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CHANGE MANAGEMENT

Social Housing Management Transfers Program
Best Practice Report – Tenants' Experience



**TENANTS'
UNION**
OF NEW SOUTH WALES



**LAW AND JUSTICE
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SOUTH WALES

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Michael Darcy



The Tenants' Union of NSW recognises that Aboriginal and Torres Strait Islander people are the First Peoples of Australia. Our office is on the lands of the Gadigal of the Eora Nation.

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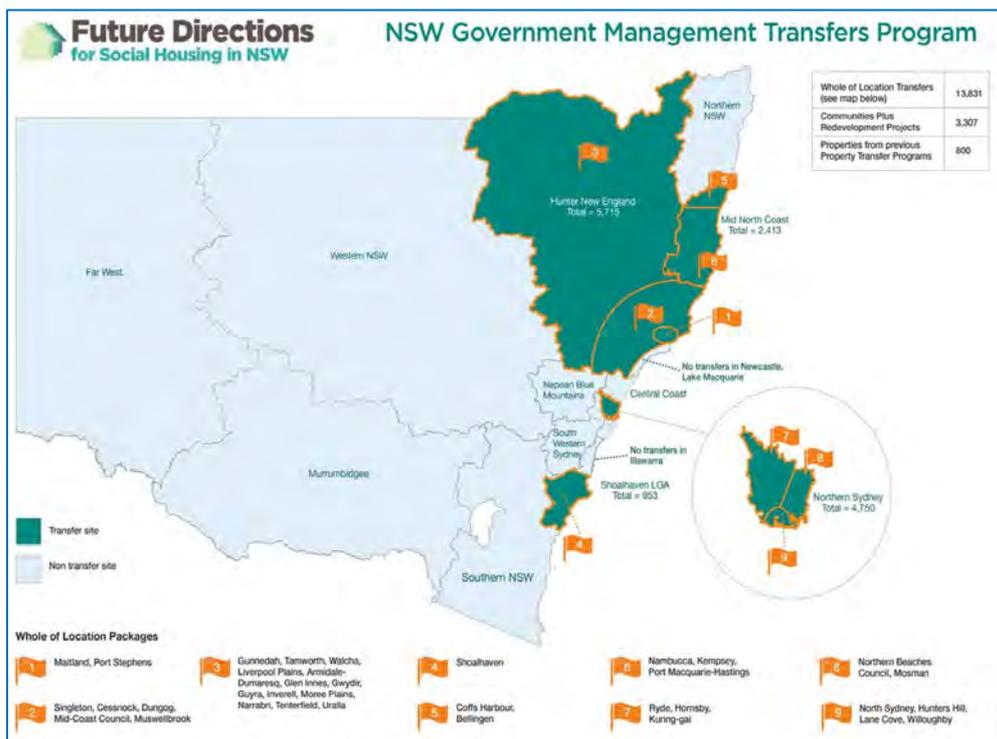
1. INTRODUCTION & BACKGROUND

1.1. Transfers to community housing – the Tenants’ Union of NSW and the tenants’ perspective

Between October 2018 and September 2019 the management of more than 14,000 public housing tenancies across nine geographical regions of NSW was transferred from the management of the Department of Family and Community Services (FACS, now the Department of Communities and Justice or DCJ) to ten Community Housing Providers under contracts which last for twenty years. These organisations have also been contracted to provide all Access and Demand and non-housing services and to coordinate the housing related service system in the relevant regions.

The mass transfer of tenancies and services from the public authority to non-profit landlords is of critical interest to the Tenants' Union of NSW which aims to make a positive difference to the lives of residential tenants in NSW, and particularly tenants who are economically and socially disadvantaged, which includes virtually all social housing tenants. Since affected tenants had no voice or choice in the design or implementation of this program the Tenants' Union has undertaken the vital task of observing and reviewing its implementation through the lens of tenants' experience.

This report focusses on the experiences of tenants during the transfer period and in the months following transfer with the aim of identifying practices and policies that have impacted positively or negatively on transferred tenants. The report draws on primary research conducted during the roll-out period including interviews with tenants and community housing providers, reviews of published material and Tribunal records, and importantly on the experience of local support workers and Advocates working at Tenants Advice and Advocacy Services (TAAS) across NSW.



1.2. What is the rationale for Social Housing Management Transfers?

Large-scale transfers are being undertaken by the NSW government in pursuit of the target of 35% of social housing tenancies to be managed by Community Housing Providers (CHPs) which was set by Commonwealth and State Housing Ministers in 2009. This objective was reinforced with the introduction of the National Housing and Homelessness Agreement in 2017, explained by the Parliamentary Library as follows.

"The rationale behind this approach is that community housing tenants are eligible for Commonwealth Rent Assistance (CRA) whereas public housing tenants are not, and this enables community housing providers to charge higher rents without reducing tenant net incomes. Where they have a sufficiently sized asset base, community housing providers are able to use this to leverage financing and further expand their housing stock."

(Parliamentary Library Budget Review 2017-18)

The strategy of adding to social housing stock in this way rests upon expanding the asset base of community housing providers, yet this is not a stated aim or outcome of the NSW Social Housing Management Transfers (SHMT) program. The program entails contracting out of tenancy management and some other services to non-government organisations so that tenants qualify for additional income support payments from the Commonwealth government. It does not involve the transfer of any assets which remain the property of NSW Land and Housing Corporation and it is not expected to support leveraging or lead to any substantial additions to the total social housing stock.

As one CHP manager told us:

"If we were able to increase supply we would be but this program is very clear. Every organisation that wanted to pitch a supply message as part of their tender were very politely told to please go away ... FACS was really clear every dollar that comes in from tenant rent and CRA gets turned into services to towns and communities."

The NSW government promoted and implemented the transfer of management on the promise that tenants would not be disadvantaged and indeed would be better off and receive a higher standard of service because of an estimated \$1 billion in additional revenue garnered through Commonwealth Rent Assistance payments added to rent over the 20-year life of the contracts.

"By transferring management to CHPs we are harnessing an untapped resource that can vastly improve the experience of people living in social housing managed by CHPs."

Pru Goward, Minister for FACS October 2017

Improving the lived experience is a laudable aim if it can be realised. FACS (2016) Future Directions for Social Housing policy claimed that a larger, stronger and more diverse community housing sector would "make the most of community networks to deliver better long-term outcomes for our tenants and applicants".

However, in order to deliver the management contracts to successful community housing tenderers, the government found it necessary to amend the NSW Housing Act so as to

remove any tenant choice or voice in the transfer process. At the same time much of the detailed practice and outcomes data collected by CHPs and reported to the Registrar of Community Housing is kept confidential, as are the contracts with providers including any specific performance criteria and/or remedies. The National Regulatory Code for community housing pays scant attention to tenant experience or tenant participation and lacks specificity, while the suite of operational policies that CHPs are required to apply is narrowly focussed on eligibility, access, rent setting and asset management. These limitations on accountability to tenants represent a serious concern which is discussed further below.

1.3. Will improved services result from multi-provider contracting-out?

The assumption that a larger and more diverse CHP sector will produce better outcomes for tenants arises from the idea that competition and diversity amongst providers will lead to greater efficiency and innovation in providing services to tenants. In theory competing providers would constantly seek out ways of more effectively and efficiently meeting consumers' needs in order to attract their business and grow. This has been a major element of the rationale for developing multi-provider social housing systems in the UK. In SHMT, providers were required to submit competitive tenders which set out their plans and capabilities, but the 'consumer' in this case was the NSW government, not tenants. The offer of 20-year 'whole of location' contracts effectively removed the element of competition once they were awarded and so the market incentive for the successful tenderers to innovate in the interests of tenants is not present. Providers are required to comply with contract and registration requirements and to apply a minimal set of standard policies, but any further action to improve tenants' experience or outcomes relies on the culture, management and capabilities of the community providers themselves. Whether the contracts incorporate specific expectations regarding service improvements or remedies for failing to deliver them is unknown as the documents are not available for scrutiny, while the government's capacity to effectively monitor contract compliance over the term of the agreements is also yet to be demonstrated.

Community Housing Providers consistently profess a conviction that they are good landlords who make a positive difference in tenants' lives and their growth strategies, including participation in SHMT, are closely linked to this belief. However, CHPs in NSW have diverse histories and cultures and apply a variety of policies and practices within the framework of compliance and contracts outlined above. In the absence of informed tenant choice amongst them, mechanisms to ensure that CHPs will actively seek to improve or build on each other's innovations in the interest of better tenant outcomes are limited. The Community Housing Registrar monitors compliance with minimum standards, while the Community Housing Industry Association (CHIA) takes a more proactive role and has had some success in attempting to develop and promote good practice. Nonetheless as a membership-based peak body CHIA's success relies on persuasion rather than authority or structural influence.

Based on the Tenants' Union and the Tenants Advice and Advocacy Service network's experience working on behalf of social housing tenants, we know that better outcomes for tenants and applicants do not flow automatically from increases in the size and diversity of

community housing landlords. Larger provider organisations may lose a degree of flexibility and engagement in the local community while rapid growth and change can lead to confusion, errors and skill deficits. Diversity in policy and practice amongst providers might also mean variation in the quality of services and the degree of tenant focus.

Improved tenant outcomes thus need to be demonstrated in practice and tenants' experience should be the central focus of policy and practice development by providers, and of any evaluation of the program by government. Tenants' experience and outcomes might easily be displaced by other management priorities especially given the legislative and regulatory constraints and financial pressures that currently frame the transfer process.

1.4. Transparency and accountability

As outlined, growth of community housing through transfers is being promoted at least in part as a way of introducing a degree of contestability which should drive service improvement, innovation and value-for-money. Yet measuring these outcomes is not possible through consumer behaviour. That is, tenants are not able to express their preferences for any resulting improved service or innovative approaches by changing providers, or choosing between providers. In SHMT government has awarded long-term contracts to community housing providers that are also not open to detailed public scrutiny. Contestability and accountability are thus further diminished. The Tenants' Union has recommended elsewhere that providers should collect and be required to publish detailed practice and performance data (TUNSW 2019).

Some of this data is already published, most is already collected and submitted to the state registrar. It is also made available to participating providers for benchmarking purposes on a confidential basis. Community housing providers operate under government auspice and exist to fulfil a public purpose so we see no reason why such performance data should remain confidential. It is not intended that this should replace other reporting tools, though where duplication of data and recording exists we support measures to streamline reporting requirements across government agencies and processes.

1.5. Best practice – minimising negative and maximising positive experiences and outcomes

With support from the NSW Law and Justice Foundation, the Tenants' Union and the state-wide network of Tenants Advice and Advocacy Services have closely observed the implementation of SHMT in NSW in 2018-19 in order to identify policy and practices of all institutional stakeholders that impact on tenant experiences. This project does not constitute a systematic or comprehensive evaluation of SHMT but a review conducted with an explicit tenant focus and a particular brief to prioritise vulnerable tenant groups. The aim of the project and this report is to minimise negative outcomes and foster best practice for tenants in law and policy during and after transfer from public housing to community housing providers.

Research conducted for the project suggests that most tenants have transferred to the new landlord without undue disruption or other problems and some have reported favourably on the contact and response they have had from their community housing provider over the transfer period. However, the research and the experience of Tenant Advocates also reveals that for some tenants the transfer process itself has been confusing and often stressful, and that for many of those encountered through this project the transfer to community housing has led to adverse outcomes. Disturbingly, those who have suffered negative outcomes related to the management transfer have frequently been amongst the most disadvantaged and vulnerable tenants or those with very complex family or life circumstances.

