Recommendations arising from *Aboriginal Private Rental Access in Victoria: "Excluded from the Start"*

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Project Partners:
Commissioner for Residential Tenancies
Aboriginal Housing Victoria
Victoria Legal Aid
Consumer Policy Research Centre

Introduction

Aboriginal Victorians are more likely to be reliant on the private rental market than non-Aboriginal Victorians. This reliance has increased over the last decade, due to lower rates of home ownership and restricted access to the social housing system for Aboriginal Victorians.

Despite increased reliance on the private rental market, Aboriginal Victorians continue to experience significant access barriers when trying to secure privately rented housing.

This systemic combination of reliance and access barriers can have serious consequences for individuals and for the Aboriginal community as a whole.

The access barriers commonly encountered by Aboriginal Victorians have been comprehensively detailed in the project research report delivered by Swinburne University, ***Aboriginal Private Rental Access in Victoria: "Excluded from the Start"*** for the project partners

The project partners now provide recommendations for further action to address the access barriers identified in the project research.

Dr Heather Holst   **Darren Smith**
Commissioner for Residential Tenancies   CEO, Aboriginal Housing Victoria

Summary of Recommendations

The research commissioned for this project provides an up to date picture of the private rental access situation for Aboriginal people in Victoria. The findings are reported in terms that capture, document and articulate the journey taken by an Aboriginal person from considering private rental to applying and moving into their new home.

This present day individual journey only makes sense when viewed in the context of generations of systemic discrimination against Aboriginal people seeking housing in Victoria.

This paper recommends a series of practical actions to improve this access, covering the development and dissemination of effective rental information, the wider availability of support, measures to address discrimination and improve dispute resolution. It is intended that the recommendations be implemented as a suite of integrated actions. It is also intended that these practical actions will grow and expand over time.

These recommendations make reference to the Aboriginal Housing and Homelessness Forum (AHHF) as the principal community body for consultation about the project recommendations.

1. Values and Goals

1. **That Consumer Affairs Victoria co-designs with the AHHF, an information campaign that informs and enables Aboriginal people to access private rental housing**

2. **That Consumer Affairs Victoria supplements any information campaign with targeted compliance action aimed at estate agents, rental providers and residential tenancies database operators. This compliance action would include estate agent and database audits, as well as responding to complaints from Aboriginal renters and applicants.**

3. **That Homes Victoria, in partnership with the AHHF and including Aboriginal people with lived experience of trying to access private rental, investigates the feasibility of a funded program of Aboriginal housing mentors or support officers to augment existing programs that assist Aboriginal renters to access private rental housing, including young people seeking their first rental home.**

2. Searching for a home

4. **That the Commissioner for Residential Tenancies leads a process with industry and the AHHF to reduce digital barriers for Aboriginal renters.**

3. Applying for a property

5. **That the Commissioner for Residential Tenancies leads a process to work with rental providers, the real estate industry and regulators to make the renting application and selection process more transparent.**

6. That the Real Estate Institute of Victoria, in partnership with the AHHF and including Aboriginal people with lived experience of trying to access private rental, delivers training for the real estate industry in Aboriginal cultural safety. This training includes specific information on the barriers that Aboriginal people confront when they seek private rental.

7. That Aboriginal Housing Victoria with the Real Estate Institute of Victoria investigates the feasibility of a targeted program to recruit and train Aboriginal property managers

4. Securing a property

8. That Homes Victoria extends the Aboriginal Private Rental Access Program and identifies any further measures to enhance the effectiveness of the program in partnership with the AHHF.

9. That Homes Victoria reviews and enhances the use of flexible funds to assist access to and sustainability of private tenancies for Aboriginal renters.

5. Living in private rental

10. That Homes Victoria with the Department of Justice and Community Safety and Victoria Legal Aid review the access of Aboriginal renters to existing tenancy advice and support programs, to improve Aboriginal access and better integrate supports including representation during dispute resolution.

System interventions

11. That the current project partners work with relevant Aboriginal community-controlled organisations and the Victorian Equal Opportunity & Human Rights Commission to identify and better address discriminatory conduct.

12. That measures of the effectiveness of private rental housing be developed and reported annually in the Annual Report Card for the Victorian Aboriginal Housing and Homelessness Framework.

13. That the Department of Justice and Community Safety in partnership with the AHHF leads further work to develop culturally appropriate dispute resolution processes for Aboriginal renters.

14. That the Commissioner for Residential Tenancies, as part of their core role, monitors and reports on the implementation of the Project recommendations.

Background

The private rental market is a central element of the Australian housing system and is increasingly the main housing tenure for low-income and other vulnerable households. Aboriginal Victorians persistently report that they experience discrimination in the private rental market as a significant access barrier to housing.

