

Advancing housing justice: The opportunity for legal services to improve access to housing

Prepared by Gerard Brody for the Victorian Legal Services Board
and Commissioner's Grants Program

FINAL REPORT



Victorian Legal Services
BOARD + COMMISSIONER

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We acknowledge the Wurundjeri Woi Wurrung People as the Traditional Custodians of Naarm (Melbourne), the land on which our office sits. We pay our respects to their Elders; past and present.

FOREWORD



The Victorian Legal Services Board and Commissioner is pleased to present this report, *Advancing Housing Justice: The opportunity for legal services to improve access to housing*, which was written by Gerard Brody.

We commissioned Gerard to write this report to help us understand the contribution we might make to the housing problem through our Grants Program. Our Grants Program has funded many innovative projects and programs over more than 15 years that have delivered fairer and more accessible justice where it is needed most.

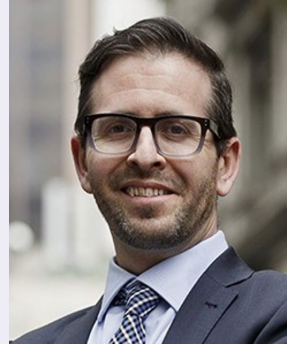
Gerard based this report on an extensive literature review and his interviews with many stakeholders in the legal and social justice sectors. The report comprehensively explores the current landscape and the opportunities for strategic intervention from the legal sector. It also makes a series of recommendations and points a way forward for us as a funder.

We believe housing is foundational in achieving access to justice. We are grateful for Gerard's work and expertise, and look forward to working with stakeholders to fulfil the promise in this report.

Fiona McLeay

Victorian Legal Services Board CEO and Commissioner

ABOUT THE AUTHOR



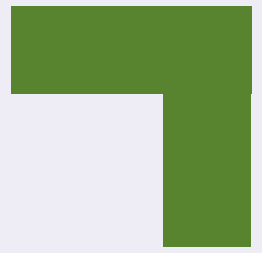
Gerard Brody has worked in community law and consumer advocacy for 20 years. He was the CEO of the Consumer Action Law Centre, a leading consumer advocacy organisation that provides legal assistance and financial counselling, for ten years until February 2023.

Gerard is Chair of the Victorian Legal Services Board and Commissioner Consumer Panel. He is currently the Chair of Community Legal Centres Australia, the peak body for community legal centres nationally, and the Chair of Consumers' Federation of Australia, the peak body for consumer organisations in Australia, which represents a diverse range of consumer groups. He also serves on the boards of two community legal centres: Fitzroy Legal Service and Mortgage Stress Victoria.

Additionally, Gerard is a board director of the Australian Financial Complaints Authority and the Telecommunications Industry Ombudsman, and a member of the Victorian Board of the Medical Board of Australia. He was previously a board director of the Energy & Water Ombudsman Victoria (2014 to 2023).

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1. INTRODUCTION

Housing is the basis of stability and security for an individual or family. As the centre of our social, emotional, and sometimes economic lives, a home should be a sanctuary – a place to live in peace, security and dignity.

Despite housing forming the most basic of necessities, there are significant and growing levels of housing stress in Victoria – in fact, housing is in crisis. As stated by the Deputy Chair of the Victorian Parliament’s Legal and Social Issues Committee upon tabling the committee’s November 2023 report, *Inquiry into the rental and housing affordability crisis in Victoria*:

*“Obviously renting and the housing sector are in crisis, and I do not know that there is a more important public policy issue facing this state than trying to make policy initiatives that will make a difference to improve things for renters and for those seeking to own their own home.”*¹

Data confirms the crisis. Rents in Melbourne increased by 9.6% in 2021 and more than 15% in each of 2022 and 2023, with vacancy rates dropping to around 0.9%. Rental stock that is affordable for people living on income support makes up less than 2% of the total. And home ownership has declined by 30% over the past 30 years.

Although there is widespread agreement that we need more housing supply, it is equally urgent to address broader issues for housing justice.

This paper focuses on how the justice sector in Victoria can help tackle the housing crisis. It investigates opportunities for collaboration in services, advocacy and strategic innovations to promote housing justice in Victoria. These opportunities may inform the Victorian Legal Services Board and Commissioner’s (VLSB+C) Grants Program.

While much housing is delivered in Victoria within a market context as a commodity, housing is most importantly a human right. Adequate housing was recognised as part of the right to an adequate standard of living in article 25 of the 1948 Universal Declaration of Human Rights² and in article 11.1 of the 1966 International Covenant on Economic, Social and Cultural Rights.³

Despite this recognition in international law, the Victorian Charter of Human Rights and Responsibilities⁴ does not create a positive right to housing. Section 13 of the Charter does protect a person’s right not to have their home unlawfully or arbitrarily interfered with, but this applies primarily in the context of public and social housing providers⁵, and does not apply to private housing.

In this context, Victoria’s housing market is in crisis, across public, social and private housing. We are failing to uphold any right to housing. Access to affordable, safe, decent and secure housing has become a worsening community and economic problem.

1. Ryan Batchelor MP, Hansard, Victorian Parliament, 28 November 2023.

2. Universal Declaration of Human Rights, available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

3. United Nations, General Assembly Resolution 2200A (XXI), International Covenant on Economic, Social and Cultural Rights, adopted 16 December 1966, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

Insecure housing can also form the nucleus of numerous legal issues. The Victoria Law Foundation's *Public Understanding of Law Survey (PULS)* confirms that housing legal problems correlate with family legal problems, debt and money issues, as well as legal problems associated with government and payments.⁶ This correlation underscores the pervasive impact of housing instability, which affects personal and family stability and can potentially lead to a cascade of legal difficulties.

The paper draws on the significant expertise, analysis and advocacy undertaken by leaders and organisations in the Victorian justice and housing sectors to inform a range of policy and strategic opportunities. I am indebted to those leaders and experts who shared their time, insights and ideas.

The Victorian justice and housing advocacy sectors are collaborative, high-impact and innovative. While positive change has been achieved in recent years, including through amendments to residential tenancies legislation⁷ and new and innovative service models, there remain barriers to achieving systemic change.

This paper maps existing resources across legal assistance and systemic advocacy, identifies gaps and opportunities, and recommends collaborative strategies and directions that might be proposed and funded by the VLSB+C Grants Program.

The report's recommendations aim to foster community wellbeing and promote social equity through collaboration.

Access to safe, stable and affordable housing is foundational for individuals and families to thrive as it impacts various aspects of their lives, including health, education and employment opportunities.

When people have secure housing, they are better able to contribute positively to their communities. Secure housing also encourages a sense of belonging and social cohesion.

Moreover, ensuring housing justice is crucial for addressing systemic inequalities and disparities, as marginalised and vulnerable populations often face significant barriers to accessing adequate housing. By prioritising projects aimed at improving housing justice, communities can strive towards a more equitable society where everyone can live with dignity and security.



4. *Charter of Human Rights and Responsibilities Act 2006* (Vic).

5. *Goode v Common Equity Housing Limited* (Human Rights) [2016] VCAT 93.

6. Victoria Law Foundation, *Public Understanding of Law Survey (PULS)*, Volume 1 – Everyday Problems and Legal Need, page 85, <https://puls.victorialawfoundation.org.au/publications/everyday-problems-and-legal-need#Download>.

7. The significant changes from the *Residential Tenancies Amendment Act 2018* (Vic) largely came into effect in 2021.

2. METHODOLOGY AND REPORT STRUCTURE

The methodology of this scoping paper involves a literature review, stakeholder interviews, the report structure and some limitations.

2.1. Literature review

The literature review involved reviewing and analysing approximately 50 reports, papers and submissions that were authored by government bodies, parliamentary committees, not-for-profit think tanks, community legal centres (CLCs) and other advocacy and housing organisations. Annexure A contains a summary of these papers.

2.2. Stakeholder interviews

To inform the report, 20 interviews were conducted with leaders from the justice and housing sectors in Victoria between January and March 2024. A list of interviewees is in Annexure B.

Each interview followed semi-structured questions that sought to identify the respondent's current priorities regarding housing justice, as well as gaps and opportunities. The key themes and opportunities uncovered were tested through the literature review.

2.3. Report structure

A draft of the report was shared with a few key stakeholders for feedback before it was finalised.

The report is structured as follows:

Part 3 outlines the **current landscape of housing justice in Victoria**. It provides:

An **overview of housing inequities** – discussion on the nature and extent of housing inequities in Victoria, including tenancy rights, issues in housing beyond private rental, and issues associated with some current reforms, and

An outline of **existing services and advocacy efforts** – overview of current services, programs, and advocacy campaigns aimed at addressing housing justice.

In doing so, Part 3 foreshadows the gaps and opportunities. It outlines some of the key challenges faced by existing services and advocacy efforts, including resource limitations, policy barriers, and gaps in service provision.

Part 4 outlines the **opportunities for strategic areas of intervention**. It provides:

Areas of **collaborative advocacy** – identification of areas where collaborative efforts in policy advocacy could significantly impact housing justice

Opportunities for **systemic service interventions** – initiatives that could improve the service delivery framework and uplift sector capability, and

Some **innovative ideas** – stakeholders shared some innovative ideas drawn from their direct experience in housing justice service delivery and advocacy.

Part 5 makes some **recommendations** around priority strategic initiatives, advocacy projects and service interventions that would beneficially impact housing justice in Victoria.

Part 6 concludes.

2.4. Limitations

The comprehensive nature of housing justice, which encompasses a myriad of issues from affordability and accessibility to quality and discrimination, presents significant limitations for this report.

Given the breadth of the topic, it is not feasible to delve into every issue with the depth and detail each deserves. Consequently, this report focuses on the areas identified as being most critical or representative.

There are, of course, numerous other dimensions and perspectives of housing justice that remain unexplored. All errors in the report lie with the author.

3. HOUSING JUSTICE IN VICTORIA: CURRENT LANDSCAPE

The literature review, stakeholder interviews and further analysis uncovered themes that have been summarised under the following headings:

Overview of housing inequities, and

Existing services and advocacy efforts.

Each section summarises the key issues that arise, stakeholder views and suggestions, and foreshadows gaps and opportunities relating to systemic reform.

3.1. Overview of housing inequities

This section explores challenges related to fairness and equity in housing, with a focus on tenant rights and measures to safeguard access to affordable housing.

At the outset, it's important to note that the long-term decline in home ownership and poor availability of public, social and affordable private rental accommodation are perhaps the most significant issues affecting housing.

These problems, however, raise policy issues that are largely beyond the scope of this report, including:

Supply issues – particularly the need to build more public and social housing

Income policies to boost incomes of those with housing stress, including Commonwealth Rental Assistance, and

Planning and building reforms that encourage the supply of new houses.

Rather than focus on these issues, this section focuses on housing justice issues that relate to:

Tenant rights

The accountability of rental providers and property managers

Issues across different housing types, and

Issues arising from current government reforms.



3.1.1. Tenancy rights

TABLE 1: TENANCY RIGHTS KEY ISSUES

KEY ISSUES	COMMENTARY AND RESPONSES
Insecurity of tenure	<p>In Victoria, despite the ban on ‘no grounds’ evictions,⁸ renters continue to face significant challenges with security of tenure due to a power imbalance with rental providers (landlords).</p> <p>This imbalance is evident as tenants are still at risk of eviction at the end of a first fixed-term tenancy agreement,⁹ and there are reported instances of rental providers issuing eviction notices under false pretences, such as claiming an intention to sell the property or move in when the claims are not followed through.</p> <p>Consumer Affairs Victoria (CAV) indicates that eviction and end-of lease matters are a leading cause of tenant inquiries and assistance requests.</p> <p>Renters also report fear of retaliation associated with asserting their rights or complaining about living conditions. This insecurity can further lead to a lack of stability for renters. The available data shows there is no substantial increase to the average tenure of leases since the introduction of ‘no grounds’ evictions, which suggests the reform has not significantly contributed to security of tenure.¹⁰</p> <p>While longer-term leases are an option under the legislation, most fixed-term leases appear to be around one year in length with many periodic tenancies. Existing regulatory arrangements and market incentives do not necessarily provide greater security for tenants with longer-term fixed leases compared to periodic (month to month) arrangements, as rental providers can issue notices to vacate on certain grounds.</p> <p>Other protections to safeguard a tenancy include the ‘reasonable and proportionate’ test that applies where a rental provider is seeking a possession order from VCAT.¹¹ This test requires consideration of the impact of the possession order on the tenant and may be used to address the risk of homelessness. Despite this type of protection, there remain concerns that not all those subject to eviction processes obtain the benefit of legal assistance to maintain their tenancy.</p> <p>Another risk for particularly vulnerable tenants relates to compliance procedures, which rental providers may use to address ‘anti-social behaviour’ or breaches of duty that can lead to eviction.¹²</p> <p>Again, access to legal assistance, as well as other holistic community and social support, is essential to address risks to homelessness associated with rental compliance procedures.</p> <p>Overall, the existing regulatory arrangements and market practices undermine tenant security and stability, which suggests a need for stronger tenancy protections (or enforcement of existing protections) to genuinely safeguard tenant rights.</p> <p>The Victorian Government has indicated its intention to restrict rent increases between successive fixed-term leases, to address the risk of rental providers evicting tenants at the end of their first fixed-term lease to raise the rent substantially when re-listing the rental property.¹³ There are further opportunities to create market incentives to encourage landlords not to end a tenancy unduly. These are explored in Part 4.</p>

8. Since 2021, the *Residential Tenancies Act 1997 (Vic)* (RTA) requires a notice to vacate to provide a valid reason, such as sale, change of use or demolition of the property, or rental provider moving back into the property.

9. Section 91ZZD, RTA.

10. In December 2021, the median tenancy in metropolitan Melbourne was 21 months, and in December 2023, it was 22 months: *Department of Fairness, Families & Housing, Rental Report*, available at <https://www.dffh.vic.gov.au/publications/rental-report>.

11. See, e.g., section 330A, RTA.

12. There are various duty provisions in the RTA that can lead to breach of duty notice; compliance orders; notices to vacate; and, eventually, possession orders. See Justice Connect fact sheet, <https://hlip.justiceconnect.org.au/practice-areas/housing-and-tenancy/during-a-tenancy/compliance-procedures/>.

13. Victorian Government, *Victoria's Housing Statement: The decade ahead*, September 2023, page 27, available at <https://www.vic.gov.au/housing-statement> (Housing Statement).

High rent increases, and affordability

Since June 2019, rent increases can only occur once every 12 months.¹⁴ However, **large rent increases** continue to cause renters significant concern. Rents for newly listed properties increased annually by 9.6% in 2021 and 15.3% in 2022.¹⁵ The most recent *DFFH Rental Report*¹⁶ confirms the Melbourne Rent Index increased by 15.2% in the 12 months to December 2023, which was well above the long-term average annual increase over the past ten years (3.4%). The Regional Rent Index increased by 4.8 per cent in the 12 months to December 2023.

Despite this significant issue for tenants, there is limited appetite to regulate rents. For example, in the Victorian Government's recent Housing Statement, a page was dedicated to 'Why rent control doesn't work in the long-term'.¹⁷ While there may be evidence that counters this position, most stakeholders agree that a market-wide rental control or stabilisation program is unlikely to be achieved.

That said, there are mechanisms to address rent increases that may be improved or extended. For example, Homes Victoria's Affordable Rental Homes program includes a commitment to limit rent increases to no more than 5% each year, on a three-year lease that may be extended a further three years.¹⁸

Further, renters can ask CAV to investigate and report on rent increases, which is a mechanism that has had increased usage in recent times.¹⁹ A report from CAV may be then used to negotiate with the rental provider or make an application to VCAT that the increase not be allowed.

