

**Submission**

**No 40**

# Outsourcing Community Service Delivery

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# SHELTER NSW SUBMISSION

## Outsourcing community services delivery

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*Submission to the Committee on Community Services, Legislative Assembly, Parliament of NSW, from Shelter NSW*

This submission addresses the following two terms of reference of the Inquiry, on the outsourcing of state-provided human services to nongovernment organizations:

- State government processes, outcomes and impacts of transferring services from government to nongovernment agencies
- The development of appropriate models to monitor and regulate service providers to ensure probity, accountability and funding mechanisms to provide quality assurance for clients

We address those two terms of reference in relation to outsourcing of provision of **social housing** to nongovernment organizations.

### State government processes, outcomes and impacts of transferring social housing from government to nongovernment agencies

The process of transferring management of government-owned social-housing dwellings to nonprofit nongovernment organizations began in 1984 with the introduction of a 'capital program' in the then Community Tenancy Scheme; under that program, a number of nongovernment organizations had been set up, at government initiative, to implement the Scheme. They were able to acquire dwellings largely from grants through that program. The title to those dwellings was held by the then Housing Commission, and the NGO managed the properties (Vivienne Milligan and others, *The Community Tenancy Scheme report*, 1985, pp.15-17). Initially the 'capital program' dwellings were acquired through the market (by purchase or new-build).

Today we have five circumstances where nongovernment organizations provide social housing on behalf of government. (Nongovernment organizations have a, limited, history of developing and providing housing from their *own* resources for their own social-mission reasons, which cannot be construed as outsourcing of a government function; this has been most notable with some religious organizations, including at the (christian) parish level). Those circumstances are:

- provision of long-term rental housing under a government program for social housing, where the dwellings are owned and continue to be owned by government, and the nongovernment organization has responsibility for property and tenancy management (within strictures set by the government) – this is the case with what is generally called 'community housing' in a narrow sense of that term, with most of the current housing associations having their origins in the former Community Tenancy Scheme;
- provision of short-term or medium-term housing under a government program for crisis accommodation, where the dwellings are owned and continue to be owned by government, and the nongovernment organization has responsibility for property and tenancy management (within strictures set by the government) – this is the case with the specialist homelessness services – formerly Supported Accommodation Assistance Program services;
- provision of long-term rental housing under a government program for redevelopment of public-housing estates, where the new-build rental-housing dwellings continue to be owned by government, and the nongovernment organization has responsibility for property and tenancy management (within strictures set by the government), replacing the state housing agency as the social-housing provider on the estate – this is the case with the redevelopment of the Bonnyrigg public-housing estate (Newleaf Communities), which is broadly the model for similar redevelopments (e.g. Cowper Street, Glebe), especially those that involve a public—private partnership model of financing the redevelopment (e.g. Airds-Bradbury);
- development and provision of long-term rental housing under a government program for social housing and/or intermediate housing, where the dwellings are new-build, developed by the nongovernment organization with government subsidies, and the nongovernment organization operates the dwellings within strictures set by the government – this is the case with dwellings developed by nongovernment organizations with subsidies under the Social Housing Growth Fund under the National Partnership on Social Housing and under the National Rental Affordability Scheme; and
- provision of long-term rental housing under a government program for social housing, where the dwellings are new-build, developed by the NSW Land and Housing Corporation, and transferred to ownership of nongovernment organizations, who operate the dwellings within strictures set by the government – this is the case with some 3,076 dwellings transferred ('with title') in 2010-11 that had been developed by the Corporation with Commonwealth government subsidies under the Nationbuilding–Economic Stimulus Plan.

(There have not been similar arrangements that could be considered as 'outsourcing' in relation to Aboriginal community-housing organizations.)

The five scenarios differ from each other on a number counts. The dwellings and tenancies managed by the nongovernment organization might be new-build or an existing dwelling. New dwellings might be developed/built by the nongovernment organization or by a government agency (i.e. Land and Housing Corporation, or in the case of public-private partnerships, a private-sector firm acting in effect as the government's agent). The dwellings built with

