



A contemporary social housing regulatory framework for Victoria





VCOSS Submission to the Social Housing Regulation Review – Consultation Papers 2 & 3

September 2021

The Victorian Council of Social Service is the peak body of the social and community sector in Victoria.

VCOSS members reflect the diversity of the sector and include large charities, peak organisations, small community services, advocacy groups and individuals interested in social policy.

In addition to supporting the sector, VCOSS represents the interests of Victorians experiencing poverty and disadvantage, and advocates for the development of a sustainable, fair and equitable society.

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VCOSS acknowledges the traditional owners of country and pays respect to past, present and emerging Elders.

This document was prepared on the lands of the Kulin Nation.



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Introduction

VCOSS welcomes the opportunity to provide a response to the Social Housing Regulation Review.

The scope of the Review is ambitious, canvassing a wide range of topics to consider in regulatory reform. This submission, responding to questions posed in consultation papers 2 and 3, focuses on priority issues for VCOSS and our members and their constituents, informed by consultation and direct engagement throughout 2021. This submission builds on our response to consultation paper 1 (the *Background and Scoping Paper*), as well as recommendations we made to Homes Victoria in their consultation to develop the *Ten-Year Strategy for Social and Affordable Housing*.

We strongly agree with the Panel that “*regulation should focus on best outcomes for current and prospective renters in the short and long term*” (Consultation Paper 2, p 7).

As we told the Panel in our response to the *Background and Scoping Paper* for this review, we want a contemporary social housing regulatory framework that enables best outcomes for renters.

We understand “best outcomes” for renters to encompass the following elements:

- Having a home that is safe, affordable, and meets their needs as they change over time; and
- A social housing system that provides additional protections and benefits that often cannot be found in the private market – but that also ensures the sustainability and growth of the community housing sector and strikes the right balance in terms of industry oversight.

We see this consultation, and the engagement that the Panel is currently leading with industry, community and with current and prospective social housing renters, as a critical first step in designing a framework that will achieve those best outcomes for renters. We look forward to continuing to engage with the Panel and with the Victorian Government to establish a fit-for-purpose regulatory regime.

Recommendations

1. Ensure regulation focuses on best outcomes for current and prospective renters and make this explicit throughout the regulatory regime.
2. Establish formal mechanisms to elevate renters' voices in the social housing system, comprising:
 - A social housing renters' advisory group, that reports to government and, if established, the single independent social housing regulator.
 - A requirement for social housing providers to develop and publish renter engagement strategies.
3. Introduce choice-based letting for social housing properties.
4. Investigate gaps in protections and supports for social tenants to inform targeted reforms and interventions for this cohort.
5. Establish common standards for public and community housing providers, based on the Scottish Social Housing Charter.
6. Develop a set of Model Rules to support the common standards on topics including evictions, arrears, hardship, temporary absence, disability modifications, internal appeals and rent-setting.
7. Establish the human right to housing in state legislation by:
 - Including the right to housing in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.
 - Expressly including community housing providers that are registered under s 84 of the Act as 'public authorities' for the purposes of the Charter.
8. Establish a centralised, accessible complaints and dispute resolution body for all public and community housing renters.
9. Continue stakeholder engagement to develop the proposal for a single, independent social housing regulator.

10. Maintain a social housing regulatory regime for Victoria separate from the narrowly focused National Regulatory System for Community Housing (NRSCH).
11. Improve data collection on key indicators, including:
 - Wait list and allocations data from the Victorian Housing Register, including detailed demographic and vulnerability indicators for both prospective and current renters.
 - Tenancy insights, including tenure length, arising issues (such as the prevalence of rent arrears and rental stress) and referrals to support.
 - Insights on the safety, accessibility and quality of housing stock, including compliance with accessibility and energy efficiency standards, maintenance and modification requests and outcomes.
 - Complaints and disputes data, including outcomes and resolutions.
 - Exit insights, including whether provider or renter-initiated and actions taken to ensure provider-initiated evictions are an option of last resort.
 - Workforce insights.
12. Provide adequate resourcing to bolster system capacity to collect and report on prescribed data.
13. Recognise workforce and sector development as a key enabler for the development and implementation of regulatory reform, and a high-performing housing system, by providing sector peaks, industry and consumer bodies with the resources they need to do this work
14. Exclude for-profit providers in the social housing regulatory framework.
15. Maintain sector diversity and specialisation without creating additional barriers to accessing social housing.
16. Use regulation to ensure that both new and existing social housing homes meet the highest standards for thermal comfort and energy efficiency.
17. Require a Livable Housing Design Guidelines Gold Standard of accessibility for all new social housing homes and engage with communities to innovate best design practice for accessible homes.
18. Identify the contribution regulation could make to encouraging growth in Specialist Disability Accommodation in Victoria and opportunities to advance this in the new regime.

Prioritise renter outcomes in social housing regulation

1. Principles and objectives for the social housing system

This section responds to the following consultation paper questions:

CP1 Q1: Do you agree with the above principles and objectives for the social housing system? Are there any principles that you would add or remove?