The CAV rent review process largely operates to address the most exploitative rent increases, rather than act as a market correction mechanism. This is because the factors that CAV must consider include the rent payable for comparable premises in the same locality – so, if the market is pushing all rents up, then CAV is less likely to consider a rent increase to be excessive.

There may be options to improve the operation of CAV's procedure, and the factors that may be considered. This is examined further in Part 4.

Another fruitful area for tenants may be to challenge invalid rent increases, given such increases must now be accompanied by information about how the method of increase was calculated.²⁰

Poor housing quality

In recent years, there has been significant advocacy effort and improvements regarding **minimum standards** for rental properties. In March 2023, a new suite of minimum standards fully came into effect.²¹ These address issues such as structural soundness, compliant electricals, coverings on windows, ventilation, energy efficient heating, as well as issues like mould and damp. These changes were a significant advocacy win for renters.

Further, in relation to recent government commitments to substantially increase social and affordable housing there have been commitments to ensure new homes meet 7-star energy efficiency standards and silver level liveable design rating.²²

There is strong collaborative advocacy around rental accommodation standards, including from the Healthy Homes for Renters, which is an alliance of more than 50 organisations led by Better Renting and ACOSS.²³ This campaign receives funds from Energy Consumers Australia's grants program,²⁴ which has a focus on building energy efficiency. The campaign has also benefited from lived experience advocacy by tenants, for example Better Renting's citizen-science and advocacy project, Renter Researchers.²⁵

In Victoria, the Consumer Policy Research Centre (CPRC) and Tenants Victoria (TV) undertook an assessment of compliance with minimum standards that found most properties met the minimum standards.²⁶ However, the *Is it Liveable?* report made recommendations about clearer regulatory guidance for rental providers, and improved standards to make homes safer and more liveable.

14. Section 44(4), RTA.

15. Victorian Parliament, Legal and Social Issues Committee, *The rental and affordability crisis in Victoria*, November 2023, page 77 (VicParl LSIC Report).

16. Department of Families, Fairness and Housing, *Rental Report*, December 2023, <https://www.dffh.vic.gov.au/publications/rental-report>.

17. *Housing Statement*, page 26.

18. Homes Victoria, *Homes Victoria affordable*, <https://www.homes.vic.gov.au/homes-victoria-affordable>.

19. Section 45(1), RTA. CAV data provided to *The Age* shows 4206 tenants asked the regulator to investigate whether their rental increase was excessive in the six months to December 31 – nearly double the entire 2021-22 financial year, see n 20.

20. Rachel Eddie, 'Number of tenants challenging rent increases skyrockets again', *The Age*, 25 January 2024, <https://www.theage.com.au/property/news/number-of-tenants-challenging-rent-increases-skyrockets-again-20240112-p5ewsp.html>.

21. Residential Tenancies Regulation 2021 (Vic).

22. See, e.g., Homes Victoria, *Social Housing Accelerator Program: Victorian Implementation Plan*, October 2023, https://treasury.gov.au/sites/default/files/2023-11/shap-vic_0.pdf.

23. Health Homes for Renters Alliance, <https://www.healthyhomes.org.au/about>.

24. Energy Consumers Australia, *Great Grants Case Study: National advocacy for minimum energy efficiency requirements in rental properties*, <https://energyconsumersaustralia.com.au/great-grants/national-advocacy-initiative-for-minimum-energy-efficiency-requirements-for-rental-properties>.

25. Better Renting, Renter Researchers, report series https://www.betterrenting.org.au/renter_researchers.

26. CPRC and TV, *Is it liveable? A mystery shop of private rental properties*, February 2024, <https://cprc.org.au/report/is-it-liveable/>.

Poor housing quality – cont

Beyond rental standards, there is opportunity to improve energy efficiency and building standards in the private building market where there is, arguably, more limited sector advocacy for building standards generally.

For example, efforts to incentivise rental providers to invest in greater thermal efficiency or energy performance through access to solar, have not been broadly successful despite the prospect of such investments reducing costs (the problem of the ‘split incentive’ is difficult to overcome).

Despite good compliance overall, there continues to be public concern about the quality of rentals. The ShitRentals.org website provides a property database about poor-quality rental accommodation and has significant social media engagement.²⁷

The Victorian Parliament’s Social and Legal Issues Committee Inquiry into rental and housing affordability also specifically recommended that CAV create the position of an independent rental inspector to guarantee rental properties meet minimum standards. This would shift the burden from tenants needing to raise concerns about their property, as is particularly the case with repairs.

Currently, tenants have rights to seek **maintenance and repairs** – urgent repairs must be done as soon as possible, while non-urgent repairs must be done within 14 days.²⁹ Yet they face barriers. For example, CAV has no regulatory enforcement responsibility when there is a failure of the rental provider to meet the repair requirements.

To help ameliorate the tenant’s burden, TV has created a Repairs Toolkit³⁰ that helps tenants understand their rights, draft requests for repairs and apply to VCAT if required. Anika Legal also provides help with repairs, but it reports that the burden on individuals to raise repairs and maintenance requests means that many give up on pursuing their rights. Anika has called for greater powers for the regulator, as well as greater compensation for tenants where the rental provider fails to conduct repairs in line with the requirements.³¹

Poor quality housing and support to access repairs are issues particularly affecting the most vulnerable tenants.

For example, a 2019 survey of First Nations tenants found that over half of respondents were afraid to report maintenance and repairs in their rental due to identifying as Aboriginal.³² There is opportunity for systemic interventions to tackle this issue, as described further in Part 4.

27. See: <https://www.shitrentals.org/database/search-a-shit-rental>.

28. VicParl *LSIC Report*, recommendation 16.

29. Sections 62, 72 and 72AA, RTA.

30. Tenants Victoria, Repairs Toolkit, <https://tenantsvic.org.au/advice/common-problems/repairs/repairs-toolkit/>.

31. Anika Legal, *Repairs Report*, January 2022, <https://www.anikalegal.com/static/web/docs/Anika-Legal-Repairs-Report.8fdb37fec1b5.pdf>.

32. Swinburne University of Technology, (and partners), *The Aboriginal Private Rental Access Report*, Aboriginal report, page 44, <https://www.rentingcommissioner.vic.gov.au/the-aboriginal-private-rental-access-project-report-and-recommendations-have-been-delivered> (Aboriginal Private Rental Access Report).

3.1.2. Rental providers and property agents

Table 2 identifies various further issues relating to rental providers and property agents, including regulatory oversight and conduct requirements.

TABLE 2: KEY ISSUES WITH RENTAL PROVIDERS AND PROPERTY AGENTS

KEY ISSUES	COMMENTARY AND RESPONSES
Accountability of rental providers and property agents	<p>Rental providers (landlords) and property agents play distinct yet interconnected roles in safeguarding tenant rights.</p> <p>Rental providers have the primary responsibility for ensuring their properties meet minimum standards, offering fair lease terms, and respecting the privacy and security of their tenants. Their role is foundational to housing justice, as they control the quality, affordability and accessibility of housing.</p> <p>Many rental providers use property agents, which act as intermediaries between rental providers and tenants. Property agents have a responsibility to fairly represent properties, accurately communicate between parties, and facilitate transactions in a manner that respects the rights and needs of tenants. Both rental providers and property agents are crucial in upholding housing justice.</p> <p>However, many stakeholders report that some rental providers and property agents do not have good knowledge of their obligations and tenancy rights, which creates risks for tenants. One frequent example is rental providers' lack of understanding of new documentary requirements for some forms of notices to vacate.</p> <p>While there are existing professional standards for estate agents,³³ including an expectation of working knowledge of the relevant law, rules relating to estate agents are largely focused on buying and selling property and are perhaps less suited to property management. There is significant opportunity to work towards better standards and practices.</p> <p>Further, the way in which property agents set rents may raise competition concerns. It is more commonplace to use property technology (PropTech) to monitor the market and set rents. In the US, the Federal Trade Commission (equivalent to the ACCC) has investigated this practice and raised concerns around price fixing and competition law breaches.³⁴</p> <p>The Housing Statement has committed the Victorian Government to introduce mandatory training and licensing for property managers, as well as increased penalties for agents and rental providers that break the law.³⁵ There is opportunity to contribute to the development and implementation of these reforms.</p> <p>For example, licensing could apply to property managers as well as rental providers. There is no specific licence or registration required to become a rental provider in Victoria, unlike the requirements for other essential service providers and in other jurisdictions.³⁶</p> <p>The Victorian Government has recently developed a Permissions Framework that emphasises that licences and similar requirements are an important risk-management tool.³⁷ A licensing system could clearly define that the goal of the rental sector is to provide housing in a fair, safe, effective and efficient manner. It would also guarantee that those who are licensed to rent out properties meet basic requirements, like being trustworthy and competent to act as rental providers.</p>

33. Estate Agent (Professional Conduct) Regulations 2018.

34. Federal Trade Commission, Price fixing by algorithm is still price fixing, March 2024, <https://www.ftc.gov/business-guidance/blog/2024/03/price-fixing-algorithm-still-price-fixing>.

35. Housing Statement, n 13, page 28.

36. There are landlord licensing and registration schemes in Wales, Ireland and Scotland.

37. Victorian Government, Victorian Permissions Framework Guidance, <https://www.vic.gov.au/victorian-permissions-framework-guidance>.

Transparency and quality indicators

Beyond increasing penalties (which is a welcome part of the Housing Statement), there is greater opportunity to use sector data to promote **transparency of rental provider and property agent conduct and offer the market clearer quality indicators.**

While Victoria has an existing rental non-compliance register, which displays the details of rental providers that have been the subject of compliance action or compensation orders,³⁸ this could be assessed for effectiveness and improved to provide greater information, for example relating to complaints. Transparent information about quality of service could also be extended to property managers (complaints data, timeliness of response data etc). This is likely to have greatest impact where it is designed to provide reputational incentives to providers to improve.

Hardship and vulnerability obligations

Licensing obligations could, like other essential service sectors, extend to minimum standards and training requirements to support tenants experiencing hardship or vulnerability. In other sectors, there are examples of community providers designing and delivering training that helps essential service providers meet their responsibilities around hardship and vulnerability.³⁹

Some key areas for exploration may be around financial hardship of tenants, as well as family violence obligations.

In many essential service sectors, there are obligations on providers to provide flexible and proactive support to those in financial hardship with the goal of avoiding harsh outcomes (like court or tribunal action).⁴⁰ There are no similar requirements regarding tenancies, so this is a clear area of opportunity.

There are some limited family violence obligations in the RTA that allow victim-survivors to change locks and make certain modifications without consent and require property managers to exclude renters who are subject to family violence or personal safety intervention orders.⁴¹ A victim-survivor can also apply to VCAT to end the rental agreement early or start a new agreement in the same property that does not include the person being violent.⁴²

However, there could be more proactive standards and training for property managers to ensure rights are being upheld. While the law reform in this area has been positive, a more holistic response may be needed to deliver the required cultural change in the sector to deliver the law's objectives.

Professionalisation

More broadly, there is opportunity to contribute to the professionalisation of the property management sector, beyond minimum standards.

This could involve working directly with the property management sector to develop knowledge and capability about supporting tenants, or could replicate successful projects.

For example, Peninsula Community Legal Centre previously delivered a young renters program that worked with property managers to ensure that young people build capability to be an effective renter. An international example is the Utah Good Landlord program, which delivers training around fair housing basics and best practices.⁴³

Professionalisation and the building of capability could help address concerns around stress and burnout in the property management sector.⁴⁴

38. CAV, Rental non-compliance register, <https://registers.consumer.vic.gov.au/RPRsearch>.

39. Uniting, Enterprise Partnership, <https://www.unitingvictas.org.au/services/enterprise-partnerships/>.

40. This applies in energy, water, telecommunications, lending and local government.

41. See Justice Connect fact sheet, <https://hlp.justiceconnect.org.au/practice-areas/housing-and-tenancy/during-a-tenancy/family-violence-provisions/>.

42. Section 91V, RTA.

43. Utah Rental Housing Association, Good Landlord Program, <https://www.rh.utah.org/good-landlord>.

44. Martin Kelly, 'Stress prompts 30pc of property managers to leave industry', *Australian Financial Review*, 7 April 2021, <https://www.afr.com/property/residential/stress-prompts-30pc-of-property-managers-to-leave-industry-20210407-p57h3g>.

Discrimination and privacy

Discrimination is a significant issue facing some groups of renters, including First Nations renters. The 2022 report, *Aboriginal Private Rental Access in Victoria: 'Excluded from the Start'*, confirms that Aboriginal Victorians face barriers at every stage of a renter's journey, mainly due to prejudice and discrimination, as well as structural disadvantage.⁴⁵ The report noted that the 'applying' stage gives rise to the most barriers.

Similar issues arise regarding other groups of renters who might be discriminated against, for example, certain racial groups or single parents. The Council for Single Mothers and their Children reports that discrimination regarding housing is prevalent in the rental market.

The Council points to algorithms used by real estate agents that instantly reject single mothers and give preference to two-income families.⁴⁶ There are also reports that some property managers are reviewing applicant's social media profiles as part of the application process.⁴⁷

A key barrier to raising complaints is that there is little evidence that a protected attribute is the reason why an applicant was not selected for a tenancy. Furthermore, low vacancy rates and high levels of demand for rentals exacerbate the opportunity for discrimination due to the highly competitive environment.

This is an issue in private rental, as well as with community housing providers that might cherry-pick more 'acceptable' tenant applications, such as older people or disability support pensioners who are deemed to have more secure and higher incomes than others living on income support or insufficient income.

The Housing Statement has committed the Victorian Government to limiting the amount of personal information that can be collected as part of an application process. This should protect applicants' privacy and data, and limit the ability of rental providers and property agents to decide applications based on extraneous or discriminatory considerations.⁴⁸

There is an opportunity to build on this concept by proposing or trialling a blind system for tenancy applications, where the agent is not provided with the full personal details of the applicant. This is described further in Part 4.

45. Aboriginal Private Rental Access Report, page 11.

46. Council for Single Mothers and their Children, Navigating Turbulence, February 2024, <https://www.csmc.org.au/2024/02/14/csmc-launches-report-on-largest-survey-of-single-mothers/>.

47. Jim Malo, 'Should property investors know if their tenants have posted about their last landlord?', Domain, 16 February 2024, <https://www.domain.com.au/news/should-property-investors-know-if-tenants-have-posted-about-their-last-landlord-1262870/>.

48. Housing Statement, n 13, page 28.

3.1.3. Issues across different housing types

Table 3 outlines some of the key issues relating to different housing types beyond the private rental market.