This report draws upon on data gathered from Tenant Advocates around NSW and from interviews with affected tenants, as well as with CHP managers and staff, and published sources including CHP websites. CHP managers and staff generously explained their objectives and practices and have identified their particular achievements as well as the challenges they faced in implementing the transfer.

Inevitably, the material provided by tenants and Advocates focussed largely on difficult or negative experiences. The purpose of this report, however, is not to call out each example of CHP policy or practice that impacted adversely on a tenant. Rather, the analysis seeks to understand the conditions under which such consequences are allowed to result from tenancy management transfers and to suggest changes in policy and practice at both provider and system level that might help to prevent this and ensure that the promise of 'vastly improved' experience for social housing tenants is consistently realised. As will be shown, negative experiences and outcomes do not result simply from CHP practices but also from structural elements of the transfer process that effectively constrain those practices.

While the potential for flexibility, innovation and responsiveness to local needs are given as key reasons for moving to a multi-provider system, this project has revealed that in many aspects of policy and practice, flexibility can mean that tenants' access to certain policies and services depends on which provider secured the contract in their geographical location. This might impact variously on communication, customer service, the response to arrears, or even long-term housing security issues with different outcomes in different locations. This report seeks to identify the best policies and practices from the perspective of tenants' experience and outcomes in the hope that all tenant-focussed housing providers will consider and be encouraged to emulate them in the interests of minimising or avoiding transfer-related disadvantaged and inequitable outcomes.

2. DATA & METHODS

Data gathering for the project included review and analysis of policy and other documents; direct observation of practices including drop-in/CRA sign-up events; monitoring and analysis of listings in the NSW Civil and Administrative Tribunal (NCAT), and observation of proceedings; and collation of case studies based on reports and discussion with Tenant Advocates, other local agencies and support workers. Individual and small group interviews were conducted with senior managers, supervisors and frontline staff of CHPs and with tenants and Tenant Advocates. All interviews were conducted in accordance with ethics approval provided by Macquarie University.

CHP and FACS Housing websites and publicly available documents were scanned to compile a compendium of tenancy management policies allowing identification of alignments and differences, and also some checking of policy statements against experiences reported by tenants and Advocates. Unfortunately this policy 'map' contains many gaps due to the absence of publicly available CHP policies in some areas and categories.

Meetings and interviews were completed with staff of nine CHPs, including multiple interviews with those that received transfers earlier. Senior staff interviews were between sixty and ninety minutes long while operational staff interviews were usually thirty to forty minutes.

Under the ethics approval tenant interviews must be initiated by the tenant. Contact was made with neighbourhood centres, specialist homelessness services and other local service providers in transfer areas and information sheets and posters inviting tenants to be interviewed were placed in key locations. Twenty-four transferred tenants from seven providers took the opportunity to be interviewed individually or in small groups, which ran for between 35 minutes and one hour. In addition more than a dozen case studies have been collated based on reports from TAAS Advocates and local support agency staff.

The tenants interviewed for the project are not a random or representative sample of transferred tenants and this was never the intention of the project design. Rather the aim was to explore tenants' experiences and the range of policies and practices that impacted on tenants, especially vulnerable tenants, through in-depth qualitative interviews and to analyse factors in the

Are you a tenant being transferred to Southern Cross Housing?

What's happening?
All NSW Government housing services in Shoalhaven have been transferred to Southern Cross Housing.
If you are a housing tenant,
• You have probably received lots of information already
• You will need to apply to Centrelink for Commonwealth Rent Assistance.
• Your income should be the same after rent is taken out.
• Other policies and lease conditions should remain the same, but may change in the future.
If you are applying or waiting for a house or other assistance,
• You now need to deal with Southern Cross, not FACS.

Tell us your story
Sharing your positive or negative housing transfer story with the Tenants' Union will help us to improve FACS and Southern Cross policies.
Anything you tell us will be kept entirely confidential unless you give permission for us to share it.
Contact Michael Darcy:
8117 3720 • 0414 909 013
michael.darcy@tenantsunion.org.au

Get advice
If you have any problems with the change to Southern Cross Housing, or are concerned about issues affecting your tenancy, get advice from:
Illawarra & South Coast Tenants' Service
1800 807 225 • 4274 3475

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ADVICE AND ADVOCACY SERVICES

Background picture: Public housing tenants in their community garden at Todd & Beed St, Wollongong. Photo by Lee Stefan.

Example of poster inviting tenants to be interviewed.

transfer process that allowed negative outcomes or encouraged positive ones. Inevitably the majority of tenants presenting for interviews or appearing in case studies reported primarily negative experiences or outcomes. Extensive information was also provided by local Tenant Advocates and support workers from other agencies who also became aware of particular tenants mainly because of problems they had sought help with.

Due to the staged implementation of the SHMT over a twelve-month period, practices and policies of those CHPs that received early transfers necessarily received more scrutiny. The intervening period has allowed observation and documentation of how policy and practices of these CHPs deal with vulnerable tenants and complex situations, and also how they are responding to arrears and other breaches over time. Tenants of those providers have also had more time to form views based on their experience and to find out about the project and present themselves for interview or seek assistance from a Tenant Advocate or support worker.

Thus this report attempts to avoid detailed descriptions of specific practices or case studies that might be associated with one or two particular providers. Rather it seeks to focus attention on the transfer process as a whole, and the ways in which higher level institutional practices and policy impact on tenants.

Before drafting this report CHP senior managers were invited through the Community Housing Industry Association (CHIA) to discuss and provide feedback on an interim Issues Paper that reported on data gathered to that point. CHPs responded constructively to this opportunity by participating in a frank roundtable discussion with some providing written accounts of successful innovations developed to deal with transfer-related challenges, while CHIA also provided a very helpful précis of providers responses to the concerns raised.

3. TENANT EMPOWERMENT AND CHOICE

As referred to above a key rationale for expanding community housing provision is to introduce a degree of diversity and contestability which might drive service improvement, innovation and value-for-money. However tenants are not able to express their preference for any resulting service improvement or innovative approach by choosing between or changing providers. Further, in circumstances where state authorities enter long-term contracts with community housing providers that are not open to detailed public scrutiny, contestability and accountability are diminished. Notwithstanding the valuable role played by CHIA in promoting the voluntary sharing of best practice, providers with innovative new approaches are not structurally incentivised to share their success with their 'competitors' – effectively also withholding the benefits from thousands of other tenants.

The denial of tenants' choice regarding these transfers required a specific legislative amendment (Housing Act 2001, s13A(6)) and stands in sharp contrast to other jurisdictions where large-scale transfers to non-government providers have taken place such as in Britain where tenant engagement and participation has been extensive and fundamental to the transfer process.

In England, large-scale transfers from government to community housing managers have occurred since the 1990's when public sector borrowing limits restricted the ability of Local Authorities to raise funds for maintenance and upgrading of estates. Tenant organisations and voices from the national to the local estate level have actively influenced the development of policy and practice including the design of alternative management organisations. These include Arms-Length Management Organisations (ALMO) – Council-owned non-profits managed by boards including up to one-third tenant representatives – that currently manage about one third of public housing in the UK, existing Housing Associations, and new Housing Associations established specifically to manage housing and tenants in a defined area, sometimes via the temporary vehicle of a Housing Action Trust set up to carry out major redevelopments. Legislation required that in all cases tenants were presented with arguments regarding the potential impact on them of the various options and were able to participate in local ballots to express their preference. More recently some ALMO housing has been taken back in-house by local authorities while others have been converted into housing associations, but once again tenants have been polled to determine their preferred option and the proponents of change have taken responsibility for ensuring that tenants have sufficient information and time to make an informed choice. Tenant empowerment and choice on this scale clearly requires significant government resourcing but, according to Prof Duncan Maclennan of RMIT and the University of Glasgow, it was a critical element of success:

"The requirement that proposed transfers could proceed only when backed by a tenant ballot had a key role in giving NFP 'successor landlords' community legitimacy and a mandate for clearly defined change." (Maclennan quoted in Williams 2017)

In later sections this report sets out a number of specific policy and practice areas which have resulted in some tenants being, or at the very least believing they have been, disadvantaged by having their tenancy transferred to a community provider. A key conclusion following analysis of these cases is that many if not most stem from the fact that disempowerment of tenants was built into the SHMT program from the outset.

Tenants' structural role in the process was not that of a customer or client with capacity to make rational decisions, but could be interpreted as a revenue generating unit that needed to be redefined so as to maximise cash flow. Many of the tenants interviewed expressed their understanding of the purpose of the transfer in terms of being 'sold off' or simply as a financial transaction for government. Very few if any were able to nominate differences between public and community landlords, while some long-term tenants were very apprehensive.

"I didn't understand it because I just wanted to stay in the housing commission. [The CHP], I've heard a little bit about them on A Current Affair and that. That was up at [regional city] they were charging too much to the pensioners and all that and they started complaining about it and the work they were going to charge them for the work and all that. They got that stopped you know. It was like I didn't hear any more about it and that's why I've been afraid they might do it to us." (Transferred tenant)

One senior CHP staff member explained the difficulty of getting tenants involved in the SHMT process as follows:

"There's no choice in this for them about, you know, do you want to transfer or not? So they didn't have to engage at all."

According to Maclennan and Miao (2017), in the UK the need to respond to informed tenants empowered by choice reshaped the plans and priorities of community housing providers and gave the organisations understanding and credibility within the community.

3.1. Independent tenant organising and participation in governance

In a separate but related policy development in late 2018 following a review of its support for social housing tenant participation, just as the SHMT roll-out began the NSW government discontinued the Tenant Participation Resource Services (TPRS) program and Housing Communities Program grants. TPRS operated for more than twenty years through independent local and regional community organisations and aimed to increase social housing tenants' access to information, advice and opportunities to more actively participate in processes related to their housing.

The Minister for FACS' declared that the replacement Tenant Participation and Engagement (TPCE) program *would "improve the lives of social housing tenants right across the State" and "ensure that tenant voices are heard in the development and delivery of reforms"* (FACS 2018). Setting aside the irony of this claim in the light of changes to the Housing Act referred to above, Community Housing tenants are specifically excluded from TPCE. The rationale for

this exclusion is ostensibly that Community Housing Providers should now take responsibility for resourcing tenant participation and engagement in their own organisations.

As a consequence tenants transferred under SHMT lost access to resources and support provided to continuing public housing tenants aimed at enabling their participation in system reforms. CHIA itself has expressed the view that tenant participation is a key element of system infrastructure that should be funded by government and has called for an independent tenant representative organisation to be given a role in community housing regulation and for a more demanding requirement on tenant engagement (CHIA 2019).

In-house tenant engagement programs operated by CHPs such as Tenant Advisory Groups (TAG) are unable to facilitate tenant involvement in policy or management issues beyond the bounds of individual CHP operations, and are clearly conflicted in relation to empowering tenants to express independent or critical views on CHP policy or management practice. The state-wide body representing community housing tenants, Community Housing Tenants Network, is also almost entirely dependent on CHIA for its minimal operating resources.

Most of the tenants interviewed were completely unaware of the existence of TAGs, but a number who were expressed frustration or lack of faith in the TAG as an avenue for voicing tenant issues. While few had first-hand experience their expectations were low. Such comments were offered by some with little experience of participating as well as those with a strong history of involvement in local tenant groups.

