Commonwealth
OMBUDSMAN

Remote Housing Reforms in the Northern Territory

DEPARTMENT OF FAMILIES, HOUSING, COMMUNITY
SERVICES AND INDIGENOUS AFFAIRS (CTH)
AND DEPARTMENT OF HOUSING, LOCAL
GOVERNMENT AND REGIONAL SERVICES (NT)

June 2012

Reports by the Ombudsman

Under the *Ombudsman Act 1976* (Cth), the Commonwealth Ombudsman investigates the administrative actions of Australian Government agencies and officers. An investigation can be conducted as a result of a complaint or on the initiative (or own motion) of the Ombudsman.

The *Ombudsman Act 1976* confers six other roles on the Commonwealth Ombudsman—the role of Defence Force Ombudsman, to investigate action arising from the service of a member of the Australian Defence Force; the role of Immigration Ombudsman, to investigate action taken in relation to immigration (including immigration detention); the role of Postal Industry Ombudsman, to investigate complaints against private postal operators; the role of Taxation Ombudsman, to investigate action taken by the Australian Taxation Office; the role of Overseas Students Ombudsman, to investigate complaints from overseas students about private education providers in Australia; the role of Law Enforcement Ombudsman, to investigate conduct and practices of the Australian Federal Police (AFP) and its members. There are special procedures applying to complaints about AFP officers contained in the *Australian Federal Police Act 1979*. Complaints about the conduct of AFP officers prior to 2007 are dealt with under the *Complaints (Australian Federal Police) Act 1981* (Cth).

Most complaints to the Ombudsman are resolved without the need for a formal report. The Ombudsman can, however, culminate an investigation by preparing a report that contains the opinions and recommendations of the Ombudsman. A report can be prepared if the Ombudsman is of the opinion that the administrative action under investigation was unlawful, unreasonable, unjust, oppressive, improperly discriminatory, or otherwise wrong or unsupported by the facts; was not properly explained by an agency; or was based on a law that was unreasonable, unjust, oppressive or improperly discriminatory. A report can also be prepared to describe an investigation, including any conclusions drawn from it, even if the Ombudsman has made no adverse findings.

A report by the Ombudsman is forwarded to the agency concerned and the responsible minister. If the recommendations in the report are not accepted, the Ombudsman can choose to furnish the report to the Prime Minister or Parliament.

These reports are not always made publicly available. The Ombudsman is subject to statutory secrecy provisions, and for reasons of privacy, confidentiality or privilege it may be inappropriate to publish all or part of a report. Nevertheless, to the extent possible, reports by the Ombudsman are published in full or in an abridged version.

Copies or summaries of the reports are usually made available on the Ombudsman website at www.ombudsman.gov.au. Commencing in 2004, the reports prepared by the Ombudsman (in each of the roles mentioned above) are sequenced into a single annual series of reports.

Contents

EXECUTIVE SUMMARY

The Australian and Northern Territory (NT) governments are undertaking large scale reforms to public housing in remote Indigenous communities in the NT. In addition to substantial investment in housing and related infrastructure, these changes include reforms to land tenure[1] designed to underpin investment in housing and associated infrastructure and to provide a right of access for the purpose of property maintenance. The reforms represent a dramatic change to the way in which housing services are delivered to Indigenous people in remote communities in the NT.

The Commonwealth Ombudsman is funded until June 2012 to provide an independent and accessible complaint and oversight mechanism in relation to the Northern Territory Emergency Response (NTER) and other Indigenous programs in the NT. To fulfil this role, we conduct outreach to remote Indigenous communities in the NT to inform them about what the Ombudsman does; take and investigate complaints; and obtain feedback about policy, programs and service delivery issues.

Over the past two years, concerns about the implementation of the housing reforms have been a key source of complaints to our office. Through our investigations of these complaints, we have identified areas in which further work by the Australian and NT governments would improve service delivery in remote Indigenous housing.

In reporting on areas for improvement, we acknowledge that the scale of the reforms and the complex nature of the environment in which they are being delivered present significant challenges for the agencies involved. This report highlights a range of service delivery problems and provides recommendations to address them. In our view, three thematic issues underlie the main problems—communication, IT systems support, and accountability and complaints processes. Our investigations indicated that improvements in these areas would enhance the housing reforms.

Throughout the course of investigating complaints about Indigenous housing, we have engaged in some debate with the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) about whether it, Territory Housing, or both agencies, should be responsible for addressing the issues raised. We have held the view that, as the Australian Government is the statutory leaseholder, FaHCSIA, as the administrator of the leases, is accountable for ensuring that its legal responsibilities, in effect as the landlord, are met. This accountability does not diminish because the Australian Government has contracted out these responsibilities to the NT Government or to other providers.

FaHCSIA, in its response to our draft report, acknowledged that it holds a high level of responsibility for addressing housing complaints about the management of social housing where the Australian Government administers the community leases. However, in practice FaHCSIA noted that the NT Government had specific responsibilities through a formal housing agreement. FaHCSIA said it had limited levers at its disposal to resolve issues arising from complaints.

---

[1]   Australian and NT Government factsheet, *Land Leasing and the Link to Better Remote Housing,* states, ' … more security on land tenure will bring agreed understandings on the ownership of assets, responsibilities for management and maintenance, and encourage private investment … '. See http://www.territoryhousing.nt.gov.au/__data/assets/pdf_file/0008/56294/Land_leasing_and_t he_link_to_better_remote_housing_20080828.pdf.

It is our view that clear accountability mechanisms between the two agencies, mechanisms that provide an avenue for FaHCSIA to exercise its responsibilities as the administrator of the community leases, should have been put in place during the life of the leases. These mechanisms would have allowed FaHCSIA to assure itself that Territory Housing was acting in a way that was consistent with FaHCSIA's obligations.

We note that once the leases expire in August this year, FaHCSIA will no longer be accountable for dealing with the sorts of complaints referred to in this report. While this may change the extent of FaHCSIA's Indigenous housing responsibilities in the NT, there remains significant scope for improving clarity about the governance and accountability arrangements in this area.

In responding to a draft of this report, Territory Housing expressed the view that while we had ' … *noted the endeavours of both Governments and the scale of the reform across remote Indigenous housing in the NT* … ', in some parts of the report we did not ' … *reference the competing priorities and the challenging environment in which the program is being delivered* … '. We do recognise the significance of the reforms currently underway and the difficulties inherent in the environment in which they are being delivered.

The observations in this report, and the complaints upon which they are based, provide a rich source of information about how Indigenous people have experienced housing services and opportunities to further improve Indigenous housing outcomes. We hope that this report will make a positive contribution to ongoing improvements in the delivery of housing services to Indigenous people in the NT.

PART 1 — INTRODUCTION

1.1   Public housing in remote Indigenous communities in the Northern Territory (NT) can be inadequate and is incapable of meeting current need. Historically, much of the housing stock has been poorly maintained, insufficient work has been done to replace unsafe or uninhabitable dwellings and efforts to build new houses have been insufficient.[2] Communities that are already dealing with chronic overcrowding and homelessness will face further pressure as the population grows.

1.2   Improvement to Indigenous housing is critical. There is a strong connection between the provision of functional Indigenous housing and improved Indigenous health and education outcomes. The Australian Government recognises that ' … improving housing conditions will provide the foundation for lasting improvements in health, education and employment and make a major contribution towards closing the gap in Indigenous disadvantage … '.[3] Further, the National Indigenous Housing Guide notes that ' … to achieve good health outcomes … [h]ouses must be designed well, soundly constructed and regularly maintained … '.[4]

1.3   The NT is not an easy environment in which to deliver housing services. There are unique demographic, historic and geographic challenges in servicing a population sparsely spread across a vast area. The remote nature of many communities makes them difficult to reach in the best of weather, and many are inaccessible during the wet season. Population numbers can swell and shrink with each season.

1.4   Service delivery is further complicated by the diversity of Indigenous cultures and languages present in the NT. This diversity necessitates strategies that take into consideration local conditions and practices. Services must be accessible to people who face language and literacy barriers and who often suffer from a lack of access to communication and technology.

1.5   Against this background, unprecedented efforts are being made to address the remote Indigenous housing problems in the NT. These include increasing the number of houses, repairing existing stock and establishing a public housing framework that provides consistency across the NT. We commend these efforts and recognise it will take time to fully achieve these goals.

1.6   In 2007, the Commonwealth Ombudsman was funded to investigate complaints and provide independent oversight of Australian Government Indigenous programs in the NT, particularly in those communities targeted by the Northern Territory Emergency Response (NTER). The Ombudsman established an Indigenous

---

[2]   Housing for Indigenous Australians living in remote areas today can be inadequate, overcrowded, poorly maintained and usually does not meet the needs of the inhabitants (Neutze 2000) in Australian Housing and Urban Research Institute, *Indigenous housing and governance: case studies from remote communities in WA and NT*, May 2003.

    Ampe Akelyernemane Meke Mekarle – Little Children are Sacred, Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, 2007, pp. 195-199.

    FaHCSIA, *Living in the Sunburnt Country – Indigenous Housing: Findings of the Review of the Community Housing and Infrastructure Program*, February 2007, pp.88-90.

[3]   FaHCSIA, *Closing the Gap on Indigenous Disadvantage: The Challenge for Australia,* February 2009. See http://www.fahcsia.gov.au/sa/indigenous/pubs/general/documents/closing_the_gap/p3.htm.

[4]   National Indigenous Housing Guide, 2007, Third Edition. See http://www.fahcsia.gov.au/sa/indigenous/progserv/housing/Documents/p2.htm.

Unit dedicated to conducting outreach to remote communities in order to make Ombudsman services accessible and more culturally appropriate.

1.7 The Ombudsman's Indigenous Unit has:

- conducted an intensive outreach program to remote communities

- investigated a large number of complaints relating to a range of Australian Government programs and services

- identified systemic problems in government administration in this complex area

- liaised closely with agencies and stakeholders to improve service delivery and outcomes.

1.8 Our approach has been informed by independent research, which found that Indigenous people prefer face-to-face contact in a familiar location.[5] The vast majority of the complaints we receive are made to us in person while we are conducting outreach. In our experience, agencies cannot assume that an absence of complaints made to them means there are no problems—particularly where few agencies provide accessible and personalised complaint services 'on the ground'. Rather, we have found that those complainants who have used our services have done so because we have tailored them specifically to meet this client group's needs.

1.9 Housing has been a significant source of complaints. For the past two years, it has been the single most complained about issue from individuals living in remote communities. This report brings together recurring themes arising from complaints we have investigated and observations we have made during visits to remote communities. The recommendations in this report aim to improve the administration of the housing reforms.

---

[5] Winangali Indigenous Communications and Research, *Improving the Services of the Commonwealth Ombudsman to Australia's Indigenous People*, October 2010.

PART 2 — HOUSING REFORMS IN THE NT

2.1   For many years, housing services in remote Indigenous communities in the NT were delivered predominantly by Indigenous Community Housing Organisations (ICHO).[6] ICHOs generally collected a set amount of money from each community resident regardless of whether they lived in a house or a tent, were homeless, or subject to extreme overcrowding. This charge, referred to as a 'poll tax'[7], varied in each community, but was in the vicinity of $30–40 per person each fortnight. ICHOs were often affiliated with local community councils, which managed community infrastructure and municipal services. Poll taxes were insufficient to adequately fund repair and maintenance needs or enable new housing construction.

2.2   In response to the *Little Children are Sacred Report*, the Australian Government announced the NTER. One focus of the NTER was housing and land reform. Under this measure, the Australian Government compulsorily acquired five–year leases over 64 Indigenous communities. This allowed the Australian Government to undertake housing repairs and urgent infrastructure upgrades, and commence a community clean-up program. The leases put the Commonwealth in the place of the landlord in respect of community housing. The leases are administered by FaHCSIA and are due to expire in August 2012. It is not clear what arrangements will be put in place after August 2012.

2.3   In April 2008, the Australian and NT governments announced the establishment of the joint Strategic Indigenous Housing and Infrastructure Program (SIHIP). SIHIP was subsumed by the National Partnership Agreement on Remote Indigenous Housing (NPARIH), which was established in late 2008 by the Council of Australian Governments (COAG). Under the NPARIH, the Australian Government has committed $1.7 billion to deliver 934 new houses, 415 rebuilds of existing houses and 2,500 refurbishments across 73 Indigenous communities and town camps by 2013. The NPARIH also includes the introduction of a public housing model for remote communities and plans to establish long-term tenure for the continued construction and management of community housing stock.[8] Long-term leases, of at least 40 years duration, are a precondition to the construction of new houses under these programs.[9]

---

[6]   Australian Housing and Urban Research Institute, *Scoping the capacity of Indigenous Community Housing Organisations*, December 2008, p.29.
    Australian Housing and Urban Research Institute, *Service directions and issues in social housing for Indigenous households in urban and regional areas*, June 2010, p.36.

[7]   We understand that these charges were established by communities as they saw fit.

[8]   The two options for long-term leases being negotiated with communities are Housing Precinct Leases signed with either the NT Government or Australian Government and Whole of Township leases signed with the Executive Director of Township Leasing on behalf of the Australian Government.

[9]   These are negotiated with communities prior to the commencement of housing construction. Lease negotiations include discussions about what the Government is able to deliver for the community under SIHIP. We understand that this is usually couched in terms of total SIHIP investment, rather than the specifics of numbers of houses and refurbishments, because detailed housing assessments (and identification of works) are not generally conducted until after the leases are negotiated or signed. Housing construction options, within the limits of the allocated budget, are also discussed. See http://otl.gov.au/docs/factsheet_leases_on_aboriginal_land_in_the_nt.PDF.

2.4   In July 2008, the old system of multiple community councils was replaced by new shire councils—referred to as 'super shires'. These super shires cover many communities across large geographic areas and mark a significant change to the way Indigenous communities are funded, serviced and managed.

2.5   In December 2008, FaHCSIA contracted Territory Housing, part of the NT's Department of Housing, Local Government and Regional Services (DHLGRS), to deliver property and tenancy management services to communities subject to the statutory five–year leases. FaHCSIA authorised Territory Housing to provide management services in accordance with Territory Housing's remote public housing policies and procedures. All rent collected by Territory Housing in respect of public houses in leasehold communities is paid to FaHCSIA. FaHCSIA returns the funds to Territory Housing in the form of management fees.

2.6   Territory Housing subcontracted the delivery of housing services[10] to the super shires and seven local Indigenous housing organisations (also referred to as housing associations). Under the shire agreements, the shires receive funds to carry out repairs and maintenance as the work arises. They also receive separate funding for the delivery of municipal and essential services. The local Indigenous housing organisations receive annual grants of funds, which they manage in order to provide repair and maintenance work.

