



How are we being accountable to our tenants today?

Aligning responsibility and authority in housing policy and practice

Shelter SA

Discussion Paper



- Agreed upon definitions of tenant outcomes are needed
- Definition of tenants to include applicants, current tenants and ex-tenants
- Public reporting on tenant outcomes by all social landlords
- Tenant engagement policies and procedures for all social landlords
- Better external tenant appeals processes are required
- Tenant education, advice, advocacy and representation must be improved
- Community housing regulations should strengthen tenant outcomes standards



Foreword

The National Regulatory System for community housing is currently under review. It is timely to encourage and enable debate on how we are being accountable to social housing tenants in the current environment. This discussion paper is intended to facilitate conversations and debate by examining some of the current tensions between achieving both social and economic outcomes through a focus on tenants. Shelter SA welcomes your feedback and comments on this paper and looks forward to the conversations which will follow its publication.

Introduction

The growth of the community housing sector has formed a central plank of Australia's post-2007 housing reform program. The transfer of public housing stock from State Governments to community housing providers (CHPs) is called stock transfer in this paper. Stock transfer assumes that CHPs will deliver added value to individuals as tenants through a more responsive and personalised social housing delivery model compared to public housing. Stock transfer is also based on an assumption that value will be added to communities through a socially minded landlord with the capacity to provide a more resident-influenced approach and enable the provision of non-housing services¹. With the transfer of publicly owned housing to CHPs comes a public responsibility to achieve the same social outcomes as a public housing authority, to be accountable for public assets and remaining financially viable – a tough call, given the low incomes and high and complex social and health needs of tenants. This discussion paper asks, how are we being accountable to our tenants today?

Stock transfer in South Australia has impacted tenants from the moment it was announced, through communications between tenants and State Government and then CHPs and finally, through their experiences - from the time of application, throughout tenancies and after tenancies. CHPs have had to devise and review their policies, procedures, goals and priorities. Organisations have had to reorganise their business models, take on new staff, increase their caseloads and overhaul their day to day running. Stock transfer seems to have had both positive and negative impacts on organisations and tenants. In a landscape of change it is essential that there are clear aspirations for good tenant outcomes and the right people and policies to breathe life into them. Checks, balances and methods of being accountable to tenants are needed that cover the entire housing process, to foster and assist successful tenancies and attain the financial and economic imperatives of running a business.

This paper will define social housing, describe the characteristics of a social landlord and review how tenant outcomes are measured in Australia. The South Australian Civil and Administrative Tribunal review will be discussed in relation to issues for vulnerable tenants and the relevant appeals mechanisms assessed. Key anecdotal worker and tenant concerns are listed to shed light on some of the tenant issues that have arisen since stock transfer. The principles that should apply to a successful social landlord will be described. Recommendations are provided to provoke debate and

¹ <https://cityfutures.be.unsw.edu.au/research/projects/cost-effectiveness-and-tenant-outcomes-in-social-housing/>

discussion about a way forward in the tenant outcome space. This paper does not touch on the funding model but may contribute to discussions about how the system operates.

Social Housing

Social housing is an umbrella term referring to rental housing which is owned and managed by Local, State or Federal Governments or by not-for-profits (NFPs), or by a combination of the ownership and tenancy management functions. The aim of social housing is to provide an affordable home for people living on low incomes as a remedy to housing inequality. Social housing is removed from market forces and is publicly subsidised.

A defining characteristic of social housing is how the accommodation is allocated to tenants. Social housing is not allocated by demand or price. Social housing is allocated to people living on low incomes according to the level of their health, mental health and other social needs ².

Social Landlord?

A social landlord is one that owns and/or manages housing for tenants living on low incomes or who are vulnerable in some way and cannot access housing through the open market. The authors of a 2012 report³ used the term ‘a socially-minded landlord’ throughout their report to capture the motivations and philosophy underpinning the policies and practices of (most) social landlords who primarily focus on housing provision for groups who are unable to enter the private rental sector. The same research listed the “key characteristics of a social landlord that tenants identified as important” as follows:

- Providing a dwelling that meets fundamental needs (to the greatest extent possible) and that allows one to live in comfort and peace.
- Ensuring security of tenure.
- Responsive and adequate maintenance.
- Empathy and understanding, particularly around disability and its impact on life and housing.
- Facilitates access to social infrastructure, including health and support services and activities for social interaction.
- A safe and secure dwelling and safe neighbourhood.
- Receptive to complaints about their dwelling, including aspects inside and outside their property.

