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Submission: Dear IPART review of rent models for social and affordable housing,

Attached is the Tenants' Union of NSW's response to the issues paper published in November 2016.

Should you wish to discuss this submission please contact me on [REDACTED]

Regards,
Ned Cutcher
Senior Policy Officer

SUBMISSION

IPART Review of rent models for social and affordable housing

December 2016

The Tenants' Union of NSW (TUNSW) is the state's peak body for tenants and other renters. We represent the interests of all renters in New South Wales, including those living in a Social Housing tenancy; or in the private rental market, the marginal rental sector or indeed experiencing homelessness, while waiting for an offer of assistance from a social housing landlord. We are a specialist Community Legal Centre with expertise in residential tenancy law and policy, and the main resourcing body for the statewide network of Tenants' Advice and Advocacy Services.

Celebrating our 40th anniversary in 2016, we have long running relationships with relevant bodies across both executive and administrative arms of Government, as well as the housing sector more generally. We are regarded as a key stakeholder in discussions of the present kind, and we are pleased to offer our response to IPART's issues paper as part of a review of rent models for social and affordable housing.

We have taken the opportunity to discuss questions raised in IPART's issues paper with Shelter NSW, Homelessness NSW, DVNSW, Y-Foundations and NCOSS, as well as the statewide network of Tenants' Advice and Advocacy Services. We note several of these organisations are also providing a response to the issues paper, and we recommend their submissions. We draw particular attention to the contribution from Shelter NSW – we have had the opportunity to review a draft of their submission, and we endorse it.

Introduction

TUNSW is a seasoned advocate for reform of the social housing sector, as part of a national housing strategy to address deteriorating affordability across all tenures, and chronic insecurity within the private rental market. Our analysis and conclusions about Australia's dysfunctional housing system, and its influence upon our state's struggling social housing sector, are a matter of public record. Our most recent contributions can be found in submissions to the NSW Legislative Council Select

Committee on Social, Public and Affordable Housing,¹ and Family and Community Services' 'Social Housing in NSW' discussion² that informed the *Future Directions for Social Housing* strategy (upon which the current review of rent models is predicated). To fully understand and appreciate TUNSW's position, our response to IPART's issues paper must be read in conjunction with those earlier contributions.

To briefly revisit some key points from those submissions: policies that influence Australians' housing consumption decisions – such as federal tax settings, the limited availability of income support in retirement, and state renting laws – create a strong preference for home-ownership as both a means of addressing a household's shelter needs, and a form of financial investment. Steady increases in the value of housing are all but assured in this environment, which puts home ownership out of reach of many low-income households. Ad-hoc investment by non-home-buyers is also encouraged to provide private rental housing but, precisely because of the potential for high capital gains across housing markets, the realisation of this has been driven by expectations of increased wealth for individual investors, rather than Australia's considerable unmet housing need. Speculative investment is the norm, and home values are pushed even higher on account of it.

Investors who are motivated by capital gains make "strategic" purchases, opting for higher-value stock that can realise the fastest and highest increases in value.³ This negatively impacts affordability within the private rental market,⁴ as lower-value stock falls away just as any new supply comes in at the higher end. Higher house prices keep potential homeowners in the private rental market for longer and, coupled with generally higher rents and a relatively high turnover of tenancies (due to tenants' insecurity of tenure that is more keenly observed in the private rental market), competition for affordable homes in the private rental market is dramatically increased. Low-income households live subject to these market conditions that are not of their making, but are now entrenched: the supply of affordable rental housing diminishes constantly, while demand for it continues to rise. For an increasing number of households, a functional social housing system offers the only hope of an affordable, stable home.