2.7   In July 2010, Territory Housing introduced a Remote Public Housing Management Framework (the Housing Framework) to align remote public housing services with the urban public housing model in the NT. The Housing Framework is underpinned by policies developed by Territory Housing, including:

- a routine housing repairs and maintenance program

- changed rental arrangements

- standardised tenancy agreements and documents

- allocation and waiting list policy based on need

- community involvement in housing decision making through the establishment of Housing Reference Groups (HRG)[11] in each community

- a tenancy support program.

Joined-up service delivery and accountability arrangements

2.8   The housing reforms involve all three tiers of government and constitute a major change in the delivery of housing services. As noted by the Australian Institute of Family Studies, a coordinated 'joined-up' approach to delivering human services can be more effective than a silo-based approach.[12] It is important, however, that accountability mechanisms keep pace with increasing investment in integrated service delivery. Joint arrangements, particularly when they include shared governance, may obscure lines of accountability.

---

[10]   This includes repairs and maintenance services, employing Community Housing Officers, providing a shopfront for housing-related matters, managing housing wait lists and assisting with property and tenancy related matters.

[11]   http://www.housing.nt.gov.au/remotehousing/housing_reference_groups.

[12]   See http://www.aihw.gov.au/closingthegap/documents/resource_sheets/ctgc-rs08.pdf.

2.9   The increasingly more common approach by governments of working together to achieve mutual outcomes also has implications for oversight agencies such as the Ombudsman's office. Under the *Ombudsman Act 1976* (Ombudsman Act), the Ombudsman is authorised to investigate ' … action that relates to a matter of administration … ' by Commonwealth departments, prescribed authorities and Commonwealth service providers.[13] However, it can be difficult at times to discern which agency is responsible for which deliverable, particularly for programs that have joint management arrangements.

2.10   In the context of remote housing in the NT, the Ombudsman predominantly investigates complaints with FaHCSIA, which manages the Commonwealth's statutory leases over 64 communities. This effectively places FaHCSIA in the position of landlord for community housing. Further, FaHCSIA has other responsibilities for housing outcomes under the NPARIH and the Alice Springs Transformation Plan.[14] In those communities where the Commonwealth does not have a five–year statutory lease, FaHCSIA has responsibilities as a joint manager of the construction component of the NPARIH. However, Territory Housing has direct responsibility for the delivery of housing services.

2.11   In order to respond to these complex service delivery–type arrangements, we have a Memorandum of Understanding (MoU) with the NT Ombudsman. The MoU facilitates cross-jurisdictional complaint investigation and ensures our independent oversight mechanisms are responsive to joined-up approaches to service delivery in the NT. The NT Ombudsman has not been able to accompany us on visits to remote communities because, the NT Ombudsman has advised us, it has not been successful in obtaining funding for this work. For the purposes of this report, the NT Ombudsman has delegated powers under the *Ombudsman Act 2009* (NT) to the Commonwealth Ombudsman. This reflects the shared responsibility of housing reforms in the NT and allows us to make recommendations that cross all levels of government.

2.12   In responding to a draft of this report, FaHCSIA asked that it be removed as a responsible agency from most of the recommendations. FaHCSIA argued that suggesting it ' … *is responsible for administrative processes which* [it] *neither undertakes nor can control effectively diminishes the NT Government's obligations for service delivery under NPARIH …* '.

2.13   We have considered FaHCSIA's response and noted the unique and challenging position in which it finds itself. We note that as the administrator of the Commonwealth's statutory five–year leases, FaHCSIA stands in the place of landlord for community housing in many remote Indigenous communities in the NT. It is therefore directly responsible for property and tenancy management for those tenancies where it is the landlord. FaHCSIA is also responsible for administering nearly $2 billion dollars of Commonwealth money to deliver improved housing. We note that FaHCSIA has engaged Territory Housing to deliver community housing services on its behalf—in essence, as a contracted service provider. In our view FaHCSIA must take its share of responsibility for the effective delivery of these services. For these reasons, most of our recommendations are still addressed to both FaHCSIA and NT Housing.

---

[13]   See ss 3, 3A, 3BA and 5 of the Ombudsman Act.

[14]   The Alice Springs Transformation Plan was announced on 2 May 2009. Its aims include the reduction of homelessness through housing and infrastructure upgrades. See http://www.facs.gov.au/sa/indigenous/progserv/AS_transformation/Pages/default.aspx.

PART 3 — KEY ISSUES

3.1   This report does not purport to address all of the issues agencies face in implementing the housing reforms nor all of the problems experienced by residents of remote Indigenous communities in the NT. Neither does it summarise all of the problems raised in the housing complaints we have received. Rather, this report focuses on the key systemic issues we have identified.

National Partnership Agreement on Remote Indigenous Housing

3.2   In 2007, the *Little Children are Sacred Report* estimated that to sufficiently accommodate the NT's remote Indigenous population, an additional 4,000 houses were required. Further, the report noted that 400 houses would need to be built each year for the following 20 years to accommodate the growth in population in remote Indigenous communities.[15]

3.3   The NPARIH provides an overarching strategy to address remote Indigenous housing needs across Australia. Its overall goals are to significantly reduce overcrowding; increase the number of new houses built; improve the condition of existing housing; and ensure that rental houses are well maintained and managed.[16]

3.4   The NPARIH states that parties will need to work together to achieve these outcomes. However, broadly, the Commonwealth's responsibility is to provide funding for additional housing and related infrastructure, and some municipal and essential services. There are joint management arrangements for the construction component of the NPARIH and both governments share responsibility and accountability for outcomes. The current Implementation Plan[17] for the NT is not yet available.

3.5   Embedded in the NPARIH is the NT housing construction program, SIHIP, which has a target of delivering 934 new houses, 415 rebuilt houses and 2,500 refurbished houses across 73 communities in the NT by 2013.[18] The targets set in SIHIP contribute to meeting the objectives of the NPARIH, which ends in June 2018.

3.6   Of the 73 communities identified for housing works, 16 will receive major capital works, including new houses. The remaining 57 communities will receive housing rebuilds and refurbishments, with the aim of bringing houses up to a safe and habitable standard.

3.7   A recent audit report by the Australian National Audit Office (ANAO) stated ' …it is likely that to achieve the NPARIH average occupancy target for the NT of 9.3 persons per dwelling, the remote Indigenous housing stock in the NT will need to be further increased, above the level anticipated in the NPARIH … '.[19]

---

[15]   *Ampe Akelyernemane Meke Mekarle – Little Children are Sacred*, Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, 2007, p.195.

[16]   *National Partnership Agreement on Remote Indigenous Housing*, Council of Australian Governments, p.5.

[17]   The NPARIH requires the Commonwealth to establish implementation plans with each state and territory to achieve the objectives of the NPA.

[18]   http://www.fahcsia.gov.au/sa/indigenous/progserv/housing/Pages/sihip.aspx. http://www.housing.nt.gov.au/remotehousing/strategic_indigenous_housing_and_infrastructure_program.

[19]   *Implementation of the National Partnership Agreement on Remote Indigenous Housing in the Northern Territory*, ANAO, Report no. 12 2011-12, p.131.

Collaborating at the local government level

3.8   The objectives of the NPARIH require collaboration and integration of all three levels of government and other service providers.

3.9   In order to deliver on property and tenancy management reforms, the NT Government entered into Service Level Agreements (SLA) with regional shires. In a small number of communities, services are provided by housing associations or third party providers under grant arrangements. Within the regional shires are local shire community offices that provide shopfronts and are responsible for managing community housing.[20] Shires are required to employ Community Housing Officers (CHOs) to support the provision of housing services and management at the community level.

3.10   FaHCSIA needs to work with Territory Housing to improve working relationships with shires, housing associations and third party providers. Our observations during outreach and discussions with staff from local shire offices, housing associations and CHOs have highlighted a varied understanding and approach at the local level in relation to the reforms and related policy. Examples include:

- rent changes not being understood or implemented and some communities operating outside policy settings

- shire and housing association staff not implementing an adequate repairs and maintenance reporting process or taking action in accordance with the relevant polices

- shire and housing association staff not understanding who is responsible for certain repairs and maintenance work

- shire and housing association staff not identifying and responding to complaints and queries from community residents or understanding their role in Territory Housing's complaints process

- local housing and shire staff not having IT systems support, such as housing databases and agency websites, to enable access to policy information, resulting in these staff being uninformed about reforms or key information

- insufficient oversight or monitoring of the role of shire and housing association roles in implementing reforms and related policy.

3.11   Complaints have also highlighted that community level housing officers and shire staff have been unable to resolve matters that have come to their attention. Complainants frequently report that they have already raised issues reported to our office with local housing officers, but without result.

3.12   Reforms as significant and complex as those being implemented in remote housing in the NT require agencies to work closely with each other and with all stakeholders involved in their delivery. We have observed improved collaboration between FaHCSIA and the NT Government, but more investment is needed in relationships with shires and frontline service providers to ensure the housing reforms are consistent, effective and sustainable.

3.13   We recognise that FaHSCIA does not have direct relationships with frontline housing service providers. However, FaHCSIA, in its role as administrator of the statutory five–year leases, needs to ensure that Territory Housing sufficiently

---

[20]   Includes managing repairs and maintenance requests; conducting inspections; maintaining housing waiting lists; and facilitating housing inquiries for the NT Government.

supports shires and housing service providers to deliver quality housing services on its behalf and in line with FaHCSIA's legal obligations and overarching housing policy position.

Recommendation 1

FaHCSIA and Territory Housing should improve collaboration with local government and housing service providers with a focus on:

a) ensuring consistency and compliance with the remote housing framework and policy

b) strengthening monitoring arrangements and agreements underpinning funding and services

c) providing the necessary support and tools to the shires and housing associations to allow them to improve communication and engagement with community residents.

SIHIP communication and rollout

3.14   Complaints have highlighted the need for improved communication during SIHIP processes and negotiations for long-term leases, which are a precondition to the building of new SIHIP houses.

3.15   SIHIP announcements have often led to heightened expectations about the extent of the work to be carried out in remote communities. The initial SIHIP announcements were made in broad terms and did not make clear how much money would be allocated to each community. Nor did they provide realistic guidance on what the money could achieve. Only after detailed discussions at the community level have residents come to understand that the costs of administration and temporary residential facilities for the SIHIP workers would be drawn from the allocation, or that SIHIP work would include demolishing some existing houses. Even then, some people have remained confused about what can be achieved within each SIHIP allocation and have been disappointed with the quantity and quality of SIHIP work. As case study 1 highlights, this can have ramifications for community willingness to engage with governments in the future.

Case study 1—SIHIP communication problems have a lasting impact

In December 2010, we received a complaint from Mr A, a traditional land owner in a community involved in negotiating a long-term lease with the NT Government. Mr A complained that he and other traditional owners had agreed to sign a 40–year lease with the NT Government because they believed planned SIHIP work would end overcrowding in their community. Specifically, Mr A said they were told that they would receive 53 new houses in the community and that existing houses would be repaired. Mr A asserted it was on this basis that they had agreed to the lease. Mr A said that the government did not make it clear that the 53 new houses were not in addition to the existing housing stock, as some of the existing houses were to be demolished. This meant that while housing would be improved, the improvements would have little impact on overcrowding in his community.

Our investigation of this complaint identified that the agencies involved had, over an extended period of time,[21] clarified these issues with the community through several community meetings and agreed to revisit the number of houses to be demolished.

This complaint highlights some areas in which agencies could improve their communication.

First, although several SIHIP briefings and consultations were conducted with community residents, it would appear that follow up with the community to test and ensure residents understood how SIHIP worked was inadequate. Our review of HRG meeting minutes found that some aspects of SIHIP were not understood. This suggests it is unlikely that the messages passed on to the wider community by the HRG members would have been accurate or understood.

Second, the way SIHIP assessments are undertaken has an impact on the amount of information available to community members at the time they are required to make critical decisions about long-term leases over their land. Initially, non-detailed assessments of housing stock are carried out in communities before a lease is signed. A more detailed assessment is conducted after the lease has been signed. The second assessment often reveals houses to be in far worse condition than was initially thought. This leads to a re-scoping of the work to be undertaken and an assessment that less can be achieved than first envisaged.

There may be sound reasons for conducting assessments in this way and in this order. However, given that the scope of works to be delivered under SIHIP is an important factor in the decision making of traditional owners in relation to lease arrangements, it is critical that information stemming from assessments is accurate and shared with the community at the right time.

As a consequence of this issue, some traditional owners feel as though they were misled. Accordingly, they have indicated to our office that they will not agree to extend the duration of the lease.

3.16   Communication about a complex program like SIHIP, especially within the context of a wide range of new programs and reforms affecting Indigenous people in the NT, is challenging. The delivery of technical and legal information to an audience for whom English can be a second, third or fourth language is particularly challenging, even when interpreters are used. There is a risk in these circumstances that messages will be misunderstood. There is also a risk that messages will be oversimplified. The information provided to residents of remote Indigenous

---

21   We understand that the lease negotiations commenced in December 2008. Meetings were held throughout 2009. The lease was agreed in principle in November 2009 and executed in December 2010. Initial housing assessments occurred in April 2009 and more detailed assessments in May 2010.

communities about government initiatives forms the basis upon which those residents make decisions that may have far-reaching ramifications. Testing that messages have not only been delivered, but understood, may assist to reduce misunderstandings, confusion and frustration for all involved. In the long-term, there is a risk that such misunderstandings will have an impact on the level of trust between governments and Indigenous people.

3.17   Another concern about the way messages have been delivered is illustrated in case study 2.

Case study 2—problems delivering messages without interpreters

In March 2010, residents expressed concern and confusion about the government's housing plans for their community. Government officials had visited the community to discuss plans for SIHIP, including transitional accommodation arrangements for people while their houses were being refurbished. Residents did not fully understand the information that was provided and were worried that they might lose their houses if they moved out of them while they were being refurbished.

Our investigation found that the information session provided by government officials had not involved the use of an Indigenous interpreter. When we raised this with FaHCSIA, its officers revisited the community with an interpreter. The complainants were happy with this outcome and confident that they subsequently understood the arrangements.

