion of these specific and minimum standards in rental agreements. Establishing standards can also help landlords and agents. In cases where tenants are overly demanding, they can point to specific obligations fulfilled, avoiding the need for official dispute resolution.

Providing easy to understand and comprehensive rental agreements, which clearly set out the rights and responsibilities of each party—including around bond returns—can also counter discrimination. Rental agreements should include details on processes for disputes where onus of proof is fairly placed; including contact information for relevant tenants' associations should they be required. Access to assistance (financial, linguistic, legal) should be available.

Differential perceptions of those renters who attempt to confront discrimination in the rental system are also mediated by power imbalances determined, and compounded, by a range of social and economic factors. Efforts should focus on neutralising these impacts through the specific elements outlined above. In addition, pathways for redress must be worth pursuing for tenants; they must be affordable, not overly time consuming, straightforward, and where appropriate, compensation should be paid and/or the opportunity to continue in a tenancy. More broadly, financial penalties and disincentives should apply when landlords behave poorly, such as delaying or avoiding repairs.

The decline in home ownership coinciding with the growth of the PRS has likely produced another troubling secondary effect. Exclusion, both real and imagined, of renters from urban planning consultation processes, has the effect of diminishing the input of this large and growing group in planning decisions. While more research is needed on the extent of this problem—and its links to length of tenure—it appears likely that local planning decisions are being skewed away from the wants and needs of those who live in those areas. Therefore, educating tenants about their rights should extend to encouraging their inclusion in such public debates and discussions. This issue is undoubtedly tied to the problem of length of tenure, and the often pre-determined character of 'consultation' outcomes.

## 4.2 Data-driven approaches: informed and targeted policy

The second part of our approach to address discrimination in Australia's PRS is that it be data-driven. A data-driven response advocates a key role for tenant's groups and researchers, both in order to audit discrimination occurring in the PRS and to create digital tools that can be used to diminish discrimination by providing benefits to tenants.

### 4.2.1 Informed: knowing contexts and addressing data gaps

To implement an intersectional, people-focussed policy agenda, there is a need to address key data gaps in understandings of experiences of discrimination in Australia's PRS. Many of these key data gaps are outlined in Section 3.6, however the nature of gaps means many are yet to be identified. The gaps identified relate to both specific rental data and understandings of discrimination in Australia's PRS more broadly. Recognising gaps in data is a crucial step in implementing more effective tools against discrimination. Addressing data gaps allows for better ongoing monitoring of the types and modes of discrimination and hence, the ability to address it in targeted ways.

Table 7: Key PropTech with potentially discriminatory effects across the rental system

Rental system elements	Digital technology/application and discriminatory effects
<b>Procurement and Investment</b>	BrickX; CoVesta; <ul style="list-style-type: none"> <li>Fractional real estate companies which encourage fractional ownership as investment.</li> <li>Although making home investment more accessible by encouraging investment, these technologies continue to inflate the property market and further exclude those who cannot afford to enter the market.</li> </ul>
<b>Advertising and tenant selection</b>	RentBerry; RentWolf; CoreLogic Rental Property Solutions <ul style="list-style-type: none"> <li>These enable algorithmic discrimination and profiling. It is established that there is inherent bias in screening technologies and that algorithms are not objective evaluators. Such tools have been shown to enable discrimination on racial and class lines.</li> <li>These apps also encourage rent bidding which discriminates against those with less income.</li> </ul>
<b>Rental agreement and bond management</b>	Bond loans and Bond Insurance such as TrustBond and SureBond. <ul style="list-style-type: none"> <li>These platforms collect data from other platforms such as Airbnb to 'profile' the renter and give them a credit risk score. This raises concerns around the bias and accuracy of this data.</li> <li>Bondloans: fees and interest mean increased costs in the long term, penalising those without resources to pay upfront.</li> </ul>
<b>Tenancy, repairs, and maintenance</b>	Surveillant technologies and smart locks; PooPrints <ul style="list-style-type: none"> <li>Technologies are increasingly applied to manage tenants remotely, including access to buildings based on biometrics or smart locks, enabling the monitoring movement patterns.</li> <li>Pets are also surveilled. PooPrints is a technology that collects DNA samples from residents' pets to identify owners who allow their pets to defecate in communal areas.</li> <li>These discriminate against renters by increasing surveillance for disciplining purposes and restricting agency.</li> <li>In the US concerns have been raised about the sharing of data from surveillant entry systems with third parties including police and immigration.</li> <li>It also discriminates against older residents who may be unable to use the technology.</li> </ul>
<b>Eviction</b>	ClickNotices automated eviction technology <ul style="list-style-type: none"> <li>Automated eviction does account for human factors, error, or bias.</li> </ul>
<b>Advocacy</b>	Anti-Eviction Mapping Project; JustFix N.Y.; Don't Rent Me In; <ul style="list-style-type: none"> <li>Collates information on landlords who don't meet their legal management requirements; and collect, document and share information that helps low-income earners secure and maintain their homes.</li> </ul>

Source: Author research.

