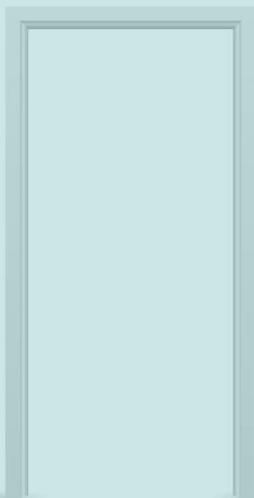




**Community Housing**  
FEDERATION OF VICTORIA

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# Access to Community Housing in Victoria



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## Executive Summary

The purpose of this paper is to brief stakeholders – applicants for housing, government, community housing and the wider social services sector – on the funding, policy and regulatory landscape (both historical and current) in which the community housing sector operates.

Government has indicated that it is now keen to see limited vacancies in community housing be prioritised towards those applicants perceived to be most in need. As community housing organisations rely on rental revenue for financial viability, allocation is the key means by which these organisations can ensure their long-term financial viability. Therefore, this is an area of policy with significant tension.

Historically, government recognised this tension by establishing a protocol with community housing organisations which reflected an underlying spirit of partnership and collaboration. This protocol sought to reach mutually beneficial outcomes on people housed – both eligible for public housing and from the public housing waiting list - via consistent processes and reporting and monitoring. Funding and lease agreements between government and community housing organisations also established targets for allocations in similar terms. Many of these agreements recognised the often unique nature of many community housing organisations and the particular nature of those targeted for assistance from new housing projects.

Since the restructure of the department in 2012 there is a much reduced understanding of where we have come from and how we arrived to our current position which is fundamental to understanding how the statewide social housing register should work.

This paper has three sections:

- In Part 1, we look at the how the role of the community housing sector has changed over time as a result of changes to the funding, regulatory and policy landscape.
- In Part 2, we examine the state of the community housing sector's long term housing portfolio – now over 14,000 long term properties – and what existing agreements between government and the sector apply to access and eligibility.
- In Part 3, we provide analysis and discussion on what this funding, regulatory and policy landscape might mean in the context of a statewide social housing register.

## Part 1: The role of the community housing sector

### The origins of the community housing sector

Community housing has its origins in community-based organisations that sought to assist people who historically had not been served well by the public housing system. This included single adults, people with mental illnesses and people with a disability. Other community housing organisations were established to demonstrate the value of alternative models of management and service delivery – most notably co-operatives under which tenants took responsibility for management of their own housing.

Various ad-hoc Federal and State Government grant funding programs allowed these new groups to access grant funding to purchase or build new homes. A policy preference to separate tenancy management from support also saw more management of public housing properties transferred from other social services to community housing.

Community housing was seen as an alternative, niche system designed to operate quite separately from public housing. Community housing organisations formed links with support providers and local communities to seek applicants and sustain successful tenancies. These relationships were underpinned by arrangements varying from formal “nomination rights” arrangements (whereby the support provider essentially nominated eligible applicants to fill a vacancy) to more informal referral networks.

### A new role for community housing

2006 saw a major shift in policy and the role of community housing. The Victorian government introduced a system of regulation of community housing overseen by an independent regulator, the Registrar of Housing Agencies. This complemented a new policy approach to grow the supply of social and affordable housing owned by the sector with a growth fund. While the regulatory system was (and remains) an “opt-in” system”, in practice any community housing organisation that wanted to receive government support – grants or transfers (via leasing of public housing) – was required to be registered.

This new landscape also saw a shift in the role that these newly-regulated community housing organisations – who became known as “registered housing agencies” - were to play within the housing system:

- *Guidelines for Registered Agencies*<sup>1</sup> established who would be eligible for community housing in terms of household income and assets. It set a broader eligibility range for applicants than public housing, to enable registered housing agencies to play a role in the wider housing affordability challenges faced by low-income working households, to prevent concentrations of disadvantage and to support higher rental revenue.
- A new *Protocol on the referral of applicants to Housing Associations* from the public housing waiting list was signed by all housing associations and some registered housing providers - in 2008.