Our social housing systems, and the policies that support them, have not been immune to our national preference for home-ownership and ad-hoc investment in housing. While policies promoting individual ownership and speculative investment have prevailed, Government investment in social and affordable housing has been in steady decline. In 2011 there were approximately 16,000 fewer social housing properties in New South Wales than there would have

¹ TUNSW, *Submission to the NSW Legislative Council Select Committee on Social, Public and Affordable Housing*, February 2014 (available at <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-submission-details.aspx?pk=%2039041>)

² TUNSW, *Submission on the discussion paper 'Social Housing in NSW'*, February 2015, (available at <https://tenants.org.au/tu/submission-social-housing-discussion-paper>)

³ See, eg, commentary from *Negative Gearing Affects Everyone* that was active during the 2016 Federal Election campaign – "If negative gearing is abolished on all but newly-built dwellings, investors will no longer be able to buy strategic investments, looking to acquire high value properties in prime locations that will realise the best gains over time." (<https://negativegearingaffectsyou.com/negative-gearing-and-investors/> accessed 11/12/2016)

⁴ See, eg, <https://www.sgsep.com.au/publications/rental-affordability-index>

been had Government investment kept pace with 1996 levels, relative to population.⁵ Faltering home-ownership and private rental markets produce an ever-increasing need for social housing, but investment in the social housing portfolio has effectively gone backwards.

In response to this, social housing landlords have increasingly targeted the assistance they provide by tightening eligibility and rationing their services, in a series of attempts to administer their way out of the supply shortfall. Two key examples of this are the way rents are now calculated on a sliding scale relative to household income, and periodic review of tenants' continuing eligibility for housing assistance. Along with the lack of affordable, stable housing in the private rental market, these initiatives have combined to inhibit the aspirations of social housing tenants, limit the rental revenue available to social housing landlords, and reduce the opportunities for social housing tenancies to become a form of transitional welfare at the individual level, as is envisaged in public policy.

It is within the scope of the current review to make recommendations that would address these issues. Indeed, TUNSW submits it would be difficult "to recommend a rent setting framework for social and affordable housing that improves incentives for workforce participation"⁶ without taking these issues, in particular, into account. On the other hand, it is also within the scope of this review to explore new methods for social housing landlords to make further attempts to administer their way out of the supply shortfall, by more tightly targeting and rationing assistance. This might be especially tempting given the *Future Directions* strategy's focus on growing the social housing portfolio, the work that has since been undertaken through the Communities Plus scheme and the Social and Affordable Housing Fund, and other relevant considerations currently being pursued by the Australian Productivity Commission⁷ and COAG's Affordable Housing Working Group.⁸ TUNSW recommends caution in taking such an approach. The recent history of social housing policy reform in New South Wales demonstrates that further targeting and rationing of housing assistance adds unwanted complexity and administrative burden to the system, while producing a range of unintended consequences. Perseverance with such an approach is unlikely to yield a different result until new funding and supply initiatives have begun to bear significant fruit.

In the meantime, TUNSW envisages a social housing system that encourages higher levels of community engagement and workforce participation, and is relatively simple to administer. For the time being, this vision does not extend to a system that precipitates the easy transition from social housing as a limited form of welfare to so-called "independence" in the private rental market. If such an outcome were to be desired, significant reform of various policies, at both the state and federal level, would need to be undertaken first.

Our responses to various questions raised in IPART's issues paper are offered from this perspective.

⁵ According to ABS Census data

⁶ IPART Review of rent setting models for social and affordable housing Terms of Reference

⁷ <http://www.pc.gov.au/inquiries/current/human-services>

⁸ <http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2016/CFFR-Affordable-Housing-Working-Group>

People in and issues with social housing

Defining cohorts

TUNSW does not support defining discrete “safety net” and “opportunity” cohorts within applicants or recipients of housing assistance. At any given time either of these words could describe what a person needs from social or affordable housing. Certainly, we are aware of many people who have used the relative security and safety of their social housing tenancy as the foundation for positive change – whether that be taking up opportunities in education or employment, volunteering with local community groups, getting children settled in school, or simply getting back to good health and enjoying an improved quality of life.