The views expressed by tenants included concern that TAG membership was effectively controlled by CHP managers and was therefore unrepresentative and compliant. Some interviewed said that agendas are set by CHP staff and meetings tend to deal primarily with organisation of social activities while tenancy management and policy questions are often simply presented for information and not for genuine input or decisions. In some reported cases TAG meetings are run by CHP staff, and in at least one TAG members were told that meetings and minutes are confidential and certain information provided to TAG members is not to be shared with other tenants.

Participation and engagement can mean many things and CHPs fulfil this expectation in various ways. The Tenants' Union has previously expressed a clear view that tenants should have an independent voice in CHP governance and that this should be reflected in regulatory and accreditation systems.

In most cases, CHPs have indicated their intention to continue with their current Tenant Advisory Group arrangements and to gradually integrate transferred tenants into this. Some have identified the need for additional TAGs to accommodate geographical communities where they were not previously operating.

Some interviewed tenants expressed a lack of confidence that prevented them from asking questions or participating in meetings:

"The thing is I'm not too sure what question to ask because my knowledge is not the best of what's going on what isn't going on? I don't know how to ask them."

(Transferred tenant)

While others were poorly informed or confused about how tenant engagement activities might operate:

"I'm not too sure when they have it on or whatever it is. Usually they ask for money and I said I can't go because I got no money sometimes I just worry about \$5. I haven't got five dollars just to put in for a caterer or biscuits whatever." (Transferred tenant)

A review of websites and written material reveals that some CHPs appear to project their engagement activities primarily as social networking, skills development or recreation opportunities. In some cases it is difficult to locate any reference to tenant participation or representation. On the other hand, some CHPs have clearly attempted to establish and promote more representative and active forms of engagement and participation. This might be as simple as listing local TAG meeting locations and schedules on the website or more substantive things such as providing small grants for local TAG initiatives.

In one example where an active and well organised tenant organisation was in place prior to transfer in a large high density estate the new provider moved quickly to involve it in their tenant engagement structure. The provider indicated an intention to extend the model, which involves elected tenant representatives, to other transferred locations however this has not transpired as yet and ideas about elected tenant representation at this level have been put on hold. The CHP acknowledges that it will take some time to build tenants' trust in these arrangements and that the scope for issues that can be addressed at this level is limited while the role of tenant groups remain advisory. In the absence of higher level opportunities for representation or independent resources to support local organising there is also a risk of 'capture' or co-optation of active tenants. Nonetheless some tenants remain optimistic.

"Well, as I say what we're going to have a tenants' committee here. It remains to be seen on how that goes. Yesterday we started that off and I'm quite amazed. I thought we'd get half a dozen but we had about 25 people here. So it went better than I thought and they're all for it." (Transferred tenant)

This is not simply an issue of SHMT related practice but a wider question for CHPs and the industry to consider especially following the demise of TPRS. The example cited above of an existing incorporated tenant organisation contributing to management of a transferred estate suggests that SHMT could provide an opportunity for more creative thinking about tenant participation and engagement in CHPs.

4. ORGANISATION AND TIMING OF THE SHMT

4.1. Single 'go-live' dates

The transfer of tranches of up to two thousand dwellings and tenancies on a single 'go-live' date for each provider represents a departure from the practice in some previous management transfers where portfolios have been transferred over a period of several months. This was apparently necessitated in part by the concurrent contracting out of Access and Demand and other services and the desire to avoid duplication of staff and services during an extended handover period.

However, for the providers involved this represented an increase in dwellings under management of between thirty-three and two-hundred-and-eighty percent, with most effectively doubling their portfolio on the 'go-live' date. This approach necessitated a more centralised approach to communication with tenants and required that CHPs direct resources intensively to a range of organisational and system issues, including training and orienting new and transferred staff, at the same time that they were attempting to communicate with transferred tenants, ensure that rent balances and other transferred data was correct and also identify and understand the needs and demands of managing many complex and vulnerable tenancies.

CHP senior staff had mixed responses to the single date approach. Some acknowledged that it had led to errors that impacted on some tenants.

"In the past transfers have happened over a three to six month window, not everyone over on one day. So there was no opportunity to check data, balances and so on, or look at each individual tenancy." (CHP senior staff)

Some who recognised these difficulties spoke about the need for extra effort following the go-live date in order to minimise problems but had confidence in their ability to resolve problems after they assumed control:

"Oh, you're off a cliff! yeah, but I don't mind that. Actually, you would think that you would lead up to this and that then it will all start on [the date] but we have all not felt so good, you know for many months right? Now we've got control. We've had we've tried to resolve things leading up to it and has been so difficult and so complex and so many ... But in the end we made a decision that we've not pushed a lot of things and we just deal with what we get at the other end, that it was just wasting resources and energy." (CHP senior staff)

One consequence of single date transfer has been that data transfer errors or complications and delays in CRA payments have in some cases led to tenants falling into arrears due to circumstances beyond their control, and sometimes even without their knowledge, since CHP systems assume that all transferred tenants are receiving CRA and have adjusted rent payments by the transfer date. Clearly under these circumstances additional efforts need to be made to ensure that the tenant is not penalised or disadvantaged, yet in the course of our

research we came across many tenants who, for a variety of reasons were not receiving the correct CRA payment by the 'go-live' date and were surprised to find themselves in arrears and in some cases subject to Notices of Termination and NCAT hearings.

CHP responses to arrears brought about by the transfer, including use of NCAT, are discussed in a later section but here it is important to point out that some receiving CHPs recognised the danger of tenants being impacted by delays or errors and assiduously avoided taking premature action.

"At this point in time, we're going very softly softly with any arrears because you've got a data load, you know a massive data load then that's come over and we've got to be a hundred percent sure that where a tenant is sitting with their arrears is where they are sitting – is there something else happening here? So at this point in time we're not going running down the street with a notice of termination or anything like that."

(CHP senior staff)

4.2. Whole-of-location responsibilities and service system coordination

While the government's promise in relation to SHMT was that the additional income stream from CRA would be used to improve services to tenants, under the new contract arrangements CHPs have taken on a range of responsibilities beyond tenancy management, repairs and maintenance that were previously financed from other government revenue and are now funded by the rent received (including CRA) by CHPs. These include administration of services such as private rental support including Rent Choice and Rent Start previously provided by FACS Housing offices in the affected regions which have now closed, and also increased responsibility for tenant participation and engagement following the abolition of the TPRS as mentioned above.

"In this program were being asked to do a really broad bit of business off the back of that [extra CRA income] and I know that that's a policy question for CHIA – for us it's an operational thing. What's the maximum we can do with that income stream but no, no dollars come to do more of that and the same thing for tenant participation – it comes out of our existing operational budget." (CHP senior staff)

While CHP executives generally expressed confidence in their ability to maintain good relationships with local agencies, in some cases there was a lack of clarity as to exactly what service system coordination might mean in practice beyond convening meetings – especially given that resource allocation and program rules continue to be determined by government. CHPs commented on the need for additional skills in their organisations, and also the fact that this activity requires the involvement of senior staff and was not separately funded under SHMT contracts which means it represents a further impost on the limited additional rent revenue available through CRA. Observations and interviews suggest that CHPs' role in service system coordination is most developed in areas where two or more CHPs share the responsibility at a regional level.

A number of senior CHP staff suggested strongly that DCJ should continue to play a leading role in service system coordination at the regional level since they remain as the primary

funder of most relevant services and continue to make decisions concerning resources, and because coordination is not just about local relationships but is integrally linked to service planning.

"I think the issue around planning is that part of this program that is very undercooked is how district planning for housing need takes place when FACS housing doesn't exist anymore . . . We're expected to coordinate the service system whatever that should mean but not planning, you know making allocation decisions about new resources. It's definitely still secret FACS business, but they won't have the information that they need and so I believe because I'm slightly optimistic over time it will become obvious to FACS that the CHPs are now a significant player in their planning world. Not just a significant player in the delivery world." (CHP senior staff)

A significant proportion of cases brought to attention by community agencies and support workers largely concerned homeless clients seeking emergency accommodation or transitional accommodation tenants. They included occasions of officious or bureaucratic treatment by intake staff and perceived harsh interpretation of eligibility rules. We understand that the rules and resources applying to homelessness services are very constrained and can lead to frustration on all sides. The issue here relates to reputation and relationships with local service providers given that in whole-of-location transfers CHPs are now the sole provider and must take the lead role in service system coordination and planning. In the course of our research several cases were reported by local Advocates and support agency workers where a community housing provider continued to apply discretionary policies excluding particular people from temporary accommodation for a specified period because they had 'contributed to their own homelessness' by behaviour such as being in arrears or breaching a curfew. In these cases the former tenant spent several weeks effectively homeless. Local Advocates believed strongly that while such policies may have been tenable for a CHP before the transfer, while the FACS Housing office was still available to assist with these clients, that this is an unacceptable practice for a provider with whole-of-location responsibilities.

5. COMMUNICATION WITH TENANTS AND CRA SIGN-UP

Initial communication with tenants regarding the intention to transfer tenancies was controlled tightly by FACS and communication with tenants, which was constrained in advance of Ministerial announcements, lacked detail leaving many tenants anxious and confused. One tenant described the first meeting she attended in the following terms:

"It was very unpleasant. I think they were trying to do their best. But in I think it's sort of backfired because when they had the big meeting up at the [community centre] and there were so many people that went there and so many people who were apparently in the know, but nobody could tell us anything. So it was the unknown, what they did was created a big theory thing."

CHPs involved in early rounds of transfers reported frustration arising from their inability to communicate directly with tenants:

"Of course for most people they just didn't know what it meant. Didn't know if it meant anything to them . . . So our job was to persuade FACS that it was beneficial for everyone if we were able to start talking to the tenants well before getting up to the transactional period of they have to start signing pieces of paper and eventually they relented but quite a lot of the early correspondence with the tenants was from FACS. It was batch letters. It was form letters." (CHP senior staff)

Other tenants also expressed concerns about this initial approach:

"They actually made a very big mistake. They sent a letter out Department of Housing saying that people from [CHP] were going to make a drop into every single person's home and talk with people individually ... that didn't sit right with me when I was talking about it at our tenancy group meeting. So I actually and spoke to [CHP staff member]. They had no idea about that..."

I'm thinking how can you know, they say that all these people are going to drop into every single tenant's home. And gives, you know, we're not talking about a 10-minute conversation are you know, they would it would be at least an hour and especially people who were older or have mental health issues and understand, you know, they couldn't just take all the paperwork and say just sign."

Informal information days also had some success in engaging tenants although those interviewed had mixed responses:

"Now they did have a community pop-up thing. As I said just over near the skate park. It was an outdoor event, it was in a really bad location, if people were immobile it was very hard to access. Granted, they seem very approachable though. They took some lovely photos or I don't know where it was to go on some social media of some sort. They did ask our permission to do that." (Transferred tenant)

CHPs were required to conduct a program including joint correspondence and organisation of 'drop-in' sessions to explain the arrangements for transfer and to facilitate the signing of Centrelink and Centrepay paperwork. All CHPs sent forms to tenants several months in advance of the 'go-live' date, pre-populated with tenant details provided by FACS, however even articulate and well connected tenants often felt worried and confused until they attended drop-in sessions. As one tenant explained:

"It wasn't until we had the drop-in session, which was absolutely a brilliant idea, and I came in really, you know ooh!, but they would answer any question, would take their time. I must admit it was really good and that I walked away from there feeling a lot better."

