

**SAFE+EQUAL**

Standing strong  
against family  
violence

**Safe and Equal**  
**Submission to the**  
**Social Housing**  
**Regulation Review**

**3 March 2022**

## **Acknowledgement of Traditional Owners**

### **Acknowledgement of Aboriginal and Torres Strait Islander peoples**

Safe and Equal acknowledges Aboriginal and Torres Strait Islander peoples as the traditional and ongoing custodians of the lands on which we live and work. We pay respects to Elders past and present. We acknowledge that sovereignty has never been ceded and recognise First Nations peoples' rights to self-determination and continuing connections to land, waters, community and culture.

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## **About Safe and Equal**

Safe and Equal is the peak body for specialist family violence services that provide support to victim survivors in Victoria. We provide specialist expertise across primary prevention, early intervention, response and recovery approaches and the inter-connections between them. Our work is focused on developing and advancing specialist practice for responding to victim survivors, building the capability of specialist family violence services and allied workforces, organisations and sectors that come into contact with victim survivors; building the capabilities of workforces focused on primary prevention; and leading and contributing to the translation of evidence and research, practice expertise, and lived experience into safe and effective policy, system design and law reform.

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## **Introduction**

Safe and Equal welcomes the opportunity to respond to the Social Housing Regulation Review Interim Report.

Housing, homelessness and family violence are inextricably linked. Therefore, as the peak body for specialist family violence services in Victoria, Safe and Equal has a special interest in making sure social housing meets the needs of victim survivors and supports their safety. Proper regulation is one mechanism to help achieve this.

The Panel has taken a broad view of regulation and the Interim Report touches on several topics outside of Safe and Equal's remit and expertise. We therefore will not be commenting on every aspect of the Interim Report, but rather seek to share our thoughts on relevant proposals from a family violence perspective.

This submission is organised according to the papers laid out in the Interim Report. In some cases, our response relates to the general commentary in the paper. In other cases, we may respond to a particular consultation question or to the set of consultation questions listed in general.

## **Paper 1 – Tenant at the centre**

Safe and Equal is supportive of the Panel's proposal that the social housing system should be tenant focused and that the primary objective of social housing regulation should be to "protect and safeguard the interests of current, prospective and future tenants." Housing is a fundamental human need. As such, providing safe, affordable, sustainable, and good quality housing to social housing tenants and increasing quality social housing so future tenants can access it should be the primary objectives of the social housing system.

We do not have comments specifically on mechanisms to achieve this tenant focus, as this is outside our expertise. However, regarding the Panel's proposals involving a charter of service standards and the *Charter of Human Rights and Responsibilities Act 2006*, we note conversations we have had with community legal centres on this topic suggesting that there should be one document that clearly articulates tenants' rights in social housing and what they can expect from their social housing landlord. This document should be easily accessible and understandable for tenants so they can practically apply it in their relationship with their social housing provider.

## **Paper 3 - Tenant empowerment**

Safe and Equal is supportive of initiatives aimed at increasing tenants' involvement in the ongoing development of policy and regulation of social housing. While social housing tenants have a myriad of experiences, we know a significant proportion of social housing tenants have lived experience of family violence. Prior to its merge with the Domestic Violence Resource Centre Victoria (DVRCV) to form Safe and Equal, Domestic Violence Victoria (DV Vic) supported the University of Melbourne and the WEAVERs to co-produce

*The Family Violence Experts by Experience Framework.* This Framework sets out guidelines around best practice for engaging survivor advocates of family violence in collaborative work and provides resources to support survivor advocates and organisations to engage in this work. We recommend the evidence in this Framework be incorporated into any framework developed for engaging social housing tenants.

In addition, Safe and Equal (formerly DV Vic and DVRCV) have been working with the Essential Services Commission (ESC) to develop an implementation plan for how to apply the Framework to the ESC's work. This implementation plan has not yet been released; however, we refer the panel to this work as a template for how the Framework may be applied to the social housing, and even private housing, sector. More information regarding Safe and Equal's relationship to the ESC is provided in our response to Paper 10.