CP1 Q2: Which principles do you think are the most important for a well-functioning regulatory system for social housing?

VCOSS concurs with the three principles put forward by the Panel ('tenant focused', 'best practice regulation' and 'providers that meet tenant needs'). VCOSS also supports the proposed overriding principle – that is, that regulation should focus on best outcomes for current and prospective renters in the short and long term (CP2 p 7). We recommend that this is made explicit throughout the regulatory regime.

In making this assessment, VCOSS notes that “best outcomes” for renters include realising the fundamental right to a home – a home that is safe, affordable, and meets their needs as they change over time, and that provides additional protections and benefits that often cannot be found in the private market. These additional protections and benefits include sustainable tenancies, access to support, formal mechanisms that enable issues to be raised and resolved and to contribute to good practice, and assurance that quality services are provided, regardless of who provides those services. VCOSS believes that these outcomes coincide with the best outcomes for housing providers, financial institutions and other non-renter stakeholders.

With this in mind, this submission seeks to provide the panel with recommendations to design a regulatory regime that prioritises best outcomes for current and prospective renters.

2. Renters' voice

This section responds to the following consultation paper questions:

CP1 Q4: 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?

CP1 Q5: Is there a lack of focus the tenant experience in the current regulatory framework? If yes, please provide examples of issues this has caused for tenants.

CP1 Q6: How can regulation be used to bring about great focus on tenant experience?

CP1 Q7: Are there examples where organisations have captured the tenant voice well, both in Victoria and in other jurisdictions?

CP1 Q8: How can tenant voice and empowerment be improved in both public and community housing?

CP1 Q 9: What information would be useful for tenants to be able to assess the performance of social housing providers?

CP3 Q2: What role should tenants and prospective tenants have in the design of social housing regulation?

CP3 Q17: Is there a role for current and prospective tenants in sector development?

As we noted in our submission to Homes Victoria for the *Ten-Year Strategy for Social and Affordable Housing*, and in our response to the Panel's Background and Scoping Paper, renters are currently the least visible stakeholder in social housing policy development.

This Review provides the opportunity to empower renters and elevate their voices in the social housing system. A key outcome of this Review should be that all social housing renters have formal mechanisms to contribute to good practice and the development of the sector.

Our preference is for formal mechanisms to be established because, in our experience, this is what is required to ensure consistent approaches to engagement and equitable access for renters. Informal approaches can lead to an ad hoc experience at best and, at worst, exclusion for renters seeking to engage.

Empowering renters begins with equipping them with accessible, easy to understand information about their rights and what they can expect from providers. VCOSS notes that both Consumer Affairs Victoria and the Scottish Housing Regulator provide information targeted to private and social housing renters on their respective websites.

This is a good place to start. However, a multi-faceted communications approach is required to ensure comprehensive reach. The digital divide in Victoria is substantial – 305,800 Victorian households (13.2 per cent) did not have Internet access in 2016-17.¹

Strategies will also be required to build the confidence and capacity of renters lift their voice. Some social tenants have past or current experiences of stigma or marginalisation and, because of this, have a fear of speaking up. Many have histories of trauma or past negative experiences with institutions and systems and a mistrust of government and support services. These experiences can create barriers to engagement, even where decisions will directly impact on their lives and there is a strong imperative to engage.

VCOSS commends the Panel's efforts to engage directly with renters as part of the regulatory review process, and looks forward to Panel recommendations reflecting lived experience insights and expertise. Additionally, VCOSS recommends the following mechanisms to help elevate renters' voices in the reformed social housing system:

- Establish a formal social housing renters' advisory group. This group would provide advice to government and if established, the single, independent social housing regulator.
- Require that providers develop and publish renter engagement strategies, that could include their own advisory bodies (for example, Launch Housing's Lived Experience Advisory Program) as well as regular activities to engage and consult with renters on operations. The purpose of this would be to contribute to continuous improvement, based on the Scottish Housing Regulator approach to tenant engagement. This approach would be strengthened further through a community of practice.

Further, in a reformed social housing system, insights from complaints and dispute resolution, as well as provider performance, should be leveraged to contribute to system wide service delivery improvement and sector development. This VCOSS recommendation is canvassed in more detail in s 7 of this submission.

¹ Australian Bureau of Statistics, Household use of information technology 2016-17, www.abs.gov.au/ausstats/abs@.nsf/mf/8146.0, accessed 21 January 2021.

3. Access to social housing

This section responds to the following consultation paper questions:

CP2 Q10: 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?

CP2 Q11: Are the current categories for priority access appropriate?

CP 2 Q 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?

CP2 Q9: What information would be useful for tenants to be able to assess the performance of social housing providers?

The allocations system

The Victorian Housing Register, which was established in 2015 to provide a single, common entry point to public and community housing in Victoria, has two categories:

- **Priority access:** for people who are homeless and receiving support, are escaping or have escaped family violence, with a disability or significant support needs, or with special housing needs.
- **Register of interest:** all other eligible applicants.

