

MUNICIPAL SOCIAL HOUSING

Second Edition

Toolkit for the Development of a Municipal Policy



Information



Framework



Cases



CD-Rom



Golden
Principles

Team:

Mr. F. Burgers
Mr. J. Leshabane
Ms. M. Essink
Ms. E. Geurts
Mr. W. Houët

Acknowledgements:

Mr. B. Ettekoven
Ms. L. Peters
Govan Mbeki Local Municipality (Mr. E. Maseko)
City of Tshwane Metropolitan Municipality (Mr. G. Bothma)
Ekurhuleni Metropolitan Municipality (Mr. A. Mokgosi)
Buffalo City Local Municipality (Mr. D. Govender)
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The toolkit you find before you is a second and extended edition, developed within a programme by SALGA (South African Local Government Association) and VNG-International (International cooperation agency of the Association of Netherlands Municipalities), which is a component of a Memorandum of Understanding on Social Housing between the South African National Department of Housing and the Dutch Ministry of Housing, Spatial Planning and the Environment.

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This toolkit has been developed with the utmost care to make it as comprehensive as possible. As the social housing sector is very dynamic and complex, it would be impossible and beyond the scope of this toolkit to give a complete overview of the sector. For specific questions and problems, you are referred to several institutions and organisations, mentioned throughout the document.

This toolkit should be seen as a guiding tool for the development of a municipal social housing policy, not as a blueprint.

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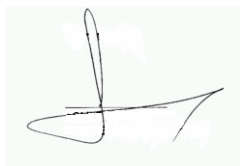
Foreword by the CEO of SALGA

South Africa is dealing with many challenges in bringing about a better life for all its citizens, especially the poor and marginalized sectors of society. The high demand for proper housing is one of the major issues that need to be addressed. Housing is not only a responsibility of the National and Provincial governments as Municipalities also have an important role to play in the facilitation of housing delivery.

It is therefore incumbent on SALGA to assist municipalities in addressing the challenges they are facing. In 2005, SALGA developed a Toolkit for Municipal Social Housing Policy in order to provide guidance to municipalities in the development of their own policy for (social) housing.

By all accounts, the initial toolkit turned out to be a very useful instrument and we deemed it essential to provide municipalities with an update of this toolkit by the inclusion of two new chapters. In this way we provide more information about the relationship between the municipality and the delivery agents of social housing.

As SALGA we are very pleased to be able to present to you the second edition of the Toolkit for Municipal Social Housing Policy. As with the previous edition, we hope this tool will capacitate and enable municipalities to write their own (social) housing policy and that it will result in the delivery of quality housing to the public.



Xolile George
CHIEF EXECUTIVE OFFICER
SALGA

Foreword by the National Department of Housing

South Africa is a young democracy that is dealing with the unjust legacy of its past, which has left some deep scars on society in general. Some of these scars are visible in the housing sector, for instance in the lack of adequate access to proper housing for different income groups and the location of townships, far away from social amenities and economic opportunities.

Access to proper housing is one of the basic human rights as enshrined in the South African Constitution. Providing this to all South Africans is a major challenge. The housing sector is constantly endeavouring to improve and accelerate the delivery of housing. The National Department of Housing has developed several programmes that address different needs and provide different kinds of housing.

The programme for Social Housing is one of the focus areas of the National Housing Programme to achieve urban restructuring. The aim of this programme is to facilitate access to housing opportunities on a rental basis and across income categories in well located areas and provide opportunities to improve the racial, economic and social integration of our society.

The National Department of Housing welcomes the second edition of the Toolkit for Municipal Social Housing Policy as a guide for municipalities. This toolkit will surely assist municipalities to fulfil their important role of providing housing for the inhabitants of their respective areas of jurisdiction. Furthermore, it is envisaged that it will contribute towards the restructuring of identified areas into sustainable human settlements that will provide housing options for South Africans from all walks of life.



Mr. I.W. Kotsoane
Director General of Housing
National Department of Housing

List of abbreviations and acronyms

BNG	Breaking New Ground
CEO	Chief Executive Officer
CRU	Community Residential Units
EDC	Ekurhuleni Development Company
ETHA	Ethekwini Housing Association
GPF	Gauteng Partnership Fund
IDP	Integrated Development Plan
LUMS	Land Use Management System
MEC	Member of the Executive Committee
MFMA	Municipal Finance Management Act
MoU	Memorandum of Understanding
MSA	Municipal Systems Act
NASHO	National Association of Social Housing Organisations
NDoH	National Department of Housing
NHFC	National Housing Finance Corporation
NSHP	National Social Housing Policy
PFMA	Public Finance Management Act
PMU	Programme Management Unit
PPP	Public Private Partnership
RDP	Reconstruction and Development Programme
RZ	Restructuring Zone
SALGA	South African Local Government Association
SDF	Spatial Development Framework
SHF	Social Housing Foundation
SHI	Social Housing Institution
SHRA	Social Housing Regulatory Authority
SPSH	Support Programme for Social Housing
SPV	Special Purpose Vehicle
TUHF	Trust for Urban Housing Finance
VNG-International	International Cooperation Agency of the Association of Netherlands Municipalities
VROM	Netherlands Ministry of Housing, Spatial Planning and the Environment

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Chapter I: Introduction

1. What is the aim and target group of this toolkit?

The aim of this toolkit is to provide municipalities with an instrument to develop their own social housing policy. The toolkit offers information on municipal social housing, the social housing sector, and it provides a framework that assists you in writing a municipal social housing policy.

This is the second edition of the toolkit. We have updated the previous version and added two new chapters. One chapter explains the implications of the Municipal Finance Management Act (MFMA) on the relationship between the municipality and Social Housing Institutions (SHIs). The other chapter is about the performance agreement that the municipality should sign with the SHIs. Further, a framework is included for the development of performance agreements with SHIs.

The toolkit is meant for all municipalities in South Africa. It is a guiding instrument, especially for municipal officials who are developing a municipal social housing policy.

2. Why do we as a municipality need to develop a municipal social housing policy?

A municipal social housing policy is the beginning of the planning process for social housing. If a municipality intends to start with social housing, it needs to develop a strategy. Before one can deliver housing, there has to be a plan of how many houses are necessary (demand), where they need to be built (spatial planning) and how much it will cost (budget). These plans will have to be aligned with other sectors within the municipality, such as transport, basic services, social development and economic development. You shouldn't start with the delivery if you don't have a (long-term) strategic plan. This toolkit helps you with the development of this plan.

For the large municipalities the policy document can be quite an extensive piece of work, which needs substantial input of staff and time. For the smaller municipalities the document can be less extensive (around 20 pages) and it doesn't have to be as time consuming.

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3. Why is a municipal social housing policy especially important at this moment in time?

The housing sector, and especially the social housing sector, is currently undergoing many changes, and social housing is receiving priority on the national agenda. In response to this, the National Department of Housing (NDoH) has developed a National Social Housing Policy (NSHP) and the Social Housing Bill. The national policy provides the policy framework for the social housing sector. It will have impact on the (social) housing policies in the provinces and municipalities. Once the Social Housing Bill has become an Act it will provide the legal framework for the sector.

To keep up with recent developments, municipalities should start to consider the role of social housing in their respective areas of jurisdiction. Social housing can be part of a municipal response to deal with housing problems. Although for some municipalities social housing is not yet necessary or applicable, it may be in the near future and it is advisable to consider social housing as an option for housing delivery.

Box 1: Municipality's responsibility to plan and act

Although municipalities have a legislative requirement to support housing, the (social) housing policy shouldn't just be seen as an obligatory task demanded by other spheres of government. A municipal (social) housing strategy is the first step towards the delivery of (social) housing. Despite what happens or changes at the national or provincial level, the municipality will always need to have its own strategy. It is the municipality's responsibility to develop a (social) housing policy in response to local development trends.

The initiative lies with your municipality, *you have to plan and act.*

4. What if the municipality does not yet have a Housing Chapter in the IDP?

As social housing is one of the housing options, a social housing strategy should be part of a broader municipal housing policy, or the Housing Chapter in the Integrated Development Plan (IDP). Not all municipalities have an overall housing policy yet, and for them this toolkit may seem too focused on social housing. This shouldn't be the case! This toolkit, and especially the generic framework in Chapter IV, can also be used as a guideline for an overall municipal housing policy.

Box 2: Purpose of the toolkit

This toolkit is primarily an instrument for the development of a municipal social housing policy. It provides information on social housing and a framework for that policy and for the performance agreement. Although social housing is the main subject, the framework is generic and it can also be used to develop an overall housing policy or applied to housing in general. *The questions in the framework can be applied to housing in general.*

The NDoH has introduced the Housing Chapter of the IDP. This is a document that will contain the policy objectives for the whole housing sector within the municipality. It will be part of the IDP and therefore needs to be aligned with all other departments. The social housing policy is part of this Housing Chapter.

5. How to use this toolkit?

This toolkit consists of two main parts, which includes the document in front of you, and a supporting CD-ROM. The CD-ROM includes a digital version of the toolkit, an interactive version of the policy framework and of the framework for a performance agreement. These interactive versions can be supportive when writing the policy.

