



**RESPONSE TO SOCIAL  
HOUSING REGULATION  
REVIEW CONSULTATION  
PAPERS 2 AND 3**

**VICTORIAN PUBLIC  
TENANTS  
ASSOCIATION**

*September 2021*

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**VPTA** 

## Who we are

The Victorian Public Tenants' Association (VPTA) is the voice of public housing in Victoria.

As the peak body representing existing public housing renters and those on the waitlist, our goal is to provide advice to renters, and to improve and expand the public housing system in Victoria. Although not formally part of our role, we also assist community housing renters where possible.

We believe all social housing renters deserve a representative voice, regardless of their specific tenure type.

While our work is in Victoria – we are the only peak body in Australia which exclusively represents public housing renters or people who live in social housing.

We undertake systemic advocacy and provide policy advice to the Victorian Department of Families, Fairness and Housing ('the Department'), undertake community engagement work and operate a free and confidential telephone advice service. In the 2020-21 financial year we assisted more than 500 residents and applicants with in-depth advice and assistance.

## About this document

This document combines the VPTA's response to both consultation papers two and three, and also contains a number of recommendations as to our desired outcomes from the Regulatory Review process. These recommendations are contained in the section titled 'General Comments' and are based on the creation of a system which will embed equal rights and protections for all social housing renters, by raising the level of protection for people who live in community housing to be consistent with the protections provided to public housing renters.

Not every question posed in the Consultation Papers is answered, and some are answered in a larger group.

## General comments

### A new, independent body to regulate and oversee tenancy outcomes

The VPTA has not supported the idea of a shared, single regulator and is suggesting that the Victorian Housing Registrar retain its existing responsibilities with regard to the financial regulation of the community housing industry.

It is recommended that a new and independent body is set up to provide regulatory oversight of tenancy outcomes via a new set of rights-based performance standards that would apply to all people who live in social housing.

This body would report transparently, in a timely way. It is envisaged that the reporting structure for this information would be similar to that used by the Scottish Social Housing Regulator and include a breakdown of performance for each social housing rental provider against the performance standards, in addition to individual provider reports.

In addition to this regulatory function, the new body would take on the work of the Housing Appeals Office within the Department of Families, Fairness and Housing as well as the complaints role currently held by the Victorian Housing Registrar. This would allow the new body to independently consider complaints or appeals from social housing renters and ensure consistency in how complaints across tenure types are managed. The new body should provide options for renters to make complaints anonymously if they prefer.

Finally, the new body should host a dispute resolution scheme specifically for people who live in social housing to resolve issues with their provider.

To address any concerns about the independence of this new body, it should sit separate from any Government Departments and Ministers. While the VPTA is not recommending a governance structure which includes a traditional Board, the body should maintain a lived experience advisory committee, and meet with that committee regularly to ensure actions and decisions are informed by experience.

In order to minimise the additional burden which could accrue to the community housing industry through the addition of an extra reporting structure, shared technology or reporting platforms with the Victorian Housing Registrar could be considered to allow for processes to be streamlined and simplify change management.

In addition to the introduction of this new body, the jurisdiction of the Victorian Ombudsman should be explicitly widened to include all community housing renters.

A diagram of how this new body is proposed to fit within the existing framework is included at Appendix 1.

## **No additional financial regulation of public housing**

The VPTA strenuously opposes any additional financial regulation of public housing.

As a program of government and a key service delivery area, public housing is already subject to significant financial oversight through departmental and governmental budgeting processes, the Parliament, and also the Auditor-General.

This level of oversight is equivalent to other government programs and is appropriate.

Further, the VPTA notes that financial pressures on the community housing industry coupled with the Regulator's requirement that individual providers remain financially viable are responsible for key differences between the two social housing tenure types. These differences directly impact who can be housing by the community housing industry and the industry's rent calculations.

There is a moral responsibility to ensure that Victoria's social housing is providing genuinely affordable homes, and that allocation to limited properties is based on urgency of need over any other factor.

The VPTA is seriously concerned that introducing additional financial regulation of public housing would create a perverse incentive to sink protections and policies regarding rent setting and allocations in the public tenure, to match the practises of the community housing industry.

## Rights-based performance standards

The VPTA believes that the existing performance standards for community housing that relate to tenant outcomes should be transformed into a set of rights-based standards, which have the human right to housing at their core and focus regulation on how renters experience their housing and their interactions with their rental provider.

The Scottish Social Housing Charter provides an example of how performance standards could be worded in a way that is meaningful for renters. For example, it requires that 'social landlords work together to ensure that people looking for housing get information that helps them make informed choices and decisions about the range of housing options available to them,'<sup>1</sup> and 'social landlords ensure that people at risk of losing their homes get advice on preventing homelessness.'<sup>2</sup>

The new performance standards, as implemented and monitored by the new body should have the effect of creating a consistent set of rights and protections for all social housing renters, by lifting the rights and protections of people who live in community housing to be consistent with the rights and protections afforded to people who live in public housing.

As a priority, the VPTA would like to see improved consistency with the following public housing policy areas:

- Rent Setting

In public housing, renters pay a rebated rent calculated at a proportion of household income or the market rent, whichever is lower. Rebated rent is calculated as follows:

25% of income + 15% of child related payments.

If the household experiences a drop in income, rent is readjusted accordingly as soon as the Department is advised. If the household experiences an increase in income, rent is readjusted and applied at the next set rent review date. This ensures that households are not paying more than they can afford and have time to adjust and prepare for an increased amount of rent.

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<sup>1</sup> Scottish Social Housing Charter, standard 7.

<sup>2</sup> Scottish Social Housing Charter, standard 9.

Many community housing providers use different rent calculation methods and may consider a broader range of payments to be assessable income for the purpose of rent calculations than the Department does. The VPTA suggests that applying the public housing rent calculation plus Commonwealth Rent Assistance and using the same list of assessable incomes would provide greater affordability for community housing renters and allow for simpler administration and consideration of rent issues system wide.

Further, the VPTA is aware that not all community housing providers allow for rent amounts to be adjusted when the household income reduces, as is the case in public housing. This is an important safeguard for renters and should be applied across the board.

If it is not possible for rental calculations to be harmonized, the VPTA would suggest an alternative measure to guarantee ongoing affordability of rent for community housing households. This could take the form of a maximum proportion of gross income which can be paid towards housing costs for any social housing renter.

- Allocations

Public housing properties are allocated to the applicant suitable for the property in the greatest need. Community housing providers have more discretion.

Given the serious lack of social housing supply and increasing demand, the VPTA believes that all allocations from the Victorian Housing Register should be made strictly according to need.

The VPTA understands that one of the reasons community housing providers have more discretion is because some provide housing for specific groups of people. In these instances, the VPTA considers that these community housing providers could still be required to offer an available property to the applicant in most urgent need that fits within the specific group.

Further, the allocations processes of public and community housing should be harmonized, in order to eliminate practices such as group interviews prior to the allocation of properties.

The performance standards themselves that social housing providers are held to will necessarily dictate where compliance focus is directed. If the purpose of the oversight is to ensure better tenant outcomes, then the performance standards themselves should reflect that.

To this end, the VPTA strongly recommends that performance standards be drafted in consultation with people who have lived experience of living in social housing, to ensure that the regulatory scheme requires the behaviours that renters find helpful and discourages those that are not helpful.

## A Peak Body for All Social Housing Renters

Victoria's unprecedented investment in the Big Housing Build will see the overall proportion of community housing increase to around 30 per cent of all social housing. With a wide variety of providers, each with their own policies and procedures – specialized representation of people who live in community housing will become more and more critical.

Despite growth in community housing, renters in this form of social housing currently lack formal representation in the same way that public housing renters do. The VPTA is ideally positioned to take on this work.

Ensuring all social housing residents have a representative voice is an investment in the success of the Big Housing Build. Without strong, renter focused representation, there is a risk that two classes of social housing renters will emerge.

We strongly encourage the Panel to give this matter serious consideration throughout the review process.

## CHIA and CLC principles

The VPTA notes work done by the Community Legal Centre and the community housing peak body, Chia Vic, to agree a set of shared principles.

The VPTA supports this document, and in particular principle four, that all social housing renters' human rights are protected through the *Charter of Human Rights and Responsibilities Act 2006* (Vic), and principle five, that no renter will be worse off as a consequence of the Review or the implementation of any of its recommendations.