Both the international evidence review, and the Australian expert panel evinced the significance of local contexts in shaping discrimination in the PRS. Understanding these contexts are therefore necessary for appropriately targeting strategies. Improved understandings of historical housing policies are essential to fully understanding the shape of local and national housing markets, and related cultural understandings and perceptions of private renting.

There are significant opportunities to leverage new digital technologies to better inform anti-discrimination strategies and tools for the PRS. At the same time, the current and emerging local and global landscape of digital technologies adds another layer to discrimination in Australia's PRS. Table 7 is an intermediate outline of some of these property technologies as they potentially contribute to discrimination across the rental system and is based on previous work by the authors and the expert panel (Fields and Rogers 2019; Rogers, Sadowski and Maalsen 2019). The Table is organised around the rental system elements that emerged from the evidence review and were also used to structure the expert panel discussion. To date, policies have largely been reactionary where significant issues have arisen because of such technologies. Ongoing research is required to inform a comprehensive typology of PropTech impacting the rental market. Such a typology is necessary to pre-empt new discrimination drivers and respond in a timely way to gaps in existing regulation.

A crucial point emerging from the expert panel (Chapter 3) was that there were difficulties in the representativeness of certain data measurements. For instance, location-based eviction data, while helpful, does not accurately reflect the numbers of people who would like to live in an area. A more accurate geography of social and affordable housing need is required. This means asking who would live in an area if they could, i.e. more holistic affordability not simply the need given the housing stress of current inhabitants determined through displacement measurements. Relatedly, informal housing currently makes up a substantial proportion of the PRS and the housing market as a whole. Available data on the PRS that excludes informal rental data will therefore be incomplete and require appropriate supplementation to produce suitable responses.

#### **4.2.2 Targeted: utilising data for responsive and pre-emptive policy**

The complexity of discrimination in the PRS that emerges throughout this report highlights the need for data to inform specific, targeted responses. Policy should be responsive though not reactive. That is, where regulatory gaps or other issues are identified, timely and targeted responses should follow. Data can also be used to pre-empt where issues may arise. Global research on artificial intelligence, PropTech and other housing market trends, for instance, will help to put Australia on the front foot of addressing potential new avenues of discrimination in the PRS.

The following should be addressed to develop targeted responses to the issue of discrimination in the PRS:

- Suitable data requires ongoing funding and availability to produce useful, sound data; Section 2 demonstrates the importance of correct, up-to-date data underpinning targeted responses.
- Data access by advocates is essential for ongoing auditing of discrimination.
- Advocates and researchers should inform the types of data collected to ensure its utility and address security concerns.
- Specific regulation of discriminatory elements, particularly those targeting the most vulnerable, such as predatory payday lenders and certain bond insurance products, as well as the issue of pets in rental properties.
- Specific, targeted responses across a range of intersecting policy areas, including mental health, superannuation, and energy (see 4.1.1 above) will be essential to address discrimination in the PRS.
- PropTech also needs to be better regulated. Developers, users, and legislators need to be aware of the assumptions coded into the tools and how they may discriminate and perpetuate existing inequalities. The pace of development requires a highly attentive approach to regulation in this area.
- Although most PropTech currently appeals to landlord and agent interests, technology can be used to benefit tenants. The Anti-Eviction Mapping Project, for example, uses technology to enable housing activism, mapping and visualising housing dispossession, while also providing tools for resistance (Anti-Eviction Mapping Project).

A targeted response also underscores a critical need to address the issues facing particularly vulnerable groups in the PRS. This is especially pertinent for those in the informal sector with fewer rights. Addressing their needs will undoubtedly involve planning for the housing and rental sector as a whole, beyond the PRS. One such vulnerable group that receives little attention in discrimination literature, is that of 'bad' tenants. 'Bad' tenants require accommodation as much as 'good', and may require targeted efforts to be housed, especially where they have been blacklisted. Some of these have mental health issues or have been blacklisted due to an isolated financial or property damage event. Regardless of the reason, anti-discrimination efforts in housing cannot only focus attention on 'good' tenants—they should focus on everyone.

Researchers and tenant advocates can also utilise data to drive much-needed cultural shifts around renting. For example, there is a broad community perception of housing stress being defined as spending 30 per cent of income on housing costs. For many people on low-incomes, however, 30 per cent (and even less) is an untenable proportion of income to spend on rent, and there is strong evidence linking housing costs in the PRS and poverty (Tunstall et al., 2013).

Cultural shifts in the PRS should also be driven by government at all levels. There are significant opportunities, for example, for government-led improvements in social housing to set standards for housing quality and digital technologies for renters in the private sector.

### **4.3 Immediate action and opportunities for Australian policy, research, and advocacy**

Discrimination is widespread in the Australian PRS. The dearth of research on the subject to date poorly reflects the urgency with which responses are required. The concluding section of this scoping report outlines priorities and opportunities for addressing discrimination in the PRS in terms of policy, research, and advocacy. To begin with, however, there are several critical policy areas exposed by the report as demanding immediate action. These are:

- removing 'no-grounds' justification for evictions where in place
- increasing social security payments, including rental assistance
- removing negative gearing incentives for investment properties
- increasing supply of public and social housing and low-cost private rental options particularly in, and proximate to, labour-dense locations to decrease pressure on the lower end of the PRS
- developing specific and minimum quality, efficiency, repair, and maintenance standards for all Australian rental accommodations, and meaningful tools for their enforcement
- developing professionalism standards for all real estate agents and property managers and standards for rental applications and agreements
- making existing government rental data sets available to tenant advocacy groups and housing researchers.