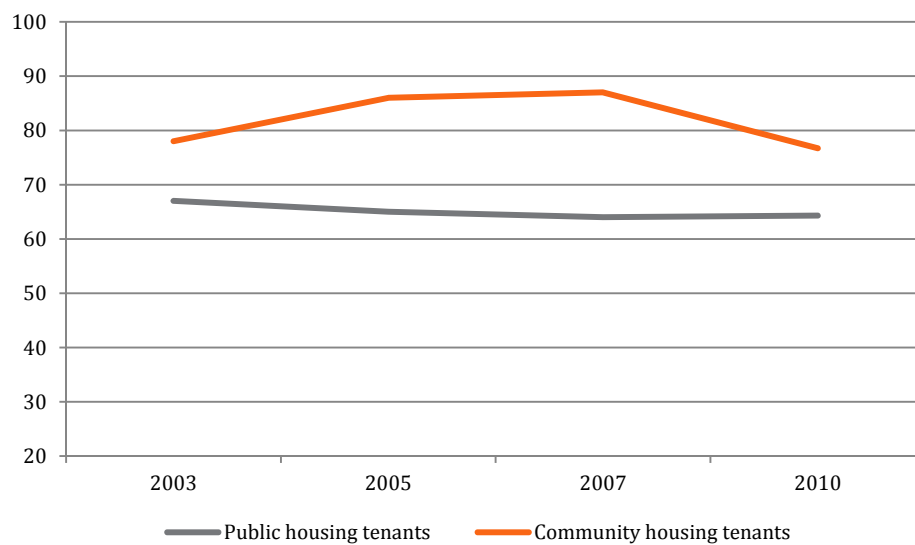
government subsidies might have the ownership vested in the nongovernment organization or retained by the government.

The programs that these scenarios relate to are located within Housing NSW (a division of the Department of Family and Community Services) and the Land and Housing Corporation (a component of the Housing and Property Group of the Department of Finance and Services). The core ones are:

- Community Housing Program of the Community Housing Division of Housing NSW, and the Property Transfer Program
- Crisis Accommodation Program of the Community Housing Division of Housing NSW
- Living Communities Program of the Land and Housing Corporation and similar, PPP-like, initiatives at other sites, e.g. Villawood
- Social Housing Growth Fund and the National Rental Affordability Scheme incentives of the Centre for Affordable Housing of Housing NSW
- the 'transfer with title' policy of the Land and Housing Corporation

The different scenarios present different answers to a question that has been asked since the (then) Community Tenancy Scheme organizations began to manage a reasonable amount of dwellings, enhance their management expertise, and score better on ratings of customer satisfaction by their tenants compared with ratings of the state housing agency by public-housing tenants. And that question was whether community housing was a *supplement* to or a *substitute* for public housing. The core difference between nongovernment housing and government housing is who provides the *housing service*, not who provides the *asset* (dwelling). The nature of the housing service (in terms of core matters like a customer's eligibility for receipt of the service, the price (rent) they pay for it, the duration of the service period, and various other terms of trade) has been similar between public housing and the community housing that is subsidized and regulated by government. So we might conclude that community housing has essentially been a supplement to public housing over the last two decades. This is not to say that the products of the two types of service provider have been identical in all respects. Indeed, this has not been so in some matters. For example, government-subsidized community housing associations have been able to offer new tenants continuous tenancies, which has not been the case with public housing since 'The NSW Government plan for reshaping public housing' of April 2005. Also – possibly because of the smaller customer base and the less bureaucratic management systems of community housing associations, compared with the main public-housing provider – community-housing associations have scored better in terms of customer satisfaction. (See Figure 1.) (These comparative data should be interpreted as a denigration of the work of the staff of Housing NSW: the two products being compared are not exactly the same; moreover, smaller organizations might have a 'natural' advantage in terms of flexibility and client-responsiveness.)

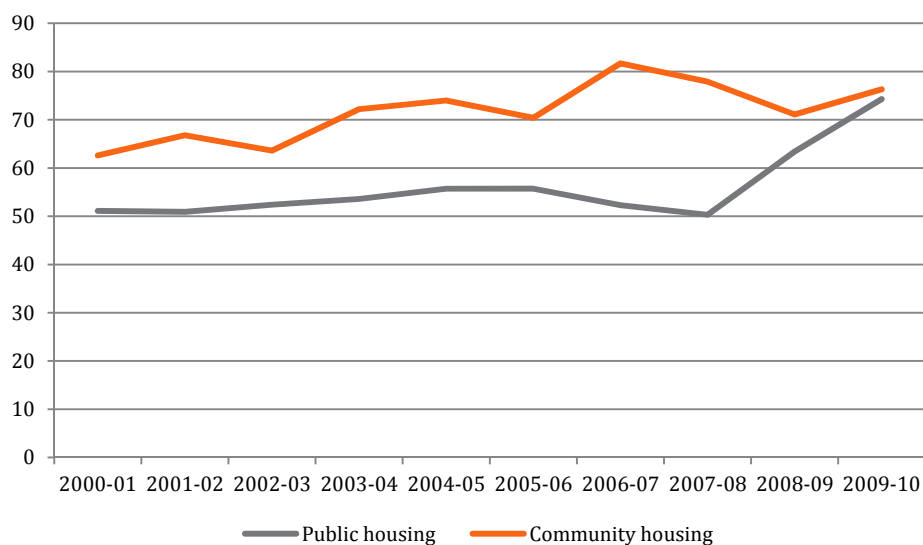
Figure 1: Overall customer satisfaction ratings with public housing and community housing