## **Paper 4 - Tenancy sustainment**

Regarding tenancy sustainment, we wish to comment on the proposed "no evictions into homelessness" policy.

We agree with no evictions into homelessness in principle. Every effort should be made to support tenants to maintain their tenancy. However, we do caution on the impact this could have on perpetrators of family violence being removed from the home.

The Royal Commission into Family Violence found that a Safe at Home approach is best practice in responding to family violence as it can help reduce the risk of homelessness for victim survivors, including children, and help them maintain contact with work, school, friends, family and other support networks. A significant amount of work has been done with Victoria Police to embed a Safe at Home response in police practice and exclude the perpetrator from the home when attending to a family violence incident. Amendments to the RTA also further embed the principle of Safe at Home in responses to family violence by making provisions for a perpetrator to be taken off a lease or mortgage and put exclusively in the victim survivor's name. We do not want a "no evictions into homelessness" policy to reverse this progress and are concerned that a "no evictions into homelessness" policy could result in a perpetrator arguing that a social housing provider cannot take them off the lease because it will make them homeless and contradict the policy.

The safety of victim survivors of family violence and their right to remain in their home should be the priority. Social housing regulation and policy needs to align with Safe at Home principles. It is important for social housing staff to know what their obligations are under the RTA and what rights are afforded to the victim survivor to remain in their home and take over the lease with or without a perpetrator's consent.

While we do not want perpetrators to remain in the home, we also do not want them to become homeless. Perpetrator homelessness can increase risk for victim survivors as perpetrators are more likely to be angry and want revenge on the victim survivor for making them homeless or harass the victim survivor to let them return. To be most effective in the context of family violence, a "no evictions into homelessness" policy would need to be accompanied by an increase in funding for services like the Men's Accommodation and

Counselling Service (MACS) (previously the Perpetrator Accommodation Support Service (PASS)) which has been specifically designed to accommodate and support men who are excluded from the home due to perpetrating family violence. Increased access to housing, particularly social housing, is good but in the case of perpetrators of family violence, it is not enough. The MACS is proving successful at preventing perpetrators from becoming homeless and keeping the perpetrator in view with the aim of maximizing a victim survivor's safety.<sup>1</sup>

## **Paper 5 - Dwelling standards**

Safe and Equal are supportive of the proposals to ensure that social housing properties under long-term leases are upgraded to meet the standards set out in the Residential Tenancies Act (RTA). The current provisions in the Act to require properties to be up to standard when a lease is renewed or created is a loophole that will result in many social housing tenants not being able to benefit from the RTA amendments. We do believe that the requirement to bring existing properties up to the standard will need to be phased in slowly and question whether the proposed date of January 2024 is enough time given the state of many public housing dwellings.

Our member services report that the introduction of the RTA amendments has resulted in some private rental properties being taken off the rental market because they did not meet the RTA standards. While we do not want to put anyone in a substandard property, for many clients it is that or homelessness. We believe that all social housing should meet the standards set out in the RTA. However, these standards need to be implemented in a way that does not result in social housing stock being removed from the register because it does not meet the RTA standards.

Regarding the Panel's proposal to require all social housing providers to undertake disability modifications, we are also supportive of this requirement. The Panel asks what barriers, other than financial, might prevent this from being able to be achieved. We point to the specialist family violence sector's experience of family violence refuges being redeveloped to a core and cluster model. As part of this redevelopment, core and cluster refuges are required to have one fully accessible unit. Safe and Equal and the specialist family violence sector are very supportive of this policy. However, our experience is that the fully accessible units have been built with a narrow understanding of disability in mind, namely "a woman in a wheelchair" which has led to units being unsuitable for a range of disability. For example, un-adjustable, lowered kitchen benches make kitchens unsuitable for someone who stands to cook, has a carer to perform these functions, or whose child is in a wheelchair, but their parent is able-bodied. Safe and Equal and our members are working with FSV and Homes Victoria to ensure future accessible units are built to be more flexible. As disability accessible requirements are introduced, we encourage the Panel to consider how social housing properties can be modified to be appropriate for a wide range of disabilities and to consult with disability organisations and survivor-advocates to inform this work.