3.18   FaHCSIA has advised us that since this complaint was raised, Territory Housing has taken steps to change the way it uses interpreters. We welcome this advice, noting that complaints and feedback provided to our office indicates that there is further scope for improving the use of interpreters.[22]

Communication about SIHIP work and priorities

3.19   Residents of remote Indigenous communities have questioned the priority given to SIHIP works. The SIHIP prioritisation guidelines outline that housing functionality is determined on 'its capacity to support safety and the critical living practices'.[23] Based on the National Indigenous Housing Guide, SIHIP refurbishment work focuses on: making a house safe; providing a place to wash and bathe; providing facilities to wash clothes and linen; ensuring it is possible to safely remove waste from a house; and ensuring food can be stored, prepared and cooked.[24] In practice, refurbishment work in areas given a lower priority under the SIHIP framework is often not undertaken because the SIHIP money runs out before that work can commence. Some work, such as the installation of ceiling fans, which is considered a 'priority one' item to make a house safe and habitable, has not been achievable within budget limitations in some communities.

---

[22]   See the Ombudsman's report into the use of Indigenous interpreters for more specific information. *Talking in Language: Indigenous language interpreters and government communication.* [Report 05/2011] at http://www.ombudsman.gov.au/files/Talking_in_Language-Indigenous_Interpreters_REPORT-05-2011.pdf.

[23]   *Strategic Indigenous housing and Infrastructure (SIHIP): Guideline update: prioritising* houses *for SIHIP rebuilds and refurbishments,* Australian Government and Northern Territory Government, 27 November 2009 p.3.

[24]   Ibid p.3.

3.20   Territory Housing's factsheet on the NPARIH[25] outlines that the government will engage with communities about a range of things, including housing design, priorities and options. Although some communities have negotiated a reprioritisation of some items, we have received complaints in relation to both new and refurbished houses from people concerned that some key work necessary for their house had not been done. For instance, in addition to the fan issue mentioned in paragraph 3.19, many older houses have had their existing kitchen cupboards replaced with minimal closed cupboard space and open metal shelving. This may make it difficult to keep dangerous items away from children or protect food items from insects and vermin. Similarly, many houses do not have fencing and SIHIP is not designed to provide it. This may make it difficult for residents to manage their property and limit the movements of their own and community animals. This may be a particular problem where new tenancy agreements include rules surrounding pets and maintaining the yard.

3.21   FaHCSIA has reiterated that the works carried out in a refurbishment are very different from those involved in building a new house, and noted that extensive consultation with HRGs is carried out in relation to new houses. We recognise the different level of consultation involved in the building of new houses. Complaints to our office suggest there are similar issues in relation to communication, consultation and managing expectations in both types of SIHIP work. We also note that the feedback and complaints we have received about these issues relate only to a small proportion of the extensive work that has been carried out across the NT.

3.22   Case study 3 provides an example of a new SIHIP house that did not include everything that is necessary for daily living.

Case study 3—SIHIP work inhibits general living practices

In mid-2010, Ms B was allocated a newly built SIHIP house. Ms B complained to our office about problems with the house, including the absence of a bath she needed for her children; a lack of kitchen cupboards; and the need for storage space in the house, as the wardrobes only had one shelf and no rod on which to hang clothes.

We clarified that SIHIP guidelines did not include the installation of bath tubs. However, as a result of Ms B's complaint to us, Territory Housing agreed to install an additional cupboard and provide more storage space for her kitchen items.

While this was a mostly positive outcome for Ms B, the complaint highlights the potential for improved consultation and discussion with tenants early on to ensure issues are identified, expectations managed and amendments or problems addressed.

3.23   Complaints and feedback to our office illustrate that people expected to be able to influence the scope of construction and refurbishment work to a greater extent than was possible. Further, people report being surprised to learn that the refurbishment work was limited to making houses safe and ensuring that wet areas were functional while other areas of the house remained in disrepair. Given the long-term nature of construction programs in the NT, clearer communication at an earlier time about the limitations of SIHIP work, community capacity to influence design, and those aspects open for negotiation may assist to address these concerns.

---

[25]   See http://www.dhlgrs.nt.gov.au/__data/assets/pdf_file/0010/65791/rfs48_rhnt_aboutnparih_Jan12.pdf.

SIHIP transitional housing

3.24   The severe shortages of housing and temporary accommodation in communities were evident during SIHIP refurbishment and rebuild processes. When SIHIP commences in a community, residents are given a choice about the type of transitional accommodation they would prefer. Some communities elect to have temporary accommodation provided, while others decide to have all the money directed toward permanent housing works and to make other arrangements for transitional accommodation. In those communities that have decided not to build transitional accommodation or use other options such as untenanted completed houses, some people have joined relatives in already overcrowded houses, slept on other people's verandas, used condemned or improvised dwellings or spent time in the open without a structure for protection. Our office has received complaints that indicate people were not aware of the transitional housing arrangements in their community and not prepared when they were required to move out of their houses while refurbishments were undertaken.

3.25   The NPARIH includes milestones that extend beyond the current objectives of SIHIP. Issues of overcrowding, expected population increases and NPARIH objectives to reduce occupancy numbers indicate that long-term investment in construction and refurbishment programs is likely to be needed. In order to improve programs of this nature, agencies should draw on complaints and other feedback to provide more sustainable solutions to transitional accommodation arrangements. These should include the agencies' own evaluation of how well the transitional accommodation arrangements have worked to date.

Employment statistics

3.26   One objective of SIHIP is to provide training and employment to Indigenous people in remote communities. This objective was incorporated into the NPARIH, which aims to provide 'increased employment opportunities for local residents in remote Indigenous communities'[26] and sets a baseline measure of 20% 'local' Indigenous employment.

3.27   Through our investigation of complaints that SIHIP was not doing enough to employ local Indigenous people, we became aware that the SIHIP alliance teams were not differentiating between local Indigenous employment and non-local Indigenous employment when they reported their data to FaHCSIA. This means that while public reporting on SIHIP targets and progress stated that the 20% local Indigenous employment target for SIHIP works had been exceeded, the statistics actually reported the total number of Indigenous employees (local and non-local personnel).

3.28   After drawing our concerns to the attention of both agencies, FaHCSIA advised there are difficulties in defining who is a 'local' Indigenous employee and that it is working with Territory Housing to develop a definition for future use. The information on agency websites has been updated to reflect that present reporting is on total Indigenous employment rather than 'local' Indigenous employment.[27]

---

[26]   *National Partnership Agreement on Remote Indigenous Housing*, Council of Australian Governments, p.5.

[27]   This issue was also identified in the ANAO's performance audit report. See: *Implementation of the National Partnership Agreement on Remote Indigenous Housing in the Northern Territory*, ANAO, Report no. 12 2011-12, p.126.

3.29   Most recently, FaHCSIA has informed us that:

Due to the nature of the contractual arrangements between the Northern Territory government (NTG) and the Alliances, the current reporting arrangements will remain in place until the conclusion of SIHIP in 2013. Prior to the Program concluding, FaHCSIA will work with the NTG to develop an agreed definition of 'local' Indigenous employment and a methodology for capturing and reporting on Indigenous employment outcomes using this definition in the period of the National Partnership Agreement on Remote Indigenous Housing (NPARIH) 2014–18.

3.30   The NPARIH includes a benchmark of 20% local employment as part of procurement requirements for new housing construction. SIHIP is the mechanism by which this is meant to be achieved. The NPARIH makes it clear that this benchmark may be monitored by the COAG Reform Council. On current advice, agencies are not able to capture and report accurately against this NPARIH benchmark and will not be able to do so until 2014. This should be brought to the attention of the COAG Reform Council. Further, in order to correct public understanding, agencies should explain the clarification of this statistic in their publicly available information, including relevant websites.

Recommendation 2
FaHCSIA and Territory Housing should, in revising the approach to properly define and report on 'local' Indigenous employment numbers, alert the COAG Reform Council to the problem, given its monitoring and reporting requirements, and clarify the current statistics and reporting in publicly available information.

Remote Rental Framework

3.31   The housing reforms underway in the NT seek to align remote public housing with the urban public housing model. This represents a major transformation of housing services. In addition to chronic overcrowding and housing shortages, there are significant geographical and logistical considerations, temporary mobility issues[28] and cultural practices that present considerable challenges for the agencies involved in implementing the new model.

3.32   A new rental system that replaces the old poll tax arrangements has also been introduced. The new rental system establishes three categories of housing in remote communities:

- improvised dwellings—makeshift accommodation considered to be unsafe and uninhabitable. These can range from tin sheds to car bodies and makeshift shelters. These dwellings are not part of the public housing stock and people living in these dwellings are effectively homeless

- legacy dwellings—these are existing houses that are considered habitable but have not been refurbished or rebuilt under SIHIP

---

[28]   Specifically, people often move due to severe weather, in order to access services and attend or fulfil cultural ceremonies and obligations. This can mean that the number of tenants in any given house or community can quickly rise and fall without notice, tenants can be difficult to locate, there is a greater likelihood of rent debt accrual and maximum occupant limits and visitor rules are difficult to implement or enforce.

See for example Australian Housing and Urban Research Institute, Report into improving housing responses to Indigenous patters of temporary mobility, May 2011, www.ahuri.ddsn.net/publications/p40526/.

- new, rebuilt or refurbished houses (SIHIP houses)—these houses have been constructed or repaired under SIHIP. FaHCSIA and Territory Housing consider these houses to be compliant with NT residential tenancy legislation.[29]

3.33   Each of these housing categories attracts different rent arrangements and tenancy agreements. The new remote housing policies make it clear that improvised dwellings are not subject to any 'rent, poll tax or similar charges'. Further, residents of this type of accommodation are entitled to reimbursement of any such payment made since 1 July 2009.[30] Residents of these dwellings are not subject to any formal agreements.

3.34   The residents of legacy dwellings continue to pay the poll tax or other rent arrangements unless the amounts collected for the dwelling from all residents in the dwelling combined exceeds a Maximum Dwelling Rent (MDR) limit. The MDR applies from 1 July 2010. For legacy dwellings, the MDR is based on the number of bedrooms and ranges from $90 to $150 per week per dwelling. All residents of legacy dwellings are subject to an occupancy agreement that sets out the terms of the occupancy. FaHCSIA and Territory Housing do not consider these agreements to be subject to the *Residential Tenancies Act 1999* (NT) (RTA).

3.35   Residents of SIHIP houses pay rent that is calculated according to the total household income and number of bedrooms, but it cannot exceed the MDR limit. For a refurbished house the MDR is $120 to $200 per week and for new and rebuilt houses it is $150 to $250 per week per house. Head tenants and co-tenants sign tenancy agreements under the RTA. Additional residents who have not been identified as a head tenant or co-tenant can contribute to the rent. Details are captured in Family Agreements.[31]

3.36   Another goal of the Housing Framework is to transfer the details of remote housing tenants onto a centralised IT system called the Tenancy Management System (TMS). We recognise the challenges facing Territory Housing as it captures many people's details for the first time or moves people's details from the old data warehouse system to the TMS.

3.37   This section discusses the problems we have identified in the course of our investigations into complaints about rents and tenancy agreements.

Improvised dwellings

3.38   Our complaint investigations determined that some people continue to pay a poll tax or a service fee for improvised dwellings, despite the policy that these dwellings are not subject to any rent or similar charges. Many people are unaware that they can seek a reimbursement dating back to 1 July 2009 for any money paid for these dwellings. For those who have tried, however, the reimbursement processes have been onerous and slow. These concerns are illustrated by case study 4.

---

[29]   The *Residential Tenancies Act 1999* (NT) requires houses to be habitable, meet health and safety requirements, and be reasonably secure and reasonably clean when the tenants commence occupation of the property. See ss 47 to 49.
[30]   *Operational Policy – December 2009: Remote public housing policy,* Department of Housing, Local Government and Regional Services p.17.
[31]   Family Agreements set out the occupants of the house who contribute to rent, the rent to be paid and how that will be broken up between the residents. All residents of a dwelling, including those who do not contribute to rent, are listed on a dwelling list.

> **Case study 4—rent refunds for improvised dwellings**
>
> In November 2010, Ms C complained to our office about rent she had been charged for a house in a community over which the Commonwealth has a statutory five–year lease. Initially, Ms C believed she and her partner had been charged two lots of rent for the same period. She had been unable to resolve the problem with the housing association that had collected the money.
>
> Our investigation identified that Ms C and her partner had paid money for a house classified as an improvised dwelling. Under the policy, tenants of improvised dwellings are entitled to reimbursement of any money paid after 1 July 2009.
>
> Following our enquiries, we were informed (in August 2011) that Ms C and her partner would be reimbursed the $630 due to them. In September 2011, 10 months after the issue was first raised with the agencies, this money was placed into the Centrelink accounts of Ms C and her partner.

3.39   We are aware that Territory Housing has attempted to identify improvised dwellings in remote communities and ensure money is not being collected from people living in them. However, we are concerned that some people may continue to pay money for improvised dwellings. Mobility practices, for example, may mean that the occupants of improvised dwellings regularly change. Improvised dwellings that appear uninhabited can quickly become inhabited, and new improvised dwellings may be established. In addition, not all people are aware of the change in rent policy for improvised dwellings, while some are confused by the different rental requirements of people living in legacy dwellings versus those living in improvised dwellings.

3.40   Poll taxes or service fees may continue to be paid through long-standing Centrelink and employee deduction arrangements that predate the current reforms and are not yet completely visible to Territory Housing. Centrelink's Income Management (IM) discussions with social security recipients have resulted in targeted rent allocations based on historical poll tax amounts. No comprehensive reconciliation of poll tax collected against individuals, communities and housing stock has been undertaken.

3.41   We note advice from FaHCSIA about recent efforts to improve the implementation of this policy, including:

- new funding agreements with housing associations and providers to strengthen reporting obligations and rent collection practices—the new grant agreement stipulates that no charges are payable for improvised dwellings

- an NT-wide reconciliation of all tenancy records of remote clients

- new processes to deal with requests for rental reimbursements, including centralised processing; coordinating with Centrelink for the purposes of carrying out reimbursements; investigating requests; communicating with tenants; and identifying and addressing systemic issues.

3.42   FaHCSIA has also emphasised that people subject to occupancy or tenancy agreements are obliged to keep Territory Housing informed of household occupancy changes. While we recognise the importance of people reporting changes to Territory Housing, these obligations do not apply to people who live in improvised dwellings because they are not subject to any agreement. We believe that some people are not aware of this requirement. Other people have reported to us difficulties in accessing Territory Housing to update their occupancy details and said that they do not know how or to whom changes should be reported.

3.43   Despite agencies' efforts to explain the new rental arrangements, complaints and our experience during outreach to remote communities illustrate that there is little awareness of the policy for improvised dwellings, including rental reimbursement. This appears to be compounded by general confusion about the rental changes. Although steps have been taken to improve the reimbursement process, people will only seek reimbursement if they are aware they can and that it may be in their interest to do so.