TABLE 3: KEY ISSUES WITH ALTERNATIVE HOUSING TYPES

KEY ISSUES	COMMENTARY AND RESPONSES
Social and community housing	<p>Social and community housing has grown substantially in recent decades, and there are a range of current policy initiatives that seek to build the sector. For example, the Victorian Government's Big Housing Build is a \$5.3-billion investment in social and affordable housing.⁴⁹ The Commonwealth's Social Housing Accelerator provides additional resources.⁵⁰</p> <p>With this growth, there is a community need to ensure the standards required of social and community housing providers (including the public provider, Homes Victoria) are robust and meet the needs of tenants, many of whom face social challenges including family violence, mental health issues, alcohol and other drug abuse, and homelessness.</p> <p>In December 2021, the Independent Social Housing Regulation Review⁵¹ published its interim report that made a range of findings and recommendations. Key among these was the finding that there is a profound market failure in providing suitable and affordable housing for low-income and vulnerable cohorts in the community.</p> <p>Recommendations included a clear objective for the social housing sector to protect and safeguard the interests of current, prospective and future tenants. There was also recognition of the need to involve tenants in the design and delivery of the system, as provider incentives to respond to tenant preferences are ineffective.</p> <p>In response to this interim report, the legal assistance sector supported the reform direction, and proposed further reforms to ensure there are no evictions from social housing into homelessness and assurance that possession orders are only ever an act of last resort.⁵²</p> <p>It's now more than two years since the publication of that interim report, and while the final report has been provided to government, it has not yet been made public nor is there a government response. There is an opportunity to resource further efforts to ensure best practice standards and the regulatory framework apply to social and community housing.</p> <p>Another issue arising in this sector is the emergence of new 'affordable housing', which is separate from social or community housing. This is a new type of arrangement promoted through Homes Victoria, where properties are managed by a private tenancy manager and rents are set at 10% below the market cost.⁵³</p> <p>These arrangements are made under the <i>Housing Act 1983</i> (Vic) (the Minister declares a particular program),⁵⁴ and it does not appear that the <i>Residential Tenancies Act 1997</i> (Vic) protections apply. There is an opportunity to monitor the effectiveness of this scheme in contributing to housing justice.</p>

49. Homes Victoria, Big Housing Build, <https://www.homes.vic.gov.au/big-housing-build>.

50. Treasury, Social Housing Accelerator, <https://treasury.gov.au/housing-policy/shap>.

51. Engage Vic, Social Housing Regulation Review, <https://engage.vic.gov.au/social-housing-regulation-review>.

52. Joint legal assistance sector response, *Interim Report of Social Housing Regulation Review*, <https://tenantsvic.org.au/articles/files/submissions/Joint-response-to-SHRR-interim-report-by-CLCs-Feb-2022.pdf>.

53. Homes Victoria, Homes Victoria Affordable FAQ, <https://www.homes.vic.gov.au/homes-victoria-affordable-frequently-asked-questions>.

54. Part VIII B – Victorian Affordable Housing Programs, *Housing Act 1983* (Vic).

Rooming houses and disability accommodation

Rooming houses commonly provide homes for Victorians who have been homeless or who are not able to live in private rental accommodation. Rooming houses must be registered with local councils,⁵⁵ and CAV keeps a public register of rooming houses.⁵⁶ In 2023, new standards for rooming houses came into effect, with some of the reforms commencing in 2024 and 2025.⁵⁷ As such, there is perhaps limited immediate opportunity for further reform although some community legal centres consider that the standards are insufficient in some areas.

There is, however, significant community focus and change opportunities regarding disability accommodation. These include:

Specialist Disability Accommodation (SDA), which is a form of accommodation funded by the NDIS for people who need specialist needs (homes with design features and the provision of intensive supports)⁵⁸

Supported Independent Living (SIL), which is a type of NDIS-funded support that helps with daily tasks and independent living,⁵⁹ and

Supported Residential Services (SRSs), which are a form of privately operated group homes registered and regulated by the Victorian Government.⁶⁰

It appears that the greatest safety and standards exist in SDAs, with these arrangements receiving specific protections under Part 12A of the RTA, which aligns rights with private tenants. SRSs have also been under the spotlight, with a forthcoming report from the Mental Health Legal Centre. This form of housing will come under the purview of the new Social Services Regulator from mid-2024.⁶¹

One area of current concern involves unregulated 'pop-up' housing which may involve a rental provider accessing SIL-funding to top-up rent and provide in-home supports.⁶² Stakeholders consulted for this report confirmed that there are providers that target people with a disability, then move them to these new accommodation settings to capture NDIS funding and pension payments.

Not only does this eliminate choice, but it can severely reduce the quality of care by limiting access to quality support service providers. There is opportunity for further investigation into this area.

Short-stay rental accommodation

Short-stay rental accommodation has had significant impacts for local housing affordability and has led to a reduction in the availability of long-term rental housing, particularly in high-tourism areas.

Some community advocates have objected to the term 'short stay rental accommodation' because it seems benign and fails to recognise its impact on affordable rental accommodation. Alternative terms include 'non-hosted holiday accommodation' or 'whole home holiday accommodation'.⁶³

The Victorian Government's Housing Statement recently announced that a Short Stay Levy will be applied to this sector, set at 7.5% of the short-stay accommodation platform's revenue.⁶⁴ This will be reinvested into Homes Victoria.

In other jurisdictions, reform and advocacy has focused on further limits on this style of accommodation in the name of housing affordability. For example, in some localities there are now limits on the number of days that properties may be used for short stay rentals.⁶⁵

Advocacy has also focused on capping the number of properties that can be used for short-term rental in a particular locality in the name of greater efficiency and effectiveness.⁶⁶

55. Part 6, *Public Health and Wellbeing Act 2008* (Vic).

56. CAV, Rooming house register, <https://registers.consumer.vic.gov.au/rhrsearch>.

57. Residential Tenancies (Rooming House Standards) Regulations 2023.

58. See: <https://www.consumer.vic.gov.au/housing/specialist-disability-accommodation>.

59. See: <https://ourguidelines.ndis.gov.au/supports-you-can-access-menu/home-and-living-supports/supported-independent-living>.

60. *Supported Residential Services (Private Proprietors) Act 2010* (Vic).

61. The *Social Services Regulation Act 2021* (Vic) begins on 1 July 2024. See: <https://www.dffh.vic.gov.au/social-services-regulation-reform>.

62. Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Final Report*, Volume 7, Page 566.

63. Shelter NSW, Submission to NSW Independent Planning Commission, March 2023, https://sheltersw.org.au/news_items/regulating-whole-home-holiday-accommodation-in-byron-bay-and-whats-on-the-horizon-for-the-rest-of-the-state/.

64. Housing Statement, page 20.

65. ABC North Coast, 'Byron Bay landlords will be forced to cap some short-term rentals at 60 days in attempt to ease housing crisis', 26 September 2023, <https://www.abc.net.au/news/2023-09-26/byron-bay-short-term-holiday-cap-approved/102900176>.

66. Shelter, above n 63.

Share houses and other housing not regulated by residential tenancies

Co-renting and shared housing are common forms of housing arrangements, particularly among young people. However, as housing becomes more challenging, there are more examples of people sharing a house into their older years.

Currently, there is no straight-forward mechanism under residential tenancy laws to resolve issues between co-renters, and legal assistance services do not provide much assistance to support people in this situation.

A common scenario involves one tenant wanting to leave a co-rental arrangement, but they cannot simply end their share of the lease and vacate. In the ACT, there is specific jurisdiction at the civil tribunal to help resolve these matters.⁶⁷

There are also other examples of accommodation that is not regulated by the RTA, including – student accommodation attached to universities⁶⁸ and accommodation provided as part of an employment contract⁶⁹ (this may affect some migrant workers in particular).

Issues of power imbalance are particularly stark in these arrangements, and there is an opportunity to explore systemic solutions to improve tenant rights. The University of Melbourne Student Union Legal Service has advocated for change in this area.⁷⁰

Home ownership and mortgages

Home ownership provides individuals and families with a sense of stability, financial security, and belonging within their communities. It has, however, been in decline in Australia over recent decades, contributing to community concerns about housing insecurity. This trend raises opportunities for strategic interventions that either maintain or improve access to home ownership.

Improving the fairness of mortgages to reduce the risks borne by individuals is a useful avenue for exploration. There are other innovative opportunities that have been identified by stakeholders. These are covered in Part 4.

The Victorian Government commissioned the *Victorian Property Market Review in 2022*.⁷¹ This review explored issues relating to home purchase, including disclosure, pricing and agent conduct issues. The final report has not been publicly released.

Retirement housing

There are a range of specialist retirement housing types, including retirement villages,⁷² independent living units (essentially retirement villages provided by not-for-profit providers under residential tenancies), and residential parks and villages (co-located with caravan parks, or purpose-built, where the consumer owns the movable dwelling but rents the site where the home is located).⁷³

A 2017 Victorian Parliamentary Inquiry into the Retirement Housing Sector⁷⁴ recommended that the *Retirement Village Act 1986* (Vic) be reviewed. This review occurred between 2018 and 2022, and an exposure draft bill was consulted upon both in 2022 and 2023.⁷⁵

Key proposed amendments include improved dispute resolution pathways (including a new disputes body), more effective regulation of exit fees, clearer and more consistent contracts, and a range of improvements to owner rights. This amendment bill has yet to be introduced to Parliament.

67. ACAT, Co-tenancies, <https://www.acat.act.gov.au/case-types/rental-disputes/co-tenancies>.

68. Section 21, RTA.

69. Section 12, RTA.

70. University of Melbourne Student Union, *Submission to Inquiry into the rental and housing affordability crisis in Victoria (number 271)*, July 2023.

71. Victorian Property Market Review, <https://engage.vic.gov.au/property-market-review>.

72. Retirement Villages are regulated by the *Retirement Villages Act 1986* (Vic).

73. Residential Parks and Villages are regulated by Part 4A of the RTA.

74. Victorian Parliament, Legal and Social Issues Committee, *Inquiry into the Retirement Housing Sector*, 2017, <https://www.parliament.vic.gov.au/get-involved/inquiries/inquiry-into-the-retirement-housing-sector/reports>.

75. Engage Vic, *Review of the Retirement Villages Act 1986*, <https://engage.vic.gov.au/retirementvillagesact>.

3.1.4. Some current reform processes

Table 4 provides an overview of some relevant current Victorian reform processes relating to housing.

TABLE 4: SOME CURRENT REFORM PROCESSES RELATING TO HOUSING

SERVICE TYPE	DETAILS
High rise redevelopment	<p>As part of its Housing Statement, the Victorian Government has announced that it will demolish and transform 44 older-style public housing towers over the coming years.⁷⁶ It appears that this form of public housing will transition to social housing that is owned and operated by community housing providers.</p> <p>While the government has committed to taking a consultative approach, and has promised to consider renter diversity as well as the Charter of Human Rights,⁷⁷ there are already community concerns about the approach being taken. For example, Inner Melbourne Community Legal Centre has initiated a class action calling for the Victorian Government to pause and consider its relocation plan, and properly consider human rights.⁷⁸</p> <p>The claim is that the decision to initiate the redevelopment was unlawful, because it did not follow the required consultation processes under the <i>Housing Act 1983 (Vic)</i>, nor the <i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i>.</p>
Residential tenancies dispute resolution	<p>As part of its Housing Statement, the Victorian Government has announced that it will develop Rental Disputes Resolution Victoria, a new dispute resolution service to help resolve disputes involving renters, property agents and rental providers.⁷⁹</p> <p>An early proposal for the VLSB+C Grants Program has been developed regarding the opportunity for collaborative advocacy to influence the design of this new service. As such, it is not further considered in this report. A copy of that proposal is attached at Annexure C.</p>

3.2. Existing services and advocacy efforts

Housing justice services in Victoria help both individuals, through legal and related assistance, and consumers of housing as a group, through systemic advocacy. The landscape is relatively complex and somewhat fragmented, but this section attempts to describe the service and advocacy system.

3.2.1. Individual assistance services

In terms of services that support tenants and others with housing legal issues, a range of supports are provided. Table 5 provides a high-level summary and may not be complete.

TABLE 5: INDIVIDUAL ASSISTANCE SERVICES

SERVICE TYPE	DETAILS
Information	<p>Legal information about tenancy and housing issues is provided across a range of online websites.</p> <p>CAV provides substantial information via its website, including more than 40 problem-based webpages and basic rights summaries in 30 languages.⁸⁰ It also publishes the 'Statement of Rights and Duties', which is provided to tenants when new tenancies are created.</p> <p>The Housing Vic website provides information about housing services, housing options, and supports like loan schemes and income support.⁸¹</p> <p>Tenants Victoria provides a range of problem-based webpages, factsheets and step-by-step guides in multiple languages.⁸²</p>

76. Housing Statement, n 13, page 36.

77. Housing Victoria, High-rise redevelopment FAQs, <https://www.homes.vic.gov.au/high-rise-victoria-faq>.

78. Inner Melbourne Community Legal, Public Housing Class Action against Victorian Government, <https://imcl.org.au/class-action/>.

79. Housing Statement, n 13, page 27.

80. CAV, Housing, <https://www.consumer.vic.gov.au/housing>.

81. Housing Vic, <https://www.housing.vic.gov.au/>.

82. Tenants Victoria, <https://tenantsvic.org.au/>.

SERVICE TYPE

DETAILS

Information

– cont

Tenant advocates funded by CAV (the TAAP program⁸³) provide education sessions.

Justice Connect Homeless Law service publishes resources for Victorian lawyers and advocates relating to housing and tenancy.⁸⁴

The National Debt Helpline provides a range of information about housing debt issues, including mortgage lending, council rates, tenancy and strata.⁸⁵

Digital tools

Digital tools are a growing source of individual assistance services, designed to provide tailored information and/or assistance through a legal process. While digital tools can be an efficient way to reach many people who require some tailored assistance, recent research has found that cohorts of people who are more likely to be digitally excluded may not have the digital legal capability to make use of online information and digital tools.⁸⁶ Examples of digital tools are:

[Tenants Victoria's Repairs Toolkit, which is designed to help tenants through the repairs process](#)⁸⁷

[Justice Connect's Dear Landlord, which is a free online self-help tool to guide through options related to rent arrears](#),⁸⁸ and

[Peninsula Community Legal Centre's Young Renters App, which provides practical information on maintaining private accommodation](#).⁸⁹

It is worth noting that the Lord Mayor's Charitable Fund is convening a digital tools working group to support learning among providers of these types of services.

Advice

Tailored advice is provided by a range of service providers across Victoria. As an overview:

[CAV provides tailored advice to tenants over the phone, which covers the range of areas regulated by it – this is information, not legal advice](#)

[Tenants Victoria provides a state-wide housing legal advice service, focusing on private rentals, public housing, caravan parks and rooming house residents](#)

[Justice Connect Homeless Law offers legal advice on tenancy and housing issues](#)

[A range of generalist community legal centres provide tenancy-related legal advice, some with specialist resourcing](#)⁹⁰

[Anika Legal provides an innovative online service model that helps renters with repair and eviction support, including advice](#)⁹¹

[CAV-funds the TAAP program, through which service providers employ tenancy workers to advise tenants](#)

[Victoria Legal Aid \(VLA\) provides advice over the phone and via chat through VLA's Legal Help service](#)⁹² – its Economic and Social Rights practice also provides relevant advice

[DFFH-funded homelessness services provide advice and assistance through intake and assessment processes](#),⁹³ and

[Housing for the Aged Action Group \(HAAG\) provides advice to older Victorians with housing issues, with a focus on those living in retirement villages, independent living units and residential parks](#).⁹⁴

83. CAV, Tenancy Assistance and Advocacy Program, <https://www.consumer.vic.gov.au/clubs-and-fundraising/funded-services-and-grants/tenancy-program-2021-24/tenancy-assistance-and-advocacy-program>.

84. Justice Connect, *Homeless Law in Practice*, <https://hlp.justiceconnect.org.au/practice-areas/housing-and-tenancy/>.

85. National Debt Helpline, Housing, <https://ndh.org.au/debt-problems/housing/>.

86. Victoria Law Foundation, *Public Understanding of Law Survey (PULS)*, Volume 2 – Understanding and Capability, <https://puls.victorialawfoundation.org.au/publications/understanding-and-capability>.

87. Tenants Victoria, Repairs Toolkit, <https://tenantsvic.org.au/advice/common-problems/repairs/repairs-toolkit/>.

88. Justice Connect, Dear Landlord, <https://justiceconnect.org.au/help/dear-landlord/>.

89. Peninsula Community Legal Centre, Young Renters App, <https://applications-au.neotalogic.com/a/PCLC-YoungRentersRights>.

