

Updated minimum standards for rooming houses in Victoria

VCOSS submission – January 2023

Introduction

VCOSS welcomes the opportunity to provide a response to the Department of Government Services (the Department) on the proposed changes to the *Residential Tenancies (Rooming House Standards) Regulations 2022*. This submission builds on VCOSS's response to the *Rooming Housing Standards Issues Paper* in September 2022.

Rooming houses function as 'housing of last resort' for renters who cannot secure private rental housing (because of cost or discrimination) and cannot access social housing (despite being eligible) because there is simply not enough social housing to meet demand.

This is a cohort of renters that has little power in the housing market as a consequence of low incomes and intersecting health and social issues, such as homelessness, justice system involvement, violence and trauma. Therefore, regulating rooming house standards is a critical part of ensuring rooming houses are safe, affordable and suitable places to live.

Regulations made in 2012 have made a positive difference over the past decade. However, as highlighted in the Regulatory Impact Statement, significant gaps persist.

As such, of the regulatory options provided by the Department, VCOSS provides qualified support for Option 2 (which remakes the Regulations for rooming houses with the intention of greater alignment with minimum standards for general tenancies).

Prescribing improved minimum standards in the new regulations – rather than retaining the status quo – will make a material difference to the privacy, safety, security and amenity for the State's most vulnerable renters.

However, there are several **additional** provisions that VCOSS would like to see bolted onto Option 2. These proposed additions – set out on page x of this submission ('Opportunities to

go further') – complement and build on the Department's proposed changes. They would optimise achievement of the Department's regulatory objective and address persistent issues that currently risk the wellbeing of rooming house renters.

In addition, VCOSS notes that, while stronger minimum standards are welcome and necessary, standards alone will not improve wellbeing for rooming house renters. This can only be achieved by complementary changes to:

- Strengthen the monitoring, compliance and enforcement regime.
- Clarify powers and responsibilities between local and state government.
- Provide fit-for-purpose dispute resolution that recognises the unique dynamic between rooming house renters and providers.
- Improve the capability of rooming house providers to house vulnerable renters.
- Ensure that renters can access supports they need, including support in their home.

This submission recommends actions to implement the concurrent actions proposed by VCOSS.

VCOSS feedback on Option 2 – what we like

Many of the changes proposed strengthen the minimum standards and will lead to improvements in privacy, safety, security and amenity for rooming house renters.

VCOSS supports changes which provide:

- Improved amenity and accessibility of kitchen, dining and laundry facilities.
- Ventilation in each habitable room, bathroom, shower room, toilet and laundry.
- Locks for external windows and toilet/bathroom facilities.
- Heating for common areas.
- Requirements for gas and electrical safety checks, structural soundness and premises to be free from mould and damp, which align with the requirements for general tenancies.

VCOSS feedback on Option 2 – opportunities to go further

We appreciate the Department's approach to align the minimum standards for rooming houses with those for general tenancies.

However, as the Regulatory Impact Statement notes: *“the characteristics of a rooming house are different from other residential rental properties, due to residents typically not knowing each other and/or being in a vulnerable situation”*. Additional problems include perceived and actual invasion of private space and inadequate provision of share appliances, furniture and other necessary and reasonable amenity (p iii).

In light of this, VCOSS believes it is imperative to include additional standards in the new rooming house regulations, that go further than the minimum standards for general tenancies. These additional rooming house minimum standards proposed by VCOSS are:

- Provision of first aid kits, which include naloxone.
- Locks for external doors that meet the relevant Australian Standards.
- Lighting in communal, shared areas such as bathrooms, living areas and hallways.
- Outdoor lighting, especially around pathways and undercover areas.
- Weekly cleaning of communal areas and resident' rooms.
- Maintenance for common issues such as repairs, mould and pest infestations (The Regulatory Impact Statement notes maintenance issues not being addressed is the most common issue rooming house renters face).
- Energy efficiency requirements for all appliances.
- All the provisions related to locks should specify they be installed by a suitably qualified person to prevent damage.

Other areas of focused feedback on the Regulatory Impact Statement

Ceiling insulation and draughtproofing

VCOSS notes that the Victorian Government has been investigating options for a minimum standard for ceiling insulation and draughtproofing in general tenancies since 2020. We are pleased that the Regulatory Impact Statement creates an opportunity to advance this reform. Insulation and draughtproofing are features of healthy, comfortable homes and contribute to keeping household energy costs down.

