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Review of the Victorian Regulatory Framework for affordable rental housing agencies

The Tenants Union of Victoria was established in 1975 as an advocacy organisation and specialist community legal centre, providing information and advice to residential tenants, rooming house and caravan park residents across the state. Our aim is to promote and protect the rights and interests of private and social residential tenants in Victoria.

The Tenants Union of Victoria welcomes the opportunity to contribute to the review of the Victorian Regulatory Framework for affordable rental housing agencies. Given the short timeframe that we had available to us the information below outlines our key concerns about the Regulatory Framework only. We would welcome the opportunity to provide a more detailed response reflecting the community housing tenants' perspective of the Regulatory Framework.

Regulation of community housing

Community housing, is a growing sector providing over 13,000 properties in Victoria. This form of housing is increasingly the focus of housing provision for low income Victorians. The State government is committed to transfers of public housing stock to registered housing associations, meaning that low income Victorian's will increasingly have their tenancies managed by registered agencies. It is our opinion that no further stock transfers should take place until the regulatory framework is strengthened.

Additionally with the introduction of the Victorian Housing Register, the common waiting list for community and public housing tenants; the need for fair and transparent regulation is ever more important. Tenants, and prospective tenants, across social housing should have access to housing that is managed consistently, fairly, and transparently. For this to occur there must be robust independent regulation of tenancy management, of which the current regulatory framework currently does not provide.

The regulation of social housing through the Regulatory Framework is overwhelmingly focused on the financial viability and growth of community housing providers rather than regulating for the achievement of housing outcomes. This comes at the detriment of community housing tenants.

The Regulatory Framework does not require the agencies to act in the best interests of tenants, and not even to house a widespread group of tenants including those with complex needs or those exiting homelessness services.

The Registrar must act to protect tenant outcomes along with their role to ensure Housing Association accountability. We consider that a specific function of the registrar should be to ensure that tenants and residents, recognising their position as vulnerable customers in the housing market, benefit from the regulation of the community housing sector.

Jurisdiction

It is unclear whether subsidiaries of registered agencies are covered by the Regulatory Framework. Greater clarity is needed to ensure that all affordable housing agencies providing housing to low income people are regulated by the Framework. A case study detailing this issue has been separately submitted to the review.

Properties leased under the Housing Provider Framework

Greater clarity of coverage to properties leased under the Housing Provider Framework is needed. Tenants living under these arrangements appear to have no recourse as they are not a party to the agreement and may not be covered by the Regulatory Framework.

Performance Standards

The Performance Standards are a vital mechanism for accountability of housing agencies in the tenant management space and are the only mechanism by which the registered agencies can be held accountable for ensuring a range of important outcomes for tenants.

In our experience there are shortcomings in terms of what the standards contain as well as with the extent to which they are enforced.

Transparency

“The registered agency makes information about its tenancy management policies and procedures available in a variety of formats.”

In our experience registered housing agencies frequently do not have policies and procedures available and do not readily provide them when asked. This makes it virtually impossible for a tenant or a tenant’s advocate to ascertain whether the agency is complying with its own policies. Whilst the standard on transparency is relatively clear, the Registrar does not adequately enforce its compliance. When we have raised noncompliance with this standard in a formal complaint we have seldom received a response that an undertaking would be given to ensure the policies are made available.

Transparency of policies is a significant issue in the community housing sector, particularly with policies pertaining to rent setting which will be discussed further below. Other policies influencing tenant management procedures are also of concern. In public housing, provided by the Department of Health and Human Services, detailed policy manuals and operational guidelines are available online. This allows tenants to understand their housing situations and rights and responsibilities

under this provision of housing. The Housing Registrar must ensure that the housing agencies have up to date policies publically available.

Recommendation: The Housing Registrar should publish a central registry of policies for all registered housing agencies. The agency should provide up-to-date policies at all times to the Registrar. Only the policies held by the Registrar should be enforceable by the housing agency.

Rents

1. *“The registered agency makes information about its policies and procedures to determine and manage rents available in a variety of formats.”*
2. *“The registered agency manages rent in accordance with the specific legal and policy requirements.”*
3. *“The registered agency has policies and strategies to deliver housing services at affordable rents to low income tenants. The Registrar and registered agencies will monitor the extent to which rent charged is below 75% of market rent and between 25% and 30% of tenant income (in compliance with the current affordable rent parameters).”*

The Performance Standards for rents state that registered agencies must have policies and procedures to deliver housing at affordable rents, it is not specified how rents should be set. It is understood that the standards must inform a wide and divergent sector targeting housing at different population groups.

One major weakness in the Performance Standards is that the Housing Registrar does not have a requirement to enforce the affordability of rents, it must only *monitor* them. There are no further requirements to publish the figures or to act to investigate or enforce that an affordable rent be charged. It is difficult to see how this monitoring is of benefit when no further action is required.

Recommendation: The performance standard for rents should be strengthened to provide that the Housing Registrar and registered agencies must monitor, investigate and enforce affordable rents to be charged, and to make this information publically available.

Tenant and resident engagement

“The registered agency accepts and deals appropriately with client advocates.”

In our experience the performance standard pertaining to engagement with tenant advocates is often not complied with. Registered agencies are frequently difficult to deal with and are unwilling to negotiate to achieve the best outcomes for the tenants in their care. We have found that the Housing Registrar is generally unwilling to assist in these matters, nor to enforce this standard.

Complaints process

A successful complaints process is one that is able to resolve individual complaints quickly and fairly whilst also identifying systemic issues for further investigation as a way to reduce issues and complaints before they escalate.

The Housing Registrar does not seem to have capacity to act in this way resulting in both individual and systemic issues remaining unresolved. We have seldom had a satisfactory resolution from engaging in the Housing Registrar's complaints process.

Whilst it is mandatory that the registered agencies comply with all standards it is unclear what recourse there is if they do not.

Recommendation: The Registrar or another independent complaints resolution body should have a clear role in the resolution of complaints from tenants including making binding determinations about redress in relation to individual or systemic failures.

No right of appeal

A registered agency can apply to VCAT for review of a direction given by the Registrar. The tenant does not have this same recourse should they disagree with a decision made by the Registrar.

Auditor-General's recommendations

We recommend implementing the Victorian Auditor-General's Report on Access to Social Housing recommendations:

- The Registrar should undertake additional monitoring and verification to assure that housing associations are delivering the outcomes required and to meet the responsibilities as regulator.
- Standardise the information required to be submitted by housing associations as part of their annual self-assessments.
- Undertake a records audit to identify the information that has not been submitted by housing associations and obtain this missing data.

Placement of the Housing Registrar

The Housing Registrar should be housed in an environment where it is unconstrained by competing interests and where it has adequate resourcing to achieve its function.

The TUV believes that strong oversight of the community housing sector would best be achieved through separation of the Housing Registrar functions.

Policy setting must remain with government and would be best located where consideration of social outcomes is enabled and where consistency across public and community housing can be achieved.

The regulatory function would best be achieved as an independent body, and appropriately could be brought under the Essential Services Commission portfolio.

The third and final function of the complaints process would most appropriately be provided through an ombudsman scheme, to provide the most accessible and effective dispute resolution service.