(Transferred tenant)

A number of examples of tenants having errors corrected or complex variations resolved were directly observed at drop-in sessions during the course of our research. Early communication, informal meet & greets and drop-in days were thus necessary but not completely effective for getting tenants to complete necessary paper work before the 'go-live' date for each transfer package.

Average attendance at sign-up events was reported to be approximately twenty-five percent of transferring tenants and the remainder had to be followed up with personal visits. Personal visits were initially conducted by FACS and CHP staff together. CHP senior staff generally welcomed this as a possible opportunity for "warm handovers" but this potential was severely compromised in areas where the rundown in staff in the period leading up to the transfer date meant that the FACS officers participating in the visits did not have the relevant knowledge or experience:

"I was keen for that first round a door knocks for you know, for the tenant have the opportunity to have the current landlord, you know a FACS representative, and us respecting what was happening and doing a kind of hand over almost. But because they were contingent staff and really didn't know much but they were just hanging around?"

(CHP senior staff)

Some CHPs offered incentives for early sign-up such as entry in prize draws and one CHP offered an rent credit of \$80 for completing before the cut-off date. While the take up was very good, this ultimately does not appear to have resulted in a higher or faster sign-up rate than other cases where it was not offered, and some tenants said that they had not seen the money or did not understand how it was to be credited to them.

"I don't even know if the credits ever gone on there because the statement that we do receive and we've only received two months and they've only got the one month on it – It doesn't have like three months worth or anything. Yeah. No, it doesn't sort of give you anything prior to that. So I still don't know whether this \$80 is gone on there or not."

Some providers also produced animated videos, which appeared on their websites, explaining the CRA and rent calculation changes and reassuring tenants that their after-rent income would remain the same.

Despite the considerable efforts of receiving CHPs the concern most frequently cited by tenants and Advocates relates to errors or poor understanding of CRA and the new rent

calculation regime for transferring tenants. Tenants and support workers have reported that early communication regarding the new arrangements was not sufficiently clear and initially raised fears, especially amongst some older tenants, that they would not be able to afford the rent. Personal visits by FACS and CHP staff to complete the sign-up forms were helpful for many but others experienced this as a property inspection and reported feeling somewhat intimidated especially when both agencies arrived together.

"One of the key challenges is that that the tenants think that the joint home visit letter that's been sent out is actually an inspection. That's been such an uphill battle for us because even when I was doing the sign-up, you know supporting the tenants signing the forms, they would say 'So I'm going to see you at the visit next week' and I said 'No because you've already signed the forms there will be no one coming around to visit' and they said 'but it's an inspection they're coming to visit'. I could not convince tenants that this was not a house inspection. And then we are wondering why only about fifty percent are home when we're coming to knock on the door." (CHP senior staff)

In most cases there remained a residual group of up to 5% of tenants who had not completed CRA applications and/or Centrepay authorities for all household members by the day of transfer. CHPs reported significant efforts to contact tenants who did not return forms or reply to messages. However, while only a handful of tenants had reportedly not signed up for CRA by the relevant transfer date or shortly after, tenants who believe their rent has increased unaccountably while their income has not significantly changed continued to present to the Tenants' Union and TAASs more than six months after their tenancy was transferred. Here is one example received from a distressed tenant more than six months after being transferred:

DOH to Community Housing Change Over
1 message

To: michael.darcy@tenantsunion.org.au Wed, May 8, 2019 at 2:09 PM

Hi Michael,
I found this contact email while trying to find information regarding the change over to [REDACTED].

My tenancy changed over from FACS to [REDACTED] I used to pay FACS \$68.00 a week in rent and was in advance. From the change over i was informed by community housing that i was in arrears. I have gone from paying \$68.00 a week in rent to \$190.00 a week in rent, with no alternative income. The only income i receive is the same as when i was assessed by FACS when i 1st started my tenancy, which is my newstart allowance and my parenting payment part A and B as a single parent with 1 teenage son who is 13. I was also on a 2 year fixed agreement with FACS however [REDACTED] have advised me that does not mean anything and i am now in rental arrears because they said i was paying not enough rent. This is not only happening to me, everyone in my street that have changed over to [REDACTED] all have arrears and are paying double what they used to pay with FACS. FACS told us all that nothing would change.

A lady i know of is now \$900.00 behind in rent from these changes, with no way of paying it and facing termination.

How is this even legal? How can they do this to everyone i know and everyone be behind in rent, and how have the government not see this?

It isn't right, and i have had [REDACTED] look into it today and they said "well that is how we do things"

Do you know anything i can do or who to speak to bring attention to this?

Regards
[REDACTED]

While the number is small relative to the scale of transfers, those affected may have limited literacy, mental health issues or be socially isolated. This may have led to them being difficult to contact or unresponsive, but also means they are among the most vulnerable tenants and possibly the least likely to seek help.

Reasons for not receiving eligible CRA payment by the transfer date include:

- Failure to read or understand correspondence
- Fear/ lack of trust
- Changes in household composition or circumstances over the pre or post transfer period
- Administrative errors either at Centrelink or CHPs which, after a predetermined date tenants were often left to sort out

One tenant explained:

"They sent the forms in the mail right? So I can fill half of it in. There's a couple some of the questions I wasn't too sure of because I've only just starting to learn how to read when I was 44. That's my problem I can't I guess if I've got to read a page I've got to sit there for hours to try and read it or something to get it down to understand some of the words ... transfer? transitions? of services and housing, that's what it is. It's just very slow reading to understand it. I got to read it the second and third time to get it right?" (Transferred tenant)

Some CHP senior staff were very aware of this and made efforts to avoid compounding tenants' difficulties.

"It was very prevalent that the people that we were having difficulty engaging with them have really significant challenges." (CHP senior staff)

However we discovered a pattern of cases in some areas where tenants received termination notices and were listed for NCAT hearings reportedly without effective contact having been made to discuss the matter beforehand. Failure to receive, understand or respond to written communications resulted in some tenants accruing substantial arrears. In some cases, despite tenants being in good standing prior to transfer and despite claimed automatic advice to all tenants regarding late or missing payments, no rent was paid at all for a period of weeks or months – most likely because Centrepay changes had not been effected. Several tenants reported that they were unaware of being in arrears until they received a termination notice and NCAT listing date. The following account is from a tenant who claimed to have changed her email contact with FACS prior to the transfer and received no correspondence from the CHP until they appeared for an inspection visit three months later, at which time they also told her she was in arrears because she had continued to pay her original rent.

"They came in January for a house inspection. And that's when they got me to sign Centrepay and told me to fill in for Rent Assistance and then said something about a transfer and then she [tenancy manager] just forgot about it. And then at the first court hearing that's when they brought up [the arrears] again." (Transferred tenant)

This mother of four was evicted and was homeless at the time of the interview. While this is a particularly poor outcome it is not an isolated example – despite the assurances of CHP staff,

we frequently encountered tenants with action being taken against them for arrears who claimed not to have received correspondence or who said they had not been visited. It must be noted however that this has occurred with some receiving CHPs but not by any means all, which shows clearly that a different result can be achieved where more patient and tenant-centred practices are applied. As one CHP senior officer explained, normal system-driven approaches are not always reliable or appropriate:

"There's just seems weird things happen. And that's because the way our system might have had a transaction, you know, and when we found those happening we wanted to be sure that we haven't made an administrative error because we don't want our first interaction to be about negative things." (CHP senior staff)

Communication failures in the pre- and post-transfer periods were responsible for a great deal of confusion frustration and anxiety amongst tenants and was not restricted to elderly and more isolated tenants. In some cases communication issues have led to tenants accruing arrears and having their housing security threatened. Many of these problems can be sheeted back to the practice of transferring large tranches of tenancies and other responsibilities on a single go-live date that did not allow for careful attention to ensuring that all tenants had received messages and understood what was happening.

6. RENT CALCULATION AND ARREARS

Even tenants who attended drop-ins and completed Centrelink paper work before the transfer date frequently expressed confusion over what they were signing, why this was necessary and what benefits or risks might flow to them.

"They have given us the rental subsidy calculation and then when you're actually asking about amounts in here. Generally rent for me is fortnightly – I get paid fortnightly – yeah, so this little question number seven on the actual rent certificate ... is very confusing and I actually had to get help and I'm usually quite literate and what you're dealing with people that aren't literate at all, you know?"

Some tenant participants questioned the rationale for the complex new arrangements when they were renting the same dwelling and nothing else had changed. The following exchange is extracted from a focus group discussion

T1: "I'm struggling with it too. I don't understand why we're getting an increase, but obviously our increases actually effectively just going back to rent. That's how I see what is happening ... Yeah, but it's like we're only getting that to cover what our rents now going to be, why is that? it's just it seems like we're really going to be the ones not so much out of pocket, but all this paperwork and whatnot that we have to fill in it's just distressing for a lot of people."

T2: "Yeah why can't they just transfer it all over why the need of the change of money for a start..."

Arrangements were made with Centrelink offices for CHPs to facilitate systematic processing of CRA and Centrepay changes by directly uploading tenant information during a specified period or 'portal'. While this was effective in the bulk of cases, where delays occurred or tenants' or household circumstances changed leading to a difference between CHP assessed CRA eligibility and the actual amount paid by Centrelink, some providers advised tenants that it was up to them to sort out the discrepancy with Centrelink. Assessment of CRA eligibility and rent calculation continues to create problems for some households especially where there are multiple Centrelink incomes and/or changes in household composition. In some cases this has taken weeks or months to resolve while arrears are accruing.

"We got up to 99.6% of tenants actually ended up signing the forms but what we are finding now though is that there is some confusion with Centrelink. We've got a lot of tenants now at the moment whose rent certificates haven't been processed by Centrelink."
(CHP senior staff)

Experienced Advocates and support workers reported difficulties in understanding rent assessments based on the information provided to the tenant and interpreting ledgers when these are provided, sometimes because multiple manual adjustments have been entered without adequate explanation, or simply poor presentation of the relevant information. We have seen rent adjustment notices provided to tenants which contain no information as to how the new figure has been calculated.

T: "I don't know what they've done but I think my rent went up by forty six dollars something and I get forty-three fifty from Centrelink like so it's an extra three dollars"

Like, yeah, so I've got like two rental increases then but this is the one that annoyed me more than anything the fact that they backdated it to December like five weeks later. I said can you even do that, I didn't even think that was allowed ... fortunately I was backpaid, it didn't cover it all but at least it's covered most of it."

I: "So this was the first communication that you had about it?"

T: "Yes, and I never received that letter but that's not their fault, that could have just been someone stealing it out of the letterbox. So I didn't know about the rental increase. So not only had it been backdated five weeks. It was ticking over another three or four weeks before we discovered that it was ... She rang me. I was on heavy painkillers at the time. It was probably about two weeks down the track before she got here. She came out to the property and just left a note so then I rang her back because it said about arrears I'm thinking 'arrears!'"

As subsequent tranches have been transferred it appears that some lessons have been learned and that in more recent transfers FACS-imposed restrictions on pre-transfer communication with tenants have been relaxed, and that more detailed tenant data is now available prior to the transfer date. However, unlike in previous transfers, the current SHMT program remains fixed on specific "go-live" dates on which all responsibility passes to the CHP and from which rent is calculated on the assumption that the tenants are in receiving CRA at the rate calculated by the CHP. Tenants frequently reported discrepancies that left them in arrears for reasons they did not understand:

"I'm now two weeks behind in my rent which upsets me and causes me a lot of stress because I haven't been behind in my rent ever. I'm assuming it has happened because going by my Centrelink payments Department of Housing stopped the rent too soon and [CHP] didn't pick it up until the transfer date, and for whatever reason I don't know..."
(Transferred tenant)

Some providers have delayed rent adjustments to the following fortnight to avoid tenants being in automatic and ongoing arrears due to misalignment of payment dates, however this is not always sufficient as there are clearly many situations where CRA eligibility and payment is not resolved so quickly.

