

Response to Australian Government discussion paper on the regulation and growth of the not-for-profit housing sector

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INTRODUCTION

Anglicare welcomes the opportunity to comment on the Government's discussion paper on the regulation and growth of the not-for-profit housing sector (Australian Government 2010). The paper outlines not just models for future regulation of the sector, but builds on the vision for the future delivery of social housing outlined by the Minister for Housing in her 'Room for more' speech to the Sydney Institute in March 2009 (Plibersek 2009). Anglicare's response includes comments on this vision and the way in which it might be realised.

Who are the reforms for?

In making this submission, Anglicare's focus is obviously on how well the new system would meet the needs of people who are our clients. How well social housing delivers for the people most in need of its assistance should be the first and most important test of whether a new system of social housing delivery or regulation is or is not appropriate.

Anglicare provides an extensive range of housing support services, from crisis assistance for people who are homeless through to long-term accommodation in supported residential facilities for low income earners with low support needs. We assist people in the private rental market, public housing and community housing, as well as owner-occupiers experiencing difficulty paying their mortgage. The groups of people we hold particular concerns about include:

- **low income earners.** This group includes people who are dependent on income support payments and workers on low wages. Most would be eligible for public housing but a small proportion would be only just ineligible due to earning a little above the income cut-off point.
- **people in crisis.** This group includes people who are homeless, either for the first time or chronically homeless, people in very insecure housing and people who are about to be or have just been evicted from their existing housing. It also includes people at significant transition points that can increase vulnerability to crisis, such as people affected by family violence, people in financial crisis, families in the middle of breakdown and people newly released from prison, hospital, out-of-home care or residential rehabilitation services.

- **vulnerable groups.** Groups that experience particular vulnerability in relation to both housing and hardship generally include refugees, people with disabilities and people raising children with disabilities, people with serious mental illnesses, older people, Aboriginal and Torres Strait Islander people, young people, children, people with caring responsibilities, people with addictive behaviours (e.g. alcohol, drug or gambling problems), single people and people with chronic illnesses.
- **people with complex needs.** Complex or ‘high needs’ are defined by the Tasmanian Department of Human Services as ‘multiple intensive needs which compromise ability to meet basic needs and which often manifests [sic] as one or more of the following behaviour clusters: radical lack of living skills, disruptive behaviour, radical lack of social networks, violence to self, excessively demanding’ (Department of Health and Human Services 2004, p. 4).

Any system must work for these people – low income earners, people in crisis, vulnerable groups and people with complex needs – first, and for anyone else, including governments, providers, private investors and moderate income earners, second.

Background: the ‘failure’ of public housing

At present, it is Anglicare’s experience that public housing is the only genuine alternative for many of our clients. The private rental market is unaffordable and insecure, and many community housing providers are reluctant to take on responsibility for housing people with very complex needs or a requirement for a high level of support. Our workers continue to express frustration that despite the overwhelming need for public housing, Government continues to retreat from providing it, condemning it as a ‘failed’ model in need of reform. If public housing is to be effectively replaced by a system focussed on growth through community housing, then we would need to see the responsiveness of the public housing system to the needs of our clients replicated in a new system.

Yet our concern, which is outlined below, is that the research evidence suggests that it will not, and cannot, without the provision of substantial subsidies from government above and beyond what is provided by Commonwealth Rent Assistance. If the new system cannot respond to our clients, then they will be forced to continue to rely on a public housing system which, in the vision described in the discussion paper, will become ever more residualised, under-funded and neglected as time goes on. Public housing will become a transitional housing service for those most in need and a provider of ‘last resort’ for those with no other choice. This is not about delivering good outcomes for the most vulnerable, which should be the overriding intent of any new system.

In this context we are particularly concerned about the limited information available in the discussion paper about how the new system of regulation will deliver on a day-to-day level the protection and support that tenants need. Instead, there are alarming hints that in fact, protection and support for tenants is not the main priority. For example, the paper notes that ‘[p]rivate investors want a return based on good rental income and capital appreciation’. For this reason, changes to rental policy that generate an improved rental return will need to be considered, including moving away from income-linked rents to amenity-linked rents (Australian Government 2010, p. 31). The reference to ‘maintaining affordability benchmarks’ is not reassuring when, as outlined below, the most commonly used affordability benchmark, the ‘30/40 rule’, does not deliver genuine affordability for people on the lowest incomes. Instead, the paper mentions ‘sending market signals ... about the value of housing’ and notes that ‘[c]ommunity housing tenants are already prepared to pay rents that are higher than for public housing and demand for this type of housing has remained high’.

