

# **TRANSCRIPT**

## **LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE**

### **Inquiry into the Rental and Housing Affordability Crisis in Victoria**

Melbourne – Wednesday 23 August 2023

#### **MEMBERS**

Trung Luu – Chair

Ryan Batchelor – Deputy Chair

Matthew Bach

Michael Galea

Joe McCracken

Rachel Payne

Aiv Puglielli

Lee Tarlamis

#### **PARTICIPATING MEMBERS**

Melina Bath

John Berger

Moira Deeming

David Ettershank

Renee Heath

Wendy Lovell

Sarah Mansfield

**WITNESSES**

Isabelle Butler, Senior Lawyer, University of Melbourne Student Union (*via videoconference*); and

Louisa Gibbs, Chief Executive Officer, Federation of Community Legal Centres.

**The CHAIR:** I welcome any members of the public with us here today and those watching via the live broadcast to our fifth session of the inquiry into the rental and housing affordability crisis. Joining us on the panel this afternoon for this fifth session is the Federation of Community Legal Centres, and I believe Isabelle Butler from the University of Melbourne Student Union is also joining us on Zoom. Could you please just state your name, Louisa, and your role title, please?

**Louisa GIBBS:** Sure. Thank you, Chair. Hello to the members of the committee. My name is Louisa Gibbs. I am the CEO of the Federation of Community Legal Centres, and we are the peak body for Victoria's 47 community legal centres.

**The CHAIR:** Thank you. I am not sure if you can hear me clearly, Isabelle. Could you please state your name and just your role, please?

**Isabelle BUTLER:** Yes. Thank you, Chair and committee members. My name is Isabelle Butler. I am a Senior Lawyer at the University of Melbourne Student Union legal service. The student union represents all currently enrolled University of Melbourne students and provides exceptional services to students, one of which is the legal service.

**The CHAIR:** Thank you. Welcome to you both. I will just introduce you to my committee. I am Trung Luu, Chair of the committee. To my left is Mr Joe McCracken, Member for Western Victoria.

**Joe McCracken:** Hello.

**The CHAIR:** Next to Joe is Dr Matthew Bach, Member for North-Eastern Metropolitan Region. To my right is Mr Aiv Puglielli, Member for North-Eastern Metropolitan Region. Next to Aiv is Dr Sarah Mansfield, Member for Western Victoria, and on the far right is Ms Rachel Payne, Member for South-Eastern Metropolitan Region.

**Rachel PAYNE:** Hello.

**The CHAIR:** And one of our committee members is also on Zoom. He might be joining us a bit later on. It is Mr Michael Galea, Member for South-Eastern Metropolitan Region.

Just before we continue, I would like to read to Louisa and Isabelle some witness information. All evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the Legislative Council standing orders. Therefore the information you provide during this hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same thing, those comments may not be protected by that privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded. You will be provided with a proof version of the transcript following the hearing. The transcript will ultimately be made public and posted on the committee website. For the Hansard record, when you are speaking, state your name, and we can continue from there.

Could I just ask the committee, so we have all the time to ask questions, just to keep to 5 minutes. If we have got extra time, I will open it up to the committee later on. Dr Sarah Mansfield, would you mind –

**Sarah MANSFIELD:** Yes, thank you. Thank you both for your submissions to the inquiry. I would like to start with the idea of I guess some way of controlling rent increases. It is something that has come up in both submissions. Louisa, your submission refers to a fairness formula, and I am just wondering if you could explain that a bit more.

**Louisa GIBBS:** Happy to. Thank you very much for the question, Dr Mansfield. There are examples already that exist of fairness formulas for rental increases. Here in Victoria currently we do have a once-a-year rental increase provision, which we support, but there are occasions where the rental increase can be exorbitant. We have seen that in very real terms over the past few years. What we would like to see is a fairness formula applied, and some of the examples that we can draw on come from here in Victoria itself where we have had the example of the Victorian affordable housing program – after an initial three-year lease, the rent can be increased by a maximum of 5 per cent. We have experienced some examples of this in Victoria.