The document is structured as follows:

- The first chapter gives you an introduction to the purpose of this toolkit.

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- The second chapter provides information on the legal framework, on the NSHP and on the Social Housing Bill and what implications these have for municipalities.
- Chapter three explains what needs to be done before starting the actual development of the policy.
- The fourth chapter consists of the generic framework, and is the heart of this toolkit that provides the guidelines for writing the social housing policy. It gives a description of what a municipal social housing policy should or could look like, and each chapter of the policy is discussed briefly.
- Chapter five gives further explanation on the implications of the MFMA on your relationship with the delivery agents of social housing (SHIs).
- The last chapter explains the performance agreements that you should sign with the delivery agents of social housing. With this chapter comes a framework for the development of these agreements.

Throughout this document boxes are added, containing important information and cases from several municipalities and from the pilot studies that have been undertaken in four municipalities in South Africa, viz. Govan Mbeki Local Municipality, City of Tshwane Metropolitan Municipality, Ekurhuleni Metropolitan Municipality and Buffalo City Local Municipality.

In chapter four, five and six you will find a fictional case study of a municipality, called Ekhaya Municipality, in the various stages of the development of its social housing policy.



The CD-ROM consists of a few documents, one being this toolkit for municipal social housing policy, another being the framework for developing the policy document and finally a framework for the development of performance agreements. In the framework for the policy you can actually write your own policy. The second framework can assist you in drawing the performance agreements with the delivery agents of social housing. *It is recommended that you use the CD-ROM when you start writing the policy and/or drafting the performance agreements.*

Chapter II: Municipalities and Social Housing

1. What is Social Housing?

Social housing is one of the housing options within the whole field of housing. Besides social housing there are among others the Breaking New Ground (BNG) houses (formerly known as Reconstruction and Development Programme (RDP) houses), private sector housing and Community Residential Units (CRU), which is the follow up of the Hostels Redevelopment Programme. BNG and CRU target household income groups below R3500 per month.

Social housing is a rental housing option mainly delivered by Social Housing Institutions (SHIs) aiming at a low-income target group of R1500 to R7500 per month. The income group earning over R7500 does not qualify for social housing subsidies, but has access to bank loans and thus to private sector housing. It should be noted that these income brackets might change over time. Currently the R1500-R7500 income group is not being sufficiently covered by other housing programmes apart from the social housing programme.

Social housing is a way of providing affordable housing with a focus on medium- to high-density housing. It strives for a socially, racially and economically integrated society. The main purpose of social housing as stated in the NSHP is restructuring. It is not an instrument for mass delivery of housing units. The main providers are *SHIs*, which can be *co-operatives* and *non-profit private sector companies* which deliver and/or manage social housing. *Municipal entities* established for the purpose of developing and/or managing social housing will also be considered as *SHIs*. *For-profit private sector companies* and *Public Private Partnerships (PPPs)* can also be functioning as builders and/or managers on the supply side. More information about the different kinds of delivery agents will be provided in chapter V.

The task of municipalities is to create a supportive environment for *SHIs* and other developers by providing the necessary incentives and support, and by facilitating the social housing process.

Box 3: Definition of Social Housing

The NSHP defines it as: “A rental or co-operative housing option for low income persons at a level of scale and built form which requires institutionalised management and which is provided by accredited social housing institutions or in accredited social housing projects in designated restructuring areas”.

Social housing though, is more than the provision of accommodation to a defined target group in a defined area. Social housing also:

- Provides security of tenure as long as the tenant adheres to the terms of the lease agreement.
- Plays an important role in upgrading the lives of South Africans marginalized previously.
- Aims at giving households the ability to stabilise themselves (also financially).
- Addresses social and physical aspects of safety and security.
- Often initiates the provision of communal facilities.
- Creates an environment supportive of lasting independence.
- Builds communities; it builds on efforts to help residents take on leadership, new responsibilities, foster new connections with the larger community, pursue and retain jobs, etc. SHIs and residents, often working through creative partnerships, also seek to reconnect housing communities with the resources of the city and the region.

Research conducted concludes that, in urban neighbourhoods with a healthy social fabric and a well functioning SHI, residents do better at getting and keeping jobs, respecting the rule of law and making a success of their lives.

2. What is happening at the national government level?

‘Breaking New Ground’ (BNG) is the most recent national strategic housing plan that was adopted by Cabinet in September 2004. The plan is focused on promoting an integrated society by developing sustainable human settlements and quality housing. This plan contains a subsidy

system for different income groups ranging from R0 to R7500 per month.

Part of the 'Breaking New Ground' document is a social housing programme, and its objectives are:

- “To facilitate the production of effectively managed institutional housing in the areas where demand for institutional or managed housing of all types exist”.
- “To contribute strongly towards the achievement of urban restructuring and urban renewal through urban integration and impacting positively on urban economies”.

To achieve the above-mentioned objectives, the National Social Housing Policy has been developed and approved; the Social Housing Bill has been developed and consequently a Social Housing Act will be adopted and will provide the legal framework required for the regulation of the social housing sector. This Act will also detail the functions and legal status of a SHI, the government support mechanisms, and the roles and functions of sector agencies. Thus it comprises the legal framework for the implementation of the NSHP.

One of the main programmes to support the establishment of the social housing sector over the last few years was the Support Programme for Social Housing (SPSH), co-funded by the European Union (EU). This programme was managed by the Programme Management Unit (PMU) and fell under the authority of the NDoH. The funding by the EU ended in 2007 and the tasks were partly taken over by the NDoH. The objectives of this programme were to support the social housing sector in its early phases in various ways, such as giving support to SHIs, assisting the spheres of government and national agencies, and assisting in policy development.

For a detailed institutional framework of the social housing sector, see appendix 1. For more information on the NDoH, see <http://www.housing.gov.za/>

3. What are the objectives of the National Social Housing Policy?

The NSHP is crucial in meeting the objectives of ‘Breaking New Ground’. The policy aims at restructuring and integrating society at an economic, social and racial level with the intention of creating sustainable living environments.

Opportunities will be created for people within the target group who are living in marginalized areas, to relocate to economically and socially more attractive areas. Instead of only supplying housing, the government is aiming at supplying sustainable human settlements where housing and working opportunities come together with social facilities such as schools, hospitals and recreational facilities. The NSHP also aims to improve the housing sector, particularly the rental housing sector.

Although social housing projects and SHIs have been initiated since 1997, until recently there has been a ‘policy and legal vacuum’ in this field. The NSHP addresses this vacuum and gives structure and direction in the field of social housing; it places social housing in the context of the overall housing policy and sector. The new Social Housing Act will provide the legal structure for the sector.

4. What are the specific features of the National Social Housing Policy?

In the NSHP a shift is made from individual subsidies to subsidising projects for specific income groups. More emphasis is put on rental tenure because many people in the lower- and middle-income group can’t apply for ownership subsidies and rental tenure creates better opportunities for them in terms of choice and mobility.

4.1. Restructuring Zones

Additional to the existing social housing projects, subsidised by the institutional subsidy, this policy introduces projects in so-called designated Restructuring Zones (RZs). The RZ is a new concept, whereby geographical areas are identified by municipalities in cooperation with the provincial government for targeted, focused investment. RZs are areas within the city which have good

opportunities for social and economic development. To be designated as a RZ, an area has to fit into a certain profile based on (among others) economic, social and spatial criteria.

The RZ concept is still in an early phase and it may develop over the years. A limited number of municipalities has been selected where provisional RZs will be designated and where social housing projects will be implemented as part of an interim programme. Social housing in RZs must take the form of medium density, multi-unit complexes requiring institutionalised management. These projects will be funded by the restructuring grant.

The restructuring grant is a subsidy that is applicable only for projects in RZs. It consists of a standard component from the NDoH and a top-up grant from the provincial government. Apart from the restructuring grant, the NSHP identifies four additional grants. These are aimed at supporting delivery agents in the initial stages.

The experience from the interim programme will be used for the improvement of the social housing programme and after the interim phase more RZs will be designated and probably more municipalities will be able to identify RZs in their areas of jurisdiction. It is important to note that if a municipality does not (yet) have a designated RZ, they can of course still receive the existing institutional subsidies.

4.2. Accreditation SHIs

The Social Housing Bill proposes an accreditation process for SHIs to stimulate and regulate the SHI sector. A mechanism will be established that provides compliance criteria for SHIs to ensure their viability. At the national level, a Social Housing Regulatory Authority (SHRA) will be established. It will execute the compliance assessment. In this respect municipalities have no role in the process, but may assist SHIs in their accreditation process. The SHRA will be established as soon as the Social Housing Act comes into place.

Only accredited SHIs and accredited social housing projects within the RZs can apply for a restructuring grant. Accreditation for SHIs means that the institution is approved according to the criteria of the NDoH and is eligible to apply for the grant. Accredited projects are viable

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social housing projects within RZs that can also be executed by other providing agencies, as long as the projects comply with the social housing criteria.

All institutions that have undertaken housing development that was co-financed by the institutional subsidy, will be provisionally accredited as soon as the Social Housing Act will come in place. If the institution wishes to continue with social housing, it will then need to apply to the SHRA for accreditation and registration. Institutions that have not been dealing with social housing before and that wish to do in the future will have to apply for accreditation.