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<sup>1</sup> No to Violence (26 May 2021) Evaluation of the perpetrator accommodation and support service [https://ntv.org.au/wp-content/uploads/2021/12/PASS-evaluation-report\\_FINAL\\_26-May-20212.pdf](https://ntv.org.au/wp-content/uploads/2021/12/PASS-evaluation-report_FINAL_26-May-20212.pdf)

## Paper 6 - Dispute resolution

Social housing disputes need to be informed by a family violence lens. Property damage and/or neighbourhood complaints can be a result of the actions of a perpetrator.

When family violence is occurring, it is possible that the behaviour causing a dispute either with the social housing provider or neighbours such as damage to property, excessive noise, drug use, failure to pay rent etc. could be a result of the perpetrator's actions. It is important that dispute resolution processes do not result in a victim survivor being penalised for the perpetrator's actions which could threaten their tenancy.

Changes to the RTA are designed to protect victim survivors from being held responsible for actions of the perpetrator. However, in practice these protections can be difficult to apply and are not always applied successfully. Housing officers need to understand the nature and dynamics of family violence (inclusive of coercive control) and why a victim survivor may not be able to stop a perpetrator's behaviour. Housing officers also need to be aware of provisions in the RTA to transfer leases to a victim survivor and exclude the perpetrator.

Dispute resolution processes also need to be informed by the nature and dynamics of family violence. In cases where a perpetrator does not live at the property or has been removed, it may be difficult to understand or accept how a victim survivor is not, and should not be, held responsible for damage to a property or disruptions in the neighbourhood caused by the perpetrator. Complaints and dispute resolution processes need to also recognise that where an intervention order is in place, the victim survivor is not responsible for or in control of a perpetrator breaching an intervention order. Dispute resolution processes may be further complicated if the perpetrator has been removed from the property and the victim survivor has allowed them to return. Where a victim survivor has allowed a perpetrator to return to the home, this act needs to be seen as a possible response to abuse and coercion and appropriate supports and referrals to a family violence specialist organisation needs to be made instead of punishing the victim survivor for "taking him back" and holding the victim survivor responsible for a perpetrator's actions.

The risk of misidentification of the predominate aggressor also needs to be considered when addressing any disputes and undergoing a dispute resolution process. Police regularly misidentify the primary aggressor when called to a family violence incident which can lead to the victim survivor incorrectly being labelled as a perpetrator of violence.<sup>2</sup> This has ramifications for a victim survivor in many respects, one of which could be negatively impacting on their tenancy. Where police have identified both parties in a tenancy as a perpetrator, housing officers need to apply a family violence lens and critically assess if the police response is accurate and not take the police report at face value. Often women are labelled as aggressive and violent when they are simply defending themselves against the perpetrator. In such a scenario, the victim survivor should not have their tenancy put at risk because of an incorrect assessment from police.

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<sup>2</sup> Family Violence Implementation Monitor (2021) Monitoring Victoria's Family Violence Reforms: Accurate Identification of the Predominant Aggressor  
<https://www.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-accurate-identification-predominant-aggressor>



Finally, Safe and Equal support in principle restorative justice options. Restorative justice approaches to dispute resolution would likely be beneficial in many dispute resolution scenarios in social housing. However, extra caution and consideration about the appropriateness of restorative justice approaches needs to be made in any situation where there is family violence or an imbalance of power between parties. In the context of family violence, power imbalances and the nature of power and control that the perpetrator holds over the victim survivor means a restorative justice approach is likely to reinforce power imbalances between the two parties. Even where a dispute is between a victim survivor and someone who is not perpetrating abuse (e.g. a neighbour), the nature of the coercive control and fear that the victim survivor has experienced as part of family violence is likely to impact on the ability of a victim survivor to come to a restorative justice process on an equal footing. As part of the family violence reform in Victoria, the Family Violence Restorative Justice Program<sup>3</sup> was established to facilitate restorative conversations for victim survivors of family violence. If restorative justice approaches are considered as part of social housing dispute resolution, they should be modelled on the Family Violence Restorative Justice Program.