Another model comes from the ACT, and that is the ACT model of capping rent increases based on CPI. In the ACT a rental provider can increase the rent on a property by no more than 10 per cent more than the increase in the CPI, the consumer price index. So we have got some models that work effectively around the country already. There is another element of that which I think is important. If in the ACT the landlord sets the rent higher than 10 per cent more than CPI and the tenant does not consent to that increase – of course there is the ability to contract outside of that – it is the landlord who has to bring the application to show why it would be reasonable to go above and beyond rather than the tenant having to bring that case for decision-making, which can obviously be a bit precarious for them because they are in the house themselves.

**Sarah MANSFIELD:** Isabelle, I do not know if you have anything to add to that.

**Isabelle BUTLER:** No. I think we just support and endorse what Louisa and the federation have mentioned very comprehensively.

**Sarah MANSFIELD:** Yes, great. And what sort of effect would that have on the clients that you see through community legal centres?

**Louisa GIBBS:** There is a huge nexus between housing and people receiving legal services through community legal centres, not only for their tenancy issues but because housing underpins so many other social factors which can lead to interaction with the legal system. Some of the statistics perhaps speak to that a little bit. I am going to draw on VCOSS's submission; I know you spoke to VCOSS this morning. One in five renters in the private market are living in poverty. That is over 270,000 people living in poverty and renting in the private market. You can see if you are already in poverty and there is an exorbitant rent increase and you are in that private market and there is nowhere to go because the social housing is not there, you really are placed at risk of homelessness. Being placed at risk of homelessness exposes you to other legal issues to do with things like family violence or the ability to gain employment. We do see that intersection at community legal centres.

**Sarah MANSFIELD:** You have also called for more investment in social and public housing. Can you explain why that is important for improving rental affordability?

**Louisa GIBBS:** Yes, that is right, because the private market is at the whim of market economics. Social housing is a much more controlled system for people to have affordable housing, and that can be provided in a culturally safe way as well. I think there is a really important place for social housing to expand the pool of housing available to Victorian renters and not to limit it to the private market.

**Sarah MANSFIELD:** Yes. And in terms of that social housing, we have heard some discussion earlier today about the importance of public housing in that mix as well as community housing. But the real lack of investment in public housing at the moment, is that something that you feel needs to be looked at?

**Louisa GIBBS:** Yes. We would echo the calls from Tenants Victoria on that. They have looked at those statistics, and I would amplify what they have been telling you about the need for that mix of public and community housing.

**Sarah MANSFIELD:** Yes, okay. Just to move on to some of the protections for renters – and this is something that I think came up in your submission, Isabelle – you have mentioned the issue of claiming bonds back. It is something we heard about from renters a lot yesterday. One of the ideas put forward was that we reverse the onus – rather than the tenant having to apply to get their bond back, they automatically get their bond back unless the landlord or property manager can demonstrate a reason why not. The onus is then on the owner to challenge it rather than the tenant. I am just wondering what you think of something like that to make it easier for tenants.

**Isabelle BUTLER:** Thank you. Yes, I think that is certainly one of several different possibilities for reforming the bond claim process. I think with that or any other possibility, as we have touched on in our submission, it comes down to how it is implemented in practice and how that works out in practice for renters. At the moment, despite some of the fantastic reforms that we have gotten in the past couple of years in relation to bonds and the ability to, for example, claim a bond directly from the RTBA, because of delays at VCAT in situations where landlords have disputed a claim or made a claim on a bond, we have had bonds that have been delayed for a very long time before they were able to be refunded to a renter. I think something like a reverse onus would be a fantastic first step, in conjunction with other reforms that we have been calling for in relation to, for example, VCAT processes and also the possible additional evidentiary requirements for landlords who are making those claims on bonds.