"We have discovered this week [four weeks after go-live] is when the tenants that came across from FACS with potentially two weeks in credit, that was their old FACS credit that they were in front with so then when we've applied the CRA and the new weekly rent it doesn't actually equate to them being two weeks in credit, it really is two weeks less what extra rent would have been.

That was something that we didn't actually ... factor in so that's we've now got a percentage of people that are in arrears because of that difference if they thought they were in credit, correct, but now they're in arrears. In some instances its eight or nine dollars, but you know, no tenant likes to be in arrears I want to be able to give them the peace of

mind. So we've been having strategy meetings ... To address all of these issues that are coming up where our first priority is making that contact with the tenant to make sure that you know, they've got peace of mind." (CHP senior staff)

As outlined above, examples have also come to notice where, because of change in household circumstances or composition, eligibility for CRA has changed or tenants may not have been fully aware of their entitlement. Delays can be due to getting all household members to complete forms or even to administrative delays within CHP offices. Deeming of entitlement over such periods unfairly penalises the tenant even if CRA is subsequently approved since it is normally back-paid by Centrelink for a maximum of 14 days. While in some cases Advocates have been able to assist tenants to resolve such issues with both Centrelink and CHPs, some have accrued significant debts because of circumstances over which they had very limited understanding or control.

The unfair outcomes brought about by deeming transferred tenants to be receiving CRA income at a rate of entitlement estimated by the provider draws attention to the problems created by forcing transfers to be fully actioned on a single date. Such issues and the associated distress could be avoided by allowing more time for proper assessments to be completed and data to be properly checked and agreed. Since social housing rents are ostensibly income related, rent should not be calculated or charged based on income that has not been received. Tenants did not choose to be transferred to CHPs nor did they choose the timing and so increasing their rent liability on an arbitrary date for administrative reasons regardless of whether their income has actually increased is clearly unjustified.

A number of tenants interviewed had always paid their rent directly – often in order to round up payments and accrue rent credit. Some felt pressure to switch to Centrepay which they did not want to do, some worried about losing their credit balance and a few reported that their balance had been unaccountably reduced or disappeared after the transfer.

"Yeah, and that's another thing that I'm worried about is because with our water and our rent we're a few thousand dollars ahead. Yeah, we won't lose that will we with this transfer? ... Yeah, but would it be wiser to withdraw it and just pay the flat rent and water until after they take over." (Tenant about to be transferred)

Other tenants also reported attempts to withdraw their balance prior to the transfer because of similar worries, but requests were refused. Loss of the ability to check balances online through the MyHousing portal, or the ability to pay rent in cash at the housing office or the Post Office also caused distress to some long-term FACS Housing tenants.

6.1. Notices of Termination & Use of NCAT

Over the course of this project CHPs have been observed to employ a range of different approaches to addressing arrears and other breaches. Some argue explicitly that a clear and unequivocal statement of tenants' responsibilities, backed up by the threat of termination and/or NCAT orders, is necessary to help sustain a tenancy.

The Tenants' Union has previously drawn attention to the rate of applications to NCAT by CHPs which is far higher than for LAHC or private landlords, and this continues to be a concern raised by Tenant Advocates, although some providers are much more active users of the Tribunal than others. As part of this project we monitored NCAT listings by those CHPs who have received transfers and also observed and made notes on proceedings in relevant locations through Duty Advocates from the TAAS network.

While there are significant differences in approach between providers, Notices of Termination and NCAT listings for arrears increased dramatically in some areas in the months following the transfer, and, based on the limited information available, it is evident that most of the extra matters listed involved transferred tenants. Some appear to relate at least in part to arrears accrued before the transfer date and resulted in Specific Performance Orders (SPO) for repayment plans. This practice raises some questions regarding the status of arrears owed to LAHC and whether these debts assigned to the CHP can be considered a breach of the tenant's current agreement.

In some cases tenants reported that they already had repayment plans in place with FACS Housing and while they accepted the SPO they had been surprised and distressed by the Notice of Termination that preceded it. In most cases the tenant was not present and in many the order was issued without consent. A small number of cases came to light where notices were issued and matters listed despite tenants having continued to pay rent to FACS Housing according to an SPO. FACS had not passed on the relevant information to the CHP ostensibly because of "privacy concerns" and delayed transferring the rent which had been paid.

A significant proportion of arrears leading to Termination Notices appear to have arisen because tenants did not receive CRA at the CHP estimated rate, or from the go-live date, or because of failures to adjust Centrepay arrangements. A number of tenants interviewed or assisted by Advocates were in good standing with FACS prior to transfer and were unaware that their correct rent was not being paid until they received a Termination Notice.

"I didn't hear anything at all until I got a text message to say there was a Tribunal listing and then it said you'll be contacted shortly and then I got the letter in the mail to say the date that I was going to be there and I was going to ring up as well, but then I thought you've already done it's already gone through they'll just say no. Anyways, I thought was just easier to show up now." (Transferred tenant)

More recently, as relist dates for these SPOs have arrived there has been a number of Vacant Possession applications affecting transferred tenants. Preliminary observations by TAAS Advocates monitoring NCAT activity indicate that in some cases little or no casework preceded these applications. Housing managers and senior staff in several CHPs defended the issuing of termination notices as soon as arrears exceed 14 days rent as a way of motivating tenants or 'speeding up the process' whereas some other providers have adopted an explicit policies of attempting to agree repayment plans without the use of Tribunal orders in the first instance, and only issuing a termination notice if a subsequent SPO is breached.

"The goal for us if we have to go to the Tribunal is let's get the order to get them to repay. And if they don't abide by those orders and again, there's ongoing engagement only then

would we need to look at a tenancy termination. But that's not the end goal."
(CHP senior staff)

The fact that CHPs exhibit markedly different rates of application to NCAT shows that there are alternatives to legalistic or system-driven responses to arrears. A Notice of Termination can be very frightening for vulnerable tenants who do not fully understand the process and may result in some agreeing to repayment plans that are clearly unaffordable thus exposing themselves to further action. (We do not have data on abandonments following receipt of notices and so cannot comment on this, although CHPs do have this information.)

All CHP executive staff interviewed gave assurances that termination notices were issued as a last resort and only after casework options were exhausted, however in many cases this was not corroborated by tenant interviews or observations and reports from Tenant Advocates. Attitudes and practices of CHPs regarding the best way to assist vulnerable tenants to sustain their tenancies varied before the SHMT program and so this is not solely a transfer-related problem. However, the financial and institutional growth factors associated with the transfers bring these issues of organisational culture into sharp relief and highlight the need for an industry wide commitment to more flexible financial inclusion strategies to guide tenancy and especially arrears management practice.

A key point of difference between CHPs relates to the decision process preceding applications to NCAT where some require a higher level of escalation before a matter is listed.

"[Housing Officers] know that they should be having on the system that they can provide evidence of the phone calls that we expect to be made the letters that should be made. If housing officer approaches the team leader to say I want to take so and so to the Tribunal the team leader will then ask to see the evidence in the system where you've made the phone calls where the letters are, and if that's not there, it doesn't even get through to an application." (CHP senior staff)

A major part of the rationale given for SHMT and the growth of community housing generally has been that the additional resources and the culture of CHPs would provide a more flexible and tenant-centred form of management. A number of CHPs have demonstrated this by adopting financial inclusion practices that provide tenants with creative options and opportunities for addressing debts such as by completing work on dwellings or around their complex. Given the context of the transfer program and the particular issues related to rent and benefit changes and the high number of vulnerable and complex tenants, extra efforts must be directed to ensure a flexible inclusive and consistent approach to management of arrears and other debts is applied. Tenants' experience and outcomes arising from financial difficulties and arrears should not be dependent on the culture or practices of individual CHPs – especially where these CHPs are now the sole provider in a region.

7. ELIGIBILITY AND SECURITY

Many studies have shown that security of tenure is the most important factor contributing to long term positive outcomes for social housing tenants (Darcy & Blunden 2014). NSW Community Housing Access Policy suggests that Social Housing managed by community housing providers is provided as continuous tenure, subject to a tenant complying with the requirements of their residential tenancy agreement (Clause 5.3, p.7). However it also allows that when a transferred tenant's fixed-term lease expires the provider can apply its own tenure policy to any new lease arrangement.

There is significant divergence between the approaches and practices of SHMT receiving CHPs in relation to ongoing eligibility of tenants and their security of tenure. Several providers were very clear about their commitment to providing secure tenure for as long as a tenant complied with their tenancy agreement and wanted to stay even when their circumstances improve and they are charged market rent:

"Eligibility counts at the start and after that it's about your income which affects your rent but it doesn't affect your eligibility. And we're really comfortable with that..."
(CHP senior staff)

Although one outlined a practice of assisting tenants to identify alternatives:

"It's a very normal thing, it is a thing that we would like to protect. Market rent is not a problem. It might be a signal that we should have a chat to them about what they would like to do. But that is kind of the opposite of now you need to move out. It's the conversation about what is the right thing for you. If every tenant paying market rent had to move then you would lose the stability, you lose the value of social housing, you'd lose some of your key community members and end up spending a lot of money paying for somebody else to provide mentoring assistance." (CHP senior staff)

On the other hand at least one CHP has an explicit policy of eligibility reviews to be applied along with regular biannual rent reviews. This provider's policy and practice, which was confirmed with senior staff is activated when a tenant's circumstances improve and is encapsulated in the following extract from the policy statement:

"To remain eligible for Social Housing, a tenant's assessable household income must remain below the threshold determined by NSW Family and Community Services for that type and composition of household. If a tenant's assessable household income is calculated to be above this threshold, they will be asked to provide reasons why they continue to require assistance with housing."

While as far as we are aware, the policy has not yet impacted on any transferred tenants and staff interviewed were unsure of how the process might proceed, it signals a clear intention to activate s143 – s147 of the Residential Tenancies Act in a way that conflicts with the Access Policy. As it stands pre-2005 continuing agreement tenants would be exposed to this policy immediately while the eligibility of those protected by longer fixed-term agreements would not be not subject to review at least until the end of their current fixed term.

Whereas the NSW Community Housing Access Policy and the promise of the SHMT program are that tenants will be better off under CHP management, the application of this policy represents a clear example of disadvantage to certain tenants (that is those in the location managed by this provider) arising from the transfer.

This is a serious discrepancy between CHPs in the interpretation and application of eligibility policy which illustrates the arbitrary nature of tenant experience and outcomes in the context of forced, whole-of-location transfers. Tenants who previously enjoyed the same responsibilities and entitlements can experience dramatically different outcomes depending on which side of an administrative boundary they happen to live, and despite having limited information and no choice about their new provider.

8. VULNERABLE AND COMPLEX TENANCIES

Virtually all of the case studies brought to attention during the course of this research, as well as a number of those who participated in interviews, involved tenancies that could be classified as vulnerable or complex. CHP senior staff frequently raised issues concerning the handover process for complex cases. Some described a process where electronic lists were provided of complex cases and current interventions prior to transfer which then could be followed up by accessing TRIM files after the go-live date. However as one senior CHP staffer said:

“So those were current issues like real kind of work-in-progress to hand over with. We don't spend a lot of time whinging and complaining here but you will hear us sounding slightly frustrated at how that was less of a conversation with FACS than we had anticipated. So they provided documentation about current issues work-in-progress style, but not in an opportunity to have a final conversation with whoever might have been managing that”.

