

25 May 2018

Attn: Complaints Register Guidelines Review
NSW Fair Trading

To whom it may concern,

Re: TUNSW Submission on Fair Trading Complaints Register Guidelines

The Tenants' Union of NSW (TUNSW) is the peak body representing the interests of renters in New South Wales. We are a specialist Community Legal Centre with expertise in residential tenancy law and practice, and the primary resourcing body for the state-wide network of Tenants' Advice and Advocacy Services in New South Wales (TAASs). We have a long standing interest in the rights and obligations of those who pay rent, or fees of a similar kind, to secure a principle place of residence. Our relationship with the TAASs, who provide information and advice to between 25,000 and 30,000 renters across New South Wales each year, means we are extremely well informed as to the interests and concerns of our renting population, and have a unique understanding of the way in which consumer protections operate in this sector.

We are pleased to offer our comments on the Complaints Register Guidelines. We think the register performs an important function for consumers and support its continued operation. Our comments will be restricted to tenants' perspective of the register.

1. How relevant is the information published on the Register?

2. What sort of improvements to the information on the Register would you suggest?

We suggest more detail about the types of complaint can be added at the second level of the dashboard. This would give a more accurate representation of the type of issue the complainant was facing. Currently all tenancy complaints are simply labelled "tenancy" which is in contrast to the detail available regarding other retail goods.

Tenancy complaints should be labelled with more detail. We suggest as a starting point the list provided as guidance for people making a complaint on the tenancy complaint form:

- repairs and maintenance
- non-urgent health and safety issues
- alterations to premises
- access to premises or inspections
- non-compliance with tenancy agreement
- water saving devices and smoke alarms
- provision of correct notices
- ending a tenancy or breaking a lease
- condition reports
- unsatisfactory Property Management by agent
- rent / occupancy fees
- non-lodgement of a rental bond

- reduction in features / benefits / facilities
- refund for overpaid rent
- high / unknown fees or charges

We would be happy to engage in further consultation with Fair Trading on this point. There may be value in combining some complaint types and adding others such as disputes over bond returns.

3. Should the Complaints Register only include data about complaints received (as opposed to outcomes?)

4. Should any further information about the resolution of those complaints be included? Why?

TUNSW believes data about complaints received is sufficient for the purpose of measuring a level of consumer dissatisfaction. If outcomes or resolutions are to be included this may need further work in relation to the classification of complaints outcomes. It is our understanding for instance that complaints which are referred to NCAT are classified as resolved. It would need to be made clear what form of resolution was reached.

We would be happy to engage in further consultation on this point.

5. Should Fair Trading change the minimum number of complaints required before a business appears on the Register? If so, what should the number be? Why?

While accepting the most effective minimum number may differ by industry, we support a change to only 1 complaint before a business appears in tenancy. Unlike a retailer, or most service providers, the nature of residential tenancies is such that there can often only be one customer who has an interaction with service provider that might lead to a complaint in any reporting period. This means that tenancy complaints are under-represented and many instances of dissatisfaction do not ever appear on the register. This is particularly true for the tenants who do not have a real estate agent.

Consideration ought to be given to instances where the complaint concerns both the landlord and the agent as their representative. Both parties bear responsibility for the consumer experience and landlords becoming aware of the complaint against their agent may assist them in ensuring their agent provides a quality service to the consumer renter.

In order to facilitate different minimum numbers the register could be modified to ensure that different industries are listed separately, perhaps with a central list for the one or two highest recipients of complaints in each industry.

6. How often should the Register be updated (e.g. monthly, quarterly, six monthly)? Why?

TUNSW supports updates to the register remaining at monthly updates to enable timely updates to consumers and encourage any change in behaviours more quickly.

7. How long should each edition of the Register remain published on the NSW Fair Trading website? Is the current 24 months appropriate, or should it be longer or shorter? Why?

We support the retention of the data for public access on a permanent basis. This is consistent with the aims of the Register and open data principles.

We support the suggested archival use of the Open Data Portal at data.nsw.gov.au website so long as a link to the archive is maintained on the Register itself. There may be value in maintaining a

version of the register which aggregates all register entries over time. The data already available in the register allows for users to identify the dates of the complaints.

8. How well is the current policy on the grouping of franchised businesses working, including the breakdown by location? What changes would you suggest?

9. Should the same approach be taken with chains and related companies/corporate groups even if they operate under different brands? Why?

TUNSW supports the current policy on the grouping of franchised businesses on the register itself. We think this encourages responsibility be taken by franchisors for the individual offices using their name and from whom they receive significant financial benefit.

During the consultation process it appeared that some franchisors were not being informed of complaints made against franchisees due to the contractual obligations requiring the franchisee to give permission for Fair Trading to contact the franchisor. We would support a change in process requiring both franchisor and franchisee to be informed of complaints, but not if this would act to prevent the registration of a complaint.

10. How well has the process of notification to businesses about their imminent appearance on the Register been working? What changes would you suggest?

11. Is three working days a suitable period of notice? Should it be shorter or longer?

The current situation appears appropriate to us. We note that if the minimum number is reduced to 1 then all parties would be on notice of their imminent listing, reducing the need for this process.

12. What changes, if any, do you think should be made to the published format of the Register?

The responsiveness of the Tableau dashboard could be improved on mobile devices. Larger resolution screens appear to work well but testing on smaller screens often cuts off the right hand column.

As mentioned above we would support a change of format that separates industries from each other. This allows for a more like-for-like comparison of companies.

We suggest a search function may be useful as well, particularly if the register is expanded. This will assist with the larger data set and assist consumer who are attempting to decide between different service providers.

We also recommend the register display aggregate numbers of all complaints made about different sectors or product types. This will assist in giving greater context to the number of complaints displayed.

For more information regarding this submission, please contact Leo Patterson Ross, Senior Policy Officer on (02) or contact@tenantsunion.org.au.