90. These include Peninsula Community Legal Centre, WEstjustice, Inner Melbourne Community Legal and others.

91. Anika Legal, <https://www.anikalegal.com/>.

92. Victoria Legal Aid, <https://www.legalaid.vic.gov.au/speak-to-us>.

93. DFFH, Homelessness Support Services, <https://services.dffh.vic.gov.au/getting-help>.

94. Housing for the Aged Action Group, <https://www.olderrenters.org.au/>.

SERVICE TYPE	DETAILS
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Negotiation and representation

CAV provides some front-line resolutions, as well as repair inspections and rent assessments, which inform negotiations. CAV acts more as a go-between, and does not represent individuals.

Tenants Victoria and Justice Connect Homeless Law provide negotiation and representation services in VCAT. Other generalist community legal centres may also provide these services. Anika Legal's online service model helps with repair and eviction negotiations, and helps renters prepare for self-representation at VCAT.

VLA provides negotiation and representation that is focused on support to prevent homelessness, which includes a duty lawyer service at VCAT.

CAV-funded TAAP tenant advocates provide negotiation and representation in VCAT for private tenants.

DFFH-funded Tenancy Plus tenant advocates provide renters in community and social housing with negotiation and representation assistance.⁹⁵

Wrap-around or holistic services

Wrap-around services refer to comprehensive support mechanisms designed to meet the holistic needs of clients, extending beyond traditional legal representation to include financial counselling, social support and health support.

Similarly, health justice partnerships integrate legal support into services that support people's broader health and wellbeing. These services aim to address the underlying issues that may affect a client's legal situation, which ensures a more integrated and effective approach to legal assistance.

Many community legal centres adopt these service types, including:

[Justice Connect's Under One Room, which partners with frontline homelessness services to coordinate access to wrap-around services and its Women's Homelessness Prevention Project that provides integrated legal and social work](#)

[WEstjustice and ARC Justice provide a wrap-around legal, financial counselling and social work support service, called Tenancy Stress, for flood victims⁹⁷](#)

[Inner Melbourne Legal Service has an integrated practice with Oznam House, a homelessness support service](#)

[West Heidelberg Community Legal has published a report on its health-justice partnership, demonstrating the need for holistic services to support tenant attendance at VCAT to avoid evictions,⁹⁸ and](#)

[Mortgage Stress Victoria is now a state-wide standalone legal service that provides integrated legal, financial counselling and social work support to help people sustain their homes.⁹⁹](#)

Worker assistance

Some individual assistance services are targeted at other community workers and professionals, to equip them with the knowledge to help their clients.

Tenants Victoria offers a community worker line, and training and publications aimed at community professionals.¹⁰⁰

VCOSS has been delivering a state-wide training and support program, to ensure there is awareness of the 2021 rental reforms among community sector organisations.¹⁰¹

Figure 1, produced by the Commissioner for Residential Tenancies, shows a Private Tenant Assistance Map. This was developed with the assistance of a tenant education community of practice hosted by the Commissioner.

95. DFFH, Tenancy Plus, <https://www.housing.vic.gov.au/tenancy-plus-support-program>.

96. Justice Connect, Homeless Law, our services, <https://justiceconnect.org.au/our-services/homeless-law/>.

97. WEstjustice, Tenancy Stress Victoria Flood Recovery Clinic, <https://twitter.com/WEstjusticeCLC/status/1652846723654647810>; Shepparton News, 'Tenancy Stress Victoria – support for renting flood victims launches', <https://www.sheppnews.com.au/news/tenancy-stress-victoria-support-for-renting-flood-victims-launches/>.

98. West Heidelberg Community Legal, Improving housing and health outcomes: understanding and addressing barriers to VCAT attendance, https://bchs.org.au/wp-content/uploads/2019/05/0118BCHS_WHCLS-Housing-report_SCREEN.pdf.

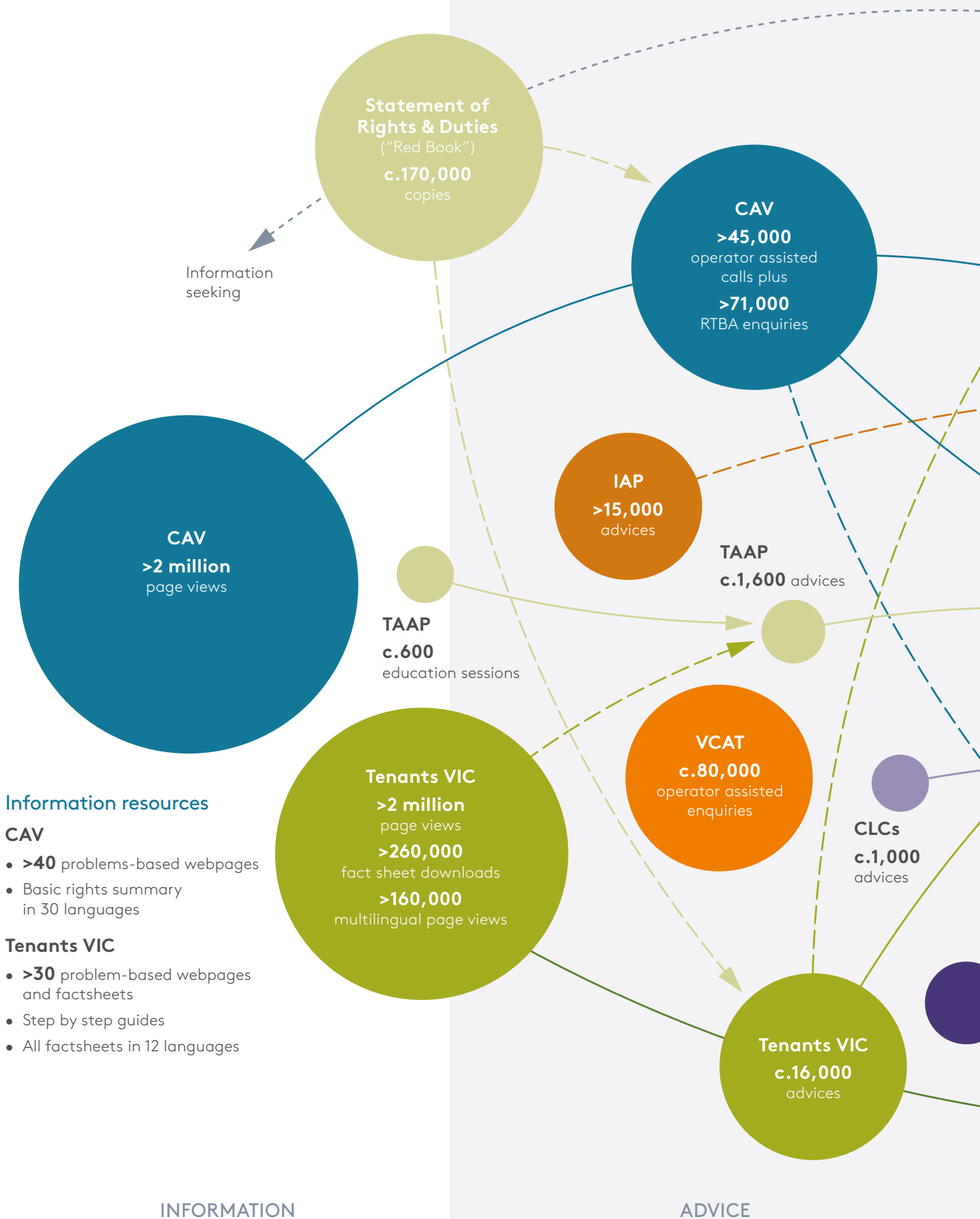
99. Mortgage Stress Victoria, <https://www.mortgagestress.org.au/>.

100. Tenants Victoria, For organisations, <https://tenantsvic.org.au/for-organisations/>.

101. VCOSS, Renters Rights project, <https://vcoss.org.au/projects/rentersrights/>.

FIGURE 1

PRIVATE TENANT ASSISTANCE MAP



Data from 2017-18.

Self-represented
 >50% (300K) of all renters experience a problem
 c.66% (200K) of problems are not satisfactorily resolved

Rental sector context

- >600K renter households
- c.250K low-income households
- c.75K social housing tenants
- 33% NESB private renters
- 10% first-time renters

CAV
 (?) front-line resolutions
 >1,000 repair inspections
 >1,300 rent assessments

Self-represented
 c.6,000 tenant applications to VCAT
 c.30% attendance by tenants as respondents

to where?

Tenancy Plus
 (?) cases

Tenancy Plus
 (?) VCAT hearings

c.600 referrals
TAAP
 >1,800 cases

TAAP
 >1,000 cases
 >1,000 VCAT hearings

CLCs
 c.200 cases

CLCs
 (?) VCAT hearings

Justice Connect
 c.1,600 advices

Justice Connect
 c.470 cases

Justice Connect
 c.350 VCAT hearings

VLA
 c.6,400 advices

VLA
 c.200 cases

VLA
 c.180 VCAT hearings

Tenants VIC
 c.250 VCAT hearings

Tenants VIC
 >600 cases

NEGOTIATION

VCAT

3.2.2. Collective or systemic advocacy

Collective or systemic advocacy involves organised efforts to influence and enact change within policies, laws and practices at a broader, systemic level. It goes beyond individual cases to challenge and transform the structural mechanisms that perpetuate inequities.

With housing, systemic advocacy focuses on a wide range of concerns, including ending homelessness, enhancing tenant rights, sustaining homes, and improving accountability of housing providers.

The legal assistance sector, particularly community legal centres, commonly combines individual assistance services with broader advocacy aimed at changing the systemic causes of the problems their clients are encountering.

The benefit of this approach is the service provider’s ability to draw on their clients’ case experiences to set priorities for action and to provide real-life illustrations of systemic problems they are seeking to change.

Collective or systemic advocacy can be more impactful if there is access to comprehensive research about the housing sector and the inequities that arise.

Robust research can provide persuasive evidence about the significance of problems and the impact of potential system changes that might improve housing justice.

Another type of collective advocacy is lived experience advocacy, which involves leveraging firsthand experiences and insights of individuals who have faced housing insecurity, homelessness, or other types of housing-related challenges, to inform, shape and drive policy changes and service improvements.

This form of advocacy emphasises the importance of involving those directly affected by housing issues in the decision-making processes, ensuring that solutions are grounded in real-world contexts and effectively address the needs and rights of those most impacted.

Table 6 describes some of the collective or systemic housing justice advocacy efforts in Victoria. It can be difficult to categorise and assess advocacy efforts, particularly given advocacy can be organic and change over time due to external opportunities and resource capacity.

TABLE 6: COLLECTIVE OR SYSTEMIC HOUSING ADVOCACY IN VICTORIA

ADVOCACY TYPE	COMMENTARY
Government-sponsored advocacy	<p>In 2018, the Victorian Government created the Commissioner for Residential Tenancies role, and Heather Holst is the Commissioner. The website of the office states that it provides independent advice to the Victorian Government to recommend changes to renting laws, programs and services to improve the renting rights, practices and tenant experiences across Victoria.¹⁰²</p> <p>The Commissioner has led collaborative work in the sector and coordinated research and reports on issues affecting tenants. Being part of government, the office does not have a significant public profile, but it does make a useful contribution to advance tenant rights.</p> <p>VLA also engages in systemic advocacy, but this hasn’t directly focused on housing. A recent exception is that VLA has made submissions to the Yoorook Justice Commission on housing, promoting rights in social housing, addressing discrimination in private rental, removing barriers to housing for people with a criminal history, and preventing evictions into homelessness.¹⁰³</p>
Tenant/legal assistance sector collective advocacy	<p>The legal assistance sector, including Tenants Victoria, the Federation of Community Legal Centres, Victoria Legal Aid, Victorian Aboriginal Legal Service (VALS) and a range of community legal centres engage in collective advocacy, both as individual organisations and collectively. A particular focus is on private tenancy rights, but there is also advocacy around rights of public and community housing, as well as investment and supply issues. These groups, particularly Tenants Victoria, contributed substantially to the <i>Residential Tenancies Amendment Act 2018 (Vic)</i>.</p> <p>Collective work across the sector is coordinated through the Tenancy Coordination Group, a group led by Tenants Victoria. This group, which was established during COVID-19 and involves the leaders of relevant organisations, supports organisational engagement and collaboration. The group does not receive any specific resources, which may hamper its ability to progress collaborative advocacy, but it does support alignment and coordination on policy issues.</p> <p>A campaign involving COTA Victoria, Housing for the Aged Action Group, the Residents of Retirement Villages Victoria and Consumer Action Law Centre operated for a number of years and contributed to a policy focus on retirement housing and the commitment to the review of retirement villages legislation.¹⁰⁴</p>

102. Commissioner for Residential Tenancies, <https://www.rentingcommissioner.vic.gov.au/the-commissioner>.

103. Victoria Legal Aid, Submission to Yoorook Justice Commission, February 2024, <https://yoorookjusticecommission.org.au/document-library/submission-victoria-legal-aid-3/>.

104. HAAG, Retirement Housing Campaign, <https://www.older tenants.org.au/retirement-housing/retirement-housing-campaign>.

Homelessness sector advocacy

Homelessness organisations engage in systemic and collective advocacy to end homelessness. Key organisations include Homelessness Australia, as a national peak body, and Council to Homeless Persons, as a Victorian peak body. There is also the Alliance of Housing Peaks, sponsored by VCOSS, which has a particular focus on both homelessness and public and social housing investment.¹⁰⁵

The focus of this advocacy is broad. For example, Homelessness Australia is currently focused on developing a National Housing and Homelessness Plan, suggesting that it includes government investment into public and social housing, legislative protections against homelessness, and a commitment to preventing homelessness as an outcome of government service interactions. At the Victorian level, a key current focus is influencing government investment plans regarding social and public housing.

In terms of support services, a key advocacy priority involves the Housing First model. This is an innovative approach to addressing homelessness that prioritises providing permanent, unconditional housing to individuals experiencing homelessness as the initial step, then offers supportive services tailored to their needs, such as healthcare, counselling and employment assistance.¹⁰⁶

Unlike traditional models, which often require individuals to meet certain criteria before being offered housing assistance, Housing First removes these barriers, emphasising the right to housing without preconditions.

Advocacy led by First Nations organisations and advocates

In 2020, a collaborative forum of Aboriginal Controlled Organisations published *Mana-na woom-tyeen maar-takoort, Every Aboriginal Person has a Home: The Victorian Aboriginal Housing and Homelessness Framework*.¹⁰⁷ This 20-year roadmap moves away from crisis response to address drivers of housing outcomes. It looks at embedded Aboriginal housing goals and targets in major government strategic housing frameworks, a focus on building Aboriginal-owned social housing, promoting access to private rental and home ownership, and the development of an Aboriginal focused homeless service system.

There is strong community support for this Framework, which is based on self-determination, but it does not appear that the Framework has been specifically resourced or responded to by government.

One recommendation of the Framework involves greater research about the experience of Aboriginal renters. The Aboriginal Private Rental Access Project¹⁰⁸ was commissioned by the Consumer Policy Research Centre, and conducted by researchers at Swinburne University of Technology, on behalf of the Commissioner for Residential Tenancies, Victorian Legal Aid and Aboriginal Housing Victoria.

Key findings and policy recommendations focus on entrenched discrimination throughout the renter lifecycle.

The Yoorrook Justice Commission is the first formal truth-telling process into historical and ongoing injustices experienced by First Peoples in Victoria. In late 2023, the Commission published an Issues Paper on Housing and Homelessness, seeking views on issues including racism in private rental, barriers to social housing and what a self-determined housing system would look like.¹⁰⁹

105. The Housing Peaks Alliance is comprised of Aboriginal Housing Victoria, the Community Housing Industry Association Victoria, the Council to Homeless Persons, Domestic Violence Victoria, Justice Connect, Tenants Victoria, the Victorian Public Tenants Association and the Victorian Council of Social Service.

106. Council to Homeless Persons, *Housing First: Permanent Supportive Housing*, <https://chp.org.au/publication/housing-first-permanent-supportive-housing/>.