This Aboriginal Private Rental Access Project arises from the development of the Victorian Aboriginal Housing and Homelessness Framework.[1] The consultations for the Framework found that Aboriginal Victorians:

- Are "priced" out of the private rental market.
- Need help with raising money for bond
- Experience persistent racism
- Are likely to access the properties with lowest amenity that others have rejected.

The Framework sets a significant challenge to:

- Change perceptions to reinforce that Aboriginal people ARE good renters.
- Build confidence amongst Aboriginal people to engage with the private rental market.
- Better understand why some real estate agencies work well with Aboriginal people and build on the positives.
- Increase access to private rental (and to home ownership) to reduce the current heavy reliance on social housing.[2]

The literature review and original research for the Aboriginal Private Rental Access Project was undertaken by Swinburne University and overseen by the Consumer Policy Research Centre (CPRC) with the support of the other project partners. The complete findings of the literature review and the original research are outlined in the Research report.

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[1]   See Discussion Paper 3 for The Victorian Aboriginal Housing and Homelessness Summit, 2019: *Private Ownership and Rental - How can access to home ownership and the private rental market be improved?*
[2]   https://ahvic.org.au/cms_uploads/docs/5.-summit-background-paper-1--consultation-findings.pdf

The Aboriginal Renter's Experience

The journey
In addition to the key issues outlined above, the Research report adopted the approach of following the typical journey of an Aboriginal renter trying to access the private rental market.

The journey approach enables critical barriers to be identified at specific stages of the process for accessing private rental housing.

Figure 1 outlines the key stages in a typical renter's access journey with an explanation of the steps below.

Figure 1: The Aboriginal Renters Private Rental Access Journey

1. Values and Goals 2. Searching for a home 3. Applying for private rental 4. Securing a private rental 5. Living in private rental

1. Values and Goals – The need for housing
The forming of beliefs, attitudes, and behaviours about housing options, the rental market and historical experiences either directly or of others in the community all influence and shape the actions and expectations of prospective Aboriginal renters. This plays an important role from the outset in influencing the very first stage of attempting to access or engage with the private rental market.

2. Searching for a home
Looking for appropriate private rental housing that will meet the renters needs and aspirations can influence the ability to access private rental properties.

3. Applying for private rental
The process of applying for a property includes many touch points with estate agents and with market-based systems and processes.

4. Securing a private rental
Securing an appropriate private rental property includes navigating power imbalances and finalizing agreements.

5. Living in private rental
While moving in and living in rental properties renters continue to face barriers which can make it difficult to retain properties and pursue access to justice.

System wide problems
In addition to the issues identified by research participants at the key stages of accessing private rental housing, there are problems that span the whole journey for Aboriginal renters and in the broader housing system.
Opportunities for Reform

Based on the findings of the Research report, the Recommendations of the project partners are outlined below.

1.   Values and Goals

Low levels of awareness & knowledge about private rental housing
Increased information and awareness by Aboriginal people about the private rental market may enable access to more rental housing options, especially for those who are empowered to navigate the market system. Information provision about rental housing options could be increased through trusted channels. Information resources are currently being developed through the *Aboriginal Private Rental Assistance Program* (the APRAP). This work should be further supported.

Fear of adverse tenancy history being a barrier
Tenancy databases are widely used by real estate agents to assess prospective renters. There are also problems in the unofficial exchange of information or opinions on prospective renters by estate agents or former rental providers. Tenancy databases are already strictly regulated so further changes to the regulation of tenancy databases may be unnecessary. Information provision about the use and regulation of tenancy databases should be improved and supported with compliance measures to ensure databases are being used correctly.

> **Recommendation 1: That Consumer Affairs Victoria co-designs with the AHHF, an information campaign that informs and enables Aboriginal people to access private rental housing.**

> **Recommendation 2: That Consumer Affairs Victoria supplements any information campaign with targeted compliance action aimed at estate agents, rental providers and residential tenancies database operators. This compliance action would include estate agent and database audits, as well as responding to complaints from Aboriginal renters and applicants.**

Help with private rental processes and systems
Stricter requirements placed on real estate agents and rental providers about what can be considered as part of any renter assessment may reduce the risk of discrimination. However, it remains extremely difficult to determine what factors or attributes real estate agents use to determine the 'best renter' for the property. Rental mentors and brokerage services may be a more effective solution to build the capacity of Aboriginal renters.