The Protocol aimed to improve liaison between the Department and registered Housing Associations concerning referrals, to ensure vacancies were filled as soon as possible and improve information given to applicants about community housing. The Protocol stated that:

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<sup>1</sup> <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/guidelines-for-registered-housing-agencies>

*“To achieve the aims and objectives of this Protocol, the Director of Housing and [the registered agency] agree to work in good faith and with all reasonableness towards achieving up to 50% of true vacancies being allocated to referred applicants...”*

CHFV understands that the Protocol was not signed as a standard document, and there were separate undertakings given on particular issues. For example:

- Common Equity Housing Limited (CEHL) was given undertakings that it could run its own register of interest. The Department would refer appropriate applicants to CEHL to be included on its waiting list if an applicant expressed an interest joining a housing co-operative. There was no expectation that CEHL would notify the Department of each casual vacancy for referrals.
- Wintringham Housing and the Department agreed that Wintringham would offer housing to applicants who were referred through its outreach programs or by other organisations for its specialist housing. All applicants would be eligible for or on the public housing waiting list.

Under the Protocol the Registrar of Housing Agencies was to monitor the annual achievement of the annual quota of allocation by the registered housing agency. In addition, the Guidelines provided that agencies would be required to report to the Housing Registrar on compliance with the criteria set out in the Guidelines.

This system supported unprecedented growth in the size of the sector, through the Victorian State Government’s *Social Housing Investment Fund* (\$300 million + \$100 million leverage contribution), the *Nation-Building Economic Stimulus Plan* (\$543 million + \$190 million leverage contribution) and the *Fairer Victoria* asset conversion process which transferred title to \$155 million in assets (this required \$23 million leverage contribution) which were managed by registered Housing Associations.

The leverage requirement was also a significant shift. Community housing organisations, housing associations in particular, borrowed to support a 25% contribution to new developments. This meant that these organisations entered into new projects on the basis of a mixed tenancy profile, with some tenants on higher incomes than others (and consequently higher rents) in order to provide sufficient net rental income to support debt payments. The community-housing sector currently services over \$300 million in debt.

This had implications for both initial allocation and subsequent allocation to maintain required net income streams. It made allocations a particularly sensitive issue, a concept recognised in the Protocol which stated that:

- “nomination rights” arrangements with third party support agencies would continue – these would effectively be excluded from the Protocol which would only apply to “true vacancies”<sup>2</sup>;
- the target of 50% would take time to achieve; and
- government would not want the cumulative effect of allocation to threaten the financial viability of registered housing agencies.

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<sup>2</sup> “Nomination rights” refer to a wide range of agreements between community housing organisations and support providers about the allocation of vacant properties. These are widely used across the sector in the context of partnerships to sustain tenancies amongst particular cohorts such as people with a mental illness or with a disability. Under these arrangements, support providers effectively nominate a proposed tenant for a vacant property who is offered housing as long as the applicant meets the eligibility criteria. These arrangements might reflect historical funding agreements or partnerships which underpinned a particular housing development, and vary in formality and the extent to which they are enshrined in legally binding commitments.

It was also recognised at the time of the Protocol that referrals from the public housing waiting list would be from a range of the various parts (or segments) of the waiting list – not just all applicants on the priority segments (such as those experiencing homelessness) but also the general “wait turn” segment. This would assist organisations maintain the required rental profile.

Creating a mix of social and affordable housing that is better integrated with private tenure options also meets other key objectives of the sector - to diffuse concentrations of disadvantage (particularly in medium and high-density properties), to reduce the stigma associated social housing, and to provide increased opportunities for social and economic participation.

CHFV understands that the Protocol was subsequently amended in March 2009 to include within the 50% target households that were *eligible* for public housing but not on the waiting list.