107. Victorian Aboriginal Housing and Homelessness Forum, *Mana-na woom-tyeen maar-takoort, Every Aboriginal Person has a Home: The Victorian Aboriginal Housing and Homelessness Framework*, <https://vahhf.org.au/>.

108. Aboriginal Private Rental Access Project, n 32.

109. Yoorrook Justice Commission, *Issues Paper Housing and Homelessness*, November 2023.

Community-based or lived experience advocacy

There are a range of grassroots community-based, campaign or lived experience collective advocacy initiatives focused on housing justice. Some examples include:

The Renters and Housing Union (RAHU) is a member-run union comprised of renters, public housing tenants, squatters, homeless, homeowners, and people in unstable housing from all Australian states and territories. RAHU engages in media, policy and lived experience advocacy¹¹⁰

Better Renting's Renter Researchers is a citizen-science and advocacy project that has operated regularly since 2022. Renters from across Australia take part by tracking temperature and humidity in their homes. Tenant data and experiences create a powerful portrayal of poor-quality housing¹¹¹

The Everybody's Home campaign is a national campaign sponsored by a coalition of housing, homelessness and welfare organisations. The campaign has focused on ending tax breaks for housing investors, and improving renter rights. A new initiative is the People's Commission into the Housing Crisis,¹¹² which enables individuals to share stories that will be reflected back in a commission report and used in advocacy

ShitRentals.org provides the opportunity for renters to upload information about their experience with poor quality rental accommodation and the conduct of property agents. Transparency about these issues can create reputational incentives for improvement.

Research-focused policy and advocacy

There are several research-focused policy bodies that focus on housing. These include:

The Australian Housing and Urban Research Institute (AHURI), which conducts high-quality, peer-reviewed primary research across housing and homelessness¹¹³

The Consumer Policy Research Centre, which is an independent, not-for-profit, consumer think-tank – it works with policymakers, regulators, academia, industry and the community sector to develop, translate and promote evidence-based research to inform practice and policy change, and has published a range of research on housing and renting,¹¹⁴ and

Per Capita's Centre for Equitable Housing, which provides research, policy advice and public engagement on housing affordability-related issues.¹¹⁵

110. Renters and Housing Union, <https://rahu.org.au/>.

111. Better Renting, Renter Researchers, https://www.betterrenting.org.au/renter_researchers.

112. Everybody's Home, People's Commission into the Housing Crisis, <https://everybodyshome.com.au/peoples-commission/about/>.

113. Australian Housing and Urban Research Institute, <https://www.ahuri.edu.au/about/what-we-do>.

114. Consumer Policy Research Centre, e.g., Is it Liveable, <https://cprc.org.au/report/is-it-liveable/>; From Search to Sale: navigating the Victorian Property Market, <https://cprc.org.au/report/from-search-to-sale-navigating-the-victorian-property-market/>; The Renter's Journey, <https://cprc.org.au/report/report-the-renters-journey/>.

115. Centre for Equitable Housing, <https://centreforequitablehousing.org.au/about/>.

4. OPPORTUNITIES FOR STRATEGIC AREAS OF INTERVENTION

This section outlines several opportunities for strategic intervention to improve housing justice.

From the vast array of systemic interventions available to enhance housing justice, the selected initiatives have been chosen due to their significant potential for impact. They offer strategic opportunities to address core issues and effect meaningful change within the housing sector.

These are categorised as:

Improving renter rights and provider accountability – Opportunities to enhance the legal and practical protections for renters, including holding rental providers and property agents accountable, to ensure fair treatment, security of tenure, and access to quality housing.

Improving housing support service system – Initiatives that can contribute to more effective and comprehensive support services for tenants and other housing consumers

Innovative projects that advance difficult issues – This category is dedicated to pioneering or creative solutions that tackle the most challenging aspects of housing justice.

4.1. Improving renter rights and provider accountability

4.1.1. Covering the cost of relocation

Opportunity

This opportunity could be a collaborative advocacy initiative to improve the fairness of tenancy laws. The reform would be designed to ensure renters are not unduly out-of-pocket because a tenancy ends due to eviction or early end of lease. The opportunity could draw on individual experience, consumer research and international experience.

Rationale

The power imbalance between renter and rental provider is one of the most substantial issues in residential tenancies.

Despite the ban on ‘no grounds’ evictions, there has been no substantial increase to the average length of tenure. It appears too easy for rental providers to end a lease and re-lease a property to take advantage of higher market rents. While reforms like the ‘reasonable and proportionate’ test have improved renter rights regarding evictions, this has largely required legal argument at the possession order stage rather than shifting provider incentives.

There is a need for a greater incentive for rental providers to maintain the security of a lease, and not to end a tenancy early, given costs can fall unduly on the renter. These costs include relocation costs, which the Grattan Institute has estimated to be upwards of \$6,000.¹¹⁶ Advocacy could draw on research and present examples of moving costs that creates undue expenses for renters.

Some other jurisdictions, like Netherlands and Quebec, require a rental provider to pay a relocation allowance to the renter if they evict the renter or end a tenancy early. The relocation allowance is a contribution towards the costs of relocation and refurbishment.

116. Eden Gillespie, ‘Nowhere else to go: protestors rally in support of Brisbane women refusing to leave rental home of 22 years’, *The Guardian*, 7 February 2024, <https://www.theguardian.com/australia-news/2024/feb/07/stephanie-cridland-no-fault-eviction-protest-rally-brisbane>.

4.1.2. Improving the rent increase assessment process

Opportunity

This opportunity could be a collaborative advocacy initiative to improve the fairness of tenancy laws. The reform would be designed to improve the CAV rental increase assessment process. The opportunity could draw on individual experience with the scheme and consumer research.

Rationale

Large rental increases have contributed to housing insecurity in recent years. Currently, renters can ask CAV to investigate and report on a proposed rent increase. This is an increasingly well-used mechanism, with thousands of Victorians asking for such an investigation each year.

There is an opportunity to improve the effectiveness of this scheme, so that it better meets policy objectives to prevent arbitrary or excessive rent hikes that can lead to financial strain for renters. Improvements would also balance the interests of rental providers and renters, and foster a more stable rental market that supports both housing security and reasonable returns for property owners.

A key focus could involve refining the factors that CAV considers, as well as modifying its approach, to ensure that the rents reflect fair market value.

4.1.3. Expanding transparency about rental quality and property management experiences

Opportunity

This opportunity could design and develop a platform that enables renters to share information about the quality of rental accommodation, and the responsiveness of rental providers and property managers. The opportunity could partner with, or seek to expand, existing services such as Rate My Rental and ShitRentals.org. This sort of initiative might also include an advocacy element to improve the transparency and usefulness of information held by regulators.

Rationale

Research suggests that consumers do not have reliable and widely available access to quality metrics when they buy goods and services.¹¹⁷ Further, increased transparency about the quality of products and consumer experiences with services can deliver reputational incentives to improve industry performance.

While there are some existing services that provide some public information, feedback suggests that these need greater scale and reach.

Unless they are more widely used and accessible, they are unlikely to have a significant impact given market dynamics. These dynamics include low vacancy rates, which mean that many prospective renters, particularly those in more vulnerable circumstances, may not have rental choice. The focus, rather, should be on driving reputational incentives.

This sort of initiative could be expanded by coordinating with third party assessment of quality. For example, the Victorian Parliament's Inquiry into Rental Housing and Affordability has proposed to create a Chief Inspector to assess whether rentals meet minimum standard. The results of these audits could be made available via this sort of platform. The information on the Victorian non-compliance register could also be made available so comprehensive information can be accessed in one place.

An extension of this opportunity would be to examine property agent conduct and behaviour from the perspective of their customer (i.e. the rental provider), rather than just the tenant. For example, a mystery shop of property agents could identify the information and advice they provide to rental providers regarding advertising, pricing, assessing applications and property management.

117. Consumer Policy Research Centre, 'Consumers Need a Sunlight Remedy: We're Still in the Dark when it comes to Quality of Service', 7 October 2018, <https://cprc.org.au/release/consumers-need-a-sunlight-remedy-were-still-in-the-dark-when-it-comes-to-quality-of-service/>.

4.1.4. Improving tenancy compliance incentives

Opportunity

This opportunity could be a collaborative advocacy initiative to improve the fairness of tenancy laws. The reform would be designed to create greater incentives for rental providers and property agents to comply with their duties, by ensuring there is a cost associated with non-compliance.

Rationale

Tenancy rights, including those regarding repairs and maintenance or other rental provider duties,¹¹⁸ largely involves self-enforcement. That is, the tenant must initiate the complaint through a notice of breach of duty¹¹⁹ and seek to negotiate or take action at VCAT. The inherent power imbalance between renter and provider can deter renters from taking this action. While there is a role for the regulator in taking enforcement action to promote compliance,¹²⁰ many of the requirements of the RTA do not attract civil penalties enabling regulatory action. The onus falls on the tenant.

A key way to remedy this imbalance is for the rental provider or property agent to incur greater costs if they don't meet the necessary requirements.

Currently, renters can seek compensation for issues such as loss of use of home and damage to belongings,¹²¹ however this path does not provide sufficient incentive because the renter is often unwilling or unable to pursue action.

One option for reform would be if VCAT orders a rental provider or property agent to comply with their duty, then the renter is entitled to a reimbursement of, say, three months of rent. This would align a financial incentive with the reputational incentive associated with being added to the rental non-compliance register, and thereby contribute to greater compliance and a reduction in litigated claims.

4.1.5. Licensing for rental providers

Opportunity

This opportunity could be a collaborative advocacy initiative to improve the fairness of tenancy laws. The reform would be to require rental providers to be registered or licensed before they can provide rental accommodation. This opportunity could draw on examples internationally.

Rationale

Rental providers, as providers of essential services, are outliers when it comes to the requirement to be registered or licensed. Such a requirement can help address risks of poor provider conduct by ensuring that rental providers seek permission from a regulator before they offer rental accommodation.

The Housing Statement has indicated that the Victorian Government will implement a licensing regime for property management. This presents a unique opportunity to consider how the implementation of this commitment might extend to rental providers, the ultimate provider of rental properties.

In particular, this reform could help address rogue rental providers, including those that do not use property agents. It could also work to improve standards by ensuring providers meet defined capability requirements.

118. Duties include that upon moving in, premises are vacant and reasonably clean, that premises are maintained and in good repair, that there are appropriate locks, and that the premises are safe.

119. Section 208, RTA.

120. The Victorian Government has announced a taskforce to 'crack down' on rental providers and estate agents that engage in poor conduct, see Minister for Consumer Affairs, 'Taskforce to Crack Down on Dodgy Rentals', 2 March 2024, <https://www.premier.vic.gov.au/taskforce-crack-down-dodgy-rentals>.

121. Section 498ZQ, RTA.

4.1.6. Enhancing hardship and vulnerability responses among housing providers

Opportunity

This opportunity could be focused on more holistic responses to hardship and vulnerability. The initiative could involve community and providers working collaboratively on an agreed framework to respond to hardship and vulnerability.

Rationale

There is a community expectation that essential service providers respond appropriately to those experiencing financial hardship or facing vulnerability. This expectation can be seen in various industry laws or codes of conduct, including banking, energy, telecommunications and local government, where there are not commitments made by providers to provide flexibility and appropriate support to those experiencing financial difficulty of facing particular vulnerabilities including being a victim/survivor of family violence.

These laws and codes often began their life as a joint community-industry initiative, for example, the telecommunications and local government sectors initially worked collaboratively with community representatives on good practice standards before this became more formal. There is a similar opportunity in the rental provider sector to work with peak bodies and property managers on agreed standards, drawing on experts in joint industry-community initiatives like Thriving Communities Partnership.¹²²

4.1.7. Professionalisation in the property management sector

Opportunity

This opportunity could foster collaboration between the property management sector and the community sector, by building training and capability in supporting renters. It could contribute to professionalisation of the sector.

Rationale

As noted in 3.1.2, the Victorian Government has committed to introduce mandatory training for property managers. This initiative could align with the Government's commitment and work to create training that builds professionalism and capability in dealing with vulnerable tenants. There of course may be commercial providers that fill this gap, but there is an opportunity to consider whether there is some training content that can promote good practice regarding vulnerability.

This sort of initiative could help address property management industry concerns regarding stress and burnout, and contribute to the development of the property management sector. It could also support the development of a 'Quality Property Manager' designation, for those that have completed the training and even ongoing measures to ensure high quality provision. This is akin to receiving accreditation that might inform rental providers and renters about the quality of the property manager.

4.1.8. Removing discrimination from the housing application process

Opportunity

This opportunity could foster collaboration with the property management sector (including technology providers) and the community sector, and trial the development of online tenancy application processes that remove the opportunity for discrimination.

Rationale

As noted in 3.1.2, the Victorian Government has committed to regulating the tenancy application process and limiting the amount of personal information that can be collected. This initiative can align with the Government's commitment. There may be opportunity to work with the PropTech sector to explore options to develop online application processes in a way that is ethical, meets the needs of rental providers, and removes opportunities for discrimination.

There is some evidence that the PropTech sector would support this approach, as it may assist with data security, speed and efficiency of the application process. While the process would provide information that can be used to assess the applicant's ability to afford rental payments and meet other basic criteria, it could remove identifying characteristics that are irrelevant in a fair application assessment process.

A project could explore this idea further and promote it within industry and government. It could also consider interaction or application with the Victorian Housing Register, which is the central mechanism for applications for public and social housing. As noted in Part 3, there are reports of discrimination or of 'cherry-picking' applications through this process that might be considered through such a project.

122. Thriving Communities Partnership, <https://www.thriving.org.au/>.

4.1.9. Ensuring good standards in the social and affordable housing sectors

Opportunity

This opportunity could leverage legal assistance sector support for social and affordable housing tenants by drawing together experiences and aiding collective advocacy for good practice standards by community and public housing providers.

Rationale

As noted in 3.1.3, there is a huge growth in community housing in Victoria, with both State and Commonwealth investments. There are, however, reports of inadequate protection of tenant rights by some providers, with inconsistent complaints mechanisms and higher eviction rates compared to public housing.

There is also a current reform process with the government response and implementation to the Social Housing Regulatory Review, so there is current opportunity to contribute at a systemic level. While some existing CLCs provide services in this area, there does appear to be a lack of centralised knowledge and experience focused on social housing.

4.1.10. Identifying and responding to exploitative disability accommodation

Opportunity

This opportunity could provide dedicated assistance and collective advocacy to support people in group disability homes, focusing on unregulated providers. It could deliver peer support, legal assistance, and draw together experiences to contribute to systemic advocacy.

Rationale

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability identified the emergency of unregulated ‘pop-up’ housing being provided to people with a disability, where a rental provider accesses NDIS funding to provide in-home supports in a group setting. Some people with disabilities are in very vulnerable positions and lack the personal or community supports to advocate for themselves. This leaves them vulnerable to exploitative practices.

While there is some oversight of some forms of accommodation used by, or targeted at, people with a disability, the emergence of alternative models may be ‘hidden’.

An initiative could involve working to provide support to people in these settings, through a mix of peer support and legal support to ensure people are not being exploited and their housing choices and rights are respected and upheld.

Such an initiative could also shine a spotlight on gaps in regulation and align with policy commitments to phase out group homes entirely for people living with a disability.

4.1.11. Developing a fairer framework for co-renting

Opportunity

This opportunity could investigate a framework for co-renting that balances the rights of co-renters and provides greater certainty about rights and responsibilities.

Rationale

Co-renting is already common among younger people, but there are reports of it becoming more popular as people get older, particularly as a way to maintain affordable tenancies.

Currently, there are no clear frameworks or regulations to govern the arrangements between tenants, who all might be listed on a lease, or some may be licensees.