The international literature review reveals a wide array of subtle and overt modes of discrimination in the PRS. Approaches must address the substantial issues with the legal and regulatory frameworks where private renting operates, the ability for agents and landlords act in discriminatory ways (intended or not), and the wider structural issues that both enable discrimination and compound its impacts.

Power imbalances—enabled by a wide range of structural and institutional factors—are at the core of discriminatory behaviours. Responses that address discrimination in the PRS must consider ways to correct this imbalance or circumvent opportunities for discrimination within the rental system. There are multiple, meaningful differences between PRS' with strong and weak or no tenant advocacy sectors, signalling their importance in remedying wide power imbalances.

Socio-economic status is a critical factor shaping discrimination in the PRS, intersecting with all other social categories of discrimination. The importance of socio-economic status is tied to the shape of the housing market overall, which in many settings is significantly overburdened at the lower end. Declining proportions of public and social housing provision has added to this burden, signalling a need to approach the rental and housing sectors as a whole to address the critical discriminatory drivers of supply and availability.

SES is a determinative factor in shaping the character of the PRS both by landlords and tenants; it determines who can and cannot afford to buy property, and the types and locations of properties renters opt for. Multi-scalar policy settings including investor-targeted construction and, foreign investment, and negative gearing incentives widen power imbalances further. Additional financial burdens associated with renting, such as bonds, repairs, and moving costs, add to the significance of socio-economic status as a core category of discrimination.

The evidence signals important intersections between different social categories of discrimination (see for example Bengtsson et al. 2020; Boeing 2020; Evans et al. 2019; Flage 2018; and Nelson et al. 2015, among others). In doing so, it highlights the structural and relational character of discrimination and disadvantage. This key finding underscores the importance of adjacent policy settings on discrimination in the PRS and vice versa. Relatedly, the international case studies demonstrate the highly contextual character of the modes of discrimination in the PRS, and their impacts. The case studies also point to the importance of historical and adjacent policy settings, and the relationship between national housing and rental cultures and discrimination.

Finally, the report also scopes collaborative potential, with researchers, renter advocates and government, to better understand the issues of discrimination in the Australian PRS and hone responses. These include:

- more research to understand the actions and motivations of good and bad agents and landlords and discriminatory behaviours
- the development of a discrimination auditing system in the rental sector informed by up-to-date data
- further research on geographic differences to understand, for example, rural, regional and urban differences
- collaborative work to hone the specific data requirements to enable improved monitoring of discrimination in the PRS and to enable the development of technologies to diminish discrimination in the PRS
- further collaborative research to understand the practicability of the report's recommendations in different Australian policy contexts, in order to determine more specific policy actions
- improving understandings of PropTech across the stages of the rental system associated with discriminatory outcomes and specific regulations to address these outcomes.

## 4.4 Conclusion

Discrimination in the PRS presents an increasingly important policy challenge as more people rent in the face of declining home ownership. Policy, housing markets and systemic discrimination currently intersect to influence the experience of discrimination across the entire rental process. Broadly, the experiences of discrimination in the PRS are embedded in the context of a home ownership society ideology, where property owners and landlords are celebrated as good citizens over those who have 'failed' to reach home ownership. The privileging of property ownership and investment over renting, forms the basis of the profound power imbalance in the landlord and tenant relationship which perpetuates many of the discriminatory factors identified in the report.

An intersectional framework shows how discrimination is experienced unevenly and influenced by policies beyond those specifically addressing the PRS and housing provision more broadly. People are more likely to experience discrimination and its effects if they identify with one or more area of structural disadvantage across the lines of class, gender, race, disability, and sexuality, among others. Socio-economic status and income shapes choice and intersects across all other social categories impacting discrimination.

Addressing private renters' experiences of discrimination needs to consider associated policy areas including, but not limited to, racial discrimination, health, energy, climate, and labour policies. This is necessary because the intersectional experience of discrimination is compounded by decisions made in other policy areas which will continue to impact an individual's experience of housing if policy and regulation pertaining to the PRS is addressed in isolation.

It is also important to consider two additional trends that are reconfiguring the rental sector: the growth of informal tenancies and non-standard accommodation; and the increasing use of digital technologies to access housing, manage properties and mediate landlord/agent/tenant relationships. These are emerging areas of influence on the rental sector and have potential to perpetuate discrimination. However, both informality and technologies have the potential to afford a degree of agency to renters. There are international examples where technologies have been used to support tenant advocacy.

This scoping study has revealed the need for a better understanding and increased monitoring of types and modes of discrimination through the experiences of individuals and groups experiencing discrimination enables identification of critical policy and regulatory gaps. It is the first step in progressing a research and policy agenda that accommodates the multifaceted and intersectional nature of discrimination necessary for developing policy that can effectively address discrimination across the PRS.

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