Setting aside the fact that in a very tight market, what people are prepared to pay and the level of demand for any type of housing is not an indicator of what people can afford to pay – rather, it is an indicator of the level of desperation people feel in putting a roof above their head – the message that this section of the discussion paper sends is that, in order to keep investors happy, rents will need to increase. This is unacceptable. Whatever model the Government chooses to use to deliver additional housing supply, it is the Government’s responsibility to ensure that that model does not depend on compromising affordability for tenants. If paying private investors acceptable investment returns is not considered an appropriate use of Government funding or imposes too great a burden on the federal Budget, then perhaps the Government needs to consider an alternative method of delivering an increase in the supply of social housing.

THE BOTTOM LINE FOR TENANTS

Anglicare proposes below a ‘bottom line’ for tenants – a set of outcomes that a new system must deliver in order to be worth the investment of resources required to set it up and maintain it.

Much of this bottom line is based on ensuring that the conditions and protections that tenants already enjoy under the public housing system are not reduced. Other justifications come from ensuring that conditions that are currently compromised by Government’s lack of support for public housing (for example, the poor quality of the housing created by Government’s failure to adequately resource public housing providers for their maintenance commitments) are remedied. Finally, a public housing authority is seen by the courts to have a higher level of duty of care to its tenants than would a comparable landlord in the non-government or private sector (see *Lyons vs Commissioner for Housing* [2004]). Given that outsourcing housing delivery will mean the loss of this particular protection, one that is especially critical for tenants with high needs that may manifest in demanding or anti-social behaviour, we argue for explicit guarantees in some outcome areas in order to compensate for this loss.

Outcome for tenants	Rationale
1. Rents are set at levels that guarantee tenants are not living in hardship. ‘Hardship’ is defined according to tenants’ actual incomes and living situations, rather than according to an arbitrary benchmark (e.g. the ‘30/40 rule’). ¹	Researchers and housing departments alike have conceded that arbitrary benchmarks such as 25% or 30% of income or the ‘30/40 rule’ are inadequate measures of affordability because they do not necessarily allow for the other costs involved in achieving a minimum standard of living and avoiding hardship, such as the cost of food, heating, power, transport and health care (McNelis 2005, pp. 68-70; Burke & Ralston 2003, pp. 20-22; Housing New South Wales 2007, p. 28). In order for social housing to be genuinely affordable, a household must have sufficient income left, after paying rent, to enable them to afford to cover all of these additional costs. The actual proportion of income required to do this may vary according to the type and characteristics of the household.

¹ The ‘30/40 rule’ is the conventional definition of housing stress – that is, that a household in the lowest 40% of income distribution and spending more than 30% of its income on rent is in ‘housing stress’. The 30% benchmark is often used as a de facto measure of housing affordability. Anglicare’s position is that it must be treated as an indicator, rather than an absolute measure, of housing affordability.