> **Recommendation 3: That Homes Victoria, in partnership with the AHHF and including Aboriginal people with lived experience of trying to access private rental, investigates the feasibility of a funded program of Aboriginal housing mentors or support officers to augment existing programs that assist Aboriginal renters to access private rental housing, including young people seeking their first rental home.**

2.   Searching for a home

High rental costs

Lack of affordable housing options in regional areas has a significant detrimental flow-on effect for low-income renters, impacting everything from employment options to education and health outcomes. While increased supply is fundamental to affordability across the whole housing system, it is a long-term measure and will not deliver results in the short to medium term. Many of the effective levers for increasing the supply of affordable private rental housing (such as tax policy) are at the Commonwealth level, beyond the scope of this project. The Victorian Government has already committed $5.3 billion of funding for social housing under the Big Housing Build program. Local planning processes need to identify opportunities for increasing affordable housing supply, especially in regional areas where there has been a significant increase in rents and reductions in vacancy rates in the private rental market.

Higher income support and additional supply are essential for medium to long-term improvement for low-income and other disadvantaged renters. However, income support is a Commonwealth responsibility and any effective changes to income support would need to be agreed and implemented by the Commonwealth.

Digital exclusion

Search processes for private rental properties are increasingly digitized excluding those without affordable or consistent internet access. Given the high reliance on digital marketing and transactions in all parts of the economy it isn't clear how 'non-digital' search options would be re-established in the private rental market. Many real estate agents still retain hard copy listings of rental properties at their local offices but this practice is not uniform.

Rather than tyring to recast the market processes for non- or low-digital users, it would be more effective to make further efforts to assist such users to bridge the digital divide. Investment in digital inclusion initiatives must be a priority for all governments to support consumers in all essential service markets. While measures for digital inclusion may be targeted at the household level over time a shorter–term solution may be to increase access to online processes through other trusted institutions and community services. Further work with industry is required to reduce digital barriers for Aboriginal renters.

> **Recommendation 4: That the Commissioner for Residential Tenancies leads a process with industry and the AHHF to reduce digital barriers for Aboriginal renters.**

3.   Applying for a private rental

Racial discrimination

Anonymised application processes have been relatively successful in other sectors (for example, hiring and employment). The basic principle for rental applications should be to prohibit the asking of questions that would enable discrimination based on the race of the renter. However, anonymised application processes may not be effective in small communities and may in fact mask the problem. Industry would also need to be satisfied that any restrictions did not undermine a rental provider's ability to manage risk.

It is also rare for any explanation to be provided to a renter about why their application for private rental was unsuccessful. This gap may shield some discriminatory conduct and allow racism to develop. Transparency would be improved if feedback to unsuccessful renters became an industry norm. Increased transparency of assessment and decision may not provide evidence of discrimination if income and other compounding factors are commonly relied upon.

"Secret shopping" has also been tried in other jurisdictions to identify discriminatory behaviours by rental providers and real estate agents. "Secret shopping" typically involves someone pretending to be a customer or renter to test how services are offered or provided to that type of person.

Recommendation 5: That the Commissioner for Residential Tenancies leads a process to work with rental providers, the real estate industry and regulators to make the renting application and selection process more transparent.

Cultural exclusion
Many Aboriginal renters identified the application process for private rental as culturally unsafe and exclusionary. While cultural change alone may not be enough to change outcomes for Aboriginal renters there is a clear need for greater awareness and education of industry. Such training could include developing case studies showcasing best practice for culturally safe letting.

Recommendation 6: That the Real Estate Institute of Victoria, in partnership with the AHHF and including Aboriginal people with lived experience of trying to access private rental, delivers training for the real estate industry in Aboriginal cultural safety. This training includes specific information on the barriers that Aboriginal people confront when they seek private rental.

Greater Aboriginal representation in the real estate industry would help to build trust and engagement with renters. One option would be support for employment quotas from stakeholders. Incentives for traineeships should also be considered.

Recommendation 7: That Aboriginal Housing Victoria with the Real Estate Institute of Victoria investigates the feasibility of a targeted program to recruit and train Aboriginal property managers.

4. Securing a private rental

Help with private rental processes and systems
The *Aboriginal Private Rental Assistance Program* (the APRAP) and the *Private Rental Assistance Program* (the PRAP) are perceived as highly effective where these programs are available. Research participants expressed a strong need for schemes that build relationships between Aboriginal communities and real estate industry. When working in unison, the programs can maximize uptake of available assistance and address low levels of awareness about support. However, long-term results in these programs are not yet clear.

> **Recommendation 8: That Homes Victoria extends the Aboriginal Private Rental Assistance Program and identifies any further measures to enhance the effectiveness of the program in partnership with the AHHF.**

Previous debts

Direct access barriers such as bond payments and other establishment costs can be addressed through funding for individual households and several programs already exist. Previously incurred debts can also be a barrier addressed through funding for individual households. Several such programs already exist and recent evidence from the family violence reforms have suggested that a flexible approach to the allocation of funds is most effective.