Rather than more tightly targeting housing assistance based on a recipient’s perceived need at the time of application or allocation, TUNSW would like to see the application of assistance in a way that offers both a safety net and opportunity to all who receive it. Those for whom stable and affordable housing might lead to education and employment opportunities *should* be able to depend upon its continuation, so that they may proceed without fear of losing that stability. Those less able to pursue such opportunities should not be expected to, and it should be recognised that for some people social housing assistance is both an appropriate and suitable long-term housing option.

To divide people up into cohorts at the point of application or allocation would present a problem. This is essentially the same problem that currently discourages tenants from taking up opportunities that could impact upon their continued eligibility for assistance; it would just be moved to an earlier point in time. People experiencing the kind of vulnerabilities that make them eligible for housing assistance in the first place are unlikely to self-select into a cohort for whom such assistance is limited or conditional. For example an unemployed applicant, who is of working age and in receipt of Newstart but who fears for their prospects of finding work at the end of a time-limited rent subsidy or fixed-term tenancy, and who is experiencing other complexities that would make them eligible for housing assistance, may seek to convince a social housing landlord that they are not well enough to join the “opportunity” cohort. Ultimately they may not convince the landlord, but in the process they might convince themselves.

TUNSW submits that housing assistance should be regarded as both a safety net and an opportunity for all applicants and recipients, so that nobody has anything to lose from their achievements. That way, more tenants might make their way into productive pursuits that are secure and successful, paying increased rents as they realise their expanding earning capacities, and ultimately moving out of social housing by their own choice.

Other relevant issues

IPART’s issues paper explores a number of issues with the current social and affordable housing system. TUNSW broadly accepts IPART’s analysis, however there are a number of points where further discussion will be useful.

Equity

When considering the inequities that currently exist within the housing system – both broadly and with respect to social and affordable housing – it is important to consider the impact of timing along with other factors. The expectations and experience of participants in any part of Australia's housing system will be determined by how that part of the system was functioning at the time and point of entry. When bringing in considerations of equity, this needs to be considered relative to how that part of the system functions now as compared to others, along with any changes that have occurred in the meantime. Homeowners who purchased prior to the introduction of capital gains tax concessions in 1999 will have experienced considerable growth in the value of their homes, and may now reap that growth to fund other consumption. Tenants who entered the social housing system prior to the introduction of renewable fixed-term tenancy agreements enjoy relative security of tenure regardless of any increase in employment related income. The experience of more recent entrants to either form of housing will be very different, and of course private rental market tenants who are unable to afford home-ownership, and ineligible for housing assistance, will have an entirely different experience again.

From this perspective, it is evident that there are “luck-of-the-draw” elements that determine outcomes across the housing continuum as well as in social and affordable housing. These can be observed in far more complex ways than whether social housing tenants receive different levels of amenity for the same price, or attract a greater or lesser subsidy relative to the service they receive. This is relevant when considering how social and affordable housing rent models could address inequities within the system. Some changes could fundamentally alter the nature of housing assistance, such that recipients will no longer receive what they were promised at the point of entry. Some commentators might find this acceptable in exchange for more “equitable” delivery of social and affordable housing assistance, but such concerns are regularly cited as grounds for caution when considering interventions (such as tax reform that would be to the advantage of potential home-buyers over investors) to promote housing affordability more generally. Given the impact that private housing has upon affordable housing supply and demand, we see no reason to accept such a compromise at one level but not the other.

The dynamics of housing are far from static. Taking steps to deliver “equity” across part of a system that has produced myriad results over time – just as every other part of the system has – is likely to create new inequities soon enough. In the context of social housing, which is considered more and more a housing option of “last resort” on account of the seemingly intractable inequities within other parts of the housing system, questions of equity may in fact be secondary. Instead, we should look to the way a rent-setting framework can deliver fair outcomes as against other parts of the housing system. In doing so we can conclude that affordability and simplicity are of far greater concern than notions of equity within the social housing system – at least until such times as the system can accommodate all three. But if we are ever to reach such a point, considerable sustained attention and resources need to be put towards genuine growth in the portfolio.