For more information on the NSHP, Restructuring Zones, accreditation and the restructuring grant, you are referred to the National Social Housing Policy, or visit <http://www.housing.gov.za/>

5. Which social housing subsidies are available?

The system of housing subsidies is complicated and dynamic. The *institutional subsidy* is a subsidy for social housing that is applicable in all areas and that has been in place for a number of years. The allocation of the subsidy is managed by the NDoH and the provinces. SHIs apply for the institutional subsidies on behalf of the tenants. The subsidy aims at people in the income group up to R3500. The subsidy amount per applicant is adjusted every financial year. For the 2007/2008 financial year this subsidy is R38 984, of which the SHI needs to contribute a small part. The amounts for all subsidies can be found on the website of the NDoH.

A new subsidy for social housing under the NSHP, the *capital grant*, is based on RZs. SHIs need to apply for this subsidy, but before they can do that, provinces and municipalities together must apply at the national level for the approval of RZs. The SHRA will manage the approval and allocation of the capital grants, while the provinces will give a top-up fund, administer their disbursement and monitor compliance. Application for these grants can only be achieved by proposing projects that are in accordance with the criteria for social

housing and that are within the RZs. Outside these RZs social housing projects and SHIs can only apply for the institutional subsidies.

For a social housing project to be able to receive the capital grant, it needs to have a minimum of 30% downmarket reach. This means that at least 30% of the units need to be affordable for the income group of R1500 to R3500 per month. The standard component of the grant, which comes from the NDoH, will be based on the percentage of this downmarket reach in the project. The maximum for this percentage is 70%. If a project has more than 70% downmarket reach it will not get extra funds. This is done to promote mixed income projects.

The subsidy amount of the capital grant is considerably more than the amount of the institutional subsidy. Considering the financial possibilities of the target groups of the two subsidies, one can imagine that it is more difficult to achieve economic viability in projects that can only apply for the institutional subsidy. In addition to the two national subsidies mentioned, you should look for more options to obtain financial support for social housing. Some of these options are mentioned later on in this chapter.

Note that changes in the funding mechanism might occur in the near future, so keep yourself informed through the supporting organisations, such as SALGA and the NDoH. In the future, more municipalities will be able to assign RZs in their area of jurisdiction and as a consequence the social housing projects in those municipalities will get access to the restructuring grant.

6. What is the legal framework?

The most important legislation for social housing will be the Social Housing Act, as soon as it is enacted. There are also some other pieces of legislation that are relevant for social housing.

First of all there is the Housing Act and the latest amendments to it that have been published recently. This act lays down the roles and responsibilities for all spheres of government. The Housing Code is related to the act and outlines the national housing policy in a comprehensive way. Currently the NDoH is developing a new Housing Code.

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Another important piece of legislation is the Rental Housing Act. It states the responsibilities of the government in the rental housing sector. A very important aspect of this act is the rental tribunal that is established to solve disputes between tenants and landlords. Amendments to this act have been published in the government gazette at the end of 2006.

A third piece of legislation that can be relevant for social housing is the Prevention of Illegal Eviction and Unlawful Occupation of Land Act (PIE). This is especially important for the SHI when it has to deal with tenants that are not paying their rent. This act also has recent amendments.

There are two acts that also have an impact on social housing, which are the MFMA and the Municipal Systems Act (MSA). These will be further discussed in chapter V.

7. What are the municipal requirements by law?

By law the municipality has certain requirements in the area of (social) housing. The Housing Act (of 1997) determines the roles and responsibilities of each sphere of government. Access to adequate housing is considered a constitutional right, so the municipality, together with the other two spheres of government, should do everything possible to address it.

The national and provincial governments are the regulatory institutions in the sector. The municipality is the central actor in the sector that initiates and coordinates social housing whilst the SHIs are the implementing agencies. The SHIs or other developing agents will apply for the capital grant at the NDoH or its agent. According to the NSHP local government has a key role in initiating and facilitating social housing. The municipality has to assign the areas where social housing will be initiated. In municipalities where RZs are applicable, the municipality, together with the province, will determine the RZs.

According to the law the local government should plan for social housing through the Housing Chapter in the IDP. To do this properly, you as a municipality should develop a (social) housing strategy, which

states your objectives and goals. This toolkit is an instrument that may assist in the formulation of that strategy.

By law the municipality also has the responsibility to create the right infrastructure to facilitate the development of social housing units. This development will be done in cooperation with SHIs. Developing a municipal social housing policy is the first step in this process. More on the relationship between the municipality and SHIs will follow in paragraph 7 below and in the chapters V and VI.

For more information on legal requirements, see NDoH:
<http://www.housing.gov.za/>

8. How does the municipality relate to the national and provincial spheres of government?

The NSHP provides a framework for all the stakeholders in the social housing sector. The NDoH is the overall leader in the sector and it has to ensure the quality and quantity of social housing delivery. It also has to facilitate a beneficial regulatory and legislative environment, which will enable other stakeholders in the sector to operate effectively. The SHRA will be in charge of the accreditation of SHIs and monitor their performance and compliance with regulations. It will further be involved in capacity building and support to the sector.

The provincial government works more closely with the municipalities in identifying the areas for social housing. It is in charge of the allocation of the institutional subsidies and of the top-up of the capital grant, it also monitors the progress. Provincial government provides a provincial regulatory and legislative framework in which provincial housing priorities may be addressed and in which SHIs and municipalities have to operate. This provincial framework has to be aligned to the national framework

Furthermore, the NDoH provides guidelines for the implementation of the NSHP, including the role of local government in social housing.

For further details on the roles and responsibilities of the national and provincial governments, see Appendix 2.

9. Municipal Accreditation

The NDoH is working on a process for the accreditation of municipalities. This means that municipalities will be assigned with housing functions that previously were with the provincial government. To become accredited, municipalities will have to prove that they have sufficient capacity to perform these functions. There are three levels of accreditation, which are aligned with the level of capacity of the municipality. The three levels are:

- Level One: Subsidy budget planning and allocation
- Level Two: Programme management and administration (in addition to Level One)
- Level Three: Financial administration (in addition to Level Two)

Municipalities can apply in writing to the Member of the Executive Committee (MEC) for accreditation and can get assistance in the development of their capacity. Before you can apply for accreditation, you must already have your housing plan approved by a municipal council resolution as part of the wider IDP process.

There are funds available from the NDoH for support to municipalities in the building of their capacity. There are three different kinds of support; pre-accreditation support; accreditation implementation support and; ongoing accreditation support. These funds will be disbursed via the provincial governments.

For more information on the accreditation process for municipalities, see Appendix 3. For the accreditation framework, contact the NDoH (details on www.housing.gov.za).

10. What is the relationship between the municipality and the main delivery agents of social housing units?

The most important delivery agents of social housing units are SHIs, private sector companies (for-profit or non-profit) and PPPs. As stated earlier, the municipality is the coordinating and initiating party in the social housing arena. It can be seen as the link between the regulatory institutions; the provincial and national government, and the implementing agencies; SHIs, private sector companies and PPPs.

The delivery agents and managers of social housing units are the parties that will execute the social housing projects. The municipality can give (financial) incentives, such as preferential access to land or buildings, reduced costs of bulk services and tax rebates to stimulate social housing and make it financially viable (See: Case 1).

In cases where there are insufficient providers or none at all, the municipality can play an important role in establishing SHIs. The municipality can establish a SHI as a municipal entity, stimulate the establishment of independent SHIs, or attract SHIs from outside the municipality. In the establishment phase of a SHI, the municipality can supply technical and financial support. We will elaborate on this further in chapter V.



Case 1: Support to Social Housing Institutions

Challenge: The municipality should have good long term planning in which it outlines locations that should be reserved for social housing. This should prevent preference of short-term financial benefits over long-term social housing goals.

Case: City of Tshwane

In Tshwane there was a project of refurbishing a property for social housing where everything was prepared by Yeast City Housing and the subsidies were approved. A private developer came in who offered more money and got the property instead of Yeast.

It is important that the municipality and the SHI as a municipal entity are seen as two separate bodies to make sure that the SHI can function as an independent organisation. At the same time, the municipality also

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needs to be able to monitor the social housing process to make sure that the targets of their policy are reached and that the investments made, are properly utilised. The MFMA and the MSA provide a regulatory framework for the relationship between these two parties. More information about the relationship between the municipality and the delivery agents of social housing will be given in chapter V.

The municipality can monitor the performance of SHIs or other delivery agents by signing performance agreements with them. In these agreements the responsibilities of both parties are clearly reflected. The performance agreement will be discussed in chapter VI.

For more information on the establishment and the management of SHIs we refer to the SHF, which has developed a toolkit for the establishment of SHIs (<http://www.shf.org.za/>)

11. Who can provide capacity building and financial support?

As the social housing sector is still very young in South Africa, a number of organisations have been appointed and new ones will be established to assist in the development of a strong and sustainable social housing sector. These organisations will either provide capacity building or financial support.

SALGA is one of these organisations providing assistance and facilitation to municipalities. This toolkit is part of this assistance and will help municipalities in determining and describing their position and tasks in the social housing sector.

