



Submission to the
Residential Tenancies Act Review
Security of Tenure Issues Paper

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Introduction

Melbourne City Mission is one of Victoria's oldest and largest community services organisations, with a broad service platform encompassing early years, education and employment, disability services, palliative care, and homelessness and justice services.

Melbourne City Mission's Homelessness and Justice Services work to find ongoing, sustainable housing options for individuals and families who are at risk of, or currently experiencing, homelessness.

This submission is particularly informed by the perspectives of our Adult and Family Homelessness Services (AFHS), which deliver case management and outreach support to single adults and families who are homeless, or at risk of becoming homeless, in the western region of Melbourne, or who wish to reside in the west. This region includes the Cities of Melbourne, Brimbank, Wyndham, Hobson's Bay, Moonee Valley, Maribyrnong and Melton. Our services include the:

- Interim Response Service, which provides information and support about housing options, including private rental, Office of Housing, shared accommodation, community housing, rooming houses and other private accommodation.
- Transitional Support Service, which provides short to medium-term case management support to address housing and support needs, with the goal of accessing long-term, stable accommodation and fostering independence. As part of this work, people are supported to engage with specialist services where there are family violence, drug and alcohol, mental health, financial and/or legal issues.

This submission to the *Residential Tenancies Act (RTA) Security of Tenure Issues Paper* follows Melbourne City Mission's earlier submission (August 2015) to the first stages of the RTA Review.

Melbourne City Mission welcomes the rigour underpinning the review – in particular, the thorough process of research and analysis, and reporting back to stakeholders. Melbourne City Mission is pleased that the *Issues Paper* acknowledges, and puts forward proposals to respond to a range of system issues, in particular equity and outcomes for individuals who face “*barriers to home ownership*” and therefore “*suffer disproportionately from a lack of security of tenure.*”

Our perspectives on the ***Security of Tenure Issues Paper*** are provided over the page.

Melbourne City Mission's response to the Security of Tenure Issues paper

In this submission, Melbourne City Mission's focus is on the private rental aspects of the Residential Tenancies Act (RTA) review. Whilst many people accessing Melbourne City Mission supports meet the eligibility criteria for social housing, **lack of supply** means that they are principally seeking opportunities via the private rental market (though we also note that only one per cent of properties are affordable for families reliant on income support and almost none are affordable for someone living on Newstart or a Youth Allowance)¹.

As the Council to Homeless Persons (CHP) has highlighted: *"with miniscule vacancy rates, those on low incomes look less attractive to prospective landlords and even when successful in renting something, often live in rental stress²."*

Additionally, Melbourne City Mission notes that **security of tenure** (or rather, lack thereof) is a significant issue for many of our clients in private rental. This lack of security often contributes to ongoing cycles of homelessness for people we support.

The *Issues Paper* states that people are likely to have security of tenure when they:

- have a choice to stay or leave
- have legal protections if problems arise
- are charged a sustainable rent, and
- have certainty that the property will be maintained appropriately.

Melbourne City Mission notes that the capacity to exercise choice, access legal protections and secure equitable outcomes in the private rental market is linked to bargaining power and that bargaining power is, in turn, associated with resources, including personal income and networks, including capacity to access financial support.

Many people accessing Melbourne City Mission services have limited bargaining power in the current rental market. Some of the flow-on impacts are described over the page.

¹ Anglicare (2015), *Rental Affordability Snapshot 2015 Summary*, http://www.anglicare.asn.au/site/rental_affordability_snapshot.php

² Council to Homeless Persons (2015), 'Dear Landlord: Private Rental and Homelessness' in *Parity*, Vol. 28, Issue 5

The choice to stay or leave

Issues include:

- **Black-listing**

Melbourne City Mission caseworkers are sometimes told by clients who identify as being at risk of homelessness that their landlord has marked them as 'black-listed' on the National Tenancy Database (NTD) online system.