Efficiency

IPART's issues paper suggests "the current income-based rent model does not provide an incentive for people to move to more appropriately-sized housing, as a tenant is charged the same rent whether they are a single person in a one-bedroom unit or a single person in a 4-bedroom house."⁹ This is true of some owner-occupied housing as well. For social housing, it is true at the point at which a household's dwelling is no longer suited to their needs, whereas in the private sector it tends to depend upon the timing and circumstance of its most recent conveyance. Regardless, the observation simplifies the way the current rent model is applied, and the constraints under which it operates. When an offer of housing assistance is made, it is done on the basis of a "bedroom entitlement"¹⁰ that takes very clear account of household compliment and need. A larger household that requires – and is entitled to – a larger home, will generally pay a higher rent because their household income will be higher. It is only when the household's compliment changes – for instance, children grow up and move away – that the use of home becomes "inefficient". But by this time, for many households at least, connections to a local neighbourhood and community may run deep, as indeed could sentiment towards the family home that children, and perhaps even grandchildren, might seek to return to periodically. Quite simply, householders may wish to age in place.

The issues paper touches on this in its subsequent discussion of the recently introduced "vacant bedroom charge", and the difficulty FACS has had in finding suitable alternative dwellings for people who are willing to relocate and downsize. IPART's issues paper suggests the vacant bedroom charge has been applied to around 225 households on average per quarter over the last year. We note that in the Budget Estimates this year the Social Housing Minister confirmed that in total over 2000 households have paid the vacant bedroom charge since its introduction in 2013.¹¹ It is not clear how many households have been approached to consider relocating to free up a vacant bedroom – it was suggested that FACS had around 17,000 in mind when the policy was introduced¹² – but there is a clear indication that some households are willing to pay the additional charge. TUNSW has heard from some tenants who are paying the vacant bedroom charge because of their strong connection to long-term homes and neighbourhoods. We have also heard from others who are receiving help from children who have now moved away, but wish to maintain their own connection to a home they grew up in. For some there is also the pragmatic consideration of ensuring a spare room is available for their own children to stay in while in the care or company of grandparents.

It is also clear that many households would relocate and downsize if the portfolio could accommodate that choice. TUNSW submits many more households might make that choice if the vacant bedroom policy were redesigned to produce an incentive to relocate, rather than a penalty for remaining in place. Either way, portfolio regeneration being undertaken under Communities

⁹ IPART Review of rent models for social and affordable housing issues paper, page 28

¹⁰ <http://www.housingpathways.nsw.gov.au/additional-information/policies/social-housing-eligibility-and-allocations-policy-supplement#rnob>

¹¹ Budget Estimate 2016-17: Family and Community Services *Supplementary Questions* p.60

¹² See <http://tunswblog.blogspot.com.au/2014/02/saving-day-by-paying-more-to-stay.html>

Plus and the Social and Affordable Housing Fund presents an opportunity for social housing landlords to recalibrate their stock, and ensure the portfolio is sufficiently diverse to accommodate all recipients of housing assistance in dwellings that suit their needs. Extensive work needs to be done on this front if policies such as the vacant bedroom charge – in whatever form they take – are to produce the desired effect.

Social housing versus the private rental market

We have already made a number of comments about the state of the private rental market and its general lack of enthusiasm for accommodating low-income households. It is worth elaborating on this a little, given the clear policy intention to rely ever more heavily on private market landlords to take on this unwanted role, as outlined in the *Future Directions for Social Housing* strategy.

Landlords with only a single property interest dominate private rental markets across Australia. In the 2013-14 financial year – the latest year for which such data is available – 72.02% of Australia's taxpaying landlords held an interest in just one investment property. This has remained steady over the years, with the proportion fluctuating between 72% and 73% since 2005-06.¹³ These landlords are encouraged into the market on the promise of wealth through capital gains, rather than any effort to address Australia's unmet housing need. Policies around taxation and income support have evolved with this in mind. Likewise, laws that regulate residential tenancy agreements have evolved to ensure property dealings can be made with a minimum of disruption to the investor, and that perceived regulatory burden and risk are reduced.

