



Submission to The Victorian Social Housing Regulation Review 2021

Consultation Paper 2: Service Delivery and the Tenant Experience

Executive Summary

Housing for the Aged Action Group (HAAG) welcomes the opportunity to respond to the Victorian Social Housing Regulation Review (Consultation paper 2 – Service Delivery and the Tenant Experience). In making this submission we drew on our experience and expertise working with and for older people experiencing or at risk of homelessness for over 30 years. This submission is informed by the contribution and experience of our members, in particular our members living in public and community housing.

HAAG recognises housing as a human right and public health issue, and agrees with the statement in the consultation paper that “The social housing system (and housing assistance more broadly) should aim to offer stable, adequate and appropriate housing to the highest number of people, both now and in the future.”

We support the stated aim to “provide advice on harmonising resident rights under public and community housing and options to ensure effective complaints management” however, we are concerned that the directions in the consultation paper appear to erode tenant rights, by using current community housing as the benchmark, rather than public housing. We support strengthened tenancy protections for older tenants in community housing, rather than diminishing of protections for older tenants in public housing.

We will not be addressing the over 40 questions in the consultation paper, however, we will address themes where relevant.

Background on Housing for the Aged Action Group (HAAG)

HAAG is member-based, community organisation specialising in the housing needs of older people. The organisation has over 500 members actively campaigning for housing justice. HAAG's service arm is the Home at Last (HAL) service which provides a one-stop shop of housing information, support, advice and advocacy for Victorians over 50 years of age. This assistance is provided through an intake and referral service assisting over 1,000 people per year. We also provide outreach support to re-house older people who are homeless or at risk of homelessness into long term affordable, age-appropriate housing.

We have an early intervention and prevention approach to homelessness, which involves providing community and professional education to alert people to what places older people at risk of homelessness and pathways to support. Since 2015, we have had a strong Cultural and Linguistically Diverse focus, and a team of bilingual workers who provide community education to groups of older people from a non-English speaking background. We have recently expanded this program to include peer educators who have a lived experience of homelessness, and we are now starting work with the LGBTI community.

Our member base includes former clients who have been assisted by our Home at Last service into public and community housing and, as such, are valuable sources of information about the impact of social housing regulation on their lived experience as tenants. Our support workers have close working relationships with the offices of housing allocations teams and community housing providers and provide unique insight to inform this submission.

HAAG's consultation to inform this submission

HAAG is committed to elevating the voices of older people in all our work. To inform this submission, we are drawing on our research [Public vs Community housing: comparing on the rights and experiences of older tenants](#), which includes detailed interviews with community housing and public housing tenants, and our housing support team. We also drew on our previous submissions, research and policy briefs, which can be found on our website www.older tenants.org.au.

Comments on the Guiding principles

HAAG supports the principles and objectives of the review, that is, best practice regulation, tenant focus and providers that meet tenant needs.

Best practice regulation should include consistent and transparent policies, eligibility criteria, application processes, tenant selection, rent setting, transfers, modifications, dispute resolution, evictions, and elevating tenant voices.

Key issues within the regulatory system

HAAG are strong advocates for public housing, owned and managed by government, as it provides the only secure and affordable tenure for older people. Homes Victoria is now responsible for the management of Victoria's public housing, with the Director of Housing now the CEO of the new entity, run by a board consisting largely of property developers. The chair of Homes Victoria has expressed strong support for privatization of government assets to "unlock capital", and a key issue within the regulatory system is how it can protect tenants from losing their rights when they are in conflict with a profit motive.

The Housing Registrar oversight of community housing is unlikely to hear about or monitor issues with tenancy selection. There is no avenue for housing workers or prospective tenants to report issues with screening tenants or "cherry-picking" (discussed later in this discussion paper) Can the Registrar effectively regulate the issues that they don't see or hear about?

Improving the focus on tenant experience and voice

We support tenant voice and empowerment in public and community housing, however, this can only occur with clear communication about the direction of government policy and its implications for tenants. We continue to have serious concerns about the shift from public housing to community and affordable housing and the obfuscation of communication about this stock transfer within this paper and other government communications.

Genuine and continuous participation by public and community housing tenants requires compensation for their time and travel, simple English and translated materials and partnership with trusted services.

A public and community housing system needs to place tenant rights and needs at the centre, and this includes actively supporting tenants and championing public housing as a social good. We support the re-instatement of a model of tenant representation that includes local and estate-based tenant groups, and a peak body representing them, that is fully funded.

Our report [Comparing the Experiences of Public and Community Housing tenants](#) is a good example of tenant voice being captured, as is our quarterly publication Older Tenants Voice, which has been in print since the early 90s. The Residential Tenancies Commissioner

Tenant Advisory Group is another example of tenant voice being captured, and allows access to decision makers for tenants.