Recommendation 3

Building upon recent efforts to strengthen the consistent implementation of the policy surrounding improvised dwellings, FaHCSIA and Territory Housing should ensure they proactively communicate the existence of this policy and reimbursement process to residents in remote communities. This should be accompanied by clear communication with the local shire offices and housing providers about the policy and reimbursement processes.

Legacy housing

Maximum Dwelling Rent issues

3.44   It is expected that at the end of 2013 there will still be approximately 1,500 legacy houses across the NT. In many cases, they will continue to be overcrowded. Officially, these houses are not considered to be in a sufficient state to comply with the residential tenancy legislation.[32]

3.45   The establishment of a rental cap, in the form of the MDR, seeks to ensure that, cumulatively, the money collected from the residents of each legacy house is not unfair or excessive.

3.46   During the occupancy agreement process with residents, Territory Housing does endeavour to identify all of the people who are living in the house at the time. It draws on this list to check that total rent does not exceed the MDR. We understand that if the MDR is exceeded, Territory Housing reduces the amount that each person is required to pay. If the MDR is not exceeded, in practice, people continue to pay the same amount as they have previously paid under the poll tax–type arrangements. This payment is variously referred to in agreements and policy as rent or a housing maintenance levy.

3.47   Territory Housing is not always able to obtain the details of all people residing in a legacy house and, although residents are advised that they should keep Territory Housing informed of any changes in occupancy numbers, this does not always occur. There are multiple reasons for this, including: a lack of certainty about when people cease to be visitors and become residents; a lack of understanding about the requirement to provide these details, as it is a new process that differs significantly from historical housing management practices; a concern that there are more residents in the house than Territory Housing will permit; and that people are not always present at the time of the occupancy agreement process or may start living in the house after that process. People may also not realise the impact that occupancy numbers have upon the MDR and the amount paid by each individual.

---

[32]   RTA s 48 requires a landlord to ensure the property is habitable, meets health and safety standards and is clean and tidy when the tenant commences occupancy.

3.48   Those people who do not come into contact with Territory Housing in relation to their residency in a legacy house may also continue to pay an historical poll tax. Consequently, while it is possible that there are more people in houses than Territory Housing is aware, rent collected for legacy dwellings may exceed the MDR.

3.49   Territory Housing is aware of this problem and has advised us that tenants can seek a rent review if they are concerned that the MDR is being exceeded. In our experience, people have little understanding of the MDR or the amounts being paid by other occupants of their legacy house, or awareness of the rent review process. Research also suggests that there are barriers to Indigenous Australians seeking reviews or challenging government decisions.[33]

3.50   Recently, Territory Housing advised us of improvements it has made to the information provided to people, including information about the MDR for their house.[34] We commend these efforts and suggest they should also consider processes to regularly review household arrangements to ensure MDRs remain in check. It appears that improvements in communication about housing issues and tenants' responsibilities is largely focused on those people who have signed new tenancy agreements to live in new or refurbished houses. Efforts to improve information and communication need to extend to all residents in remote communities, not just to those who have signed new tenancy agreements.

Recommendation 4

a)   FaHCSIA and Territory Housing should ensure occupancy agreements (and other communication materials) include detailed information about MDRs and associated review rights, including the impact and benefits of the MDR on tenants.

b)   FaHCSIA and Territory Housing should ensure there is an ongoing and proactive review of occupancy agreements and tenant details at regular intervals.

New, refurbished and rebuilt houses (SIHIP houses)

3.51   FaHCSIA and Territory Housing have determined that new SIHIP houses, and those that are rebuilt or refurbished by the program, will be compliant with the RTA.[35] These houses are subject to detailed tenancy agreements and higher levels of rent. For example, a four bedroom house that has been rebuilt under SIHIP attracts a rent of 18% of total household income in the first year and 23% in the second year, unless those amounts exceed the MDR of $250 per week, in which case the MDR is charged.[36]

---

[33]   *Improving the services of the Commonwealth Ombudsman to Australia's Indigenous peoples,* Winangali Indigenous Communications and Research, October 2010.
      Final Report HCSCC Aboriginal and Torres Strait Islander Outreach Project: Ever Felt Like Complaining? Health and Community Services Complaints Commissioner, SA, July 2009, pp. 2, 10.

[34]   See further discussion on this issue at paragraph 3.57.

[35]   The RTA governs the housing standards and processes for residential tenancies in the NT. Landlords are required to comply with the terms of the Act.

[36]   See Territory Housing website at http://www.housing.nt.gov.au/remotehousing/information_for_remote_tenants/remote_rent_and_other_charges.

3.52   Territory Housing has explained that when it allocates a SIHIP house, it meets with the residents of that house and provides intensive tenancy support. This includes discussing the tenancy rules and agreement in detail and, where necessary, using an explanatory DVD in one of 15 key Indigenous languages. It works with the residents to identify a head tenant and, on occasion, co-tenants, who sign the tenancy agreement. The head tenant is primarily responsible for ensuring the terms of the agreement are not breached, that the bond and rent are paid and that Territory Housing is kept informed of changes in residents or their incomes. If the head tenant leaves the house, the co-tenant has the option of taking over these responsibilities.

3.53   Other residents in the house are recorded on a dwelling list and the combined household income is assessed to determine the amount of rent payable and whether it exceeds the MDR. All of the residents in the house agree how the total amount of rent will be shared between them and this is captured in the Family Agreement. Territory Housing then uses this information to complete payment documentation with each paying resident and arranges for their rent to be paid via Centrelink deductions or direct debits from employment income.

3.54   Despite significant efforts by Territory Housing, it has been our experience that many residents of SIHIP houses do not understand how much total rent is being paid for their house, how much each resident is paying towards that amount or which individuals have been recorded as residents. Just as Territory Housing cannot be certain that it has identified all persons currently residing in improvised and legacy houses, it is possible that, due to overcrowding and mobility issues, there are people living in SIHIP houses who are not registered with Territory Housing or who moved into a house after a tenancy agreement was signed.

3.55   This problem may be complicated by the time that can pass between tenancy reviews. When there is frequent movement and people do not have access to the list of residents that Territory Housing believes to be living in a house, it can be difficult to identify when a report to Territory Housing about changed circumstances is required. This can be further compounded when people do not know how or to whom they should report changes. It therefore remains possible that the MDR is being exceeded for SIHIP houses.

3.56   This has been a theme in our discussions with Territory Housing throughout the course of our investigations. We suggested that, along with ensuring copies of tenancy agreements are made available to residents as soon as possible, copies of Family Agreements should be left with each household. We also discussed with Territory Housing the possibility of providing to residents and the relevant CHO a summary document or card that includes key information such as the residents of the house, how much each resident pays, the MDR for the house and the rent review process.

3.57   Since these discussions, we have been advised that Territory Housing has taken action to ensure tenants are provided with additional information. It has developed a cover letter to better facilitate the provision of complete and comprehensive information to tenants. The information that will accompany the cover letter includes flyers about key issues, the property condition report, the family bond and rent agreements and other important information that tenants will require. This is a significant step in the right direction. FaHCSIA and Territory Housing should ensure that they properly evaluate the impact of this additional information on community awareness and knowledge of the reforms, and refine communication processes in accordance with evaluation outcomes.

3.58   Although the new tenancy model may work in an urban context, when used in a remote Indigenous setting where overcrowding, mobility and cultural practices present additional challenges, the policy may place a heavy burden on head tenants. Specifically:

- head tenants may have no mechanism for holding other residents to account for paying their share of rent as recorded in the Family Agreement

- they can be responsible for the damage done by other residents of the house even though wear and tear and other damage may be the result of overcrowding

- there may be cultural barriers preventing a head tenant asking another resident to pay their share of the rent or to pay for damage done to a house

- other residents may not keep the head tenant informed of changes to their income, resulting in potential rental overpayments or underpayments

- ultimately, there is a risk that head tenants will accrue rental arrears and liabilities, particularly given problems with accessing rental statements.[37]

3.59   This burden may be compounded by the confusion among remote housing residents about the new model and their rights and responsibilities. Although significant effort has gone into communication strategies and support for tenants, including interpreters, information booklets, story board books, DVDs, factsheets and posters, there is room for improvement. Information for tenants should not only focus on a tenant's responsibilities and obligations. It is equally important to provide information to tenants about their rights and what they can expect from Territory Housing. In view of the significant changes that are already underway, at this early stage of implementation improvements might include:

- conducting more regular community meetings and information sessions, using interpreters, to discuss the new tenancy model and key concepts, particularly resident obligations

- providing additional information to residents in clear language about their rights and what they can expect from Territory Housing and other service providers, including: processes and timeframes for repairs and maintenance and accessing rental records; information about privacy; details about complaints and review channels; and information about other available support and advocacy services

- skilling CHOs, shire, housing association and Territory Housing staff in how to better recognise the need for, and work with, interpreters

- increasing support and information provided to HRGs, CHOs and housing association and shire staff so they can respond to queries at the local level

- equipping and empowering CHOs and housing association and shire staff to resolve issues as they arise

- evaluating current communication strategies and information packages to assess their impact on improving community awareness and understanding of the housing reforms.

---

[37]   Issues surrounding access to rental statements are discussed in the following section of this report.

Recommendation 5

FaHCSIA and Territory Housing should review arrangements, responsibilities and support provided to head tenants and consider whether all tenants should be listed as co-tenants on tenancy agreements in order to make each resident personally accountable for their own housing obligations and reduce the burden on head tenants.

Recommendation 6

FaHCSIA and Territory Housing should ensure that expanded communication and engagement strategies include:

a) conducting regular community meetings and information sessions, using interpreters, to discuss the new tenancy model and key concepts, particularly resident obligations

b) expanding material and information provided to all residents to include clear information about their rights and what they can expect from Territory Housing and service providers including: processes and timeframes surrounding repairs and maintenance and accessing rental records; information about privacy; details about complaints and review channels and information about other available support and advocacy services

c) skilling CHOs, shire, housing association and Territory Housing staff in how to better recognise the need for, and work with, interpreters

d) increasing support and information access for HRGs, CHOs and housing association and shire staff so they can respond to queries at a local level

e) equipping and empowering CHOs and shire and housing association staff so that they can resolve issues as they arise

f) evaluating current communication strategies and information packages to assess their impact on improving community awareness and understanding of the housing reforms.

IT systems limitations

3.60   Reliable and retrievable information about remote residents, rent and housing stock is not yet available. Current system limitations and delays in implementing upgraded systems to support remote housing reforms have hampered FaHCSIA and Territory Housing's capacity to identify when the MDR has been exceeded. Limitations in IT systems have also restricted some peoples' ability to pay rent.

3.61   Territory Housing currently has three IT systems to assist it to manage remote public housing:

- Asset Information System—holds information about public housing stock, including assessment data, repairs and maintenance information and the characteristics of each dwelling. Shires cannot access this system

- Data Warehouse—this database was developed in 2008 when Territory Housing took over management of remote housing stock and rent collection. It captures limited information and was intended to be an interim measure until a more suitable system was developed

- TMS—the new system being implemented by Territory Housing. It is equivalent to the system used for urban public housing tenants. Post-May 2011, all new tenancy agreements have been captured in TMS, including the

details of each house; associated rent information; personal details of tenants; some asset information, such as damage to properties; and repairs and maintenance details.

3.62   Territory Housing is in the process of transferring all remote public housing tenants to the TMS centralised database. Presently, people residing in a legacy dwelling are not captured in TMS. Instead, occupancy agreements will be held in each regional shire office until they are able to be transferred. Territory Housing commenced the transition of data by starting with those residents on tenancy agreements.

3.63   In the meantime, Territory Housing cannot easily provide rental statements for residents who are not on TMS. It also has difficulties identifying whether people are paying rent when they should not or, conversely, whether people are not paying rent when they should. FaHCSIA and Territory Housing have limited visibility of the true extent of overcrowding (both on an individual house and community-wide basis) and an incomplete picture of all housing stock and tenants. The successful management of the remote Housing Framework requires that the transition of data to TMS be finalised as a matter of priority.

3.64   System limitations have also contributed, in part, to the inability of some remote housing tenants to pay rent. Generally, public housing residents can pay rent to Territory Housing in one of the following ways:

- direct deductions from income paid to Territory Housing by an employer

- automatic allocation of Income Managed funds from Centrelink to Territory Housing

- Centrelink's Rental Deduction Scheme (RDS), through which an automatic deduction from a person's income support payment is paid to Territory Housing.

3.65   When the new model of IM was introduced in the NT, a large number of people ceased being subject to IM. Although these people had the option of participating in the IM scheme on a voluntary basis, those remote housing tenants who chose not to take this option were no longer able to make rent payments through an IM allocation from Centrelink. Ordinarily, those people should have had access to the RDS. However, the RDS was not available because the agencies involved did not identify that RDS would be needed in time to allow agreements[38] to be amended and people transitioned to TMS in advance of the IM changes.

3.66   FaHCSIA and Territory Housing initially advised us that people affected could opt to remain on IM on a voluntary basis so that their rent could be paid through IM allocations. The agencies also suggested that tenants could arrange their own bank direct debits or make payments directly to their local shire office. We have expressed our concerns about the appropriateness and feasibility of each of these options: opting into voluntary IM requires a person to consider a number of aspects that are broader than simply the capacity to facilitate rent payments; people have limited access to their banks; and shires generally lack facilities to collect or receipt rent paid in cash.

---

[38]   A service agreement between Centrelink and Territory Housing that allows automated rental payments to be made via the RDS.

3.67   It has been more than 12 months since the changes to IM occurred. Although Territory Housing and Centrelink have amended the relevant agreement to allow RDS to be trialled for some remote tenants, many people still do not have an adequate mechanism to pay rent to Territory Housing. We understand that this matter will not be fully resolved until Territory Housing is able to transition all remote housing residents onto the TMS.

3.68   In the meantime, many people are concerned about accruing a rental debt and how they will be able to repay the arrears once an adequate process becomes available to them. FaHCSIA and Territory Housing have not yet determined a position in relation to these arrears.

Recommendation 7

FaHCSIA and Territory Housing should:

a) take immediate action to ensure there is adequate IT system support to manage Remote Housing, including transferring all tenant and housing stock information onto TMS as a matter of priority

b) ensure that the RDS is fully rolled out to all remote communities and that rent is able to be paid by public housing tenants not subject to IM

c) provide detailed and accessible public information about the approach they will adopt for addressing possible rent arrears accrued as a result of this issue.