As such, in response to the Department's direct request for feedback on a ceiling insulation and draughtproofing minimum standard, VCOSS supports including a standard for a minimum level of ceiling insulation and draughtproofing in the new regulations.

VCOSS strongly recommends the Department proceed with developing and implementing ceiling and draughtproofing standards for both general tenancies and rooming houses without further delay.

Common areas

We note the Department is seeking feedback on the provision of common areas, like living rooms. As we noted in our response to the 2022 discussion paper, common areas can provide for social interaction amongst renters, as well as space to provide in-reach health and social supports where private space is limited. Given these benefits, we support the introduction of a new minimum standard for the provision of communal space.

Timeframe for implementation

We are not opposed to transitional arrangements for operators to comply with certain provisions once the proposed regulations commence. In response to the Department's request for feedback on the timeframe for achieving compliance with the proposed changes, VCOSS is not in a position to provide a specific timeframe, as we do not have access to specific operational information held by providers.

However, VCOSS can see there is some benefit in staging implementation, as a staged approach can:

- Lessen disruption to renters where more substantial work is required on rooming houses in very poor condition.
- Allow operators to spread costs over a longer period, making compliance more feasible and minimising any pass-through costs to renters.

Costs of compliance

The Regulatory Impact Statement assumes that rooming house operators will bear the costs of complying with the minimum standards, but notes that it is possible that operators may choose to pass the costs onto renters (p 49).

Renters, and the services that support them, often bear the social and economic cost of substandard rental properties. For example, the costs of energy inefficiency are currently borne first and foremost by tenants (via high bills and adverse health effects); community organisations and energy retailers (who fund household energy audits and basic energy efficiency improvements for hardship customers); and government (via concession payments and higher health expenditure).

Most operators have the financial capacity to meet minimum standards, given that, as the RIS notes, the changes are modest, with small incremental costs relative to the revenue received. Further, higher standards are also likely to produce improvements in the value of these assets, which will benefit providers. Higher standards will also assist providers to maintain the value of their assets and avoid costly long-term repairs (for example, by preventing and intervening early on mould).

The RIS has missed an opportunity to fully test concerns around increased costs for providers and the risk of increased rent for renters, instead relying on the assumption that operators will absorb costs, despite not being required to do so.

Our position is that operators should absorb the costs by regulating additional protections against rent increases.

Educating renters

We note that the proposed stakeholder and communications plan on p 53 of the RIS does not include any education activities targeted to rooming house renters. The RIS has discussed in detail the power imbalance between operators and renters. As such, educating renters and their advocates and supports plays a critical role in correcting this power imbalance. VCOSS recommends the Department develop a strategy for educating renters as part of the stakeholder and communications plan.

Compliance approach

The RIS outlines a proposed compliance approach that relies on market intelligence to identify and respond to compliance risk and non-compliance with the standards (p 54). Ensuring that renters and their advocates and supports are educated in the new standards and can identify and report non-compliance will be critical to this approach.

However, VCOSS considers a risk-based approach to be limited – VCOSS delivers a Department-funded project monitoring the implementation of the Fairer, Safer Housing reforms to the RTA. In research we undertook to monitor the first eight months of implementation, stakeholders noted the need to strengthen compliance and enforcement approaches across the whole system to address non-compliance and breaches of renters' rights.

Currently, compliance with the RTA broadly relies mainly on individual renters identifying issues, asserting their rights and raising disputes. However, a robust and transparent compliance approach would remove the onus from individual renters and improve rental

provider accountability at a systems level. Increasing resources to realise CAV's underutilised powers to undertake monitoring, compliance and enforcement activities was noted as critical first step towards addressing the power imbalance in the VCOSS research.

To achieve the objective of the updated rooming house minimum standards, we recommend expanding the compliance approach, including significantly increasing CAV's rooming house inspection capacity.

Aligning the Public Health and Wellbeing Act Standards with the RTA Minimum Standards

The RIS notes that there is some crossover between the role of local councils under the Public Health and Wellbeing Act standards for rooming houses and CAV, but does not acknowledge the gaps in the monitoring and enforcement regime arising from these distinct mandates.

In our previous response, we noted a longstanding issue where these jurisdictional siloes lead to a lack of enforcement action on properties that are non-compliant. We continue to strongly recommend incorporating the Public Health and Wellbeing Act standards into the new RTA standards to clarify responsibilities for both providers and regulators and strengthen avenues for enforcement.