There is also a lack of substantial legal assistance and support for co-renters who face issues. Disputes can arise, particularly if some tenants want to depart or there is dominance in decision-making by some 'lead' tenants.

There is an opportunity to examine what a fair framework for co-tenancy might include or to identify good principles or template agreements that can be drawn on. This could:

ensure all renters have equal say and access to resources

ensure equitable distribution of relevant expenses, and

set frameworks for communication and conflict resolution.

4.2. Improving the housing support service system

4.2.1. Enhancing the capacity of collaborative advocacy in the housing justice sector

Opportunity This opportunity could build the capacity of collaboration and joint advocacy in the Victorian housing justice sector, including CLCs, legal aid and other allied organisations.

Rationale There is some good collaboration among parts of the housing justice sector, including the Housing Peaks Alliance (which focuses on homelessness and social housing investment) and the legal assistance sector's Tenancy Coordination Group, which is led by Tenants Victoria.

The Tenancy Coordination Group does not, however, have access to dedicated resources to advance collaboration and collective advocacy, so it appears to be focused on information sharing and developing joint positions. The group also does not appear to include all relevant organisations, such as those that might be outside the legal assistance sector but have an interest in collaboration and joint advocacy.

There is an opportunity to provide resourcing to the Tenancy Coordination Group to lead one or several of the collective advocacy projects described in 4.1.1.

Centralised resourcing for collective advocacy can help strengthen decision-making, deliver greater focus and leadership, ensure coordinated resource allocation, and increase the effectiveness of joint advocacy and campaigns.

Greater alignment can also maintain a strong, consistent voice for the housing justice (particularly tenant rights) sector, which is crucial for public and government engagement and support. To be effective, this should take an inclusive approach and encompass all relevant organisations with an interest, rather than limit inclusion to certain organisations or members of peak bodies.

4.2.2. Expanding digital tools and exploring artificial intelligence

Opportunity This opportunity might expand digital tools in the field of housing-related legal assistance, and also explore artificial intelligence capabilities.

Rationale Online legal services continue to grow in Victoria, and there a range of different service offerings by legal assistance providers, including Tenants' Victoria's Repair Toolkit and Justice Connect's Dear Landlord.

There is an opportunity to enhance these initiatives and build tools and platforms to promote renter's ability to seek information and assistance or resolve issues. This could include the development of more ethically driven tech platforms that help resolve issues directly with providers. Such tools might enhance access for some groups (though not all), may enable greater efficiency and productivity, and improve quality and consistency in some forms of analysis and advice.

Digital tools can also produce data that may inform service providers and communities about problems or issues experienced, thereby contributing to systemic advocacy efforts. Such tools might enhance access for some groups (though not all), may enable greater efficiency and productivity, and improve quality and consistency in some forms of analysis and advice.

4.2.3. Uplifting and professionalising tenant advocacy

Opportunity

This opportunity might explore ways to enhance the quality of tenant advocacy, that is, advocacy beyond legal assistance.

Rationale

There are a range of types of tenancy advocacy in Victoria, beyond assistance from lawyers. These include tenant advocates through the TAAP program, which focuses on private renters, and Tenancy Plus, which assists social housing renters. There is some connection to legal advice and assistance, particularly through Tenants Victoria's worker help service.

There is perhaps an opportunity to uplift and strengthen the tenant advocacy profession, through standards and support.

A similar non-legal profession that works closely with community lawyers is financial counselling. In contrast to tenant advocacy, financial counselling benefits from a professional peak body and mandatory standards for ethics and conduct. This model might be extended to tenancy advocacy to support professionalism from the sector itself.

This opportunity might also investigate the integration between tenancy advocacy and legal assistance, and concerns about conflicts of interest where tenant advocacy is offered by housing providers. It might also extend to other forms of homelessness workers who engage in advocacy that is focused on tenant rights.

4.2.4. Exploring models of lived experience advocacy in housing

Opportunity

This opportunity might pilot or explore models of lived experience advocacy to advance collective advocacy projects (such as those outlined in 4.1). The focus would be to empower individuals and communities affected by injustices through the use of personal narratives.

Rationale

As outlined in 3.2.2, there are a range of community-based or lived experience advocacy initiatives in Victoria. This opportunity could expand on these initiatives, and use the power of lived experiences to illuminate the real-world impacts of housing justice by humanising abstract legal and policy issues. By building on existing models, there may be opportunity to support lived experience advocacy for communities less represented in public debates (such as people with disabilities or new migrants).

Lived experience advocacy breaks down complex legal matters into relatable, personal stories, which makes it easier to mobilise community support and political will for reform. By building in legal assistance for those involved, this opportunity can address immediate needs while advocating for long-term systemic change. This dual approach aids those in immediate distress and also works towards creating a fairer, more just housing system.

This opportunity might focus on any of the collective advocacy issues identified in 4.1, and also align with community organisation collective advocacy.

4.2.5. Supporting collaborative partnerships to deliver holistic services

Opportunity

This opportunity might focus on supporting and sustaining collaborative efforts between legal assistance providers and other community providers to aid holistic responses for clients with the most complex needs or disadvantaged housing situations.

Rationale

As outlined in 3.2.1, wrap-around or holistic services can be effective interventions to support the broader health and wellbeing of vulnerable clients. There are a range of health-justice partnerships or similar integrated services in Victoria, but fewer for housing.

Housing is of course a fundamental need because its only when housing is provided that people can have the capacity to find employment, improve their health, and build community.

There are some cohorts that would benefit from an integrated approach. This might particularly focus on people who are currently living in inappropriate housing, but need the wrap-around supports to transition to more appropriate housing. These could include:

Younger people with a disability living in aged care

Older people living in aged care who may be experiencing elder abuse

People with disability living in group homes, and

Victim/survivors of family violence or others in crisis accommodation.

Some of these groups can get ‘stuck’ in the inappropriate housing scenarios, and the housing provider may be inhibiting safe transition.

There is value in using integrated approaches to support such groups of people. It is also important to invest in aiding and sustaining collaboration between the various service providers.

4.2.6. Exploring ‘bulk support’ for vulnerable groups

Opportunity

This opportunity might explore innovative service delivery options through strategic and collective legal assistance and action. It might also identify groups of tenants affected by a similar issue who might be assisted collectively with one or few property agents.

Rationale

There is evidence that taking a ‘bulk negotiation’ approach can serve to uplift or change a provider’s response to a challenging issue.¹²³

It can also overcome more costly service models that can only help one tenant at a time.

This approach might be applied to tenancy rights. For example, it could involve identifying a range of clients who live in poor quality housing in need of repair, and issuing repair notices to the property manager or housing provider on behalf of many tenants simultaneously. This might be particularly effective in regional settings, including regional towns with a significant proportion of First Nations people.

Many people in these settings are living in poor quality rental housing. VALS reports that repairs support is a significant need for its clients and that tenants seeking compensation need assistance.

Some of the larger housing providers, whether public housing or community housing, may also not have funds or faced incentives to invest in the quality of their housing stock. Taking a collective approach may be a strategic way to encourage investment in the quality of rental housing offered by the provider.

123. See, e.g., The Bulk Debt Project – achieving institutional policy change for Centrelink recipients, <https://www.powertopersuade.org.au/blog/the/12/3/2016>.

4.3. Innovative projects that advance difficult issues

4.3.1. Maintaining a home after property settlements

Opportunity

This opportunity might focus on sustaining home ownership after a relationship breakdown. Such a breakdown can disrupt a family home, and contribute to women having to enter the tight and unaffordable rental market or even risk homelessness.

Rationale

Only a few free legal assistance providers assist with property settlement matters after a relationship breakdown, including where separation follows family violence. Such women can be at risk of family violence. Additionally, long, drawn-out property settlement processes can be expensive and even serve to diminish equity.

There is an opportunity to provide property settlement assistance, including through accessing low-cost mediation services, to maintain sufficient funds to either keep a family home or sustain a home purchase.

Sometimes property settlements can result in funds that are insufficient to keep a house. The innovative part would be to partner with a shared equity scheme, such as the Victorian Homebuyer Fund.¹²⁴ This might help women remain in their homes, avoiding the disruption of moving and the associated costs. This stability is beneficial for their wellbeing and that of their children.

Economically, enabling women to access shared equity schemes helps to mitigate the financial impact of property settlements. It ensures that women have an opportunity to retain homeownership, which is a key component of wealth accumulation and financial independence. This aids the individual woman, promotes broader economic stability and reduces the potential strain on social services that may result from housing instability or homelessness.

4.3.2. Reimagining a fair mortgage

Opportunity

This opportunity might reimagine a traditional home loan into one that is fairer and shifts a more significant portion of risk onto mortgage providers to make it more likely that people in vulnerable circumstances can maintain home ownership.

Rationale

The traditional mortgage assumes that a borrower will have a consistent financial capacity to make repayments over a very long period, sometimes 20 or 30 years. This does not accord with the reality of most people's lives, where they will inevitably take time out of the workforce due to life circumstances.

Home loans in Australia also largely place interest rate risk on the consumer, given many loans attract variable interest rates and fixed-rate loans are for a finite period. In contrast, some international jurisdictions feature interest rates that are fixed for the life of the mortgage and give greater certainty to the home purchaser.

This opportunity might explore what a fairer mortgage looks like. For example, interest rates and repayment terms could be adjusted based on the borrower's financial situation, thereby reducing the risk of default and foreclosure. Existing regulation does require home loan borrowers to seek assistance when they are in financial hardship, but a fairer mortgage might provide a contractual right to pause repayments or make other changes when the borrower's situation changes.

This opportunity might investigate the benefits of, and barriers to, a mortgage model that makes home ownership more accessible and sustainable for borrowers, and incentivises mortgage providers to invest in the long-term financial health of their clients.

¹²⁴ Homebuyer Fund, <https://www.sro.vic.gov.au/homebuyer>.

4.3.3. Supporting more culturally appropriate housing

Opportunity

This opportunity might explore barriers to more culturally appropriate housing in Victoria for First Nations people. It might be particularly focused on whether there can be more Aboriginal-controlled housing organisations.

Rationale

The Victorian Aboriginal Housing and Homelessness Framework identifies that Aboriginal Housing Victoria is the sole Aboriginal organisation that manages housing stock. However, it faces challenges to build more stock.

There are clear benefits in Aboriginal-controlled organisations providing culturally appropriate housing, given that they have the capacity to provide housing, as well as a space that supports cultural practices and community connections.

Such organisations can also provide a range of other services to address the socio-economic challenges faced by First Nations populations.

There are barriers for Aboriginal-controlled organisations in becoming registered housing providers, particularly if they lack the resources and structures to progress applications. However, in regional communities, there are organisations that might beneficially provide housing services. This opportunity might seek to link such organisations with technical assistance and even pro bono legal support to ensure they are able to become community housing providers.

There is significant investment from both federal and state governments into social and affordable housing over coming years, so this initiative may ensure that Aboriginal organisations are well-placed to access resources and deliver culturally appropriate housing.

5. RECOMMENDATIONS

This section makes recommendations to the VLSB+C Grants Program.

Consideration has been given to VLSB+C's Grants Program Strategy 2023–2028. This strategy identifies three broad goals:

Accessible legal services

Holistic and diversionary responses, and

Fairer laws and responses.

The strategy also identifies six funding principles: prevention, early intervention and education, valuing lived experience, systems-focused, partnerships and collaboration.

5.1. Overall recommendation: thematic grant round on housing justice

The **primary recommendation is for VLSB+C to develop a thematic grant round focusing on housing justice.**

The findings and opportunities presented in this report reveal that, despite considerable efforts from the community and legal sectors toward housing justice in Victoria, there are still substantial needs and numerous opportunities for improvement.

The VLSB+C Grants Program strategy includes both 'Change Grants' and 'Strategic Support' funding streams. Both are relevant – the Change Grants stream is designed for issues-based or thematic grants, while Strategic Support can bring people together to develop shared priorities and foster greater collaboration. The various opportunities identified in Section 4 clearly form a defined theme, while collaboration will be essential to progress Housing Justice.

5.2. Publishing and sharing this report

Ahead of developing a thematic funding stream on housing justice, the **VLSB+C Grants Program should initially publish this report and share its findings with research participants and other relevant stakeholders.**

During consultations, many stakeholders indicated a desire to learn about the ideas and proposals suggested by others. Publishing the report, and convening a forum to share its findings, provides an opportunity for this report and its recommendations to be 'shared back' with participants and other stakeholders.

5.3. Developing the thematic grant round

Following the publication of the report, the **VLSB+C Grants Program should invite stakeholders to collaborate in further scoping and determining sub-themes or focus areas.**

This process may help potential grant recipients identify others who are working on, or have an interest in, similar issues and collaborations. This approach aligns with VLSB+C's Grants Program strategy, particularly the goal to work 'not just as a funder, but as an innovator, connector and collaborator, advocate and partner'.¹²⁵ A collaborative process of further scoping and exploring opportunities can help ensure that participants are well-placed to jointly tackle the most impactful issues and opportunities.

The following four focus areas could serve as themes. Each of these areas could form a community of practice to explore the opportunity further and identify what collaboration might be needed.

1. Improving renter rights through regulatory incentives and law reform

This report has identified that, while there are a range of legal protections or rights for renters, there remains a significant power imbalance between tenants and rental providers or estate agents. At an individual level, much of the consumer protections for tenants must be enforced by the tenant directly at significant personal cost and risk.

¹²⁵ VLSB+C, *Grants Program Strategy 2023–2028*, page 4.

A focus on reforms that might enhance regulatory incentives and improved rights offers significant value – this could include greater compensation for tenants if they are evicted (relocation costs, see [4.1.1](#)) or if the Tribunal orders compliance ([4.1.4](#)). Greater compensation will provide greater incentives for the provider to comply with the law and good practices. This focus area could also explore other improved rights, such as improving the CAV rent increase assessment process ([4.1.2](#)). Methods of collaboration to further these reform areas could be a further area of joint consideration ([4.2.1](#)).

2. Enhancing estate agent and housing provider accountability

While recent reforms in tenancy and housing have focused on tenant rights, there has been less focus on the conduct of estate agents and housing providers, and systems of accountability. A separate focus on provider accountability would be of value.

This could examine some of the opportunities identified in this report, including:

[Expanding transparency of rental quality and property management experiences \(4.1.3\)](#)

[Licensing for rental providers \(4.1.5\)](#)

[Enhancing hardship and vulnerability responses \(4.1.6\)](#)

[Professionalising the property management sector \(4.1.7\), and](#)

[Ensuring good standards in social housing \(4.1.9\).](#)

3. Improving the housing support service system

Part 4.2 of this report identified several opportunities associated with improving housing support services. This focus area could target efforts to enhance individual service offerings. While there are a range of existing services ([3.2.1](#)), there is an opportunity to enhance coordination, improve quality and innovate to meet needs in a different or better way.

This focus area could consider expansion of digital tools ([4.2.2](#)), uplifted and better coordinating tenant advocacy ([4.2.3](#)) or other areas of system coordination.

4. Promoting innovation and improving responses for key vulnerable groups

Any future funding program should prioritise innovation and consideration of new ways to address difficult issues. Difficult issues commonly result in substantial disadvantage for some vulnerable groups, including people living with disability, First Nations people and others negatively affected by discrimination.

A focus area on innovation and targeting difficult issues would be an important area. This could examine a range of opportunities identified by this report, including:

[Removing discrimination from the property application process \(4.1.8\)](#)

[Identifying and responding to exploitative disability accommodation \(4.1.10\), and](#)

[Exploring ‘bulk support’ for vulnerable groups.](#)

It could also look at some of the innovative ideas considered, including reimagining a fair mortgage ([4.3.2](#)) or developing a fair arrangement for co-renting ([4.1.11](#)).

