

Appendix D

Department of Families, Housing, Community Services and Indigenous Affairs

Regulation and Growth of the Not-For-Profit Housing Sector Discussion Paper

Submission Cover Sheet

The closing date for submissions is Friday, 4 June 2010.

Please complete and submit this form with your written submission to:

Regulation and Growth of the Not-For-Profit Housing Sector Submissions
PO Box 7101, CANBERRA BC ACT 2610

Organisation: **Tenants Union of Victoria Ltd**
Principal contact: **Toby Archer** Phone: **03 9411 1415**
Position: **Policy & Liaison Worker** Fax: **03 9416 0513**
Email address: **tarcher@tuv.org.au** Mobile: **0417 138 471**
Street address: **55 Johnston Street**
Suburb/City: **FITZROY** State & P'code: **VIC 3065**

Please note:

- National Mailing and Marketing (NMM) will be collecting your submissions on behalf of FaHCSIA and placing them on a database which will be passed back to FaHCSIA.
- In order to register your submission, you are required to provide the Department with some personal details. You must read the Confidentiality Statement before providing personal information.
- You must read the Departmental Confidentiality Statement before registering to participate in the Regulation and Growth of the Not-For-Profit Housing Sector submission process.

Confidentiality Statement

All submissions will be treated as public documents, unless the author of the submission clearly indicates the contrary by marking all or part of the submission as 'confidential'. Public submissions may be published in full on the website, including any personal

Please indicate if your submission:

- contains NO confidential material
 contains SOME confidential material (provided under separate cover and clearly marked)

Friday, 4th June 2010



Regulation and Growth of the
Not-For-Profit Housing Sector
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Dear Sir or Madam,

NOT-FOR-PROFIT HOUSING SECTOR DISCUSSION PAPER

The Tenants Union of Victoria is pleased to provide a response to the Regulation and Growth of the Not-For-Profit Housing Sector Discussion Paper and look forward to participating in further meaningful consultation on the regulation of social landlords.

The TUV was established in 1975 as an advocacy organisation and specialist community legal centre, providing information and advice to residential tenants, rooming house and caravan park residents across the state. We assist about 18,000 private and public renters in Victoria each year. Our commitment is to improving the status, rights and conditions of all tenants in Victoria.

The TUV views the development of a large scale and diverse social housing sector as the basis for a housing system capable of providing affordable, accessible and appropriate housing to those vulnerable households who are unable to secure housing in the private rental market. In order to achieve this, the growth of the sector beyond the current 5 per cent scale is an urgent priority. This requires bipartisan support for large scale direct investment in social housing at both State and Commonwealth levels, as well as expanding the capacity of the not for profit sector to provide housing. A return to pre-Nation Building levels will continually undermine attempts to expand the social housing sector regardless of intentions to expand the not for profit sector.

The TUV has a vision of a social housing sector that actively places tenants and measurable tenant outcomes at the centre of management and regulatory frameworks. Currently, the provision of social housing is dominated by large, bureaucratic state housing authorities providing residualised housing services to those with the highest and most complex needs. Alongside this is the embryonic

community housing sector which is allowed the flexibility to provide housing to those households most able to provide a stable rental income rather than those in greatest need. While the expected introduction of a common waiting list is welcomed, tenants have virtually no capacity to choose their social landlord or 'vote with their feet'.

The TUV believes the regulatory framework for the social housing sector should play a role in guiding the maturation of the sector toward an explicitly tenant focused system. Therefore, we are gravely disappointed that the discussion paper and consultative process is almost entirely focused on the governance and financial sustainability of community housing providers. The discussion paper section on protecting the interests of tenants appears almost as an afterthought and does not contain any serious consideration of tenant empowerment or proposals for measurable tenant outcomes. We believe targeted consultation with tenants and tenant advocates must play a key role in the development of a national regulatory framework. Failure to do so is likely to result in replicating many of the shortcomings of existing regulation of social housing.