Source: Australian Institute of Health and Welfare data reports on housing assistance.

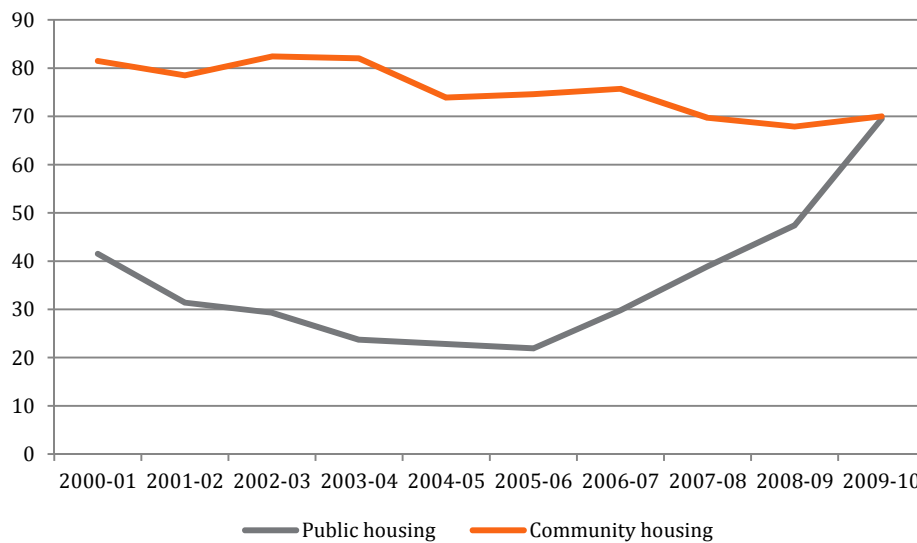
Community housing providers also had a greater tendency to allocate new tenancies to applicants with special needs or greatest needs. (See Figure 2 and Figure 3.)

Figure 2: Special needs allocations in public housing and community housing – proportion of new tenancies



Source: Australian Institute of Health and Welfare data reports on housing assistance.

Figure 3: Greatest needs allocations in public housing and community housing – proportion of new tenancies



Source: Australian Institute of Health and Welfare data reports on housing assistance.