The Panel asks whether the policies and processes are working well to allocate people across public and community housing.

Allocations in public housing are guided by the Public Housing Allocations Operational Guidelines. Under these guidelines, the allocations model prioritises those in greatest need.² In the event a person does not accept an offer, is uncontactable or is no longer eligible, an offer is made to the person next on the VHR.

People who do not have priority access – that is, people who meet the income eligibility but have no other prescribed vulnerabilities – can face wait times of up to ten years.³

However, being in the priority access category does not assure access, let alone timely access. For example, people with disabilities, despite meeting the criteria for priority access,

² VAGO, *Managing Victoria's Public Housing*, June 2017.

³ A Powell et al, *The construction of social housing pathways across Australia*, July 2019, p39.

have difficulties accessing social housing unless they are at immediate risk of homelessness.

This is a consequence of an allocation practice – but it is important to recognise that the allocation practice is, itself, a direct consequence of resource scarcity. For people with disabilities, there is not sufficient supply of accessible stock. But, more broadly, there is insufficient supply of social housing stock for all social tenant cohorts – accessible or otherwise. The system is under significant strain and this means that only applicants in severe crisis have timely access to social housing – with 'timely' used as shorthand for being offered housing within a year of application.

In terms of community housing allocations, a requirement under the Social Housing Growth Fund is that community housing providers must make 75 per cent of their allocations to people from the priority access category.

We observe that, since the priority access category makes up a little over half of all applicants, currently there is wider discretion in community housing allocations. Whilst we acknowledge the vital contribution of community housing providers in providing safe, high-quality housing for social tenants, there is scope for this part of the system to accommodate more tenants from the 'priority access' category.

This is being recognised in the approach to delivering the Big Housing Build. As the community housing sector grows, new portions of supply are targeted to identified priority cohorts. These are the right policy decisions in this environment. However, it means that thousands of applicants eligible for social housing, who do not have priority access or who are not identified as a priority cohort, will continue to be pushed down the wait list. While waiting for an offer of housing, applicants may be forced to live in inadequate, unsuitable or precarious housing. This places people at risk of accumulating vulnerabilities that would eventually grant priority access – such as health issues, mental illness, substance use issues, disability or homelessness.

Ultimately, this problem will not be resolved by allocations policies and processes, but by a long-term pipeline of investment in public and community housing growth that builds on the landmark four-year Big Housing Build. The community sector is looking to the yet-to-be-released *Ten-Year Social and Affordable Housing Strategy* to deliver – at a minimum – the 60,000 new public and community homes Victoria that will need to be built by 2031 to reach the national average of 4.5 per cent.

Choice-based letting

One option for reform is to incorporate choice into the allocations system.

Choice is critical to ensuring people can live in housing that is suitable to their needs. Social housing applicants have little capacity for choice in the current allocations system. This includes transfer applicants – those already living in the social housing system wishing to transfer to a different housing options due to changed needs or circumstances. A lack of choice leads to inappropriate allocations and higher levels of transfer activity.⁴ For this reason, the *Inquiry into the Adequacy and Future Directions of Public Housing in Victoria* recommended choice-based letting as an alternative to allocations.⁵

Choice-based letting involves advertising individual social housing vacancies, allowing applicants to bid or express an interest in the property.⁶

Choice-based letting aims to improve the matching of applicants to individual properties and it provides options for people to select properties more suitable for their accommodation needs as they change over time. This approach is a cultural shift from treating applicants as welfare-recipients to consumers.

The ACT will soon implement a universal choice-based letting model in public housing, following successful implementation in England and the Netherlands. The NSW Government has also introduced choice-based letting for social housing relocations.

VCOSS supports the introduction of choice-based letting in principle. However, we recognise that if a choice-based letting approach was to be incorporated into the social housing allocations system, government would need to consider the support needs of people who require assistance to navigate such a system and the implications for social housing providers.

⁴ Parliament of Victoria – Family and Community Development Committee, *Final Report - Inquiry into the Adequacy and Future Directions of Public Housing in Victoria*, September 2010, p218.

⁵ Ibid, p218.

⁶ Ibid, p219.

4. Social tenants

This section responds to the following consultation paper questions:

CP2 Q3: 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?

CP2 Q38: 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?

In our response to the SHRR *Background and Scoping Paper*, we welcomed the Panel's acknowledgement of "social tenants" as a cohort in scope for the review.

VCOSS agrees with the Panel that "social tenants" who rent homes in the private market face gaps in protections and receive less housing assistance than people in the same circumstances who rent a public or community home, despite increased protections under the recently commenced *Residential Tenancies Act 1997 (RTA)*.

VCOSS believes that targeted protections and assistance should be provided for people eligible for social housing who cannot access social housing and instead rent housing in the private market.