The full document is included at Appendix 2.

## Responses to questions: Consultation Paper 2

### 1. Do you agree with the above principles and objectives for the social housing system? Are there any principles that you would add or remove?

The principles included on page seven of the paper are generally acceptable, although they would benefit from strengthening. In particular, with regard to:

- Best Practice Regulation
  - The principle should read that regulation encourages excellence and the implementation of the social landlord model in service delivery. Often those working with social housing renters will be the first person to become aware of a more serious issue for the renter which may require an intervention or referral from another community service. Without that intervention, often the sustainment of the tenancy can be thrown into question. Housing workers need to be confident that they can spend the required time with their renters so that this work can be done. Standards that emphasize efficiency risk undermining that confidence.
  - To address questions of efficiency within service delivery in regards to time taken to respond to renter requests, regulations should set a floor staffing ratio, that requires the number of tenancy management staff does not drop below a certain number per households.
- Tenant focused
  - The VPTA would prefer for the promotion of tenant outcomes to be more specific, for example, by including tenancy sustainment targets, eviction caps and an affordability guarantee.
  - In addition to rights being equitable and consistent across tenants, no existing social housing renter should be disadvantaged by the implementation of any recommendation of this Review. Public housing policies and procedures provide the greatest level of rights and protections to renters. These policies and procedures should be applied consistently across the entire social housing system.
- Providers that meet tenant needs
  - Flexibility is not a factor that the VPTA considers should be included in the regulations. Rather, the regulations should effectively constitute the minimum acceptable standard. Housing is central to a person's ability to live independently with confidence and dignity. It is appropriate that the minimum acceptable standard should be both high and enforceable for all providers. Without exception.

## **2. Which principles do you think are the most important for a well-functioning regulatory system for social housing?**

The design of the regulatory system itself is likely to be most impacted by the 'best practice regulation' principle.

However, an efficient, user-friendly regulatory system should not be prioritized above a well-functioning social housing system.

It will be important to appreciate that the most important outcome of this Review is that it lays the foundation for a social housing system where no social renter is disadvantaged by their tenure type and all social housing renters have equal, enforceable rights and protections guaranteeing their security of tenure.

## **3. Do you agree that people who are eligible for social housing renting in the private or non-social rental market should be afforded the same protections and benefits as those renting from a social housing provider?**

No. the VPTA acknowledges that there are a number of people renting in the private market that are vulnerable to predatory landlords who would likely be eligible for social housing or may be applicants on the Victorian Housing Register. This is largely as a result of a lack of social housing and policies that incentivize the primary treatment of real estate and housing stock as an instrument for wealth creation, rather than shelter..

The VPTA is very concerned that the impact of imposing additional requirements on private landlords would lead to increased rental costs for tenants who cannot afford to meet them, a lack of willingness on behalf of landlords or representing Agents to let properties to people on low or very low incomes or prompt some private landlords to leave the private market altogether.

Particularly as Victoria's landmark rental reforms only came in to full effect in 2021. It seems unlikely that this sector will consent to further regulation at this time.

The VPTA considers an adequate supply of social housing to be the best protection for vulnerable renters in the private market, as it would force private landlords to compete meaningfully with what a social housing property would deliver.

In the absence of adequate social housing stock, the VPTA would instead suggest considering a universal assistance model, open to all renters in the private market, to be administered by government or the community sector, not by landlords or their representatives.

This could mirror the requirements energy companies now have to refer customers who are having trouble paying bills to financial counselling, or the



duty to prevent homelessness that has been introduced in some areas of the United Kingdom.

If landlords or their representatives were required to refer any tenancy that was in jeopardy to a tenancy sustainment service, this would have the effect of protecting and sustaining tenancies of more vulnerable renters in the private market, without giving individual landlords an incentive to discriminate against one group of renters or exit the market.

The tenancy sustainment service could be modelled on the existing Tenancy Plus model, with an increased financial counselling capability and the addition of a dispute resolution service. This would allow for the renter dispute resolution service, like the one implemented during the Coronavirus Emergency Measures, without permanently adding to the workload of Consumer Affairs Victoria.

It would also mirror the dispute resolution services for people who live in public housing that the VPTA has recommended be hosted in an independent Social Housing body elsewhere in this document.

Finally, this approach has the additional benefit of creating a significant number of new jobs. Building social housing is proven, valuable economic stimulus. However, in terms of job creation, it skews towards favouring men. New social assistance roles based in a universal private tenancy sustainment program could be held by a broad variety of Victorians, including gender diverse people and people with disability.

#### **4. What are the key problems with the current system for regulating social housing relating to the tenant experience and service delivery? What should be the priorities for reform?**

With regard to public housing, the biggest barrier to improving tenant experience and service delivery is the consistent under-resourcing of Housing Services Officers. The policy settings and Social Landlord framework set a good baseline, but Housing Services Officer are unable to both properly implement these techniques and manage the amount of tenancies that they currently do.

If there were more Housing Services Officers, both service delivery and tenant experience would improve.

With regard to community housing, the existing regulatory system is focused on financial regulation, rather than tenant experience and service delivery. Although there are performance standards which relate to tenant experience, the financial side of the system appears to be dominant.

Anecdotally, the VPTA has been told that the Registrar tends to refer issues back to providers for resolution, when tenants raise complaints, rather than resolving issues themselves.

Questions 5 – 8 are answered in one response below

- 5. Is there a lack of focus on the tenant experience in the current regulatory framework? If yes, please provide examples of issues this has caused for tenants.*
- 6. How can regulation be used to bring about greater focus on tenant experience?*
- 7. Are there examples where organizations have captured the tenant voice well, both in Victoria and in other jurisdictions?*
- 8. How can tenant voice and empowerment be improved in both public and community housing?*

The VPTA considers that the problem with current oversight arrangements is not that they fail to consider tenant experience at all, but rather, they are not adequately equipped to address tenant experience.

For example, the VPTA understands that the Victorian Housing Registrar has a relatively small staff, and it is unclear if those staff have expertise in resolving tenancy concerns. Meanwhile, operational staff within public housing are limited in the impact of their actions – as fulsome solutions require hiring many more Housing Services Officers or building a large amount of additional publicly owned and managed properties.

The VPTA believes that all types of social housing providers will be most motivated to improve tenant experience when their performance against metrics related to tenant experience are reported publicly.

Therefore, there is an opportunity for a new regulatory scheme to consider landlord performance against meaningful indicators, and actively publicize annual results. This is how regulation can have the most impact on tenant experience.

Additionally, the performance standards with regards to tenant experience and outcomes in the existing community housing regulatory scheme could be strengthened, and new evidence indicators introduced that require providers to show they are consistently working towards these outcomes throughout the year. The VPTA understands that currently regulation is largely based on self-assessment by providers against the performance standards, and the production of internal policy documents to evidence that those standards have been met.

The VPTA plays a clear role in capturing the tenant voice, and focusing policy makers on the issues at hand. This is what the VPTA has been doing for people who live in public housing and those on the waitlist for the last 20 years.

This work could be extended to also cover formal representation of community housing tenants.

Currently, the VPTA is the only organization in Australia that is uniquely focused on people who live in any kind of social housing or waiting for access to housing assistance. By extending the role of the VPTA to formally cover community housing tenants, the empowerment of community housing tenants is also extended.

This is particularly important now, as once the Big Housing Build is complete, around 30 per cent of all social housing in Victoria will be managed by the community housing industry.

More detail on this point is included in the 'General Comments' section.

## **9. What information would be useful for tenants to be able to assess the performance of social housing providers?**

Tenants would require access to the same information as any other community member for the purposes of assessing the performance of social housing providers. Including:

- The number and nature of any complaints raised,
- Responsiveness to maintenance and modification issues,
- Number of tenants experiencing rent arrears,
- Number of tenancies ended in the time period, including due to an eviction,
- Effectiveness of referrals to other community service organisations, and
- Opportunities for tenants to be involved in decisions which affect them.

The VPTA has some concerns about how this tool might negatively impact social housing applicants given the overall lack of stock and policies which have the effect of requiring applicants to accept one of the first few offers that are provided to them.