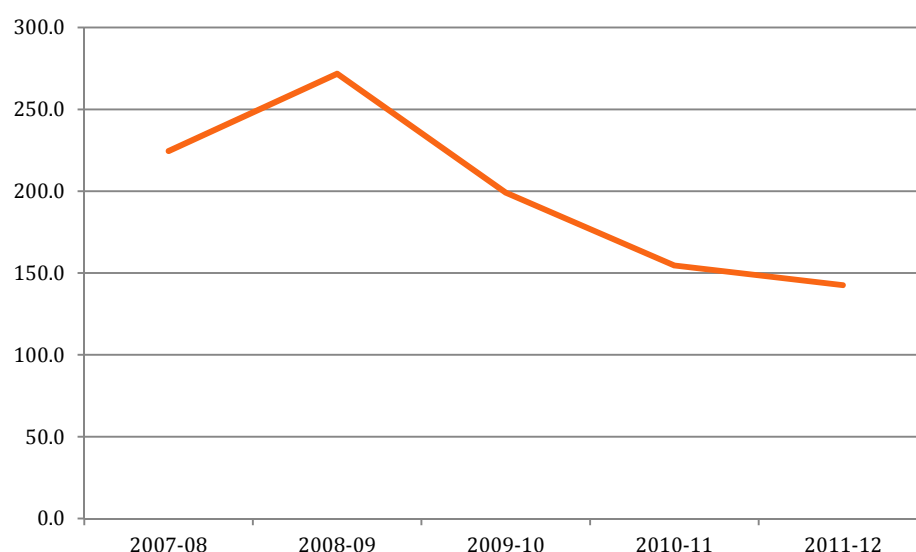
In terms of outcomes for tenants, the high satisfaction ratings of community housing associations is worth noting. We might ask whether the restructurings within the community housing associations (notably, amalgamations), expansion of their service catchments (beyond the smaller geographic focuses of the community tenancy schemes), management of much bigger customer and asset portfolios, and, for many, incubation or full-on implementation of a property-development role on top of provision of housing services, might be inimical to that high satisfaction in the future. That is, with the policy declarations of a number of politicians about community housing providers having a significantly bigger market share of the social housing being provided, will there be diseconomies of scale on the customer-service side of their businesses that parallel desired economies of scale and scope on the asset side? Will the 'bureaucratic failure' that is seen by some as a problem with public housing be replicated in a larger community-housing sector? Concerns of this nature have been expressed about the nonprofit housing sector in England. There might be some lessons for New South Wales, noting the very different housing markets between that country and our state, particularly the relative proportion of dwellings in the social-housing sector (at 25% in England). The Chartered Institute of Housing in England has considered the effect of the size of housing associations in two studies, the most recent reported in January this year (Mark Lupton and Joanne Kent-Smith, *Does size matter – or does culture drive value for money?*, Coventry, England, 2012). They found little evidence to link scale and performance. 'Analysis found that no evidence that larger housing associations benefit from economies of scale or better performance. However, whilst there is no optimum size to achieving efficiencies through economies of scale, case studies show that scale might be important if an organisation can make the necessary changes in its culture and approach to achieve any scaling effects or benefits from growth.' (p.23)

A relevant factor when considering outcomes is the role of regulatory mechanisms. There are a number of mechanisms established by the state government, using, in effect, the subsidies it gives in return for compliance, to encourage the best performance and customer outcomes.

Particularly important is the 'Regulatory code for community housing providers' under the *Housing Regulation 2009*. The code – which is policed by the Registrar of Community Housing – aims, among other things, to ensure that residents and applicants are treated fairly by community-housing providers, and that providers maintain a level of resident satisfaction with the overall quality of its services to the satisfaction of the Registrar.

If it is the case that nongovernment organizations can provide social-housing services efficiently and effectively, with good customer outcomes, the *supplement or substitute?* question does need to be revisited. Nonprofit organizations now provide the long-term social housing in whole towns, like Mudgee, Broken Hill, and Glenn Innes. They provide (all, as far as we aware) the short-term and medium-term housing through the specialist homelessness services and crisis accommodation programs. In the case of short-term and medium-term housing targeted to homeless people, and some for the state's long-term social housing (some of which is also targeted to homeless people), the government provider is not the provider of housing services. Nation-wide, the situation of social housing is in a state of flux. State-government housing agencies have boxed themselves into a corner by tightening eligibility for social housing, with perverse effects for existing customers (Jon Eastgate, *View from the estate: tenants' views of the impact of changes in eligibility and allocation policies on public housing estates*, Shelter NSW, 2011). The only growth in supply (stock) has been that financed by special allocations by the Commonwealth government (National Partnership on Social Housing, Nationbuilding—Economic Stimulus Plan). Redevelopments of public-housing estates designed to 'better' use the asset (the land) and to disperse tenants typically involve a net loss of social housing on site (e.g. Bonnyrigg, Minto, Airds-Bradbury, Redfern-Waterloo stage 2). The trends in subsidies to Housing NSW through the Consolidated Fund from state government grants (i.e. not including appropriations that include grants to New South Wales from the Commonwealth) might be taken as an indication of unwillingness of state governments to support. See Figure 4.

Figure 4: State government subsidies (from own-source revenue) to Housing NSW (\$ million)



Source: Housing NSW budget information.

