



**OFFICE OF THE
PUBLIC ADVOCATE**

The Public Housing Needs of People with Disabilities:

Submission to the Inquiry into the Adequacy and Future Directions of Public Housing in Victoria

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Glossary of acronyms

ABI	Acquired Brain Injury
AHURI	Australian Housing and Urban Research Institute
CESCR	Committee on Economic, Social and Cultural Rights
CRPD	Convention on the Rights of Persons with Disabilities
CRU	Community Residential Unit
DHS	Department of Human Services
DOH	Department of Health
FCDC	Family and Community Development Committee
ICESCR	International Covenant on Economic, Social and Cultural Rights
OOH	Office of Housing
OPA	Office of the Public Advocate
SRS	Supported Residential Service

1. About the Office of the Public Advocate

1.1 The Victorian Public Advocate is appointed by the Governor in Council pursuant to the *Guardianship and Administration Act 1986* (Vic). It is a statutory office, independent of government and government services, and is uniquely able to highlight situations in which people with disabilities are neglected, exploited or abused.

1.2 The Office of the Public Advocate (OPA) provides advocacy, investigation and guardianship services to people with a cognitive disability. People with a cognitive disability can include people with an intellectual disability, a mental illness, an acquired brain injury (ABI), dementia, and people who are in a coma or otherwise lack the capacity for cognition or communication. A significant proportion of OPA's clients have complex needs arising out of their disability and other circumstances. For example, many clients have dual disabilities (that is, both an intellectual disability and a mental illness) or multiple and complex needs (such as one or more cognitive disabilities and other needs arising out of, for example, a physical disability, a substance dependency, or an abusive history).

1.3 OPA has experience in providing advocacy and assistance to people with cognitive disabilities who require access to suitable accommodation, including public housing. OPA works with:

- People with disabilities who need access to affordable, appropriate and safe accommodation;
- People with disabilities who are neglected, exploited or abused as a result of living in unsuitable or unsafe accommodation;
- People with disabilities who are homeless, or at risk of homelessness;
- People who are disadvantaged in the housing market as a result of their low income and complex needs;
- People with disabilities who are isolated, vulnerable and disconnected from their families and communities;
- Families and carers of people with disabilities, including where there is an issue relating to accommodation.

1.4 In 2008-09, OPA was guardian to 1,334 vulnerable and disadvantaged Victorians, a significant number of whom were living in unsuitable accommodation. This work informs OPA's perspective in considering the public housing needs of people with disabilities in Victoria.

2. Summary of recommendations

2.1 This submission makes the following recommendations:

THE HOUSING RIGHTS OF PEOPLE WITH DISABILITIES

1. That the values and principles of the Victorian *Charter of Human Rights and Responsibilities Act 2006* be monitored and implemented by the Office of Housing in relation to the provision of public housing to people with disabilities.
2. That immediate steps are taken to protect and promote the housing rights of people with disabilities pursuant to the *International Covenant on Economic, Social and Cultural Rights* and the *Convention on the Rights of Persons with Disabilities*.

IMPACT OF DISABILITY ON PUBLIC HOUSING

3. That population-based planning benchmarks be developed and used as a basis for planning, monitoring, and achieving targets for the provision of public housing to people with disabilities.
4. In light of the systemic difficulties that people with disabilities face in securing affordable, safe and appropriate accommodation, that they be given priority consideration in public housing law and policy.

AVAILABILITY OF STOCK

5. That immediate steps are taken to increase the levels of public housing stock in Victoria.
6. That investment in public housing is significantly increased and sustained in order to address the current and future housing needs of low-income Victorians, a significant proportion of whom are people with disabilities.

WAITING LISTS

7. That the right of people with disabilities to live as independently as possible in appropriate accommodation is made a key priority in public housing waiting lists.
8. That the definitions of “insecure” and “unsafe” housing be amended to include people with disabilities who are vulnerable as a result of living in inappropriate accommodation.
9. That the processes and criteria applying to public housing waiting lists are made more transparent.

SUITABILITY OF STOCK

10. That all new public housing stock conform to universal design principles.
11. That strategic planning is undertaken to ensure that public housing is disability-friendly in terms of its location, design, and responsiveness to the different needs of people with disabilities.

DISABILITY AWARENESS

12. That the Office of Housing develop and implement a Disability Housing Strategy.
13. That roles for Disability Liaison Officers be created within the Office of Housing.

3. Overview

3.1 The Inquiry by the Family and Community Development Committee into the Adequacy and Future Directions of Public Housing in Victoria is both timely and appropriate. The inquiry follows on from the Committee's important recent report on supported accommodation for Victorians with disabilities and/or mental illness.¹ OPA welcomes the opportunity to provide input on the public housing needs of people with disabilities. This submission highlights the barriers that people with disabilities face in their access to affordable, safe and appropriate housing, and proposes strategies that will facilitate a better public housing service for vulnerable Victorians.