² “Defining Social Housing: A Discussion on the Suitable Criteria” Anna Granath Hansson and Bjorn Lundgren <https://doi.org/10.1080/14036096.2018.1459826>

³ Dr Pauline McLoughlin and Dr Selina Tually: “Being a Social Landlord in the 21st Century: Insights from tenant and International Experience” Centre for Housing, Urban and Regional Planning(CHURP), University of Adelaide, January 2012

The same researchers shed light on the main areas where CHP and tenant views differed. CHPs were understandably more focussed on the technical aspects of asset management and sustainable funding and most tenants, at that time, were not aware of, or involved in, management processes.

Why should we engage tenants?

Tenants can feel disempowered in housing structures that are based, or are perceived to be based, on a business model, rather than a social or community model - where there is an emphasis on economics over people this is translated in ways that can alienate tenants from their landlord. The high levels of disadvantage suffered by many people living in public housing that were part of the stock transfer process did not have a voice in the compulsory process or know how and where to access assistance. For every individual involved in the process the concerns were different and the success of stock transfer should be viewed as dependent on the level of support, advocacy and representation that was and is available to tenants.

When tenants are not included as a real and vital part of their landlord organisations they are disempowered. If tenants feel unable to be protagonists in such an essential part of their lives, when tenant issues arise, they are unlikely to feel encouraged to engage positively to solve the issue. These are tenants who will eventually be forced to interact with the tenancy tribunal where the formal process is daunting.

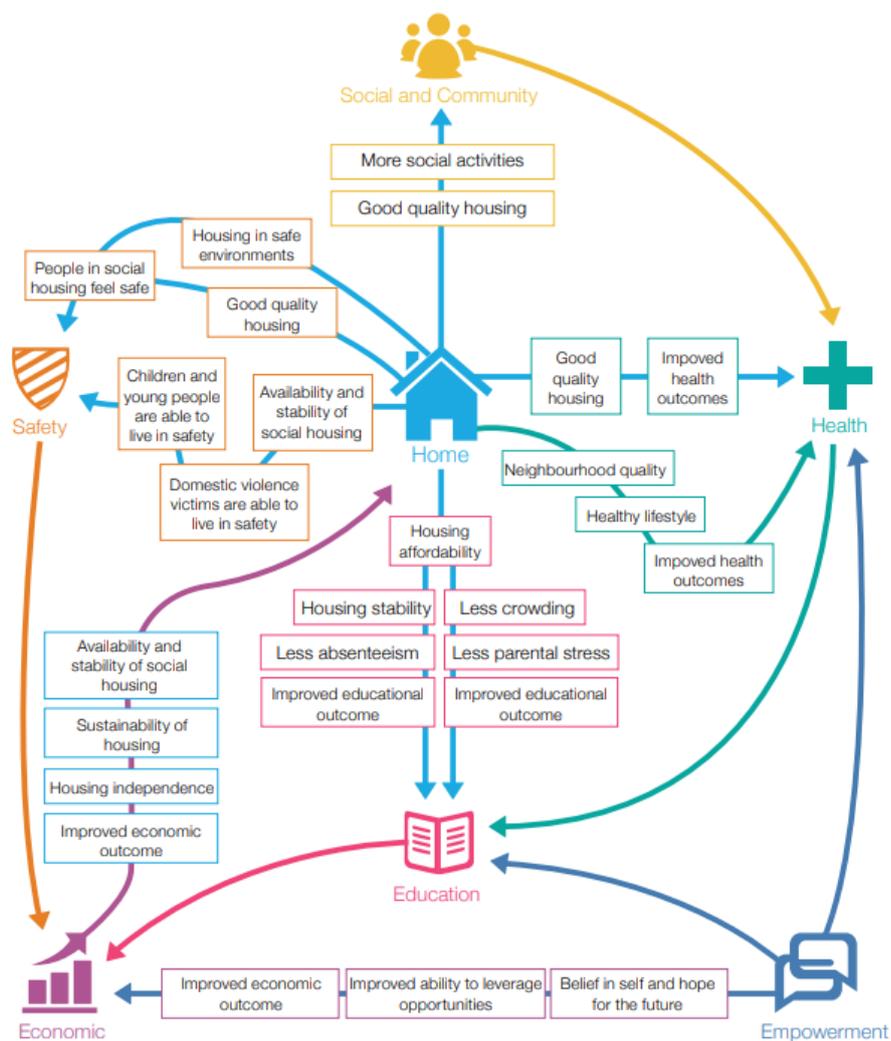
When tenants are encouraged to participate in a range of ways in their landlord organisation, not just through social events, but in a way that they are sharing responsibility for the good management of the organisation, then they are empowered in ways that better equip them to overcome tenancy difficulties that may arise⁴. Tenants engaged with their landlords not only understand their rights and responsibilities but feel that they have some authority in how organisations are managed.