### Problems with the referral system

A 2011 review of the protocol found that all organisations that had signed it had met or surpassed the 50% target, with 63% of those housed from the public housing waiting list or eligible for public housing. However, the percentage of vacancies filled by applicants referred by the Department (referred applicants) had decreased to 8% and only 15% of referred applicants were housed. The review concluded that “...in terms of the intent of the protocol – to facilitate referrals of applicants on the public housing waiting list the outcome is less than desirable.”

By 2012 it was clear that the system of referrals to true vacancies was not functioning appropriately. The community housing sector complained of slow referral times and inappropriate referrals. Most community housing organisations closed down their own registers of interest in response to overwhelming demand and a lack of growth funds for new supply. A report of the Victorian Auditor-General criticised the vague language of the Protocol, including the “up to 50%” requirement and that many applicants were on the waiting list but had not been referred by the Department:

*... Housing associations filled a total of 46 per cent of new vacancies with applicants from the public housing waiting list in 2008–09. Of these, 17 per cent were referred by DHS from the top of the ‘wait turn’ segment of the waiting list. None were from the segment of the waiting list that indicates high needs or special disadvantage. A further 29 per cent housed in new vacancies were from the waiting list, but self referred. These applicants had not necessarily been waiting for housing as long as those on top of the ‘wait turn’ list.*

*There are no clear guidelines to deliver equity of access for applicants from the public housing waiting list. Guidelines would help protect against the potential for housing associations to select tenants on the basis of whether or not they had support needs, or on income profile and the associated favourable rent revenue impacts for housing associations. In addition, filling vacancies with referrals by DHS from the waiting list, rather than through self referral, would provide more equitable treatment of those who had been waiting longest.*

In 2014 CHFV carried out its own analysis of 2013-14 data collected by housing associations and found that in that year the 50% target of applicants *eligible* for public housing was exceeded by all housing associations – performance ranged from 63% to 100%. However the associations did not reach their required allocation of 50% of tenants *referred* by the Department from the public housing waiting list – performance ranged from 0%-18% with 7 of the 8 housing associations under 2%.

CHFV put proposals to the department to improve the referral system and increase the number of referrals housed. However, they were not acted on as the introduction of a common housing register was in the wind.

## A statewide housing register

In 2015 the Victorian Government proposed to introduce a new statewide housing register for all social housing applicants to access both public housing and community housing. The Department of Health and Human Services, the Victorian Government Department with responsibility for the public and community housing system, has advised that:

*The common housing register is a first step in terms of maximising and simplifying access to housing assistance for disadvantaged Victorians. A common housing register will:*

- *Create better access to housing through one simple and effective entry point to the widest range of housing opportunities.*
- *Create greater transparency and accountability across the social housing system.*
- *Embed homelessness and social housing into the wider community care system.*<sup>3</sup>

In setting out this agenda, the Department also acknowledged that existing systems of referral and allocation were not functioning as intended. The Department stated that:

- *To make the common housing register work, an allocations framework will need to be developed in consultation with the sector to guide allocations from a common housing register.*
- *It is timely to review the allocations process and the referral protocol.*
- *In the interim a referral policy that mirrors the settings of the allocations framework will be put in place for housing organisations who have not yet joined the common housing register. This ensures no competitive disadvantage.*

## Part 2: Access and eligibility: The current state of play

Access to community housing is largely a question of two related but separate issues:

- **Eligibility** – who is eligible for assistance; and
- **Allocation** – which applicants of those who are eligible are offered a tenancy in a vacant property.

### Policy and funding requirements - Eligibility

The DHHS policy, “Guidelines for Registered Housing Agencies” (DHHS Guidelines) sets out DHHS policy on who should be eligible for community housing where properties are owned and funded by the Director of Housing (the funding body for community housing in Victoria).

As at the date of this paper, the guidelines set the following income eligibility limits:

Upper Limit – gross household income from all sources	Household Size (Includes children of any age)		
	1 Person	2 Persons	3+ Persons
	\$948 gross per week (\$49,431)	\$1,451 gross per week (\$75,659)	\$1,958 gross per week (\$102,096)

<sup>3</sup> *Renewal and growth in social housing - Presentation to Community Housing Federation of Victoria and housing agencies, Department of Health and Human Services, Social Housing & NDIS Reform Division: (25 August 2015)*

These calculations are, according to DHHS, based on the maximum income eligibility limits for Commonwealth Rent Assistance.