Although the performance of a potential new landlord would be interesting to the tenant, this would still need to be weighed up against a variety of unknowns, including:

- How long will it be before another offer is made?
- What if the next property isn't suitable?
- What if the provider at the next property is worse?

If this function were to be introduced, the VPTA would recommend that changes to the allocations policy be made to mitigate some of these challenges, so that applicants can meaningfully factor this information in to their decision making.

Likewise, the VPTA would recommend that the introduction of a function which provides tenants with the ability to monitor the performance of their landlord should be accompanied with appropriate disciplinary measures for providers who are failing to meet expectations.

10. Are the policies and processes underpinning the Victorian Housing Register working well to allocate people to housing across the public and community housing systems? If not, what changes need to be made?

The most significant frustrations with regard to allocations tend to lead back to a discussion of insufficient stock and insufficient information.

The process of allocating available public housing properties to the suitable applicant with the most urgent need is correct.

In situations of significant demand and limited supply, it is completely appropriate to triage allocations in order to respond to most urgent need.

Where issues arise, this is generally around long wait times as a result of an inadequate stock pool, which can be exacerbated if the applicant has quite specific special accommodation requirements. Generally speaking, it is accurate to say that the more specific requirements a property must have for the applicant to live in it safely, the harder it can be to find within one of five selected areas.

The VPTA are supportive of applicants selecting five areas where they would like to live. This provides an important element of user choice. However, it would be helpful for applicants to have more information about the stock profile of certain areas before making their selections.

For example, if the type of property that the applicant requires (such as a larger family home), is relatively rare in a particular group of suburbs, the applicant is all but guaranteed an interminable wait.

If that applicant were able to factor in a longer wait time for a property in a preferred area, they could make their own decision to tradeoff either location or size for the chance to access support earlier.

Another option could be providing an option to applicants that alongside five specific broadbands, they can also opt to be shown appropriate homes anywhere within much broader areas (such as 'Metropolitan Melbourne') either without that counting as a formal 'offer' or increasing the number of offers that the applicant can refuse.

This would allow households an opportunity to consider a specific property that meets their accommodation requirements and whether it is appropriate to their needs, even if it is slightly outside their selected areas or if it meets the same criteria as the selected areas.

## 11. Are the current categories for priority access appropriate?

Safe and stable accommodation is a central human need. As a result, convincing arguments can be made for the inclusion of most groups as requiring priority access.

The VPTA has no concerns with the current priority access categories and notes upcoming work to implement the recommendations of the Royal Commission into Victoria's Mental Health System on this topic.

It would be worthwhile for priority categories to be reviewed on a semi-regular basis, taking into consideration projections about future social housing need, and the demographics of anticipated future social housing renters.

## 12. Is the level of flexibility for community housing providers to allocate prospective tenants from the Victorian Housing Register appropriate? If not, what changes are needed?

The community housing industry has far too much flexibility with regard to allocations from the Victorian Housing Register.

As government comes to rely on private providers more and more to deliver essential services to the most vulnerable cohort of Victorians, it is completely reasonable that those private services be required to meet stricter allocations requirements.

There is significant opacity surrounding the way in which community housing providers make allocations at present.

The VPTA understands that the *Community Housing Allocations Framework* sets a target of priority allocations as a proportion of that provider's 'targeted dwellings' where a 'targeted dwelling' is generally one in which the government has contributed to the cost of, or the provider manages on behalf of the Director of Housing.

The target for priority allocations is generally 75 per cent of targeted dwellings.

The number of dwellings which fit the definition of a 'targeted dwelling' is unknown to the VPTA. Further, the VPTA has been unable to locate a published copy of the Framework.

The community housing industry is also not required to make their priority applications to the person most in need. Rather, the industry is permitted to meet this quota by offering homes to someone located anywhere on the priority section of the waitlist.

The VPTA is of the view that the target for priority allocations into community housing properties should be at least 100 per cent of all targeted dwellings. For allocations to be eligible towards this target, offers should be made to applicants in order of urgency, in the same manner that public housing allocations are.

The VPTA understands that some community housing providers work with quite specific cohorts – such as older people, or Victims/Survivors of domestic abuse. The VPTA would propose that in these instances, the relevant applicant in order of urgency would be the applicant that most urgently needs access to housing, that also meets this cohort requirement.

### **13. How should the need for culturally safe and appropriate housing be facilitated by the regulatory system?**

The regulatory system can assist housing to be more culturally appropriate and safe by requiring a minimum level of understanding or cultural competence from its entire workforce.

Completion of this learning should not be limited to staff that have day to day interactions with renters. Rather all staff should be required to undertake this learning, particularly as becoming more culturally safe may require broader changes to organizational policy.

Further, an effort should be made to recruit a more culturally diverse workforce to take on careers in housing assistance, including encouraging applications for people of Aboriginal and Torres Strait Islander descent.

The regulatory system could encourage this by including a performance standard requiring evidence of effort to attract applications from a wide variety of applicants, introducing ‘blind’ assessments of those applications and implementing best practice interview techniques to address and challenge subconscious biases of the interviewers.

The VPTA recommends that this training be designed and delivered in a community-controlled way by Aboriginal and Torres Strait Islander peoples.

Finally, improvements could be made to the cultural appropriateness of the design and layout of some properties, to allow for outdoor communal spaces and flexible interiors which would allow households to more easily meet family obligations. Although the VPTA recognizes that such shifts may not be within the scope of this Review.

The VPTA offers these suggestions on this topic but defers to the expertise of the Aboriginal and Torres Strait Islander communities, who are best placed to provide specific advice.

### **14. What are the current barriers to registration for Aboriginal housing providers? What approaches could facilitate a greater number of registered Aboriginal housing providers?**

The VPTA does not have the expertise to answer this question.

15. Does current performance reporting promote transparency and accountability of public and community housing providers? What metrics are important for tenants? Should tenants be involved in choosing metrics? Should the reporting be in a format that is easily understood by tenants?

There is little in the way of current performance reporting for both public and community housing.

Reporting conducted by the Victorian Housing Registrar is not provided with sufficient detail, is published well after the fact, and is very general in nature.

The evidence guidelines provided by the Victorian Housing Registrar to indicate what information community housing organisations will be expected to provide to show they have met the performance standards are weak and are incapable of having any real significance on tenant experiences or outcomes. For example, for a performance indicator regarding the management of rent, the evidence requirement is a copy of updated policy manuals.<sup>3</sup>

The providers' policy documents will not show how tenants themselves experience the rent setting policy and its application, and also may not reflect the precise day to day practice of tenancy managers.

An example of more appropriate oversight in this area would include feedback from renters on the affordability of their rent, a calculation of how many of the households are in housing stress, consideration of the proportion of households that had been in rent arrears over a set time period, and other indicators which reflect how policies are being experienced by those whose lives they directly impact.

Public housing is accountable through parliamentary oversight, the Victorian Ombudsman as well as the Auditor-General. While these are very high levels of accountability, and relevant information is accessible to those who seek it, many people do not have a sufficient understanding of government and public sector administration to locate the relevant information.

Tenants should be involved in selecting metrics that measure tenant outcomes, including with regard to tenancy sustainment. It is the view of the VPTA that annual public reporting of tenant outcomes will drive significant improvements in those outcomes, and so the reporting on all issues should be easily understood by the community as a whole.

The specific metrics should be developed in consultation with people who have lived experience, but they should include general metrics against which all tenancies are measured, metrics against which tenancies which have ended are considered and metrics against which new tenancies can be considered.

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<sup>3</sup> Victorian Housing Registrar, 'Evidence Guidelines', page 4.

For example, for tenancies that have recently begun metrics should include what assistance was provided to the household to settle in, the ease and accessibility of the sign up process, and whether the property and location is meeting the needs of the household (including the condition of the property and whether the new household inherited any existing maintenance issues).

For tenancies that ended, metrics should include the reason for the ending of the tenancy, the subsequent housing status of the tenant/s, and the turnaround time before the property was re-tenanted.

All tenancies should be subject to metrics which consider the affordability of rent and any other service charges, whether staff are easy to contact and communicate with, whether any modifications to the property have been required, whether the household feels safe in the home and the connectedness of the household to other sections of the community.

## **16. How could greater comparability of performance across public and community providers support accountability and ultimately benefit tenants through better service delivery?**

Greater comparability would allow the sector, media and general public to properly scrutinize the overall performance of all social housing in Victoria.