3.2 At a time when there has been unprecedented discussion about the cost and availability of housing in Victoria, it is important to remember that people with disabilities are particularly disadvantaged in the housing market. The Australian Housing and Urban Research Institute (AHURI) reports that people with disabilities face considerable economic and social disadvantages that restrict their housing options, including:

- low incomes;
- higher living costs;
- potentially truncated working careers;
- discrimination in the private rental market;
- a limited capacity to express their housing needs as an effective demand within the market.²

These barriers significantly reduce the capacity of people with disabilities to secure appropriate accommodation by either purchasing their own home or entering the private rental market. Consequentially they are more likely than the general population to depend on public housing.³

3.3 OPA believes that people with disabilities are entitled to access a range of affordable, high-quality accommodation options that reflect their different needs and preferences. It is important to note that people with the most profound types of cognitive disabilities may require levels of support that are not readily available in an independent living context. This group of people with disabilities are likely to reside in some form of supported accommodation, such as community residential units (CRUs), supported residential services (SRSs), or mental health

¹ Family and Community Development Committee (FCDC) 2009 *Inquiry into Supported Accommodation for Victorians with a Disability and/or Mental Illness*, Parliament of Victoria, Melbourne.

² Beer, A. and Faulkner, D. 2009 *The Housing Careers of People with a Disability and Carers of People with a Disability*, Australian Housing and Urban Research Institute, Research Paper, Melbourne, pp.9-10.

³ Beer, A. and Faulkner, D. *The Housing Careers of People with a Disability and Carers of People with a Disability*, p.10.

residential facilities, for example.⁴ Therefore they are outside the purview of the public housing system.

3.4 However the majority of people with cognitive disabilities are capable of living in the community if they have access to appropriate housing and support. For this group of people with disabilities, public housing can represent the key mechanism for furthering their right to live as independently as possible.⁵ Without access to public housing, these people with disabilities may be compelled to live in inappropriate (or even unsafe) accommodation. Furthermore, as this submission highlights, inappropriate accommodation has a disproportionate impact on people with disabilities due to their complex needs and situations.

3.5 In light of these facts, OPA is concerned that many people with disabilities face serious difficulties in gaining access to public housing. The key reason for these difficulties is the acute shortage of public housing stock in Victoria.⁶ As the Family and Community Development Committee points out, there has been little growth in the supply of public housing in recent years.⁷ As a result, there are long waiting lists to access public housing and much stock is now at the end of its economic life or is not suited to current needs.⁸

3.6 From OPA's perspective, the public housing system has a key role in providing people with disabilities the opportunity to be empowered, to be socially connected, to feel safe and secure, and to have choice and flexibility in their accommodation options.⁹ To achieve this, there needs to be an adequate availability of public housing stock for people with disabilities. OPA strongly believes that there must be an immediate and sustained increase in investment in public housing in Victoria. This commitment is required to address current shortfalls and to meet the projected increase in future demands.

3.7 OPA is encouraged by programs established to address the shortage of affordable housing in Victoria.¹⁰ While these programs represent a positive development, further investment is

⁴ For more information on supported accommodation see FCDC *Inquiry into Supported Accommodation for Victorians with a Disability and/or Mental Illness*.

⁵ This right is supported by the *Convention on the Rights of Persons with Disabilities* (CRPD). See, for example, articles 3 and 19 CRPD.

⁶ See generally: Nissim, R. 2004 *Little Piece of Heaven: Thoughts from Victorians on Housing as a Human Right*, The Housing is a Human Right Project: A Collaborative project of VCOSS, Shelter Victoria, Women's Housing Ltd & the Centre on Housing Rights and Evictions, pp.19-22; VCOSS 2009, *Housing and Homelessness*, VCOSS State Budget Submission, p.84.

⁷ FCDC 2009 *Inquiry into the Adequacy and Future Directions of Public Housing in Victoria: Submission Guide*, p.2.

⁸ FCDC *Inquiry into the Adequacy and Future Directions of Public Housing in Victoria: Submission Guide*, p.2.

⁹ OPA November 2008 *Submission to the Inquiry into Supported Accommodation for Victorians with a Disability and/or Mental Illness: Response to Family & Community Development Committee Discussion Paper*, Melbourne, p.14.

¹⁰ FCDC *Inquiry into the Adequacy and Future Directions of Public Housing in Victoria: Submission Guide*, p.2.

required to ensure that vulnerable Victorians get access to the housing they need. OPA points out that there are compelling reasons in favour of increased investment in public housing. International research has shown that the construction, maintenance, and upgrading of public housing stock can generate knock-on benefits for local economies.¹¹ At the same time, the failure to invest in public housing contributes to increased economic and social costs to the community and to people with disabilities.¹² There are costs to the community associated with ill health, increased use of health and social services, and increased exposure to the criminal justice system.¹³ For people with disabilities there are costs associated with disempowerment, lack of autonomy, deprivation of social and economic opportunities and restriction of movement.¹⁴ Poor housing can also result in physical, psychological and mental health difficulties for people with disabilities.¹⁵

3.8 In fact, in OPA's experience, many of the problems faced by people with disabilities are driven by their difficult economic and social circumstances – such as poor housing – rather than by their disability per se. The provision of adequate housing can be the key to addressing these issues, enabling people with disabilities to lead productive and fulfilling lives. As one OPA staff member put it: "Housing makes all the difference. Once you get a house, everything else tends to fall into place". This anecdotal evidence is backed up by research which indicates that people with disabilities who gain access to adequate housing and support tend to achieve positive health and social outcomes.¹⁶ In OPA's opinion, the provision of public housing to people with disabilities must therefore become a key priority within Victorian public policy. As this submission demonstrates, increased investment in public housing, together with a greater level of disability-awareness, will result in a fairer and more effective service for vulnerable Victorians.

¹¹ Econsult Corporation 2007 *Assessing the Economic Benefits of Public Housing*, Final Report for The Council of Large Public Housing Authorities, Washington, pp 1.35.