Another CHP senior manager was highly critical blaming in part the run-down in FACS staff regional areas leading to increasing portfolios and responsibilities for remaining staff and diminished attention to vulnerable and complex tenancies in the critical period leading up to the transfer:

“The level of information at the actual handover was absolutely inadequate – it's the only word I can use. They didn't know their clients because they had contingent staff. It was just pretty disrespectful of the whole process and the level of diligence that's required around project management, you know handover it's a pretty critical process... and it was embarrassing for everyone sitting at that table that the couple of scraps of paper that were handed over were just not completed.”

Faced with this situation most CHPs described using the home visit process to attempt to identify where there was a need for a tailored management of complex tenancies but accepted that this was a slow and *ad hoc* approach and that they would ultimately need to do their own identification and assessment of vulnerable and complex cases in the normal course of tenancy management.

Aboriginal households were significantly over-represented in the complex case studies compiled for this project and the increased vulnerability of these tenancies in the face of bureaucratic or authoritarian treatment is well recognised. In some regions a significant proportion of transferred tenancies are Aboriginal households, although the organisational approach of CHPs to managing these tenants varied widely.

One CHP senior staffer pointed out that since a member of their management team was Indigenous and his advice could be sought on issues affecting vulnerable Aboriginal households, no further organisational response was required, however this view was not supported by Aboriginal Advocates in the region. At the other end of the spectrum another

(much larger) CHP flagged a plan to establish a separate Aboriginal controlled and staffed provider in the region to whom Aboriginal tenants can transfer if they wish:

"The intention is that we'll be able to offer... [a] choice to Aboriginal people in our mainstream properties. Yeah, having the entire tenancy conversation with Aboriginal people knowing that it's an organisation that prioritises cultural awareness and cultural safety and understands how they live, how their lives work... we know that some specific expertise goes a really long way and the strong theme that comes through all conversations with Aboriginal people about their housing is that they say it is important to self-determination. So an Aboriginal controlled organisation with Aboriginal staff managing their housing is a thing that means something."

Aboriginal Tenant Advocates expressed their concerns about the lack of cultural sensitivity in some CHPs and the fact that this can severely increase the vulnerability of tenancies. This can especially be seen in practices such as system driven arrears and termination notices (which may cause households to pre-emptively abandon tenancies) but extends to the style of customer service across the organisation. These issues need to be dealt with systematically by senior management of all CHPs.

One regional CHP staff member also suggested that the approach should not be generic but needs to work closely with local communities to be effective:

"Having worked with FACS, you know, we did get cultural awareness training but it wasn't, I don't think, very localized. My view is that it needs to be localised... That's something that will ensure that everybody do so that we can provide that support to our most vulnerable groups." (CHP staff)

While smaller portfolios for tenancy managers, serious attention to cultural awareness and other organisational responses are capable of improving experiences and outcomes for vulnerable tenants, the picture emerging from the SHMT program is mixed. A much more careful and consistent approach to handover of complex tenancies is warranted, while in some places the pace and scale of CHP expansion has led to gaps and lags in ensuring that new staff are fully on-board with a tenant-centred approach. Particular attention needs to be paid to cultural awareness and the importance of working closely with local Aboriginal community organisations including Aboriginal Tenants Advice and Advocacy Services.

9. REPAIRS, MAINTENANCE AND MODIFICATIONS

Undoubtedly the single most common cause of distress and discomfort for tenants relates to repairs and maintenance, or more accurately lack of repairs and maintenance. Given that existing asset management contracts between LAHC and lead contractors remain in place with only financial responsibility for the costs of asset management passing to CHPs, it might be assumed that tenants are unaffected, that is to say they should be no worse off. However, CHPs report that they are frequently dissatisfied with cyclic maintenance priorities as well as the speed and standard of repairs, yet they have no real cost-control.

"Cost control. That's the major frustration because that's the one benefit that we have that we can be nimble around our contractors. And we're not locked in because we don't lock into one contract. That strategy's worked quite well for us. We've got a poor performing contractor, we'll give him you know, he gets a chance to rectify. It doesn't rectify, he's gone, we've got another one, always have a couple on our books and every single trade. And we'll have backups of contractors that will travel if we need to so it's good it works well."
(CHP senior staff)

Where tenants complain or seek remedies in NCAT, the CHP must respond as the landlord but has little or no power to enact orders. Providers complained that underestimation of the maintenance liability on transferred stock and lack of cost control mean that additional rental income derived through Commonwealth Rent Assistance is being diverted away from their objective to provide improved customer service and tenant outcomes.

"Its just like a blank cheque, there you go. I was thinking to myself there's a lot of works relating to aluminium windows [in the program] and I was like well, should we really be replacing them? It's more your timber ones. Imagine we say 'Okay, go ahead do that because that's what you've identified needs doing and then they go into a property and the tenant's like 'What are we doing?' We're gonna replace your aluminium windows and the tenant says 'Well I've got a leak over here or my carpets haven't been replaced in 20 years' . That's not creating the kind of goal that we want to do like regards to improve tenant satisfaction, improving their homes." (CHP senior staff)

Many tenants have had their expectations raised by the transfer to a new landlord and have been disappointed, however some CHPs report having been able to negotiate maintenance and repairs priorities to better reflect tenants' needs. All CHPs participating in this project believe that they will manage repairs and maintenance more efficiently and improve tenants' experience once they can engage their own contractors.

In interviews tenants were generally hopeful but not confident about future improvements. A number referred to past experience where their most successful recourse had been to contacting the local Member of Parliament, and hoped that this avenue would still be effective after the transfer:

"I know I've waited for ten years for certain things to be done. And I was just very lucky. I filled in a survey the [local member] sent regarding renting and your landlords and everything looking after you and of course I did. Given six months all that stuff that I was concerned about got fixed, right? So basically, yes it is because my flat flooded two years ago, okay. Yeah, no fault of my own. So it's like, you know these things happen and then you try and get help or you speak to someone about it. And I'm just thankful that [the local member] actually took it on board and actually did it, I would be lost. It'd still be in the same state effectively." (Transferring tenant)

Others talked about repairs that they had given up expecting action on or left unreported because of negative experience in the past:

"I'm really sick of them. I'm almost at stage to say you're not coming in. Yeah, unless you're going to do something don't be coming to get my hopes up. Don't tell me this, don't tell me that. It's not Housing. It's other subcontractors that come down... You know it all costs money but nothing's getting done."

"That's what I'm afraid of. If I say anything, I think they are going to charge me extra for anything and everything, so I thought, no." (Transferred tenant)

If all tenants are expected to have a better experience and outcomes from the transfer to CHPs, it is clear to all that a significant proportion of the additional rent that tenants pay must be devoted to repairs and maintenance. However, current contract arrangements are responsible for inefficiencies and waste and should be replaced as soon as possible so that CHPs can develop more competitive and efficient arrangements. One tenant of more than 20 years provided some specific advice that again speaks to the issue of tenant empowerment:

"Yeah, so it gets pretty disappointing because we used to have to sign off if they'd done the job. Right? Yes. Now we don't do that. They just take a picture. So they'll take a picture of the best part, do you know what I mean? And if it's not done they go oh no 'he took a picture it's gone' and they're already been paid for so I don't think – there just needs to be another system added to that picture system."

10. CUSTOMER SERVICE

All CHPs reported that their tenancy managers carried far smaller caseloads than FACS Housing staff and that this was a key factor in their ability to provide improved customer service. A number of tenants related very frustrating experiences attempting to have serious issues dealt with under the previous FACS Housing management where they felt ignored or poorly treated. One tenant offered a story of a long struggle dealing with anti-social behaviour which had been quickly resolved when the new provider took over

"Living here has been so bad... but now since [the new provider took over] I can't praise them enough... you know when I ring they answer me, answer my emails, when they come past they just turn up and say hello."

In some larger complexes with appropriate facilities some CHPs have been able to provide or expand on-site contact hours which was appreciated by tenants:

"Yeah. We've got a very good system in the office instead of it being open for one hour if you're lucky, it's now open well for as long as it takes – opens at 9 a.m. instead of 10 a.m. and shutting it 11 and gone. Yeah, it's open for as long as it takes from 9 a.m. it's one day a week every Tuesday, right which is fair enough."

However, not all tenants reported such positive customer service experiences, particularly in relation to perceived pressure to sign documents that they felt had not been properly explained, as in the following exchange:

"I'm seventy, I'm old-fashioned, you don't go to somebody's place and say 'we are coming in' you say 'excuse me, I'm from so and so, may I come in?' So I said, 'No you're not. I'll come out' and she said 'this is your name? and this is where you live? – thank you, sign these papers'. I said 'I beg your pardon. What paper is this?' Oh, that's to allow us to get into your pension so we can take the rent.' I said 'No. I don't think so'. At this stage I had my back up now – you're not intimidating me. But then she said 'well, if you won't sign that we are going to have to get you to sign more papers to let us get into your bank account and take the rent from there.'" (Transferred tenant)

In tenant interviews and reports from support workers we heard a concerning number of accounts of transferred tenants feeling bullied by CHP staff either when visiting CHP offices or during home visits. This appears to some extent to be a result of the lack of choice for tenants leaving them disempowered but in some cases it seems clear that this also allowed staff to disregard standards of respectful customer service in order to achieve performance targets, whether in relation to CRA sign-up or debt recovery. Some examples of may be explained by the impact of rapid expansion and change within the CHP, or inadequate training:

"The tenancy manager gave me her number and I tried to call her for nine weeks but she never returned calls. Then they told me I have a new manager" (Transferred tenant)

"I would rather be back with Housing. The service and politeness at [the CHP] is poor. You feel like you are seen as trouble and not wanted in the office" (Transferred tenant)

Ultimately respect for tenants as customers is a matter of organisational culture which relies on continuous training, and is also affected by performance management and incentive systems. When interviewed about these issues, executive staff of different CHPs emphasised different things. Some were expansive about their continuous training and other efforts to instil tenant-focussed culture, especially in the context of rapid expansion, and when bringing in staff directly from FACS Housing where they believe a less tenant-focussed culture prevailed:

“the training had a huge focus on values of the organisation, so you might notice on the back office wall. So there was a big focus on that and I think recognition that there needs to be a little bit of a change or shift in culture stuff, so very much all our training has been very much pivoting around that yeah, every time we’ve done it it’s always been a point to discuss our values around treating people with respect, treating each other with respect, being resilient, being compassionate. You know, I think we’ve all taken that on board”.
(CHP senior staff)

In some cases however we observed that tenants did not feel respected such as when asking for more information about or challenging arrears calculations. Performance management practices, including monitoring of individual tenancy managers’ portfolios in relation to arrears and debt recovery, create a different type of organisational culture that in practice militates against the development of tenant-focussed culture. This was evident in a number of case studies collated in the course of this research.

11. CONCLUSIONS – THE FUTURE OF MANAGEMENT TRANSFERS

The Social Housing Management Transfers program has been promoted as part of a wider program to enhance the capacity of the Community Housing Sector which in turn was at one time expected to be the platform for expansion of social housing provision. However SHMT itself does nothing to increase social housing supply but merely brings a little more revenue into the system through an agreement with the Federal government while at the same time shifting liabilities and additional responsibilities to CHPs. The promise is that this extra revenue will improve tenants' experience and outcomes through better staff ratios, address maintenance issues, fund improved tenant engagement and also pay for community interface and service coordination roles previously undertaken by FACS Housing.