These are broader than the income eligibility limits for public housing (for general housing and supported housing) currently:

Household	Weekly income
Single person	\$531
Couple, no dependents	\$919
Family (one or two parents) with one dependent child	\$953 Plus \$89 for each extra child under 13 years Plus \$120 for each extra child aged 13 to 17 years

## Policy and funding requirements – allocation and referrals

In respect of allocation and referrals, the DHHS Guidelines currently state that:

*To provide better access and choice for those on the waiting list for public housing, DHHS has established a centralised process for public housing applicants who choose to also be referred to a RHA [community housing].*

*There are two types of allocations which fall within the scope of this arrangement:*

- 1. Allocations to new or newly acquired properties funded by DHHS.*
- 2. Allocations to vacancies that subsequently arise in these properties.*

*Up to 50% of all new tenants allocated to these properties must be from the public housing waiting list unless explicitly agreed otherwise.*

Additionally, the DHHS website states that:

*Registered housing agencies are expected to take up to 50 per cent of new tenants for government funded properties from the public housing waiting list.*

## Contractual arrangements between government and community housing

Community housing organisations, including registered housing agencies, are independent bodies and are not subject to the control or direction of government unless there is a specific legal or contractual obligation in place to do so. The DHHS Guidelines are perhaps therefore better understood as a statement of general intent by government as to its desired outcomes.

Accordingly, the key question is not what the policy is - but the extent to which that policy has been incorporated into undertakings between community housing organisations and government. The terms of such agreements will naturally vary from organisation to organisation (and within different portfolios held by organisations) depending on the outcomes that were agreed between government and community housing organisations at the time of their acquisition.

## Funding and Lease Agreements

Government has tended however to insist on various standard form agreements over time, so CHFV can draw some general conclusions about the kinds of agreements that were entered into and what they required in terms of eligibility and allocation. These are set out in the table in Attachment 1. Using data from Data Vic, CHFV believes that of the 14,458 long-term properties held by registered agencies at 30 June 2014:

Category	No of properties <sup>4</sup>	Obligation in funding agreements	
		Eligibility	Allocation
<b>Agency Owned (Legacy Portfolio)</b> Acquired prior to 2006	<b>2,299</b>	Will vary depending on the agreement, however CHFV believes that eligibility tends to be set to public housing eligibility.	Will vary depending on specific agreement, however CHFV believes that there is generally not an obligation in respect of referrals from the public housing waiting list.
<b>Agency Owned (Growth)</b> Acquired on or after 2006	<b>6,163</b>	Community housing eligibility based on the DHHS Guidelines.	Obligation to act in good faith and in all reasonableness to achieve up to 50% of allocations (by referral), subject to financial viability. However this may be modified for particular projects.
<b>Agency Owned</b> 2008 stock transfer	<b>575 + 66</b>	Unclear however assume community housing eligibility based on the DHHS Guidelines.	Unclear if any relevant obligations exist – assume Protocol applies in absence of any other agreement to require work on 50% target.
<b>Owned by Director of Housing</b> Leased to community housing	<b>5,355 Total</b> <i>1,130 HAs</i> <i>4,225 HPs</i> <i>(General Lease and HPF Leases)</i>	Public housing eligibility.	Aim for up to 50% of all true vacancies <sup>5</sup> in leased community properties allocated to applicants referred from the public housing waiting list.
<b>Total</b>	<b>14,458</b>		

## The Protocol

Initially the Protocol was designed to cover specific capital growth programs listed in the Protocol including the Strategy for Growth for Low Income Victorians, Building More Homes Together, A Fairer Victoria, the HRAR Investment Fund and all transferred property.

<sup>4</sup> These numbers are approximate only and are taken from DataVic

<sup>5</sup> This excludes vacancies filled by nomination rights.