## **Paper 8 - Professionalisation of the frontline social housing workforce**

Social housing staff need to be equipped with the skills needed to identify family violence, respond safely to disclosures, make appropriate referrals and linkages to specialist family violence services and work with both victim survivors and perpetrators in managing their tenancies.

Social Housing workers are a prescribed workforce under the Multi-Agency Risk Assessment and Management (MARAM) Framework. Social housing providers must align their policies and procedures to this framework and social housing staff must undergo MARAM training and be supported to embed the framework in their daily tasks and meet their legislative requirements to respond to tenants at risk of or experiencing family violence. Similarly, social housing staff need to be trained on what their new responsibilities are under the RTA and be given the skills needed to carry out these duties, including how to remove perpetrators from leases and work with personal safety initiative (PSI) coordinators to make safety modifications to properties that support victim survivors to remain safe in their homes.

Feedback from Safe and Equal's PSI coordinator is that PSI packages are allocated more in some areas than others depending on the level of communication between specialist family violence workers and housing support officers and the understanding of the PSI in local housing offices. Increased training for social housing workers on who the local specialist family violence service is in their local area, how to access a flexible support package (FSP) and PSI package, and what tenants' rights are under the RTA would help improve the PSI response across Victoria.

Finally, this Panel's proposal to embed a "no exit into homelessness" practice means that social housing staff are going to need the skills to manage difficult tenant behaviours,

<sup>3</sup> Victoria State Gov (2021) Restorative justice for victim survivors of family violence <https://www.justice.vic.gov.au/fvrjservice>

including instances of family violence, and either make referrals that can stabilize existing tenancies or support that tenant to move into different accommodation where previously that tenant may have simply been evicted.

For these reasons, Safe and Equal is supportive of a requirement to embed professional development for housing staff in social housing regulations. However, how this is done will need to be given careful thought.

As part of the family violence reforms, the specialist family violence sector has undergone a significant move to professionalise the family violence workforce, including recently introducing minimum qualifications. We believe our sector's experience and the effects this has had on our services and the system overall can inform the possible implementation of minimum qualifications for social housing staff.

In principle we support requiring minimum qualifications because the client cohorts we work with often have experienced significant trauma and complexity in their lives and they deserve to have capable, well-trained staff supporting them. However, on the ground the introduction of minimum qualifications has made it even more difficult to recruit staff in a sector that was already experiencing a workforce shortage.

Specialist family violence services report that it is increasingly difficult to find staff that have the required qualifications as all community sectors are competing for people with these skills. The specialist family violence sector is poorly remunerated compared to other parts of the community services system so it is difficult to recruit and retain staff when they know they could be paid more in a different but related sector. In addition, the cost of obtaining these minimum qualifications and the amount of unpaid placement hours that are required, particularly as part of social work degrees, locks many people who would make excellent family violence workers out of the specialist family violence workforce. This is particularly true for single mothers and women from culturally and linguistically diverse (CALD), migrant and Aboriginal backgrounds who are, and traditionally have been, locked out of the higher education sector. The specialist family violence service sector wants to diversify our workforces to better reflect our client cohorts. However, the cost of education to enter this workforce, compared with the earning capacity in the sector, prevents this from happening.