An unbalanced legal relationship between landlords and tenants is thereby maintained. In New South Wales, landlords are able to end tenancies without grounds. Outside of a fixed-term agreement, tenants do not have any security of tenure and are often reluctant to rely on whatever rights they do have for fear of eviction. Social housing landlords tend not to make use of this power, because of legal requirements to afford procedural fairness in making and implementing administrative decisions, but private market landlords can use this power without such limitation. Even where they have no genuine intention of ending a tenancy without grounds, the mere fact that they can puts them in an incredibly strong position relative to tenants.

Private market landlords also have incredible influence over rents, through both the "strategic" investments they choose to make (discussed above) and their legal rights around increasing rents for sitting tenants. It is very difficult for a tenant to negotiate a favourable outcome when faced with an unaffordable rent increase, because the law allows them to challenge an increase only where it is excessive against a market comparison. Usually, tenants will opt to pay the increase and try to adjust to the new unaffordable rent – perhaps making some other sacrifice in order to accommodate this – or move out, whereupon a new tenant will move in and pay the unaffordable rent. This usually means moving to a new area that is away from the jobs, schools and services they have become accustomed to. Either way, tenants go without in some form or another.

¹³ ATO statistics available at <http://data.gov.au/dataset/ad-hoc-data-requests/resource/1be44656-d460-48c1-9d1a-49513c51e82a>

Reforming these laws and policies to the greater benefit of tenants always proves difficult. Because the vast majority of landlords regard their investment as a step toward their own financial wellbeing, rather than the provision of shelter, they tend not to support the kinds of reform that would result in stable and affordable homes for low-income households. If we are to place greater reliance on the private rental market to properly integrate with the social housing sector, and operate in a way that encourages low-income households to transition out of social housing and into the private rental market, these issues will need to be addressed. This, of course, is far beyond the scope of social housing rent-setting frameworks and eligibility criteria.

Financial sustainability

IPART's issues paper refers to the implicit rental subsidy given to tenants in social and affordable housing, borne by the social housing landlord, as "funds that could be used for maintenance and new housing [that are instead] required to meet operating costs, exacerbating the shortfall in the supply of social housing".¹⁴ These comments refer to the manner in which social and affordable housing is funded, using the apparent market value of social housing landlords' portfolios as a lens through which we might view financial sustainability. A point that should not be missed here is that the difference between what is earned in subsidised rental revenue, and what could be earned if full market rents were collected, reflects the difference between affordability and what the private rental market currently offers. To take this further, it is a reflection on the cost of policies that encourage speculative investment in housing by individual investors, producing a market that does not cater to low-income households and increasing the demand for social and affordable housing.

The paper also notes "the cost of providing social housing, including maintaining the housing stock, is growing at a much greater rate than the growth in rental income".¹⁵ This similarly reflects a housing system that has foregone any notion of affordability and amenity for low-income households as a driving force. The continued need for social and affordable housing is one outcome of this, and we must ultimately be prepared to bear these costs.

Preliminary options for eligibility criteria and prioritisation policies

Entry eligibility criteria

TUNSW does not support the further targeting of housing assistance by defining eligibility criteria more narrowly. For one thing, it is difficult to see how such assistance could be more tightly targeted in any kind of practical way. But even so, many people are let down by the private rental market and are in need of assistance that social and affordable housing cannot accommodate. This will not change by simply redefining the parameters of eligibility. Considering other useful forms of assistance remains a largely academic pursuit while ever there is little capacity within the portfolio, along with limited desire on the part of private market landlords to step up and make their investment count.

¹⁴ IPART Review of rent models for social and affordable housing issues paper, page 30

¹⁵ IPART Review of rent models for social and affordable housing issues paper, page 31

Eligible for what, and for how long?

Even were the social and affordable housing portfolio agile enough to accommodate the idea, any benefit derived from reviewing and amending tenants' eligibility, so as to transfer them to more appropriate dwellings as circumstances change, would be outweighed by the administrative burden such a system would impose. As we have said above, TUNSW would like to see a social housing system that does not penalise tenants for improving their situation, and that encourages rather than compels relocation as circumstances change.