Other main capacity builders are the Social Housing Foundation (SHF) and the National Association of Social Housing Organisations (NASHO). The SHF was established 'to support and strengthen the capability of the sector to build sustainable, well functioning communities through the provision of sustainable social housing'. The SHF provides capacity building and technical support to SHIs and local governments.

NASHO is a representative body for SHIs, that aims to support SHIs and the social housing sector in general by representation, advocacy, information provision, capacity building, and support.

Furthermore, the PMU used to manage the SPSH of the NDoH. It ends its work in 2007. The purpose of the programme was to support the establishment of a viable and sustainable social housing sector and to provide the basis for its future expansion by making capacity-building and technical support grants available.

There are two major organisations that provide financial assistance in the social housing sector aside from government subsidies. These are the National Housing Finance Corporation (NHFC) and the Trust for Urban Housing Finance (TUHF). The NHFC does not supply loans to individuals, but to approved lenders and SHIs who target the R1500-R7500 income group. The TUHF supplies bridging finance for refurbishment of property and Greenfield development in urban areas.

For financial support you can also consider, international donors, large companies in your area, a foreign sister municipality, etc. Currently, some of these donors are already involved in projects for social housing.

Changes in the system of supporting organisations are planned to streamline the sector, including combining some organisations to make them more effective.

Keep in mind that the social housing sector is still a new and dynamic sector and that changes and improvements are still being made.

For more information you are referred to

- SALGA (<http://www.salga.net/>)
- NDoH (<http://www.housing.gov.za/>)
- SHF (<http://www.shf.org.za/>)
- NASHO (<http://www.nasho.org.za/>)
- NHFC (<http://www.nhfc.co.za/>)
- TUHF (<http://www.tuhf.org.za/>)

In appendix 2 an extensive overview is given of the roles and responsibilities of the major stakeholders in the social housing process as given by the Social Housing Programme Guidelines.

Why Social Housing?

Social housing is one of several housing options to deal with the housing backlog. It might not be the solution for all municipalities, but for many municipalities it could be an option to reduce their housing backlog – especially in urban and urbanizing areas. Social housing is an instrument to supply affordable housing and to achieve social, racial and economic integration. It is not just about providing houses, but it aims at creating sustainable human settlements. Its goal is to achieve overall development and improvement of the area where it is implemented.

The most suitable areas for social housing are urban areas because of the medium- to high-density level that it needs, to be economically sustainable. It aims to include previously disadvantaged groups to reap the benefits of the urban areas by bringing housing, work opportunities and facilities together.

Chapter III: Getting started

1. Is social housing applicable in our municipality?

Although social housing might sound very interesting and tempting, it is important to realise that it is not an option for all municipalities. Depending on the local situation, you have to decide whether or not social housing is applicable in your municipality. The National Social Housing Policy provides the political framework and creates possibilities for social housing, but the final decision whether or not to implement social housing in the municipality lies at the local level. As mentioned before, currently the capital grant is only applicable in the selected urban municipalities in the interim programme.

The guiding principle in the decision whether or not to engage in social housing can be that social housing is a good option in urban areas. In rural areas other housing options might be better alternatives, whilst considering demographic, economic, spatial and other factors.

 Ask yourself the following question:

Is social housing in our municipality a realistic option for dealing with our housing challenges?

To be able to decide more specifically whether or not social housing is a reasonable option in your municipality, you can use the guiding principles of the NSHP. In Box 4 we have selected the main principles that can guide you in your decision about social housing. When these principles reflect your ambitions, you may want to consider social housing as an option. Furthermore, you should note that there has to be sufficient demand for rental houses within the target group and that social housing projects should be economically viable.

Box 4: Guiding principles of the National Social Housing Policy

Social housing must:

- Promote urban restructuring through the social, physical, and economic integration of housing development into existing areas, likely to be urban or inner-city areas.
- Promote the establishment of well-managed, quality rental housing options for the poor.
- Respond to local housing demand.
- Deliver housing for a range of income groups (including, *inter alia*, middle income, emerging middle class, working class and the poor) in such a way as to allow social integration and financial cross subsidisation.
- Support the economic development of low-income communities in various ways.
- Foster the creation of quality living environments for low-income persons.
- Promote a safe, harmonious, and socially responsible environment both internal to the project and in the immediate urban environs.
- Promote the creation of sustainable and viable projects.
- Encourage the involvement of the private sector where possible.

For the complete list of guiding principles, see the NSHP.

2. Which basic conditions need to be in place before getting started?

After deciding that social housing will be an option for your municipality, you should start developing a social housing policy. If you have decided not to initiate social housing, as we have stated earlier, you can use this toolkit for the development of your overall housing policy. Before you get to the stage of actually writing the policy, some preparatory work must be done. There are some basic conditions (See: Box 5) that need to be in place. These conditions can be used as a checklist before starting with the policy development.

 **Box 5: Basic conditions**

1. You need to have a *champion*, someone who can pull the social housing cart (See: Case 2). This person needs to have the capability to get the social housing process started and to keep it going in your municipality.
2. You need to ensure *political support* for social housing. Adopting a council resolution on social housing support is a good way to ensure this.
3. You need *capacity*, both quantitative and qualitative capacity. This means you need enough staff in the department as well as staff with experience in, and knowledge of (social) housing.
4. You need to understand *the (social) housing demand* in the municipality and the applicability of social housing. If social housing is not an option then a social housing policy is useless.
5. *Inform all stakeholders* upfront by outlining a policy development process/schedule.

 **Case 2: Champion**

Challenge: The municipality needs a champion to pull the social housing cart.

Case: City of Tshwane

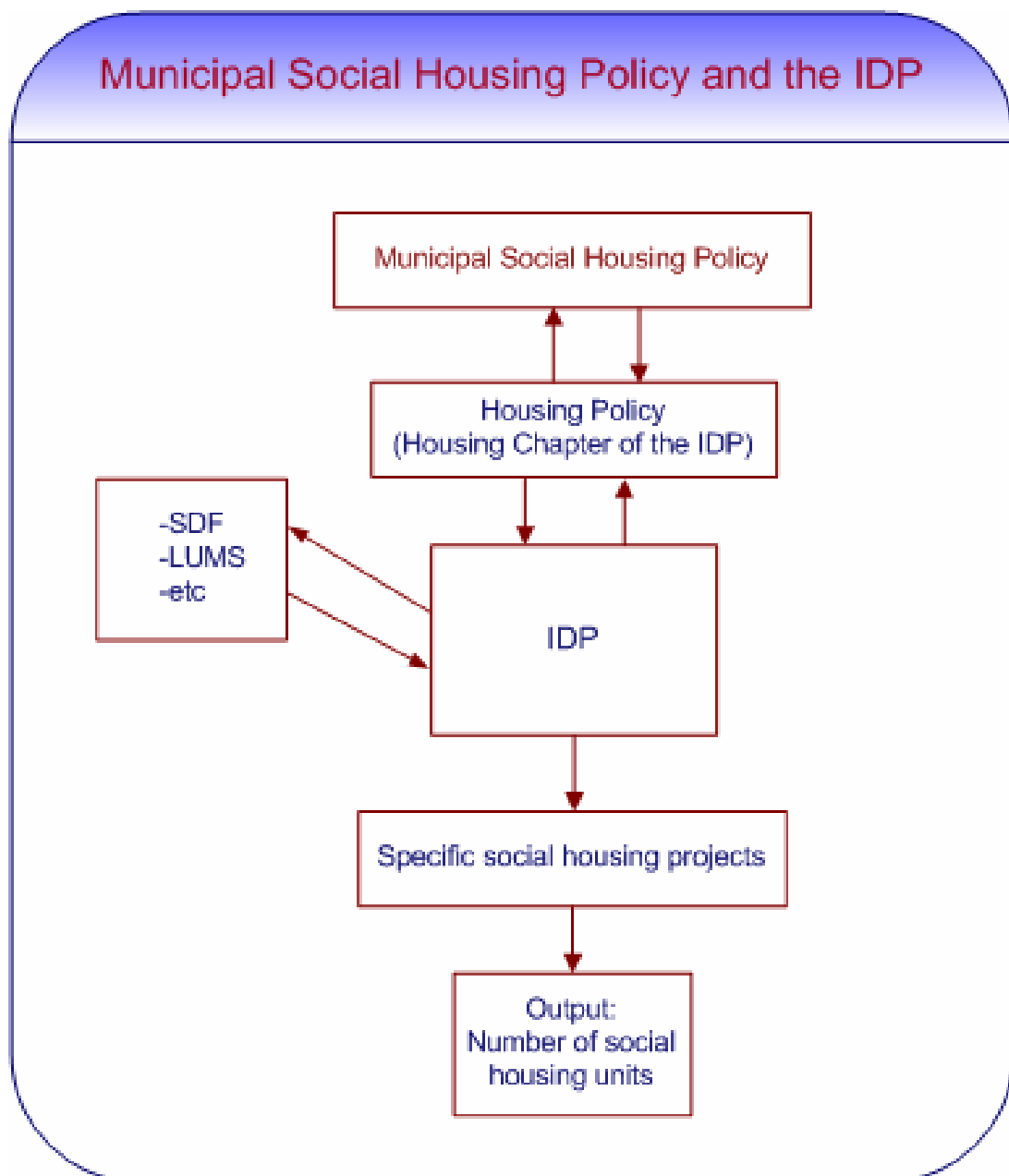
In Tshwane a specific section for social housing was established, called 'Institutional Housing'. It is structured as one of the eight sections within the 'Housing Division' of the 'Department of Housing, City Planning and Environmental Management'. The tasks of this specific section are to support and facilitate the development/functioning of the SHIs, doing project planning and developing a social housing policy for the Tshwane area.