Melbourne City Mission caseworkers can access the system to look up a client's rental history files. If the client doesn't appear on the NTD, this means the tenant has a positive rental history. Many Melbourne City Mission clients who think they have been 'black-listed' are, in fact, not on the database.

Our caseworkers observe that the threat of 'black-listing' is being used by some landlords as a means of intimidation or coercion. For example, a tenant who thinks they have been 'black-listed' may feel unable to speak up about tenancy issues and/or feel unable to pursue alternative housing options.

- **Impacts of family violence**

Forty-three (43) per cent of women involved in WIRE's research into family violence and financial abuse³ said they found it 'extremely difficult' to get their ex-partner to leave the family home. Almost half identified 'having nowhere to go' as an 'extremely important' reason for staying in their abusive relationship and around half (47 per cent) reported that it was 'extremely difficult' or 'difficult' to find somewhere to live when they did leave.

Melbourne City Mission provides a range of supports to women who have left – or are seeking to leave – violent relationships. We observe that some violent partners seek to obstruct housing pathways, not only by perpetrating financial abuse but through actions that seek to portray women as undesirable tenants to landlords/agents. These actions include trying to have women 'black-listed' on tenancy databases and/or coercing others not to provide positive written references in support of women's applications for private rental housing.

³ WIRE, "Relationship Problems and Money: Women talk about financial abuse", 2014.

Legal protections if problems arrive

Issues include:

- **Harassment**

All case managers attached to Melbourne City Mission's Adult and Family Homelessness Services had cases in 2015 in which landlords entered private rental properties without notice and without the permission of the tenant. It is Melbourne City Mission's experience that tenants seeking police assistance will not usually get a response, except in cases involving physical violence.

Case Study

Jess is a 39-year-old single mother with six boys in her full-time care. She is currently unemployed and in receipt of Centrelink benefits. Jess rents a three-bedroom house, with her two older children living part-time with friends and family due to the property not being large enough.

Despite Jess repeatedly requesting an official lease, her landlord will not provide her with one. Jess pays \$300 a week in rent but reports \$150 to Centrelink. This was requested at the discretion of her landlord, who would only sign-off on the necessary paperwork required by Centrelink if she lied about the rental price.

Jess's landlord lives at the back of Jess's property. She has advised that he comes to her door without warning and makes lewd sexual remarks to her. This makes Jess feel uncomfortable in her own home.

Jess is receiving support from Melbourne City Mission's housing workers to find another rental property more suitable for her and her children. Melbourne City Mission has spoken to Jess about engaging with the Tenant's Union of Victoria to get support to exercise her rights in this situation, but she feels worried about 'rocking the boat' and losing her accommodation. In applying for prospective properties, Jess has to rely on the rental reference of her landlord to obtain a new property – putting her in a compromising situation.

Are charged a sustainable rent

Issues include:

- **Rent increases**

MCM caseworkers are seeing low-income households unable to keep up with rental payments, with rental prices being more than people can accommodate to feel secure in managing their tenancy, within the same property, for an ongoing period of time.

Rent is often increased at or above five per cent, which is more than Centrelink, minimum wage and pension increases.

Rental increases above the average rate of once per calendar year are putting tenants at risk of homelessness.

Have certainty that the property will be maintained appropriately

Issues include:

- **Misleading Condition Reports**

A current requirement of the RTA is that, prior to a tenant moving into a property, the landlord/agent must complete a property Condition Report, noting the general condition of the property, including fittings and fixtures. Copies are given to the real estate agent and tenant.

Whilst tenants are able to challenge the assessment by writing in the comments section of the Condition Report, this does not always safe-guard the tenant.

Caseworkers also note that it is often not until the tenant settles into the property that structural issues are identified, which have not been disclosed by the landlord or their agent.

Additional issues:

- **Stigmatisation**

There is stigma attached to tenants who rely on Centrelink for financial support. Additionally, Centrelink is not seen to be a fixed income. Melbourne City Mission caseworkers have observed clients who receive Centrelink income being discriminated against during the selection process, protected by “landlord discretion” rights.