If this is unacceptable, consideration must be given to any possibility that altered circumstances may return to "normal" at some later stage. For instance, where a tenant has a vacant bedroom because a child has left home, the likelihood that they may need a live-in carer at some time in the future should be taken into account. Similarly, if a tenant's income increases such that they are no longer eligible for a rental subsidy, consideration should be given to the reliability of that income and the duration for which it will continue before eligibility for housing assistance is revoked.

Eligibility for renewal of fixed-term leases?

TUNSW expects that reducing the income threshold for eligibility of a renewed tenancy at the end of a fixed term agreement will have a negligible impact on the portfolio. That is, it would not encourage people to move out of social housing and it would not create new opportunities to house people from the waiting list. Instead, it would strengthen the work disincentives currently built into the rent model.

To date, very few public housing tenants have relocated on account of an unfavourable eligibility review. In the Auditor-General's 2013 report *Making the Best of Public Housing*¹⁶ it was suggested that only two per cent of tenants were reviewed as ineligible. This is not because the thresholds are set too high, but because of the result such an unfavourable review would produce: being pushed back into the increasingly unaffordable and insecure private rental market. Reducing the threshold would not, as may be hoped, increase the pool of recipients required to relinquish their social housing assistance. It would produce a further disincentive for tenants to seek employment at all. This is true for all tenants, but particularly for anyone approaching retirement age that has not devoted a significant portion of income to a mortgage, and may not rely on income support to cover rent in the private market.

On the other hand, it is possible that social housing landlords could do away with renewable fixed-term tenancies altogether. This would produce the kind of system that would allow tenants to flourish because they would know their housing is secure for as long as required. It would allow them to work, and contribute to higher rental revenues that could be put towards improvements and additions to the portfolio. As they become more secure in employment, they might become inclined to move into the private rental market and create opportunities for new social housing allocations.

¹⁶ See <http://www.audit.nsw.gov.au/publications/performance-audit-reports/2013-reports/making-the-best-use-of-public-housing>

Allocation priorities

TUNSW makes no comment on the order in which clients are currently housed, other than to note a potential point for further exploration. Whereas policies and procedures refer to “priority need” for housing, we understand that in practice the considerations for allocation are far more nuanced. The judgment and expertise of allocations officers is constantly called upon to determine which application should be given the highest priority, which property should be offered to whom, and when. We’ve often considered this an exercise in determining whose need for housing is the most chronic and acute, rather than the more narrow concern for whose is the highest priority.

Other assistance products

TUNSW supports the provision of alternative assistance products as a stopgap measure, taking into account the current lack of capacity and flexibility in the social and affordable housing portfolio. As we have suggested above, the success of such products will depend upon the quality of service offered by landlords in the private rental market. With our housing system as it is we cannot endorse measures to assist low-income households to compete in the private rental market. This cannot be the final resting place for social and affordable housing policy.

Preliminary options for rent setting framework

Segmented rental framework

As we have suggested above, the administrative cost of further categorising and segmenting social housing applicants and recipients is likely to outweigh any perceived benefit. It is worth a closer look at the way our current rent setting framework has created a segmented system, and assessing its merit.

FACS Housing introduced its policy of higher rent rates for tenants on so-called ‘moderate incomes’ in 2005. The policy revised the system of income-related rents, which provides rebates to eligible tenants so that the rent the tenant pays is about 25 per cent of the tenant’s household income. Under the revised system, tenants whose household income is above the ‘moderate income threshold’ pay, on a sliding scale, 25-30 per cent of their household income. Tenants whose household income is above a second threshold (the ‘30 per cent threshold’, at the top of the sliding scale) pay 30 per cent, until they reach the market cap.

It is important to note that the 25-30 per cent sliding rate applies not just to income in the moderate income range (nor does the 30 per cent rate apply only to income above the 30 per cent threshold). These rates are not marginal rates; they apply to that part of a tenant’s household income below the range too.