¹² See for example: Gladwell, M. 2006 'Million-Dollar Murray: Why Problems Like Homelessness May be Easier to Solve than to Manage', *New Yorker*, pp.1-11; Ratka, A. 2007 *Independent Living for People with Disabilities: From Patient to Citizen and Customer*, Independent Living Institute, Convergencia Conference, Barcelona.

¹³ OPA *Submission to the Inquiry into Supported Accommodation for Victorians with a Disability and/or Mental Illness: Response to Family & Community Development Committee Discussion Paper*, p.13.

¹⁴ OPA *Submission to the Inquiry into Supported Accommodation for Victorians with a Disability and/or Mental Illness: Response to Family & Community Development Committee Discussion Paper*, p.13.

¹⁵ See generally: World Health Organisation 2004, *Review of evidence on housing and health: Background document*, Fourth Ministerial Conference on Environment and Health, Budapest, Hungary.

¹⁶ Slowinski and Rogers in Office of the Public Advocate 2009 *Status Report on Supported Residential Services (SRSs) September 2009*, pp.1-13. See also: Jones, R. Chesters, J & Fletcher, M. 2003 'Make Yourself at Home: People Living with Psychiatric Disability in Public Housing' 7 *International Journal of Psychosocial Rehabilitation*, pp.67-79.

4. The Housing Rights of People with Disabilities

- 4.1 OPA promotes the human rights of people with disabilities and aims to assist them in reaching their potential as individuals and active members of the community. All people – including people with disabilities – have the right to attain a decent standard of living, social connection, as much physical and mental wellbeing as possible, and the right to access healthcare, education and employment. OPA strongly believes that the provision of adequate housing is central to achieving these outcomes. Furthermore, domestic and international law establishes a rights-based framework for advancing these issues.
- 4.2 Protecting the human rights of underrepresented and disadvantaged people is a core value of the Victorian *Charter of Human Rights and Responsibilities Act 2006* (Charter).¹⁷ In a recent case before the Victorian Civil and Administrative Tribunal, Justice Bell emphasised that the provision of housing to vulnerable people is “a vital function of government”.¹⁸ Justice Bell confirmed that when government exercises this function directly, the Charter “undoubtedly applies” and human rights must be respected.¹⁹ As a public authority, the Office of Housing (OOH) is therefore required to comply with the values and principles of the Charter in the allocation, management and maintenance of public housing.
- 4.3 International law also elaborates a clear duty for the government to protect and promote the housing rights of people with disabilities. Australia is a signatory to all of the major human rights treaties, including the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).²⁰ The ICESCR sets out the basic economic, social and cultural rights necessary to live with human dignity.²¹ In particular, article 11 of the ICESCR recognises the right to a decent standard of living, which includes the right to adequate housing.

¹⁷ *Metro West v Sudi (Residential Tenancies)* [2009] VCAT 2025 (9 October 2009), para 175.

¹⁸ *Metro West v Sudi*, para 2.

¹⁹ *Metro West v Sudi*, para 2.

²⁰ *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966 (entered into force 2 January 1976).

²¹ Howie, E. & Lynch, P. 2009 *Realising the Right to Housing: Submission to the House of Representatives Standing Committee on Family, Community, Housing and Youth Inquiry into the Content of Homelessness Legislation*, Human Rights Law Resource Centre, Melbourne, p.12.

4.4 The United Nations Committee on Economic, Social and Cultural Rights (CESCR) has confirmed that the right to adequate housing “is of central importance for the enjoyment of all economic, social and cultural rights”.²² The CESCR confirmed that the right to adequate housing should not be interpreted restrictively as merely the requirement of shelter.²³ Rather it should be seen as encompassing “the right to live somewhere in peace, security and dignity”.²⁴ The CESCR held that the following factors are determinative of whether housing can be regarded as “adequate”:

- Affordability: the cost of housing must not be so high as to threaten other basic needs;
- Location: housing should allow access to employment, healthcare, education and other social facilities;
- Legal Security of tenure: occupants should have legal protection against forced eviction and harassment;
- Availability of services and facilities: these should include adequate water, heating and light;
- Habitability: occupants must be guaranteed sufficient space, protection from the elements and physical safety;
- Cultural adequacy: housing design and policies should enable the expression of cultural identity;
- Accessibility: disadvantaged groups, such as people with disabilities, should be given priority consideration in both law and policy on housing.²⁵

4.5 The *Convention on the Rights of Persons with Disabilities (CRPD)*²⁶ also recognises that the right to adequate housing impacts profoundly on people with disabilities. The CRPD promotes the right of people with disabilities to live independently and to be included as full members of the community.²⁷ In order to achieve this outcome, the CRPD stipulates that people with disabilities are entitled to adequate housing. Furthermore, governments need to take positive steps to ensure that people with disabilities have equal access to public housing stock.²⁸

²² United Nations Committee on Economic, Social and Cultural Rights (CESCR) *General Comment 4: The Right to Adequate Housing (Art 11 (1))* UN Doc E/1992/23, para 1.

²³ CESCR *General Comment 4: The Right to Adequate Housing*, para 7.

²⁴ CESCR, *General Comment 4: The Right to Adequate Housing*, para 7.

²⁵ CESCR, *General Comment 4: The Right to Adequate Housing*, para 8.

²⁶ *United Nations Convention on the Rights of Persons with Disabilities* 13 December 2006 (entered into force 3 May 2008).

²⁷ Article 19, *Convention on the Rights of Persons with Disabilities*.