Social housing should be considered as a vital public resource, like hospitals, schools and roads. Therefore information about how social housing is serving the people who live in it should be available and readily understood by everyone in the community – in the same way that effective infrastructure and health and education systems is of interest to the entire community.

While the VPTA is supportive of measures to increase comparability of performance and accountability in terms of tenant outcomes across public and community housing, it is strongly opposed to introducing further financial regulation of public housing.

Public housing is already subject to significant financial oversight – via the Auditor-General, the Parliament and the budgetary process. Additional financial regulation is not required. Further, it is inappropriate to financially regulate public and community housing in the same way, as a government-run, universal service is not comparable to a private organization.

Additionally, the VPTA is concerned that over time, joint financial regulation of public and community housing risks the perverse incentivization of the removal of key protections from the public tenure, such as lower capped rents and the principle of allocating available properties to renters with the most urgent need. These principles are largely not applicable within the community housing industry as smaller, private organisations cannot afford to be as equitable or as affordable as the publicly owned and managed tenure.



17. What additional data should be collected and/or made available to enable performance assessment of Victoria's social housing system? Is there any data currently collected which is unnecessary?

The following additional data should be collected across the entire social housing system:

- Greater information about the ending of tenancies (including the number of evictions), subsequent housing status of recent former social housing tenants,
- The prevalence of rental arrears, stress and insecurity,
- The thermal comfort of the stock portfolio,
- More demographic information about renters (including prevalence of languages spoken other than English and which languages),
- The number, type and response time to address various maintenance requests, and
- The accessibility of properties (including whether modifications have been requested, delivered, unapproved and approved but incomplete).

18. Are there any areas in which data collection could be better coordinated to improve comparability?

Yes, in every area.

19. Is the overall approach of regulating public and community housing effective, transparent and proportionate? If not, how could it be improved?

The existing approach to the regulation of public housing is effective and proportionate. It is somewhat transparent if the user has background knowledge in public policy and processes of government, but is likely inaccessible to the general public.

The existing approach to the financial regulation of community housing is effective, and somewhat transparent. Information is shared publicly very late – significantly after the relevant time period. Further, as with public housing, one would require a significant level of prior knowledge to locate and understand that information. The VPTA cannot comment on the proportionality of the existing community housing financial regulation.

Further, the VPTA is of the view that the existing regulatory scheme for community housing is ineffective as a mechanism for responding to complaints from tenants.

The existing approach could be improved by the introduction of a new, independent body that jointly regulates and publishes tenancy performance

information about both public and community housing, in addition to holding other responsibilities. The VPTA's full proposal for the introduction of such a body is contained in the earlier section, 'General Comments'.

**20. Are the categories of registration for community housing organizations appropriate? Do they broadly reflect the risk of entity failure? What are possible alternatives?**

The VPTA does not have the expertise to answer this question.

**21. Should there be a series of routine inspections of registered community housing organisations?**

The VPTA is supportive of the introduction of routine inspections of registered community housing organisations but does not regard this as the highest priority reform.

The VPTA would prioritise addressing the practices of unregistered community housing organisations, particularly those that provide rooming house accommodation, and surprise inspections of those operations.

**22. How can regulation drive improvement in the sector beyond minimum requirements? How could self-regulation be used?**

Regulation can be used to drive improvement by frequently increasing the regulatory requirements, therefore driving improvement.

The VPTA would prefer to see tenant-led regulation be considered before self-regulation. An example of tenant-led regulation could be a representative group of tenants gathering to identify a series of issues they would like to see the provider improve its response to. The tenant group and the provider representative would then negotiate an agreed target and plan to address those issues.

The tenant group would then certify to the regulator that the provider had adequately and genuinely engaged in that process.

**23. Should unregistered agencies operating community housing be brought into the regulatory system?**

Yes. The VPTA is aware of at least one community service organization where clients have had such poor experiences in rooming houses that they advise clients to consider turning down an offer of accommodation if that is what is offered, even where that would result in the client sleeping rough.

It is considered, by that community service, that this would be safer, and therefore preferable, to a rooming house.

There is significant need to regulate unregistered members of the community housing industry.

## **24. Is the approach to regulatory oversight of public housing appropriate?**

The VPTA does not entirely agree with the statement on page 17 of the second consultation paper:

*In public housing, independent regulatory oversight is more limited. Homes Victoria manages and implements policies and procedures, and as noted, earlier, must comply with a range of associated government legislation. Oversight is provided by bodies such as parliament and the Auditor General's office.*

This statement minimizes the scrutiny which is applied to public housing, and the obligations that exist for the Department.

Although not a regulator, the Victorian Ombudsman has an oversight function for public housing. The most recent example of this is the investigation conducted into the hard lockdown of 33 Alfred Street and eight other buildings in North Melbourne and Flemington in response to a Covid-19 outbreak in 2020. Prior to that, the Ombudsman also completed a report regarding maintenance, and maintenance related debt. Both these reports have been instrumental in improving policy responses to issues within public housing.

In addition to this work, the Ombudsman actively considers complaints from people who live in public housing, whereas community housing tenants do not generally fall within the Ombudsman's jurisdiction. The Victorian Housing Registrar is intended to carry out this complaints function, but in practice, rarely acts or intervenes to assist tenants, and tenants must wait at least 30 days before they are eligible to raise a concern with the community housing regulator.

Further, the government legislation that the Department must comply with includes the Victorian Charter of Human Rights and Responsibilities, which provides a significant protective factor for public housing tenants that is not always extended to people who live in community housing. It also includes the *Freedom of Information Act* and Housing staff are required to comply with public service codes of conduct and expectations of behavior.

Although these mechanisms are not housed within a formal regulator, when combined, they provide greater protection for tenant rights than any community housing regulatory scheme does.

Further, the VPTA is of the view that the existing oversight of public housing is appropriate, particularly given it is largely consistent with oversight of other public, universal social and community service provision – such as public schools and hospitals.

However, this does not mean there is no room for improvement.

The VPTA believes outcomes for both public and community housing renters would be strengthened through common reporting against tenancy outcome performance standards, and transparent, accessible publication of results. This proposal is outlined in the earlier 'General Comments' section.

**25. Could the current social housing workforce be better equipped to perform the role of a social landlord?**

The existing workforce is significantly under-resourced. In addition, training is relatively inconsistent, and staff are required to manage complex and serious issues.

This is both unrealistic and unsustainable.

**26. What measures (if any) are required to ensure the social housing workforce has adequate skills and expertise to meet the needs of tenants?**

Social Landlords should be understanding of issues that impact the tenants they work with, empathetic, committed to sustaining tenancies and also have a very good understanding of the services and supports that are available to assist tenants resolve issues effectively.

Social Landlords do not have to provide those services themselves.

There are currently insufficient services and supports available to the community and for Social Landlords to call upon with a view to assisting their tenants.

The VPTA is of the view that the community sector as a whole must be better resourced so that when Social Landlords need to make a referral for one of their tenants, they are able to do so easily and the service has capacity to assist that renter quickly.

Further, some additional skills that would be helpful for Social Landlords to have include:

- Formal cultural competency training;
- Mediation, conflict resolution and negotiation training;
- Vicarious Trauma training
- Mental Health First Aid
- Trauma informed practice

**27. What are any barriers to increasing professionalization of the social housing workforce?**

The ability of Government and not-for-profit providers to pay higher wages that tend to accompany a more 'professional' workforce.

**28. How could regulation be used to support social housing workforce professionalization? What should be avoided in using regulation for this objective?**

The VPTA recommends considering how continuing professional development (CPD) requirements can be incorporated to tenant facing roles in the social housing workforce to encourage sharing of experiences, reflection and updating techniques to meet modern best practices.

**29. How does the National Regulatory System for Community Housing compare to the Victorian Regulatory System in relation to how it regulates (and influences) the quality of services and tenants experience?**

Registrars in the National Regulatory Scheme only consider complaints that indicate a provider may not be complying with requirements and will not consider individual tenancy complaints.<sup>4</sup>

In contrast, the Victorian Housing Registrar is able to investigate complaints made by current or prospective tenants, as well as members of the public.<sup>5</sup> However, it has been the experience of the VPTA that this does not often occur.