Developing focus areas around these four themes would align with the VLSC+C Grants Program Strategy. These communities would serve as hubs for sharing expertise, fostering strategic responses, and ultimately driving systemic change within the housing justice sector. Such a structure leverages the collective knowledge and experience of experts in the housing justice sector, and aligns with the strategic goals of enhancing access to justice, especially for the most disadvantaged.

Such an approach would also facilitate targeted funding and support, ensuring that resources are used where they are most effective. This would magnify the impact of the Grants Program. Building commitment around which priorities and projects to fund may also help overcome challenges associated with competitive grants processes.



6. CONCLUSION

The crisis in Victoria's housing market underscores a pivotal challenge for public policy and community wellbeing. This report highlights the urgent need for strategic, collaborative efforts to address housing affordability, accessibility and justice, and recognises that safe, stable and affordable housing is a fundamental human right, not just a commodity.

The insights gathered from the Victorian justice and housing sectors present a compelling case for innovative solutions and systemic change. The clear path forward involves leveraging the expertise and advocacy within these sectors. In this way, it would be possible to address the multifaceted aspects of the housing crisis, prioritise the welfare of the community and protect vulnerable groups.

In conclusion, the opportunities identified in this report offer a blueprint for meaningful action towards housing justice in Victoria.

Through the suggested roundtable discussions and collaborative scoping, stakeholders will be well-positioned to drive impactful changes by enhancing the effectiveness and reach of housing justice initiatives across Victoria.

This approach ensures that the VLSB+C Grants Program responds to immediate needs and fosters long-term, strategic improvements in the justice system.



ANNEXURE A: LITERATURE REVIEW

REFERENCE	KEY POINTS
<u>Victorian Aboriginal Housing, Victorian Aboriginal Housing and Homelessness Framework, 2022</u>	<ul style="list-style-type: none"> • ‘Mana-na woorn-tyeen maar-takoort’ – every person has a home • Comprehensive framework – social housing, private rental, ownership and homelessness • Includes strategies for the uptake of private rental, investigating discrimination, and alternative finance.
<u>Access to Justice & Technology Alliance, Submission to NLAP Review, 2023</u>	<ul style="list-style-type: none"> • Argues that investing in the use of technology in access to justice can deliver huge social returns • Building the sector’s digital capability is essential to maximising the long-term effectiveness of the use of technology • Investing in technology will yield greater returns when it is appropriately resourced and accompanied by a culture conducive to innovation • Suggests highly relevant to tenancy advocacy.
<u>AHURI, Submission to Inquiry into the rental and housing affordability crisis in Victoria (number 529), July 2023</u>	<ul style="list-style-type: none"> • Poor affordability is a long-term issue – progressively less affordable housing at lowest income quintile • Increase in long-term renters and more renters overall • Structure of rental sector dominated by small investors and high use of property managers • Lack of security – inadequate rental protections and rights of investors to sell property • Lack of availability – supply, but also allocation of homes to lower income earners • Lack of affordability – inadequate incomes and lack of affordable properties • Need to improve rent-by-room, co-sharing rental protections • Need to raise professional standards in rental management, and require landlord investors to see themselves as in business rather than in an informal arrangement • Greater restriction of short-term accommodation needed.
<u>AHURI, Financing First Home Ownership: opportunities & challenges, September 2023</u>	<ul style="list-style-type: none"> • Path to home ownership increasingly reliant on parental resources • Demand side measures, like FHO, have failed to arrest declining rates of home ownership • Tax reforms like abolishing stamp duty can help supply • Mortgage guarantees and shared equity are positive and can help supply and boost access to home ownership.
<u>AHURI, The changing institutions of private rental housing: an international review, 2018</u>	<ul style="list-style-type: none"> • Australia has a comparatively high rate of management by professional agents (70%) compared to other countries • Security – landlords can only terminate on prescribed grounds (Germany, Sweden, Scotland, Canada, some US cities) • Only two countries rely on long fixed terms (Belgium, Spain), Ireland has unique regime of cyclical restrictions on landlord termination • Four countries – Belgium, Germany, Spain and Sweden – plus most of the Canadian provinces and some major US cities, regulate rent increases by limiting them to a stated guideline or reference rent, and two more (Ireland and Scotland) do so in designated ‘rent pressure zones’ • Registers are increasingly being used to provide mechanism for monitoring and lifting landlord standard of conduct.

REFERENCE	KEY POINTS
Australian Senate, Community Affairs Committee, <u><i>The worsening rental crisis in Australia</i></u>, Final Report, December 2023	<ul style="list-style-type: none"> • Chapter 2 focuses on supply side – social, affordable housing etc • Outlines case for reform of Commonwealth Rent Assistance • Chapter 3 focuses on renter rights, primarily demonstrates benefit of existing reforms. Some comments: <ul style="list-style-type: none"> – rent control – helps promote stability and security – strengthening the process for challenging excessive rent increases – performance and accessibility standards – good overview of self-enforcement paradigm – good definitions in the appendix.
Anika, <u>Submission to Inquiry into the rental and housing affordability crisis in Victoria (number 585)</u>, July 2023	<ul style="list-style-type: none"> • Misconduct by rental providers and property managers goes unaddressed • Intimidatory tactics and coercion means renters can't enforce protections and standards on building conditions, and VCAT delays exacerbate this • Need alternative mechanisms to ensure standards met – increased role for proactive enforcement by CAV • Need greater incentives to promote longer-term tenancies and security.
Better Renting, <u>Submission to Inquiry into the rental and housing affordability crisis in Victoria (number 650)</u>, July 2023	<ul style="list-style-type: none"> • Remove no-cause evictions at end of first fixed term • Limit rent increases • Expand minimum rental standards • Improve enforcement of protections and standards • Address short-stay accommodation.
Better Renting, <u>Power Struggles</u>, August 2023	<ul style="list-style-type: none"> • Powerlessness of renters to deal with poor rental standards, can't force repairs to happen • Improved minimum energy efficiency standards needed • Shift enforcement from renters to regulators.
CHOICE, <u>Rental Rights in Australia have a long way to go</u>, December 2018	<ul style="list-style-type: none"> • Renters rights are not equivalent to broader consumer rights under ACL • Good data about renter experience • Quality, stability, affordability.
Consumer Action Law Centre, TUV and WEstjustice, <u>Review of Tenants' and Consumers Experience of VCAT</u>, 2016	<ul style="list-style-type: none"> • Assesses VCAT against benchmarks for industry dispute resolutions schemes • Finds significant concerns across accessibility, fairness, continuous improvement, accountability and effectiveness.
Commissioner for Residential Tenancies, <u>Renting in Victoria Snapshot 2022</u>, September 2023	<ul style="list-style-type: none"> • Range of data and demographics around renting – very helpful demographics, and also industry data.
Consumer Policy Research Centre, <u>Is it liveable? A mystery shop of private rental properties</u>, 2024	<ul style="list-style-type: none"> • Mystery shop of 100 rental properties in Victoria – while many properties met the minimum standards, issues such as maintenance, visible mould, and lack of window coverings were associated with poorly maintained affordable properties • Key recommendations: <ul style="list-style-type: none"> – regulatory guidance about legal obligations – monitoring and enforcement priorities in the private rental market – legal reform to improve information provision, and – improved standards to make homes more liveable and safer.

REFERENCE	KEY POINTS
<p>Department of Social Services, <u>Summary Report: consultations on the National Housing and Homelessness Plan, 2024</u></p>	<ul style="list-style-type: none"> • Broad-ranging summary including homelessness services, social housing, Aboriginal and Torres Strait Islander housing, the housing market (renting, purchase), planning zoning and development, and the impacts of climate change • Key messages: <ul style="list-style-type: none"> – housing that is affordable – prioritise tenant rights – sustainable housing – inclusive housing design policies – a more holistic system (Housing First) – funding and investment incentives, and – a society that values the right to housing.
<p>Digital Rights Watch, <u>Submission to Inquiry into the rental and housing affordability crisis in Victoria (number 560), July 2023</u></p>	<ul style="list-style-type: none"> • Ensure regulatory framework for RentTech preserves digital rights • Mandate data minimisation for landlords and real estate agents • Ensure fee-free options • Prohibit tech designed to evade protections, like editable rental amounts • Safeguards for automated decision-making in tenancy applications • Investigate publicly accessible database of rental information.
<p>Footscray CLC, <u>Home Sweet Home: Act for the House not the Tenant, 2013</u></p>	<ul style="list-style-type: none"> • Tenants interviewed did not want to improve housing due to mistrust, concerns for eviction etc – tenants enforcing legal rights does not work to ensure good quality rental homes • Makes a range of recommendations that focuses on housing standards, including compliance framework, penalties and independent regulator.
<p>Healthy Homes for Renters, <u>Community Sector Blueprint, National Framework for Minimum Energy Efficiency Rental Requirements, November 2022</u></p>	<ul style="list-style-type: none"> • Strong collaborative effort • Promotes legislated model performance standards by 2025, providing 3-4 years for full compliance – in the meantime use a 'essential features' method.
<p>Homelessness Australia, <u>Overstretched and overwhelmed: The strain on homelessness services, August 2023</u></p>	<ul style="list-style-type: none"> • Surging demand for homelessness services – 7.5% increase over a year (5.3% in Vic) • Women and children suffering worst impact.
<p>Homelessness Australia, <u>Submission to National Housing and Homelessness Plan, October 2023</u></p>	<ul style="list-style-type: none"> • Calls for a right to housing, and refers to law reform in Scotland and Wales – an enabler for people to understand and exercise their rights, and a 'duty to assist' on public authorities to address homelessness, and also right to access homelessness services.
<p>Joint legal assistance sector response to <u>Interim Report of the Social Housing Regulation Review, 2022</u></p>	<ul style="list-style-type: none"> • Housing to be added to Charter of Human Rights, social housing providers should be covered • A new Social Housing Ombudsman or Commissioner – single entry point, consistent, independent, clear purpose on fairness and effectiveness, information sharing, binding decisions.
<p>Homes Victoria, <u>Rental Report, June Quarter 2023</u></p>	<ul style="list-style-type: none"> • Melbourne Rent Index increased 15.7% in 12 months to June 2023, highest ever; regional 5.4% • Nb. based on advertised rents, not what actually paid.

REFERENCE	KEY POINTS
<p>Kimberly Community Legal Centre, <u><i>Stuck in the Heat: Lived Experiences of Public Housing Tenants in the Kimberley</i></u>, December 2022</p>	<ul style="list-style-type: none"> • Extreme temperatures, high humidity, poor quality housing, maintenance issues and overcrowding – affecting tenants and householders • Focus on energy efficient air conditioning as standard, need for solar/subsidies, minimum energy efficiency standards.
<p>National Association of Renters' Organisations, <u><i>9 Principles for Strengthening Renters Rights</i></u>, 2023</p>	<ul style="list-style-type: none"> • Stability – end no cause terminations • Affordability – stabilise rent prices • Liveability – minimum standards, including energy efficiency • Compliance and accountability • Management and security of tenants' money – rental bonds independent • Protection of private information and discrimination • Access to advice and advocacy for all renters • Universal protections for all people renting their homes • Using data to inform policy.
<p>National Seniors, <u><i>Suitable Housing Later in Life</i></u>, November 2023</p>	<ul style="list-style-type: none"> • One third of 5,000 people over 50 surveyed said they were concerned for suitable housing in the short term, and this doubled when considering the rest of their life • Many people suggested home is not suitable for ageing in place, with a quarter saying their home required modifications • Obstacles to suitability include home and yard size, accessibility issues, including stairs, lack of available home assistance, cost of modifications and housing insecurity • Recommends policies and incentives to encourage age-friendly housing, and also transition of housing • Also supports policy and incentives to promote longer leases.
<p>Per Capita and V&F Housing Enterprise Foundation, <u><i>Regulating Rentals in Australia: What works?</i></u> August 2023</p>	<ul style="list-style-type: none"> • Crisis is in low-income cohorts, not market median where rents paid have not grown so much • Significant cause is 'hobby' landlords – highly leveraged, not able to properly manage or service homes they rent, particularly at lower end • Concern is not about aggregate supply, but affordable and social housing is the issue • High and unpredictable rental changes also key concern – but rent freeze won't work • Rent stabilisation or controls more likely to work.
<p>Productivity Commission, <u><i>Submission into the worsening rental crisis in Australia</i></u>, September 2023</p>	<ul style="list-style-type: none"> • More Australians renting and for longer (good data) • Median proportion of income spent on rent has been stable, but high for low-income earners • Private renters who are unemployed, older or sole parents spend largest proportion of income on rent • Argues more supply, against rent control (distortionary) • Increase in Commonwealth Rental Assistance supported • Ambivalent about renter protections – 'lack of high quality evidence makes it difficult to judge costs and benefits' • Supports rental tenancy services if evaluated.
<p>Productivity Commission, <u><i>Report on Government Services</i></u>, 2024</p>	<ul style="list-style-type: none"> • Publishes data on social housing, specialist homelessness services and government expenditure and outcome indicators • Community housing increased just 0.5% in 2022-23, 35% of people in need of homelessness services did not have need met, 224,326 on waiting lists (half with greatest need), and the number of public and community permanent dwellings grew by 172,000.
<p>Productivity Commission, <u><i>Vulnerable Private Renters: Evidence and Options</i></u>, 2019</p>	<ul style="list-style-type: none"> • Private rental market works well most of the time • Doesn't work for vulnerable people – two thirds spend more than 30% of income on rent • CRA needs to be increased • Supports renter protections focused on improved certainty of tenure.

REFERENCE	KEY POINTS
Renters and Housing Union, <u>Submission to the Inquiry into rental and housing affordability crisis in Victoria (no 25), June 2023</u>	<ul style="list-style-type: none"> • Pushes for rental regulation, and improved access to Commonwealth Rental Assistance • Enact a federal and state funding agreement that incentivises long-term leases • VCAT to have discretion to decline eviction in cases where it would cause homelessness, undue hardship or significant detriment.
Renters and Housing Union, <u>Submission into the worsening rental crisis in Australia, August 2023</u>	<ul style="list-style-type: none"> • Implement rent control and tenant flipping • Minimum standards for liveability, maintenance and energy efficiency • Licensing scheme for landlords • Strengthen regulation of third-party platforms • Encourage long-term leases • Utilise vacant homes – vacant land tax.
Royal Commission into Violence, Abuse, Neglect, Exploitation of People with Disability, <u>Final Report – Volume 7-C, housing, 2023</u>	<ul style="list-style-type: none"> • Good overview of different types of disability accommodation and how they are regulated, including reference to unregulated housing and evidence from OPA • Certain recommendation regarding occupancy protections for specialist disability (rec 7.37) and minimum standards (rec 7.38) • Recommends accessible and adaptive housing through building standards • Recommends phase out of group homes.
Shelter NSW, <u>Submission to the Independent Planning Commission, 2022</u>	<ul style="list-style-type: none"> • Argues against the term ‘short stay rental accommodation’ as it is benign and fails to recognise its impact on affordable rental accommodation • Prefers the terms ‘non-hosted holiday accommodation’ or ‘whole home holiday accommodation’ • Presents research and analysis that prefers caps placed on the number of ‘non-hosted holiday accommodation’ per region, through permit or register, and this to consider density. This is argued to be more efficient than the alternative suggestion of day-caps for each ‘non-hosted holiday accommodation’, which, while supported, may see homes remain vacant.
Sisson, A., & Bowyer-Pont, P. (2023), <u>Regulating rents: international examples & experience. Sydney: Shelter NSW & Tenants Union of NSW</u>	<ul style="list-style-type: none"> • Outlines different dimensions of rent control, including rent caps, vacancy controls (rent caps applying b/n tenancies or only within tenancies), coverage and exemptions, and exceptional rent increase provisions • Can be different objectives – rent stabilisation, promotion of security, and lower income housing affordability • Recommends – regulate w/l tenancies with fixed % ap or inflation-linked cap, applying broadly with limited exceptions • Suggests further research needed on vacancy control/bonuses, and differentiation across regions • Promotes improved data collection, i.e. notification of rent increase to regulator.
Swinburne University, <u>Aboriginal Private Rental Access Project, 2021</u>	<ul style="list-style-type: none"> • Focuses on discrimination and barriers for Aboriginal Victorians, arising at every stage of renter’s journey, due mainly to prejudice and discrimination as well as structural disadvantage • The applying stage gives rise to most barriers • Separate policy report includes a range of recommendations, including ACCOs working with VEOHRC to identify and better address discriminatory conduct • Solutions include involving Aboriginal people in housing solutions, and increased cultural training for real estate industry sectors.
Tenants Victoria, <u>The Mould Report: A renter snapshot, 2023</u>	<ul style="list-style-type: none"> • Despite reforms that should ensure rented homes be ‘mould free’, the report found widespread non-compliance with requests for urgent repairs, including very slow responses from property agents.