Housing allocations

We support the priority access for people aged 55 years and older who do not meet any other criteria for priority access. We recommend that the priority access for people escaping family violence be extended to include elder abuse by adult children, combined with appropriate professional education for the sector so that the circumstances surrounding elder abuse are well understood by housing providers and homelessness services.

We are concerned that community housing providers currently do not allocate tenancies based on need or based on being at the top of the VHR waitlist, but instead are chosen on set of arbitrary, unclear and inconsistent criteria in order to create a “tenant mix”. This means that tenants who are perceived as difficult or unable to manage their tenancy may not be chosen, and prospective tenants may be asked irrelevant and personal questions or be subject to personal judgement of tenancy managers. This “flexibility” creates disadvantage for some of the most vulnerable people. If there were adequate supply of housing, support for vulnerable tenants to maintain their tenancy, and a clear and rapid transfer system, a tenant mix could be achieved without “cherry-picking”.

Culturally Safe and Appropriate Housing

We have no insights to offer on the barriers for Aboriginal housing providers.

From our report “Out of the closet, out of options: Older LGBTI people and housing” we recommend that there be more culturally appropriate housing options for older LGBTI people.

Performance reporting for transparency and accountability

As we have articulated elsewhere in this and previous submissions, the policies that determine tenancy selection and rent setting in community housing are not publicly available and therefore are not transparent.

Availability of Data

In our previous submission, we recommended that:

- Further demographic data on tenants in private rental be obtained and that older tenants be recognised as a growing cohort requiring specialist interventions to prevent homelessness.
- Further demographic data on social housing tenants be obtained and analysed, and that older tenants be provided with aged care supports as required.

- Data on the size of the 'missing middle' cohort be collected, and an appropriate policy response formulated, for example, exploring raising the asset eligibility for social housing for older women.

Regarding the performance assessment of the social housing system, there is currently very little publicly available data on vacancies that exist, the time taken for non-urgent repairs, or demographic data on tenants, for example, the “tenant mix” in community housing, or the number of and reason for evictions.

Complaints and tenant satisfaction data are of limited value given the reluctance of tenants to complain, however, response time and satisfaction with the outcome or resolution should be measured and made available.

The Regulatory Approach

Unregistered providers should not receive government funding.

There should be routine inspections for community housing providers.

Scope for Workforce professionalization

We support efforts to build the capacity of the social housing workforce, both within the public and community housing systems, to improve their capability and skills in assisting tenants. In previous submissions, we have noted the importance of a workforce that understands the needs of older tenants, including aged care and elder abuse.

Our research and service delivery experience shows that housing providers can sometimes expect tenants to show sufficient gratitude, in order to obtain housing. The social housing workforce should be trained to understand housing as a human right, not as an asset to increase profit, and therefore human services, community development and social work backgrounds are more appropriate than real estate agents or commercial property managers.

National Regulatory System for community housing

HAAG does not support for-profit providers being able to be registered as community housing providers. The profit imperative disadvantages low-income tenants. For-profit developers should not be in receipt of government money for housing.

Greater Equity in service standards and delivery

HAAG believes that the public and community housing sectors should have equivalent standards and strong regulation in a range of areas so that tenants are treated equally regardless of which type of housing they live in. That includes consistent and transparent policies, eligibility criteria, application processes, tenant selection, rent setting, transfers, modifications, dispute resolution, evictions, and elevating tenant voices.

We believe that community housing should be subject to the same regulatory framework and standards as public housing, not the other way around, as is suggested in this consultation paper. To neglect public housing over many years, and then compare it and find it lacking as compared to community housing is disingenuous at best.

Public housing has stronger rights and protections for tenants than community housing in the following ways:

- Security of tenure – evictions should only ever be an avenue of last resort, and there should be no evictions due to rent arrears
- Rent setting – current practices of rent setting in community housing is confusing and inconsistent, where it can be 80% of market rent (not affordable) or up to 30% of income plus Commonwealth Rent Assistance. Rent may not be adjusted down when partners die or adult children move out.
- Tenant selection – due to their need for rental income, community housing providers generally do not select tenants on the lowest incomes (for example Jobseeker) leaving those with the highest need for housing with fewer options. Public housing has no such barrier. The application and tenancy selection process is inconsistent and can be discriminatory in community housing.
- Modifications – tenants requiring disability modifications can receive them in public housing, whereas in community housing they have to pay themselves or request that their provider look for additional funding

Including public housing under a similar regulatory framework as community housing would increase the risk of tenants being disadvantaged through higher rents, less security of tenure and less accessible housing.