**Sarah MANSFIELD:** Thanks. That was my time.

**The CHAIR:** Ms Payne.

**Rachel PAYNE:** Thank you. Thank you to both Isabelle and Louisa for coming in today and presenting and for your submissions. The stories that we are hearing, particularly from tenants – from renters – are that there is a real power imbalance when it comes to the relationship between the landlord and the agent that represents them and their experience if they need a repair to the property or if there is to be a negotiation around rent. I do note that you have talked here about prioritising enforcement of rental laws by Consumer Affairs Victoria as a deterrent over education, and to me this implies that property owners do understand their responsibilities but there is no recourse there for any further action to be taken. Can you go into a little bit more detail about in your submission what you have described there?

**Isabelle BUTLER:** Yes, certainly. Look, I think it is probably a mix of lack of understanding and doing the wrong thing despite understanding, unfortunately. In that I would like to echo also what Tenants Victoria and what the federation have endorsed in their submissions around further training for real estate agents as well, because at the moment we are in an unfortunate situation where there obviously is a power imbalance there. Renters are in a very difficult position, but housing is of course incredibly important. Many renters, even while being aware of their rights or being told about their rights, do not feel comfortable trying to enforce them because of potential ramifications down the track in their tenancy or kind of a breakdown of that relationship. I think looking at any ways to take the onus off the individual in each situation or off each renter needing to try and enforce their own rights and having more of a regulatory enforcement role by Consumer Affairs Victoria would really ease the burden for people in those quite vulnerable positions.

**Rachel PAYNE:** Thank you. Louisa, did you –

**Louisa GIBBS:** We would support that too, Rachel, that we need to look at housing as a human right. It is very important to take that lens to it, and when we do that and recognise that real estate agents play an intermediary role and the information that tenants receive about their rights and responsibilities often comes from that real estate agent, so making sure that they are trained in what their obligations are is really important, and then having that oversight by Consumer Affairs Victoria to make sure that when things are not going right they are being corrected and let go. I think we have some mechanisms in place, some opportunities to build on what is there, but we need to be viewing it with that lens that it is a human right, and that is how we need to respond.

**Rachel PAYNE:** Excellent, thank you. And just my second question would be around VCAT. It clearly is not fit for purpose. There are long wait times. It does not result necessarily in action being taken, if that is what the plaintiff is seeking. What would you envisage a review would look like, or what would you see as most important to include in a review of VCAT if there was one considered by the committee?

**Louisa GIBBS:** One point that I would like to see and that our members would like to see is a reflection on the fact that if you are not satisfied with a VCAT decision, you must bring a case to the Supreme Court. The reality of a tenant bringing a case to the Supreme Court is very low. It must be brought within 28 days, so you have to understand your rights in that time frame, have the wherewithal to do that, and the average cost of bringing an appeal to the Supreme Court with legal representation for such a matter is between \$30,000 and \$50,000, so the likelihood of it happening is low. We would like to see the opportunity for some internal review within the VCAT system itself.

**Isabelle BUTLER:** I definitely echo that, and in terms of a lens for how to approach a review, I think we have identified in our submission what we see as some of the issues, but I think we would like to see undertaking a review focusing on how to modernise and resource VCAT so that it is functioning in the same way as other sections of the Victorian Civil and Administrative Tribunal and also other tribunals around the country, because I think there are models out there, and the residential tenancies list has often operated a little differently, and just looking at some of those examples of what we can learn from and what we can build on to modernise and make those processes really functional.

**Rachel PAYNE:** Thank you. Isabelle, just reflecting on students as quite a vulnerable cohort, particularly international students, I am wondering if over the last few years you have seen a definitive shift towards more students accessing your service?

**Isabelle BUTLER:** Yes, that is an interesting question. Obviously COVID threw some quite interesting things into the mix. For a period of time in 2020 we saw a definite increase where it was almost exclusively tenancy matters in terms of what we were advising about and it was almost exclusively students needing to end leases to return home overseas in short time frames because of borders closing. After that obviously international students were locked out of Australia, so there was a bit of a lull. This year we are really seeing a return to a lot of those same rental issues, except they are exacerbated in the context of the rental crisis that is going on for everyone, all renters in Victoria. That is also impacting students and international students as a particularly vulnerable cohort.