Satisfaction surveys indicate that Australian CHP's generally achieve superior tenant outcomes when compared to public housing. Tenant satisfaction surveys are widely used but they are a poor indicator of performance as usually more satisfied respondents will participate. The limitations of satisfaction surveys are that they do not generally provide information that assists in quality improvement. Tenant engagement policies and procedures are required to address the above issues and ensure the philosophy of social inclusion to achieve better outcomes is embraced by social landlords. The landlord/tenant relationship should not be a top heavy one but a shared responsibility with equal respect afforded to the tenant and the landlord to ensure that both benefit from the relationship.

⁴ Tenants Union of New South Wales Submission to the Review of the National Regulatory System for Community Housing March 2019

National Community Housing Provider Regulations

In Australia, we have a National Regulatory System for Community Housing (NRSCH) and at the time of writing the Regulations are under review. The Regulatory System aims “to ensure that the regulation of community housing providers is proportionate, accountable, consistent, transparent, flexible and targeted”⁵. Of the seven performance outcomes outlined by the CHP Regulator, only two directly impact tenants. The others are to do with business, finance and property but shift priorities away from tenant needs and towards business concerns. CHPs are required to report on tenant outcomes through their annual reports including tenant engagement and complaints and appeals. Some annual reports contain the results of satisfaction surveys and plans to better measure social outcomes, but it is difficult to find any public information on complaints and appeals. So how do we know how tenants are faring?



The above diagram looks at a tenant outcome model for social housing

https://www.facs.nsw.gov.au/data/assets/file/0003/380622/3779_FACS_Measuring-Social-Housing-Outcomes_Cover.pdf

⁵ National regulatory System; Community Housing Providers: Regulations and Policy

The South Australian Civil and Administrative Tribunal

To help us get a clearer indication of how successful housing outcomes are in a stock transfer environment we can look to where the current housing models are failing or under what circumstances tenants face eviction.

The South Australian Civil and Administrative Tribunal (SACAT) is the last port of call when landlords have not been able to resolve issues with tenants and has the power to make orders to address problems, for example, a rent arrears payment arrangement, or one that is mutually agreeable to remedy a tenancy breach. SACAT also has the power to order evictions where other remedies are deemed to be inappropriate or untenable by the landlord.

Against a background of diminished public housing, a lack of rental affordability for people living on low incomes and greater numbers of people living with housing stress and homelessness – being evicted has a devastating effect on people's lives. The loss of housing can mean loss of family, employment, social networks and independence and the consequences of the instability caused by eviction can have significant, negative physical and mental health effects.

It is concerning that in 2017/18 SACAT received 10,300 applications in their Housing and Civil Stream. Over one third of SACAT's total work is applications to end tenancies because the tenant has breached the tenancy agreement. In 2017/18 bailiffs enforced 1,043 orders for possession, 913 in the Adelaide Metropolitan area and 130 in regional areas⁶. The number increased from 1,017 in the previous year, a 2.5% increase. If the upward trend continues, this is indeed a serious concern, particularly in the light of the housing affordability crisis.

It is reassuring that in 2017 a Statutory Review of SACAT was carried out. It was identified in the Review that the following areas need attention, "website improvements, education of both staff and users, communication including staff knowledge and interaction skills, hearing programming, hearing timeliness and hearing conduct". There is much to be done in the areas of user education and provision of information⁷.

It is crucial to the notion of justice in our society that powerful structures such as SACAT have their policies, procedures and operations stringently reviewed. Another review was scheduled for March 2019, but the report has not, at the time of writing, been released and we are looking forward to seeing if improvements have been achieved, especially to benefit vulnerable people. It is not known how many CHP tenants have been involved in applications and hearings and Shelter SA has requested this data from SACAT.

The update on the SACAT review will shed light on any improvements in the areas identified in the original review. SACAT should consider their role in the social housing and the social landlord space by collecting and publishing data on the type of housing related to applications (private rental, public/community housing), hearings and outcomes including tenant demographics, particularly

⁶ SACAT 2017/2018 Year in Review

⁷ 2017 Statutory Review: South Australian Civil and Administrative Tribunal; Hon. David Bleby QC

whether people identify as Aboriginal as mainstream systems can unfairly disadvantage minority cultural groups.

