

## **Transcript for Renters' Rights Rundown: Renting and family violence**

**Recorded live on Wednesday, 3 May 2023**

### **Deb Fewster:**

Good morning, everyone. Thank you for joining us. My name is Deb Fewster, and I'm the Director of Policy and Advocacy at the Victorian Council of Social Service, known to many of you as VCOSS. I'd like to start by acknowledging the traditional owners of the land where I am today. I'm in the office in Exhibition Street in the city, so I'd like to acknowledge the Wurundjeri people and pay respects to elders past and present and to emerging leaders and to any Aboriginal people joining us in this event today. This is our second Renters' Rights Rundown event for 2023. And these events are for you, community sector workers, frontline workers, to learn more about or to refresh your memory about Victoria's renting rules which are set out in the Residential Tenancies Act 1997. Many of you will know that over 130 changes to the act were introduced in March 2021. These changes were long planned and really come after years of advocacy from people on the call today and other colleagues who aren't on the call today, so from community sector workers. These changes are now in full effect and they're the foundation for renters' rights in Victoria. Many of the changes provide specific protections for victim-survivors of family violence and give renters more options for staying at home safely, so they're really critical. And these changes are the focus of today's session. Community sector workers will play a key role raising awareness of the rules supporting renters to exercise their rights, so we really thank you for taking time out of your day to come to this session. We really want to acknowledge as well the Australia-wide candlelight vigil is also taking place today to remember and honor those who've been killed by domestic and family violence. If anything comes up for you during this session or at any time today, please know that support is available. Many of your organizations will provide an EAP service, and we encourage you to draw on those supports wherever you need them and whenever you need them or to contact Blue Knot Helpline and Support Service. And we just put those contact details for Blue Knot in the chat just now. We have three special guests with us today. We've got Kim Hay and Courtney Wamala from Safe and Equal who will take us through the link between housing and family violence and supports that are available in the specialist family violence sector. So thank you to Kim and Courtney. And Kim and Courtney will be followed by Sally Kenyon from Justice Connect Homeless Law, who will take us through what the law provides for when there's family violence. So thank you to Sally. And then finally we'll have a Q and A session. And we've allocated plenty of time for your questions from audience members today. So before we get started, just a little bit of information on how the Q and A component of the event today will work. You can submit a question at any time through the Q and A box at the bottom of the Zoom window. So just really want to draw your attention that it's the Q and A box as distinct from the chat box, that's the box that we'll be kind of monitoring for the questions today. We will moderate the questions, and that's just because we expect... Having run a number of these events now, often there's a little bit of overlap with questions, which is great, we're kind of all coming from the same direction. So where we've got that we'll kind of, I guess, integrate or aggregate those questions together. Please note the panel won't be able to answer questions about individuals or specific individual circumstances. And then the final bit of housekeeping or tips as well is that we'll get through as many questions as possible. We might not get to them all; where that's the case, we'll take unanswered questions on notice and we will follow them up for you. We'll also ask you to do a quick exit survey that will pop up in your browser at the end of the event. And that's really helpful if you can engage with that survey, it is really quick, that helps us shape future events that we run. So it gives us a sense of what else you'd like to learn about the changes to Victoria's renting rules. So

thanks in advance for your input. So now we're going to get stuck in. So I'd like to welcome Kim and Courtney from Safe and Equal. Thank you.

**Kim Hay:**

Hello, everyone. If we could start the presentation. Great. Thank you. Thank you. We might just need to make that full screen. Perfect. Thank you, VCOSS, for inviting Courtney and I to be here today, and to Deb for moderating. Next slide, please. Before I begin, I'd like to acknowledge the traditional owners of the lands we are all working on today. Courtney and I are both on Wurundjeri land. And pay my respects to elders past and present and also to any Aboriginal or Torres Strait Islander people joining in the event today. I recognize that this is and always will be Aboriginal land and that sovereignty was never ceded. So I'm Kim Hay, policy advisor at Safe and Equal. And I'll be presenting today alongside Courtney Wamala, practice development advisor, and she'll pop up in a little bit. So just quickly about us, Safe and Equal. We are the peak body for specialist family violence services that provides support to victim-survivors in Victoria. Next slide. Impacts of family violence. So how does family violence affect housing? Next slide, please. So most of you will already know that family violence is a leading cause of homelessness in Victoria, in particular for women and young people. The 2021 inquiry into homelessness in Victoria found that family violence is the main reason individuals accessing homelessness services seek assistance in Victoria. Family violence creates complex risk and safety conditions that have consequences for a victim-survivor's housing. So for example, victim-survivors may need to flee their property to seek safety in a family violence refuge or maybe they wish to remain at home but are unable to afford the rent at their current property alone. Whatever the scenario, losing existing housing can lead to a cycle of homelessness for victim-survivors and their children that can be very difficult to recover from and which can lead to a series of further consequences related to financial, social, emotional, and physical wellbeing as well. Due to this, where possible, prevention of homelessness as a result of family violence is the benchmark that we should all be aiming for. Next slide, please. So that brings us on to the Safe at Home response, which is where victim-survivors are supported to safely remain in their current property while the perpetrator of family violence leaves. We believe that as a principle this is the preferred housing response to victim-survivors of family violence. It is important to note, though, that a Safe at Home response does refer to a variety of interventions implemented within the broader service system and that these work together to keep victim-survivors safe. So, for example, this includes interventions with perpetrators, robust justice responses, family violence, case management support, and safety modifications and technologies where applicable. Of course, as with any response, it does need to be risk and safety informed, and so it won't necessarily be appropriate for all victim-survivors to remain in their home. Additionally, not all victim-survivors will be able to financially afford to remain either. So as some potential solutions, Courtney will now speak to brokerage available for victim-survivors to either retain their current rental property or obtain a new rental, for example, as well as the Personal Safety Initiative which enables victim-survivors to access safety and security modifications to enable a victim-survivor to remain in the home. Over to you, Courtney.