For example:

- Given that many social tenants who cannot access social housing due to supply constraints instead live in caravan parks and rooming houses, VCOSS strongly supports strengthening protections and improving standards in these settings.
- In relation to rooming house, VCOSS members report that, despite minimum standards being set in the *RTA* and the *Residential Tenancies (Rooming House Standards Regulations 2012)*, rooming house standards are frequently not complied with, and enforcement activities rarely occur. VCOSS members supporting victim-survivors of family violence note that their clients make a "forced choice" to experience homelessness than to accept offers of rooming houses for accommodation.

Notwithstanding these concerns, VCOSS is worried that perverse outcomes may arise from attempts to afford *all* social tenants who rent in the private market the *same* protections and benefits as those renting from a social housing provider, and using the same instruments. Specifically, our concerns include:

- A process to develop uniform standards for social tenants in the private market and social housing renters could result in a “race to the bottom” and weaken protections and benefits for both cohorts.
- If private providers are subject to higher standards of service provision, social tenants may experience discrimination, and/or some providers may choose to exit from the market.

These are just two examples of possible unintended consequences. Further investigation is warranted, building on analysis undertaken by Consumer Affairs Victoria to develop the Fairer, Safer Housing Reforms, but focusing on social tenants, to determine whether a common set of social housing standards should apply to private rental providers, or whether other interventions would be more effective, such as:

- Making targeted amendments to the RTA to increase protections for this cohort.
- Increasing Consumer Affairs Victoria’s capacity to undertake monitoring, compliance and enforcement activities.
- Providing social tenants renting in the private market with access to expanded supports and dispute resolution avenues (discussed further in s 6 and s 7 respectively).

5. Common standards for public and community housing

This section responds to the following consultation paper questions:

CP2 Q31: 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?

There would be significant benefits to renters by including both community housing and public housing providers under the same regulatory arrangements and improving service standards and delivery under those arrangements.

A key benefit is ensuring an equitable and consistent set of rights and protections for renters, regardless of who is managing their tenancy. The Panel notes that *“a well-designed system of regulation should be able to accommodate differences in providers [and] many practices, such as property management, repairs, and dealing with anti-social behaviour should be consistent”* (CP 2, p 20).

To achieve this, VCOSS supports the proposal to establish a common set of standards for public and community housing providers. The Panel highlight the Scottish Social Housing Charter as an example of best practice common standards for providers. This Charter outlines the results that renters can expect social landlords to achieve and has been produced in a format that acknowledges social housing renters as the key audience. Produced in this way, renters can be empowered with knowledge of their rights in social housing.

Common standards, in the form of a Charter or otherwise, should incorporate a set of Model Rules for public and community housing providers, that ensures consistent and transparent decision-making on common issues across the social housing sector, and importantly, outline how renters’ rights will be realised by their housing provider.

By way of co-design process, these Model Rules should, in the first instance, include critical policies already identified and listed by community legal sector stakeholders, as a first step towards consistent tenancy management policies and operational guidelines across the sector. These critical policies include:

- **Eviction policy** – Eviction should be used only as a mechanism of last resort. In circumstances of forced transfer, right of return should be allowed where it is available, and permanent and appropriate relocation offers should be made.
- **Arrears policy** – Repayment plans for rental arrears should be limited to a percentage of the weekly household income after housing costs.
- **Hardship policy** – Applicable when events occur that have or may fundamentally place a tenancy at risk due to an unavoidable change in financial position that leads to difficulties paying rent.
- **Temporary absence policy** – That allow for renters to be absent from their property for periods of time, including periods of up to 6 months, if special circumstances are approved. A funding arrangement with DFFH may be required to subsidise the rent during periods of temporary absence.
- **Disability modifications policy** – Community Housing Providers (CHPs) should undertake minor ‘reasonable adjustment’ modifications where there is a report recommending these be made from a treating health professional.
- **Internal appeals policy** – There should be an avenue for genuine internal review of decisions. The policy must recognise the procedural fairness obligations of a CHP and require that a CHP not take action that would extinguish a renter’s complaint remedies before the review is determined.
- **Rent setting policy** – To be consistent with public housing, community housing rents should be limited to 25% of household income. In addition, CHP policies must also establish clear processes for a renter to have their rent reduced where household income is reduced.

As we recommended in our response to the *Background and Scoping Paper*, an important lever to centre renters’ rights in the social housing system is to include the right to housing in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*. Further, community housing providers that are registered under s 84 of the Act should be expressly included as ‘public authorities’ for the purposes of the Charter. While many community housing providers already consider human rights obligations in their policy and practice, this would ensure that

all social housing residents would have their rights under the Charter taken into consideration in tenancy matters regardless of which type of social housing they reside in.⁷

A well-resourced, capable workforce will be critical to implementing equitable standards and delivering consistent services across the sector. This will be discussed further in s 11 of this submission.

6. The right support at the right time

This section responds to the following consultation paper questions:

CP2 Q 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?

CP2 Q 42: What changes need to be made to integrate support services with housing support?

CP2 Q 43: What additional support do tenants need that is not currently being provided?