Anecdotal Tenant Issues

Shelter SA fully supports stock transfer and the assumption that CHPs can provide excellent tenant services. The informal discussions listed below are anecdotal and do not seek to blame CHPs but only to highlight possible areas for improvement. The discussions have been between Shelter SA and CHP applicants, tenants, ex-tenants and housing and homelessness workers in South Australia and are provided to shed light on some of the issues from their perspectives as follows:

- Frequently cases that end in a SACAT hearing are the result of communication breakdown between tenants who are unable to deal with bureaucratic procedures and inflexible tenancy laws;
- When rent is in arrears, CHPs cannot carry the same level of debt as a large government organisation so the question of eviction may arise earlier in negotiations over repayments;
- Some tenants who were housed in public housing and transferred have had difficulty coping with change which is sometimes perceived as an unwillingness of the tenant to conform and can give rise to friction and misunderstanding;
- A small number of tenants were concerned about how their tenant history and personal details were shared and raised issues around confidentiality and privacy as a major stressor;
- For isolated people who had managed to establish relationships with staff within the public housing offices the stock transfer process was a major upheaval and resulted in feelings of loss and loneliness;
- Some tenants were worried about the changes to their rents (even though these were reimbursed via Commonwealth Rent Assistance) and had concerns about not being able to afford their rents;
- Tenants have reported being told they must accept and engage with support workers to be housed and that their tenancies are conditional upon continuing to accept support;
- Tenants are being evicted into homelessness because they have refused to engage with support workers – this is sometimes seen as a tenant “problem” rather than one caused by a particular approach to effectively engaging people as clients of a service;
- One CHP was requiring applicants to provide criminal history checks as part of their application process;
- One tenant who had been evicted had their belongings withheld by a CHP due to the tenant failing to agree to an arrangement to repay rent arrears at the rate of \$50 per week; and
- One tenant experienced being housed in accommodation that was contaminated by the production of drugs and had not been remediated.

Appeal Mechanisms

Many disadvantaged people find bureaucratic systems insurmountable. Some tenants do not attend SACAT hearings even when the consequences of the hearing may be dire for their housing situation and decisions are made in their absence. Some tenants, despite the efforts of SACAT to

communicate the outcome of hearings to them, because of perhaps not having a computer or a working mobile phone, only know the outcome of the hearing when the bailiff arrives to evict them. The vulnerability of tenants who interact with SACAT should be assessed and support, advocacy and representation offered in a pro-active way, to ensure tenants have a voice in the processes that affect their housing.

South Australia is the only State to have a Housing Safety Authority and legislation to ensure that rental properties are in a safe condition. Unfortunately, the Branch does not usually deal with public housing or CHP owned/managed housing, which overall, are notoriously behind in their maintenance programs. Our portfolio of social housing contains large numbers of properties in major disrepair and for this reason maintenance is always a keen subject for social housing tenants. The Housing Safety Authority should include social housing within its brief and should also advertise more through Consumer and Business Services and the Housing Authority, so that all tenants are aware of their services.

There are inadequate external avenues of complaint and appeal for some tenant situations for example, applicants for housing have no appeal mechanisms available to them and are not fully covered in the National Regulations. The definition of “tenant” within the Regulations should be expanded to include applicants, current tenants and ex-tenants. The Tenant Information and Advisory Service is always heavily booked. More services are needed to provide adequate tenant advice, information, education and representation.

Conclusion & Recommendations

Clear guidelines are needed for social landlords to address the tensions between having a viable business structure, meeting responsibilities under the Residential Tenancies Act, how external appeals are conducted, conforming with regulations and being responsive and accountable to vulnerable tenants. The principles of flexible social housing management that tailors services to tenant needs includes the following:

- A shared and accepted definition of tenant outcomes;
- Tenant engagement policies and procedures that go beyond social functions and satisfaction surveys to achieve tenant ownership and quality improvement;
- Public reporting on tenant outcomes including complaints and appeals;
- Public reporting of demographics of tenants;
- Employment of staff from a human service or social work background, rather than a real estate background, with experience in working with different cultural groups and people living with mental health issues, disadvantage and other factors experienced by the housing provider’s target group;
- Documented reviews that enact tenant recommendations and feedback; and
- Clear information about options and support mechanisms for new and unsuccessful applicants and ex-tenants.

State Government must urgently commit to increasing and improving resources for advice, advocacy and representation for vulnerable tenants. The Housing Safety Authority must advertise their

services and include social housing in their remit. The focus of the CHP Regulations must be on stronger tenant outcomes and public reporting.

More public and social housing is required to meet the needs of people living on low incomes and those living with housing stress. Housing, no matter whether it is private rental or social housing, aims to house people - people in all their diversity – with their different needs, aspirations, abilities, socio-economic backgrounds, education, life experiences, health, ages, genders and other social determinants. Housing people properly cannot be covered with one broad brush stroke. But, if we want a social housing system that works, that is accountable to people throughout the housing process from application, through tenancy and beyond, then it is that diversity that must be foremost in the minds of policy makers and inform social landlords.

Shelter SA welcomes feedback, questions and comments on this report. You can provide yours via email sheltersa@sheltersa.asn.au or telephone (08) 8223 4077.