Residential Tenancies Act issues

3.69   In the NT, the RTA applies to tenancy agreements, which are defined as agreements 'under which a person grants another person for valuable consideration a right (which may be, but need not be, an exclusive right) to occupy premises for the purpose of residency'.[39] The Act does not apply to 'agreements under which no rent is payable in return for the granting of a right to occupy premises'.[40]

3.70   The agencies who deliver services to remote Indigenous communities are of the view that only SIHIP houses are subject to the RTA; that legacy dwellings are not. The Act provides additional protections for tenants, including the ability to compel a landlord to undertake emergency repairs and access to an independent complaint forum. The Act also requires a landlord to ensure that premises are habitable, meet health and safety requirements and are reasonably clean at the start of a tenancy.[41] Many premises do not meet these standards. Notably, if there is a threat to the health and safety of the tenant, the landlord has the right to terminate a tenancy with just two days' notice.[42]

3.71   Although residents of legacy dwellings do pay a charge and are subject to an occupancy agreement, policy documents and public information usually refer to this charge as a housing maintenance levy (on occasion, this charge is referred to as rent).[43] Agencies assert that the housing maintenance levy does not constitute rent. It

---

[39] RTA s 4.
[40] RTA s 6(b).
[41] RTA ss 47 and 48.
[42] RTA s 86.
[43] Reference to MDR, DHLGRS website, see *Remote rent and other charges* at http://www.dhlgrs.nt.gov.au/housing/remotehousing/information_for_remote_tenants/remote_rent_and_other_charges.

is on this basis that they say the occupancy agreement does not meet the definition of a tenancy agreement and, therefore, legacy dwellings are not covered by the Act.

3.72   We are aware that earlier this year several community legal services pointed out to FaHCSIA and Territory Housing that the arrangements under which legacy dwellings are occupied may constitute tenancy agreements under the Act. It would appear that this argument warrants careful consideration by FaHCSIA and Territory Housing.

3.73   We are also concerned that tenancy agreements that are signed with the tenants of SIHIP houses may not be entirely consistent with the terms of the Act. One example that we have raised with FaHCSIA and Territory Housing is the inclusion in the tenancy agreements of a limit of no more than three people per bedroom in SIHIP houses. While there is no such limit outlined in the RTA, FaHCSIA and Territory Housing have advised us that such limits are necessary because of the capacity and functionality of the dwellings. However, FaHCSIA and Territory Housing have also acknowledged that the generally high level of overcrowding in the community can have an impact on whether people can comply with the occupancy limits.

3.74   We consider that, given the level of overcrowding in remote NT communities, it is difficult for people to comply with maximum occupancy limits, while cultural practices may make it difficult for people to refuse accommodation and assistance to family members.

3.75   FaHCSIA has advised us that Territory Housing is taking steps on a case-by-case basis to deal with overcrowding and to ensure that tenants comply with the maximum occupancy limit. We remain concerned about the ability of tenants to comply with this rule given the levels of overcrowding. This rule may deter some residents from keeping Territory Housing informed of occupancy changes out of a fear that they will breach this condition. Complaint investigations have highlighted, and the agencies have confirmed their awareness of, a perception among remote tenants that they may be evicted if they exceed the maximum occupancy numbers.

3.76   FaHCSIA and Territory Housing should review this issue and consider how they may balance the seemingly conflicting goals of achieving maximum occupancy numbers in the context of overcrowding and issues of mobility, cultural practices and homelessness.

3.77   Further examples where the remote tenancy agreement may be inconsistent with the Act include:

- tenancy agreements require tenants to treat neighbours in a reasonable and courteous manner—this is a much higher obligation than the Act, which protects tenants' rights to quiet enjoyment and states, instead, that tenants must not cause or permit ongoing or repeated interference with the reasonable peace or privacy of another person's use of land or premises in the immediate vicinity[44]

- agreements state tenants must maintain and keep premises in a neat, tidy and clean state, and remove and lawfully dispose of any rubbish—the Act imposes a different, lower standard. It says the premises must not be kept in an unreasonably dirty condition, allowing for reasonable wear and tear

- agreements require tenants to give the landlord notice of any change in the number or identity of persons occupying the premises within 28 days of the change and state that a tenant must not let any person not named as a

---

[44]   RTA s 54(c).

resident live at the premises without the landlord's permission. There is no equivalent provision in the Act and there is ambiguity regarding when a person ceases being a visitor and becomes an occupant or resident.

3.78   The Act provides that any terms or agreements that are inconsistent with it are void.[45] That is, tenancy agreements must not include provisions or terms that are disadvantageous to the tenant when compared with the provisions contained in the Act. It is apparent that the remote tenancy agreements must be reviewed to ensure that the terms do not exclude, modify or restrict the Act or Regulations[46]. It is also important that the government agencies involved in these agreements ensure they set the standard for fair and reasonable tenancy agreements in the NT.

3.79   We are also concerned that a number of practices in respect of the tenancy agreements may contravene the Act. The Act requires the landlord to issue a copy of an agreement to a tenant within seven days of the tenant returning a signed copy to the landlord.[47] The Act imposes a penalty for a failure to comply with this provision. After a tenancy agreement for a house in a community that is subject to a Commonwealth statutory lease is signed by a tenant, Territory Housing sends it to FaHCSIA to sign it on behalf of the Commonwealth. This process often takes several weeks and we have encountered many instances in which tenants have been waiting for more than six months for executed copies of their leases.

3.80   In one complaint we received, a tenancy agreement had been signed by the tenant and returned to Territory Housing in December 2010. As at September 2011, a copy of the agreement had not been provided to the tenant. Such a delay may have an impact on tenants' understanding of the terms of their agreement. It may also bring into question the reasonableness of enforcing any breaches by tenants who have not been issued with a signed copy of the terms by which they are bound.

3.81   FaHCSIA has confirmed that it currently takes longer than seven days for the tenancy agreement to be returned to the tenant. It has advised us of the challenges in meeting the seven–day timeframe. The process involves the tenant signing the agreement, the agreement being sent to Territory Housing, it then being sent to Canberra for execution by FaHCSIA, its return to Territory Housing and then delivery to the tenant. Delivery of agreements to tenants involves additional challenges caused by remoteness and distance.

3.82   FaHCSIA's view is that, despite not meeting the seven–day timeframe, an agreement between the tenant and the landlord exists once a tenant commences paying rent. While we acknowledge this view and the challenges posed by remoteness, the current practice contravenes the requirements in the RTA and falls short of best practice standards. FaHCSIA has advised us that it and Territory Housing have taken action to reduce the processing times and improvements have already been observed. FaHCSIA is working with Territory Housing to improve the process over the long-term as, once the five–year leases expire, this responsibility will rest with the NT.

---

[45]   RTA s 20(1) states ' *… an agreement or arrangement that is inconsistent with this Act or the Regulations or purports to exclude, modify or restrict the operation of this Act or the Regulations, is void to the extent of the inconsistency … '*.
[46]   Residential Tenancy Regulations 2009 (NT).
[47]   RTA s 19(3).

3.83   The Act provides that the landlord must, at the request of the tenant, allow the tenant to examine the record of rent.[48] Through the course of our complaint investigations, we have identified that rental statements are not routinely made available to tenants and current system limitations make it difficult for statements to be provided upon request. As tenants are moved onto the TMS, we understand that rental statements will become more readily available. For the time being, we understand that when people who are not on TMS request rental statements, Territory Housing manually compiles information at the head office or regional staff attend the person's dwelling to provide rental information in person.

Recommendation 8

FaHCSIA and Territory Housing should review the approach to Maximum Occupancy Numbers, including their inclusion in tenancy agreements, and update this office on the approach to setting and achieving these limits in the context of overcrowding, issues of mobility, cultural practices and homelessness.

Recommendation 9

a)   FaHCSIA and Territory Housing should review their tenancy agreements and practices to ensure compliance with the Residential Tenancies Act. This should include consulting with the Commissioner of Tenancies.

b)   FaHCSIA and Territory Housing should seek legal advice to clarify their position in relation to the standing of occupancy agreements under the Residential Tenancies Act.

Housing decision-making processes

Housing Reference Groups

3.84   The new Housing Framework relies heavily on HRGs. HRGs comprise local community residents who are representative of the various cultural and family groups in a community.[49] HRGs are a critical element in government engagement and consultation with Indigenous communities during implementation of the housing reforms. The HRG Operational Guidelines specify that HRGs provide advice and recommendations to Territory Housing on remote public housing issues, but HRGs do not have any decision-making powers.[50] Instead, it is Territory Housing, acting on the HRG's advice, which makes decisions such as to whom to allocate a vacant house and the priority order of the housing waiting list.

3.85   There are undoubtedly many examples of successful and effective HRGs that have achieved positive outcomes for communities. However, complaints investigated by this office in relation to HRGs indicate that there are areas in which improvements could be made.

Overreliance on HRGs

3.86   HRG representatives have a significant and onerous task. Not only are they critical to the rollout of housing reforms in their communities, but they are frequently called upon by government agencies, service providers, other organisations and visitors to provide views on a wide range of matters. Appropriate community

---

[48] RTA s 36(5).
[49] http://www.housing.nt.gov.au/remotehousing/housing_reference_groups.
[50] Housing Reference Groups: Operational Guidelines, Department of Housing, Local Government and Regional Services, p.5.

engagement practices emphasise the importance, and well recognised benefits, of working with community representatives—the HRG representatives are usually the first point of call for governments seeking to engage with communities. Many HRG representatives must balance their role with other commitments, including employment, family and cultural/community events. HRG representatives are not paid for their time or attendance at HRG meetings. Some representatives have reported difficulties in attending important HRG meetings due to work commitments and the need to prioritise paid work or other activities important to them over their HRG role. We are also aware of some HRGs failing to convene regularly due to representatives not attending. In its response to our draft report, FaHCSIA noted that participation of community members in HRG meetings may be beyond its control.

Communication

3.87   Territory Housing and FaHCSIA have repeatedly advised us that HRGs are an important means of communicating decisions and policies, such as the new rental framework or SIHIP information, to the wider community. Often, information is relayed to HRG representatives during meetings where interpreters are not used or where HRG members are called upon to interpret for the rest of the group. We have received complaints from HRG members who have been confused about SIHIP plans and the new Housing Framework, despite having recently attended HRG meetings on those topics. In one complaint, an HRG member had formed a view during an HRG meeting that there were no plans to fix his house. In fact, it had been conveyed during the meeting (which was attended by Ombudsman staff) that his house was one of several scheduled for demolition. We are concerned that HRG members are not always able to follow the content of HRG meetings, particularly when complex matters are discussed in English, and may require more assistance and support than they presently receive.

3.88   If agencies are to rely on HRGs to provide information to the community, it is essential that HRG members are given complete and accurate information, afforded sufficient time to digest and respond to that information and have the capacity to explain the information accurately to the wider community. This should include the use of interpreters to ensure that the meetings involve two–way communication and there is full understanding about the complex changes currently underway. Agencies could also do more to test and explore HRG representatives' understanding of key information.

Transparency and quality of decision making

3.89   For a range of reasons, including those previously discussed, attendance rates and frequency of HRG meetings can be problematic issues. They can undermine community confidence in government consultation and the overall transparency of decision making. This is illustrated in case study 5.

> **Case study 5—concerns about allocation decisions and transparency**
>
> Several residents of a community raised concerns that a family living on a nearby outstation was allocated a house ahead of other residents in the community who were believed to have priority needs. We investigated and were informed that there had been an HRG meeting about housing allocations on 4 December 2009. During this meeting, the waiting list that had been assembled by the former community council was discussed. Based on the discussion, the waiting list applicants were prioritised.
>
> Further HRG meetings were scheduled for March, September, October and December 2010 but did not go ahead because very few or no HRG members attended. In December 2010, Territory Housing allocated three houses based on the priority listing discussed at the HRG meeting that had occurred a year earlier.
>
> Although it appeared that the allocations were made on the basis of need, we pointed out that the ineffectiveness of the HRG in this community may have contributed to community concerns about allocation decisions.

3.90   During our investigation into this complaint, we suggested that more needed to be done to address and support HRGs and that, in similar cases, Territory Housing should obtain up-to-date information directly from applicants on the waiting list before making allocation decisions.

3.91   Further, we have received reports from some HRG members that Territory Housing has not visited their community or arranged a meeting for a number of months. This has resulted in HRGs being unable assist with housing allocation decisions, including in circumstances where houses are vacant and ready for tenants to move in.

Improving HRG capacity

3.92   The establishment of HRGs is an important initiative that accords with COAG's commitment to change the way governments work with Indigenous people. However, the overall success of each HRG varies between communities and largely depends on the strengths, availability and input of individual members. The need to build capacity of HRGs through ongoing support, coaching and training has been recognised in the HRG Operational Guidelines, which require the production and implementation of a training and development plan for each HRG. By building the capacity of HRG members through training and personal and professional development, agencies can strengthen the performance of HRGs.

3.93   Given HRGs play an important role in the remote housing reforms, agencies should ensure they are given every opportunity to succeed. We note there are processes to review the effectiveness of individual HRGs.[51] However, these appear limited to how HRGs assist Territory Housing in its decision making. The reviews do not appear to capture the effectiveness of HRG communication or assistance to their communities. Reviews of high performing HRGs may assist agencies to develop strategies to enhance overall performance of HRGs.

3.94   Complaints to our office suggest that communities and HRG members would benefit from greater clarity about the role of HRGs and the extent to which they are able to influence decision making. In this regard, it would be helpful to make the HRG Operational Guidelines available to communities and to communicate the role of HRGs at community-wide meetings.

---

[51]   Department of Housing, Local Government and Regional Services, *Housing Reference Group Operational Guidelines*, p.19.

3.95   Community members also lack information about where they can raise complaints about HRGs. Although we note that the HRG Operational Guidelines include a brief section about the mechanism for making complaints about HRGs, it is inadequate. It simply outlines that HRG members should advise Territory Housing of complaints lodged with them by residents with respect to decisions made by Territory Housing. It does not provide for complaints about the HRG or its members from residents. Nor does it detail the process or responsibilities for handling such complaints. Further, as already noted, the guidelines are not accessible to the wider community. The HRG complaint processes should be expanded and publicised. This would enable agencies to hear from people who feel their concerns or needs have not been represented and afford agencies an opportunity to identify and address any problems with HRGs.