**Rachel PAYNE:** Thank you.

**Louisa GIBBS:** If I may add to that, if it is helpful, we could provide some statistics of what community legal centres have seen in the change of requests for tenancy matters. If that is helpful, I can ask our members and see what we can provide as statistics.

**Rachel PAYNE:** That would be wonderful. Yes, please. Thank you.

**The CHAIR:** Thank you. Dr Bach.

**Matthew BACH:** Thank you both very much. I was interested in the comments that you both made in your submissions about VCAT processes. I might go to you first, Isabelle, noting that my first date with my wife was at Union House, actually, so I come to a discussion with you deeply, deeply biased. You talked a bit about the current backlog. We have had discussions about the backlog at VCAT. It seems like we have been talking about these backlogs for years and yet there has been so little political will, so few people at Parliament over the road seemingly willing to do anything about it. Could you perhaps talk to us about, for the young people who you are engaging with, what it looks like? Because we see the figures, but just looking at the figures clearly has not led to any political action. Could you talk to us about what it looks like, especially for young people trying to go through these tortuous processes and having matters stuck there for so long. Is there a human cost in all of that? What does it really look like?

**Isabelle BUTLER:** Yes, absolutely. Thank you. It looks very, very sad, quite frankly, and it is a very difficult area to advise in, because there is very little that we can give students and young people in terms of options. We feel that that is very unsatisfactory, and it is a very difficult thing to convey. In terms of the impact, looking at international students again as a particularly vulnerable cohort, we have got international students who during that particular crisis period in 2020 had to break leases and had to return home, and the government obviously did respond with COVID temporary legislation to provide some options for people in those really severe hardship positions to be able to end leases without any of the usual penalties. That was a completely appropriate and wonderful response.

However, what the backlog has meant is that people who did try and take advantage of that legislation and end leases in those circumstances and nonetheless had disputes go to VCAT have been waiting in limbo and have not been able to find out the outcome of those disputes even though that legislation has long since been repealed. So practically it meant that people who were ending their leases because they were in severe financial hardship could not get any money back anyway or they were still getting compensation claims made against them. This is in the context obviously of a global pandemic and them losing jobs or family losing jobs, and there have been several years of that. We have just now had some students coming through the compensation system at VCAT after several years, and it is a huge emotional toll, really, to even have to go back to that

period and look at what hardship they were experiencing then to be able to try and find evidence from several years ago and to try and still access legal services when many of these students might have returned overseas. They might not even know if they still can access legal services if they have moved on, for example, from being students or in different positions. It has just had a really, really huge financial and emotional toll.

**Matthew BACH:** All right. Thank you. With the short time I have got left, could I just direct exactly the same question to you, Louisa?

**Louisa GIBBS:** Yes. I am just going to point out that the University of Melbourne Student Union Legal Service is a member of the federation. It is one of our centres, so we work very closely with Isabelle and her team. But across those 47 community legal centres it is the intersectionality that we see. So when people are at risk of homelessness, the stress of tenancy absorbing time, emotion and finances brings with it other risks of other legal challenges. I mentioned before family violence. That is a really big one. If people cannot leave because there is nowhere to go that they can afford, they can be stuck in a family violence situation, which is really, really harmful, and we need to prevent that.

**Matthew BACH:** So your experience is that the dreadful backlogs at VCAT are actually exacerbating family violence?

**Louisa GIBBS:** I would be careful about making direct, lineal connections, but whenever there is a backlog in VCAT there are challenges. We have got some statistics from Tenants Victoria that there are wait times of up to three years. If you are in limbo about what you can do with your bond because you cannot get a new place and if you are stuck because of what is happening at VCAT in a place you cannot move from, that can have that link with family violence.

**Matthew BACH:** Thank you. Thank you both. That is all from me, Chair.

**The CHAIR:** Thank you. Mr Puglielli.

**Aiv PUGLIELLI:** Thank you. Aiv here. Thank you for coming and presenting today. I might start with you, Louisa. Something that has come up already in these hearings but also broadly in discussion out in the community is the impact that short-stay accommodation is having on the housing crisis as a whole. We have stories of properties sitting empty for most of the year, which could otherwise be long-term rental accommodation for someone else. Louisa, what is your view on regulation in this space? What would you like to see in Victoria?