**Courtney Wamala:**

Thanks, Kim. So brokerage available for victim-survivors. Thank you. So as this table shows, there are a number of different types of brokerage that is available for victim-survivors of family violence. These include but aren't limited to Flexible Support Packages, Family Violence Crisis Brokerage,

Escaping Violence Payment, the Orange Door Brokerage, and the Red Cross Family and Domestic Violence Financial Assistance. To access brokerage through Flexible Support Packages, the victim-survivor must be receiving case management support; and only the case manager can apply for the brokerage, the victim-survivor cannot self-refer. The case manager does not need to be located in a specialist family violence service to access FSPs for their client; however, they do need to have access to the FSP portal. This brokerage is available to all victim-survivors. Victim-survivors must be engaged with a specialist family violence service in order to receive assistance from the Family Violence Crisis Brokerage. This brokerage is also available to all victim-survivors. The Escaping Violence Payment is only available to victim-survivors of intimate partner violence, not family violence as a whole, and the victim-survivor needs to be an Australian citizen or permanent resident of Australia. Victim-survivors also have to have had a change in living circumstances within 12 weeks of requesting assistance from the Escaping Violence Payment. Victim-survivors can self-refer; or if they have a case manager, they're able to refer on their behalf. Short-term case management is available for those victim-survivors who self-refer. Victim-survivors who engage with their Orange Door have brokerage available to them if needed. Victim-survivors can self refer to the Orange Door, and the brokerage is available to all victim-survivors. And those victim-survivors who are on temporary visas can also access brokerage through the Red Cross. This brokerage is available to victim-survivors on temporary visas who have or are currently experiencing family violence and need financial assistance. Victim-survivors are able to self-refer or have a case manager refer on their behalf. Short-term case management is available to those who aren't already receiving support. Next slide, please. So what brokerage can pay for. So brokerage can pay for a number of different items that a victim-survivor may need. The items include but are not limited to safety and security items, education costs, housing costs, furniture removal costs, and legal fees. This brokerage is not limited to victim-survivors living in private rental. Victim-survivors who live in mortgaged properties, who are staying with friends and/or family, or are living in crisis accommodation or on the streets can also access it. Each brokerage program has different funding limitations, therefore it is best to speak with a relevant provider about what amounts can be accessed and how to best access what is needed. Victim-survivors are able to access all brokerage that they are eligible for, they're not limited to one type. And next slide, please. The Personal Safety Initiative, or otherwise known as PSI. Next slide. Thanks. The Personal Safety Initiative is a program that was developed in order to help victim-survivors remain safely in their homes through the identification and installation of safety and security items on a victim-survivor's home. This program is available to victim-survivors who no longer live with the perpetrator, have an IVO in place excluding the perpetrator from the property, have recently experienced some family violence and are eligible for a Flexible Support Package. On occasion, some flexibility can be applied the eligibility criteria, this should be discussed with the PSI coordinator. The program is not limited to intimate partner violence and the victim-survivor does not need to be a citizen or permanent resident of Australia to access it. When a victim-survivor is referred to and assessed as eligible for the Personal Safety Initiative, a safety and security audit will be conducted on the property and recommendations will be made as to what safety and security items should be installed. Contractors are recommended for the installation of all items. There are some items such as personal safety devices, security doors, and lock changes that can be installed before or without a safety and security audit being conducted. If a case manager does not believe that a safety and security audit is necessary or possible to be conducted, they should have this discussion with the Personal Safety Initiative coordinator. Next slide, please. Safety and security items that may be recommended for a victim-survivor include but aren't limited to CCTV, sensor lighting, security doors, personal safety devices, tech and bug sweeps, dash cams, foliage treatment and fence extensions. Brokerage for any safety and security items is available through Flexible Support Packages. These items cannot be applied for without having gone through the Personal Safety Initiative. For a number

of installations, permission is required from the landlord. Next slide. And finally, information on how to apply for the above brokerage programs and the Personal Safety Initiative can be found by accessing these links which will be provided to you following the webinar. Thank you.

**Deb Fewster:**

Thank you so much to our colleagues from Safe and Equal there, Kim and Courtney. A great start to the event. Now I'd like to welcome Sally Kenyon from Justice Connect Homeless Law. Thank you, Sally.