With the proper leadership they were able to develop a social housing policy.

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3. How do we relate the municipal social housing policy to our IDP?

The primary relationship between the municipal (social) housing policy and the IDP is that the former should give input to the IDP. Within the IDP, it has to be integrated with other municipal policies. From thereon, specific projects should be formulated and implementation can be planned. In the figure below an overview is given of this relationship and of the most relevant documents in the municipality concerning housing.



The documents in the above figure inform each other depending on the stage in which the different documents are. Ideally, the municipal social housing policy should also take information from the IDP, such as statistics and demographical data and after it is finished it should inform the IDP. In practice, this doesn't always work that way because not all documents are in a stage where they can provide the required input.

Ideally, the municipal social housing policy should be a part of the general housing policy, the Housing Chapter in the IDP. There can also be other policy documents that might be of importance for the development of the municipal social housing policy or that could be informed by this policy. It is important to have a thorough look at which documents exist and which ones are relevant in relation to the municipal social housing policy.

As described in chapter II, the NDoH introduces the Housing Chapter that should be part of the IDP. The Housing Chapter should consist of the following components:

- Analysis; which includes the identification, specification and definition of demand.
- Strategies; which includes negotiated supply objectives and strategies.
- Projects; including the time and spatial planning of the implementation of projects.
- Integration; the Housing Chapter should be integrated with the other chapters of the IDP.

The NDoH has developed a programme for the implementation of the Housing Chapter within the IDP. This programme provides guidelines to ensure that planning for housing will be done in alignment with the planning processes for the IDP. The housing planning of the municipality also has to be aligned with the provincial planning. The roles and responsibilities of relevant stakeholders should be clearly identified.

For more information on *The Housing Chapter* and on the programme visit the website of the NDoH, look under IDP Housing Chapters. www.housing.gov.za

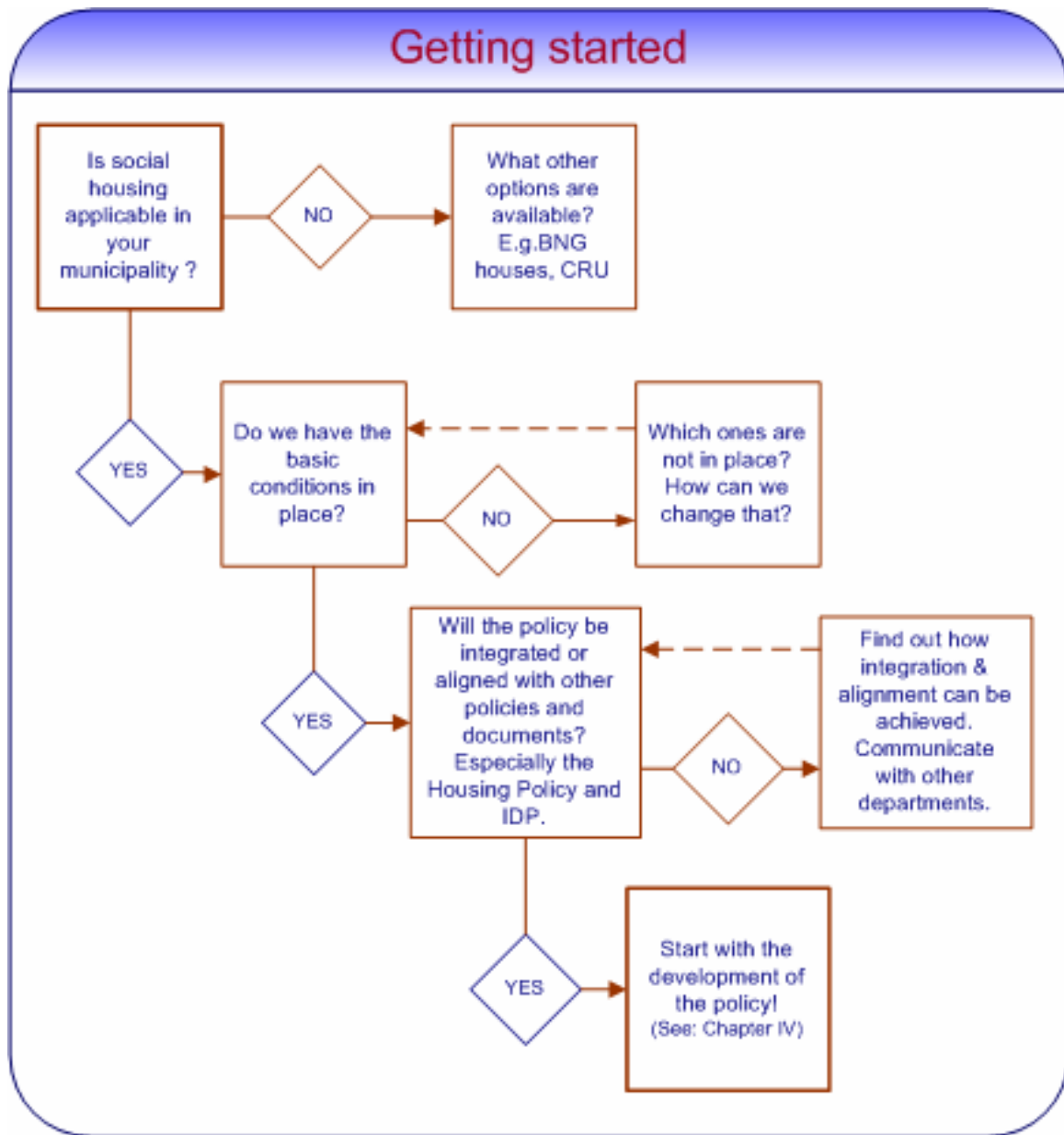
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For the development of the Housing Chapter, municipalities can get assistance. First of all, funds can be allocated from the Integrated Housing and Human Settlement Development Grants. The provincial department can further assist the municipality in other ways.

When you have decided that social housing is applicable in your municipality, when the basic conditions are in order and you have a clear view of how the municipal social housing policy relates to the IDP and other documents in your municipality, you can commence with the actual process of developing the policy.

Be mindful that it takes time to gather the necessary information from different stakeholders. You can have different people or departments writing different parts of the policy, but the ‘champion’ should direct and manage the overall writing process.

The figure on the next page gives an overview of the steps that you need to undertake to get started.



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Chapter IV: Generic Framework

In this chapter a framework will be given for writing a municipal social housing policy. The framework is divided into two parts. Part one covers chapters one to six of the policy document and is about ‘What to do?’ which means that you describe what the housing situation is in the municipality and what the goals and objectives are. Part two covers chapters seven to nine and is about ‘How to do it?’, which refers to what actions need to be taken to reach the goals, by whom these actions need to be taken, and how monitoring and evaluation of the projects will be conducted. At several stages you will find cases from the pilot municipalities and throughout the chapter you will find the example of a fictional municipality called Ekhaya Municipality.

To get an overview of this chapter, the next page shows the table of contents of the generic framework, this can be used as the table of contents in your municipal social housing policy. At this stage we refer you to the CD-ROM included in your toolkit, which provides the same framework in a format in which you can write your policy document (See also: Chapter I, section 5).

Ekhaya Municipality:

Ekhaya is a medium sized urban municipality. The population is relatively young and the migration to the main city from rural areas is putting pressure on the housing market. The housing department has been looking at the possibility of social housing based on the guiding principles of the NSHP and on the local housing demand. They chose social housing as one of the options to deal with their housing backlog.

The housing department has determined the basic conditions by appointing a champion who will be leading the policy development. She will collect information from different organisations and institutions and will inform others within the department and the municipality who are dealing with social housing as well. The idea of social housing has been proposed to the council and they have given their political support in a council resolution. The champion will inform all stakeholders involved and outline a policy development schedule.



Generic Framework for a Municipal Social Housing Policy

Part one: What to do?

1. Introduction

- 1.1. Concept of social housing
- 1.2. Policy objectives

2. Social housing environment

- 2.1. Policy context
- 2.2. Legislation

3. Current Situation

4. Future housing demand

5. Constraints on the way to social housing

- 5.1. Constraints within our unit
- 5.2. External constraints affecting our unit

6. Housing delivery goals

- 6.1. Vision
- 6.2. Mission
- 6.3. Objectives and Goals

Part two: How to do it?

7. Housing delivery strategy

- 7.1. Actions to be taken
- 7.2. Financial implications

8. Responsibilities of other stakeholders

- 8.1. Responsibilities of stakeholders
- 8.2. Relationship between the municipality and SHIs

9. Monitoring and Evaluation

Municipal Social Housing Policy

Box 6: Executive Summary

It is recommended that the policy document starts with an executive summary. You should write this summary after you have finished the policy document. In the summary you can state the most important findings and conclusions of the policy.

