

Our Reference: SF10/36



10 February 2017

Consumer Affairs Victoria
Fairersaferhousing.vic.gov.au

Online Submission

Dear Sir/Madam

Review of the Residential Tenancies Act 1997 – A Fairer Safer Housing initiative

Thank you for the opportunity to provide feedback on the review of Residential Tenancies Act.

Council has a number of interactions with the Residential Tenancies Act (RTA), the primary one being the regulation of Rooming Houses. This submission provides some brief discussion points about ongoing issues relating to poorly managed and unsupervised Rooming Houses.

Council agrees that the rooming house sector meets a critical need by accommodating some of Victoria's most vulnerable and disadvantaged individuals, many of whom have complex needs and no other viable housing options. In these circumstances it is our view that better practice in the management and maintenance of rooming houses is needed to protect both the vulnerable residents residing in the properties but also those who live adjoining and near this accommodation.

Rooming house definition and emerging accommodation models

Stakeholder consultation suggested that the definition of rooming house under the RTA should be amended to better capture emerging accommodation models that should be regulated as rooming houses, and to distinguish accommodation that is not a rooming house. Due to interdependencies with the *Public Health and Wellbeing Act 2008*, the RTA definition cannot be considered in isolation as part of this review.

Stand-alone option

Option 9.1 – Future inter-governmental project to consider whether rooming house definition requires amendment to capture emerging accommodation models.

Consultation question

- *What other related issues ought to be canvassed if an inter-governmental project like the one described in option 9.1 were to be convened?*

There are significant gaps in current legislation in relation to quantifiable standards of hygiene and amenities in Rooming Houses, the current definition of a Rooming House, ability to investigate complaints of resident behaviour, and limited ability to place planning controls over Rooming Houses/Shared Accommodation in residential areas.

Council has only very limited ability to investigate and respond to complaints relating to these matters. For example:

Public Health and Wellbeing Regulations (2009) – Part 5 (Prescribed Accommodation)

The regulations stipulate very basic standards and requirements for prescribed accommodation in relation to prevention of overcrowding, provision of water supply and other amenities, cleanliness and maintenance of facilities. The provision of only 1 toilet per 10 habitable rooms and no requirement for a common area results in a very poor living environment for residents and can exacerbate complaints as residents are forced to congregate outside the accommodation and at times use garden areas or streets as toilets.

Planning Provisions:

Clause 52.23 of the Maroondah Planning Scheme allows for "Shared Housing" as follows:

A permit is not required to use a building, including outbuildings normal to a dwelling, to house a person, people and any dependants or 2 or more people if the building meets all of the following requirements:

- Is in an area or zone which is used mainly for housing.
- Provides self-contained accommodation.
- Does not have more than 10 habitable rooms.

Therefore Council cannot require rooming house operators to manage a rooming house through Planning permit conditions.

It is imperative that any review or changes in this area must involve consultation with Consumer Affairs Victoria (CAV), Department of Health and Human Services (DHHS), local government and other government agencies.

Quiet enjoyment of other residents

Stakeholder consultation identified concerns that a resident's duty to ensure the quiet enjoyment of other residents can encompass conduct that occurs outside the property boundary of a rooming house.

Stand-alone option

Option 9.13 – Restrict resident's quiet enjoyment duty to conduct within property boundary of rooming house.

Consultation questions

- *Does option 9.13 adequately balance the interests of the resident in question and the interests of other residents in the rooming house?*
- *Are there legitimate circumstances in which conduct 'near' a rooming house should be captured by this duty owed by residents?*

Council does not support the change suggested in 9.13 where a rooming house operator would be responsible only for their residents when on their land.

Council currently finds gaps in the legislation whereby –

1. The acts of visitors and/or residents cause significant damage, injury and/or result in threatening behaviour towards neighbours surrounding the rooming house. Where there is a clear relationship between the visitor and a resident, regardless of whether they are within the property boundary.
2. There is no requirement for a Rooming House to have an onsite manager or enforce their house rules (if they have any).

These types of practical measures would likely improve the behaviour of the visitors and residents and in turn improve the peace and enjoyment of other tenants as well as neighbours.

One of the more serious rooming house issues Council is currently involved in relates to a long term problem regarding the anti-social behaviour of rooming house residents and their visitors and their impact on nearby homes. This includes, house break-ins, fights in the street, leaving the property to swear and scream at neighbours and each other, cars hooning on the street, people sleeping in neighbours' houses (front yards), police constantly attending the premises for criminal activity, syringes found in backyards of adjoining properties as they are thrown over fences and public urination.

In this instance ensuring that the Rooming House operator could take action for resident's behaviour near the rooming house is imperative and such responsibility should not be removed from the Act. In addition, we ask for consideration to be given to providing punitive powers for CAV, Vic Police or Council to enforce action against Rooming House operators that after sufficient warnings do not take all reasonable precautions to prevent and manage this type of behaviour from their residents.

House rules

Stakeholder consultation identified concerns about the content of house rules, and where they should be displayed in rooming houses. If a house rule is declared invalid or was not made in accordance with the RTA, it is argued that a resident should not be compelled to vacate as a result of not observing that rule.

Stand-alone options

Option 9.6 – Display of house rules required in common areas as well as in each resident's room.

Option 9.7 – Development of guidance for model house rules.

Option 9.8 – No termination for breach of house rules if rules invalid or not properly made.

Consultation questions

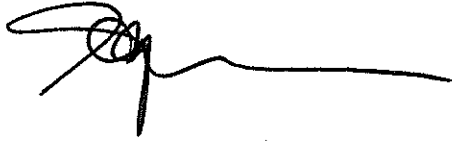
- *Where should house rules be displayed in a rooming house – in residents' rooms, at the entrance, in one or more common areas, or some combination of these – and why?*
- *What matters would be most suited for inclusion in model rules under option 9.7, and what types of rules are not appropriate?*
- *How can model rules best accommodate the diversity within the rooming house sector, or should there be different model rules for different segments of the sector?*
- *Are there any concerns with the measures proposed in option 9.8?*

Council supports options 9.6, 9.7 and 9.8 and acknowledges that stakeholder consultation identified concerns about the reasonableness of the content of house rules. We would like to propose that house rules based on good practice, that are reasonable and well understood, could be a good tool for managing anti-social behaviour of residents to the benefit of residents and neighbours.

Currently there is a duty on both the operator and residents in relation to House Rules, however no enforcement tool exists for CAV or Council to use in relation to ensuring that house rules are implemented.

Finally, we thank you again for this opportunity to provide feedback. Should you have any further enquiries in relation to the matters discussed above please contact Kirsten Jenkins, Team Leader Community Health and Emergency Management on 9294 5652.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steve Kozlowski', with a long horizontal flourish extending to the right.

Steve Kozlowski
Chief Executive Officer