<p>2. There is sufficient supply of appropriate housing to guarantee access, without unreasonable waiting times, for all tenants on low and very low incomes and all tenants with high needs.</p>	<p>As discussed below in more detail, the housing association models developed in Australia to date are based on the provision of capital funding but not the recurrent funding needed to cover operating expenses, including the losses incurred from subsidising rents. The discussion paper does not provide any information to suggest that this is likely to change. Therefore, despite tenants' eligibility for Commonwealth Rent Assistance, viability in practice depends upon providers cross-subsidising their lower-income tenants by leasing some of their properties to moderate income earners, and this is certainly supported by the discussion paper (Australian Government 2010, p. 31). This restricts the proportion of properties available for lease to those on low incomes, potentially limiting their access if overall supply is insufficient.</p> <p>Limiting the proportion of properties available to tenants on low incomes, the additional costs involved in accommodating tenants with ongoing support needs (National Housing Federation 2007, pp. 17-19, 2008, pp. 15, 25) and the need for private investors to be confident that their investment is low risk (Docherty 2006, p. 44) are all factors that could also limit access to housing by tenants with complex needs.</p>
<p>3. Tenants have security of tenure, defined as meaning that in the vast majority of circumstances, tenants will not be obliged to vacate their home unless they choose to do so.</p>	<p>Research identifies the importance of security of tenure with regard to stress levels, self-esteem, motivation, capacity to address wider personal issues, capacity to develop supportive relationships and networks with the community, family stability, the educational performance of children and levels of participation within the community (Lewis 2006). Although evidence for the impact of security of tenure on labour market outcomes is mixed, extensive research by the Australian Housing and Urban Research Institute into the impact of housing assistance on employment outcomes identified that abolition of security of tenure in public housing in favour of fixed term tenancies 'for the duration of need' would create a significant disincentive for tenants to engage in the labour market (Dockery et al. 2008, pp. 117-18).</p>
<p>4. Tenants have access to adequate support services, including long-term and ongoing support if they need it.</p>	<p>The targeting of the public housing system to those identified as most in need has led to growth in the proportion of high needs and disadvantaged households living in public housing, the stigmatisation of public housing areas and the social exclusion of public housing tenants, and an increase in the levels of support required by tenants (Atkinson & Jacobs 2008, p. 7). There is a correlation between the risk factors for demanding behaviour and the risk factors for homelessness (Habibis 2007, pp. 2-3). All of these issues underline the need to provide adequate support services to tenants to ensure that individual tenancies are stable and sustainable and to support safety and cohesion within communities.</p>

<p>5. Eviction is used only as the option of absolute last resort after all other avenues, including the provision of a reasonable period of intensive support, have been exhausted.</p>	<p>Public housing providers are coming under increasing pressure to manage the issue of problematic tenants, particularly those with demanding or anti-social behaviour, by excluding these households from the system through eviction (Hunter, Nixon & Slatter 2005, pp. 155-61). Despite a shift in tenancy management policy from a supportive to a disciplinary approach (Atkinson et al. 2007, pp. 7-8), research suggests that it is better to manage tenants with demanding behaviour within the social housing system as eviction simply relocates rather than resolves the problem (Habibis 2007, p. 6). Eviction also has a significant and detrimental impact on tenants, particularly those who are already disadvantaged, with research identifying that evictees tend to increase their dependency on income support and government services, suffer severe personal consequences including loss of property, breakdown in relationships and even loss of access to children and are at a greatly increased risk of homelessness (Beer et al. 2006, pp. 42-44). Despite the consequences, there are few policy responses in place to address the plight of tenants evicted from public housing due to anti-social behaviour, which contrasts oddly with a growing policy focus on reducing homelessness and promoting social inclusion (Hunter, Nixon & Slatter 2005, pp. 175-6).</p>
<p>6. The housing provided is appropriate and of good quality, with essential repairs completed in a timely manner; regular, timetabled maintenance is conducted to ensure quality is maintained; and, where appropriate, upgrades are performed to ensure accessibility and safety.</p>	<p>Poor quality housing, including problems with heating, insulation, ventilation and air quality and plumbing, is linked to a range of negative outcomes for occupants' mental and physical health (Bridge et al. 2007, pp. 6-7). The availability of physically accessible and appropriately located housing is critical in order for some groups, including people with disabilities and older people, to live independently within the community (Hinton 2006, p. 71; Housing Tasmania 2003, pp. 3-4).</p>
<p>7. There is direct Ministerial accountability for the outcomes delivered by the housing association(s), including the outcomes for tenants.</p>	<p>Public housing is currently a direct responsibility of government. If there is a failure in the system, the responsible Minister is directly accountable, both administratively and politically. This not only offers an important protection against exploitation or abuse of tenants' rights, it also offers tenants an important guarantee that their voice, however imperfectly, will be heard and taken account of by government. Defend Council Housing, a lobby group in the UK, argues that only a democratically elected landlord, such as a council, is truly accountable to tenants (Defend Council Housing 2007); the boards of housing associations, even if they include representatives elected by tenants, are legally required to act in the best interests of the organisation rather than in the best interests of tenants (Pawson 2005, p. 10).</p>

<p>8. There are protocols in place between the housing association and relevant government departments to ensure that the housing response is integrated with urban and regional development and the coordination and planning of transport services, community facilities, job creation initiatives, education policy, training programs and human services delivery, in order to maximise life opportunities for tenants.</p>	<p>The ‘locational disadvantage’ experienced by public housing tenants – and low income private rental tenants – is well documented, as is the social exclusion and stigmatisation it causes (Atkinson & Jacobs 2008, pp. 9-10). The provision of social housing needs to be considered as part of a broader picture that incorporates social and economic infrastructure development, including the development of transport networks, community facilities and job opportunities, the availability of education and training, and the provision of support services. Government has a greater capacity than any other entity for delivering this integrated response since, regardless of its diminishing role as a direct service provider, it remains ultimately responsible for strategic planning around infrastructure development, employment creation initiatives and patterns of service delivery.</p>
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Will the new system deliver on the bottom line?