If governments are not prepared to put in sufficient subsidies to ensure that the public-housing sector is able to respond to the needs of current and future customers, then the option of redeploying resources (*outsourcing*) to nongovernment organizations needs to be taken more seriously. This is not about *growth* of community housing for the sake of it, or because 'The Big Society' is the fashion in England, and it's not that new. It's about getting value for money for the public dollar. Shelter NSW commissioned a consultant to model some scenarios for sustainability of affordable rental housing in 2010 (Emilio Ferrer, *Leveraging affordable rental housing for sustainability and growth*, Shelter NSW, 2010). The modeling used realtime data from a number of NSW community housing associations, and related it to the transfer (*with 'title'*) of dwellings built by the Land and Housing Corporation under the Nationbuilding—Economic Stimulus Plan. Ferrer concluded that those associations would be able to use those assets to increase their stock of affordable-rental dwellings (homes for people) through leveraging, i.e. through raising debt. The associations would be able to maintain their stock portfolio on a sustainable basis. A key factor in a successful business strategy would be to allocate some of the dwellings to tenants with a mix of incomes, i.e. to provide an intermediate-housing product as well as a social-housing product. This is because the nonmarket rents paid by social-housing tenants places limits on revenues to providers. However, the modeling suggested there would still need to be a government grant program to deal with replacement dwellings when the transferred and newly-acquired dwellings needed replacement. A strategy for more nonprofit-rental housing that incorporates leveraging would *not* mean that government subsidies were no longer needed, but the nature and quantum would change: they could, hopefully, be targeted to increasing the supply of affordable-rental housing, rather than maintaining the status quo.

### **The development of appropriate models to monitor and regulate nongovernment social-housing providers to ensure probity, accountability and funding mechanisms to provide quality-assurance for clients**

There are 4 mechanisms in place already that manage the risks in the state government's financial assistance to nongovernment providers.

One is the requirement for community housing providers to register with the Registrar of Community Housing to be eligible for assistance (*Housing Act 2011*, s.671), and to comply with the 'Regulatory code for community housing providers' under the *Housing Regulation 2009*.

The Code requires a registered community housing provider to (a) have systems in place that are designed to prevent, monitor, report on, and respond to, instances of fraud, corruption and criminal conduct of a similar kind, and (b) ensure that there are no serious or repeated instances of fraud, corruption or criminal conduct of a similar kind in connection with its operations (cl.18). A registered community housing provider must have a code of conduct designed to ensure it maintains high standards of probity, and ensure that there are no serious or repeated breaches of the code (cl.19). A registered community housing provider must be solvent and (a) in the case of a class 1 or 2 registered community housing provider, have an appropriate capital structure and be financially viable for the foreseeable future, and (b) in the case of a class 3 or 4 registered community housing provider, must be financially viable for the immediate future. The Code also has specific requirements on customer satisfaction, as indicated above (page 6).



The precise instruments for regulating registered community housing providers are likely to change in view of federal proposals for a standard, national regulatory arrangements (Housing Ministers Advisory Committee, 'Public consultations on the national regulatory system for community housing: final report', February 2012); these will require the support of the NSW Parliament. This proposal is expected to have positive benefits for New South Wales (Deloitte Access Economics, 'Cost benefit analysis chapter for jurisdictions on national regulation of not-for-profit housing providers', November 2011, pp.11-12).

Secondly, housing associations participate in a system of quality assurance under which they seek accreditation against the National Community Housing Standards. Specialist homelessness services (many of which are housing providers, though the housing is usually not provided to a client on a long-term basis) are expected to be covered by a national quality framework (Ipsis-Eureka Social Research Institute, 'Consultations concerning a national quality framework for the provision of services to people who are homeless or at risk: stage 2 report – final report, 2011).

Thirdly, most community housing associations have moved to incorporate as companies, and are regulated by the Australian Securities and Investments Commission under the *Corporations Act 2001* (Cwlth). The *Housing Regulation 2009* requires evidence of the following matters as constituting 'sound governance' for the purpose of a community-housing provider being registered under the *Housing Act*. The governing body must be effective and have a range of expertise that is sufficient for the scale and scope of the community housing provided. The governing body must comply with legal and regulatory requirements, professional standards and guidelines relevant to its operations. And the governing body must undertake planning that adequately identifies the priorities and resources necessary to sustain the long-term delivery of community housing.

Fourthly, where the Land and Housing Corporation has an interest in the land or property of a registered community housing provider, as is the case with land and dwellings vested to them, there are specific provisions in the *Housing Act*, namely sections 67HA, 67K, 67L, and 67O–67R, to protect the Corporation's interest. Vesting of Corporation land or dwellings may only be transacted with community-housing providers that are registered as a company and are registered as a class 1 or class 2 provider (Housing NSW, 'Community housing asset ownership policy', May 2011).

We suggest that those 4 mechanisms are adequate to deal with the accountability, probity and quality assurance issues around state government outsourcing of social-housing services and dwellings to nonprofit nongovernment organizations.