**Louisa GIBBS:** Thanks very much for that question. Certainly we would like to see some form of regulation of short-stay accommodation. What we would need to do is a proper analysis of what that looks like, but that would include regulation of both short-stay properties and also vacant properties, because as well as the ones which are being used for short stay, there is a vast number of vacant properties. What we would like to see in that is what happens in disaster-impacted communities. We know that when a bushfire or a flood goes through, people are often displaced from their normal housing and there is an increased need for short-stay accommodation in those situations as well. When we are looking at that regulation of short-stay accommodation, there are some of those long-term things we need to address. But let us also keep in mind what it means in the case of a disaster where a whole community might have that strain on the need for short-term accommodation. How do we regulate that so that becomes a fair situation for our communities?

**Aiv PUGLIELLI:** Absolutely. I completely appreciate the need for the nuance there for those circumstances. With regard to, say, holiday homes, perhaps the more common setting for short stays, do you have a view to any specific sort of measures – say, hard caps on days per year that they would be offered as a short-term rental? Any views around that?

**Louisa GIBBS:** I do not have that information to hand, but I am happy to go back and consult with my members and come back with a written response to that.

**Aiv PUGLIELLI:** Perfect. That would be fantastic. Thank you.

Isabelle, I might go to you now. On a different topic, we have been talking about international students. There have of course, since the times of COVID or even prior, been real horror stories that we have seen, particularly

in the media, around living conditions that some of our international students have had to put up with here in Victoria unfortunately. As a student union representative, what are some of the stories that you have seen or been aware of, and what repercussions are there, if any, for rental providers who oversee these conditions?

**Isabelle BUTLER:** Thank you for that question. I think this question touches on quite a few different parts of the student housing space. There is the private rental space, where we have seen some atrocious examples of overcrowding and lack of repairs being done. And international students, obviously being a vulnerable cohort, are often less likely to be aware of their rights and less likely to try and enforce them even if they are. But I think it also relates to the question of educational accommodation, which is exempt under section 21 of the *Residential Tenancies Act*, which we have discussed in our submission. This section and analogous of housing in Victoria, and now there are provisions in other state residential tenancy laws are actually exempting accommodation that is owned by or affiliated with an educational provider from the protections of the *Residential Tenancies Act*. That means that students in that accommodation do not enjoy any of the protections of the Act that renters elsewhere in Victoria enjoy, and that includes protections like minimum standards – the wonderful new minimum standards that have come in in the past couple of years – protections in relation to getting repairs done and the host of other protections that renters enjoy. I think we really need a multifaceted approach to protecting international students who are affected in those situations.

**Aiv PUGLIELLI:** Thank you. And just for the second part – it was quite a big, loaded question – around the repercussions for rental providers overseeing those living conditions, do you have any comments around that?

**Isabelle BUTLER:** Yes. I think that relates back to the Consumer Affairs Victoria question too of enforcement of existing civil penalty provisions. There are civil penalty provisions under the Act. They are not necessarily always being enforced as often as we would like them to be. But in terms of reforms to the law, reforms are wonderful, but we need to follow that up with enforcement action so it is not on individual renters in those situations.

**Aiv PUGLIELLI:** Thank you. Apologies in case this has already been stated or I have missed this somewhere. In terms of enforcement of those provisions, what change would you need to see to actually ensure that we are getting enforcement of those measures?

**Isabelle BUTLER:** We would just like to see increased enforcement by consumer affairs, so increased fines being levied or increased investigation where there are reports made of rental providers who are breaching the law.