**Sally Kenyon:**

Thanks, Deborah. Good morning, everyone. So I'm Sally. I'm a lawyer with Justice Connect Homeless Law. We are Victoria's specialist free legal service for people who are experiencing or at risk of homelessness. And so today I'm going to briefly cover the family violence provisions of the Residential Tenancies Act. This isn't designed to make you a tenancy law expert, but really to give you an overview of what the options are that are available to a renter when family or personal violence has affected their tenancy. So looking at what's covered under the RTA. The RTA contains laws which cover circumstances of both personal and family violence, and those are defined through different acts. So the family violence has the same meaning under the Family Violence Protection Act 2008, and it means behavior by a person towards a family member of that person that is physically or sexually abusive, is emotionally or psychologically abusive, is economically abusive, is threatening, is coercive, or in any other way controls or dominates the family member and causes that family member to feel or fear for their safety or wellbeing for themselves or another person, or causes a child to hear or witness or otherwise be exposed to the effects of the above behaviors. The definition of personal violence under the RTA uses the same meaning under the Personal Safety Intervention Order Act 2020 and can be carried out by a person who is not a family member, and means assault, sexual assault, harassment, property damage or interference, making a serious threat or stalking. So this is a summary of the options that are provided for by the RTA, and they enable a renter to make the following changes or applications: They can change locks, make safety modifications, prevent open house inspections, object to advertising photos or videos, terminate a rental agreement, reduce the term of a rental agreement, terminate a rental agreement and create a new one. Allow access for the removal of belongings, defend a possession order application, protect bond, remove a renter or amend a database listing or blacklisting. And VCAT can also make orders about distribution of bond and liability for rent, damage, or maintenance costs and utilities. So to run you through some of those options, we won't go into all of them in detail, but the first two that we'll discuss are making changes to a residential rental agreement. So in the first instance, VCAT allows for breaking of a fixed-term lease. So if someone has a 12-month lease and would want to leave early, they'd normally have to pay lease break costs, so re-letting fees, things like that. But a renter who has experienced family violence or personal violence can break a lease with reduced or no cost through applying to VCAT. And then the second option there is a person who is a renter or not a renter but living in the property as their principal place of residence can apply to create a new rental agreement which is just in their name so they can remove a perpetrator or violent renter. And this option is really important particularly in public or community housing properties because, as we mentioned, the affordability of housing is a really big factor; and because social housing will have rent adjusted according to household income, it allows renters to sustain affordable housing. So if VCAT makes one

of these two orders, they also can make orders about who should pay outstanding rent, utility bills, orders about the bond, and accessing belongings. To access these options in circumstances of personal violence an IVO is required, but one is not required in circumstances of family violence. And that's generally the main difference between how the two types of violence are treated under the RTA. So there are gaps in the legislation, unfortunately. The main one is that where a person is unsafe to stay in their property but the perpetrator is not a party to the lease agreement, they can't apply to terminate under these provisions. However, there are similar provisions which involve terminating on the basis of hardship, and VCAT does consider violence to constitute hardship, but those provisions don't give VCAT the same powers to make orders about all those additional issues that we mentioned. So if your client is in this position, we recommend getting legal advice about what the options are that are available to them. This is also a good time to note that there is a family violence worker at VCAT who was really helpful. Particularly for practical support where hearings are in person, she can make arrangements for safety and is often really helpful just to help clients through the process of making applications and even getting referrals to other services. We wanted to take you through a couple of case examples just so you can see how these work in practice. So in this case example, Meryem is a co-renter on a residential rental agreement with her partner. After he assaults her, Meryem flees the property, her ex stays but stops paying rent. Meryem keeps her keys to preserve her options and she applies to VCAT for an order terminating the agreement, which VCAT grants. VCAT also makes orders that Meryem's ex is responsible for the rent arrears which accrued after she left, that she does not have to pay the rental provider any compensation for the early termination of the agreement, and she cannot be added to a tenancy database or blacklist in relation to the rent arrears or any damage to the property, and makes orders for Meryem to retrieve her belongings. It's really important to note that Meryem has kept her keys, which keeps her options open and means that she's able to apply to terminate the rent agreement. If she had handed back her keys and if all parties are handed back their keys, there's a risk that the tenancy would be considered already terminated, so she wouldn't be able to take advantage of those RTA provisions. Let's look at the alternative scenario where a renter was-

**Deb Fewster:**

Sally, sorry, it's Deb Fewster speaking. Sorry to interrupt you mid flow.

**Sally Kenyon:**

No, not at all.

**Deb Fewster:**

This is information. We just had a request maybe if you wouldn't mind slowing down a little 'cause there's a lot to take in. And I say that as someone who is also a fast talker, Sally. So if you wouldn't mind just slowing down a little. Thank you so much.