²⁸ Article 28(2)(e), *Convention on the Rights of Persons with Disabilities*.

4.6 In spite of this rights-based framework, the housing system is failing to meet the needs of many vulnerable groups of people, including people with disabilities. Following a country visit to Australia in 2007, the then United Nations Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, released a critical report which found that the right to adequate housing was not sufficiently protected in Australia. His report identified that “soaring private rental rates” and “reductions in public housing” were key parts of the problem.²⁹ Kothari urged Australia to address these issues by implementing a clear, consistent, long-term and holistic housing strategy. Kothari said that part of this strategy involved ensuring that adequate housing stock is made available to people with disabilities.³⁰

4.7 OPA strongly agrees that special efforts must be made to ensure that people with disabilities have equal access to housing, including public housing stock. Currently the public housing system in Victoria does not adequately support the right of people with disabilities to live as independently as possible in the community. As this submission discusses, the lack of stock and the structure of current waiting lists mean that people with disabilities face serious barriers in accessing public housing. OPA is concerned that, in view of these systemic inadequacies, the potential for the violation of rights is heightened.

CASE STUDY – A PLACE TO CALL HOME

Kathy is a young woman with an intellectual disability for whom OPA is guardian. Kathy had been on the public housing waiting list for many years. In the meantime, she lived in a boarding house where she felt very unsafe. On two occasions Kathy was driven out of her room at night due to the inappropriate behaviour of the boarding house owner’s son. On another occasion, a fellow resident threatened Kathy with a knife. Living in the boarding house placed Kathy at the risk of physical and psychological harm. However, the fact that she had a roof over her head meant that she was not a high priority on the public housing waiting list. After waiting for 8 years, Kathy finally got her own public housing flat. Kathy is loving her new home and the incredible difference it has made to her life.

²⁹ Kothari, M. in Howie, E. & Lynch, P. *Realising the Right to Housing*, p.17.

³⁰ Kothari, M. in Howie, E. & Lynch, P. *Realising the Right to Housing*, p.17.

RECOMMENDATIONS

1. That the values and principles of the Victorian *Charter of Human Rights and Responsibilities Act 2006* be monitored and implemented by the Office of Housing in relation to the provision of public housing to people with disabilities.
2. That immediate steps are taken to protect and promote the housing rights of people with disabilities pursuant to the *International Covenant on Economic, Social and Cultural Rights* and the *Convention on the Rights of Persons with Disabilities*.

5. Impact of Disability on Public Housing

5.1 OPA has identified that the contemporary challenges faced by people with disabilities are likely to intensify the demands on public housing services in Victoria. This is due to the complex interactions of demographic and policy changes and – most importantly – the economic disadvantages faced by people with disabilities. These issues are discussed in turn below.

a. Demographics

5.2 In Victoria and beyond, the proportion of people with a disability is increasing relative to the general population.³¹ This is due to factors such as the aging population and the incidence of so-called ‘age acquired disability’ such as dementia.³² There are also high numbers of people with disabilities who are part of the baby boomer generation. This has produced a population ‘bulge’ of people with disabilities who are middle aged.³³ In addition, people with most types of disability are living for longer. For example, it has been reported that people with an intellectual disability are now likely to outlive their parents (whereas this was not the case in the past).³⁴ Given that people with disabilities are more likely than the general population to rely on public housing,³⁵ it is anticipated that these demographic changes will produce a further ‘wave of demand’ on the public housing system in Victoria.³⁶

³¹ Department of Families, Housing, Community Services and Indigenous Affairs 2009 *The Way Forward: A New Disability Policy Framework for Australia*, available at http://www.fahcsia.gov.au/sa/disability/pubs/policy/way_forward/Documents/part1.htm

³² Connellan, J. 2008 *Your Years – My Disability: The Converging Provision of Housing for the Aged and the Disabled*, Presentation for National Housing Conference Sydney 2008, p.2.

³³ Pierce, G and Illsley B. 2009 *Community Living for the 21st Century: A Blueprint for Caring Families*, Carers Association Victoria, p.6.

³⁴ Pierce, G and Illsley B. *Community Living for the 21st Century: A Blueprint for Caring Families*, p.6.

³⁵ Beer, A. and Faulkner, D. *The Housing Careers of People with a Disability and Carers of People with a Disability*, p.10.

³⁶ Connellan, J. *Your Years – My Disability*, p.2.

b. Policy Context

- 5.3 The last three decades have brought a number of significant reforms that have reshaped disability and social policy frameworks in Victoria. One of the most significant of these has been the strategic emphasis on de-institutionalisation. OPA believes that de-institutionalisation represents a major step towards social inclusion of people with disabilities. Since its inception, OPA has been a strong advocate for accommodation and support that promote the opportunities of people with disabilities to experience high quality of life, self-determination and community participation.³⁷ The process of de-institutionalisation is one for which OPA continues to strongly advocate.
- 5.4 A further notable shift in policy is the move away from traditional models of funding disability support services to the individualised funding approach. While the former were driven more by service types than individual needs, the latter uses the identification of individual needs to guide the allocation of funding and resources.³⁸ Individualised funding is underpinned by the principle of self-determination and the idea that people with disabilities are not objects of charity but, rather, are active members of society who are entitled to receive support and assistance from the state.³⁹ The intention behind individualised funding is that people with disabilities are enabled to make decisions about the type of housing and support they require to enhance their quality of life.
- 5.5 De-institutionalisation and individualised funding have created opportunities for people with disabilities to live in the community. However, in order to make use of these opportunities, people with disabilities need to be provided with a range of accommodation options. The reality is that, while policy frameworks have changed, housing services have not kept pace with the needs of people with disabilities. OPA emphasises that, in order to be effective, de-institutionalisation and individualised funding must go hand in hand with the expansion of affordable, high-quality community-based housing options for people with disabilities.