Part one: What to do?

1. Introduction

Why do we need a municipal social housing policy?

In this first chapter you state generally why your municipality is developing a social housing policy. More details on the need of social housing will follow in chapters three and four, but here you explain why the municipality has chosen for the option of social housing. The reason for choosing social housing shouldn't just be because the national government is putting more emphasis on social housing, but because you made an informed decision to pursue this option to deal with housing issues.

1.1. Concept of social housing

What does the concept of social housing mean for this municipality?

In order to create an understanding of what social housing is about, you must explain the concept clearly and state what it could mean in your municipality. You can take the definition of social housing from the NSHP, put it in context with the local circumstances, and then describe what social housing should mean in your municipality. The concept of social housing and the role of social housing in the local setting need to be made clear so all stakeholders involved will understand it correctly. It is very important to emphasise that social housing is a rental option for low to medium income households. It is not a housing instrument for the poorest households (income less than R1500 per month).

Ekhaya Municipality:

The municipality has decided that social housing will be one of the ways in which they will deal with their housing backlog. Ekhaya has described social housing, based on the definition from the NSHP, as: *a rental housing option that provides secure tenure to the income group of R1500-R7500.*

1.2. Policy objectives

What do we want to achieve with a municipal social housing policy?

In the policy objective you set out the overall purpose of the policy document. Social housing is an important option to achieve both the objectives of housing delivery in the lower income sector and regeneration of the surrounding areas. It is an instrument to strive for overall improvement of the community. A municipality can, for instance, state that it aims at emphasising the need for social housing delivery in inner city areas in order to regenerate decayed city centres.

Ekhaya Municipality:

The main objective of the policy document for Ekhaya is to create an enabling environment for social housing development, growth and delivery at scale. Regeneration of the city centre and handling the housing backlog are priorities within the policy. Regeneration will be done by integrating social and economic activities and by integrating people from various economic, social and racial backgrounds.

2. Social housing environment

In which context do we place social housing in our municipality?

The second chapter of the policy should describe the context in which social housing takes place in your municipality. Social housing is one of the housing options, and housing is only one of the many issues the South African government is dealing with. Therefore, it is important to place social housing in its context in terms of policy as well as applicable legislation.

2.1. Policy context

In what kind of policy framework does the municipal social housing policy have to fit?

In the policy context you describe the framework in which the municipal social housing policy has to fit.

- **Alignment with other spheres of government (Vertical alignment)**

Your policy has to align with provincial and national policies and programmes. You have to indicate which policies and programmes are of importance for social housing in your municipality and how they influence your policy. At the national level, the National Social Housing Policy and the Social Housing Act will be the most important documents, but also the national housing programme ‘Breaking New Ground’ is significant (See: Chapter II). Some of the main principles of these documents are economic, social and racial integration, delivery at scale and a focus on rental tenure. Provincial policies and programmes differ per province and these need to be taken into account.

- **Alignment within the municipal level (Horizontal alignment)**

At the local government level you must align the social housing policy with the process of integrated development planning. The IDP demands that all policies submitted for inclusion in the IDP must already be interrelated before submission; “an IDP is not a pot in which you can stir until all policies are integrated”. In theory, an IDP should give detailed guidelines for project planning in the different departments and divisions.

As stated earlier, the policy can be informed by the municipal IDP and should contribute to the IDP (See: IDP figure in Chapter III). The most important role of the policy in this regard is however, to inform the Housing Chapter and as such the IDP. Spatial Development Frameworks (SDFs), a pre-requisite component of the IDP, are of utmost importance for the planning of social housing and it is therefore recommended to consult with spatial planning in the formulation of your social housing policy.

Also stated earlier, the NDoH has developed the concept of the Housing Chapter in the IDP, which will be implemented in the near future. The

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Housing Chapter will be the municipal housing strategy and it will be part of the IDP. (See: Chapter III)

Besides the IDP, your municipality may have other documents that are relevant for (social) housing and to which the (social) housing policy should be aligned. Make sure that those are included in the process as well.

For a manual on IDP see: <http://www.idp.org.za/>



Ekhaya Municipality:

The housing department had a thorough look at the NSHP and decided that the main objective of social housing would be in line with the national one, being the restructuring of urban areas. The policy is also aligned with the province's social housing programme. The housing department will partly base the policy on information from the IDP, such as demographic data and they will finally present it as input to the IDP.

2.2. Legislation

What is the legislative context of social housing in our municipality?

Concerning legislation, the Social Housing Bill has been drafted and published in the Government Gazette for comments. The Social Housing Act is expected soon. Until the Act is final, there are various pieces of relevant legislation. In order to give effect to the formulated policy, you should take note of the existing legislation and formulate interventions according to the regulations thereof.

The most important Act will of course be the Social Housing Act, once it is in place. Other Acts that are of importance for social housing are the Housing Act, 1997 and the Rental Act, 50 of 1999. There are two acts that also have an impact on social housing, which are the MFMA and the MSA. The MFMA will be further discussed in chapter V.

Have a look at chapter II, paragraph 6. It gives you more information on legal requirements for your municipality.

For further details on the legislation we refer you to the website of the NDoH <http://www.housing.gov.za/>.

Ekhaya Municipality:

Ekhaya has made an overview of the most relevant legislation, besides the Social Housing Bill, that they needed to take into account while developing their social housing policy.

- The Housing Act of 1997 clarifies the roles and responsibilities of the three governmental spheres. The Housing Code gives practical guidelines.
- The Provincial Housing Act aligns with the National Housing Act and sets out the powers and duties of the MEC responsible for Housing and Land Affairs.
- The Rental Housing Act of 1999 is the legislative acknowledgement of the rental sector and the rental housing tribunal and therefore very important in the context of social housing.
- The Prevention of Illegal Eviction and Unlawful Occupation of Land Act (PIE) of 1998 significantly affects the ability of a SHI to evict defaulting residents.

The amendments of the Acts are also relevant.

3. Current Situation

What is the current social housing situation in our municipality?

In this chapter you describe the current situation of social housing in the specific municipal area of jurisdiction. You can, for instance, mention the main stakeholders in the social housing field, the current backlog, the number of SHIs established, the number of projects and units built so far, demographic statistics, waiting lists, etc. Some of this information can be drawn from the IDP. If there are gaps in your information, you may consider doing research to get a good picture of the current situation.

Another subject that could be highlighted in this chapter is the ownership of municipal housing stock. Many municipalities have housing stock that should be considered in the social housing policy as it may be useful for social housing purposes. You should look at how

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much stock there is, how many people are living there and what state it is in.



Case 3: Stakeholders

Challenge: In describing the current situation it is essential to have a clear overview of the most important stakeholders in the social housing process. After the stakeholders have been identified, their roles and responsibilities need to be clarified to avoid overlaps or vacuums.

Case: Ekurhuleni Metropolitan Municipality

In Ekurhuleni a forum was formed of all stakeholders in the social housing field. The Social Housing Consultative Forum was established to serve as a consultative and interactive platform comprising all relevant stakeholders in respect of social housing. It consists of the municipality, SHIs, NHFC, SHF, the Social Housing Directorate of the Gauteng Provincial Housing Department and the Gauteng Partnership Fund.

It could be an option to discuss the current situation in a meeting with the main stakeholders in the social housing process (See: Case 3). Another possibility is to establish a working group within the municipality containing representatives of all departments that will be involved in the social housing process.

Ekhaya Municipality:

The champion of the housing department organised a three-hour meeting with the main stakeholders. The result of the meeting was a description of the current situation, which turned out to be as follows:

The estimated housing backlog at the moment, based on socio-economic surveys, is 15000 units. Of these 15000, 5000 units should be targeting the social housing income group (R1500-R7500). The municipality has no social housing units at the moment. There is one newly established SHI, Smart Home Solutions, that does not have enough capacity to supply enough units for the demand of Ekhaya. The private sector would be able to deliver and manage 1500 units in the next five years. There are hostels as municipal housing stock, which after refurbishment could count for 800 social housing units. On the outskirts of the city there are two major townships, and many middle and upper class people are moving from the inner city to newly developing areas west of the city. The vacancies in the inner city are not being filled because of the high prices.

4. Future housing demand

How will the housing demand develop in the future?

You now have an overview of the situation in your municipality; the housing backlog, the demographic situation, etc. In this chapter you should draw a picture of what you think will happen in the future and how the housing demand and supply will develop. Ask yourself what the housing demand for the target group for social housing will be within a certain number of years. You need to estimate how large this target group will be and what their needs will be. Take into account issues such as employment, the average age of the population, the effect of HIV/AIDS, etc. Of course, you can make several scenarios for the future demand. For example, one scenario based on a high growth rate, and one based on a low growth rate.

The starting point is the current backlog in housing and the distorted spatial patterns. You could do a socio-economic survey that will provide information with which you can estimate how much of the housing backlog is formed by the social housing target group. A needs assessment could further unpack the current demand for social housing,

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e.g. special needs and various tenure options. Another possibility is to organise a brainstorm session with all stakeholders in order to generate an overview of the demands that need to be dealt with in the future (See: Case 3). One has to be mindful that South Africa is rapidly changing and that economic and demographic developments have their impact on social housing as well.