**Aiv PUGLIELLI:** And in your view, what are the current barriers to that enforcement currently taking place?

**Isabelle BUTLER:** I might have to take that question on notice. And I am also not too familiar with the specifics of how Consumer Affairs Victoria would be operating, but my understanding is that there is a focus on education prioritised over enforcement, which I think is a wonderful function of consumer affairs that absolutely should remain. Their website is a wonderful resource for renters and rental providers alike. But in those circumstances when we do have unscrupulous rental providers who are breaching the law and there are very bad conditions for students and other renters, we think that there should be perhaps additional resourcing or additional prioritisation of enforcement.

**Aiv PUGLIELLI:** Thank you. Do I still have time on the clock?

**The CHAIR:** Do you want to answer that too?

**Louisa GIBBS:** No.

**Aiv PUGLIELLI:** All good. Thank you.

**The CHAIR:** One more.

**Aiv PUGLIELLI:** With regard to bonds, which we have touched on, we have heard from renters both out in the community but also within these hearings the idea that the bond process of getting your money back can be somewhat of a retaliatory setting wherein a rental provider does not want the bond to be returned because of

something that has happened during the tenancy. Do you have any views, either of you really, with regard to people that you have had to work with where you have seen experiences like that reflected in the community? I might go to Isabelle first, if that is okay.

**Isabelle BUTLER:** Sure. I think there was a case study we provided in our submission that I would just like to refer to and that we have been seeing where, particularly combined with the backlog at the moment at VCAT, there have unfortunately been situations where the fact that there are delays with bond and compensation plans at VCAT means that some unscrupulous agents and rental providers are using that as essentially leverage to force negotiations, if they want it, of bond disputes where renters cannot afford to wait years to have a dispute decided so they accept paying an amount out of their bond that they may not be legally liable to pay.

**Aiv PUGLIELLI:** Any further comments, Louisa?

**Louisa GIBBS:** We would draw on the example that Isabelle gave.

**Aiv PUGLIELLI:** Thank you.

**The CHAIR:** Thank you. Mr McCracken.

**Joe McCracken:** Thanks very much for both of your contributions so far. I am interested to hear about how you have gone about supporting people that are trying to navigate the system, particularly in settling disputes. Quite often it can be needlessly complex, and the language around resolving disputes, for people that are not people that go through this system often, can be quite challenging and intimidating. And I am sort of looking at ideas about how to make that clearer and simpler, in essence more user-friendly, for people that may not necessarily come from a background that is suited to going down that conflict-resolution path. I know the government basically have a three-prong process, which is have a conversation to settle a rental dispute, then you go down the path of a written notice and then VCAT, which to me does not sound like it is the best path given the VCAT backlog. So I guess any ideas on that I would welcome.

**Louisa GIBBS:** One idea would be to increase the resourcing for the accompaniment function that organisations like community legal centres can play. We are asking a lot of tenants to be able to understand, speak up and negotiate their position.

**Joe McCracken:** What is your resourcing at the moment, if I can ask?

**Louisa GIBBS:** Not enough.

**Joe McCracken:** I mean, what do you get from the government? What do you get from –

**Louisa GIBBS:** Well, it is probably better to say that we had cost modelling on meeting legal needs from 2020 for the Victorian community legal sector, and we are vastly underfunded by tens of millions of dollars. And so in terms of the way that we are assessing legal need, I would rather not go into that, because it is quite complex. There is some fantastic research by the Victoria Law Foundation. But we have high levels of not being able to serve enough people in our community who would otherwise be eligible for our services. Really, we could have double the funding and it still would not meet the unmet need that we get. So there is not enough not just in the tenancy space but across the board, but I am not sure that this is the forum to speak about that.

**Joe McCracken:** No, that is fine.

**Louisa GIBBS:** Certainly I think increasing that accompaniment that organisations like community legal centres can do. You pointed out that renters might not have the language, the understanding or the knowledge to take those actions independently, so when you have that wraparound support from someone who can do that with you, your rates of success are much better.