The VPTA therefore infers that, in practice, both schemes rely on information provided by the providers themselves in order to regulate the quality of services that tenants receive.

**30. Should for-profit providers be able to become registered as social housing providers?**

Under no circumstances should for-profit providers be able to become registered as social housing providers.

The proper provision of long term, subsidized, rental housing is inconsistent with an organizational structure that requires the generation of profit.

The for-profit model would be more appropriate to interventions such as build-to-own, which change the distributional spread of the cost of home ownership, but do not necessarily make it more affordable. Although this could be a helpful addition to the policy landscape for some, the VPTA does not believe that the introduction of this housing type would be of practical assistance the 'social tenant' cohort described in the consultation paper.

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<sup>4</sup> NRSC website, Tenants FAQs

<sup>5</sup> Victorian Government, 'Making a Complaint about Community Housing' <https://www.vic.gov.au/making-complaint-about-community-housing> (accessed 20 September 2021).

**31. What are the potential benefits of including public housing providers under similar regulatory arrangements as community housing? What would be the barriers to, and risks of this approach?**

Transparent, easily understood, regular public reporting about outcomes for tenants is the mechanism that is most likely to lead to stronger outcomes for social housing tenants. The risk of reputational damage is a strong protective factor.

This is the potential benefit of introducing any form of joint regulation to social housing in Victoria.

By requiring both social housing tenures to publicly line up against one another, the two tier system where public housing renters have greater rights and protections than community housing renters could be ended.

This has not been done before, and so a new body, like the one suggested in the General Comments section would need to be created.

However, the VPTA would strongly warn against simply adding public housing to the existing community housing regulatory scheme or folding both into the National Regulatory Scheme for Community Housing.

This would mean introducing further financial regulation to public housing – which is not required and has the potential to be severely detrimental to the security of tenure, affordability and equity of access that public housing can currently offer.

Further, neither the National Regulatory Scheme or the existing Victorian Scheme offer sufficient oversight of tenant outcomes.

**32. What changes would be needed to the regulatory framework to accommodate public housing? Are there areas of the regulatory framework that should not apply to public housing?**

The VPTA has suggested an alternative, shared regulatory framework which includes a new, independent body to sit alongside the existing Victorian Housing Registrar to regulate and actively publicize tenant outcomes across both public and community housing. In addition, this independent body would also:

- Manage complaints and appeals for both social and community housing renters, including accepting complaints from renters anonymously, and
- Host a free dispute resolution service.

As previously stated, financial regulation should not be applied to public housing. Therefore, the VPTA proposes that the existing Victorian Housing Registrar be retained to continue the financial regulation of community housing.

The VPTA would recommend that the new, independent body share an information portal with the Victorian Housing Registrar, to ease the transition to the new scheme and minimize the administrative burden of compliance.

### **33. What are any alternative options for improving the regulation and governance of public housing?**

The regulation and governance of public housing is not to blame for the frustrations experienced by public housing tenants.

These frustrations tend to relate to issues with neighbours escalating to the point where one or both parties feels unsafe in the home, an inability to communicate easily with Housing Services Officers, feeling unheard, experiencing long wait times when a move is required if a property no longer meets the needs of the household, and feeling frustrated or helpless when modifications are required to a property that cannot be safely delivered while maintaining the structural integrity of the property.

None of these issues are necessarily reflective of a lack of regulation or poor governance.

Rather, these issues occur primarily due to a lack of public housing stock, an ageing public housing stock profile and an under-resourced workforce. New regulatory mechanisms cannot improve these factors.

Genuine improvement in these areas requires the Government to hire and train a significant number of new Housing Services Officer and to construct a large number of new publicly owned and managed properties in a variety of sizes and locations, that allow individuals to age in place and can withstand modification for people with a wide range of disabilities.

The Big Housing Build, though a significant investment in Victoria's social housing, will not impact these issues as none of the new properties will be publicly owned and managed.

One existing issue that could be addressed by a shift in regulation or oversight would be maintenance.

The VPTA often assist people who live in public housing access maintenance and resolve ongoing maintenance issues.

Tenants often report to the VPTA that either contractors have not attended their property, or have attended and left work unfinished, done unsatisfactory work, or were rude.

These issues could be resolved through more active gathering of feedback with regards to maintenance contractors, and greater use of contractual measures to require higher performance from contractors.

### Questions 34 – 38 are answered in one response

34. *Would a set of standards and protections that apply to certain provider types such as caravan parks and rooming houses benefit other tenants in the private sector?*
35. *How could a set of tenant standards be designed and applied to minimize the costs and risks to landlords, while maximizing the benefits to social tenants.*
36. *If a set of additional standards for social tenants were introduced, what should it contain? Are there other ways of achieving greater protections for social tenants?*
37. *What form should the standards take – for example, they could be in the form of a charter, performance standards, or more prescriptive requirements?*
38. *If a set of additional standards for social tenants were introduced, which types of landlords and accommodation providers should they apply to? Which types should be excluded? What support would need to be provided to landlords and accommodation providers to help them meet the standards?*

The VPTA does not support the introduction of a set of standards for social tenants.

Rather than a set of standards or additional requirements, the VPTA has recommended the introduction of a universal protection that would apply equally to any private residential renter.

This approach would remove any opportunity or temptation to discriminate against the social tenant cohort and create a large number of new jobs, as it requires a new tenancy sustainment service be created, modelled on the existing Tenancy Plus service, to assist private renters maintain tenancies that are at risk.

Leasing Agents in the private market would be required to refer tenants at risk to this service, which could also host a dispute resolution service for those in the private market, which mirrors the social housing dispute resolution service



that would be housed in the new, independent social housing body described earlier.

**39. Do the current existing dispute resolution processes available to current and prospective social housing tenants offer fair, fast, low-cost, accessible and consistent decision making? If not, where are the shortcomings?**

The VPTA is not aware of any renters that have successfully used the Consumer Affairs Victoria ('CAV') dispute resolution services. Further, CAV already has a significant workload and dedicated rental dispute resolution services would be preferable.

**40. Are there possible alternative models for dispute resolution that would offer greater benefits than the current approach? Could the dispute resolution process introduced during the pandemic offer any insights?**

The VPTA has suggested alternative approaches to dispute resolution for all types of renters elsewhere in this document.

For alternative approaches to dispute resolution services for people who live in social housing, please see the 'General Comments' section, as well as the response to question 32.

For alternative approaches to dispute resolution for people who rent their home in the private market, please see response to questions 34 – 38.

The dispute resolution process introduced during the pandemic does not offer any particular insights from the perspective of people who live in public housing, as they tended to not be eligible for the rent reduction scheme to which the dispute resolution process was attached.

**41. Is the existing range of support services available to tenants in public, community and private rental housing effective? If not, where are their limitations?**

For the most part, the existing range of support services is appropriate, although there is a general lack of mental health and alcohol and other drug supports available.

Further, existing services are limited by a lack of resources. They do not always have capacity to meet demand.

Answers to questions 42 – 44 are in one response below

42. *What changes need to be made to integrate support services with housing support?*

43. *What additional support do tenants need that is not currently being provided?*

44. *How could regulation assist in the integrated provision of support services with housing assistance?*

Access to the existing support services for people who live in social housing could be strengthened if staff had a deeper understanding of policies and procedures regarding the allocation and management of social housing properties. Tenant Advocates from the VPTA are often required to explain some of these details to community sector colleagues who are also supporting people who live in social housing.

Support services could be better delivered in conjunction with housing support if there was greater capacity to meet need within the community sector more generally. The Panel may also wish to consider whether new roles, such as Support Service Liaison, would be helpful if added to existing provider offices, to support tenancy managers to make the best possible referral.

The VPTA would caution the panel to against an assumption that the integration of support services and housing assistance is necessarily desirable.

Support services should be delivered separately to housing assistance. If supports and housing assistance are provided together;

- Tenants have less autonomy over either their supports or their housing,
- Tenants become 'stuck' in one place and are unable to move in the event the property no long suits their needs if they wish to maintain their existing support relationships,
- Likewise, if a tenant is dissatisfied with their support services they may have to move to access an alternative provider,
- Support services become contingent on a tenant's housing status, and may not continue if the tenancy is terminated,
- Tenants could feel unable to complain or raise concerns regarding either their housing or their support services due to a fear of jeopardising the security of the other,
- A visit from a support service could be seen by the tenant as being similar to a visit from their landlord which could prevent the tenant from feeling comfortable to clearly share their needs with their support workers.