**Sally Kenyon:**

Yeah, no problem at all. Okay, so let's move on to our next case example. So Chris' ex-partner is excluded from their property via IVO. And Chris finds out the rent has not been paid in over a month; they want to stay. Chris can change the locks and make some other modifications to help keep them

safe, like installing non hardwired security cameras and lights. Chris can apply to VCAT to terminate the tenancy agreement and have a new tenancy created that's just in their name. And Chris can also ask VCAT to make orders that the ex-partner is responsible for outstanding rent and about how the utility bills should be dealt with. So that brings us to talk about modifications for family violence. As Kim and Courtney mentioned, where victim-survivors choose to stay and can afford to stay, they can make modifications to make it safer for them to do so. So the RTA differentiates between modifications for which consent is needed and for which consent is not needed. Where consent is needed, it can't be unreasonably refused. So this list is not exhaustive, but we've just tried to show you the modifications which are most relevant to circumstances of family or personal violence. If consent is refused, a renter can apply to VCAT for a determination that that refusal is unreasonable. Before a rental agreement terminates, the renter usually is required to restore the property to the original condition prior to any modifications. And in a lead-up to this training, someone asked about requests for additional bond where modifications were made. And this is legal, but additional bond amounts can only be asked for where that additional amount is proportionate to the cost of restoring the property and where that cost is more than \$500. No additional bond is able to be requested where the renter and the rental provider have agreed that the property doesn't need to be restored or where funding for the modification is provided by a funding scheme on the basis that it doesn't need to be restored and the rental provider has agreed to that. I want to take you through another option on the list which is really important. So the RTA allows victim-survivors to challenge a notice to vacate on the basis that the conduct forming the basis for the notice was committed by someone who has used violence against them. So our example is Riley who receives a notice to vacate for repeatedly breaching her duties as a renter. Neighbors have complained that there is often yelling and loud noises coming from Riley's house. Riley tells you that her partner often screams at her and throws things. Riley can apply to VCAT to challenge the notice to vacate on the basis that the conduct in question was caused by the act of a person who has subjected the renter to violence. So these type of breach issues are really common in circumstances of family violence. And this defense to VCAT possession or application has been successful where notices to vacate have been issued for things like damaging property, for danger where the perpetrator's visitor has assaulted a neighbor, and where a perpetrator threw a really heavy object off a balcony. Unfortunately it is not able to defend a notice to vacate based on unpaid rent. So the last issue that we wanted to highlight is in relation to additional considerations for people experiencing family violence in public housing. So some of those options are priority transfers. So family violence victim-survivors who are at risk of harm are eligible to be placed on the DFFH priority transfer list even if they relinquish their property. So even though there's no tenancy to transfer, they're still able to stay on the transfer list. And DFFH properties are also, renters are also able to apply for temporary absence, which means that they can have their rent dropped down to \$15 per week for up to six months, potentially longer, if they're in refuge or they can't return to the property due to risk of harm. All of these procedures and policies are in the DFFH policies which we've got linked there. Community housing providers will have their own internal policies and they often aren't as robust as the Department of Housing, but they should have the same level of accountability. And then the final note there under DFFH policy, there is no compensation to be claimed in relation to damage which is caused by a perpetrator of family violence. That's just a list there of some options for getting some tenancy legal help that we'll leave with you when you have your copies of the slides. And just finally, we wanted to mention that Justice Connect is currently developing a digital self-help tool called A Home of One's own. The tool aims to help victim-survivors of family violence understand their rights and help them take steps around their housing. We are currently seeking engagement with community workers to better understand the needs and priorities for victim survivors. If you are interested in participating, please complete the sign up sheet and we will contact you. Thank you.

**Deb Fewster:**

Thanks. It's Deb speaking. Thanks so much for that presentation, Sally. I know that link that just appeared on the screen won't be clickable for you, and it's actually come off screen, but we will make sure that we share that link after this event today with you. I'm going to ask my colleagues, I think, to switch on their cameras for the Q and A. My colleague Amy Houston who's behind the scenes will let me know if I'm giving incorrect instructions here. But I think we're going to get any number of questions directed to any number of the panelists, so perhaps if you can switch our cameras on, that would be fantastic. So just to note as well... And I can see that Q and A box is filling up with with questions. That's where if you could just put your questions in there, we'll get to as many as we can. And as we mentioned earlier, we're theming or aggregating some of these. And any questions that we don't get to, we'll absolutely follow up post the event. So, Sally, if I might direct the first question to you. There was a really fantastic case study that you shared in terms of looking at some of the issues from the perspective of Riley. The question was: "Can the notice to vacate be challenged if the person using violence is not a co-renter?" Oh, sorry. Sally, you are on mute.

**Sally Kenyon:**

Sorry. No, that's fine. My mouse is not working. I'm with you now. Yes, they can. So they don't have to be a party, it just has to be that the conduct is caused by family violence. And you would generally need some evidence for that. So if there are support workers or, you know, other support people who can provide that sort of evidence, then that will go a long way if they can.

**Deb Fewster:**

Thank you so much. The next question, the person's reflected the impact of family violence on housing can last some time. So this is a question for Courtney. "How long after leaving an immediate family violence situation can people access the case management and brokerage?"

**Courtney Wamala:**

So it does differ from brokerage to brokerage, really. So I'd say... Like, say what I said with like the Escaping Violence Payment, you have to have been within 12 weeks of changing your living circumstances and leaving the relationship, so that's kind of a rough timeline for the Escaping Violence Payment. So with Flexible Support Packages, if you're having an ongoing effect in regards to the family violence and it's having an ongoing effect on your life, you are able to access brokerage from Flexible Support Packages at any time, but you do need to be linked in with a case manager to do that. So that would also be, it would go back to the requirements of engaging with that case management service as well, which differs from, varies, like, significantly between different types of case management. So it's really worth just having a discussion with either the brokerage person that you want to engage with or the case management program as well and just seeing how that can be flexible and how and what the requirements are for engaging.