The question should ask “what are any alternative options for improving the regulation and governance of community housing”, not public housing.

Standards covering vulnerable tenants

Regarding people eligible for social housing renting in the private market, HAAG’s view is that there is significant need for better regulation of private sector rental housing to the extent it houses social tenants (including rooming houses, caravan parks, and private tenancies), as well as better enforcement of existing regulation. However, we do not believe the proper forum or mechanisms for doing so are to be found in a discussion of social housing regulation, which must be focused on the specific needs and issues that arise in that context.

An improved system of dispute resolution

Current dispute resolution processes generally fail to protect current and prospective social housing tenants from breaches of their housing provider’s (or prospective housing provider’s) policies and procedures, as distinct from breaches of their legal rights.

Social housing providers maintain a wide range of policies that impact current and prospective renters, including policies on rent-setting, eligibility, circumstances in which notices to vacate may be served, temporary absences, etc. Social housing tenants often find it difficult to ensure they are being treated fairly under such policies, both because the policies are not transparent and because the policies are not practically or meaningfully enforceable.

Social housing tenants should have access to meaningful appeal mechanisms with respect to decisions made by their housing providers under such policies, even when such decisions are lawful under the RTA. For example, social housing tenants should be able to challenge assessments about their income used to set rents. In order to make such appeals, tenants must have access to the relevant policies; social housing providers should make all policies that affect tenants' rights public facing. Relevant public housing policies should form benchmarks or minimum standards for social housing policies generally; community housing tenants should not be disadvantaged because they are subject to fewer protections or less generous policies and procedures than public tenants. Where there is doubt or where a social housing provider has failed to establish and publish a relevant policy, social housing tenants should be entitled to be treated at least as well as a public tenant in the same circumstances.

Appeals mechanisms would likely be, in the first instance, internal and independent review by the social housing provider itself to ensure its policies have been applied correctly. However, where this does not resolve a dispute, social housing tenants should be able to seek external review. This could entail a new mechanism such as a social housing ombudsman, or an expanded role for existing mechanism such as the Housing Registrar or Victorian Civil and Administrative Tribunal. Whatever the mechanisms, social housing tenants should be entitled to access advice and/or representation with regard to their dispute, and support services should be appropriately funded to provide such assistance

Our retirement housing team and members who live in retirement housing have been calling for an ombudsman for retirement housing for many years, alongside our advocacy partners Consumer Action Law Centre, Council on the Ageing and Residents of Retirement Villages Victoria. A housing ombudsman that was responsible for resolving disputes in all types of housing would achieve this aim, and would require a level of expertise about the different issues that face older people in retirement housing (whether they are under the Retirement Villages Act or the Residential Tenancies Act).

The dispute resolution processes introduced during the pandemic was inaccessible to most of our clients, because they either did not meet eligibility criteria (eg. had not lodged a rent reduction agreement with landlord) or could not access the internet. It therefore offers no insight.

An integrated system of support

HAAG's Home at Last service provides an integrated support system to older tenants in the form of assistance with applying for housing, tenancy advice and linking in with supports. However, we lost our tenancy funding in 2018 when the model for Tenancy Advice changed. We strongly believe that tenants in private rental benefit from housing support alongside tenancy advice, so that for example, when they receive a notice to vacate they are able to seek more sustainable housing options while our tenancy advocate checks the validity of the notice. We have since tried to replicate this by forming a partnership with a Tenants Victoria outreach lawyer, which has proven effective for our clients, however, the "one stop shop" for housing advice and information is our preferred model.

Due to the rapport built with clients, we have people returning to us for assistance with issues in their housing, sometimes years after they have been housed. There is confusing eligibility and jurisdiction requirements across the various tenancy advice and support services which make it difficult for tenants and other services outside the sector to navigate – for example, the TAAP, SHASP and MACNI programs are all useful, but can be confusing and are not necessarily well-known. There is also a perceived conflict of interest when the TAAP service is provided by a housing provider (landlord) in some areas, which discourages tenants from exercising their rights.

Our experience in the retirement housing sector shows that there should be a level of separation or independence from the delivery of support services and provision of housing. For example, retirement housing providers may offer home care support packages (part of the Commonwealth's home support and aged care systems) to their residents. This is marketed as an added bonus, or extra advantage for people living in retirement housing – all their needs are met by the same provider – however, it reduces or removes consumer choice, lacks transparency (especially around cost, case management fees etc) and there is a risk, perceived or actual, of residents losing their housing if there are complaints or disputes about the support packages.

For these reasons, there should be a separation of service provision (whether support services or tenancy advice services) from provision of housing.