



Fairer, Safer Housing: Residential Tenancies Act Review Rent, bonds and other charges Issues Paper

A Submission from the Community Housing Federation of Victoria

The Community Housing Federation of Victoria (CHFV) welcomes this opportunity to make a submission in response to the Rent, bonds and other charges Issues Paper, released by the Victorian Government as a part of its review of the Residential Tenancies Act 1997 (Vic) (**RTA**).

CHFV is the peak body that represents the not-for-profit community housing sector in Victoria. CHFV's member community housing organisations (CHOs) are committed to providing secure, affordable and decent housing for people on low to middle incomes. Members include the CHOs registered as housing associations or housing providers under the Victorian regulatory framework for non-profit housing providers plus other organisations and individuals interested in housing.

In this response to the Issues Paper on security of tenure, CHFV builds upon its earlier submission to the Consultation Paper published in August 2015.

Executive Summary

CHFV members are generally happy with the current provisions in the RTA regarding rent, bonds and other charges, so this issues paper has not raised as many points of concern for the sector as the previous paper.

Bonds

Most community housing organisations do not charge bonds for entry into a tenancy. For those that do charge bonds, they generally find the current arrangements for lodgement with the RTBA and settling of any disputed claims by VCAT to be satisfactory. Some have commented on difficulties when having claims for very old bonds processed. In these cases the bond lodgement forms have been signed for the landlord by staff members who no longer work for the organisation and have not had their signatures registered with the RTBA. In these cases lengthy delays are experienced while the RTBA are supplied with statutory declarations and other supporting documents. This can delay payments to landlords, tenants or both. Perhaps this process could be streamlined. It is a

problem that will decrease with time as the number of bonds with unregistered signatories decreases.

Rent and other payments

Rent

Most CHOs believe that the current provisions for one month's rent in advance, 60 days' notice of a rent increase and rent increases limited to once every 6 months is a satisfactory balance between the rights of landlords and tenants.

We would like to point out a technical error in the issues paper. In section 3.13 it says "the Act allows landlords to issue a 14-day notice to vacate and, following the notice period, apply for an order to repossess the property." After a notice to vacate for rent arrears (and most other reasons) the landlord does not have to wait for the end of the notice period, they can apply for a possession order as soon as the notice to vacate is deemed to be served. See section 322 of the RTA.

Rent Increases

In CHFV's previous submission to the Consultation Paper, we noted that any changes to the rent increase provisions needed to carefully consider the impact of those changes on CHOs and the rebated rent model under which most CHOs operate:

Most CHOs calculate rents based on either a percentage of gross household income or a proportion of the market rent of the property, or a combination of both. Where rent is based on household income, this can be a complex process which requires a tenant to provide reasonable details of household income. Household income can change dramatically, either through changes in household composition or changes to a tenant's employment status. The regime in the RTA, which requires 60 day notice of rent increases and for rent increases no more than every 6 months, is inflexible and not well-adapted to this process. For example, a CHO may be prevented from increasing a tenant's rent even when a tenant has informed the CHO that they are earning additional income, if a rent review has already been undertaken recently.

Some CHOs respond to this complexity by separating out notices under the RTA (used to set a market or maximum rent) with a separate process which calculates the tenant's entitlement to a rental subsidy. These processes are complex and difficult for tenants to understand.

CHFV acknowledges that this is a difficult issue. The needs of CHOs to maintain their financial viability through appropriate rent-setting must be balanced against the rights of tenants to a clear and transparent process, proper notice of rent increase and to appeal rental assessments if unsatisfied with the outcome. What the review should consider is whether any amendments could be made to the RTA to better reflect the realities of the rent-setting process to provide more certainty to both CHOs and tenants.

Other payments and charges

In CHFV's previous submission to the Consultation Paper we noted the lack of consistency in treatment of housing managed by the Director of Housing and housing managed by CHOs.

With regard to service charges the current position is that the Director of Housing may impose a service charge and that "Director of Housing includes any incorporated body that receives financial assistance from the Director of Housing for the purposes of providing non-profit housing". This definition may capture many CHOs but to remove ambiguity and for the sake of consistency with our previous submissions regarding this issue through the rest of the RTA, we suggest the following amendments.

Section	Current Wording	Proposed Amendment
3	<p>[new definition]</p> <p>registered housing agency means a means a rental housing agency registered as a registered housing association or registered housing provider under Part VIII of the Housing Act 1983</p>	
57 (and 109A)	<p>57 Director of Housing may impose service charge</p> <p>(1) The Director of Housing may impose a service charge on a tenant in rented premises let by the Director of Housing for any water, central heating, laundry or utility services or facilities made available to the tenant.</p> <p>(2) Subsection (1) only applies if it is not possible or practicable to accurately measure the use by the tenant of that service or facility.</p> <p>(3) A service charge may be increased by an amount or decreased in line with changes in the cost of providing the services or facilities.</p> <p>(4) This section applies despite anything to the contrary in any tenancy agreement.</p> <p>(5) In this section Director of Housing includes any incorporated body that receives financial assistance from the Director of Housing for the purposes of providing non-profit housing.</p>	<p>57 Director of Housing or registered housing agency may impose service charge</p> <p>(1) The Director of Housing or a registered housing agency may impose a service charge on a tenant in rented premises let by the Director of Housing or a registered housing agency (as the case may be) for any water, central heating, laundry or utility services or facilities made available to the tenant.</p> <p>(2) Subsection (1) only applies if it is not possible or practicable to accurately measure the use by the tenant of that service or facility.</p> <p>(3) A service charge may be increased by an amount or decreased in line with changes in the cost of providing the services or facilities.</p> <p>(4) This section applies despite anything to the contrary in any tenancy agreement.</p>

Supplementary Comments

As stated in the Executive Summary, many of the issues canvassed in this paper do not have great impact on CHOs or their tenants. However the paper does highlight a number of issues that impact on tenants in the private rental sector. We believe that increasing the \$350 limit for restrictions on bond amount and rent in advance, and removing the ability of landlords to increase rents during the term of a tenancy agreement would bring some relief to tenants or prospective tenants in the private rental market, and therefore ease the considerable pressure on public and community housing.