

Council to Homeless Persons response to Social Housing Regulatory Review Consultation Paper 3: The role of Regulation in Sector Accountability, Viability and Growth.



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Introduction

Council to Homeless Persons (CHP) welcomes the opportunity to respond to the social housing regulatory review consultation paper 3: The role of Regulation in Sector Accountability, Viability and Growth (the consultation paper).

The mechanisms and bodies with which Victoria's social housing system are regulated are of the utmost importance. There is a saying about evaluation, that "what you measure is what you get". In other words, the emphases of the regulator are likely to become the emphases of social housing providers. As an advocate for a housing system that is capable of delivering sustainable housing outcomes for those least likely to achieve them in the private market, CHP contends that this matters a great deal.

There is, of course, a tension between exceptional service delivery, and financial performance. The mechanisms that exceptional social housing providers utilise for highly vulnerable renters, such as additional staff time and rent leniency, are expensive. On the other hand, it is also possible for social housing providers to prioritise growth of their Affordable Housing products. While Affordable Housing provides a significantly greater financial return, it is not suitable for people with long histories of housing exclusion.

In this submission, CHP provides input in relation to the future shape of social housing regulation, accountability, financial viability, and growth. CHP's submission has a major focus on the regulatory culture that can be achieved. For CHP, this must be a culture that rewards the exceptional delivery of housing for those who would not otherwise have a home.

CHP believes that the Victorian Government's unprecedented investment into social housing is the necessary impetus for a review of whether Victoria's social housing system is positioned to deliver housing to those people who are most excluded. CHP hopes, that this work will be done by this social housing regulatory review.

Recommendations

Recommendation 1: That the review consider the adequacy of the subsidy to providers, allocations policies, quality of housing, and the provision of support services.

Recommendation 2: That any single regulator is resourced to include a strong emphasis on performance management and driving strong outcomes for tenants from social housing providers.

Recommendation 3: That any consideration given to growing the portfolio of social housing providers explicitly preference growth in social housing, to be allocated through VHR prioritisation.

Recommendation 4: That the review find that for-profit provision of social housing is inconsistent with best practice social housing management.

Recommendation 5: Embed an extensive role for tenants in sector development, as part of a tenant voice framework.

Recommendation 6: That the review recognise that participation in the NRSCH is inconsistent with driving service improvement.

Recommendation 7: That the review recognise that for-profit provision of social housing is inconsistent with best practice social housing management.

Recommendation 8: That the regulator support social housing providers to achieve greater scale, while ensuring that high quality small providers can continue to operate.

Recommendation 9: Require regular publication of data on social housing allocations, including by prioritisation category and sub-category, including by age, income level and type, category, gender and Indigenous status, by each social housing provider and each DFFH local area office.

Recommendation 10: That social housing providers (and local area offices) be required to publicly report on housing exits, including by VHR allocation category, demographic cohort, and property type to which the tenant is moving, in order to both identify and address issues in tenancy management locally and system-wide.

The role of policy and contract

The discussion paper notes (on page 6) a number of policy settings which might be considered outside the scope of this regulation review. Respectfully, CHP believes that there is scope for this review to consider how the system operates around many of these settings, and encourages this review to continue the approach outlined in the first discussion paper, and consider its mandate broadly.

We recommend for the review's consideration:

- Whether the level of subsidy offered to providers is sufficient to promote the provision of social housing for single adults, and young people.
- Whether the allocations policies of social housing providers are sufficiently consistent, and whether they are of a sufficiently high standard.
- The expected quality of housing, especially with regard to the phase-in of residential tenancy minimum standards, which have been legislated, but are triggered when a new tenancy commences. This is likely to put long-term social housing tenants at a disadvantage.
- Regulatory frameworks for the provision of support services in social housing, with special regard to the importance of maintaining the separation of housing and support.

Recommendation 1: That the review consider the adequacy of the subsidy to providers, allocations policies, quality of housing, and the provision of support services.

The case for a single independent regulator

Significant benefits may be achieved by the creation of a single housing regulator, including more consistent practice in handling complaints, a higher level of practice and consistency in organisations' policies, and the ability to drive a higher standard of reporting. This would benefit social housing tenants.