³⁷ OPA *Submission to the Inquiry into Supported Accommodation for Victorians with a Disability and/or Mental Illness: Response to Family & Community Development Committee Discussion Paper*, p.12.

³⁸ See generally: Australian Institute of Health and Welfare (AIHW) 2002 *Unmet Need for Disability Services: Effectiveness of Funding and Remaining Shortfalls*, AIHW Cat. No. DIS 26, Canberra.

³⁹ These principles are supported by the preamble to the *United Nations Convention on the Rights of Persons with Disabilities* (CRPD).

c. Economic Disadvantage

- 5.6 People with disabilities are more dependent on public housing than the general population.⁴⁰ The Australian Institute of Health and Welfare has reported that, over the last decade, approximately 40 per cent of all new entrants to public housing have a disability of some type.⁴¹ It is important to emphasise that this dependence on public housing is not caused by the mere existence of a disability. Rather, it is caused by the nexus between disability and poverty.
- 5.7 The living standards of people with disabilities do not compare favourably with the rest of the population. Research has shown that poverty is a ‘close companion’ of disability. This is due to factors such as the reduced incomes and opportunities of people with a disability and their increased costs of living.⁴² The financial burden of disability also has an impact on the carers and families of people with disabilities. One study discovered that the lower rates of workforce participation and the additional costs of disability and caring meant that, with almost all household types, the risk of poverty increased between four and sixteen times when a disability was present.⁴³ This financial stress considerably reduces the housing opportunities of people with disabilities. Public housing therefore has a critical role to play in addressing the economic disadvantages suffered by this group.

CASE STUDY – POVERTY AND THE COST OF POOR HOUSING

Richard is a 59-year-old man who suffers from early dementia and extreme morbid obesity. For last three years, Richard had been living in his car. Richard’s difficult circumstances prevented him from complying with medical treatment or engaging with any housing service. Living in a car exacerbated Richard’s health problems and he had multiple admissions to hospital. The hospital was aware of Richard’s situation, and they offered to arrange him a place at a boarding house

⁴⁰ Beer, A. and Faulkner, D. *The Housing Careers of People with a Disability and Carers of People with a Disability*, p.10.

⁴¹ Australian Institute of Health and Welfare in Beer, A. and Faulkner, D. *The Housing Careers of People with a Disability and Carers of People with a Disability*, p.43.

⁴² Saunders, P. 2006 *The Costs of Disability and the Incidence of Poverty*, Social Policy Research Centre Discussion Paper No.147, p.3.

⁴³ Saunders, P. *The Costs of Disability and the Incidence of Poverty*, p.10-14.

upon discharge. However Richard was simply unable to afford this so he continued to live in his car.

Richard's obesity became so profound that he was unable to get out of his car. Eventually emergency services had to cut Richard out of his vehicle. When removed from his car, it transpired that Richard could no longer weight-bear, he had flyblown legs, and maggots on his pressure sores. Richard had been eating, sleeping and toileting in his car.

OPA was appointed guardian to assist Richard in getting access to the medical and housing services he needs. Due to living in very poor accommodation, Richard is no longer able to weight-bear at all and he has lost his independence. His size and lack of mobility pose a barrier to securing suitable accommodation as he needs sufficient room to mobilise with bariatric equipment. For these reasons, Richard's guardian is facing significant difficulties in securing him appropriate and affordable accommodation.

d. Implications for Public Housing

5.8 The above data indicates that a high number of people with disabilities are dependent on public housing to fulfil their accommodation needs and, furthermore, that the demands on the public housing system are likely to increase in the future. In light of this data, OPA believes that long-term, strategic planning must occur to meet the housing needs of people with disabilities. Population-based planning benchmarks should be developed and used as a basis for planning, monitoring and achieving targets for the provision of public housing to people with disabilities.⁴⁴

5.9 OPA emphasises that the failure to engage in this type of long-term planning poses economic and social risks to the community. These risks include:

- Significant increases in waiting lists for public housing, resulting in increased burdens on crisis accommodation and homeless services;⁴⁵
- Additional burdens placed on medical and social services and the criminal justice system;

⁴⁴ Pierce, G and Illsley B. *Community Living for the 21st Century: A Blueprint for Caring Families*, p.11.

⁴⁵ Bostock, L. Gleeson, B. McPherson, A. and Pang, L. 2001 *Deinstitutionalisation and Housing Futures: Final Report*, Australian Housing and Urban Research Institute, p.55.

- An unacceptable and growing number of people with disabilities – particularly those with cognitive disabilities – who are homeless;⁴⁶
- Growing numbers of people with disabilities who are in homeless services which are ill-equipped to meet their complex needs;⁴⁷
- The danger that unmet and latent housing needs will emerge “in clumps” (for example, groups of parents no longer able to care for children with disabilities) and thus overwhelm service providers.⁴⁸

RECOMMENDATIONS

3. That population-based planning benchmarks be developed and used as a basis for planning, monitoring, and achieving targets for the provision of public housing to people with disabilities.
4. In light of the systemic difficulties that people with disabilities face in securing affordable, safe and appropriate accommodation, that they be given priority consideration in public housing law and policy.