This means that earning additional amounts of income in the moderate income range comes at a large cost in terms of additional rent due. If the 25-30 per cent sliding rate was expressed as a marginal rate, it would range from 45 per cent to 55 per cent over the moderate income range (for an average marginal rate of 50 per cent); in other words, on average 50 cents in every additional dollar earned by a tenant in the moderate income range would go to FACS Housing in rent. When it is considered that each additional dollar will also be subject to

income tax and other costs associated with work (for example, childcare), a tenant could easily end up with little reward, or even a loss of income, from working.

For example, a single person earning \$800 per week will be in the middle of the moderate income range and the 32.5 per cent income tax bracket, and therefore face an effective marginal tax rate of 82.5 per cent (from rent and income tax alone). Such a high effective marginal tax rate is a powerful work disincentive.

The moderate income thresholds are set higher than the income thresholds at which most Centrelink payments are reduced to zero, so the effective marginal tax rates generated by Centrelink payment reduction mostly do not stack with those generated by the moderate income rent rates. However, while they do not stack, they do sit side-by-side, so the effect is that public housing tenants face very high effective marginal tax rates for an extended range of incomes – longer than other persons. Many part-time jobs pay incomes in this range, and may present opportunities for earning additional amounts. However, public housing tenants would receive little reward from doing this work.

In terms of its stated objective of effecting transitions out of public housing, this policy operates on the assumption that public housing tenants with work opportunities would move out of public housing in order to enjoy a lower effective marginal tax rate. This assumption is completely unrealistic, as it takes no account of the higher cost of private rental and the relative security of public housing. More realistic is that a public housing tenant will – reluctantly – decline to take up those work opportunities.

Tapered subsidy

Despite our concerns with the sliding income scale, raised in the comments above, TUNSW supports a subsidy that tapers off as a tenant's income increases. In saying this we note the recent comments from the Productivity Commission, referred to in IPART's issues paper, that secure and affordable housing can in fact enable vulnerable people on low-incomes to pursue employment opportunities.¹⁷ However, any such subsidy must be designed to ensure that effective marginal tax rates do not increase as earning increases, and that rents remain predictable and stable relative to income.

TUNSW does not support a subsidy that tapers over time without reference to increases in income. There is nothing to be gained by placing vulnerable households in financial hardship, and it is no justification to impose increasingly difficult conditions simply because the social and affordable housing portfolio is currently unable to accommodate all vulnerable households.

Social housing properties transitioning to affordable housing

For the most part, we have treated social and affordable housing in this submission as though they are interchangeable concepts. This reflects our vision of a system that allows vulnerable households to receive housing assistance, and use the stability and affordability this provides to

¹⁷ IPART Review of rent models for social and affordable housing issues paper, page 24

settle down and get on with their lives – whether taking up education or employment opportunities, volunteering with local community groups, or simply getting well and having a better quality of life. It stands to reason that allowing a home to transition between “forms” of assistance where circumstances change would be a positive reform.

To be clear, this should apply in either direction. Households whose circumstances improve for the better should not be required to move from their home in order to receive a reduced level of assistance, just as households whose circumstances deteriorate should retain some stability and security. A person who receives housing assistance at a time of poor health and unemployment, but who is then able to get well and find work, should expect some change to the nature of their housing assistance – for instance, they might pay a higher rent – but not to their eligibility to remain at their current address. Conversely, if that person’s employment situation changes and they are no longer earning a higher income, the nature of housing assistance might again be altered.

Such an approach should apply regardless of whether a person’s initial assistance is regarded as social housing or affordable housing. The need for such an approach is demonstrated by several recent examples, where tenants of Affordable Housing landlords became ineligible to receive further assistance once reaching retirement age. In all cases they were informed that affordable housing is for working people, and they would have to move out. This came as a surprise. The next step for these tenants was to apply for urgent housing assistance, and hope for an allocation of social housing before their affordable housing tenancy was terminated so they could avoid transitioning to homelessness.