The discussion paper does not adequately set out the objectives of regulating the social housing sector, beyond those related to prudential oversight and risk to investors. We believe these objectives should be included alongside primary objectives such as:

- facilitating the provision of the highest quality social housing
- empowering and protecting tenants
- allowing for choice of landlord for tenants
- expanding the provision of social housing

The exclusions of these objectives is likely to result in a one dimensional emphasis on stock to the exclusion of the inhabitants.

By contrast the six service standards specified by the United Kingdom social housing regulatory body, the Tenant Services Authority, provide a suitable example of an outcome focused framework. All social landlords are required to achieve the following standards:

1. Tenant involvement and empowerment – which contains requirements relating to customer service, choice and complaints; involvement and empowerment; and understanding and responding to diverse needs of tenants

2. Home – which contains requirements relating to quality of accommodation; and repairs and maintenance
3. Tenancy – which contains requirements relating to allocations; rent; and tenure
4. Neighbourhood and community – which contains requirements relating to neighbourhood management; local area co-operation; and anti-social behaviour
5. Value for money
6. Governance and financial viability.¹

Tenants as well as funding bodies are able to monitor and scrutinise the performance of social landlords against these standards. Tenants are given a key role in the regulatory system, that of shaping how housing is provided and managed. Importantly, they are also provided with the opportunity to exercise choice between providers. The latter constituting a vital measure of landlord performance.

By contrast, the regulatory models considered in the discussion paper each focus on governance and financial sustainability. This replicates the recent experience of housing associations in Victoria in which the development and regulatory practices of the Housing Registrar are dominated by the interests of the very objects of regulation, that is, the community housing providers themselves. The experience of the Housing Registrar mirrors that of the Essential Services Commission² which has confirmed that a regulator that is not expressly oriented toward enforcing consumer outcomes can become a captive of the industry that they are seeking to regulate.

One of the objects of the Housing Act 1983 is to 'provide a regulatory framework to encourage the development of rental housing agencies serving the housing needs of low income tenants by providing for the registration of those rental housing agencies and the regulation and monitoring of registered agencies'³ However, the Act does not require the Registrar to ensure tenants are the beneficiaries of regulation of community housing providers. As a result, the Victorian model does not provide any meaningful method for assessing the achievement of outcomes for tenants and remains based on the assumption that social landlords will do the right thing by their tenants and funders.

The TUV believes a national regulatory framework should be based on an approach to regulation which expressly puts the interests of tenants first and enhances their

¹ <http://www.tenant-services-authority.org/> accessed 3 June 2010.

² Victorian regulator of essential services in the electricity, gas, water and sewerage, ports, and rail freight industries

³ Section 6(1) (ea)

influence on the management and outcomes achieved by the organisations providing housing to them. Importantly, such an approach requires transparency and accountability which can only be achieved by allowing tenants and funders to examine how social landlords are performing in relation to the objective of providing high quality affordable housing. In addition to this, regulators must be willing to intervene where landlords are not performing adequately.

Attachment A sets out the TUV's recommended performance standards. The TUV believes all social landlords, including state housing authorities should be required to report against these standards. Like many state housing authorities, the Office of Housing currently fulfills duties in policy development, housing and tenancy management and regulatory functions. Considerable conflict exists between these roles which militates against transparency and accountability.

In response to some of the additional questions raised in the discussion paper, the TUV argues the following:

- The main obstacle to growth in community housing remains the lack of ongoing direct investment by government.
- The expansion of not for profit aged care and disability housing providers should only be encouraged once adequate tenant outcome performance standards have been established.
- National regulation should apply to all social housing providers, regardless of scale or ownership, including state housing authorities.
- Industry adjustment is vital to achieving growth and improved performance amongst all social landlords. Transparent performance monitoring and regulatory intervention and enforcement are the appropriate focus of a national regulator of social landlords. An active role in industry adjustment is likely to replicate the conflicted nature of most state housing authorities currently acting as both funder and regulator of social housing.
- The Victorian model is often presented as an example of leading regulatory practice in Australia. As discussed above, the TUV suggests the regulatory model adopted by the Tenant Services Authority is ideal for application in a new Australian regulatory system.
- State housing authorities must be regulated in the new national framework in order to improve accountability and practice.