However, a single regulator would need to balance two, somewhat conflicting aims. A single regulator would need to manage both performance oversight, relating to the outcomes achieved by social housing providers, especially the outcomes achieved for the most highly vulnerable renters, as well as financial viability. While the viability of social housing providers is a necessity, a strong independent regulator must also focus on performance management and driving strong outcomes from social housing providers.

A single independent regulator should be recommended by this review. However, it will be critical to that regulator's success that it has strong powers to inspect, improve practice, and make binding orders.

Recommendation 2: That any single regulator is resourced to include a strong emphasis on performance management and driving strong outcomes for tenants from social housing providers.

Performance reporting, monitoring and compliance

The discussion paper poses the question of whether the current regulatory system is insufficiently focused on growth. Without regard to whether an increased focus on long-term growth should be a renewed focus of the regulator, CHP advises that not all growth strategies are equal. A focus on growing a provider's housing stock can, perhaps counter-intuitively, result in worse outcomes for those excluded from private market housing.

It is far easier for social housing providers to grow their stock of affordable housing than it is to grow their stock of social housing. Affordable housing properties provide a far greater return than social housing, which allows for a greater level of debt to be serviced. For this reason, there is an inherent incentive to develop affordable housing - housing which is ill suited to meeting the needs of the most highly vulnerable Victorians. The efforts and resources that go into the development of affordable housing are often those same efforts, land resources, donations, and capital, that might go into the development of social housing. This existing imbalance in incentives might only be expected to be enhanced if the regulator were to pursue a high-growth agenda.

Consideration should be given not just to net growth, but to whether an agency is preferencing affordable housing over social housing in the development of new properties. In order to meaningfully grow the social housing system, it needs to be social housing, allocated through VHR prioritisation, that grows.

Recommendation 3: That any consideration given to growing the portfolio of social housing providers explicitly preference growth in social housing, to be allocated through VHR prioritisation.

Restricting service delivery to non-profit organisations

Victoria should not follow the NRSCH's path of allowing for-profit provision of social housing. For-profit provision of social housing is inconsistent with the goal of the social housing system to provide housing to the most vulnerable. This is especially the case in the current social housing system which is characterised by under supply. Not-for-profit providers reinvest any surplus back into the pursuit of their mission, namely, in the provision of housing. By definition, for-profit providers must seek to make a profit, thus taking that funding out of the social housing system and away from continuing to benefit the most vulnerable in our community. This represents a poor value proposition to funders.

The participation of for-profit organisations would be particularly worrisome, as the social housing system isn't built to deliver surpluses. Indeed, many of the concerns that CHP has raised in this submission about comparatively poor access to social housing for people on the 'homeless with support' prioritisation list, are best understood as partly motivated by the very poor returns that people experiencing homelessness generate to those supplying them with housing. It must be assumed that any for-profit provider would face even greater challenges in making social housing available to people experiencing homelessness, and would further be poorly positioned to provide additional resources in staff-time or rental payment leniency as required.

Additional to these concerns is the inability of for-profit providers to attract the charitable donations received by many not-for-profit providers. Donations are an integral component in many government funded endeavours to increase the provision of social housing, including the current *Big Housing Build*.

This review must consider the perspective of users of social housing with regard to for-profit providers. Council to Homeless Persons conducted extensive consultations in 2017 in developing a response to the *Productivity Commission's* review of human services.

Perhaps surprisingly, it was consumers, rather than service providers who objected most strongly to the introduction of for-profit providers. Service providers were concerned to ensure that for-profit providers would need to meet the same standards as not-for-profit providers. Consumers however saw significant potential for a reduction in service quality.

'They will service the easy clients. The more complex clients will be neglected'

- Jody Letts, Consumer / Advocate

In particular, our consumer consultation identified that consumers have greater trust in not-for-profit organisations to deliver services that focus on outcomes for consumers. There was significant scepticism about for-profit providers.

'The consumer is less significant than profit. Profit is more the game than the service to the person'

- Christine Thirkell, Consumer / Advocate

'I can see all people being neglected the way that this is going!'