Flexible financial support goes some way to addressing systemic disadvantage faced by Aboriginal renters, compared with other renters in the private rental market and could yield positive results in the short-med term.

> **Recommendation 9: That Homes Victoria reviews and enhances the use of flexible funds by private rental access programs for Aboriginal renters.**

5.   Living in private rental

Tenancy failure

High ongoing rental costs and other problems can result in tenancy failure that acts as a barrier for future tenancies. Bond claims at the end of a tenancy that mean the renter does not get all their bond returned may also create complications for future tenancies. There is a broad issue that many renters do not act on problems that arise during a tenancy. Problems need to be prevented or renters supported through early intervention to provide confidence to exercise their rights or defend claims made by rental providers.

There are several programs available to provide advice, financial assistance or other support to renters but such programs may be poorly used by Aboriginal renters for a range of reasons. When working in unison, the programs can maximize uptake of available assistance and address low levels of awareness about support. This integration reduces the risk of tenancy breakdown.

> **Recommendation 10: That Homes Victoria with the Department of Justice and Community Safety and Victoria Legal Aid review the access of Aboriginal renters to existing tenancy advice and support programs, to improve Aboriginal access and better integrate supports including representation during dispute resolution.**

System interventions

Improving anti-discrimination compliance

Information provision and increased awareness by prospective renters about the rental market, systems, processes and renters' rights will not necessarily change attitudes if the experience in the rental market is a discriminatory or exclusionary one.

Despite the experience of discriminatory conduct in the private rental market by Aboriginal renters, formal complaints and evidence are scant. New measures are needed to test the true extent of discrimination that is occurring, to address the offending conduct and to reassure Aboriginal renters that industry is accountable.

Recommendation 11: That the current project partners work with relevant Aboriginal community-controlled organisations and the Victorian Equal Opportunity & Human Rights Commission to identify and better address discriminatory conduct.

Better outcome-based data

There is also insufficient data available to assess the outcome of private rental housing for most renters, particularly vulnerable or disadvantaged renters including Aboriginal Victorians. Substantial investment would be required to develop market monitoring data that includes clear access measures or reflects other identified problems. Collection of data on Aboriginal renters may also raise complex implementation issues. For example, collection of data on access barriers for Aboriginal renters may require such renters to be identified and exacerbate exclusion in the short term.

Recommendation 12: That measures of the effectiveness of private rental housing be developed and reported annually in the Annual Report Card for the Victorian Aboriginal Housing and Homelessness Framework.

While it may be difficult to obtain data from industry about the performance of the private rental market across a range of areas, data should be more readily available about the outcomes achieved by programs whose purpose is to facilitate access to private rental housing. Monitoring data should be a key component of any program reviews.

Inclusive dispute resolution processes

Under the current legislative framework, compliance with the tenancy law is largely a result of actions taken by individual rental providers and renters. The end point of most compliance action is VCAT. It is important that VCAT processes are able to be effectively used by renters in general and by vulnerable or disadvantaged renters in particular. VCAT is often seen as intimidating, not culturally safe and therefore rarely used by Aboriginal renters. VCAT is already doing work to improve their processes for marginalised renters and has a specific focus on Aboriginal engagement. This work should be continued and enhanced.

However, VCAT is fundamentally a process based in the non-Aboriginal legal system. Elsewhere in the justice system, dispute resolution processes or restorative justice have been identified as more culturally appropriate. This would be a longer-term strategy to determine whether more culturally appropriate dispute resolution could be developed for private rental disputes involving Aboriginal renters.

Recommendation 13: That the Department of Justice and Community Safety in partnership with the AHHF leads further work to develop culturally appropriate dispute resolution processes for Aboriginal renters.

Monitoring the implementation

Responsibility for the suite of Project recommendations lies across Government departments and industry. It is important that the implementation of the project recommendations is monitored to ensure that the recommendations are completed and integrated to maximise effectiveness.

Recommendation 14: That the Commissioner for Residential Tenancies, as part of their core role, monitors and reports on the implementation of the Project recommendations.

Co-design

To improve Aboriginal renters experience of the private rental market, the development of policy interventions must be done through a clear and consistent co-design approach with the Aboriginal community. Systems, processes and policies are not designed with and for Aboriginal renters. All of the above recommendations and any further work should be implemented through the co-design approach.

References

Stone, W.M., Goodall, Z.A, Peters, A. and Veeroja, P. (2021) *Aboriginal Private Rental Access in Victoria: "Excluded from the Start"*, A Report Commissioned by the Consumer Policy Research Centre, Swinburne University of Technology, Melbourne.

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