



Kildonan

16th February 2017

Residential Tenancies Act Review
Consumer Affairs Victoria
GPO Box 123
MELBOURNE VIC 3001

By email: yoursay@fairersaferhousing.vic.gov.au

Dear Sir/Madam,

Heading for Home – Residential Tenancies Act Review – Tenancy Options Paper

The organisations identified by the logos above are members of the Economic Abuse Reference Group. The Group was formed to facilitate input to laws and policies that impact on the financial consequences of family violence, and, in particular, reforms that respond to recommendations of the Victorian Royal Commission into Family Violence.

We generally support the proposals in the Tenancy Options Paper which respond to family violence, and believe these will improve outcomes for tenants who are victims of family violence.

We have specific comments on a few issues.

Improving Access to Family Violence Protections

As outlined in the paper, family violence victims first enter the system in a range of ways and evidence of family violence may take different forms. We don't believe that family violence victims should be excluded from the protections of the legislation because they don't have a court order or because the indicators of family violence don't fit within those prescribed in legislation. We also agree that cross-intervention orders can mean that reliance on court orders is ineffective.

VCAT should have the widest discretion possible regarding what it can take into account when considering whether family violence has occurred.

We believe that the option which reflects this is Option 12.1C, however it is unclear exactly how 12.1B or 12.1C might be reflected in legislation. It will be important to ensure that the legislation is clear that VCAT can consider anything it believes relevant even when there has been no application for an intervention order.

Question 216. We support the option which allows VCAT to consider anything it believes relevant when considering an application under any family violence-related provision, and we believe that Option 12.1C best reflects this, however care will be needed in drafting the legislation.
--

Termination of Tenancy

Our experience shows that victims of family violence are under extreme emotional pressure, but also that the stress is exacerbated by the need to restart their lives, often having to interact with courts, financiers, utilities and others. A process to terminate a tenancy without applying to VCAT would not only remove pressure, but would increase the likelihood that the victim would take advantage of this option.

We do however, have some concerns that the victim may not have the same opportunity to obtain an order that apportion liability unless the tenancy is terminated in VCAT. Unless the victim would have another avenue through which to seek apportionment of liability, the legislation should allow the victim to choose whether the tenancy is terminated through VCAT, or by a notice to vacate.

Question 218. We support option 12.4B, which allows a victim of family violence to terminate a tenancy by issuing a notice to vacate, rather than having to seek an order from VCAT. However, the victim should retain the option to terminate by applying to VCAT if an order apportioning liability is desired.

Modifications to Rented Premises

While the current law allows a tenant to change the locks without consent, there are other modifications that may be required to protect the safety of a person who has experienced family violence, and some of these modifications may need to be done urgently.

Question 219. We support Option 12.5B, that would allow a protected person to make reasonable non-structural modifications to the property without the landlord's consent.

We believe that a definition of "reasonable modifications" would provide useful guidance to landlords and tenants, if the list was comprehensive. This would need to include security doors, window locks and bars, security cameras, adequate lighting and 'man-hole' locks.

Minimising the number of legal processes.

We are concerned that many victims of family violence don't enforce the rights they currently have under the Residential Tenancies Act.

While there are several reasons that victims may not enforce their rights, the need to issue proceedings and appear in numerous forums is a major impediment to victims enforcing their rights.

We note that adoption of RCFV Recommendation 119 would mean that the Magistrates' Court could make orders under the Residential Tenancies Act at the same time as hearing family violence matters. We also note that that this recommendation will be considered separately to the current review.

Adoption of 119 would increase the number of family violence victims who benefit from the proposed tenancy reforms.

Carolyn Bond
Project Manager
On behalf of the Economic Abuse Reference Group.
Carolyn@womenslegal.org.au