



## **Carers Victoria Submission**

### **Fairer Safer Housing: Options Discussion Paper Heading for home: Residential Tenancies Act Review**

**February 2017**

## **ABOUT CARERS VICTORIA**

Carers Victoria is the state-wide peak organisation representing people who provide care. We represent more than 773,400 family carers across Victoria – people caring for someone with a disability, mental illness, chronic health issue or an age-related condition.

People receiving care could be a parent, child, spouse/partner, grandparent, other relative or friend. Carers Victoria is a member of the National Network of Carers Associations, and the Victorian Carer Services Network. Carers Victoria is a non-profit association which relies on public and private sector support to fulfil its mission with and on behalf of carers.

Carers Victoria is a membership based organisation. Our members are primarily family carers, who play an important role in informing our work, contributing to advocacy and strategic aims, and distributing information more widely to other carers.

This policy paper was prepared by Carers Victoria's Policy Team.

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For information contact:

Caroline Mulcahy

Chief Executive Officer

Carers Victoria

Telephone: 03 9396 9500

Facsimile: 03 9396 9555

Email: [caroline.mulcahy@carersvictoria.org.au](mailto:caroline.mulcahy@carersvictoria.org.au)

Website: [www.carersvictoria.org.au](http://www.carersvictoria.org.au)

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## **1. Introduction**

Carers Victoria welcomes the opportunity to provide further feedback on the Residential Tenancies Act (RTA) Review with regards to the 'Options Discussion Paper'. Carers Victoria made a submission in August 2016 on the 'regulation of property conditions in the rental market' issues paper. Carers Victoria also made a submission on the 'laying the groundwork' consultation paper in August 2015.

## **2. General feedback**

### **2.1 Whole of government affordable housing strategy**

Carers Victoria was pleased to read the Victorian Government is developing a whole-of-government housing strategy to support the provision of affordable, safe and secure housing. Carers Victoria was especially pleased when the Government affirmed this commitment on 1 February, describing it as a "landmark housing strategy" announcing its imminent release.<sup>1</sup> Carers Victoria fully supports the development of a whole-of-government affordable housing strategy.

Carers Victoria has been advocating for the development of an affordable housing strategy since 2010.<sup>2</sup> Most recently, Carers Victoria supported the recommendation for an affordable housing plan and strategy by Infrastructure Victoria:<sup>3</sup> and became a coalition partner with the Housing for the Aged Action Group calling for an older persons housing strategy (2016).<sup>4</sup>

Victoria's peak organisations for housing, homelessness and domestic violence have also been advocating for an affordable housing strategy for a number of years.<sup>5</sup>

It is noted that the strategy is being developed across treasury, health and human services, planning and consumer affairs portfolios. Carers Victoria believes it should also include the Department of Premier and Cabinet as it holds portfolios for vulnerable Victorians including Aboriginal Affairs and the Office for Multiculturalism and Citizenship.

Furthermore the housing strategy should be developed with key business units across all departments responsible for disability, mental health, ageing and housing, as well as any other business units focusing on vulnerable populations, including carers. The housing strategy should be based on accurate data to highlight the true extent of housing need and include guaranteed funding for growth.

### **2.2 Carers competitively disadvantaged in the rental market**

A carer is anyone who provides informal care and support to a family member or friend who has a disability, mental illness, drug or alcohol dependency, chronic condition, terminal illness or an age-related condition. 158,300 carers live in rental accommodation in Victoria.<sup>6</sup> The majority (78 per cent) of primary carers live with the person receiving care and 37 per cent report having a disability themselves.<sup>7</sup>

The options paper detailed market research by EY Sweeney, commissioned by Consumer Affairs Victoria, where only 58 per cent of tenants with a disability or a health condition reported being satisfied with their rental experiences in Victoria, compared to 73 per cent for the broader community.<sup>8</sup> The majority of tenants with a disability or health condition would be in a care relationship, whether their family and friend carer(s) reside with them or not.