REFERENCE	KEY POINTS
<p>Tenants Victoria, <u>Submission to Inquiry into the rental and housing affordability crisis in Victoria (number 827), June 2023</u></p>	<ul style="list-style-type: none"> • Fairness formula for maximum rental increases • Training for real estate agents and property managers • Regulate short-stay accommodation • Improved minimum standards – ceiling insulation, window coverings, energy efficiency • Strengthen capacity of CAV to enforce, reform VCAT • Supportive of housing ombudsman in response to report on social housing regulation review.
<p>Victorian Council of Social Services, <u>Submission to Inquiry into the rental and housing affordability crisis in Victoria (number 936), June 2023</u></p>	<ul style="list-style-type: none"> • Focusing on home building etc • Strengthen protections against excessive rent increases, reverse onus, and better data on rents paid • Enforce requirements on real estate agents and property managers to attend training and PD • Expand CAV compliance approach to include proactive compliance • Increase access to timely dispute resolution.
<p>Victorian Government, <u>Housing Statement: the decade ahead, 2024–2034, September 2023</u></p>	<ul style="list-style-type: none"> • Restrict rent increases between successive fixed-term rental agreements – if offer new lease to new tenants after first fixed-term one, they’ll have to offer it at the same rent for 12 months • Ban all types of rental bidding – offence to accept bids, and impose tougher penalties • Establish Rental Dispute Resolution Victoria – one stop shop for renters, agents and landlords to resolve disputes over rent, damages, repairs and bonds • Introduce Portable Rental Bond Scheme • Expand notice of rent increase and notice to vacate periods to 90 days • Mandatory training and licensing for real estate agents, property managers, OC managers and conveyancers • Make rental applications easier and protect renters’ personal information – standardise applications and limit kinds of information rental providers can collect and keep • Deliver a rental stress support package – \$2m from Vic Property Fund focused on rental assistance organisations.
<p>Victorian Government, <u>Submission to Inquiry into the rental and housing affordability crisis in Victoria (number 946), August 2023</u></p>	<ul style="list-style-type: none"> • Informative paper around existing service system, and role in regulation and key protections.

REFERENCE

KEY POINTS

Victorian Government, [Response to Legal and Social Affairs Committee Inquiry into Homelessness](#), February 2024

- Rejects recommendation for an appeal procedure at VCAT relating to tenancy disputes
 - Acknowledges Charter of Human Rights applies to social housing providers as functional public authorities when community housing provider is exercising the function of providing affordable social or community housing for low-income tenants, and when regulated under the *Housing Act 1983* (Vic): *Goode v Community Equity Housing* (Human Rights) [2016] VCAT 93 – Charter can apply to VCAT decisions regarding eviction and reasonable and proportionate test
 - CHIA has been funded to build capacity of social housing providers regarding Charter and Human Rights capability
 - Regarding broader Charter reform, says ‘While the Charter does not contain a positive right to housing or an adequate standard of living, section 13 of the Charter protects a person’s right not to have their home unlawfully or arbitrarily interfered with. The government is focused on improving the accessibility and enforceability of the Charter before considering the addition of further rights, such as the right to housing.’
 - The Victorian Government will investigate the benefits of an accommodation rating system for rooming houses – rooming house residents and their advocates will be given the opportunity for input
 - On discrimination quite useful. The reforms to the *Residential Tenancies Act 1997* (Vic), which commenced operation on 29 March 2021, included a range of amendments that addressed discrimination within the scope of the EOA 2021:
 - rental providers must not refuse to let premises on the basis of an attribute protected under section 6 of the EOA 2010
 - rental providers must not withhold consent from a request to approve sub-letting on the basis of an attribute protected under section 6 of the EOA 2010
 - rental providers must not issue a notice to vacate if the giving of the notice would constitute direct discrimination within the meaning of the EOA
 - rental providers must not unreasonably refuse disability-related modifications within the meaning of section 55 of the EOA
 - renters do not have to provide private information protected by the EOA when applying for a rental property – this includes information about their disability, ethnicity or gender identity, and
 - rental agreement forms must include an information statement that educates applicants, rental providers and agents about unlawful discrimination.
-

Victorian Parliament, Legal and Social Issues Committee, [Inquiry into the rental and housing affordability crisis in Victoria](#), November 2023

- Covers overview of housing in Vic in Ch 2
 - Defines rental and housing affordability crisis – rental, home ownership, vulnerable groups
 - Overview of supply and demand narratives in policy debate
 - Recommendations relating to rental application process, privacy requirements for renters and application processes, rental bidding implementation, further ways to promote long-term leases, making it easier to amend condition reports, and standardise references
 - Review of CAV enforcement functions and associated penalties for non-compliance
 - Independent rental inspector role – guarantee meet minimum standards
 - Recommendations regarding short-stay accommodation: register, flexible statewide and mandatory code of conduct.
-

Victorian Public Tenants Association, [Submission to Inquiry into the rental and housing affordability crisis in Victoria](#) (number 499), June 2023

- Need for long-term pipeline of social housing stock growth
- Expand role of VTPA to community housing
- Support CLCs to deliver tenancy services
- Calls for release of final report of Social Housing Regulatory Review
- Support a fair formula for annual rent increases
- Housing as a human right in Charter of Human Rights.

REFERENCE	KEY POINTS
<p>WEstjustice, <u>International Student Housing Project</u>, August 2021</p>	<ul style="list-style-type: none"> • Identifies common issues affecting international students in residential tenancies, including non-lodgement of bonds, withholding of bonds, provision of misleading information by housing providers, arrangements falling outside the RTA • Identifies problems with complaints-driven compliance processes, lack of proactive and regulatory compliance.
<p>University of Melbourne Student Union, <u>Submission to Inquiry into the rental and housing affordability crisis in Victoria (number 271)</u>, July 2023</p>	<ul style="list-style-type: none"> • Apply RTA to student housing • Introduce co-renting laws • Reform bond claim processes • Introduce fixed-lease break costs • Reform VCAT and prioritise CAV enforcement.
<p>Yoorrook Justice Commission, <u>Issues Paper Housing and Homelessness</u>, November 2023</p>	<ul style="list-style-type: none"> • Seeking views on housing continuum – from homelessness to home ownership • Racism in housing in private rental • Barriers to social housing • Cultural safety for First Peoples in housing • What a self-determined housing system would look like • Recognises housing as a human right in UN Declaration on the Rights of Indigenous Peoples.

ANNEXURE B: STAKEHOLDERS INTERVIEWED

Nicole Rich, Director, **Consumer Affairs Victoria**,
9 January 2024

Juanita Pope, CEO, Deborah Fewster, Director Policy & Advocacy, and Karen Taranto, Housing Policy & Research Officer, **Victorian Council of Social Service**,
9 January 2024

Deborah Di Natale, CEO, and Thomas Johnson, Director Policy & Communications, **Council to Homeless Persons**,
10 January 2024

Kerry Connors, Director Energy Inclusion, and Alexandra Bishop, Director Grants Program, **Energy Consumers Australia**, 4 March 2024

Jennifer Beveridge, CEO, **Tenants Victoria**,
30 January 2024

Rowan McRae, Executive Director Civil Justice, Access & Equity, Lucy Adams, Director, Civil Justice, and Samantha Sowerwine, Program Manager, Economic & Social Rights, **Victoria Legal Aid**, 30 January 2024

Louisa Gibbs, CEO, and Rohini Thomas, Senior Policy & Research Adviser, **Federation of Community Legal Centres**, 1 February 2024

Heather Holst, **Commissioner for Residential Tenancies**,
6 February 2024

Chris Povey, CEO, and Cameron Lavery, Head of Community Programs, **Justice Connect**, 6 February 2024

Leo Patterson Ross, CEO, **Tenants Union of NSW**,
9 February 2024

Nadia Morales, Director Strategy Engagement & Projects, and Michelle Reynolds, Director Policy & Advocacy, **Inner Melbourne Community Legal Centre**, 14 February 2024

Noel Lim, CEO, **Anika Legal**, 15 February 2024

Annie Nash, CEO, and Naomi Anderson, Legal Practice Manager, **Vilimanta Legal Service**, 15 February 2024

Siobhan Doyle, Acting Principal Civil Law, **Victorian Aboriginal Legal Service**, 21 February 2024

Jackie Galloway OAM, CEO, **Peninsula Community Legal Centre**, 26 February 2024

Kate Colvin, CEO, **Homelessness Australia**,
27 February 2024

Suzie Forell, Acting CEO, **Health Justice Australia**,
13 March 2024

Laura Royce, former Senior Advisor to the **Victorian Minister for Housing**, 13 March 2024

ANNEXURE C: COLLABORATIVE ADVOCACY ON RENTAL DISPUTE RESOLUTION VICTORIA

The proposal to establish Rental Dispute Resolution Victoria

In its Housing Statement, the Victorian Government states:

With more people in Victoria renting than ever before, it's inevitable that the number of rental disputes has increased, too. Often, a rental dispute can be just one of a range of cost of living pressures a renter could be facing. And when that happens, a quick resolution can make a world of difference. But you shouldn't have to end up at VCAT to have simple repairs done, or to get the money you're owed. VCAT should be a last resort for tenants and landlords, not the first stop. We'll establish Rental Dispute Resolution Victoria, providing a one-stop shop for renters, agents and landlords to resolve tenancy disputes over rent, damages, repairs and bonds. It'll have a clear pathway to settle issues in a faster, fairer and cheaper way – freeing up VCAT for more serious or complicated matters.

There is little more detail at this stage about Rental Dispute Resolution Victoria (RDRV), however in November 2023 Parliamentary Secretary for Housing Katie Hall MP told Parliament:

The establishment of Rental Dispute Resolution Victoria will enable parties to resolve tenancy disputes in a faster, fairer and cheaper way, with VCAT available only where required. This will encourage early intervention and resolution of residential tenancy disputes prior to escalation to VCAT and before problems become entrenched. RDRV will provide dispute resolution strategies, information, and conciliation services. This will be separate and complementary to VCAT. The design of the RDRV will be done in close consultation with VCAT and rental groups to ensure that smooth referral pathways and collaboration take place, and of course Consumer Affairs Victoria will continue to investigate rental providers who engage in deliberate or systemic breaches of the legislation.ⁱ

From consultations, it's understood that Housing Statement initiatives are a top priority for the Victorian Government in 2024 and that the policy development process for RDRV will take place this year, with legislation likely in 2025.

Collaborative advocacy: project rationale

There is opportunity for a collaborative advocacy project to influence the design of RDRV. Such a project could conduct policy analysis and put forward proposals based on 'what works' for alternative dispute resolution. This might draw on advocate and tenant experiences and views, and existing forums and schemes that have been effective, for example:

- industry-ombudsman schemes, like the Telecommunications Industry Ombudsman, and the Australian Financial Complaints Authority
- the Residential Tenancies Disputes Scheme, which resolved COVID-19 disputes during 2020 and 2021
- the Independent Expert Review Program, which was a time-bound alternative dispute program to resolve complex AAT matters relating to the NDIS,ⁱⁱ and
- the 2018 VCAT online dispute resolution pilot.ⁱⁱⁱ

Without collaborative advocacy, it seems likely that the Victorian Government will adopt the model of dispute resolution used for Domestic Building Dispute Resolution Victoria.^{iv} While this model has provided a level of access to justice, it has not:

- incorporated user experience into its governance
- published reports about its activities and outcomes – dispute resolution data can inform policy makers and the community about areas of concern or attention
- produced guidance about common issues or approaches to resolving disputes, which might enable participants to resolve disputes earlier
- investigated systemic issues, so it has missed the opportunity to resolve issues that might affect a wider group of people or report unlawful conduct to the regulator, and
- promoted its accessibility or publicly considered the needs of vulnerable groups.

i. Katie Hall MP, Housing Affordability Grievance Debate, Legislative Assembly, 1 November 2023, available [here](#).

ii. See: including for an evaluation, <https://www.ncfs.gov.au/about-us/legal-matters/improved-approach-dispute-resolution>.

iii. See: <https://www.youtube.com/watch?v=1cuKRgi-0ng>.

iv. See: <https://www.dbrv.vic.gov.au/>.

Many of the rights and protections in the *Residential Tenancies Act 1997* (Vic) rely on renters to enforce their rights, so the effectiveness of dispute resolution is vital. To be effective, the new RDRV must extend broader than merely resolving individual disputes. It must undertake activities like publishing data, setting out common issues and resolutions, and investigating systemic issues with the goal of preventing disputes from arising or becoming escalated. Given many tenants are facing vulnerabilities and may not have high legal capability, it is essential that the design of RDRV promotes accessibility and outreach, and the process is simple and without barriers.

Outputs and outcomes

Outputs for the project might include:

- agreed collaborative policy positions published on the design of RDRV
- policy proposals presented to relevant ministers and government officials
- responses to consultation undertaken relating to the development of RDRV, and
- broader advocacy activities aligned with the above.

The key outcome to be expected from the project would be for the State Government to have strong community input into the design of RDRV and for this input to influence the ultimate legislation and establishment of RDRV. Without additional resourcing, the input provided is likely to be more ad-hoc, piecemeal and it may not present a unified, collaborative view.

Stakeholder support

At this point, there has been widespread support for the project proposal from a range of stakeholders. Everyone consulted so far agrees that this is a 'once-in-time' opportunity to have a systemic influence over the design of the new RDRV.

The Federation of Community Legal Centres would be well-placed to host this project. It is the peak for CLCs in Victoria and participates in the Tenancy Coordination Group and the Tenancy Working Group, which involves CLCs and other legal assistance services like Victoria Legal Aid. A specific staffing resource to focus on the policy development process for RDRV would:

- convene relevant collaborative meetings and engage with stakeholders
- undertake policy analysis and development about the design of RDRV
- draft policy positions and representations, and
- drive advocacy approaches and strategies.

Synergies

The Victorian Government is considering improvements to consumer dispute resolution more broadly. This includes a proposal to create a retirement village dispute resolution scheme^v and a recommendation relating to a social housing ombudsman.^{vi} There is also community sector advocacy relating to a motor vehicle ombudsman.^{vii} The effective design of RDRV could influence the development of other consumer dispute resolution schemes, so the benefits of this project could be leveraged beyond residential tenancies.

v. See Exposure Draft Legislation, *Retirement Village Amendment Act, 2023*, <https://engage.vic.gov.au/retirementvillagesact>.

vi. See Social Housing Regulatory Review, *Interim Report*, page 42, <https://engage.vic.gov.au/social-housing-regulation-review>.

vii. See: <https://consumeraction.org.au/lemon-cars/>.

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