**Deb Fewster:**

Thanks so much, Courtney. And I'll come back to you in a moment. I can see some more questions coming through wanting to tap into your expertise. Sally, if I might throw back to you for a moment. Question from the audience: "What are there recourse options where the person using violence causes significant property damage prior to their exclusion from the property?"

**Sally Kenyon:**

Yeah, that's a bit of a complex question because it would depend on who the parties are to the rental agreement and what the situation is. So if someone, if they're co-renters and there's an application before VCAT to terminate the tenancy, then those powers to make orders around liability are enlivened. But if it is that it's only the victim-survivor who is on the lease, then there might have to be a different pathway to try to defend, which is a bit of a complex probably legal question that might be beyond our scope today. I would suggest that if you do have a client who's in that situation, get them connected to legal help as soon as possible to get advice and just make sure that they're, you know, putting whatever protections they can at the time. Sorry, I can't be more specific, but it would really depend on, you know, the amount. Is it just bond? Is it a compensation claim beyond bond? There are options for those, but, yeah, it's quite a broad question.

**Deb Fewster:**

Fantastic, Sally, in recognizing the complexity there and that piece of advice to say if there is actually a specific issue that you are working on at this time supporting someone who's experiencing family violence, please reach out to your local community legal center or legal service who will have like, you know, fantastic expertise to share with you. Courtney, if I can throw back to you, please. This is around the issue of a victim-survivor with disability. Are you able to talk us through what may happen for a victim-survivor with disability who depends on the perpetrator for their personal care needs? Does brokerage cover interim disability support workers to provide care?

**Courtney Wamala:**

Yeah, this is a really difficult situation and one that kind of comes up a lot. So, yeah, so there are... Like, a lot of the brokerage options will cover that. So a lot of them are very flexible in regards to what you can apply for. If you can make a rationale for certain things, then they're often approved. So in this circumstance, it would definitely be covered because that's something that is required to assist the victim-survivor in regards to their lives returning to kind of like a normal situation following the family violence incident. So if that's something that's required, it's definitely something that can be applied for, definitely through Flexible Support Packages, through Escaping Violence Payment. I'm sure the Red Cross one would cover that as well. And you could talk to the Orange Door, if they're engaged with the Orange Door, in regards to that as well. So I think definitely most of them would cover that. It's definitely something that would be considered, yeah.

**Deb Fewster:**

Thank you so much, Courtney. I think we've come a long way in kind of understanding some of those kind of power dynamics and needs of victim-survivors with disability as well so the system is much more responsive. Well overdue. Still a lot of room for improvement, though. Question for Sally. We just keep hearing about how smashed VCAT is, Sally. Do you know what the average wait time for a VCAT hearing is at the moment?

**Sally Kenyon:**

So it would depend on the type of hearing. Applications made under the family violence provisions are required to be heard within three days. Other types of applications, so eviction matters or applications for compensation, varies a lot depending on the type. So where there's a safety risk, so allegations around danger or that the property is unsafe, those will be listed more quickly than, say, rent arrears. And then things like compensation, there's still a significant backlog that are taking many months to be listed. So it really just depends on the application.

**Deb Fewster:**

Thank you. Now, the next question is probably... We've blended a few questions together here. So I'll read the question out. This is one for you, Sally. But please let me know if you need me to repeat it 'cause there's a lot in here. So it relates to, we've had a lot of questions around the Homes Victoria bond loan. And essentially what we're hearing from people in the audience is people experiencing a circumstance where a landlord or an agent has refused receipt of this, as the method by which the department provides these funds was not their preferred method of payment. Can you recommend how we respond to refusals of this type?

**Sally Kenyon:**

That's actually a really good question. And honestly I'm not sure off the top of my head it's.. We're unfortunately usually dealing with the end of tenancies rather than the commencement, so I'm not really sure, but it's something that I'm happy to get back to people about.

**Deb Fewster:**

Thank you, Sally. That's really great. And just to kind of let people know as well, is that we won't just provide the information to the person who's asked the question, we will share the responses to these questions with everyone who's registered for the event. Courtney, back to you as well. So we see a lot of victim-survivors with household items in storage and unable to pay, unable to afford to pay the fees. Is there any brokerage to cover this so they can get their items? Otherwise they lose everything.

**Courtney Wamala:**

Yep, there is brokerage that can cover it. So most of those brokerage options would also cover that. It really is... It can be different in terms of ongoing costs for things. Sometimes you really need to make a rationale that that is something that can be afforded by the victim-survivor at some stage. So some brokerage won't be able to pay ongoing fees but they will be able to pay for a certain amount of time. So if it's a matter of just paying for the fee so they can get their storage items out of storage, definitely, definitely be covered. If it is a matter of paying them ongoing for a number of months, that's something you'd have to speak with the brokerage provider about because there may be limitations to that.

**Deb Fewster:**

Thank you, Courtney. Another one for you, Sally. For clients at high risk who have to leave rental, are there any protocols in place around accessing social housing or other housing where police are recommending the family move?

**Sally Kenyon:**

There are specific categories in the Victorian Housing Register for people who are escaping family violence. And I guess in terms of different housing services, there are specialist programs and workers who can support with that. But beyond that, I guess the... I'm not sure exactly what you're asking, but there's no expedited process necessarily that the police can trigger to get someone housing once they've said that it's not safe for them to stay.