Recommendation 10

In consultation with FaHCSIA, Territory Housing should review the approach and support provided to HRGs, including:

a) reviewing high performing HRGs to identify lessons and opportunities to build the capacity of others

b) improving communication practices, including the use of interpreters

c) clarifying the frequency of HRG meetings with members and ensuring that priority is given to holding meetings where houses are ready for allocation

d) clarifying roles and responsibilities of HRGs

e) publicising and making accessible the HRG Operational Guidelines

f) expanding HRG complaint processes and publishing information about them

g) ensuring decisions made following HRG input are transparent and accountable.

Housing waiting list and allocation processes

3.96   Under the construction program, most communities will not receive new houses. Currently, the high levels of overcrowding mask the reality that many people in remote Indigenous communities are homeless. Housing stock is limited, so people who register for a house must wait until other people leave the community, a vacancy arises following a death, or new houses are built.

3.97   Residents of remote communities can place their name on a housing waiting list, which is considered by the HRG when a house becomes available for allocation. The HRG and Territory Housing allocate points to each applicant or family group based on: overcrowding in the applicant's current residence; condition of the applicant's current dwelling; disabilities; cultural considerations; employment; social considerations; access to a second dwelling; and previous tenant history.[52] When a house becomes available, the family group that has scored the highest points is given priority and allocated the house, provided it is suitable for that family group.

3.98   Complaints made to our office concerning housing waiting lists often stem from a lack of knowledge or understanding by tenants of the prioritisation criteria that Territory Housing considers when it makes allocation decisions. Consequently, people who have particular needs that may have an impact on decision making about waiting list prioritisation do not know that they should make these known to Territory Housing.

---

[52] Ibid, p.1.

> **Case study 6—confusion surrounding waiting list and priority ratings**
>
> Mr D stated that he believed he had placed his name on the housing waiting list for his community but he was not sure and did not know how to check his status. Mr D advised us that he and his family had moved out of a house four years ago because it was going to be repaired. The house had still not been repaired.
>
> In the meantime, Mr D, his wife and their six children had moved in with a relative. They lived in an overcrowded house with 25 to 30 other people. His youngest son had gone to live with a foster family in Darwin because of an illness that made the house unsuitable for him. Mr D had recently got a job and wanted his son to come back to the community.
>
> We informed Territory Housing about Mr D's situation. He was subsequently given priority on the waiting list and allocated a house.

3.99   In our experience, many people are unaware that waiting lists established before the most recent reforms no longer apply and that new waiting lists have been created. While the new waiting lists should have been compiled using information from the old lists, we have encountered instances where this did not happen. This has meant that people who were on the old waiting lists may not have been transferred to the new waiting lists and may not be aware that they are no longer on any waiting list. We have received complaints from people concerned that other people, who had not been on the waiting list as long as they, had been allocated a house ahead of them.

3.100   On many occasions, we have had to explain to community residents the factors used to determine waiting list allocation and prioritisation. We have also provided many people with housing waiting list application forms or information about the process for getting on to a waiting list. More must be done to make the housing waiting list application and allocation process clear and accessible to people.

> **Recommendation 11**
>
> FaHCSIA and Territory Housing should:
>
> a) ensure that the waiting list application form is available at a local office, with assistance for people to fill out and submit the form
>
> b) make information about housing allocation prioritisation factors available in simple language at local shire offices
>
> c) provide written information to waiting list applicants confirming their inclusion on the waiting list, providing information about the allocation process, advising if they have been prioritised and the points they have been allocated, explaining the factors taken into account in assessing their priority rating, inviting them to make contact should their circumstances change and informing them of their complaint and review rights
>
> d) provide written information to waiting list applicants on allocation decisions including their complaint and review rights.

Problems with the housing complaints model

3.101   Good administration requires high quality decision making supported by effective and accessible complaints and review processes. Good complaints mechanisms enable meaningful remedies for individuals and facilitate broader action on systemic issues—those that are recurring, intractable or affect several people and/or communities.

3.102   The Australian Government's Social Inclusion Agenda recognises the importance of providing people with a voice so that they can influence decisions that will affect them.[53] Complaints should form an important component of government engagement with the people to whom it provides services. A complaints process, underpinned by a culture that values complaints and the opportunity they present to fix problems and improve service delivery and policy development, is fundamental for agencies aiming for high performance. In our view, the benefits of an effective complaints mechanism increase for agencies that deal with complex policy or service delivery issues, such as those discussed in this report. Complaints may provide key insights into client experiences in complex service delivery environments.

3.103   There has not been a standardised complaint mechanism for public housing tenants in remote Indigenous communities. One of our key messages since we began visiting remote communities is that accessible complaint mechanisms should be available on the ground in these communities. If we could be confident that these mechanisms are understood, accessible and effective, we would consider referring complainants to those complaint processes in the first instance.

3.104   In early 2011, Territory Housing consulted a variety of stakeholders about its proposal for a remote housing complaints and appeals policy. Our feedback about the proposed policy emphasised the need for:

- access to information at the local level and in local Indigenous languages irrespective of the type of housing agreement or the status of the housing
- complaint channels that are flexible so that complaints are identified and actioned regardless of how they are received or which agency receives them
- a broad complaints policy that seeks to capture and act on complaints as well as feedback, review and appeal requests
- a complaints process that can seamlessly address issues arising at the local, territory or Australian government level.

3.105   In August 2011, we were informed that Territory Housing had implemented a complaints process that is based primarily on the urban public housing complaints model, with some amendments. We were advised that people can access the complaints process via a 1800 number, email, contact with local personnel such as CHOs and Shire Service Managers, or contact with visiting Territory Housing staff.

3.106   Currently, there is little information available to remote residents about the complaints process and how it works. Internet information (recognising that the internet is generally inaccessible by remote residents) simply advises that 'tenants will have access to the NT Housing Appeals Mechanism that deals with complaints and issues raised by public housing tenants'.[54] Further, the public housing complaints information to which people are referred does not provide sufficient contact information for remote tenants, such as the 1800 number or details of local and regional housing offices.

3.107   Territory Housing has advised us that the complaints process is advertised on posters in remote communities, yet we have not seen this information during our outreach visits. Although Territory Housing has reported that people use the complaints phone number, our information indicates that the calls to that number are often facilitated, or made by, advocacy and legal advice services. Awareness of the complaints process among residents in communities has not been evident to us during subsequent outreach visits. Research has shown that telephone complaint services are not well used by Indigenous Australians.

---

[53]   http://www.socialinclusion.gov.au/about/what-social-inclusion.
[54]   http://www.housing.nt.gov.au/remotehousing/new_rental_system.

3.108   When we receive complaints during outreach, we generally discuss the issues with the Shire Services Manager and CHOs on the ground. They are often already aware of the issues raised but have not resolved the problem/s. In our experience, the capacity of people in these positions to resolve complaints depends in part on their access to the proper tools required to resolve issues and provide remedies. For instance, it is not uncommon to find that CHOs lack access to IT systems, which means they are unable to answer tenants' questions about the status of repairs and maintenance requests or rental queries.

3.109   In addition, we have encountered examples of local housing or shire staff not responding to issues raised with them in a manner consistent with Territory Housing's policies. For example, we are aware of instances in which repairs and maintenance requests were not acted upon on the basis that the officer had formed the view that the tenant was to blame for the problem. There have also been instances of repeated requests for repairs not treated, in effect, as potential complaints.

3.110   Given that Territory Housing lists Shire Services Managers and CHOs as key access points for the complaints process, we do not presently have confidence that all complaints are or will be identified or properly resolved.

3.111   Further, our experience in dealing with FaHCSIA and Territory Housing during our complaint investigations suggests that benefits would be gained if agencies had a greater focus on responding to issues raised in complaints in order to improve housing service delivery.

3.112   We recognise that the model for complaint handling for Indigenous housing matters is the responsibility of Territory Housing. However, it is important that FaHCSIA, as the statutory leaseholder over communities, is consulted and assures itself that an effective housing complaints handling model is implemented and available to its housing tenants.

Recommendation 12

FaHCSIA should ensure that Territory Housing takes action to review its complaints model for remote Indigenous communities, taking account of stakeholder feedback on the proposed model, and:

a)   ensure local staff can appropriately identify complaints, particularly where a resident may not specifically describe an issue as a complaint

b)   promote the existence of the complaints model and ensure it is brought to people's attention any time they raise concerns about housing matters or receive an adverse housing decision

c)   empower CHOs and shire staff to act on complaints and provide them with access to the information necessary to resolve them

d)   demonstrate that complaint outcomes are comprehensive, meaningful and fair

e)   ensure that complaints are seen as an opportunity to review practices and procedures and to resolve systemic issues as they arise.

Repairs and maintenance processes

3.113   The Housing Framework in the NT includes reforms to streamline and improve processes to repair and maintain the public housing stock. SLAs between Territory Housing and the shires include arrangements to request, authorise, undertake and invoice for repairs and maintenance work. They also include response timeframes for categories of repair and maintenance work. The categories are:

- immediate—four hours

- urgent—two days

- routine—within the timeframe indicated on the work order or within six months.

We are aware that Territory Housing is currently reviewing the timeframes for the categories of repairs and maintenance and considering more specific guidance to shires and housing providers on timeframes within the 'routine' category.

3.114   Tenancy and occupancy agreements require tenants to report repairs and maintenance issues to the shire or Territory Housing as soon as issues are identified. Repairs and maintenance work may also be identified by Territory Housing during routine inspection of houses. FaHCSIA has reiterated that repairs and maintenance matters can be complex and are often expensive, so decisions must be made about how to allocate finite resources.

3.115   Our complaint investigations about repairs and maintenance matters have highlighted three main areas of concern:

- the quality of communication

- timeliness and responsiveness to repairs and maintenance requests

- weaknesses in the systems and processes underpinning the new arrangements.

Communication

3.116   In the main, the repairs and maintenance complaints made to our office concern inaction on a matter a tenant has raised with the shire or housing association. In contrast, when we approach the agencies concerned about these complaints, it is common for the agency to advise us that it has no record of the matter having been reported or raised. Agencies suggest that people may have failed to follow the correct process for reporting repairs and maintenance requests.

3.117   Territory Housing and FaHCSIA have advised us that if a resident is dissatisfied about the handling of a repairs and maintenance request, they can complain to the shire or Territory Housing directly. Although we acknowledge that this is an option, in our experience people are unclear about how the repairs and maintenance process should work and, therefore, unable to identify when a complaint may be warranted. Residents require clear and accessible information about the process for reporting repairs and maintenance matters and the associated timeframes. This will also assist them to identify when they should escalate the matter through a complaints or review process. Critical information about the processes should be visible in the community, in the appropriate language, and be the subject of information sessions and community meetings held by relevant agencies.

3.118   There is also a need to improve communication while residents are waiting for repairs and maintenance requests to be actioned. Currently, residents generally receive little or no information about the progress of their request or about the timeframe in which they can expect the problem to be fixed. Where the shire, housing association or Territory Housing declines to take action on a matter, residents are entitled to be informed of the decision and to receive an adequate explanation for the decision.

Timeliness and responsiveness

3.119   Although timeframes have been established under the SLAs for the completion of repairs and maintenance work, these are not always met. The following two case studies highlight systemic problems with:

- timeframes

- monitoring or oversight of progress by Territory Housing

- the classification of repair requests and the need for intervention if they are inappropriate

- keeping the complainant informed about the progress of their request.

Case study 7—inaction on urgent repairs

In December 2009, we received a complaint from Ms E about a house in a remote Indigenous community. The community is one over which the Commonwealth has a statutory lease. At the time of her complaint, Ms E lived with her partner, four children ranging in age from an infant to 15 years old, and her infant grandchild. An Ombudsman staff member visited the house and noted a range of areas needing repairs. Ms E had been on the housing waiting list but had agreed to take her name off the list in late 2009 in exchange for repairs to her bathroom. When repairs had not commenced a month later, she put her name back on the waiting list.

In January 2010, we informed FaHCSIA about the state of Ms E's house. In June, we were informed that the shire and Territory Housing had been unaware of Ms E's housing problems, which had since been registered for urgent action. We also learned that an SLA between Territory Housing and the shire would commence on 1 July 2010 to improve repairs and maintenance processes in this community. We followed up on the progress of Ms E's repairs in July and August. We also alerted the agencies to the existence of a medical certificate given to a CHO in April 2010 in which a doctor expressed the view that the poor condition of the house was causing illness to one of Ms E's children. The medical certificate had been misplaced by the CHO but was located after further enquiries from our office.

In August 2010, Territory Housing assessed Ms E's house as requiring urgent repairs and directed the shire to take action. Territory Housing also prioritised Ms E on the housing waiting list in response to the medical report. We followed up on the progress of repairs in September and October; on 4 October we were advised that work would start that day. In November 2010, 11 months after the complaint was raised, Ms E was moved to another house before any repairs had been undertaken.

> **Case study 8—inadequate monitoring of requests led to extensive delay**
>
> Ms F complained to this office on 18 May 2011 that the shire had not responded to her request for the installation of ramps at the front and back doors of her house and hand rails in the shower and toilet. She said that at least 10 people lived in her house, her husband used a walking frame and her daughter was confined to a wheel chair.
>
> FaHCSIA and Territory Housing advised us that a work order was raised on 14 January 2011 for the installation of the handrails and for a quote to be obtained for the ramps. In issuing the work order, Territory Housing classified the work as 'routine'. Territory Housing did not receive the quote from the shire until 21 June. On 24 June, Territory Housing approved the work order for the installation of the ramps. Territory Housing advised us that access to the community during the wet season prevented quotes from being obtained earlier. However, we are aware that, on occasion, the shire arranges for contractors to fly into the community during the wet season. It is not clear why this option was not considered in this case. We understand through the shire that the work was completed in early September 2011 —nearly nine months after the first work order was raised by Territory Housing.
>
> Our investigation of this complaint also raised concerns about the appropriateness of the repairs being classified as 'routine'. In response, Territory Housing advised us that it could have reviewed the 'routine' category in this instance.[55] In the future, it plans to place more specific timeframes upon shires where matters are considered 'routine'.

3.120   We understand that the date a work order is issued by Territory Housing is used as the start date for recording the time taken to complete a repairs and maintenance job. There are problems with this approach. Each shire has its own arrangements for receiving and reporting repairs and maintenance requests to Territory Housing. These arrangements are not transparent. Further, feedback provided to, and observations made by, Ombudsman staff during outreach to remote communities indicates that some shires consider their role and responsibility in reporting repairs and maintenance matters to Territory Housing discretionary or optional. For example, where the shire staff member believes the problem to either be the fault of the individual tenant or, in their view, not something that requires fixing, they may choose not to report it.

3.121   Some reports to our office indicate that a different approach may be taken in relation to repairs and maintenance requests depending on the status of the house. Specifically, requests for repairs on legacy dwellings may not be actioned or repairs may not be done properly.