To estimate and formulate the future demand, economic developments and changes in the demographics should be projected on the current demand.



Ekhaya Municipality:

Due to the young population and the migration from the rural areas, the increase of the population will cause an estimated additional housing backlog of 4000 units over the next five years. With the current backlog of 15000, this increases the total housing backlog to 19000 units. The additional backlog for the social housing income group is estimated at 1000. This brings the total social housing backlog to 6000 units. Because of the young population, there also needs to be enough facilities such as schools, day care centres etc. in areas where these young families live.

5. Constraints on the way to social housing

What kinds of constraints or problems will we have to deal with?

When developing a municipal social housing policy it is good to have insight into potential problems or constraints, so you can solve them or find a way to deal with them upfront. In this chapter you should outline these constraints. You may already have come across some constraints when you described your current situation (chapter three).

Constraints for developing and implementing a social housing policy can be divided into internal constraints within your department or unit and external constraints affecting your department or unit. Internal constraints are problems that come up within the (social) housing unit or the unit that was designated to write the social housing policy and therefore fall under your own responsibility and authority. External constraints are problems that go beyond the power of the (social) housing unit, but can still come from within the municipality. To solve

these problems you depend on the assistance of other departments and stakeholders.

5.1. Constraints within our unit

What internal constraints do we have to deal with within our (social) housing unit?

The municipality's challenge is to facilitate the provision of adequate social housing units in order to respond to the future demand for social housing. There can be constraints within the department responsible for social housing that can obstruct the policy development process or the implementation of the policy. To be able to deliver an adequate policy, you need to be aware of the constraints you are facing and deal with them in an appropriate way.



Case 4: Limited capacity

Challenge: Many municipalities, but also institutions and organisations in South Africa, are dealing with a lack of capacity. This can be a lack in the number of staff, but also insufficient knowledge on certain subjects.

Case: City of Tshwane

The department dealing with social housing in Tshwane didn't have enough capacity, in staff as well as in knowledge to develop an extensive social housing policy. In collaboration with their Dutch sister municipality they contracted a housing expert to assist in drafting a framework for their social housing policy. For further development and formulation of the policy, they hired an intern from the University of Delft. She assisted in collecting data for further development of the social housing policy.

Constraints could be a lack of human resources (personnel) in the unit, or a lack of knowledge to facilitate and plan for new social housing projects thereof (See: Case 4). Another internal constraint might be the fact that you don't have enough available knowledge on the concept of social housing. To solve some of the constraints you could look for assistance from other municipalities that have more experience with social housing, national bodies, such as SALGA, consultants, etc.

Ekhaya Municipality:

Because social housing is new to Ekhaya, the knowledge base is limited in the housing unit as well as in the rest of the municipal organisation, resulting in difficulty to get started. To overcome this limitation the 'champion' gathered information from other parties, such as SALGA, the NDoH and other municipalities who had more experience in social housing. This information has been further distributed to other departments in the municipality that are in some way or another involved in social housing. Ekhaya also decided to hire a consultant to help them with the assessment of the financial implications of the policy.

5.2. External constraints affecting our unit

What external constraints affect our (social) housing unit?

There will be constraints or obstacles that you have to deal with during the policy development and implementation process that will not be directly under your control or authority. Part of your work depends on the input or cooperation of other municipal departments and other stakeholders. If that input or cooperation is not effective or non-existent then you must find a way to deal with it so that your policy development process can continue without delay.

A starting point is to organise good communication between your unit on the one side and other departments within the municipality and other stakeholders on the other side. In this way you can prevent possible problems from occurring. For effective social housing you not only need to build houses, but other facilities, like infrastructure, have to be catered for as well. For these facilities you need input and cooperation of other departments within the municipality.

Lack of sufficient political support or a limited budget or even a lack of delivery agents can be other major constraints in getting social housing started.

You need to be aware of possible constraints and deal with them by either solving them, or finding a way to work around them.

 **Ekhaya Municipality:**

One major constraint in Ekhaya is the lack of communication between the different stakeholders. So far the different departments didn't really talk to each other. The housing champion acknowledged this problem and decided to improve the situation. Her first step was to inform the different stakeholders individually and to organise a shared meeting every three months.

This turned out to be a great success, as the other departments wanted to share information as well.

6. Housing delivery goals

How do we formulate our social housing goals?

In this chapter you set out the ambitions of the municipality for a certain period of time and explain how you want to approach the challenges mentioned in the previous chapter. Based on the information you have gathered in the previous chapters you formulate your vision, mission, objectives and goals.

6.1. Vision

What is our vision?

The vision clearly defines the ambitions of your municipality, the ideal state in the future, and has to be in line with the national housing vision for South Africa: “[a] nation housed in sustainable human settlements with access to socio-economic infrastructure”. The municipal social housing vision also has to align with the provincial and the general municipal housing visions.

 **Ekhaya Municipality:**

The vision of Ekhaya for their social housing policy is: ‘To ensure that habitable, sustainable, affordable, and secure social housing units are developed, on locations that provide access to employment opportunities, health, education and social amenities’.

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6.2. Mission

What is our mission?

A mission statement explains in short how you want to achieve the preceding vision. It is a statement, not of measurable targets, but of an attitude that implies the role of the municipality and supports the vision.



Ekhaya Municipality:

The mission that Ekhaya has stated for its social housing policy is: 'Facilitating social housing delivery'.

6.3. Objectives and Goals

What exactly do we want to strive for in our policy?

In this part of the policy you state your objectives and goals. Objectives set out the principles for social housing that will guide the municipality in what to strive for in executing its strategy. Goals are more specific and provide visible targets that keep all stakeholders focused, and can be used to evaluate achievements at the end of the period.

The previous chapters of your policy should guide you in the formulation of the objectives and goals. The objectives can be based on the guiding principles set out in the National Social Housing Policy, which have already been mentioned in Box 4 in Chapter III of this toolkit. These objectives can, for instance, be integration of income groups, stimulation of economic activity in the area, or promoting security in the area.

Goals need to be specific, measurable, achievable, realistic, and linked to time limits. The main goals can be the number of units you are striving for, the plans you have with existing units (e.g. municipal stock), the target groups and the areas that you want to reach, and the period in which you want to accomplish everything. This should also be linked to the SDF when you are pinpointing the areas for social housing. More 'supportive' goals can be the establishment of a SHI, the creation of commercial units for shops in the area or the allocation of social housing units to specific income groups.

Make sure that you formulate reasonable objectives and goals. Consider your own budget, your capacity and the constraints that you must deal

with and formulate your goals and objectives according to the capabilities and local situation.

Ekhaya Municipality:

Ekhaya has to address a backlog in the social housing sector of 6000 units. The housing department has studied the guiding principles of the NSHP and with their current situation in mind, has formulated their *objectives* accordingly. Their main ones are:

- 1) Responding to the housing demand.
- 2) Striving for urban restructuring.
- 3) The delivery of housing for a range of income groups to achieve social integration and financial cross subsidisation.
- 4) The encouragement of economic activities in the area.

To achieve these objectives they have formulated the following *goals*:

- 1) To build 6000 social housing units within the next five years.
- 2) To build these units in open areas between the city centre and the townships and in the inner city and uplift the infrastructure around it, within the next five years.
- 3) To allocate social housing units to different income groups (40% of the units will be allocated to the R1500-R3500 income group, 30% to the R3500-R5500 income group and another 30% to the R5500-R7000 income group).
- 4) To stimulate economic activity, the housing department wants to allocate one commercial unit for every 100 social housing units. These commercial units will be rented out as business premises. This will be in agreement with the delivery agents involved.

Part two: How to do it?

7. Housing delivery strategy

How do we reach our goals?

In chapter six of the policy document you have stated the objectives and goals. In this chapter you have to formulate concrete actions that are needed to achieve your goals and attach a budget to your actions. There are actions that you have to take within your own (social) housing unit or within your municipal organisation, and there are actions that concern other stakeholders. Each goal mentioned in the previous

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chapter should refer to one or more actions (to be formulated in section 7.1) and each of these actions could have a financial implication attached to it (to be formulated in section 7.2). It would be advantageous to attach the task to a person or department that will be responsible and accountable for its implementation.

7.1. Actions to be taken

Which actions do we have to undertake to get the social housing process on track?

You know what you want to achieve with your municipal social housing policy, now you have to think about how you are going to make it happen. The goals, stated in the previous chapter, must be connected to actual actions. This means that if you want to build 6000 units in five years, you need to ask yourself which actions need to be undertaken to get that number of units within the timeframe, based on the current situation.

You need to have an overview of what is necessary to achieve these goals. To establish 6000 units in five years you need a social housing environment that is contributing to that delivery. You need enough SHIs or other providing agencies, but also the municipality and other institutions should be capable of servicing that amount of delivery. You need to ask yourself if, in the current situation, the social housing sector in your municipality is adequately capacitated to implement your goals. If there are no providing agencies present or they can't deliver the number of units that you are targeting, you can look for providers from outside your municipality, either SHIs or private companies, or you can set up a SHI as a municipal entity or engage in Public Private Partnerships (See: Chapter V).