CP2 Q 44: How could regulation assist in the integrated provision of support services with housing assistance

For many of the Victorians VCOSS members work with, housing will need to be accompanied by support, in order to access and sustain tenancies and break the cycle of disadvantage and recover from experiences of homelessness. This includes:

- **Early intervention supports** that provide support to social housing tenants to address factors that make them vulnerable to eviction.
- **Ongoing flexible supports** for those who need long-tail support to address complex needs. These supports are tailored to individual circumstances, typically multi-disciplinary, and are designed to flex up or down, depending on what the person needs at any given time. These types of support are particularly effective for people who have experienced chronic or persistent homelessness

The Panel have identified a range of available supports provided for public, community and private renters, as well as specialist supports for people with complex or high needs, but note barriers to accessing supports for renters, including narrow eligibility criteria for certain programs and short-term support periods.

⁷ Parliament of Victoria Legislative Council Legal and Social Issues Committee, *Inquiry into Homelessness in Victoria – Final Report*, March 2021, p199.

VCOSS agrees, but observes that the root cause of these barriers is systemic. Where access is rationed – for example, via eligibility criteria, service caps (limits to support) and wait lists – this is typically because community service organisations are constrained by short-term government contracts and insecure and/or inadequate government funding.

VCOSS continues to advocate for fairer funding (including rates of funding indexation that reflect the true cost of delivering services) and longer-term government contracts (the Productivity Commission inquiry into Human Services recommended seven years). This is a key enabler for ensuring social tenants get access to the support they need to obtain and keep housing, and would optimise the performance of our housing system.

VCOSS also notes that social housing renters who need support to sustain their tenancy often have a diversity of support needs, and those needs may be met by different service systems dispersed across local, state and federal governments. Jurisdictional silos – in particular, lack of integration and handballing of accountability – often frustrate housing outcomes for vulnerable tenants. There is no integrated system of care that “*assembles the resources to ‘do what it takes’ from whatever system has relevant resources to meet client needs*”.⁸

As we noted in our submission to the *Ten-Year Plan for Social and Affordable Housing*, we see an opportunity for Homes Victoria to bring together different parts of the Victorian Public Service to consider mechanisms that can achieve more seamless, coordinated and timely provision of support to vulnerable social housing residents by the State.

The Panel notes that social housing regulation could play a role in encouraging integration of services with housing assistance and in “triggering” support services as appropriate.

VCOSS notes that, for some people, support that is integrated into housing provision is suitable, while for most, the preference is for housing providers to be separate to specialist supports. (In the disability support space, the NDIS requires that participants purchase accommodation and supports from different providers. This is because separate accommodation and supports are identified in that community as an important safeguard against abuse and neglect and enables participants to exercise choice and control when things go wrong with either their housing or support provider).

VCOSS members who provide supports to clients living in social housing report that a significant part of their work is advocating to the provider to meet the renters’ needs. For a

⁸ U.S Department of Housing and Urban Development and Department of Health and Human Services, *Towards understanding homelessness: the 2007 National Symposium on homelessness research*, September 2007, p228.

social housing renter with access to supports, the material impact of those supports is inextricably bound in the capability and capacity of their housing worker to identify and respond to risk factors and have knowledge of community services that can respond to these needs. Continuing to build that capability and capacity should be a priority for workforce and sector development, which will be discussed further in s 11 of this submission.

Ensuring that renters have equitable, reliable access to the supports they need will also require adequate, long-term funding for community services.

7. Improved dispute resolution

This section responds to the following consultation paper questions:

CP2 Q39: 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?

CP2 Q 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?

As the Panel notes, the avenues to make complaints or raise disputes and resolution outcomes vary between public and community housing. A priority outcome for this Review must be the establishment of a centralised and accessible complaints and dispute resolution body for all public and community housing renters.

As the Panel has noted, in consultation for the *Fairer, Safer Housing Reforms* to the RTA, VCOSS recommended establishing an independent housing ombudsman for the private rental sector, with benefits including the capacity for this body to identify systemic issues, feed insights into education programs and resources, providing advice to government and providing a more accessible avenue for dispute resolution. As well as providing a necessary protection for renters, as the Productivity Commission has noted, ombudsmen and other complaints bodies resolve large volumes of complaints at low cost and represent value for money for government and consumers.

Given that the Panel is considering a single, independent regulator, it may be appropriate that this new complaints and disputes resolution mechanism proposed by VCOSS sit with the new regulator proposed by the Panel.

Alternatively, it could be established as a new independent body, such as a Social Housing Ombudsman. This body would incorporate and strengthen the function of the current Housing Appeals Office for public housing renters and provide a welcome new avenue for community housing renters to raise disputes to an accessible, independent body. It should have the power to make binding orders and provide remedy to renters if complaints are upheld, and both renters and rental providers should be able apply to VCAT for review of decisions.