3.122   Anecdotal information received by our office suggests that chronic overcrowding and poor quality housing are likely to contribute to the frequency of repair requests made to shires. Also, some shires have reported that certain recurring repair issues may result from tenant behaviour. Given FaHCSIA and Territory Housing have taken responsibility for the public housing stock in remote communities, they need to work closely with the shires to proactively deal with these challenges. Territory Housing and FaHCSIA must ensure that shires report (and housing associations act upon) all repairs and maintenance issues, regardless of the status of the house or nature of the request, and that shires are supported to work closely with residents to maintain their houses and fulfil their obligations as public housing tenants. In turn, Territory Housing must implement a responsive, timely and

---

[55]   Territory Housing did not indicate that a different outcome would be reached had it reviewed the timeframe attached to this matter.

quality repairs and maintenance program, supported by robust and effective systems and communication with residents. Further, Territory Housing should build into funding agreements with housing associations requirements for adhering to the repairs and maintenance policy. There should be adequate mechanisms in place to monitor compliance by housing associations with this policy.

3.123   The timeframe for repairs and maintenance work does not commence until a work order is issued by Territory Housing. The effectiveness of the system relies on the process adopted by each shire. For these reasons, the following safeguards must be introduced:

- FaHCSIA and Territory Housing should issue clear instructions to shire offices about the required process for receiving and reporting repairs and maintenance requests.

- Once Territory Housing receives a request, it should have processes in place to ensure each request is considered and actioned within a set timeframe (taking into account quote requirements).

- Where a resident makes a repairs or maintenance request, they should receive a written acknowledgement of the request and a decision on the matter within a set timeframe. They should also be advised when the request has been sent to Territory Housing for approval and the response timeframe assigned to their request.

- Where Territory Housing assesses that a matter requires prompt attention, it should issue clear instructions to the shire about its expectations regarding the timeframe (this may require amendments to SLAs) and take action when timeframes are not met.

IT systems and processes

3.124   Ideally, local shires, regional shire offices and Territory Housing would have a centralised database for recording, monitoring and tracking repairs and maintenance requests. However, technology and computer/internet infrastructure limitations in remote communities prevent the establishment of a centralised database. Currently, there is a standardised IT system only for recording repairs and maintenance matters after Territory Housing has issued a work order to the shire approving the completion of work.

3.125   As previously discussed, there are risks associated with shires and housing associations each adopting their own approach to managing repairs and maintenance matters. We acknowledge that a computer system is not possible in all communities, and nor is it the answer to all the issues raised here, but some consistency and standards should be established by FaHCSIA and Territory Housing.

3.126   Although progress on repairs and maintenance work can be monitored and tracked once it has been approved by Territory Housing, the front end of the process[56] is not similarly transparent. Ideally, the front end of a functioning repairs and maintenance system should require local shire or housing association staff to:

- receive, document and receipt all repairs and maintenance requests

- provide clear advice to residents about the process and associated timeframes

---

[56]   We consider the front end of the process to include residents reporting issues to shire or housing association staff and shires or housing associations completing a work order request and sending it to Territory Housing.

- forward all requests for work to Territory Housing as soon as they are received
- take action to address urgent work
- provide updates and progress reports to residents
- pursue Territory Housing if work order approvals are delayed.

Recommendation 13

FaHCSIA and Territory Housing should amend the approach to the management of repairs and maintenance, including:

a) strengthening front end processes to ensure transparency

b) reviewing practices by housing associations and strengthening funding agreements and monitoring arrangements to ensure compliance with policies

c) implementing adequate systems to monitor progress by shires and housing associations and taking action where delay or quality issues are identified

d) improving communication with residents surrounding repairs and maintenance processes to ensure residents know what to expect and what they can do if a request is not actioned in a timely manner.

PART 4 — THEMES

4.1   The housing reforms underway in the NT are unprecedented. They include the implementation of dramatically different property and tenancy management arrangements and significant changes to the rights and responsibilities of tenants and occupants. We acknowledge that such large-scale reforms come with challenges for all three tiers of government and that building a mature system will take time. Three thematic issues permeate the housing-related issues canvassed in this report: communication; IT systems; and accountability arrangements and complaint processes.

Communication

4.2   Territory Housing has developed a range of tools to assist with the dissemination of housing information. It has worked with the NT Aboriginal Interpreting Service to produce DVDs about tenant rights and responsibilities in 15 key Indigenous languages; develop a suite of fact sheets; explain the tenancy agreement and rules in plain English; introduce radio advertisements; develop story boards in numerous languages; and introduce more one-to-one interaction between Territory Housing and tenants at the start of, and at key points during, a tenancy.

4.3   Despite these efforts, communication issues are evident at both the macro and micro levels. At the macro level, for example, SIHIP announcements have raised expectations about the extent of refurbishments and rebuilds available under the program. Although people in communities are now being provided with more information about the actual amount of money available to spend on housing, some people have been disappointed and suspicious on learning that SIHIP allocations must pay for more than just the housing work itself. In future, we suggest that more specific information be included early in SIHIP allocation announcements to make it clear that on-costs will also be drawn from allocations, that packages may need to be shared between several communities and that the actual amount spent on each house will vary according to the state of the existing housing stock and community needs.

4.4   At the micro level, we have regularly encountered tenants and residents who do not understand local repair and maintenance processes. Similarly, they are unclear about the new tenancy and occupancy agreements, rent calculations and MDR calculations. There is little familiarity with the new complaints model.

4.5   Communication could be improved by:

- increasing use of interpreters at key points such as when tenancy and occupancy agreements are signed

- holding more community level information sessions, using interpreters, about important topics such as improvised dwelling reimbursements, maximum dwelling rents, repair and maintenance timeframes and how to make complaints

- using radio announcements to provide information in language and reinforce important messages

- providing better access at the local level to policies, procedures and guidelines.

4.6   Further, in light of the consistent feedback and complaints highlighting communication concerns, agencies should consider whether their own evaluation processes are assisting agencies to identify weaknesses and improve communication planning and implementation.

Adequate IT systems

4.7   It is difficult to roll out significant reforms when the IT systems necessary to support the changes are not yet in place. Multiple computer systems in operation make it difficult and slow for Territory Housing to provide rental statements to tenants of legacy or SIHIP housing. Most remote housing tenants are still unable to arrange to make rental payments via Centrelink. Shires have varying processes for receiving and actioning repair requests, so Territory Housing may not receive all requests as they should. Registered requests cannot be tracked by CHOs, which limits the information that remote tenants can easily obtain about the status of a repair request.

4.8   We recognise that work is being done to address these problems. Nonetheless, while they remain as they are, remote housing residents are not being provided with all of the information they may need or to which they are entitled under the RTA. Further, agency staff do not have adequate IT support to undertake their roles and implement housing reforms effectively.

Accountability arrangements and complaints processes

4.9   The need for better coordinated and integrated service delivery between all levels of government is well accepted. However, while 'joined up' government has obvious benefits, there is a risk that accountability arrangements may be weakened. Commentators on this issue have tended to focus on the potential for a weakening of what we might term 'upwards' or vertical accountability mechanisms. That is, those accountability mechanisms by which agencies account for their operations to the relevant government (and through government to citizens), ensuring and assuring that government funding is spent appropriately and fulfils policy and program requirements.

4.10   There is an equally important risk, particularly in areas where service delivery need is great, that the consumers of a service are not aware of, do not have access to, or do not understand, those mechanisms that provide 'downwards' accountability. That is, mechanisms that allow people to directly challenge decisions or actions of governments that affect them. These mechanisms, which include the administrative law accountability mechanisms and agency complaint-handling mechanisms, are critically important for safeguarding the interests of people in their dealings with governments.[57]

4.11   The need for clarity about who is responsible for what and how people can raise concerns or problems for reconsideration or redress, is as critical as the focus on financial or performance accountability. Worthy innovation in service delivery reform must include consideration, and a clear explanation, of how the direct accountability mechanisms that operate at federal, state and territory levels will work in environments where responsibility is shared. People must be able to find and understand the appropriate pathways for seeking review of government decisions, actions or inaction. Agencies have a responsibility to ensure that these pathways are visible and understood by the people to whom the services are provided.

---

[57]   Creyke, R and McMillan, J, *Control of Government Action: text, cases and commentary*, LexisNexis Butterworths, Australia, 2005.

4.12   The well-established role and purpose of the administrative law framework in safeguarding people in their interactions with government is reason enough for clarity about redress mechanisms in integrated approaches to service delivery. There are two other reasons that support the need for clear redress mechanisms.

4.13   Complaints are a rich source of information about the service delivery experience from the perspective of end users. This is important information that can be used by government and agencies. The usefulness of this information grows as the extent of innovation increases. When governments are trying new approaches to entrenched problems, feedback provided through analysis of complaints can help agencies to refine or change their approach, as necessary, to enhance a program's effectiveness.

4.14   Further, procedural fairness plays a key role in people's trust of agencies and governments, and contributes to the willingness of people to cooperate with agencies and comply with rules. The Australian Government has committed to rebuilding trust with Indigenous communities in the NT. Given this commitment, agencies should pay particular attention to ensuring that high quality complaint handling mechanisms—as important tools for providing procedural fairness to those affected by government decision making—are in place and working well.

4.15   Providing an accessible complaints and review process is a fundamental component of good public administration. It allows the public to participate in government services and contribute to solving problems. We acknowledge that Territory Housing has developed a complaints and appeals policy, but we have concerns about the application of that policy to the remote setting. The housing reforms underway in the NT require community residents to make changes to the way they have historically used and accessed housing services. As noted by the Australian Public Service Commission (APSC), where resolution of a problem requires a change to the way people behave, such change cannot readily be imposed upon people. The APSC reiterates that engaging with people, particularly on intractable or complex problems, is crucial.[58] An effective, accessible and meaningful complaints mechanism is one way to engage with people.

---

[58]   APSC, *Tacking Wicked Problems: A Public Policy Perspective*, 2007. See www.apsc.gov.au/publications07/wickedproblems8.htm.

PART 5 — RECOMMENDATIONS AND AGENCY RESPONSES

5.1   Each agency was provided a draft of this report and invited to comment on the content and recommendations. The agencies' responses have been considered and, where we have considered appropriate, incorporated into the report. The agencies' responses to the recommendations can be found after each of the recommendations below.

Recommendation 1

FaHCSIA and Territory Housing should improve collaboration with local government and housing service providers with a focus on:

a) ensuring consistency and compliance with the remote housing framework and policy

b) strengthening monitoring arrangements and agreements underpinning funding and services

c) providing the necessary support and tools to the shires and housing associations to allow them to improve communication and engagement with community residents.

FaHCSIA response

FaHCSIA and Territory Housing are continually working to improve the implementation of the Remote Housing Framework. However, FaHCSIA reiterates that while it has a direct relationship with the NT Government, it has arranged with the NT Government for it to provide housing services. The NT Government then has service arrangements with local government organisations such as shires and housing organisations. FaHCSIA's involvement with those organisations is limited, and in order to build the NT Government's capacity, will continue to be restricted. We suggest the reference to FaHCSIA be removed.

Territory Housing response

It is agreed that continued improvement in collaboration with shire councils and other housing service providers is important and scheduled meetings are held at least monthly and more frequently, if required. In addition to this, a CHO training workshop was held in July 2011 in Central Australia, with more occurring across other regions.

The Territory Housing corporate Tenancy Management System (TMS) is currently being implemented, with a quarter of all tenants now being managed via TMS. In the coming months, CHOs will have access to TMS via a web interface tablet when they are visiting clients in remote Indigenous communities, allowing for all data to be kept current and accessible.

Recommendation 2

FaHCSIA and Territory Housing should, in revising the approach to properly define and report on 'local' Indigenous employment numbers, alert the COAG Reform Council to the problem, given its monitoring and reporting requirements, and clarify the current statistics and reporting in publicly available information.

FaHCSIA response

The ANAO report of November 2011 raised similar issues with respect to the reporting of 'local' Indigenous employment numbers as opposed to Indigenous employment in general. FaHCSIA acknowledges the concerns raised by both the ANAO and the Commonwealth Ombudsman and have clarified its current reporting, while noting that the reporting method was agreed between the NTG and Alliances while under SIHIP and pre-dates the NPARIH reporting measures. Both Governments have undertaken to improve reporting of 'local' Indigenous employment participation at the conclusion of the current SIHIP arrangements.

Territory Housing response

The NT will continue to work with FaHCSIA and other jurisdictions to define 'local' Indigenous employment. It should be noted that the vast majority of employees are recruited by the alliance in the community where work is commencing.

Recommendation 3

Building upon recent efforts to strengthen the consistent implementation of the policy surrounding improvised dwellings, FaHCSIA and Territory Housing should ensure they proactively communicate the existence of this policy and reimbursement process to residents in remote communities. This should be accompanied by clear communication with the local shire offices and housing providers about the policy and reimbursement processes.

FaHCSIA response

Territory Housing is working to improve communications with communities about the policy for the refund of rent to residents of improvised dwellings. A suite of communication materials containing generic messages about paying rent was completed in 2011 and has been distributed via a variety of media. FaHCSIA refers to the NT Government's response to Recommendation 3 for more detail. We suggest the reference to FaHCSIA be removed.

Territory Housing response

Agreed. Communication efforts will continue to be made with individuals in improvised dwellings to ensure they are aware of the policy. Communication material is also being further developed to ensure individuals, shire offices and other housing providers are aware of the policy and processes for seeking reimbursement.

The DHLGRS is not aware of residents in improvised dwellings who are still paying a levy to Territory Housing. The roll out of TMS provides a further check on the status of every dwelling, including improvised dwellings and will identify any occupants not currently registered. All HRGs have also been made aware of the policy on improvised dwellings.

Ombudsman comment

It remains the case that until all residents and tenants are included in TMS, Territory Housing cannot be sure that people living in an improvised dwelling are not paying to do so.

> **Recommendation 4**
>
> a) FaHCSIA and Territory Housing should ensure occupancy agreements (and other communication materials) include detailed information about MDRs and associated review rights, including the impact and benefits of the MDR on tenants.
>
> b) FaHCSIA and Territory Housing should ensure there is an ongoing and proactive review of occupancy agreements and tenant details at regular intervals.

FaHCSIA response

Territory Housing provides a package of information to tenants on commencing a tenancy, and will look into providing something similar in relation to legacy dwellings. Territory Housing is currently undertaking an NT-wide reconciliation of all tenancy records of remote clients. This reconciliation, as well as the ongoing shift from data warehouse system to the TMS, will improve the accessibility and transparency of data available.