Independent peer-reviewed research has highlighted the following combination of factors make carers particularly uncompetitive in the rental market: cost; security of tenure; stigma; and home modifications. These factors are likely contributors to the low level of satisfaction with the rental market reported in the commissioned research.<sup>9</sup>

### **2.2.1 Cost**

Carers are much more likely to be low income Australians. Carer incomes are 42 per cent lower than Australians who are not in a care relationship, which equates to a weekly median income of \$520. This median takes into account the salaries of the 56 per cent of primary carers who participate in the workforce. Carers outside the labour force are more likely to have a government pension or allowance as their primary source of income.<sup>10</sup> According to the Australian Council of Social Services, this group of carers are on or below the poverty line:

People outside the labour force, often due to disability or caring roles, are another key group with high rates of poverty. This group are usually reliant upon the Disability Support Pension, Parenting Payment or Carer payments. This group are more likely to be in rental housing and less likely to own their own home, meaning that their housing costs have a significant impact on their circumstance and likelihood of experiencing poverty.<sup>11</sup>

Other research confirms for carers reliant on the Carer Payment or Disability Support Pension, cost is a prohibitive factor in the rental market.<sup>12</sup>

### **2.2.2 Security of tenure**

Carers prefer secure tenure but this is undermined by their limited capacity to negotiate longer leases because of financial disadvantage.<sup>13,14,15</sup> Private renter households move much more often than households in other tenures. 86 per cent stay less than four years (one third of these moves were forced).<sup>16</sup> Security of tenure is especially important to carers as frequent moves can have a significant impact on access to formal services for the person they care for and cause further financial stress due to the costs associated with moving. Security of tenure is important to the sustainability of care relationships.

Public housing provides long term security of tenure for carers and the person they share a care relationship with. 41 per cent of public housing tenants of all age groups report living with a disability.<sup>17</sup>

However, waiting times for disability-accessible public housing are longer, meaning carers and the people they share a care relationship with experience long periods of housing instability while waiting for a public housing tenancy.<sup>18</sup> Furthermore, few single public housing properties provide bedroom space for a co-resident carer, causing overcrowding.<sup>19</sup>

In spite of this there is no growth strategy for public housing in Victoria.<sup>20</sup> The Victorian

Government prefers growth through community housing, rather than public housing as it leverages government investment.<sup>21</sup> However, public housing is a critical component of social housing and community housing should not be considered a substitute; each have different strengths and are mutually complementary and necessary. Disability advocates concur; ‘... although community housing adds diversity to the social housing system, the government should not consider community housing as a substitute for public housing but rather as complimentary and a sustainable addition to social housing’.<sup>22</sup>

### **2.2.3 Stigma**

Carers also face challenges associated with stigma from real estate agents in the private rental market, especially when the person they share a care relationship with is living with a mental illness.<sup>23</sup>

### **2.2.4 Home modifications**

Carers and the people they care for require the landlord to agree to necessary modifications, whereas from the landlord’s perspective it is easier to offer the lease to tenants who can move in straight away. Side By Side Advocacy found ‘...most landlords will not agree to modification, even at no cost to them, and would most likely just choose an applicant who is able and willing to move into the property without the need for modification. Discrimination is a prerogative of the landlord as they are not bound by social responsibility and social justice principles in dealing with clients’.<sup>24</sup>

Without necessary modifications, carers may have no choice but to provide care in an unsuitable home environment, creating significant risk of injury, for example back injuries commonly sustained when lifting or transferring the person receiving care. A study by Heywood noted, ‘...many carers were finding the physical strain and risk to their backs was unsustainable, and there was a common fear that without help, admission to residential care would be unavoidable’.<sup>25</sup> Unsuitable housing has also been linked to interrupted sleep and increased stress for carers.<sup>26</sup>

Conversely, home modifications do more than prevent physical injury as they facilitate increased self-care for the person living with a disability, reducing the need for carer assistance and reducing carer stress.<sup>27, 28</sup> Heywood found post modification that ‘...in many cases, the health at risk was that of those giving care, and damage to carers’ backs that was alleviated or prevented. Nor was this confined to physical health. Forty eight per cent of respondents specifically mentioned reduced mental stress and physical strain on family carers as an adaptation outcome. This will certainly have affected people’s ability to continue caring and so linked to another key preventive role for adaptations’.<sup>29</sup>

The NDIS will be responsible for the costs of home modifications in private rental, if they are considered to be reasonable and necessary for the participant and the participant is eligible for the scheme.<sup>30</sup> However, this will not overcome the issue that few existing houses in the private rental market have been built to be universally accessible and there is no incentive for landlords to approve home modifications that may take time, be inconvenient or aesthetically unappealing.<sup>31,32</sup>

## **3. Consultation questions and proposed options**

### **3.1 Consultation questions**

Consumer Affairs Victoria has developed 224 consultation questions throughout the options paper. Victoria has over 40 Victorian homelessness, housing and social service organisations that would be better placed to provide specialist responses to each of these questions. In particular, Carers Victoria as a Victorian Council of Social Services member defers to their submission for the level of detail required for such a large number of questions of a specialised nature.