This would need to be combined with reduced work disincentives and a liberal approach to transitioning tenants out of social housing. Under such conditions, allowing properties, rather than tenants, to transition between forms of assistance could work well. Increased tenant incomes would lead to higher rental revenues that could be put towards improving and growing the portfolio, as part of a commitment to increasing supply.

Preliminary rent model options

We are unable to find a clear preference for one proposed rent model over any others. As we have indicated above, affordability should be the primary concern of any rent setting model for social and affordable housing in New South Wales. Where it is possible to deliver genuine affordability under any of the proposed models, this should be explored. This is likely to be more easily achieved through an income-based or residual income-based rent model, but it could also be achieved with a hybrid model as long as base-line rents are set very low to begin with.

Simplicity for both tenants and landlords should also be a priority consideration. Although potentially strong on affordability, income-based and residual income based rents create high levels of complex administration. In the current system, the need for regular disclosure of household complement and occupants’ incomes – down to the last dollar – has resulted in ongoing

surveillance of tenants' affairs. This doesn't just come from their interactions with social housing landlords; neighbours are also encouraged to report any perceived irregularities in tenants' comings and goings. Tenants whose incomes fluctuate on account of casual shift-work or other irregular payments find it difficult to predict what their rents will be each quarter, and this can lead to difficulties in budgeting. Errors in income disclosure on the part of tenants, and rent subsidy calculations on the part of landlords, can lead to complex – and often unnecessary – investigations of fraud. Considering ways to make income-based rents easier to administer, and improving the quality of administration, should be a high priority for this review.

In the context of our current housing affordability and accessibility challenges, equity within the social and affordable housing parts of the system should be less of a concern. Given the factors that drive our private housing markets, and the growing need for alternatives that this produces, equalising services and assistance received by those for whom the market fails is more likely to be achieved by interventions that are outside of reforms to the rent model. Until such interventions occur, any consideration of a market based rent model should be deferred. If implemented under current conditions there is a high likelihood that further residualisation of disadvantage will occur, as low-income households scramble to establish tenancies in the most affordable – that is, least desirable – homes within the portfolio.

In any event, market derived rent models are difficult to recommend in the current legislative context. As we have discussed above, our renting laws only allow tenants in the private rental market to challenge an increase where it is excessive against a market comparison. Usually they will opt to pay the increase, or move out; it is very difficult for tenants to negotiate a more affordable rent. As such the market against which social housing rents might be benchmarked tends to be skewed against affordability.

Efficient rent collection

TUNSW supports tenants' option to volunteer for automatic rent deduction through the Rent Deduction Scheme. We do not agree with making the scheme compulsory, as has sometimes been suggested, because this would prevent tenants from being able to manage their money in ways that are appropriate to them.

The management of rental arrears is an issue that we have raised with FACS on a number of occasions over many years. We are concerned that FACS officers often issue notices of termination, and make Tribunal applications for possession orders, in circumstances where payment of rent arrears has already been arranged. This creates costs in both time and money for all concerned, and the practice should be stopped.

Conclusion

The current challenges to be met by our social and affordable housing portfolio are the result of inequity and policy misdirection across the housing continuum. The result is a system that is facing increasing demand while supply is in decline. In response, we have tried to target and ration assistance. There is great scope for this review to make recommendations to eligibility criteria and the rent-setting framework that would improve outcomes for social and affordable housing tenants, by releasing our grip on some of this targeting. This applies in particular to the way rents are now calculated on a sliding scale relative to household income, and periodic review of tenants' continuing eligibility for housing assistance. These issues need to be addressed as a matter of priority.

There is also scope to encourage social housing landlords to increase efforts to administer their way out of the supply shortfall, by further tightening and rationing the availability of assistance. To do so would be to put eligibility criteria and rent models ahead of wholesale sector reform, including the introduction of significant new supply, as the preferred solution to high demand for social and affordable housing. The recent history of social and affordable housing in New South Wales tells us how unlikely this is to succeed.