**Deb Fewster:**

Thanks, Sally. And what I might just kind of reflect on as well is that where, you know, frontline workers have kind of insights around where there might be particular policies in place, but not actually kind of like processes or protocols that then kind of like support expedited action and things like that, we're always keen at VCOSS to kind of hear about, you know, where rubber hits the road, what the kind of the gaps are in terms of policy intent and then kind of practical implementation, along with our colleagues at Safe and Equal. So if there are things that you're kind of seeing on the ground that you think require some other type of systemic kind of response, please let us know and VCOSS, together with Safe and Equal, can kind of have a look at that, gather a bit more information and feedback and look at, you know, whether there are particular things that we need to be kind of additionally advocating for in terms of, you know, optimizing the safety of victim-survivors and their children. Question for Kim and Courtney as well. Do you have any information around what options are available for someone experiencing personal safety or harassment issues from neighbors?

**Kim Hay:**

This is outside our expertise, unfortunately, because it's not classified as family violence, so I wouldn't be able to weigh in there.

**Deb Fewster:**

Thank you, Kim. And perhaps that's something, just thinking with my colleague Karen Taranto who's our housing and justice policy advisor, we might be able to kind of tap into some of the other peak bodies working in the housing space whose expertise that might be. But thank you for that, Kim. Kim, while I've got you here, and Courtney, does the perpetrator need to be named to access services, for example, no IVO or police intervention, fear of reprisal?

**Kim Hay:**

I guess it depends on what kind of services you mean. If you're talking about the specialist family violence services to access case management support, not necessarily. You know, it kind of may be encouraged because it can aid in the service kind of doing information sharing and understanding the risk that is faced by that perpetrator. But absolutely not, it would not be a barrier for victim-survivors to receive support. And I don't believe it would be a barrier for receiving brokerage either. Courtney, I might just double check that with you.

**Courtney Wamala:**

Yeah, so receiving brokerage, it shouldn't be a barrier. In terms of the Personal Safety Initiative, it is one of the eligibility criteria that there is an IVO in place, so that can be difficult if there's not one. And, like I said earlier, there is some flexibility that can be applied in regards to that, but that just needs to be a conversation with the PSI coordinator in regards to the reasons why there's no IVO in place. There is some understanding about some of the reasons why this is impossible for some victim-survivors. So, yeah, just have that conversation. But in terms of brokerage, there's no issue.

**Deb Fewster:**

Thank you. And just a related question for Sally, so just on that point that not all victim-survivors feel safe to apply for an IVO due to fears of escalation in a family violence situation. Question from the audience, Sally, is: "How does having an IVO versus not having one in place impact the VCAT process?"

**Sally Kenyon:**

That's a great question. A really positive thing that came out of the tenancy amendments that came through in 2021 is that an IVO is not always required to make those sort of applications any longer. And generally in circumstances of family violence, VCAT recognizes that there are occasions where an IVO won't be in place. And so generally it would work as a piece of evidence, so it would, like any other piece of evidence. So if you've got other supporting materials, if there was a, you know, police report, or a letter from a support worker, or witnesses, then those would also be different types of evidence. The main circumstance in which it's more important is if you're applying on the basis of personal violence. So some of those options just won't be available to a victim-survivor of personal violence if they don't have an IVO in place.

**Deb Fewster:**

Thank you, Sally. Another question for you Sally is... Let's, like, look at a scenario in which there's a victim-survivor, they're subletting, and that is unknown to the rental provider, but essentially it's their principal place of residence. Given that they're subletting and it's unknown to the rental provider, are they still protected under the act if they want to stay in a property?

**Sally Kenyon:**

Yeah, so I think the Residential Tenancies Act views subletting as a different circumstance than the type of circumstance where someone is living in a place as their principal place of residence. So if it is subletting where you're paying the other or the main renter, there's a risk that you would be forced to leave. But if a person is staying in the property as their principal place of residence and is being subjected to violence by a party to the lease, then they can apply to VCAT for an order which terminates their current lease, so the one that's in the perpetrator's name, and to create a new lease on the same terms that's only in their name.

**Deb Fewster:**

Thank you. This is a question for both Safe and Equal and Justice Connect. So it's a question from someone who works in Regional Victoria. And the question is: "Are Safe and Equal and Justice Connect statewide services?" Kim, did you want to respond from Safe and Equal's perspective?

**Kim Hay:**

Yes, whether or not we are a statewide service?

**Deb Fewster:**

Yes.

**Kim Hay:**

Yes. So our position is that we are the peak body for all the specialist family violence services within Victoria. So we don't provide any kind of direct service to victim survivors, but our members do.

**Deb Fewster:**

Fantastic. Yeah, you've got that statewide reach. And I guess, Kim, like there's different activities that you'll deliver through the year, so as distinct from like services to victim-survivors, but there's like different capacity building and kind of training and kind of networking kind of opportunities that are available to people working in the system.

**Kim Hay:**

Yeah, absolutely. So we provide training, mostly MARAM training. And, yes, we'll, you know, hold different events and and things like that. So, for example, next Wednesday, the 10th of May, we're hosting Are You Safe at Home Day? And we'll have a number of webinars available for people to attend to understand how they are able to support victim survivors within the community themselves. And we can send through a link to that as well for people to access.