Territory Housing response

Agreed. The department's factsheets for remote public housing rent have recently been reviewed to improve the clarity of messaging about how rent is calculated and maximum dwelling rents. A series of communication materials, including a radio commercial, factsheets, static and talking posters containing messages about housing payments, have also been developed.

A talking poster and radio commercial have been produced in the 15 main Indigenous languages used across the NT. Additional communication materials to further assist individuals' understanding of the impacts and benefits of maximum dwelling rents will continue to be developed.

When fully implemented, four scheduled visits by tenancy managers and CHOs to each household per year is part of the remote public housing management framework. This includes households on occupancy agreements and allows for regular updating of tenant details.

> **Recommendation 5**
> FaHCSIA and Territory Housing should review arrangements, responsibilities and support provided to head tenants and consider whether all tenants should be listed as co-tenants on tenancy agreements in order to make each resident personally accountable for their own housing obligations and reduce the burden on head tenants.

FaHCSIA response

Tenancy agreements are under continual review to improve and enhance reform outcomes. FaHCSIA and Territory Housing are seeking legal advice and considering their options in relation to this recommendation.

Territory Housing response

Agreed. As further experience and rollout of the housing reforms occurs, existing arrangements will continue to undergo review to determine which aspects require adjustment in order to enhance service delivery.

Ombudsman comment

We note FaHCSIA's response that it is currently seeking legal advice in relation to this recommendation. We would appreciate FaHCSIA informing us of the outcome and providing us with an update about any changes that may result.

Recommendation 6

FaHCSIA and Territory Housing should ensure that expanded communication and engagement strategies include:

a) conducting regular community meetings and information sessions, using interpreters, to discuss the new tenancy model and key concepts, particularly resident obligations

b) expanding material and information provided to all residents to include clear information about their rights and what they can expect from Territory Housing and service providers including: processes and timeframes surrounding repairs and maintenance and accessing rental records; information about privacy; details about complaints and review channels and information about other available support and advocacy services

c) skilling CHOs, shire, housing association and Territory Housing staff in how to better recognise the need for, and work with, interpreters

d) increasing support and information access for HRGs, CHOs and housing association and shire staff so they can respond to queries at a local level

e) equipping and empowering CHOs and shire and housing association staff so that they can resolve issues as they arise

f) evaluating current communication strategies and information packages to assess their impact on improving community awareness and understanding of the housing reforms.

FaHCSIA response

Territory Housing is taking steps to communicate better with communities. Territory Housing is working on the information it provides to communities through a range of means, such as via the internet, as a package of documents when signing a tenancy agreement and information provided to staff out in communities. FaHCSIA refers to the NT Government's response in relation to Recommendation 6. We suggest the reference to FaHCSIA be removed.

Territory Housing response

Agreed. Territory Housing continues to look at ways to strengthen communication at both the community and individual level. A series of advertisements and posters about allocations, repairs and maintenance, rent and HRGs have been developed to increase community awareness about property and tenancy management.

Community engagement materials describing what residents can expect from Territory Housing have also been developed to assist with face-to-face communication. Further material to help individuals understand their rights and the processes and timeframes surrounding repairs and maintenance will be developed.

HRGs are an integral mechanism to enhance communication of housing matters within communities. It is essential that these groups continue to operate and are

further supported by Territory Housing in their roles, to ensure their effectiveness increases over time.

TMS is currently being implemented, with a quarter of all tenancies now managed via the system. Development of IT solutions are underway to provide CHOs access to TMS via a web interface tablet while they are visiting clients and dwellings in remote Indigenous communities, allowing for all data to be kept current and assessable at the community level.

Recommendation 7

FaHCSIA and Territory Housing should:

a) take immediate action to ensure there is adequate IT system support to manage Remote Housing, including transferring all tenant and housing stock information onto TMS as a matter of priority

b) ensure that the RDS is fully rolled out to all remote communities and that rent is able to be paid by public housing tenants not subject to IM

c) provide detailed and accessible public information about the approach they will adopt for addressing possible rent arrears accrued as a result of this issue.

FaHCSIA response

Territory Housing is continuing to work to get tenants onto TMS as efficiently as possible, and is continuing to work on the rollout of RDS. FaHCSIA and Territory Housing are taking steps to communicate better with communities. We suggest the reference to FaHCSIA be removed.

Territory Housing response

Agreed. The implementation and rollout of TMS and Centrelink's Rental Deduction Scheme is one of the highest priorities for the department and cooperation arrangements between the key agencies have been established to achieve full implementation. At present, a quarter of remote tenancies are now on TMS and have had a review of their payments for housing and have been provided the opportunity to make payments via the RDS.

Arrears will continue to be managed on a case-by-case basis. The department will continue working with remote tenants to ensure they understand their obligations in regard to rent payments.

Recommendation 8
FaHCSIA and Territory Housing should review the approach to Maximum Occupancy Numbers, including their inclusion in tenancy agreements, and update this office on the approach to setting and achieving these limits in the context of overcrowding, issues of mobility, cultural practices and homelessness.

FaHCSIA response

Territory Housing will continue to review and consider the options in relation to the issues outlined in this recommendation, and continue to adjust its policy to deal with issues as they arise. We suggest the reference to FaHCSIA be removed.

Territory Housing response

Agreed. As further experience and rollout of the housing reforms occurs, existing arrangements will undergo review to determine which aspects require adjustment in order to enhance service delivery. The department would be please to update [the Ombudsman's Office] on the approach to setting and achieving these limits in the context of overcrowding, issues of mobility, cultural practices and homelessness.

Recommendation 9

a) FaHCSIA and Territory Housing should review their tenancy agreements and practices to ensure compliance with the Residential Tenancies Act. This should include consulting with the Commissioner of Tenancies.

b) FaHCSIA and Territory Housing should seek legal advice to clarify their position in relation to the standing of occupancy agreements under the Residential Tenancies Act.

FaHCSIA response

FaHCSIA acknowledges that Territory Housing is seeking legal advice and considering their options and responsibilities in relation to this recommendation. The NT Government's intention is to ensure a maximum number of occupants are transitioned to tenancy agreements. We suggest the reference to FaHCSIA be removed.

Territory Housing response

Agreed. Whilst the original wording of tenancy agreements had been drafted with ease of understanding the agreements foremost in mind, it was agreed that they be revised to more closely align with RTA wording. This work has been completed and revised wording agreed with legal advocates.

Ombudsman comment

We note Territory Housing's response. However, it is important to reiterate that the concerns discussed in this report are not limited to wording of the tenancy agreements. More significantly, some provisions appear inconsistent with the RTA.

Recommendation 10

In consultation with FaHCSIA, Territory Housing should review the approach and support provided to HRGs, including:

a) reviewing high performing HRGs to identify lessons and opportunities to build the capacity of others

b) improving communication practices, including the use of interpreters

c) clarifying the frequency of HRG meetings with members and ensuring that priority is given to holding meetings where houses are ready for allocation

d) clarifying roles and responsibilities of HRGs

e) publicising and making accessible the HRG Operational Guidelines

f) expanding HRG complaint processes and publishing information about them

g) ensuring decisions made following HRG input are transparent and accountable.

FaHCSIA response

HRGs are administered by Territory Housing. All HRGs are minuted and stored in a Department of Housing, Local Government and Regional Services (NT Government) database. FaHCSIA agrees with the recommendation of a 'lessons learned' process to support and improve the function of HRGs and will work with Territory Housing to improve the process and cover all the subsequent elements of this recommendation. The use of formal interpreter services is one of a number of tools that can improve communication with HRG participants. However, FaHCSIA notes that if a member of the HRG is not fluent in English, there is often a preference for other community participants to translate for them. The use of visual communication, such as diagrams and story boards to explain housing allocation and rent collection also appears to be very effective. FaHCSIA acknowledges that Territory Housing needs to ensure a consistent standard of communication with HRGs so that information is readily accessible, especially where language may be a barrier to participation. We suggest reference to FaHCSIA be removed.

Territory Housing response

Agreed. Significant effort has been invested by Territory Housing and HRG members and capacity building work with the HRG has been undertaken. This will continue and will further strengthen the framework that the HRGs form a vital part of.

HRGs are asked if they require interpreters. Many of the members are experienced participators on committees and generally express a strong preference to interpret and cross-check between themselves, and discuss in their language to clarify issues.

The expectation is that HRGs will meet regularly, particularly when SIHIP is active in a community. However, the scheduling of HRG meetings can vary. HRGs are renewed every twelve months and roles and responsibilities are clarified at the first meeting of each new HRG. HRG packs are given to members that include the HRG Operational Guidelines. Information is repeated at each meeting as the need arises.

Recommendation 11

FaHCSIA and Territory Housing should:

a) ensure that the waiting list application form is available at a local office, with assistance for people to fill out and submit the form

b) make information about housing allocation prioritisation factors available in simple language at local shire offices

c) provide written information to waiting list applicants confirming their inclusion on the waiting list, providing information about the allocation process, advising if they have been prioritised and the points they have been allocated, explaining the factors taken into account in assessing their priority rating, inviting them to make contact should their circumstances change and informing them of their complaint and review rights

d) provide written information to waiting list applicants on allocation decisions including their complaint and review rights.

FaHCSIA response

FaHCSIA notes that Territory Housing is taking steps to make wait list forms and information more accessible to people. We suggest the reference to FaHCSIA be removed.

Territory Housing response

CHOs have wait list application forms available at their local offices. However, other arrangements are needed where there isn't a CHO available in the community. This is currently being addressed.

With the rollout of TMS, the management of waitlists, including communication to clients, will be available at community level in the near future.

Recommendation 12

FaHCSIA should ensure that Territory Housing takes action to review its complaints model for remote Indigenous communities, taking account of stakeholder feedback on the proposed model, and:

a) ensure local staff can appropriately identify complaints, particularly where a resident may not specifically describe an issue as a complaint

b) promote the existence of the complaints model and ensure it is brought to people's attention any time they raise concerns about housing matters or receive an adverse housing decision

c) empower CHOs and shire staff to act on complaints and provide them with access to the information necessary to resolve them

d) demonstrate that complaint outcomes are comprehensive, meaningful and fair

e) ensure that complaints are seen as an opportunity to review practices and procedures and to resolve systemic issues as they arise.

FaHCSIA response

FaHCSIA and Territory Housing are working to improve the complaints resolution process and ensure that it is better known and more easily accessible. Territory Housing has also installed a range of tenancy management and support services to enable CHOs to better support tenants. We suggest the reference to FaHCSIA be removed.

Territory Housing response

The complaints and appeals policy for remote housing has been in place for over 12 months, after having undergone an extensive consultation and review process with stakeholders. Communications have been implemented to ensure materials are available regarding the complaints and appeals process.

CHOs will receive training to use TMS and can currently now provide the following tenancy management and support services to remote housing tenants:

- Maintain a front desk for tenancy management services within minimum office hours of 8:30am – 12pm and 1pm – 4pm Monday to Friday in communities.
- Conduct a tenancy inspection for every dwelling twice a year.
- Conduct a tenancy support visit to all dwellings on a quarterly basis.
- Support DHLGRS to sign tenants to Tenancy Agreements.

- Notify HRG members and community residents of scheduled HRG meetings.
- Attend HRG meetings as notified by DHLGRS.
- Assist community residents to complete and lodge DHLGRS property and tenancy management forms.
- Provide advice to community residents on DHLGRS policies and processes (including complaints and appeals).
- Record and report repairs and maintenance identified by tenants and through tenancy inspections and support visits.
- Record and report to DHLGRS property and tenancy management issues raised by residents (including complaints).
- Maintain a key register and hold spare keys in a secure facility.

Ombudsman comment:

We note Territory Housing's response in relation to its complaints and appeals policy. However, despite the feedback provided by this office in relation to the draft policy, we have not observed improvements in complaint handling or awareness of the complaint processes in remote communities. Further, our experience in the complaints we receive from tenants in remote communities is that usually the issue has been known by housing staff in the community but no resolution has been achieved. Nor has it been dealt with through the complaints and appeals process. Further, we reiterate our concerns about the extent to which the complaints and appeals policy is advertised and accessible by community residents.

Recommendation 13

FaHCSIA and Territory Housing should amend the approach to the management of repairs and maintenance, including:

a) strengthening front end processes to ensure transparency

b) reviewing practices by housing associations and strengthening funding agreements and monitoring arrangements to ensure compliance with policies

c) implementing adequate systems to monitor progress by shires and housing associations and taking action where delay or quality issues are identified

d) improving communication with residents surrounding repairs and maintenance processes to ensure residents know what to expect and what they can do if a request is not actioned in a timely manner.

FaHCSIA response

Territory Housing are working on a number of strategies to improve the management of repairs and maintenance, including, for example, rolling out new devices to improve the collection of Condition Assessment Tool reports. This will ensure that Territory Housing has better data about the condition of assets and can therefore direct repairs and maintenance more effectively. We suggest the reference to FaHCSIA be removed.

Territory Housing response

Agreed. Territory Housing has a number of communication materials that continue to be developed and enhanced to ensure tenants/residents are aware of the processes and timeframes surrounding repairs and maintenance and how to escalate a matter.

The department has also been working closely with housing service providers on ways to improve repairs and maintenance processes and communication with occupants.

Ombudsman comment

We note the advice that Territory Housing is currently looking at ways to improve repairs and maintenance processes, including communication with occupants. We suggest that the strategies outlined in paragraph 3.126, particularly in relation to issuing receipts for requests and providing tenants with outcomes or decisions, warrants consideration. In our experience, it appears that such measures would assist tenants to be better informed about their requests and the progress or associated timeframes.

ABBREVIATIONS AND ACRONYMS

ANAO	Australian National Audit Office
APSC	Australian Public Service Commission
CHO	Community Housing Officer
COAG	Council of Australian Governments
DHLGRS	Department of Housing, Local Government and Regional Services (NT)
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
HRG	Housing Reference Groups
ICHO	Indigenous Community Housing Organisations
IM	Income Management
MDR	Maximum Dwelling Rent
MoU	Memorandum of Understanding
NPARIH	National Partnership Agreement on Remote Indigenous Housing
NT	Northern Territory
NTER	Northern Territory Emergency Response
NTG	Northern Territory Government
Ombudsman Act	*Ombudsman Act 1976*
RDS	Rental Deduction Scheme
RTA	*Residential Tenancies Act 1999* (NT)
SIHIP	Strategic Indigenous Housing and Infrastructure Program
SLA	Service Level Agreement
The Housing Framework	Remote Public Housing Management Framework
TMS	Tenancy Management System