**Joe McCracken:** Isabelle?

**Isabelle BUTLER:** Thank you. Yes, I would certainly echo Louisa's comments and just return also – I know, once again I have mentioned it several times – to the concept of increased enforcement of rental laws by a service like Consumer Affairs Victoria. I think it is a difficult question in terms of how to better help people to

navigate complex legal processes, and there is a lot that we can do to try and simplify legal processes – something like amending the structure of the *Residential Tenancies Act*, which is a bit of a beast in terms of its length and complexity. But there are always going to be difficulties where there is a power imbalance at the front end for renters who are taking individual action on their own behalf, and I think it is very difficult to ever completely eliminate that, no matter how well drafted the legislation is or how well resourced a sector like VCAT is or the community legal sector is. So I think, again, taking that focus off the individual to always have to enforce their own rights and focusing more on broader enforcement by Consumer Affairs Victoria actually also takes some of that funding pressure hopefully off individuals needing to access legal services.

**Joe McCracken:** Yes, I could not agree with you more. From what we have heard from a few of the other submitters as well, it is not a matter of necessarily the laws and regulations being in place; it is a matter of effective enforcement. The 2021 laws that came in set quite a number of significant minimum standards for rentals. I know, being a renter myself, that when you sign up to be a tenant, you have to do a condition report, and basically the rental provider asserts a particular condition and the renter either agrees or does not agree with that. I guess people going through that process for the first time might find it a little bit confronting. They may not know the process itself. Consumer affairs, I get the sense, tend to go more down the education track first without really pulling the levers of infringement. I know it is a very difficult one for you guys to answer, because you are not consumer affairs, but are you guys seeing that as an issue?

**Louisa Gibbs:** Yes, that there is not enough enforcement of the provisions that are already available?

**Joe McCracken:** Yes.

**Louisa Gibbs:** That is right. Correct.

**Isabelle Butler:** Yes, an enormous issue.

**Joe McCracken:** Obviously apart from appearing at these sorts of inquiries, what sort of advocacy occurs within your realms to change that?

**Louisa Gibbs:** I am going to speak generally because we are the peak body, but our members will often take it up with individual members of Parliament who either have a portfolio responsibility or are their local member of Parliament. They will speak with the communities themselves to raise awareness and agitate for action. They will seek opportunities in media to talk about this. They will take all those usual advocacy routes to try and raise the issue, so it is elevated for discussion.

**Joe McCracken:** Because I see it as an issue; I just do not understand why it has not changed. All right. Well, that helps me. Thank you.

**The Chair:** One question I want to continue on from Joe's is you mentioned there are people – tenants or renters – not eligible for your service. Is there a requirement for your service, or was that due to their income? Can you explain more on that?

**Louisa Gibbs:** Certainly. Community legal centres are independent organisations, so every centre is different, but we form a network, a strong network. There are 47 in Victoria and almost 180 across the nation. They serve individual communities. That might be a specific cohort like the University of Melbourne Student Union, it might be like Tenants Victoria, focusing on the tenancy issue, or it might be a more general service in a geographical area providing a range of services to that location. They will all, based on their funding that they receive, have developed their own levels of who they can take for their intake. Sometimes that will be an income test. It might be about the type of matter that you are appearing with, so elements such as if you are experiencing homelessness or if you are experiencing family violence, which might give you more ability to see our services because of the way that you are experiencing life at the moment. So they will have some tests that they have to look at to see who they can serve, because they cannot serve everybody. So yes, there are, but there is not one set test across the state. It will depend on the community legal centre itself.

**The Chair:** So would I be right that if an average citizen who has moderate income has an issue with their landlord or agent, they cannot access your service? That is correct?

**Louisa GIBBS:** I would say that would be unlikely. There will be services such as – and I know you spoke to Tenants Victoria and I would ask you to speak directly with them too, because they have a phone line as well. So there are often certain levels of information and advice that can be provided, but deeper than that for the representation and the casework there will be different levels of thresholds, and we do focus on people in the community who are marginalised and disadvantaged.