In the experience of the VPTA, it is often a support worker of a social housing tenant that contacts or refers clients to Tenant Advocates. Support workers

play a clear and important role in providing unbiased, no wrong door assistance and advice to people who live in social housing.

It is important to maintain these relationships and increase access to support workers. This is not best achieved through combining the delivery of housing and support services, but by ensuring there are adequate levels of support services in communities and that tenancy managers in social housing are well informed of what services are available and skilled at making effective referrals to those services.

For these reasons, the disability sector is currently in the process of decoupling day to day support from housing assistance as part of the transition to the National Disability Insurance Scheme.

Where people with disability in specialist housing used to access support from the same provider that provided their housing, now recipients of Specialist Disability Accommodation (SDA) funding, will be able to choose a separate provider for their Supported Independent Living needs.

The Victorian Advocacy League for Individuals with Disability (VALID) explained the need for the change in the context of both safety and choice for support recipients:

*“The reasons for the new rule are to give people with disability more control and choice, and to keep people safe.*

*People have more control and choice when their SDA and SIL providers are different organisations. When things go wrong, it is much harder to resolve things if you have to move house to fix issues with your support staff.*

*People are safer when their SDA and SIL providers are different organisations. People are less likely to experience abuse or neglect when there are a number of different people in their day-to-day lives.”<sup>6</sup>*

**45. Do you think there would be benefits in a single social housing regulator that has oversight of the services provided to vulnerable tenants across a range of tenure types?**

The VPTA is aware that the Government has recently tabled legislation that would create a regulator for the community sector. Therefore, the VPTA would recommend that the two regulatory schemes should be cooperative, rather than seeking to regulate the same work in the same group of organisations.

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<sup>6</sup> Victorian Advocacy League for Individuals with Disability, ‘The Top 10 Things to Know About SDA’ (accessed online) [https://www.valid.org.au/sites/default/files/sda\\_accommodation\\_0.pdf](https://www.valid.org.au/sites/default/files/sda_accommodation_0.pdf), 21 September 2021.

46. What governance structure do you think would be the best option for a single social housing regulator, and why?

As outlined in the General Comments section, the VPTA does not support a single social housing regulator and has made an alternative proposal.

The Independent Body suggested by the VPTA should have a Regulator appointed by government. The governance of this body should be based on governance arrangements of the Victorian Ombudsman. The body should have an advisory committee consisting of current social housing renters, from public, community and Aboriginal and Torres Strait Islander providers to ensure the voice of tenants is heard often and clearly within the organization.

## **Response to questions: Consultation Paper 3**

### **1. What level of importance do you attach to the regulation of social housing?**

Regulation of social housing is an important safeguard to detect risks and prevent system failure. To date, social housing renters have been subject to different policies, standards and rules depending on who their provider is. Regulation provides an opportunity to create equity, but is also a risk if a new scheme requires less or reduces protections that some providers are already delivering.

The VPTA is particularly supportive of the final item in the agreed principles document created by Community Legal Centres and Chia Vic – that no tenant should be worse off as a result of any of the recommendations of this Review.

### **2. What role should tenants and prospective tenants have in the design of social housing regulation?**

Current, former and future tenants should be engaged in the design of any future social housing regulation. Even the best managed social housing system will fail to meet its objectives if residents are, or perceive themselves to be, unable to take full advantage of the opportunities that safe, secure and affordable long-term housing provides.

Therefore, the advice of people with lived experience is crucial to ensure that indicators of successful tenancies that providers would be required to meet are reflective of outcomes that are meaningful and desirable to the residents themselves, and evidence indicators are appropriate.

The VPTA has recommended that a new statutory body be created to oversee the regulation and promotion of tenancy outcomes in social housing, as well as operate a social housing dispute resolution scheme and oversee the handling of complaints. This recommendation includes that the body should have an advisory board consisting of people with lived experience of social housing, to ensure staff remain connected to the day to day experiences of residents.

### **3. Are there any other things social housing regulation should do to encourage provider viability and sector growth?**

The VPTA is of the view that the key role of regulation with regard to sector growth is simply to ensure compliance with regulation does not disincentivize growth.

Financial viability should continue to be a requirement of community housing regulation, as private companies are unable to rely on larger reserves in the same way that Government can.

#### **4. Is there unnecessary duplication between the roles of funders and regulators of social housing in their reporting and other requirements affecting providers?**

While duplication for its own sake should not be promoted, from time to time it is appropriate for funders to require more than the regulator in the delivery of certain services or programs.

In some instances, the inclusion of performance standards in commercial contracts between government and community housing providers has provided a basis for the rights and protections of some tenants to be maintained beyond the transfer of management of their homes. These requirements go beyond anything that is included in the regulatory scheme but are nonetheless critical for the people directly impacted.

Further, it has been the experience of the VPTA that the Victorian Housing Registrar is focused more on the financial regulation of the community housing industry, than resolution of complaints. The VPTA is, in fact, not aware of any instances where the Registrar has effectively stepped in to resolve a complaint. Contractual arrangements which include obligations to the funder and consequences for providers who do not deliver, are therefore considered valuable by the VPTA.

#### **5. Are the roles and objectives of Homes Victoria appropriate? What changes are needed to ensure clarity of roles and to address actual or perceived conflicts of interest?**

The VPTA has long advocated for the creation of a statutory body to provide long term guidance and strategy for social housing, particularly with regards to stock development. Homes Victoria meets this need.

Homes Victoria could be strengthened by a mechanism that prevents future governments from removing it through Machinery of Government changes.

Clarification of the delineation between Homes Victoria staff, who are policy and asset development focused, and local housing office staff and operational teams, who are still located within the Department of Families, Fairness and Housing would assist the community sector, but would have little impact on the day to day lives of social housing renters.

#### **6. How does Homes Victoria influence the decision making of registered community housing organisations?**

The VPTA understands that the community housing industry is eager to access funding opportunities provided by government through Homes Victoria. In this respect, the VPTA assumes that decision making is influenced by the assessment criteria of grants and tenders.

## 7. Are the mechanisms for financial and performance oversight of Homes Victoria and the provision of public housing adequate and appropriate? What changes or improvements are needed?

Public housing is subject to appropriate and adequate oversight.

As a social service delivered by government and overseen by the Parliament, it is subject to the same financial oversight mechanisms as other universal social supports of comparable importance such as public education and health.

As discussed in the 'General Comments' section of this response, the VPTA does not support additional financial regulation of public housing.

The same mechanisms exist with regard to performance oversight, and while the current policy positions with regards to rights and protections for public housing renters are strong, and there is consistent effort on behalf of Homes Victoria and the Department to improve the tenant experience, issues remain. These issues have a direct impact on tenant experience and include:

- Feeling disrespected or unheard,
- Experiencing long wait times for communication or resolution of simple issues,
- Feelings of disempowerment, and
- Feelings of confusion.

The root cause of these experiences is not a lack of oversight, but a lack of resourcing.

Housing Services Officers are placed under a significant amount of stress and carry workloads so large that they are effectively prevented from adequately assisting all of their renters. The result is communications that are delayed and can sometimes be rushed or curt.

This is exacerbated by an unreliability of maintenance contractors, and a number of complaints of rude or dismissive treatment of renters by contractors or sub-contractors that attend their homes.

It is possible that transparent and public regulation of tenancy outcomes could have a positive impact on these issues. Particularly if regulation were to set minimum tenancy manager to household ratios, greater accountability of companies which hold contracts to deliver services to people who live in social housing, and led to improved culture and working environments among the social housing workforce.

## **8. Should public and community housing be regulated under common regulatory arrangements? What changes to the governance structure of Homes Victoria would be needed for this to occur?**

As stated elsewhere, the VPTA does not support the introduction of additional financial regulation for public housing and recommends that the existing financial regulation of community housing delivered by the Victorian Housing Registrar be maintained.

The VPTA does support the creation of a new body to oversee the regulation of tenancy outcomes of all social housing tenants in a rights-based model. This body would also have capacity to consider complaints that are escalated beyond the level of the housing manager and to do so anonymously. The body would also host a dispute resolution scheme for social housing renters.