- **Pets**

For families experiencing breakdown and trauma, the presence of an animal can offer a sense of “companionship and security”⁴, however, the majority of tenancy leases state ‘no pets’. This is not an official standard within the RTA, rather a reflection of the landlord’s personal preferences.

CHP has previously noted that for people experiencing or homelessness, pets are often considered “part of the family”. Many services – including Melbourne City Mission – have worked with people who refuse to leave their pets behind and thus forego their right to access housing assistance. We are also aware of cases where pets are abandoned or put down in order for the owner to gain access to housing and support⁵, perpetuating trauma and complicating the trajectory out of homelessness.

⁴ The Age, ‘I saved her life, while she saved mine’: The animals that bring love to a life on the streets, <http://www.theage.com.au/victoria/i-saved-her-life-while-she-saved-mine-the-animals-that-bring-love-to-a-life-on-the-streets-20151022-gkfowg.html>

⁵ Council to Homeless Persons (CHP) Parity magazine, “Homelessness and Pets.” Volume 24 – Issue 4, May 2011.

- **Notice to Vacate (NTV)**

As stated in Melbourne City Mission's response to Stage 1 of the RTA review, we hold concerns about the 120-day Notice to Vacate (NTV) period. In Melbourne City Mission's experience, the 120-day NTV is often used in a punitive way – for example, following a request for maintenance or difficulty with payment of rent.

Melbourne City Mission believes Notice to Vacate without Reason should be within a longer time frame if this clause remains into the future, as well as the implementation of formal measures for tenants to appeal the grounds of their Notice to Vacate as part of a new set of Quality Rental Standards.

Case Study

Sarah is a mother of five daughters aged from three to 18-years-old. Sarah's husband is unable to work due to a decline in his mental health. Sarah receives a carer allowance for one daughter with a behavioural condition. Sarah was issued with a 60-day NTV as her landlord wanted to sell the property. Sarah was referred for support to assist with securing a rental property.

Despite her efforts, Sarah was unable to secure a rental by her vacate date. Through the support of Justice Connect, Sarah was granted an extension of 30 days. Due to the loss of income from her husband, payments made to the agents were late, however, Sarah managed to catch-up. During their four-year tenancy, the rental agents failed to respond to requests for repairs.

Upon vacating Sarah was quoted a maintenance bill. Sarah questioned the validity of this request but paid it as she needed her bond to be refunded in full. Sarah also feared obtaining a negative reference from the agent.

Sarah has applied for more than 30 properties that are affordable and located in areas that would allow her children to remain at their school and enable ongoing access to support services. Some agents have advised that family size may be a barrier to successfully obtaining a private rental property.

Sarah has had to move to a family member's home and place her belongings into storage. The family is now living in an overcrowded dwelling and the children must travel long-distances to attend school.

Conclusion

Call for formation of Quality Rental Standards

Our casework highlights that there are many individuals and families who are experiencing vulnerability in the private rental system. Although there are formal mechanisms for tenants to lodge complaints or appeal decisions, the lived experience of individuals and families who come to Melbourne City Mission is that:

- They feel disempowered to lodge appeals on their own as they do not know how to navigate the system
- They are fearful to lodge complaints, due to landlords threatening 'black-listing' or negative references, impacting future housing options
- They are afraid to defend themselves, for fear they may re-enter the cycle of homelessness.

With the adoption and implementation of regulated Quality Rental Standards, landlords would be held accountable to comply with minimum standards.

Melbourne City Mission takes this opportunity to draw attention to the Victorian Council of Social Service (VCOSS) and Tenants Union of Victoria's campaign, "*Decent not Dodgy: Minimum Quality Rental Standards*", which advocates for property landlords to maintain:

- A healthy environment for their tenants
- The safety and security of the structural property
- An affordable living premises (i.e. cooking facilities in good working order).

Melbourne City Mission supports this framework, and sees it as the first step to ensuring the private rental market is more effectively monitored.