### **3.2 Proposed options**

The objectives proposed in the options paper are an improvement on the objectives currently in the RTA, as they further enshrine the rights and responsibilities of both parties and highlight the importance of security of tenure, safe and habitable accommodation to tenants. Carers Victoria would like to see the needs of vulnerable and disadvantaged tenants recognised in the objectives of the RTA, in particular: carers, people living with disability and mental illness and older persons.

Carers Victoria would like to highlight its position on those options which are considered to be most pertinent to people in care relationships.

#### **3.2.1 Cost**

- *Option 4.4* – Carers Victoria supports the prohibition of the charging of fees for tenants to access their own personal information on tenancy databases, as costs may be prohibitive for carers and there are serious consequences of being inaccurately listed on the database.
- *Option 5.6* – Carers Victoria supports the right for a tenant to seek compensation for damage through VCAT for loss by theft that may occur during inspections by prospective tenants or purchasers.
- *Option 7.3C* – Carers Victoria supports the removal of unnecessary delays tenants often face in the return of their bond and supports automatic bond repayments when a claim is not disputed and evidence-based claims by landlords.
- *Option 7.4* – Carers Victoria supports rents only being allowed to be increased once every 12 months.
- *Option 7.5* – Carers Victoria supports the disclosure of rent increases as set out in the tenancy agreement in fixed term leases.
- *Option 7.6* – Carers Victoria supports the option requiring landlords to offer tenants at least one fee-free convenient method of paying rent.
- *Option 7.7* – Carers Victoria supports landlords being required to accept Centreway payments.

- *Option 7.8B* – Carers Victoria supports restrictions on landlords and real estate agents from accepting a rental bid from a prospective tenant at a higher weekly rental than the fixed advertised price.

### **3.2.2 Security of tenure**

- *Option 3.1* – Carers Victoria supports the option of removing the five-year limit on the scope of the RTA, as security of tenure is important to carers and this would offer consumer protections when entering into a long-term lease.
- *Option 3.3* – Carers Victoria supports the provision for optional prescribed fixed term agreements for general tenancies of five years or longer. This would offer tenants flexibility in terms of their long-term plans to remain at the residence and also increase their security of tenure.

### **3.2.3 Stigma**

- *Option 4.1* – Carers Victoria supports the option to include information statements on unlawful discrimination in application forms, to ensure carers are aware of their rights if they face challenges associated with stigma where disability or mental illness is present in the care relationship.
- *Option 4.2* – Carers Victoria supports the strengthening of linkages between the RTA and the Equal Opportunity Act 2010, especially penalty provisions where a landlord refuses to consent to reasonable modifications on the basis of disability or health need.
- *Option 4.5* – Carers Victoria supports giving VCAT the power to make an order if tenancy database listings are inaccurate or unjust, as a listing on tenancy databases can stigmatise a carer and/or person receiving care as being on the ‘blacklist’ and interfere with their ability to secure a lease.

### **3.2.4 Modifications**

- *Option 8.20A* – Carers Victoria supports preventing a landlord from unreasonably refusing consent to certain modifications, including disability modifications as per section 55 of the Equal Opportunity Act.
- *Option 21* – Carers Victoria supports requiring a landlord to demonstrate that retaining a modification at the end of a tenancy would cause them hardship before they can request the tenant remove it.

## **4. Background – Carers and the role of Carers Victoria**

Carers provide unpaid care and support to a family member or friend needing assistance with a disability, mental illness, chronic health or age-related condition. Carers come from all walks of life, across all age groups and all cultures. Not all carers identify themselves as carers, and may instead identify themselves in terms of their family and friend relationships.

There are an estimated 773,400 informal carers in Victoria, which is 13.6 per cent of the Victorian population. Of these, 217,800 (3.8 per cent of the Victorian population) are primary carers, defined as providing the majority of ongoing care to the person requiring

assistance. Women are more likely to be carers than men, with 70 per cent of primary carers being women.