- John Kenney, Consumer / Advocate

Recommendation 4: That the review find that for-profit provision of social housing is inconsistent with best practice social housing management.

Sector development and regulator guidance

There is significant capacity for tenants to play a far greater role guiding and delivering the development of the social housing sector than has been achieved to date. Tenants are already to some extent, and must be an essential voice in a range of sector development activities including: providing broadscale input into focus areas of service delivery for improvement; participating in the development of sector development strategies; providing input into the development of training modules; best practice guidelines; and other sector development activities; and as often as possible, in delivering training.

The inclusion of tenants in sector development work improves the quality of that work, while ensuring that the sector develops in a client-centred way. It also plays an important counter-balancing role in relation to the inherent tension between strong tenant-focused practice, and the operational demands on a social landlord.

Sector development activities and best practice guidelines developed in close consultation with community housing provider representatives can, and regularly do, improve practice. The opportunity now presents to embed genuine co-design in the sector and move beyond any "model guidelines" which can reflect practices that can achieve consensus across the sector, rather than reflect best-practice in service delivery.

Recommendation 5: Embed an extensive role for tenants in sector development, as part of a tenant voice framework.

The National Regulatory Scheme for Community Housing

CHP has provided more in-depth feedback on the operation of the National Regulatory System for Community Housing (NRSCH) in response to consultation paper 2. In response to the questions posed in consultation paper 3, we provide a brief summary of the contributions made in that submission.

Throughout this review, we have consistently called for a higher standard of reporting from social housing providers (including community housing providers), than is currently available under the existing Victorian regulatory system. In relation to Victoria, the NRSCH, rather than improving existing standards, allows for a lower standard of reporting. Victoria can and should do better than both current systems.

As mentioned previously in this submission, Victoria should also reject all for-profit provision of social housing.

Recommendation 6: That the review recognise that participation in the NRSCH is inconsistent with driving service improvement.

Recommendation 7: That the review recognise that for-profit provision of social housing is inconsistent with best practice social housing management.

Growth and provider density

Larger social housing organisations would benefit from a greater capacity to attract institutional levels of funding. Large institutional investors have an appetite for the sort of low risk, small but consistent yield investments that social and affordable housing represent. The major limitation to date has been the complexity of bringing such investments to an appealing scale.

The challenge for this review is that it is also true that a number of smaller providers of social housing specialise in delivering housing to particular cohorts of people – and that in so doing, some achieve sector-leading excellence.

Consideration must be given to mechanisms which can support the scaling up of social housing providers, while ensuring that those smaller providers who do achieve excellence can continue to operate and grow at a scale suitable for their objectives.

Recommendation 8: That the regulator support social housing providers to achieve greater scale, while ensuring that high quality small providers can continue to operate.

Transparency and accountability

As noted in previous submissions to this review, a significant way in which social housing outcomes can be improved is through instituting a far higher, more granular level of reporting. This will help to identify and make transparent both provider-level and systemic issues in patterns of allocation, and housing sustainment for the most vulnerable.

Reporting of allocations must be vastly improved, including by: prioritisation category and sub-category, by age, income level and type, category, gender and Indigenous status. Such reporting should be regularly published and made publicly available, by each social housing provider – and in the case of the Department of Families, Fairness, and Housing, by each local area office.

Enhanced reporting is further required about both the number and cohorts of those who exit social housing, and the circumstances of their exit (including the type of property to which they are moving). This will allow for better monitoring of tenancy management, including of highly vulnerable renters. This would serve a dual purpose, assisting both providers and performance oversight bodies to address instances where individual providers are failing to adequately sustain tenancies, while also drawing attention to system-wide issues of tenancy sustainment for particular cohorts.

Recommendation 9: Require regular publication of data on social housing allocations, including by prioritisation category and sub-category, including by age, income level and type, category, gender and Indigenous status, by each social housing provider and each DFFH local area office.

Recommendation 10: That social housing providers (and local area offices) be required to publicly report on housing exits, including by VHR allocation category, demographic cohort, and property type to which the tenant is moving, in order to both identify and address issues in tenancy management locally and system-wide.