⁴⁶ Pierce, G and Illsley B. *Community Living for the 21st Century: A Blueprint for Caring Families*, p.9.

⁴⁷ Pierce, G and Illsley B. *Community Living for the 21st Century: A Blueprint for Caring Families*, p.9.

⁴⁸ Bostock, L. et al *Deinstitutionalisation and Housing Futures: Final Report*, p.55.

6. Key Challenges

6.1 OPA has identified that people with disabilities face systemic barriers in gaining access to public housing. The specific areas in which OPA has identified inadequacies in the public housing system (which are discussed in greater depth below) are as follows:

- Availability of stock: the lack of public housing stock precludes many people with disabilities from getting access to the housing they need;
- Waiting lists: in general, people with disabilities are not sufficiently prioritised under the current waiting lists for public housing;
- Suitability of stock: people with disabilities can be disadvantaged by long waiting periods to obtain public housing that is accessible and suitable to their needs;
- Disability awareness: the public housing system is not sufficiently responsive to the complex and diverse needs of people with disabilities.

a. Availability of Stock

6.2 OPA believes that there is an acute shortage of public housing in Victoria.⁴⁹ As the Family and Community Development Committee points out, there has been little increase in the supplies of public housing stock in recent years.⁵⁰ At the same time, factors such as population growth and rising costs in the private housing market have intensified the demands on public housing.

6.3 The shortage of public housing stock has a significant impact on people with disabilities. Many of OPA's clients receive some form of welfare such as the Disability Support Pension. Their housing options are severely restricted by their low incomes and their complex needs and circumstances. Consequentially they are more likely than the general population to require access to public housing.

⁴⁹ For a discussion of the shortage of affordable housing in Victoria, including public housing, see, for example: Nissim, R. *Little Piece of Heaven: Thoughts from Victorians on Housing as a Human Right*, pp.19-22.

⁵⁰ FCDC *Inquiry into the Adequacy and Future Directions of Public Housing in Victoria: Submission Guide*, p.2.

6.4 OPA points out that people with disabilities require access to a range of affordable, high-quality accommodation options that reflect their different needs and preferences.⁵¹ Some people with very high and complex needs may require levels of support that cannot be readily obtained in an independent living context. However the majority of people with disabilities are capable of living in the community (either with or without formal support). For this group, public housing can represent the key mechanism for furthering their right to live as independently as possible.⁵² Unfortunately, in OPA's experience, the acute shortage of public housing stock precludes many people with disabilities from exercising this right.

6.5 Without access to public housing, many people with disabilities are compelled to live in unsuitable or even unsafe accommodation. For example, one Advocate/Guardian at OPA reported that she routinely had to accept "sub-standard" accommodation for her clients due to the lack of public housing stock. This Advocate-Guardian believed that many of her clients would be capable of living independently if they had access to appropriate housing and support. Her inability to secure public housing for these clients means that she is often forced to direct them to more restrictive forms of accommodation such as SRSs or CRUs.⁵³ Unfortunately, her concerns are not unique. Numerous other Advocate/Guardians at OPA have also identified that the lack of public housing stock prohibits many of their clients from securing appropriate accommodation.

6.6 This is problematic in light of the fact that inappropriate accommodation has a disproportionate impact on people with disabilities. The complex needs and circumstances of people with disabilities – particularly those with cognitive disabilities – mean that inappropriate accommodation can expose them to the risk of neglect, abuse or exploitation. For example, one Australian study identified that people with an intellectual disability face a greater than normal risk of being victims of physical abuse, and that this risk significantly increases when they are living in unsuitable accommodation.⁵⁴ OPA has also identified that people with cognitive disabilities who live in poor accommodation are highly vulnerable to violence and sexual exploitation.⁵⁵

⁵¹ OPA 2002 *Accommodation Models Discussion Paper*, Office of the Public Advocate, Melbourne. pp. 1-14.

⁵² This right is supported by the *Convention on the Rights of Persons with Disabilities* (CRPD). See, for example, articles 3 and 19 CRPD.

⁵³ For an overview of the lack of affordable accommodation options available to Victorians with disabilities and the consequent (problematic) reliance on SRSs, see: OPA *Status Report on Supported Residential Services (SRSs) September 2009*, pp.1-13.

⁵⁴ Conway et al in OPA *Accommodation Models Discussion Paper*, p.7.

⁵⁵ OPA *Submission to the Inquiry into Supported Accommodation for Victorians with a Disability and/or Mental Illness: Response to Family & Community Development Committee Discussion Paper*, p.54.

6.7 OPA therefore urges the government to immediately increase investment in public housing. This investment is required to address the current and future housing needs of low-income Victorians, a significant proportion of whom are people with disabilities.

RECOMMENDATIONS

5. That immediate steps are taken to increase the levels of public housing stock in Victoria.
6. That investment in public housing is significantly increased and sustained in order to address the current and future housing needs of low-income Victorians, a significant proportion of whom are people with disabilities.

b. Waiting Lists

6.8 Current public housing waiting list policies and practices do not adequately support the right of people with disabilities to live as independently as possible in the community. Under the existing regime, if an adult with a disability is living in unsuitable accommodation (such as the parental home or an SRS) they are considered a low priority on the waiting list. This set of criteria can prohibit transitions into public housing for many people with disabilities who are living in unsuitable accommodation.⁵⁶ OPA believes that, in light of their inherent vulnerabilities, people with disabilities who are living in unsuitable accommodation should receive far greater priority on the public housing waiting list.