If implemented, social housing renters must be made aware of this body, including a requirement that providers make renters aware of this avenue when commencing a tenancy and if a dispute arises. Finally, VCOSS notes that, should this be enacted, some renters may require support to navigate and benefit from this scheme, and this support should be adequately resourced.

Establish a fit-for purpose regulatory regime

8. A single, independent social housing regulator

This section responds to the following consultation paper questions:

CP3 Q1: What level of importance do you attach to the regulation of social housing?

CP2 Q 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?

CP2 Q 46: What governance structure do you think would be the best option for a single social housing regulator, and why?

CP3 Q12: What governance structure do you think would be the best option for a single regulator covering both public and social housing, and why?

CP3 Q13: Where should a housing regulator be located within government?

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

CP2 Q32: 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?

CP2 Q33: What are any alternative options for improving the regulation and governance of public housing?

CP3 Q5: 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?

CP3 Q6: How does Homes Victoria influence the decision making of registered community housing organisations?

CP3 Q7: 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?

CP3 Q8: 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?

CP2 Q19: Is the overall approach to regulating public and community housing effective, transparent and proportionate? If not, how could it be improved?

CP2 Q24: Is the approach to regulatory oversight of public housing appropriate?

The provision of social housing safeguards the fundamental right to a home and protects against homelessness. That said, VCOSS believes that the regulation of social housing is a critical protection for renters who the sector is designed to serve.

The Panel has proposed a single, independent regulator that has oversight of the services provided to vulnerable tenants across a range of tenure types. We see benefits in this approach, with some qualifications set out further below. Critically, we see the *potential* for the proposed regulator to have oversight of improved, harmonised service standards and delivery that will enable best outcomes for renters, whoever their housing provider is.

In terms of qualifications (and reservations), the Panel will be aware that the Victorian Government is undertaking substantial reform of social services regulation. The Department of Families, Fairness and Housing (DFFH) is replacing the existing set of disjointed schemes with a single, streamlined regulatory framework that will be administered by a new, independent Social Services Regulator that reports directly to the Minister. This will create a separation from the functions of system stewardship, policy design, funding and contract management.

VCOSS notes the establishment of a new Social Services Regulator has required extensive conversations with stakeholders about the burning platform for change, that it is complex reform, and that it continues to require careful work with stakeholders. The Victorian Government has recognised this, and is establishing a Social Services Regulation Taskforce to support and guide the development of regulations over the next 12 months.

The Victorian Government has also – in the legislation enacted to create the new Social Services Regulator – recognised the importance of issues such as the regulator providing guidance and education to support service providers, to reduce the regulatory burden on service providers, ensure the regulator makes decisions proportionate to the risks, and to minimise unnecessary duplication relating to investigations by multiple bodies.

VCOSS raises this parallel reform in this submission in order to:

- Make the point that – while we see benefits in the establishment of a new single regulator covering both public and community housing – given the many and varied complexities, additional engagement is required with stakeholders. Further, by 'engagement', we mean a process of co-design as distinct from consultation.
- Highlight that, should a new single regulator be established in the social housing system, it must be designed to share information with other regulatory schemes,

encompass a strong mandate for education and guidance, and be sufficiently resourced to deliver on its promise to renters and providers.

We also note that public housing, provided as a program of government, is subject to significant financial oversight through departmental and government budgeting process, Parliament and Parliamentary Committees and the Victorian Auditor-General. In contrast, the Victorian Housing Registrar has financial oversight over the community housing industry and requires that providers be financially viable, while also being accountable to a range of institutional and private investors.

If a single, independent housing regulator is established, VCOSS's preference – at this time – is that this regulator should have oversight over renter outcomes and services standards across both public and community housing, and financial oversight over community housing, taking in the current function of the Victorian Housing Registrar, with the current financial oversight of public housing to remain. This model would take a similar approach to social housing regulation in England, as the Panel notes. In putting this view to the Panel, VCOSS qualifies our feedback by noting the need for further, extensive stakeholder engagement on this specific reform element.

9. The National Regulatory System for Community Housing

This section responds to the following consultation paper questions:

CP2 Q29: 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 tenant experience?

CP3 Q22: 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 National Regulatory System for Community Housing (NRSCH) is largely focussed on prudential regulation. There is significant scope for that scheme to provide more direct oversight of quality and renter outcomes and give renters a stronger voice to contribute to good practice and development of the sector.

However, given that a key priority for *this* review is to prioritise better outcomes for renters, VCOSS does not believe that the NRSCH is the appropriate setting to achieve this priority and we recommend that Victoria maintain its own regulatory regime.

The scope and function of regulation

10. Performance reporting, accountability and transparency

This section responds to the following consultation paper questions:

CP2 Q15: 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?

CP2 Q16: How could greater comparability of performance across public and community providers support accountability and ultimately benefit tenants through better service delivery?

CP2 Q17: 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?

CP2 Q18: Are there any areas in which data collection could be better coordinated to improve comparability?

A key outcome for this review must be to improve data collection and to make timely insights on service provision publicly accessible, including in formats accessible to renters.