We welcome any opportunity to be consulted on these issues. Should any such opportunities arise, please contact:

Toby Archer, Policy and Liaison Worker, 03-9411-1444.

Yours Sincerely,

Mark O'Brien

Chief Executive Officer

Tenants Union of Victoria

Attachment A: Social Housing Regulation: Key Tenant Outcomes*

| Area | Indicator | Outcome(s) | Measures/Targets | |
|---------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| 1. Affordability | After-Housing Income | <ul style="list-style-type: none"> Mitigate poverty traps through improved after housing income Minimum benchmark at least equivalent to public housing pre 1997 Achieve further improvements where possible | <ul style="list-style-type: none"> % of tenant with after housing income of 120% of HPL % of tenants paying <25% of income % improvement over time | |
| | 2. Accessibility | Locational Choice | <ul style="list-style-type: none"> Better access to employment, essential services and social networks Minimise concentrations of disadvantage | <ul style="list-style-type: none"> % of social housing x LGA % of housing within 400m of public transport |
| | | Equity of Access | <ul style="list-style-type: none"> Ensure equitable treatment of all clients across the system through standardised allocation procedures | <ul style="list-style-type: none"> No exceptions to compliance with allocations procedures |
| 3. Appropriateness | Targeting | <ul style="list-style-type: none"> Spread of complex clients across social housing Minimise concentrations of disadvantage | <ul style="list-style-type: none"> % of tenants with complex needs (or from SWL priorities) % of housing less than average Melbourne housing density | |
| | Sustaining Tenancies | <ul style="list-style-type: none"> Minimise enforced relocation of tenants Ensure equitable treatment of all tenants through standardised rent arrears procedures Lifetime tenure in long-term housing Voluntary transfer between social housing landlords Minimise eligibility reviews | <ul style="list-style-type: none"> % of tenancy turnover due to forced evictions No exception to compliance with rent arrears procedures | |
| | | Housing Quality | <ul style="list-style-type: none"> Ensure equitable outcomes for all tenants through minimum dwelling standards Improve utility affordability through minimum energy efficiency standards (minimise housing related costs as above) | <ul style="list-style-type: none"> No exceptions to compliance with agreed housing standards |
| | Disability Access | <ul style="list-style-type: none"> Enable accessibility outcomes as above through disability access standards | <ul style="list-style-type: none"> % of properties with disability access | |

| (Appropriateness contd.) | Participation Structures | | |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| | <ul style="list-style-type: none"> Improved direct tenant involvement in decision making Requirement to demonstrate effective involvement (beyond the "committee" model) | <ul style="list-style-type: none"> % of tenants involved in decision making Documented range of tenant involvement | |
| Consultation Processes | <ul style="list-style-type: none"> Improved indirect tenant involvement in decision making Requirement to demonstrate consultation | <ul style="list-style-type: none"> % of tenants consulted Documented range of consultation processes | |
| Legislative Protection | <ul style="list-style-type: none"> Ensure clarity of legislative protections for all tenants Ensure equitable outcomes for all tenants through minimising legislative disparities (eg. rooming house declarations) | <ul style="list-style-type: none"> No "grey" areas of tenants consumer protections | |
| Administrative Appeal | <ul style="list-style-type: none"> Access to independent appeals process for administrative decisions Coverage of all social housing landlords to ensure equitable treatment and policy improvement Independent of the Director of Housing to improve perception of conflict of interest | <ul style="list-style-type: none"> Participation in independent appeals process % of successful appeals | |
| Access to Advocacy | <ul style="list-style-type: none"> Ensure clients provided relevant assistance where required Legitimise advocate involvement in a rights-based framework | <ul style="list-style-type: none"> No exceptions to advocacy assistance when requested | |
| 4. Amenity | Client Satisfaction | <ul style="list-style-type: none"> Ensure genuine provide accountability for client outcomes Minimum satisfaction levels across key areas Comparability of providers to facilitate client choice | <ul style="list-style-type: none"> 95% client satisfaction |

100602 NFP housing response.doc (Jun-10)