To the extent that transferred tenants do enjoy more personalised services, better maintenance or housing conditions under CHP management, this emphasises the inadequacy of current funding of the public housing system and highlights a new inequity whereby depending upon where their home is located, some tenants are able to access these improvements while others are condemned to remain in the understaffed and poorly maintained public system. In the absence of increased borrowing capacity the target of 35% of social housing under community management is purely arbitrary, as is its distribution, and neither takes any account of the relative needs of tenants or the regions in which they are located. If the additional revenue from CRA is required to provide a decent standard of housing and effective tenant-focussed management then tenants remaining with the public landlord are entitled to expect the same standard of service and funding. Clearly the need for additional funding through CRA has arisen because the current rent setting model for public housing is inadequate to support such a highly targeted and residualised system.

Beyond this fundamental inequity, the system which has been adopted for delivering additional Commonwealth revenue to the social housing system through CRA is also inherently flawed. Funding CHPs indirectly through an individual payment that is assessed and processed by a third party agency is a clumsy and inefficient system which was poorly explained and not well understood by many tenants. Risks associated with delays or other glitches in the application and payment process are placed upon tenants who are elderly, have physical and mental health or family issues or limited education, and invariably have complex lives. Given that CRA was seen by all other actors as a subsidy to the CHP that the tenant had no entitlement to, it would seem worth considering a model under which CRA is paid directly so that any mistake or dispute remains a matter between Centrelink and the CHP and could not result in arrears and distress for tenants or threaten their tenancy.

As outlined above, the problems associated with CRA were exacerbated by the timeframes applied to transfers. Rapid expansion of CHPs was in a number of cases accompanied by significant increases in arrears and non-rent debts, with some providers also finding maintenance and repairs backlogs on transferred portfolios to be far higher than anticipated. Some also commented that they observed a diminution of active management by FACS as they approached the transfer date, at least in part due to non-replacement of staff. In these

circumstances it is possible that debt recovery and cost control might have assumed increased importance in the minds of CHP Boards and Executives – and that these priorities are translated formally or informally into performance expectations of operational staff. The danger is that tenants, often including the most vulnerable, bear the brunt of more urgent and rigid pursuit of arrears and other breaches at a time when they are still coming to terms with the new landlord, new Centrelink arrangements, and confusing new rent calculations.

Amongst the most important findings of this research is the inconsistency in policy, practice and culture between CHPs that received transferred tenancies. This means tenants in very similar circumstances can sometimes expect quite different responses and outcomes from their housing provider, depending upon where they live. This in turn relies upon the culture, experience and possibly the financial resources of each CHP. Proponents of management transfers would argue that such variations reflect the flexibility necessary to allow innovation and service improvement. However, under contracts lasting 20 years with limited transparency, no ongoing competition and no effective choice or voice for tenants, there is also no clear path for improvements made by one provider to be disseminated and replicated across the sector.

Given the highly vulnerable population whose tenancies have been (involuntarily) transferred to CHPs, the somewhat precarious financial status of the social housing system in general, and the limited additional resources available, it is essential that all providers and other stakeholders continue to engage in critical self-examination of policy and practices to ensure that negative outcomes for tenants are avoided where possible and the opportunities for a more secure and tenant-focussed social housing system are maximised.

The remainder of this report sets out the Tenants' Union's recommendations for best practice in social housing management transfers, given the broad parameters and limitations of the current system. These are drawn from observations and analysis of the experience in NSW in 2018-19 and reflect an explicit emphasis on improving the experience and outcomes for tenants. The Best Practice Recommendations are divided into two groups: the first set relate to the SHMT program as a whole and the systemic processes and practices associated with it, while the second groups are directed at management practices of Community Housing Providers receiving large-scale management transfers.

12. BEST PRACTICE RECOMMENDATIONS 1: SOCIAL HOUSING TRANSFER PROGRAMS

The best practice recommendations outlined in this section relate to the design and delivery of the Social Housing Management Transfers program as a whole rather than the implementation of the transfers by Community Housing Providers. As such they impinge on policies that frame and constrain the practices of CHPs, Department of Communities and Justice (DCJ) and the Land and Housing Corporation who retain asset management responsibilities. These policies nonetheless ultimately (and in some cases directly) affect tenants' experience and outcomes. The recommendations should be addressed seriously if the promise of no disadvantage and improved outcomes for all tenants is to be achieved.

Notably, many of the best practice recommendations appearing here have emerged in discussions with the Community Housing Industry Association or with individual CHPs and we believe would be supported by industry stakeholders at least in terms of their underlying principle or intent.

12.1. Tenant empowerment and choice

As a group, public housing tenants were excluded from decision-making concerning the SHMT program – including whether transfers should happen, the organisations that would take over management of the tenancy, and the nature and timing of the transfers. Under changes to the Housing Act the consent of individual tenants was not required to change their housing arrangements. The determination to rule out tenant voice and choice was pursued to remove potential obstacles which might slow down or complicate the transfer process which arguably served the interests of government and providers, not tenants. The consequences of disempowering tenants in this way include many tenants being poorly informed and distrustful about the reasons for SHMT, and diminution of incentive for providers to engage in tenant-focussed innovation. This in turn diminished the potential for SHMT to deliver improved outcomes for all tenants and is out of step with international practice, particularly in the UK, and national research-based recommendations.

A meaningful period and process of consultation with affected tenants should occur before any decision to transfer a significant number of public housing tenancies to another organisation is finalised.

In contrast to SHMT, a Best Practice approach would provide tenants, either as individuals or groups, with opportunities to choose between realistic options concerning whether or not to have their tenancy transferred, and if so to whom.

12.2. Tenant participation and representation

In order for tenants to make informed choices or to provide properly considered input into ongoing decisions concerning not just their own tenancy but social housing management questions more broadly, they must have independent sources of information and forums in

which to evaluate them. The abolition of TPRS diminished this capacity for all social housing tenants in NSW but community housing tenants were doubly impacted as all resources to support tenant participation and representation must now be sourced from social housing landlords. CHIA has recognised the contradiction of this arrangement in its call for the establishment of independent tenant organisations to represent tenants in the National Regulatory System for Community Housing.

As a minimum, tenant organisations at a regional or provider level, as well as the State level tenant organisation, should have access to financial and non-financial support for representation activities independent of the Community Housing Provider.

12.3. Program design and timing

The design of SHMT around 'whole-of-location' transfer and very long term contracts has several important consequences for tenants. The first of these as mentioned above is the diminution of accountability to tenants, and removal of incentives for CHPs to innovate once the contract is awarded. Additionally, CHPs are responsible for developing and maintaining the infrastructure for coordination of the relevant aspects of the service system in each of these locations despite the fact that government remains the commissioner and funder of most of these services and there is a significant power and resource differential between government and CHPs. This role has been taken on without additional resources meaning that service system coordination and infrastructure costs have been shifted to CHPs or in effect to be met from tenants' CRA entitlements

DCJ, as commissioners of many services in local services systems must remain positively engaged with community housing providers in shaping the system over time, and should provide dedicated resources to CHPs to cover the cost of non-tenancy management activities.

The practice of transferring management of whole packages of homes on a single date created significant time pressure on community housing providers and incoming tenants to apply for Commonwealth Rent Assistance so that payments would be in place at 'go-live'. This coincided with receiving CHPs efforts to integrate and train new staff, upgrade IT systems and deal with data compatibility issues. Inevitably delays and mistakes occurred and frequently tenants bore the brunt. This has not been the case in previous transfers which have been staggered over a longer period allowing CHPs to accommodate growth more gradually and troubleshoot problems as they arose. Tight control over CHP communications with tenants appear to have been relaxed to some degree as the SHMT program has progressed. An outcome of this is that CHPs receiving later transfers have had more time to engage with tenants and to identify potential problems. A longer engagement period would also mean DCJ staff should remain available after individual or small groups of transfers to assist with specific transition problems.

Large-scale transfers to individual CHPs should be staggered or staged over a period to provide tenants with the opportunity to understand, check, and correct income and other data on their household and assist providers to manage the transition process and trouble shoot issues early.

12.4. Flexibility vs. policy alignment

While a key claimed benefit of moving to a multi-provider social housing system is flexibility, in the context of whole-of-location transfers this means that tenants may be subject to different policy approaches depending on the geographical location of their dwelling with significant consequences for some. While CHPs are constrained by statewide policies on Eligibility, Access, Rent and Asset Management there are many other areas of tenancy management and service provision where policy and practices vary, amongst CHPs and between some CHPs and DCJ, including domestic violence, eligibility review, approved absences and rebated rent, and mutual exchange.

A no-disadvantage test pertaining to the application of CHP policies that affect tenancies or applicants should be adopted and applied in tenant appeals to the Housing Appeals Committee.

12.5. Data transfer and handover

CHPs have reported widely varying experiences related to the timing and quality of tenant data transferred to them and also of handover processes specifically identifying complex and vulnerable tenancies. Data and handover problems are to some degree inevitable in large-scale transfers but as outlined above, their impact is exacerbated by the pressure of a single 'go-live' date and the running down of FACS staff and other resources in particular regions brought about by the 'whole-of-location' approach. Best practice amongst CHPs in these circumstances is discussed below, but there is also a need for system-wide strategies. Some CHPs have had to expend tenant-sourced revenue towards upgrading systems and addressing apparent errors, as opposed to providing improved services.

Government resources should be directed to ensuring that fully compatible information systems are in place prior to transfer to avoid delays or errors.

More systematic, and earlier information sharing procedures are required to support incoming community housing providers to better identify and manage impacts for very vulnerable tenants while providing appropriate protection of their privacy. Such procedures should also involve other government agencies and local support services.

12.6. Asset management, repairs and maintenance

Undoubtedly the single most common cause of distress and discomfort for tenants relates to repairs and maintenance, or more accurately lack of repairs and maintenance. Given that existing asset management contracts between LAHC and lead contractors remain in place with only financial responsibility for the costs of asset management passing to CHPs, it might be assumed that tenants are unaffected, that is to say they should be no worse off. However, CHPs report that they are frequently dissatisfied with cyclic maintenance priorities as well as the speed and standard of repairs, yet they have no real cost-control. Where tenants complain or seek remedies in NCAT, the CHP must respond as the landlord but has little or no power to enact orders. Providers complain that underestimation of maintenance backlog on

transferred stock and lack of cost control mean that additional rental income derived through Commonwealth Rent Assistance is being diverted away from their objective to provide improved customer service and tenant outcomes.

Many tenants have had their expectations raised by the transfer to a new landlord and have been disappointed, however some CHPs report having been able to negotiate maintenance and repairs priorities to better reflect tenants' needs. All CHPs participating in this project believe that they will manage repairs and maintenance more efficiently and improve tenants' experience once they can engage their own contractors.

Future management transfers should not bind receiving CHPs to centralised maintenance contracts but should allow and encourage them to manage their own repair and maintenance business – this would represent a genuine opportunity to apply local flexibility and innovation to improve tenants' experience.