A best practice regulatory system can provide a valuable source of data on tenancy services and provider quality, including indicators such as:

- Wait list and allocations data from the Victorian Housing Register, including detailed demographic and vulnerability indicators for both prospective and current renters.
- Tenancy insights, including tenure length, arising issues (such as the prevalence of rent arrears and rental stress) and referrals to support.
- Insights on the safety, accessibility and quality of housing stock, including compliance with accessibility and energy efficiency standards (including NatHERs ratings), maintenance and modification requests and outcomes.
- Complaints and disputes data, including outcomes and resolutions.
- Exit insights, including whether provider or renter-initiated and actions taken to ensure provider-initiated evictions are an option of last resort.
- Workforce insights.

As we noted in our response to the Background and Scoping Paper, data can be used to track improvements and areas of concern in the sector, but this relies on consistent, sustained data collection across the sector as well as adequate resourcing to bolster the capacity of providers to collect and report on prescribed data. The panel should consider how to establish consistent terminology for different housing types, programs, and tenure types, as well as comparability with national data sets, such as the Census, Report on Government Services, Australian Institute of Public Health and Welfare and Productivity Commission.

11. Workforce and sector development

This section responds to the following consultation paper questions:

CP2 Q25: Could the current social housing workforce be better equipped to perform the role of a social landlord?

CP2 Q26: What measures (if any) are required to ensure the social housing workforce has adequate skills and expertise to meet the needs of tenants.

CP2 Q27: What are any barriers to increasing professionalisation of the social housing workforce?

CP2 Q28: How could regulation be used to support social housing workforce professionalisation? What should be avoided in using regulation for this objective?

CP3 Q28: 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?

CP3 Q15: What role should the regulator play in sector development and capacity building?

CP3 Q16: How could sector development be effectively supported?

CP3 Q17: Is there a role for current and prospective tenants in sector development?

The Panel notes that due to a rising proportion of people in the social housing system with complex needs, the depth of skills and diversity for social housing workers is increasingly important (CP 2, p 18).

Public and community housing providers are Social Landlords with responsibility to support tenants who are vulnerable or experiencing disadvantage and to maximise tenant wellbeing.⁹ The Social Landlord framework aims to avoid evictions into homelessness, for tenants who would be at risk of eviction in other tenure types.

⁹ AHURI, *Examining the role of social landlords*, July 2020.

However, both public and community housing providers face constraints in delivering on their Social Landlord responsibilities. In public housing, the Social Landlord framework is Departmental policy, but more staff will be required in Housing Offices to make this framework fully operational. Community housing providers also need to be resourced to formally adopt Social Landlord frameworks in their policies and practice.

VCOSS sees an important role for the proposed Regulator to play in sector development and capability building. The proposed Regulator can draw on the model used by Consumer Affairs Victoria, who provides broad, community wide information about rental laws to all stakeholders, while more in-depth, audience specific education and training is provided by sector peaks and industry and consumer bodies. VCOSS has direct experience in supporting Consumer Affairs Victoria in this approach, in our work to raise awareness of the RTA reforms amongst community sector workers. The key benefit of utilising sector peaks, industry and consumer bodies in workforce and sector development is that general information about policy reform can be integrated with information about practical implications for workers, making education and training activities highly relevant to practice.

However, the proposed new social housing regulator, if established, could take a more active role in identifying and mandating training and sector development priorities based on insights gleaned from data, directly from renters via the engagement mechanisms recommended, and from complaints data.

As a starting point, VCOSS recommends that all social housing sector workers receive training in the following:

- Trauma-informed practice and dealing with vicarious trauma
- Mental health first aid
- Disability awareness
- Cultural awareness and safety
- Identifying and responding to family violence
- Identifying and responding to financial hardship, or other issues that may place tenancies at risk

As we noted earlier in s 2 of this submission, VCOSS sees an important role for renters in sector development, via the formal engagement mechanisms we have recommended.

12. For-profit providers

This section responds to the following consultation paper questions:

CP2 Q30: Should for-profit providers be able to become registered as social housing providers?

CP 3 Q11: What would be the risks and benefits of allowing for-profit organisations to provide social housing services in Victoria?

VCOSS opposes the introduction of for-profit providers in the community housing regulatory system in Victoria.

Not-for-profit providers do not deliver dividends, allowing them to re-invest any surplus back into the services that they deliver to support people to access and maintain tenancies. For-profit, housing businesses are not required to re-invest profits to deliver better support to tenants. Public money invested in community housing should not leak out as profit into the pockets of private investors.

As the recent Royal Commission into Aged Care noted, reliance on private providers to deliver services in that sector has led to an erosion of quality and safety, while also driving out mission-based, social purpose and government aged care services.¹⁰

One purpose of registration within a community housing regulatory system is to identify appropriate entities to which government funding for community housing might be provided under legislation or policies of a jurisdiction.¹¹

Community housing organisations engage and comply with a regulatory system in part to access Commonwealth and State incentives and funding, including access to capital at cheaper-than-market rates via the state-based and affordable housing bond aggregators.