It is important to have highly qualified staff in community services because the work we do is complex and requires unique skill sets. However, the current cost of education compared to the potential earning capacity in community services prevents many people from entering the sector. We therefore encourage this review to pursue minimum qualifications in a way that is flexible. Equivalent qualifications need to be mapped to any proposed minimum qualifications before they are introduced so agencies can clearly see who within their staff need to upskill. Work also needs to be done with the higher education sector to develop pathways for ongoing professional development to be recognised and translated to formal qualifications that meet minimum qualification requirements. Staff also need to be able to start employment with a clear pathway to obtaining a qualification via paid work experience, and for staff to be paid at a level that justifies the cost of their education and recognises the skill set needed to do this work.

## **Paper 10 - A social housing regulator: structure and governance**

The technical aspects of how social housing is regulated is outside Safe and Equal's expertise. However, we do feel our experience working with the Essential Services Commission (ESC) to implement the Royal Commission into Family violence recommendations relating to utility companies is worth mentioning to the Panel.

The ESC has played a leading role in supporting water and energy companies to develop and improve policies to respond to their customers experiencing family violence and respond to customers in hardship in general. The ESC has developed a series of industry codes and frameworks, including the *Energy Retail Code*, *Customer Service Code – Urban Water Businesses* and the *Better Practice in Responding to Family Violence Framework* to set standards for industry in responding to customers in hardship, including victim survivors of family violence. Beyond developing these standards, the ESC has also been very active in supporting businesses to align to them and has been able to successfully create a safe space for representatives from different businesses to come together, share information and support one another in developing policies and procedures for their individual companies where individual companies may otherwise have struggled to know where to start.

Safe and Equal does not have any comment on the more technical details of how a social housing regulator might align with the ESC. However, we do think the proposal is worth exploring further to learn from the expertise and experience of the ESC and so the ESC's work can inform that of the proposed Social Housing Regulator, particularly in regard to how to embed a family violence lens across an industry via regulation.

## **Paper 18 - Prospective social housing tenants**

Safe and Equal is intrigued by the proposal to include prospective social housing tenants in the social housing regulatory framework. However, more detail would need to be provided regarding how this proposal would be implemented and function in the current system for Safe and Equal to support the proposal.

In relation to the idea of "active waitlist management," while we agree that many people on the social housing waitlist would likely benefit from some sort of support, it is not clear who the panel thinks might provide this support.

The sheer volume of people on the social housing waitlist makes this proposal potentially extremely costly and resource intensive. Specialist family violence services are at full capacity and are struggling to respond to the demand for family violence support. There would not be capacity to support additional people on the social housing waitlist.

We also note that some people on the waitlist, for example those in transitional housing, would already be receiving case management from a service as a condition of them remaining in transitional housing. It is not clear how this proposal would affect this service delivery.

## **A note on data**

We encourage the panel to consider how regulations might make data regarding the social housing wait list, property allocation, evictions, and transfers across priority cohorts publicly available.

Our member services frequently tell us that due to the chronic shortage of social housing, households put on the priority waitlist for social housing still can wait for months if not years for a property. Greater transparency about how properties are allocated would inform policy development and advocacy. The Panel makes a note in Paper 7 of the need to have transparent data regarding social housing wait lists, property allocation and evictions for Aboriginal tenants. Safe and Equal is fully supportive of this proposal and encourages this information to be provided as it is relevant to victim survivors of family violence and other marginalised communities, such as people with disabilities and people from migrant and refugee backgrounds.

## **Conclusion**

Safe and Equal commend the panel for a thoughtful interim report that is focused at fundamentally improving the way social housing is delivered and provided to social housing tenants. While some aspects of the review are outside Safe and Equal's expertise, we hope that our analysis of the proposals in the interim report from a family violence perspective and our experience of the family violence reform is useful. We look forward to continuing to work with Panel to ensure social housing regulation can produce the most positive outcomes for current, prospective and future social housing tenants, particularly those who are victim survivors of family violence.

If you have any questions about the points raised in this submission or wish any additional information, please contact us.