However, given that a range of other agreements have been signed since then, the Protocol is perhaps better understood as an overarching agreement of general application that could be displaced by particular targets or agreements set under funding agreements. For example, CHFV understands that Yarra Community Housing had agreed with government that 50% of tenants housed would be single people on Centrelink payments and the other 50% could have higher incomes to enable the project to be financially viable.

Indeed, CHFV understands the Protocol was only ever intended as an interim arrangement until a common register could be implemented (earlier plans for which were abandoned by government in 2011).

## Regulation – Performance Standards

Registered housing agencies are required by the Housing Act to comply with the Performance Standards made under the Act. The Housing Registrar monitors compliance with these standards. However, the Performance Standards do not directly address the issue of which applicants are offered housing and in particular whether applicants have been referred from the public housing waiting list. The Performance Standards do require registered housing agencies to:

- manage housing assistance in accordance with its policies and the legal and policy requirements;
- develop policies about fair and equitable access and allocation of housing and strategies responsive to local needs to implement its policies; and
- establish an access and allocations policy that is sensitive to clients with complex needs and low incomes and, to the extent permitted by other performance standards, ensures allocation of tenancies to this client group.

The Housing Registrar asks all agencies to report on Key Performance Measures (KPMs) annually. One KPM is as follows:

<b><i>Tenancies on public housing wait list at allocation</i></b>	<p><i>The total number of new tenancies that were on the public housing wait list at the time of allocation</i></p> <p><i>Exclude:</i> <i>tenancies that were eligible for public housing at the time of allocation but were not on the public housing wait list</i></p>
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The relevance of this KPM to the Performance Standards is unclear, however it could be viewed as measuring the extent to which a registered housing agency manages housing assistance with the legal and policy requirements. However, given the complexity and multiplicity of those funding and policy requirements, it is difficult for a single KPM across the entire long-term housing portfolio of an agency to give an indication of whether those funding and policy requirements have been adhered to.

However, registered housing agencies must meet a performance standard (7) regarding financial viability; specifically they must meet the following;

- a) *Ensuring a viable capital structure.*
- b) *Maintaining appropriate financial performance.*
- c) *Managing financial risk exposure.*

## Part 3: Analysis and discussion

### Why allocation matters

The issue of who is housed by community housing is central to the mission of these organisations plus critical to their financial viability because of the system of financing for community housing.

The criticism from the Auditor-General in 2012 that registered housing agencies favoured tenants on higher incomes (and higher rents) perhaps misses the fact that government does not offer community housing any financial compensation for allocating to tenants on very low incomes. There can be quite significant differences in the amount of rent paid by low-income working tenants, people on higher forms of government benefits (such as the disability support pension) and people on the low forms of payment (such as Newstart or Youth Allowance), as the following table demonstrates:

Household income type	Ordinary income pf	CRA pf	Rent pf (based on 30% of income plus CRA)
Couple (Newstart)	\$945.20	\$121.80	\$405.36
Couple (Aged Pension)	\$1,188.60	\$121.80	\$478.38
Couple with wages of \$65k p.a.	\$2,493.15	nil	\$747.95

### A complex and varied landscape

As we have seen in Part 2, community housing's obligations in allocating vacant homes is not easily reducible to simple policy statements in a complex and varied landscape. Nevertheless, a dialogue about a new referral framework needs to start from a common understanding on how we arrived where we are today.

For community housing to allocate 50% of new tenants to referred applicants was always understood as a target where government and community housing organisations were to work collaboratively to achieve that goal, with all stakeholders recognising the various tensions and trade-offs inherent in that goal.

### Implications for a statewide housing register

Understanding the funding landscape is also critical to understand how the statewide social housing register might work. Not all properties held by community housing are part of the general "pool" of properties which are suited to applicants for public housing.

Using this analysis, the table below demonstrates that there are a number of properties which may not be allocated to applicants on the priority segment of the statewide housing register for a variety of historical and financial reasons. The challenge for the Department and community housing sector is to work out how many properties are in and how many are out.