**Deb Fewster:**

Fantastic. And, Kim, can I ask another question just on that before I throw to Sally as well, is that if there's someone working in the service system and might not be aware of, you know, some of your member organizations, like who they might reach out to in their local area, is that something that Safe and Equal can kind of help let them know which services are available in their area to kind of tap into?

**Kim Hay:**

Yes. And I think there's probably somewhere public facing that has all of that information as well. They've been rolling out the Orange Doors as well, which are different access points across Victoria. So I'm sure, I can't think of where we'd find it, but I'm sure it exists and I'm sure we can find it and send it on through as well.

**Deb Fewster:**

Fantastic, thank you. And, Sally, Justice Connect Homeless Law as well, is that a statewide service also?

**Sally Kenyon:**

It is. So Homeless Law is statewide. The only limitation we really have is if our lawyers can attend hearings. So at the moment that's not really an issue 'cause nearly all hearings are happening via phone. But when hearings continue to transition into in-person hearings, we may have some issues regionally; but largely not a problem, we're statewide.

**Deb Fewster:**

Thank you. Next, another question for you, Sally, is someone is saying, "I've been advised recently that a real estate agent was going to charge \$100 to take the perpetrator off the lease. Is this allowed?"

**Sally Kenyon:**

So real estate agents can charge administrative fees for making changes to leases. We would generally use that as a point to try to negotiate for them to not do that in the circumstances; but if it

comes down to it, there is the option to apply through VCAT and then VCAT generally will make orders that there are no fees payable to make that change. It's a bit of a difficult position 'cause we understand that going to VCAT for a client can be quite an ordeal, you know, for the sake of saving \$100. So it is a difficult position. But, yeah, there's nothing to stop them, unfortunately, unless you do want to go to VCAT.

**Deb Fewster:**

Thank you for that. A couple of questions around educating real estate agents. First one for Sally is asking, "Is there a list of landlords or real estate agents in Victoria who understand family violence renting rights who'd be good to deal with, for example, by approving modifications under the Personal Safety Initiative or other flexibilities?" I'm anticipating the answer to that might be no, Sally, but you might have another insight that I don't have.

**Sally Kenyon:**

I wish there was. No, there isn't, unfortunately.

**Deb Fewster:**

Thank you. And then a question actually which is, I think, for me, which is: "How are these new laws being shared with real estate agents? And is there information or education tools that we can share with real estate agents when advocating for clients?" So a couple of points that I would make is that an important responsibility and role that Consumer Affairs Victoria has is that kind of education and guidance role as well as kind of monitoring, you know, compliance and enforcement as well. So there are a lot of, you know, from what I understand, you know, guidance, education, you know, resource materials that Consumer Affairs Victoria has been working with their respective industry peak bodies with in terms of promoting knowledge of the changes to the rental rules. To what extent that part of the industry is engaging with that material, I can't confidently say. The question around: "Is there information or education tools that we can share as a sector with real estate agents when advocating for clients?" if I might take that on notice. Karen Taranto and I might have a bit of a chat about that and with our colleagues at Justice Connect and others as well. Another question for Sally, it's question about the so-called blacklist, is... Sorry, I'm just having a look at this, is... So there is a lot of kind of talk around, like, blacklists, et cetera. Sally, I'm wondering... Not everyone's kind of on the same page with that language or understanding of what that is, can you explain to people who might not be aware of this language or concept of a blacklist what that actually is? And then it would be really good to then have a bit of a reflection around: How do you know if you've been put on a rental blacklist? What are the implications? And is actually any of this legal as well? So if you could kind of talk us through this concept of a blacklist and then whether that's actually legal or illegal and like what the consequences are if you find yourself on one.

**Sally Kenyon:**

Sure. Okay. So a tenancy database or blacklist is a list by which rental providers or, more commonly, real estate agents can add renters in certain circumstances. So it's usually where there's been a

breach of tenancy and the tenancy has ended on that basis and/or where the tenancy has ended and the renter owes the rental provider more than the bond will cover. So it can only be done in certain circumstances. If it is done, the renter should be notified that it's happened. We know that that won't always get to the person. If they've already vacated the property, they may not have up to date contact details, but generally should be advised. And then the renter has certain rights in relation to that. So if want to question a listing that's in their name, they can do that. If a listing has been made and the issues were caused by family violence, then there is an application that you can make to VCAT to have that removed or varied on that basis. And then a listing can only last for a certain period of time before it has to go. Blacklisting is a real fear for a lot of renters who are in circumstances of family violence because they know that there is a lack of social housing and they will need to access private rental again. So we know it's a real concern for some people. We do find that not all real estates use it and not all real estates check it. If a person is applying for rental properties and is repeatedly being turned down, if that's on the basis of a database listing, they should be informed by the real estate to whom they've applied that there is a database listing in their name. And you can also apply to the companies that have them to check them to see whether you've got a client who is on that list. And I think housing workers can often help with that as well.

**Deb Fewster:**

Thank you, Sally. And a question for Courtney: "Is there brokerage available for renters to access the database?"

**Courtney Wamala:**

Sorry, can you repeat that, Deb?