As this would involve the creation of a new body, no changes to the governance structure of Homes Victoria would be required.

In the event that Homes Victoria took on these functions, sufficient independence from the rest of the organization would be required to ensure that renters had confidence that outcomes were not impacted by any other considerations. As with the structure suggested elsewhere in this response for the proposed independent body, the manager of these functions should ensure maintenance of and ongoing consultation with a lived experience advisory committee.

## **9. Do you agree that certainty and predictability in government subsidies and operating rules, together with an independent regulator, are necessary enablers of sustainable growth?**

The VPTA is of the view that consistency and predictability is essential for the maintenance of existing programs.

Enablers of sustainable growth could be more varied and include stronger encouragement of mechanisms like inclusionary zoning or a more substantial appetite for direct government investment in publicly owned and managed housing stock.

However, the VPTA is not of the view that the maintenance of existing funding arrangements for the community housing industry is necessary for its continued growth. On the contrary, the continued growth of the community housing industry could be provided for through the expansion of affordable housing models, the legislation of mandatory inclusionary zoning and policies which encourage and promote institutional and philanthropic investment in housing initiatives. This would have the additional benefit of freeing limited government funds for investment in new public housing stock, which, as opposed to



community housing stock, requires direct government investment in order to grow.

10. Do you think the current regulatory system is too prescriptive and not sufficiently focused on long term growth? If so, why? What changes would you suggest?

The VPTA does not have the expertise to respond to this question.

11. What would be the risks and benefits of allowing for-profit organisations to provide social housing services in Victoria?

The VPTA does not support for-profit organisations delivering social housing in Victoria.

The delivery of genuine, sustainable, long term affordable housing for people on no to low incomes is inconsistent with the delivery of profit to a private company.

Any benefit that might be theoretically gained by an increase in social housing stock levels would ultimately prove a greater risk to tenants in the medium to longer term, as their tenancies would likely be difficult to sustain.

12. What governance structure do you think would be the best option for a single regulator covering both public and social housing, and why?

The VPTA does not support the introduction of a single regulator for social housing and has made alternative suggestions.

13. Where should a housing regulator be located within government?

Independent regulators should report and receive appropriations directly from the Parliament, in the same way as the Auditor-General.

14. Are the roles and objectives of the Housing Registrar appropriate? What changes are needed?

The Housing Registrar is an appropriate and competent financial regulator of community housing. However, the VPTA is of the view that the Registrar has not fulfilled its objectives with regard to tenant outcomes.

This is why the VPTA has recommended the introduction of a new, independent regulatory body to supervise and promote tenant outcomes consistently across the social housing system.

Questions 15 – 17 are responded to below.

15. *What role should the regulator play in sector development and capacity building?*
16. *How could sector development be effectively supported?*
17. *Is there a role for current and prospective tenants in sector development?*

A regulator could set a minimum requirement of annual or bi-annual professional development for certain classes of staff, as well as mandate that staff receive training in specific areas. Delivery of sector development and capacity building activities is not something the VPTA anticipates a regulator would be responsible for.

Sector development should be supported through an industry body, such as the Australasian Housing Institute, and be informed by the gaps identified by both members of the social housing workforce and the priorities or needs of current and prospective tenants.

18. What are the essential features of a regulatory framework for Affordable housing that can both help the industry grow, focus on tenant outcomes, and facilitate confidence that public funds are being used well?

The VPTA supports the introduction of a rights-based regulatory framework to support tenancy outcomes for all social housing renters.

It is further the view of the VPTA that the rights and protections available to all renters should be as consistent as possible.

Therefore, Affordable housing should be regulated in the same, or a similar manner to social housing with regard to access to support services and tenancy outcomes.

Financial regulation of Affordable housing should be sufficient to ensure that providers maintain financial viability.

19. Should Affordable housing providers be included in the social housing regulatory framework, or is a different system appropriate?

It would be helpful to understand more about the Government's policy development with regards to Affordable Housing models to wholly answer this question.

The VPTA anticipates that there is likely to be an element of overlap in services and allocations tools for social and affordable housing residents. Further, the

community housing industry is likely to manage a proportion of the new affordable housing stock.

The VPTA therefore considers that a shared regulator may be appropriate.

**20. Which types of Affordable housing should be included in a regulatory framework?**

The framework should be as broad as possible to encompass all types of Affordable housing, with the understanding that Commonwealth funded Affordable housing schemes, such as the National Rental Affordability Scheme, would likely be unwieldy to regulate at the State level.

**21. What are the costs associated with Victoria having a different regulatory regime for community housing to the rest of Australia? In particular, how significant is the regulatory burden on providers that operate across jurisdictions having to register for multiple regimes?**

It is the strong view of the VPTA that Victoria should not join the National Regulatory Scheme, and that any additional costs or burdens to the community housing industry as a result are an unfortunate necessity.

The National Scheme places too much distance between the regulator (which could be interstate) and the lived experience of tenants.

Further, the National Scheme allows registration of for-profit providers which the VPTA does not support and gives regulators weaker powers than the Victorian Housing Registrar currently holds.

**22. In its current form, is the NRSCH suitable for the needs of Victorian community housing providers and tenants? What would need to change for there to be net benefits from Victoria joining the national system.**

The NRSCH is not suitable for the needs of Victorian community housing tenants in its current form.

If Victoria were to join the National Scheme with no changes to its current structure, community housing tenants would be swapping one set of weak regulations with regard to performance outcomes for another.

In order for Victoria to simply maintain the status quo in joining the National Scheme, the following aspects of the NRSCH would need to change:

- The ability of for-profit providers to register to deliver social housing,
- The ability for a regulator to be located in a separate State to the tenant,

- Regulators under the National Scheme would need to have the same step in powers as those currently held by the Victorian Housing Registrar.
- Registrars in the National Scheme would need to have the same ability to investigate complaints as the Victorian Registrar.

Further, for a net benefit to be derived from Victoria joining the NRSCH, the existing performance outcomes and evidence markers for regulated points regarding tenancy outcomes would need to be strengthened in consultation with people who have lived experience of social housing. This work would also be required of the Victorian Housing Registrar if it were to retain this element of its role.

**Questions 23 and 24 are responded to below.**

**23. *Should the regulatory system for social housing encourage the construction of housing that goes beyond minimum standards for safety and quality? Or should this be dealt with via construction contracts?***

**24. *What role, if any, should the social housing regulator play in this area?***

It should be the role of the regulator to set minimum requirements in terms of the accessibility, thermal comfort, cost of running and features of social housing properties (such as requirement to include home fire sprinklers and air conditioning), in addition to the requirements of construction and building regulations that also apply.

Social housing is an important investment in the wellbeing of the Victorian population, and requirements which go beyond the general construction and building requirements, such as ensuring cost efficient running costs, suitability for modifications and the ability of residents to age in place are therefore appropriate as they maximize the economic life of the public asset.

The VPTA considers the role of construction contracts and partnerships with engineering and architectural firms to be the governance of logistical arrangements and the agreement and delivery of any property or design features which exceed both the construction and social housing regulations.

**25. How important do you consider sector diversity is in encouraging innovation in social housing services? How does this align with the benefits of encouraging growth?**

The VPTA is of the view that collaboration between renters and the social housing workforce is more likely to drive innovation and improvement in social housing services than sector diversity.

Further, sector diversity increases risks of uneven or inequitable treatment of tenants between different providers.

Sector diversity is not a necessary precondition of either innovation or growth.

**26. What are some ways the system can harness the benefits of specialist service while also achieving growth in provider size and scale?**

The VPTA has not provided an answer for this question.

**27. What role (if any) should the regulator play in encouraging industry consolidation?**

The regulator should neither encourage nor discourage industry consolidation.

**28. What workforce challenges are the Registrar and the social housing sector likely to face as a result of sector transformation and growth? What will they need to meet these challenges?**

The Housing Services Officers are not anticipated to face additional challenges as a result of the Big Housing Build, as the program does not deliver any new publicly owned and managed properties.

Each community housing organization will need to take into consideration how managing more properties is likely to impact their existing team structure, practices and culture. This will differ across the industry depending on which providers win tenders and cannot be known at this time.