6.9 OPA has also identified that there is widespread confusion about the processes relating to the public housing waiting list in Victoria. There is a lack of clarity and transparency regarding how the system works in practice.⁵⁷ Given that many service providers struggle to understand the processes and criteria applying to public housing, it is little wonder that people with cognitive disabilities find the system difficult – if not impossible – to negotiate. In light of these difficulties, the waiting list system needs to be made more transparent and easier to understand.

6.10 OPA notes that a new segmented waiting list has recently been proposed by the Department of Human Services (DHS).⁵⁸ This system proposes to create one segment for people who are homeless or experiencing domestic violence and afford this segment the

⁵⁶ Pierce, G and Illsley B. *Community Living for the 21st Century: A Blueprint for Caring Families*, p.5.

⁵⁷ National Disability Services Victoria 2009 *Submission to the Inquiry into the Adequacy and Future Directions of Public Housing*, p.3.

⁵⁸ Department of Human Services (DHS) 2009 *Improving Public Housing Responses Strategic Project: New Segmented Waiting List Proposal*, Policy and Strategy Branch, Housing & Community Building Division.

highest priority within the waiting list. The proposed system also seeks to “clearly identify” the DHS and Department of Health (DOH) support programs that are in place or that are required to sustain public housing tenancies post-allocation.⁵⁹ DHS states that the new waiting list will be more streamlined and user-friendly.⁶⁰

6.11 OPA takes this opportunity to comment on the new segmented waiting list proposed by DHS. Firstly OPA commends the high priority given to DHS and DOH clients who reside in disability or mental health residential facilities, and who have a limited capacity to secure alternative housing due to their disability. In the proposed waiting list, this group is regarded as being effectively homeless and, therefore, they are accorded top priority.⁶¹ OPA also welcomes the proposal to integrate housing and support programs (particularly disability support programs) for public housing tenants and notes that these linkages could assist residents to maintain their tenancies.⁶²

6.12 However OPA is concerned that the proposed segmented waiting list does not sufficiently take into account the complex needs and situations of people with disabilities. OPA believes that people with disabilities who are living in inappropriate accommodation need to receive greater priority within both the existing and the proposed waiting lists. In order to facilitate this, OPA considers that the definitions of “insecure” and “unsafe” housing should be amended in both the existing and proposed lists so as to include:

- Adults with disabilities who are living in family homes when this is contrary to their wishes and best interests;
- People with disabilities who are vulnerable as a result of living in group homes (such as SRSs and boarding houses);
- People with disabilities who are inappropriately placed in aged-care facilities (such as young people and people with an ABI);
- People with disabilities who are living in inappropriate and insecure forms of accommodation (such as caravan parks);
- People with disabilities who are awaiting discharge from hospital or institutional facilities.

⁵⁹ DHS *Improving Public Housing Responses Strategic Project: New Segmented Waiting List Proposal*, p.2.

⁶⁰ DHS *Improving Public Housing Responses Strategic Project: New Segmented Waiting List Proposal*, p.3.

⁶¹ This proposal accords with OPA’s research which identifies that many of these patients have nowhere to go upon discharge and therefore are spending unacceptably long periods in institutional settings. See: OPA 2009 *Long-Stay Patient Project: Full Report*, p.3.

⁶² Models for an integrated approach to housing and disability can be found in other jurisdictions. See for example, Barker, S. 1984 *Housing for People with Disabilities: A Study of Good Practice in Four London Boroughs*, Greater London Association for Disabled People (GLAD), London.

RECOMMENDATIONS

7. That the right of people with disabilities to live as independently as possible in appropriate accommodation is made a key priority in public housing waiting lists.
8. That the definitions of “insecure” and “unsafe” housing be amended to include people with disabilities who are vulnerable as a result of living in inappropriate accommodation.
9. That the processes and criteria applying to public housing waiting lists are made more transparent.

c. Suitability of Stock

6.13 People with disabilities frequently have specific, and often individual, housing design, location and support requirements.⁶³ The type and severity of a person’s disabilities, and the interaction of other factors such as age, gender, culture and race, will have a clear impact on the type of housing that is appropriate to their needs. In this sense it is important to note that concerns about the suitability of stock are not limited to one type of disability or one set of circumstances.⁶⁴ While there is a general perception that people with a mobility impairment (in particular, those in a wheelchair) are most affected by the suitability of stock, people in a variety of circumstances can have difficulties finding appropriate accommodation.⁶⁵ For example, some people with cognitive disabilities are unable to live in high-density tower blocks due to their complex needs and behaviours. In practice, the lack of suitable stock means that people with disabilities can face particularly long waits to secure public housing.

6.14 The government has a legal obligation to ensure that people with disabilities have equal access to public housing stock.⁶⁶ In order to fulfil this obligation, the OOH needs to provide adequate supplies of disability-friendly public housing in Victoria. OPA believes that all new

⁶³ Browne, M. 2007 *The Right Living Space: Housing and Accommodation Needs of People with Disabilities*, A Citizens Information Board / Disability Federation of Ireland Social Policy Report, Ireland p.

⁶⁴ Beer, A. and Faulkner, D. *The Housing Careers of People with a Disability and Carers of People with a Disability*, p.22.

⁶⁵ Beer, A. and Faulkner, D. *The Housing Careers of People with a Disability and Carers of People with a Disability*, p.22.