Anglicare considers all of the outcomes above to be mandatory, not optional, and we consider that whatever model of regulation is adopted by the Australian Government, it should be designed to ensure that these outcomes are delivered. However, we are concerned that most of these outcomes will not be achievable under the new system unless the Government provides, in addition to a strong regulatory framework, considerable subsidies to providers. Otherwise, in order to cover their operating costs and deliver appropriate returns to investors, housing associations will be forced to compromise on these outcomes for the sake of their financial performance. This will mean higher rents, restricted access for less profitable client groups, reduced support services, constrained maintenance budgets and pressure to ‘get rid of’ tenants whose actions – such as failure to pay rent or damage to property – affect revenues.

Anglicare’s view that subsidies are essential is drawn from an extensive review of the research on growth provider models, published in a policy paper called *Going for growth* in February 2008 (Flanagan 2008). The following discussion draws extensively on the arguments in that paper.

Recurrent funding: Although they will have access to Commonwealth Rent Assistance, it is likely that there will be no other recurrent funding made available from either the Australian or State Governments. This means that the new housing associations will be required to cover the cost of maintenance, tenancy management, operational costs and returns to investors out of their revenue, which mainly comes from the rents paid by tenants. The pressure this creates to increase rents is made clear by the discussion paper (Australian Government 2010, p. 31). Because the rent-setting models in ‘traditional’ community housing associations do not generate sufficient revenue, growth providers must alter their policy settings to maximise revenue streams. Possibilities include:

- leasing a proportion of properties to moderate income earners, who then pay higher rents that can be used to cross-subsidise the rents paid by low income tenants;
- restructuring or increasing rents to increase the amount of rent assistance for which tenants are eligible; and/or
- leasing a proportion of properties at higher, market-linked rents (e.g. 75% of market rent) rather than income-linked rents.

Anglicare has a number of concerns with these options. In relation to the latter two, the concern is simple: increased rents, whether through a model that maximises the tenant’s rent assistance entitlement

or through linking rents to the market rather than the tenant's income, impose additional hardship on the lowest income tenants, thereby squeezing these tenants out of the system or forcing them to live in poverty.² Maintaining an income mix among tenants to allow for cross-subsidisation of lower income tenants is not a problem in and of itself, but it becomes so if the absolute number of properties available is insufficient to accommodate those most in need within the confines imposed by the 'income mix'. In this case, the lowest income earners again miss out.

Private investment: A growth provider model is utterly dependent on private investment. For investors, there are two main drivers (Docherty 2006, p. 44). The first is risk: investors will not provide funding to a venture unless they have confidence that the growth provider has sophisticated and effective risk management systems in place and that the regulatory framework is robust, comprehensive and independent. The discussion paper indicates that the Government is well aware of this. The second driver for investors is return on investment, and the discussion paper also acknowledges this (Australian Government 2010, p. 31). However, there is a significant body of research demonstrating that, because of the returns required, providers will not be sustainable or attractive to investors into the long-term without ongoing subsidies and support from governments (Bratt et al. 1999; Bratt 2008, pp. 10-14; Department of Communities and Local Government 2007, p. 76; Milligan et al. 2004, p. 30; Lawson & Milligan 2007, p. 8; Berry et al. 2004, pp. 38-9; Nieboer & Gruis 2006, p. 10).

The example of the UK is often used, including by the discussion paper (Australian Government 2010, p. 11), as evidence that growth providers not only work, but can be hugely successful. But despite the size of the investment, the UK model is based on a very different subsidy system. Housing benefit (now called local housing allowance) accounts for 60% of rental revenue in the housing association sector (Cave 2008, p. 76) and the capacity of providers in the UK to cover the costs of debt finance depends on the availability of this revenue stream (Lawson & Milligan 2007, pp. 8, 34). For tenants, housing benefit is much more generous – for many, it covers 100% of their rental costs (Directgov 2010).