## Attachment 1: Summary of funding arrangements

Program	Description	Period of Program	Eligibility rules that apply	Access to housing (including referrals from the public housing waiting list)
<p><b>Legacy Portfolio:</b></p> <p>Properties funded prior to 2005 under various ad-hoc programs.</p>	<p>Grants provided on an ad-hoc basis under various funding rounds:</p> <ul style="list-style-type: none"> <li>• Community Housing Program</li> <li>• Social Housing Innovations Program</li> </ul> <p>Usually a Funding Deed was signed in respect of each individual project grant. The terms of varies from program and project to project.</p>	1990s - 2005	Specified in funding arrangements – usually public housing eligibility or similar. Some agreements will refer to specific program guidelines (e.g. the CHP Guidelines) which now are no longer published.	<p>Specified in funding arrangements. This was usually via referral/nomination by a support provider.</p> <p>There is usually no specific undertaking about referrals from the public housing waiting list.</p>
<p><b>Growth Portfolio:</b></p> <p>Properties acquired after 2006.</p>	<p>Grants provided under programs such as the Growth Fund and Nation-Building programs. Also used for ad-hoc grants from sources such as the Victorian Property Fund.</p> <p>Agencies signed a single Funding Deed which applied to all grants and set out standard terms and conditions of the application and refund of grants. For each grant, a specified Project Annexure set out the amount of funds, project timelines and target tenancy group (Target Group)</p>	2006-2012	Most Project Annexures specify that the “Target Group” are people who meet the eligibility criteria for registered agencies as determined by the Director of Housing and amended from time to time (i.e. the DHHS Guidelines for registered agencies)	Usual term of a Project Annexure specified that “The Agency agrees to work in good faith and will all reasonableness towards achieving up to 50% of true vacancies being allocated to referred applicants”
<b>Asset conversion</b>	Title to Properties managed under leasing	2008	None specified in the transfer arrangements although most	

Program	Description	Period of Program	Eligibility rules that apply	Access to housing (including referrals from the public housing waiting list)
<b>process</b>	arrangements transferred to registered agencies at no cost in return for “leverage” obligations (generally an obligation to develop new supply worth 15% of the value of transferred stock)		agencies have tended to use properties for similar purpose to that which was specified in the leasing arrangements that applied prior to transfer. This would generally be public housing eligibility.	
<b>Leasing programs</b> <ul style="list-style-type: none"> <li>• Housing Provider Framework Lease</li> <li>• General Lease</li> </ul>	<p>Property owned by Director of Housing and leased to registered agency for use as community housing.</p> <p>The Housing Provider Framework Lease was used largely from 2006, however more agencies are being transferred to the General Lease.</p>	Ongoing	<p>The template General Lease specifies that the property is to be used for “...the provision of residential accommodation in accordance with the criteria set out in the document titled “Guidelines for Managing DHS Properties under a General Lease” dated June 2013, as amended from time to time.</p> <p>These guidelines set out eligibility similar to public housing eligibility.</p>	Guidelines set out that “RHAs should aim to ensure that up to 50% of all new tenants allocated to leased community properties to be from the public housing waiting list...”

## **Glossary**

**Affordable housing:** An umbrella term covering a range of sub-market housing which offers a shallower subsidy to social housing, such as housing offered to low-income working households at a discount to market rent or subsidised home ownership schemes.

**Community housing:** social housing or affordable housing that is provided by a non-profit organisation.

**Community housing organisation:** A non-profit organisation that provides community housing

**Public housing:** Social housing operated by a government agency. In Victoria, public housing is run by the Victorian Department of Health and Human Services.

**Registered housing agency:** A community housing organisation which is registered under the Victorian regulatory scheme under the Housing Act. Registered housing agencies come in two forms: housing associations (larger organisations with greater capacity for property development and asset management) and housing providers (a range of medium-sized to smaller organisations)

**Social housing:** Housing provided for people on very low or low incomes offering secure tenure where rent is largely based on household income (usually 25 to 30% of income).