Carers Victoria supports caring families through information, online and face-to-face training and education programs, respite support, counselling and systemic advocacy. Carers Victoria's services collectively interacted with carers 50,673 times across the state of Victoria during the 2014–15 financial year.

#### **4.1 The cost of providing care**

In a report prepared for Carers Australia by Deloitte Access Economics, it was estimated that informal carers in the Australian community provided 1.9 billion hours of care in 2015. Deloitte Access Economics conservatively estimates it would cost \$60.3 billion per year if all informal community care was delivered through formal care systems.

Caring can have negative effects on the carers' own financial situation, retirement security, physical and emotional health, housing arrangements, social networks and career. The impact is particularly severe for carers of people who have complex chronic health conditions and both functional and cognitive impairment.

#### **4.2 The impact of caring**

Caring can have profound social, physical, emotional and financial effects on carers and their families and/or other support people. Carers are more likely to be in the bottom two income quartiles of equivalised gross household income compared to non-carers, and can experience poorer physical and mental health.

Carers are less likely to be employed in paid work compared to people who do not have a caring role, and those carers who are employed are more likely to be working part-time. Out of all the carers in Victoria, 52.4 per cent combine their caring role with full time or part time work. Nearly one-quarter of primary carers who are employed spend on average 40 hours or more a week providing care. Research by the Australian Institute of Family Studies using longitudinal data from the Housing Income and Labour Dynamics in Australia (HILDA) found approximately three to four per cent of Australian employees become carers each year and of these around 10 per cent left the workforce.

International and Australian research suggests that carers can be significantly impacted by associated 'indirect' social costs, such as reduced employment opportunities, lack of time for leisure and other activities and declining general health. In addition, 'direct costs' of having care responsibilities include a reduced income, subsequent lack of financial security and an increase in living, medical and transport expenses.

#### **4.3 Carers Recognition Act 2012**

The *Carers Recognition Act 2012* formally acknowledges the important contribution people in care relationships make to our community and the unique knowledge carers hold of the person they care for. The Act applies to State government departments; councils; and

organisations funded by government that are responsible for developing or providing policies, programs or services that affect people in care relationships.

The Act includes principles that care support organisations must take into account, relating to carers; the people being cared for; and care relationships. In general, these principles require carers and the people being cared for to be respected, recognised and supported as individuals and as a person in a care relationship, with the care relationship to also be respected and honoured.

#### **4.4 Carers and the caring role over the next 30 years**

There are many factors that could influence the future of carers and the caring role over the next 30 years (the time period for the Infrastructure Strategy).

Forecasting future trends in either the demand or supply of informal carers is complex given the number of variables that could be included or excluded, such as:

- The age and gender profile of the population
- Prevalence of chronic illness and disability
- Care needs of people of all ages with disability in the population
- Supply of care provided through the formal care sector (both government subsidised and privately sourced)
- Adequacy and quality of care provided through the formal care sector
- Labour force participation rates
- Rates of relationship breakdown
- Fertility rates
- Family mobility and dispersion
- The proportion of the population living in single person households; and
- Propensity to care.

Forecasts undertaken by Deloitte Access Economics for Carers Australia were constructed by estimating the future requirements for primary co-residential care for people aged over 65 years with a severe or profound disability, with a 'carer gap' and 'carer ratio' calculated. The results of this analysis show that over the next nine years to 2025 the carer gap will increase and the carer ratio will decrease, primarily driven by the change in underlying age-gender proportions in the Australian population (Chart 3.1, page 21 of the Deloitte Access Economics report).

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<sup>1</sup> Premier of Victoria, the Hon. Daniel Andrews MP, 1/2/2017, Victoria steps up on housing affordability, media release available from <http://www.premier.vic.gov.au/victoria-steps-up-on-housing-affordability/> accessed on 6/2/2017.