**Deb Fewster:**

Yep. Is there brokerage available for renters to access the database?

**Courtney Wamala:**

The database in terms of which-

**Deb Fewster:**

So I think... Are we talking about the... Sorry, and I'll get Karen, who's offline, to send me some clarifying notes, but I'm imagining in terms of these tenancy databases.

**Courtney Wamala:**

Oh okay. I'm not 100% sure on that. It's not something that I've really come across. I'm sure if there were some reason that they needed to access that, a victim-survivor needed to, then, yeah, they

should be able to access brokerage for it. But I won't be able to say anything 100% just it's not something that I've been fully across before.

**Deb Fewster:**

Thank you. And I wonder if that's something that we might kind of explore a little bit further offline. Just to clarify, it was the tenancy database that Sally was just describing a little earlier and there is a cost to access it, but maybe we might follow that one up offline For Sally, a question around: "Can a real estate agent evict with no reason?" I know there's a number of protections around that. Do you want to just give us a quick response to that one, Sally?

**Sally Kenyon:**

The very quick answer is no, they cannot. There used to be the no-reason notice which provided that someone's tenancy could be terminated after 120 days' notice, but that no longer exists. It doesn't necessarily mean that all notices to vacate will be put to renters on a factual basis, to be honest. Like, there are definitely sometimes people trying to find ways around it. But no, generally now there has to be a reason. Unless it's an end of fixed-term tenancy, you can give a notice for that reason.

**Deb Fewster:**

Thank you. Another question that's come through is, this one is for you Sally as well: "What sort of proof do tenants need to provide to the Department of Families Fairness, and Housing to reduce their rent to \$15 per week for up to six months?"

**Sally Kenyon:**

It's quite similar to what we talked about before in terms of evidence of VCAT. An IVO is generally going to be the most helpful option, but there should be, the evidence from workers should be, you know, held in high regard and considered persuasive. So I think if the person is engaged with support services, that should be enough.

**Deb Fewster:**

Thank you. And I know that Kim made the distinction a little earlier between someone being a victim-survivor of family domestic violence and then someone who's experiencing, I guess, other forms of community violence. So, Sally, the question is, is that option around kind of the reducing the rent for \$15 per week for up to six months, question is, "Is this option available with DFFH if the tenant is a victim of community violence or only family violence?" So just noting Kim's earlier kind of distinction, I imagine the answer to that might be no.

**Sally Kenyon:**

I'm not sure off the top of my head exactly what the wording of the policy is, but my recollection is that it generally provides clear examples of when the policy is available, but then also that it has a discretionary aspect where DFFH can choose to apply it in certain circumstances. And generally if someone isn't safe to be in their home for a period and would have to pay rent or other expenses elsewhere, they do have the discretion to apply that policy even if it's not specifically provided for.

**Deb Fewster:**

Great. Thank you. And we can, again, follow up with some more information in terms of access to the policy. I'm conscious that we're about to run out of time, so we will follow up with questions that we didn't get to. I'll ask one final question, that is: "If the victim-survivor lives with the perpetrator and the perpetrator is the tenant on the Office of Housing property, can the property be transferred to the victim-survivor's name?"

**Sally Kenyon:**

Yes. Yes, it can.

**Deb Fewster:**

Great. I'm sorry that we have just about run out of time. There are some other questions that we've got. I promise that we will get to you all out of session. Just a note as well, recommending counsel to Homeless Persons Advocacy Service, Victorian Public Tenants Association as well, and we'll put those details in the chat also. Really want to thank all our guest presenters today. So thank you again to Kim Hay and Courtney Wamala from Safe and Equal, Sally Kenyon from Justice Connect Homeless Law. There's also always lots of people behind the scenes that support all us with this work. So I just also want to do a shout out to our wonderful colleague Verena Tan who is with Justice Connect Homeless Law also. Verena is a very modest person and would never want to draw attention to herself, so I'm sure I'm embarrassing her greatly by acknowledging all of Verena's work behind the scenes. Really want to thank the Department of Government Services and the Victorian Property Fund, our Renters' Rights Rundown events are made possible with their support. Also like to thank all of you, the attendees of the Renters' Rights Rundown events, and the VCOSS Rental Fairness stakeholders' group whose insights continue to shape all of this work, our sector communications and engagement on Victoria's renting rules. A reminder to please take a few moments to complete the event survey when it pops up on your screen to help us plan future Renters' Rights Rundown events. Full transcript and captioned video recording of this event will be available in a few days. We'll send you a link to the VCOSS Renters' Rights webpage where you'll find everything related to renters' rights, support for renters, and all our RRR event resources. And as I mentioned a few times earlier, we'll also chase up those questions we didn't get to today. Also really want to thank our captioner, Amy, as well, who's helped to make this event accessible for everyone today. And would also like to thank Karen Taranto from the VCOSS Policy and Advocacy team and Amy Houston from our VCOSS Communications team for really end-to-end development and implementation of this event today, so fantastic work. And I know they really enjoy working with all of you in the sector. Please follow VCOSS on social media and sign up to our email alerts to learn about future events like

this one. We'll be holding these events regularly for the rest of the year. So thank you for joining us today. And I hope you have a great afternoon. And goodbye and speak to you again all very soon. Thank you.