The inclusion of for-profit housing businesses in the regulated community housing system would enable businesses to access government funding streams of financial incentives that should be targeted to not-for-profit community housing providers.¹²

¹⁰ Commissioner Briggs, Royal Commission into Aged Care - Final Report, p 50.

¹¹ National Regulatory System for Community Housing, Regulatory Framework, 2017, pg. 12.

¹² Australian Productivity Commission – Inquiry report – Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services, 2018, Chapters 5-7. pg. 179

Ensuring quality housing that meets renters needs

13. A diverse social housing sector

This section responds to the following consultation paper questions:

CP3 Q25: 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?

CP3 Q26: What are some ways the system can harness the benefits of specialist services while also achieving growth in provider size and scale?

CP3 Q27: What role (if any) should the regulator play in encouraging industry consolidation?

For people who are part of communities that have experienced systemic racism, marginalisation, discrimination, violence, abuse and/or neglect, the ability to access specialist supports that are delivered by community-controlled or community-led organisations and groups is critical.

While this does not remove the obligation of mainstream organisations to ensure that their services and settings are safe and accessible for diverse communities, VCOSS acknowledges the need for a diverse social housing sector to enable choice and specialist service delivery. Further, as the recent *Royal Commission into Aged Care* noted, market consolidation can lead to poor quality outcomes for service users, reducing competition and placing pressure on quality and safety.¹³

While VCOSS believes that diversity and specialisation have an important function in the social housing system, a perverse outcome that may arise for renters is barriers to accessing available homes when they are only available to target cohorts. This can be addressed by increasing the overall supply of new public and community homes, as well as continuing to improve the allocations system for social housing.

¹³ Commissioner Briggs, *Royal Commission into Aged Care - Final Report*, p 50.

14. Accessible and safe housing

This section responds to the following consultation paper questions:

CP3 Q23: 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?

CP3 Q24: What role, if any, should the social housing regulator play in this area?

VCOSS has long advocated for social housing homes to be safe and healthy. We commend the Government for committing to providing well-designed and environmentally sustainable housing by ensuring new homes delivered by the Big Housing Build meet the 7 stars Nationwide House Energy Rating Scheme (NaHERS). This will make new social housing homes comfortable and affordable for tenants, as well as built for Victoria's climate future.

We see an important role for the regulatory system to ensure that new social housing homes meet the committed standard, as well as improving the thermal comfort and energy efficiency of existing homes. This could be achieved by requiring all social housing homes to be assessed against relevant energy efficiency ratings at appropriate intervals, and making aggregate data publicly available to identify areas for improvement.

VCOSS welcomes the commitment to include the Livable Housing Design Guidelines Silver standard for accessibility in the National Construction Code, which will ensure a basic level of accessibility for all new homes. However, VCOSS has long advocated for the Gold standard, noting the technical difference between silver and gold performance requirements is the difference between a person with a mobility issue being able to navigate freely around the house, or being excluded from areas of their own home.

VCOSS notes that of the nearly 50,000 households on the waitlist for social housing, more than half are in the priority access category,¹⁴ and this includes people with accessibility needs that are not met by the private market. The social housing sector has a critical role to play in providing accessible housing. This can be achieved by regulating a Gold Standard for new social housing homes, as well as regulating that social housing providers engage with communities to design housing that meets needs.

Specialist disability accommodation (SDA) is housing that is specifically designed to suit the needs of people with disability who have very high support or physical access needs.

¹⁴ Department of Health and Human Services, *Victorian Housing Register and transfer list by local area*, December 2020.

Funding for SDA is available through the NDIS. The Productivity Commission inquiry which paved the way for the introduction of the NDIS estimated around 28,000 people (just six per cent of NDIS participants) would be eligible for this funding. However, this has subsequently been challenged by the Summer Foundation, the Australian Housing and Urban Research Institute, and SGS Economics & Planning. Using Australian Institute of Health and Welfare data on state-funded disability service systems, these experts estimated that in 2018 there were approximately 50,700 people likely to be found eligible for SDA.

SDA can be provided by private and not-for-profit disability services and housing providers, with the majority of new SDA across Australia provided by private and community housing providers in 2019. According to modelling by Social Ventures Australia, there is a shortfall of 2,411 SDA places in Victoria.

Through the Big Housing Build, the Victorian Government is encouraging new strategic partnerships and innovation, an approach likely to be a priority in the *Ten-Year Strategy for Social and Affordable Housing*. The Panel should consider the role of the regulator in encouraging growth in SDA in Victoria.

15. Culturally safe and appropriate housing

This section responds to the following consultation paper questions:

CP3 Q13: How should the need for culturally safe and appropriate housing be facilitated by the regulatory system?

VCOSS welcomes the Review's strong focus on social housing outcomes for Aboriginal renters, and we look forward to the Panel's findings on the parallel consultation process currently underway.