<sup>2</sup> Carers Victoria, (2010), State Election Campaign 2010, available from <https://www.carersvictoria.org.au/Assets/Files/Housing%20and%20support%20for%20people%20with%20a%20disability.pdf>

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- [20disability%20or%20mental%20illness.pdf](#) and Carers Victoria (2012), Carers Victoria Submission to the pathways to a new Victorian social housing framework, available from <https://www.carersvictoria.org.au/Assets/Files/submission%20social%20housing%20framework.pdf>
- <sup>3</sup> Carers Victoria Submission, Submission to Infrastructure Victoria on Victoria's draft 30-year Infrastructure Strategy, Available from <http://www.carersvictoria.org.au/Assets/Files/2016-Oct-CV%20submission-Vic%20draft%2030%20yr%20infrastructure%20strategy%20final.pdf> Accessed on 6/2/2017.
- <sup>4</sup> HAAG, (2016), A home for life: towards an older persons housing strategy, available from [http://www.older tenants.org.au/sites/default/files/older\\_persons\\_housing\\_strategy\\_nov\\_2016.pdf](http://www.older tenants.org.au/sites/default/files/older_persons_housing_strategy_nov_2016.pdf) accessed on 6/2/2017.
- <sup>5</sup> Community Housing Federation of Victoria (CHFV), Victorian Council of Social Services (VCOSS), Council to Homeless Persons (CHP), Victorian Public Tenants Association (VPTA), Tenants Union of Victoria (TUV), Domestic Violence Victoria (DV Vic), Justice Connect Homeless Law, (2014), Making social housing work, available from <http://vcoss.org.au/documents/2014/04/Making-Social-Housing-Work-Web.pdf>
- <sup>6</sup> ABS, (2017), Survey of Disability, Ageing and Carers, Victoria, catalogue # 4430.0 table # 36.1.
- <sup>7</sup> ABS, (2016), 4430.0 - Disability, Ageing and Carers, Australia: Summary of Findings, 2015
- <sup>8</sup> Consumer Affairs Victoria, (2017), Fairer, safer housing options paper, p 22.
- <sup>9</sup> Rental experiences of tenants, landlords, property managers, and parks residents in Victoria, Final Report, 17 May 2016 accessed via Review of the Residential Tenancies Act 1997 website <fairersaferhousing.vic.gov.au/renting>.
- <sup>10</sup> *op. cit.*
- <sup>11</sup> ACOSS, (2016), Poverty in Australia, Social Policy Research Centre, p 25.
- <sup>12</sup> Saugeres, L., (2011), (Un)accommodating disabilities: housing, marginalisation and dependency in Australia, Journal of housing and the built environment, 26:1-15
- <sup>13</sup> Tenants Union of Victoria (2005), Online survey of Victorian Private Market Renters: 2015 Summary report, p 2.
- <sup>14</sup> *op. cit.*
- <sup>15</sup> Fairer Safer Housing, (2015), Security of tenure Issues Paper, Residential Tenancies Act Review, p 12.
- <sup>16</sup> Stone, W., Burke, T., Hulse, K. and Ralston, L. (2013) Long-term private rental in a changing Australian private rental sector, AHURI Final Report No.209. Melbourne: Australian Housing and Urban Research Institute, p20.
- <sup>17</sup> *op. cit.*
- <sup>18</sup> Housing Victoria, (2016), Victoria housing register guide, P 10.
- <sup>19</sup> Family and Community Development Committee, (2010), Inquiry into the adequacy and future directions of public housing in Victoria, Parliament of Victoria, p 140.
- <sup>20</sup> *ibid.*
- <sup>21</sup> *ibid.* p 56.
- <sup>22</sup> Morden, A., (2014), Social housing and people with a disability, p 44.
- <sup>23</sup> Browne, G., & Hemsley, M. (2010), Housing and living with a mental illness: exploring carers views, International Journal of Mental Health Nursing, p 26.
- <sup>24</sup> *op. cit.*, p 43.
- <sup>25</sup> Heywood, F. (2005), Adaption: Altering the house to restore the home, Housing studies, 20:4.
- <sup>26</sup> Davy, L., Adams, T. & Bridge, C., (2014), *Caring for the carer: home design and modification for carers of young people with disability*, Home modification information clearinghouse UNSW, p 7 & 17.
- <sup>27</sup> *ibid.*, p 19
- <sup>28</sup> *op. cit.*
- <sup>29</sup> *op. cit.*
- <sup>30</sup> National Disability Insurance Scheme (Supports for participant rules) 2013.
- <sup>31</sup> *op. cit.*
- <sup>32</sup> *op. cit.*, p 43.