The sustained commitment of the UK Government to the provision of subsidies is critical for investor confidence (Berry et al. 2004, pp. 21-39). Housing associations also depend on activities such as market sales and low-cost home ownership to subsidise their loss-making activities of social housing provision and community investment (National Housing Federation 2007, p. 8), with the capacity to provide the former critical for the continuation of the latter. In the UK, recurrent subsidies like housing benefit are worth 6.5 times more than capital subsidies provided through grants (Rouse 2006, p. 29).

Finally, even with significant private investment, the UK system has not been able to deal effectively with the kinds of problems that face Australia's own system, or in some areas deliver on the 'bottom line' outcomes above. Housing advocates in the UK express the same concerns about supply, lack of support services for tenants and housing quality as in Australia. The former head of the now-restructured UK Housing Corporation, the regulator and funder for the social housing sector, Sir Peter Dixon, delivered a

² The following example compares the discretionary income left to a tenant under different rent setting policies. The tenant in this example is a single person on the full adult rate of Newstart Allowance (\$462.80 per fortnight), eligible for rent assistance up to a maximum of \$113.40 per fortnight but receiving no income from any other sources. If the provider used a 'traditional' rent setting approach, rent would be set at 30% of assessable income and rent assistance would be treated as assessable income. The tenant would be charged \$75 a week, leaving them with \$175 a week to cover all other costs, like food, electricity and transport. This 'traditional' approach is used by one of Tasmania's largest community housing providers, Red Shield Housing. If the provider used an approach that 'maximised' rent assistance, such as setting the rent at 30% of income plus the maximum rate of rent assistance, the tenant would pay \$126 a week, clearly providing a more substantial return to the provider. But they would be left with \$105 a week to meet all their other costs. This approach is used by a Tasmanian affordable housing provider, Tasmanian Affordable Housing Limited. Neither \$175 or \$105 is an adequate sum to meet the after-housing cost of living for a single person, but \$105 imposes the greater degree of hardship.

keynote address on the state of the UK housing system at the recent National Housing Conference in Melbourne (Dixon 2009). It was titled 'Where did it all go wrong?'.

Commonwealth Rent Assistance: The need for policy stability in relation to the public subsidies provided by rent assistance and in relation to taxation settings has been identified as an important precondition for the development of growth provider models (National Community Housing Forum 2005, p. 3). Some proponents of maximising the rent assistance flowing into community housing argue that the Government will be paying the same amount regardless of whether the tenant is in community housing or in the private rental market, but the housing will be considerably more affordable for the tenant (Milligan et al. 2004, p. 12). However, eligibility for rent assistance was withdrawn from public housing tenants in 1982 on the basis that there was too great a disparity between the assistance provided to public tenants and that provided to tenants in the private rental market (Industry Commission 1993, vol. 1, p. 101). If the community housing sector develops and expands in the way in which the discussion paper suggests it will, this argument could be applied to community housing as well, particularly as real expenditure on rent assistance is projected to increase by 170% by 2045 (Yates et al. 2008, p. 41). Withdrawal of rent assistance may not happen under the present Government, but it is not possible to guarantee that it would not happen under any future Government.

Burke also points out that in the early 1990s, it was suggested that the Commonwealth State Housing Agreement be replaced by the extension of eligibility for rent assistance to public housing tenants, but the idea was dropped because the rent assistance available would still not have allowed the public housing authorities to be economically viable, especially at a time of greater targeting and the resulting financial pressures on the system (Burke 2005, p. 7). It is worth remembering that rent assistance does not guarantee affordable housing. In June 2009, 41% of rent assistance recipients were still in housing stress after receiving the supplement (National Housing Supply Council 2010, p. 86), and as already noted, 'housing stress' is a very conservative measure of affordability problems.

CONCLUSION

The paper provides a vision of the future which shapes a new model of social housing supply around the needs of investors. While private investors are an important source of funding for badly needed social housing, their needs should not be the driver when it comes to designing a regulatory system. The most important people in this discussion are the tenants, and especially those tenants who are most disadvantaged, such as those who are on low incomes, in crisis, vulnerable or have complex needs. Any system of regulation or of funding must meet their needs and deliver minimum standards of affordability, security, quality and support for them. If it does not, it fails the basic test and should not be supported by the Australian Government.

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