**The CHAIR:** And I just want to make sure with the kind of services you are providing –

**Louisa GIBBS:** We often talk about a missing middle as well, Chair.

**The CHAIR:** Yes. Now, we have heard a lot of panellists today and previously in relation to issues with the power imbalance and lack of enforcement in relation to the regulations et cetera, and it is something that we need to have a look at and address in our committee's recommendations. Just because both of you are from a legal perspective in relation to representing renters, I just want to throw you this question, which I will probably ask down the track to landlords and home owners. I probably know the answer and what they will reply, but I am more interested in your response in relation to these questions. We know that landlords take advantage of renters. I just want to throw the situation around: when landlords actually have issues with tenants who either are not paying the rent or damage the property, and they are unoccupied, and for the landlord to seek an eviction notice there is a time delay. I am just wondering from your perspective, not for the landlord but just in relation to the tenancy and the renters: should they be punished down the track once they have been evicted? There are people who are on no income or low incomes, so how are they going to be punished in relation to that? From a legal point of perspective I just want to see your response. The people you are representing, what should it be? Any comment in relation to that perspective?

**Louisa GIBBS:** For me that comes back to how we view housing, whether we view it as a vehicle for investment and for making profit or we view it as a human right, and I think that then sets the foundation for what procedures and rights we want to establish within that framework. From our perspective as lawyers we absolutely want to see the systems and the structures that allow for fair and equitable use of properties, and that does take into account the rights of landlords as well as the rights of tenants. What we are seeing, though, is that there is a disproportionate power imbalance because of what exists at the moment, which means that we are not getting a fair and equitable outcome for most renters. So I think it is taking that human rights lens about whether a house is something that every person in this world is entitled to have to feel safe and secure or whether we look at it as something which is an investment.

**The CHAIR:** Isabelle?

**Isabelle BUTLER:** Thank you. I would certainly agree with that. I would also just mention through a similar lens viewing housing as a human right and/or as an essential service in our society. As we view and regulate other essential services, the rental sector should be regulated accordingly, because of course housing is essential to all of us and we have got very strict consumer protections in relation to other essential services. Having those regulations in place with better resourcing and modernising a body like VCAT also does assist landlords who are also experiencing some of the frustrations of backlogs at VCAT and uncertainty in how to resolve these processes. But yes, certainly I very strongly echo Louisa's comments that housing is a human right or an essential service and we need to really regulate it as such.

**The CHAIR:** I am not disagreeing in relation to regulation; it needs to be improved and enforced. But I am just looking at renters, which will throw up a question in relation to your submission. I am just looking at it from your perspective representing the renters. Should the government assist the landlord down the track if the renters cannot compensate for damage or rent that is behind, or should it be just on the owner: 'You made an investment. That is your problem; you take care of it.' I am just wondering, because we need to bring both parties to the table to work in relation to providing fair conditions for renters. They need to have something brought to the table. I am just wondering about it from a legal side which is representing renters, and I just wanted your perspective.

**Louisa GIBBS:** I do not have any guidance on that from my members for that specific question, so I am not sure I can respond to that.

**The CHAIR:** No?

**Isabelle BUTLER:** Just to ensure I understand the question, do you mean more sort of should the government –

**The CHAIR:** Or anybody.

**Louisa GIBBS:** Compensate if there is damage.

**Isabelle BUTLER:** step in to provide compensation? Yes, I think I would have to take that question on notice to consider it a little bit further. I am happy to provide a follow-up response, though.

**Louisa GIBBS:** Yes.

**The CHAIR:** Okay, thank you. We are coming up to closing, with about 2 minutes left. Does anyone have any last questions? Thank you so much. Just before we end, Louisa and Isabelle, do you want to make any further statements or comments at all?

**Louisa GIBBS:** I would just like to thank the committee for raising this as an issue. It is something which we see every minute of every day in community legal centres, and we are really appreciative of your time to investigate it and look further.

**Rachel PAYNE:** Yes, thank you.

**The CHAIR:** We appreciate your time, and your submissions are very valuable to us. We will consider all your submissions, and they will form part of our recommendations down the track, so thank you. That brings this panel session to a close. I again thank you for your time today and for giving your submissions today. We will now move to the next session of today. Thank you.

**Witnesses withdrew.**