13. BEST PRACTICE RECOMMENDATIONS 2: MANAGEMENT OF TRANSFERRED TENANCIES

This section outlines best practice recommendations for managing tenancies so as to avoid disadvantage to transferred tenants and to optimise tenants' experience both at the time of transfer and after. While many of the concerns that underlie these recommendations arise from situations where tenants were materially disadvantaged or distressed, they are also informed by the practices of those CHPs where in similar circumstances disadvantage or distress did not accrue. Thus most of the practices advocated here are already followed in one or more CHPs and their adoption across the sector should be achievable.

13.1. CRA and rent calculation

The calculation of rents and rebates based on the practice of CRA maximisation has led not only to anomalies where transferred tenants final rent payable has increased, but also to many (often vulnerable) tenants falling into arrears because of delays, errors or discrepant outcomes. Basing rent payable on CHP's calculation of CRA eligibility rather than actual CRA received has seen many transferred tenants distressed and disadvantaged and in some case facing arrears through no fault of their own – yet this practice remains the industry standard.

Tenant-focussed management principles require that social housing rents payable should be calculated on income actually received by the tenant (in line with Community Housing Rent Policy), and not on the provider's estimate of what they should be receiving.

13.2. Arrears and financial inclusion – use of NCAT

CHPs provide an absolutely essential service to many vulnerable and disadvantaged people with complex lives and tenuous finances. While the need for strategies to sustain tenancies as well as the financial viability of the provider is clear, CHPs should never be seen to treat arrears or other tenant debts as commercial liabilities, or to use the threat of eviction as a standard means of disciplining those who fall behind in payments. CHP practices in this regard vary widely with some making strenuous efforts to negotiate and provide a range of alternative and personalised ways of repairing or offsetting debts, while others default to system-generated communication, Notices of Termination and NCAT listing.

As service providers to the poorest and most vulnerable people in the community CHPs should prioritise financial inclusion and offer a comprehensive suite of debt-relief option to tenants.

NCAT listing should not be used as the default strategy for managing arrears or speeding-up debt-recovery processes.

13.3. Security of tenure

Many studies have shown that security of tenure is the most important factor contributing to long-term positive outcomes for social housing tenants. NSW Community Housing Access Policy suggests that Social Housing managed by community housing providers is provided as continuous tenure, subject to a tenant complying with the requirements of their residential tenancy agreement (Clause 5.3, p.7). However it also allows that when a transferred tenant's fixed-term lease expires the provider can apply its own tenure policy to any new lease arrangement. This is contradictory and unnecessary, and in the context of whole-of-location transfers, sanctions inequitable tenant outcomes depending upon geography.

At law, at the end of a fixed term the agreement automatically continues as a periodic agreement without the need for a new agreement to be signed. Requirement or requests for transferred tenants to enter new agreements especially where less favourable conditions apply, such as a requirement to lodge a bond, clearly disadvantage tenants and fall far short of best practice.

At least one CHP has an explicit policy of eligibility review to be applied where a tenant's circumstances improve. While as far as we are aware, the policy has so far not impacted on any transferred tenants, it signals a clear intention to activate s143 – s147 of the Residential Tenancies Act in a way that conflicts with the Access Policy. As it stands pre-2005 continuing agreement tenants would be more exposed to this policy than those protected by longer fixed-term agreements. At the same time another CHP in its policy states clearly that tenants whose circumstances improve will retain their lease but move on to market rent. In interviews most CHPs indicated that they would apply the latter practice, however we were unable to locate a clear policy statement that explicitly ruled out termination based on review of eligibility.

A Best Practice approach suggests that all CHPs should adopt and publish policies ruling out the use of s143 termination and reassuring tenants that their tenancy will not be threatened if their circumstances improve.

In 2018 the NSW Registrar of Community Housing declared that *overutilising section 85 of the Residential Tenancies Act 2010 to evict tenants on 'no-cause' grounds... would run contrary to NSW Family and Community Services policy, bring the scheme into disrepute, generate poor outcomes for tenants and be therefore non-compliant with CHP registration requirements.*" (Registrar Community Housing 2018)

While the Registrar concluded that no CHPs "routinely" terminate tenancies in this way only four said they would never use the provision to end a tenancy. Most providers reserved the right to terminate tenancies without cause in head-leased dwellings where the owner terminates the lease, and in transitional housing arrangements.

The Registrar found that in head-lease termination situations tenants were invariably rehoused in alternative accommodation. In such circumstances application of s85 is unnecessary and eviction should only proceed if the tenant refuses to move to the alternative

dwelling, in which case the Residential Tenancies Act (Part 7 Subdivision 2) provides an appropriate remedy which can be tested in NCAT.

With respect to Transitional Accommodation tenants, the Act currently makes separate provision for use of no-grounds evictions at end-of-fixed-term terminations (s84). This is an area for further legal reform to implement an expanded list of reasonable grounds.

Regardless of the reason for ending the tenancy, there should always be capacity for the resident to examine the reason for their eviction and be able to test its validity in a binding jurisdiction. We expect providers will support necessary legal reforms to implement a structure in which grounds for eviction can be heard through the Tribunal.

We also note that while a recommendation on transitional housing is outside the scope of this project, it is clear from evidence that programs where: housing provision is conditional on engagement with support services; or where housing provision or other support is withdrawn before the need for the support has subsided; are not best practice.

A Best Practice approach would require all social housing providers to explicitly reject termination of tenancies without grounds, and to always be prepared to provide evidence of a valid reason for seeking to evict a tenant which can be tested on appeal.

13.4. Communication with tenants

Guided by the communication strategy set out by DCJ, all of the CHPs participating in SHMT adopted a similar approach to making initial approaches to tenants, explaining that they were taking over, the new rent arrangements and the need to apply for CRA and where relevant alter Centrepay arrangements. This involved introductory mailouts, mailed pre-populated forms for signing and return, and drop-in signing sessions followed by home visits. The small percentage of tenants who failed to receive or respond to standardised communications were likely to be among the most vulnerable and in many cases this threatened the sustainability of the tenancy.

While a slower, staggered approach to large-scale transfers (see 11.3 above) would go some way to resolving this problem, CHPs should also extend grace periods on rent adjustment until they are certain that the tenant has received and understood information about their transfer to the new landlord.

13.5. Account information

Some tenants have reported that longstanding credits on their rent account have been reduced without explanation following the transfer or that small arrears debts have suddenly become larger. At least one provider recognised that software issues may have resulted in incorrect balances and has indicated they would not take any action on arrears for transferred tenants until they are certain that their data is correct. In other cases tenants faced with Notice of Termination have agreed to repayment plans despite not understanding how their arrears debt was calculated.

All CHPs should provide online access to updated account data equivalent to the MyHousing portal, and hard-copy rent adjustment notices and statements should clearly show how rent and any credit or arrears are calculated

13.6. Cultural awareness and competence

Receiving CHPs vary significantly in their responses to Aboriginal tenants and their relationships with Aboriginal community organisations. While some are very advanced in this regard a much more consistent and considered approach to responding to the specific needs of local communities is needed. This will certainly involve local consultation, training and possibly identified positions or other changes in organisational arrangements.

All CHPs should work with CHIA to ensure a high standard of cultural competence is in place at the level of individual staff, and is manifested in organisational arrangements that reflect the needs of Aboriginal tenants and communities.

13.7. Policy alignment

Policy flexibility and responsiveness to local conditions are amongst the claimed benefits of a multi-provider social housing system. However for transferred tenants flexibility can create disadvantage if the receiving provider adopts a more restrictive approach. Individual providers may be unwilling or unable to match tenants' previous conditions or entitlements due to their smaller scale, financial constraints, or even different values or philosophy of tenant management – or they may simply be slow to update and align policies with best practice.

As a matter of Best Practice, all policy-based conditions and entitlements that applied to transferees' existing tenancy should be continued by receiving Community Housing Providers, and only variations that extend benefits to tenants should be applied.

Specific examples of where this principle should be applied that have arisen in the SHMT program include:

13.7.1. Domestic Violence policy

As former FACS tenants transferees were covered by a detailed and explicit policy that builds upon Residential Tenancies Act provisions to clearly protect the tenancies of victims of domestic violence. CHIA and a number of CHPs have also done significant policy development work on tenancy management practices related to this issue but this has not been taken up by all providers. The DCJ policy statement reflects baseline best practice but it is not mirrored by all CHPs some of whom provide referral and support but, for example, were still found to require co-tenant victims to pay for domestic violence related damage.

All CHPs should immediately adopt and promote the DCJ policy relieving all bona fide victims, including co-tenants, of responsibility for the cost of DV-related damage.

13.7.2. Mutual exchange

The opportunity for mutual housing exchanges between tenants, often in distant geographical locations, may not result in a large number of successful swaps but it is highly valued by tenants. This is reflected in the previous establishment in public housing of a register and systematic procedures to facilitate mutual exchanges. While a few have explicit policies and approval processes in place which are published on their websites, CHPs generally do not facilitate exchanges, especially outside their existing portfolio and a number of receiving providers have published statements effectively ruling it out. Despite this some SHMT providers were unable to provide a reason as to why they could not participate if there was state-wide or national system to support it and indicated a willingness to consider it.

CHIA and DCJ should work with CHPs to develop a system for mutual exchange of social housing dwellings across providers including continuing DCJ properties

13.7.3. Approved absence, \$5 rebated rent and reinstatement

While CHPs were bound by the terms of transfer to honour existing FACS approvals of absences and five-dollar rebated rent, transferred tenants seeking approval for absences on or after the transfer date are dealt with under CHP policies which provide shorter default absence periods and in some cases more restrictive conditions for approval. Some providers' policies also include more restrictive conditions for consideration of reinstatement of tenancy than FACS such as excluding former tenants released from custody. These policy differential are more likely to impact on more vulnerable tenants and represent a clear disadvantage to them as a consequence of SHMT.

Receiving CHPs policy and practice in relation to absences and reinstatement of tenancies should be adjusted permanently to align with or improve upon the conditions available to former FACS tenants

14. REFERENCES

CHIA (2019) Review of the National Regulatory System for Community Housing – Comments on the Discussion Paper <http://communityhousing.org.au/wp-content/uploads/2019/03/CHIA-NSW-Submission-to-the-NRSCH-Review-2019-Final-with-Attachments-26.2.19.pdf>

Darcy M and Blunden H (2014) Determining the Financial Barriers moving from Welfare to Work. Sydney: University of Western Sydney and Pacific Link Housing Ltd. <https://www.pacificlink.org.au/sites/default/files/research1determiningfinancialbarrierstoworkfull.pdf> (accessed 28th Sept 2019)

FACS (2018) Boost in services for Social Housing tenants. NSW Dept of Family and Community Services Media Release 31 Oct 2018 <https://www.facs.nsw.gov.au/about/media/releases/archive/boots-in-services-for-social-housing-tenants> (accessed 28th August 2019)

Maclennan D and Miao JT (2017) Transformative Transfers: growing capacities in UK social housing: Inquiry into affordable housing industry capacity. Melbourne: AHURI

Parliamentary Library (2017-18) Social housing and homelessness Budget Review 2017–18 Index https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201718/Social_housing_and_homelessness (accessed 13th August 2019)

The Tenants' Union of NSW (2019), Submission to the Review of the National Regulatory System for Community Housing. (April) <https://files.tenants.org.au/policy/20190403-the-Tenants'-Union-NRSCHReview.pdf>

Williams, Wendy (2017) Study of UK Public Housing Helping Put Australia on Track in Pro Bono Australia. 29th March <https://probonoaustralia.com.au/news/2017/03/study-uk-public-housing-helping-put-australia-track/> (accessed 27th August 2019)



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