⁶⁶ See articles 5 and 9(a) *Convention on the Rights of Persons with Disabilities*.

public housing stock should conform to universal design principles.⁶⁷ In order to be considered disability-friendly, public housing should also:

- Be located close to public transport and health and social services;
- Support peoples' right to choose whether to live alone or with others;
- Facilitate community participation and social inclusion;
- Be linked to support if this is required;
- Respond to the particular needs and preferences of the person with a disability.

CASE STUDY – EXPENSIVE, INSECURE AND INAPPROPRIATE

Melinda is a 33-year-old woman who is autistic and has a history of mental health problems. Throughout her life, Melinda has experienced verbal, physical, sexual and emotional abuse. Melinda's difficult behavioural issues, which include verbal and physical aggression, make it difficult for her to live successfully in a group home. However it is likely that she would be capable of living independently if she had access to appropriate accommodation and support.

Currently Melinda lives in an SRS for which she pays \$700 per fortnight. This leaves her with \$20 a week (most of which she spends on cigarettes). In the past Melinda has been evicted from SRSs due to her difficult behavioural issues. Until an offer of public housing is made, Melinda is likely to continue with chaotic, insecure and expensive accommodation arrangements. Due to her autism and history of abuse, Melinda would not cope well in a densely populated high-rise building. Therefore the wait to find suitable public housing will probably be years.

RECOMMENDATIONS

10. That all new public housing stock conform to universal design principles.
11. That strategic planning is undertaken to ensure that public housing is disability-friendly in terms of its location, design, and responsiveness to the different needs of people with disabilities.

⁶⁷ See article 4(f) *Convention on the Rights of Persons with Disabilities*.

d. Disability Awareness

6.15 People with disabilities represent a significant proportion of Victorians who either live in, or require access to, public housing. In light of the diverse and complex housing needs of people with disabilities, it is important that the OOH undertakes a formal commitment to expanding its disability awareness. OPA believes that, currently, the approach towards disability varies greatly between OOH offices. While there are “pockets of magnificence” within some offices (in the words of one Advocate/Guardian), other offices are reported to be inflexible and unsympathetic towards the needs of people with disabilities.

CASE STUDY – THE NEED FOR MORE FLEXIBILITY AND EMPATHY

Abby is a young woman with multiple disabilities, including an acquired brain injury, a mental illness and an intellectual disability. She has a complex history of sexual and physical abuse and neglect. As a result of her abusive upbringing, Abby ran away from home at the age of 16. She lived on the streets where she turned to alcohol as a form of escape.

The first form of real security Abby experienced was when she moved into her own public housing flat. Abby took pride in her flat and put in the effort to make it a real home. However she needed help to address her complex health issues, so she had to move into a rehabilitation centre. For the first six months she was in rehabilitation, Abby only had to pay a minimal amount of rent for her flat. When the six months were up, she had to go back to paying the full amount. Abby was not yet well enough to go back home and she couldn't afford to pay for both the flat and the rehabilitation centre. Her Advocate/Guardian tried to find a way for Abby to keep her flat while she got the treatment she needed. Her Advocate/Guardian suggested that, if it were not possible to reduce Abby's rent, perhaps someone else could live in the flat for a set period of time. The public housing system was not responsive to these suggestions and, as a result, Abby lost her flat.

When Abby was discharged from the rehabilitation centre, she had nowhere to go so she moved into a caravan park. The caravan park had a detrimental effect on Abby's wellbeing. Abby felt very unsafe there and she had a breakdown. The other residents couldn't cope with Abby's difficult behaviour and they demanded that she move out of the caravan park. Without access to public housing, there were few affordable options left for Abby. At the age of 33, she was forced to move into an aged-care facility.

6.16 OPA emphasises that all people with disabilities are entitled to receive a responsive, high quality service from the OOH. In order to achieve this, the OOH should develop and implement a Disability Housing Strategy. Part of this strategy should be to facilitate a greater level of collaboration between housing and disability support services. The experience of other jurisdictions indicates that collaborative, inter-agency approaches can be crucial to the success of housing solutions for people with disabilities.⁶⁸

6.17 OPA also believes that roles for Disability Liaison Officers should be created within the OOH. The functions of the Disability Liaison Officers could include:

- Providing an accessible, empathetic point of contact for people with disabilities and their families, carers or advocates;
- Monitoring the needs of people with disabilities on the public housing waiting list;
- Keeping up to date information on housing stock suitable for people with disabilities who have special or complex needs;
- Providing specialist advice on disability and housing issues to employees of the OOH and other government departments;
- Responding in a flexible and timely fashion to any issues that may arise for public housing tenants who have complex needs and behaviours;
- Publicising information about the housing resources available to people with disabilities.⁶⁹

RECOMMENDATIONS

12. That the Office of Housing develop and implement a Disability Housing Strategy.

13. That roles for Disability Liaison Officers be created within the Office of Housing.

⁶⁸ Barker, S. *Housing for People with Disabilities: A Study of Good Practice in Four London Boroughs*, p.18.

⁶⁹ Tester in Barker, S. *Housing for People with Disabilities: A Study of Good Practice in Four London Boroughs*, p.18.

7. Future Directions

7.1 This submission has identified that public housing for people with disabilities is a key issue that needs to be addressed in Victoria. Further resources must be devoted to ensuring that low-income and vulnerable Victorians get access to the housing they need. In addition, a paradigm shift is required. New ways of thinking are needed to address the public housing needs of people with disabilities in the context of equality of access, social inclusiveness, and the provision of accessible, affordable and appropriate living environments.