**29. To what extent could the performance reporting model of the Scottish Housing Regulator be applicable to Victoria?**

The reporting model of the Scottish Housing Regulator appears to include information which is expressed in a way that is meaningful to people considering their housing options, it has information which is easy to access, and the comparison tool provides information in a way that is simple to read.

The VPTA is particularly supportive of the Annual Return on the Charter reporting mechanism, as it includes performance data for each provider published by standard, and also individual reports for each provider.<sup>7</sup>

These are all elements that Victoria should seek to emulate.

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<sup>7</sup> Scottish Housing Regulator, 'About our National Reports' (accessed online). <https://www.housingregulator.gov.scot/landlord-performance/national-reports/national-reports-on-the-scottish-social-housing-charter/national-report-on-the-scottish-social-housing-charter-headline-findings-2020-21>. 21 September 2021.

In addition to the reporting structure, the VPTA notes that the objectives defined in legislation for the Scottish Housing Regulator specifically focus on people engaged or likely to engage with the Scottish social housing system. The legislation is explicit in setting ‘The Regulator’s objective...to safeguard and promote the interests of persons who are or who may become homeless, tenants of social landlords, or recipients of housing services provided by social landlords.’<sup>8</sup>

In comparison to this person-centered approach, in Victoria, the *Housing Act 1983* (Vic) describes the intention of the part establishing the Registrar of Housing Agencies (the Victorian Housing Registrar) as being ‘to provide a regulatory framework to encourage the development of rental housing agencies serving the needs of low income tenants by providing for the registration of rental housing agencies; and the regulation and monitoring of registered housing agencies.’<sup>9</sup>

Likewise, the Regulatory Framework of the National Regulatory Scheme for Community Housing opens by positioning the regulatory scheme as one which focuses on the development of a well-managed community housing industry. It describes the scheme as ‘a regulatory system designed to contribute to a well governed and managed community housing sector, and [providing] a platform for the ongoing development and viability of the community housing sector across Australia.’<sup>10</sup>

It is the strong view of the VPTA that the first step to ensuring regulation centres needs and outcomes of renters, is making the object of the Regulator specific to the safeguarding of renters rights.

## Conclusion

Thank you for providing opportunities for the VPTA, as well as current, former and future renters of social housing to engage closely with the Review Panel.

The VPTA would be happy to meet with the Panel and team for further discussion of the issues raised in this submission.

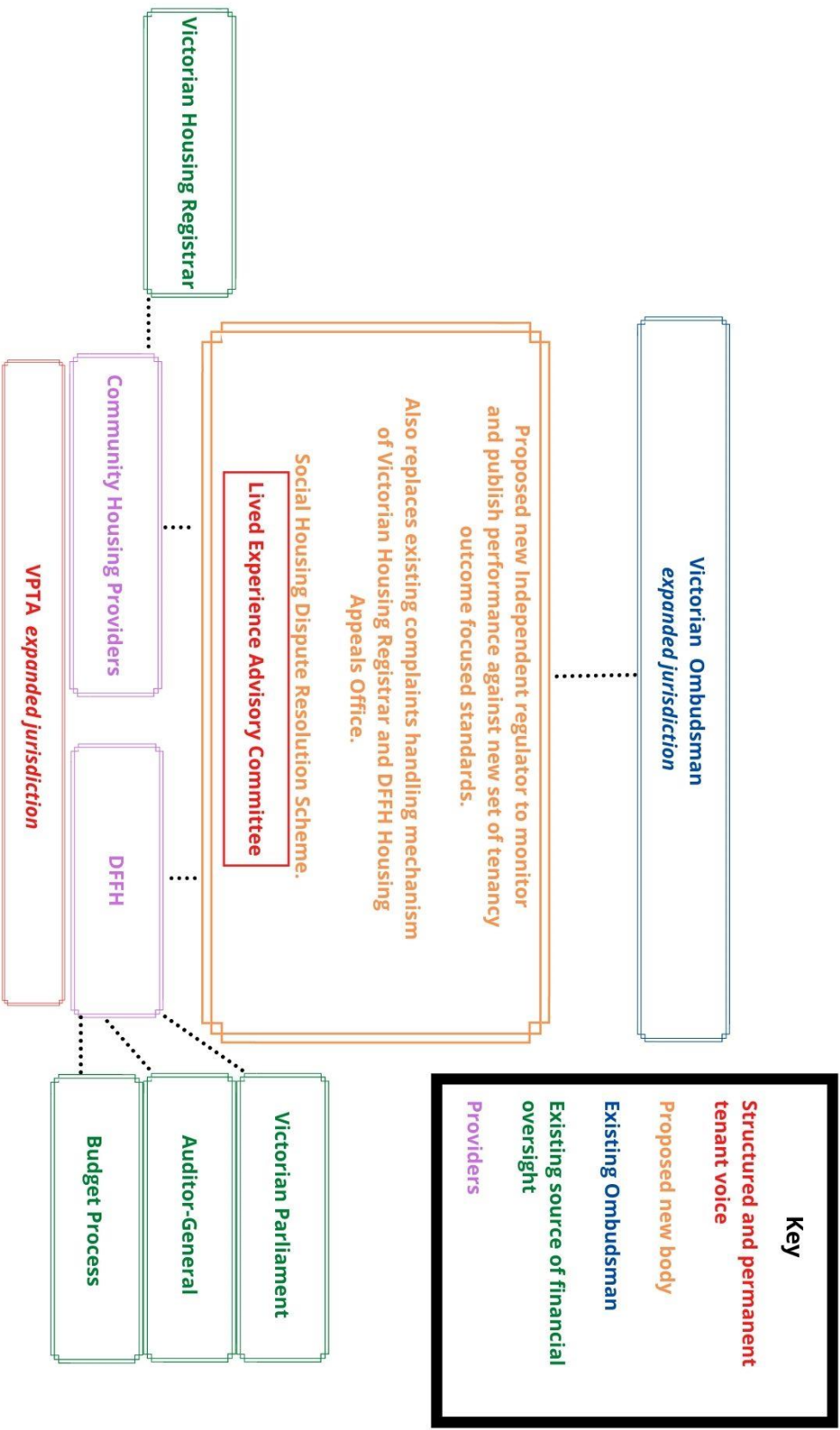
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<sup>8</sup> Housing (Scotland) Act 2010, section 2(1).

<sup>9</sup> Housing Act 1983 (Vic), section 73.

<sup>10</sup> The National Regulatory Scheme for Community Housing, ‘Regulatory Framework’ (accessed online). <https://www.nrsch.gov.au/publications/nrsch-framework>. 21 September 2021.

Appendix 1



## Appendix 2

### **Housing for all Victorians: A Statement of Shared Principles**

Community housing providers, community legal centres and legal assistance services are committed to ensuring all renters in community and public housing have safe, secure, appropriate and affordable homes to live in.

How we treat Victorians experiencing vulnerabilities at their most difficult times reflects on us all. We cannot adequately address family violence, mental illness, or poverty, without first ensuring that everyone has a safe place to call home.

With over 80,000 people currently on the Victorian Housing Register, the \$5.3 billion investment in the Big Housing Build is a historic investment in infrastructure that Victorians desperately need: housing.

The Big Housing Build will provide 8 200 new community housing properties and rebuild and replace 1 100 public housing homes. This is a massive undertaking which will grow community housing by 40 per cent in only four years.

To keep pace with this investment, we need the settings and supports in place to ensure all social housing renters and their families thrive.

We welcome the Review of Social Housing Regulation (the Review) as a means to promote the best outcomes for social housing renters in Victoria.

We call on the Review to be guided by the following principles:

1. That a fair regulatory system delivers positive renter outcomes for all people living in social housing, with key measures of success being the provision of safe, secure, appropriate and affordable homes.
2. Quality data is essential to a transparent and accountable housing system. The Review should be informed by robust data analysis and future regulation should be underpinned by open and accessible data that demonstrates positive renter outcomes are being achieved and where there are areas of concern. Data should be used and reported in a way that reflects the diversity of the community housing sector.
3. Every social housing renter allocated from the Victorian Housing Register should know and be able to exercise their rights.
4. All social housing renters' human rights are protected through the Charter of Human Rights and Responsibilities Act 2006 (Vic).
5. No renter will be worse off as a consequence of the Review or the implementation of any of its recommendations.