This could mean that if the local SHI is not capable of delivering 6000 units in five years, you have to invite other SHIs from outside the municipality or private companies to deliver the remaining units. If there is no SHI you might want to establish one.

Financial or other incentives, such as preferential access to land, buildings or municipal housing stock or reduced costs for municipal infrastructure and services or local fiscal benefits, could be useful tools to stimulate and steer providing agencies. Of importance is to ensure

that all providers, SHIs, private companies and others have the same opportunities and none of them will get special treatment.

Other actions to be undertaken could include: application for subsidies with provincial or national government; the devolution of provincial- and national-owned land to the municipality; organising the transfer of municipal housing stock to SHIs; etc. Actions that you take must be in accordance with the goals that you have stated. The champion of the department should be the person to coordinate all the actions that you plan (See: Case 5).



Case 5: Social housing helpdesk

Challenge: The (social) housing unit should provide information and coordination between the stakeholders in the social housing process.

Case: Buffalo City Municipality

The municipality is planning to establish a helpdesk for social housing that will do the coordination, regular interaction and communication, attend and follow up on issues, submit reports on challenges, etc. on a regular basis to Council.

With the planning department you need to discuss the physical planning for social housing by zoning for social housing in the SDF and by including social housing projects in the IDP. Social housing development should also be included in other planning initiatives, such as urban renewal programmes or corridor developments. Other actions could be organising socio-economic surveys or (the consideration of) becoming an accredited municipality.

There can be many other actions that you, as a municipality, have to undertake to achieve your goals. It is merely a matter of looking at your goals and logically attaching the appropriate actions to them. To build units often means you have to make changes in your municipality as well, including allocating additional resources, such as additional staff.

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Ekhaya Municipality:

The main goal (Goal 1) that Ekhaya adopted is to deliver 6000 social housing units within five years. They now formulated the following actions to achieve this goal:

1a) The housing department will establish a municipal entity, Ekhaya Housing Institution. This SHI should be able to deliver and manage 1000 units in the next five years. Furthermore, the municipality will transfer the hostels to Ekhaya Housing Institution that will refurbish them and make 800 social housing units out of them. This means that the SHI will manage 1800 units in five years time.

1b) The housing department will support the new SHI with staff, office space and some funds for the first two years.

1c) The housing department will also help identify additional funding for the new SHI. Planning a meeting with the NDoH is a priority.

1d) The municipality will sign contracts with private developers for the delivery of 1500 units.

1e) The housing unit will look for SHIs or other providing agencies from outside the municipality to deliver the remaining 2700 units to reach their goal of 6000 units in the next five years.

1f) All social housing projects will get municipal support in the form of land cost and service delivery incentives.

7.2. Financial implications

What will be the costs and benefits of our actions?

Creating an enabling environment for social housing and building social housing units is a costly operation. The actual development of the units is a task for the SHIs and should be financed by them through subsidies, loans, or other financial resources. The municipality is responsible for the creation of the right environment for social housing and should finance all the necessary actions connected to that. This means that in order to ensure implementation of the policy, you need to get a picture of what the impact of the actions, mentioned in the previous chapter, will be on the municipal budget.

In this paragraph you shouldn't provide a specific budget, instead you should get an indication of the costs. Some of these costs will fall within the (social) housing unit, such as the employment of extra staff. These costs can be quite specific. Other costs will be more related to the

support of the social housing sector in general, such as tax rebates, reduction of land prices and bulk services. These costs cannot be specified yet, but you can for instance determine percentages of the tax rebates that you want to give per social housing unit. A specific budget can be finalised when the projects have been formulated and you know exactly how much you will have to spend e.g. on land price reductions.

The indication of costs to create the enabling environment will, however, give you and others in the municipal structure a good overview of what the financial implications will be if you want to achieve your social housing goals. This overview is necessary to see to what extent the municipality is able to assist the social housing sector financially. In other words, if your municipality wants social housing units, you have to be aware that a price tag is connected to it.

In this paragraph, you should also consider the benefits for the municipality that will directly or indirectly be derived from the development of social housing units. Benefits can, among others, come from taxes.

In addition to these direct benefits you should look into the possibility of obtaining additional funds for social housing. You could, for example, in the event that you have a twinning relationship, ask your sister municipality for assistance. Other options can be to make use of national finance bodies, (international) donors, etc. You should spend some time exploring these opportunities, as these organisations can really support you financially.

Note that social housing projects must be economically viable in the long term and that the SHI must be financially independent over time.

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Ekhaya Municipality:

For the development of 6000 social housing units the municipality will bear costs as well as receive revenues. After long negotiations between municipal officials and politicians, Ekhaya agreed on the following financial statements for the support of building the 6000 social housing units:

- 1) R100 000 per year for the operation of Ekhaya Housing Institution, plus secondment of two staff members and free office space within a vacant municipal building.
- 2) Provide land to the social housing developers with a 30% reduction on market prices.
- 3) Provide bulk services with a 50% reduction on market price.
- 4) Allocate four extra full time staff members to the Housing Unit of Ekhaya.
- 5) R 80 000 per year for research on Social Housing issues.

Ekhaya also decided to search for funds from outside the municipality. They will at least have talks with their twinning city, SHF, and the province to attract additional funds.

8. Responsibilities of other stakeholders

How do we divide the responsibilities?

Now you know what actions you are going to take as a (social) housing unit, you need to make sure that the other stakeholders involved in the sector are well aware of their tasks. This chapter therefore includes an analysis of the tasks of the stakeholders. There is a special section on the relationship between the municipality and the SHIs, as they are crucial for the delivery of social housing units. Their relationship to the municipality and the responsibilities to each other should be well formulated. (See: Chapter VI)

8.1. Responsibilities of stakeholders

What are the responsibilities of each individual stakeholder?

When you get to the implementation phase of the policy, you have to be aware that implementation does not solely involve the municipality; you are also depending on other stakeholders (other departments, the

province, SHIs, etc). Therefore it is crucial to explain to the stakeholders what is expected of them.

The champion should coordinate and monitor the actions of the different stakeholders during the implementation phase. So in this section the responsibilities of all these stakeholders should be addressed in order to ensure that all the parties involved are well aware of their tasks (See: Case 6 and 7).

Where possible they should be linked to the actions in chapter seven of the policy. According to the goals you have formulated in chapter six and the actions you have stated in chapter seven, you now have to designate responsibilities to all the stakeholders.



Case 6: Responsibilities of primary stakeholders

Challenge: As a municipality, you have to ensure that all stakeholders are well aware of their responsibilities and of what is expected of them. All tasks have to be designated to specific stakeholders.

Case: Buffalo City Municipality

The municipality has divided all the stakeholders into primary and secondary stakeholders. The primary stakeholders are the municipality, the SHIs, the provincial housing department and beneficiary groups (tenants and applicants). The municipality has assigned a list of responsibilities to each of the first three stakeholders.



Case 7: Relationship with the Province

Challenge: To ensure a smooth and fruitful social housing process the roles and responsibilities of the provincial and municipal governments should be clearly identified.

Case: Ekurhuleni Municipality

The municipality and Gauteng province signed a Memorandum of Agreement in which they clarified each other's roles and responsibilities. The role of the municipality is broadly to support development, the actual implementation of plans. To ensure alignment, developers have to work closely with the municipality, and the municipality has to work closely with province.

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One group of stakeholders that should certainly not be forgotten is the public. This group does not only contain (future) tenants, but also the community in the area where social housing projects will be allocated. People need to understand what social housing is, and what it will mean for their neighbourhood. This means that you should create a communication strategy detailing on how they will be informed.

For further details see appendix 2, this gives an overview of the main stakeholders and their roles and responsibilities.



Ekhaya Municipality:

The social housing champion of Ekhaya described the roles and responsibilities of the different stakeholders as follows:

- 1) Municipal departments:
 - a) The housing unit is the champion and coordinator of social housing;
 - b) Other departments are aware and committed to undertake their specific tasks;
- 2) Province:
 - a) There will be a MoU between Ekhaya and the province stating agreements made between them;
 - b) Together with the municipality the province will determine the RZs;
 - c) Province will provide assistance in capacity building in the accreditation process of the municipality;
- 3) Private companies: they have committed themselves to deliver a total of 1500 units in the next five years;
- 4) Ekhaya Housing Institution: they will deliver 1000 units and manage another 800;
- 5) Other providing organisations: the municipality is still looking for additional providing agencies for the delivery of the remaining 2700 units of their targeted 6000 units.

8.2. Relationship between municipality and SHIs

How does the municipality relate to the SHIs?

The current relationship between the municipality and the SHIs can be described in chapter three 'Current Situation', whereas the ideal

relationship for the future should be described in this section. In this section you should mention what you expect from the SHI and how that will be monitored.

 Box 8: Relationship with the social housing institutions

The roles and responsibilities of the municipality and the social housing institutions should be clearly identified. A social housing policy alone doesn't ensure the actual production of social housing units. In several municipalities plans for social housing have been developed and housing institutions have been established but not a single unit has been delivered.

It is advisable to sign *performance agreements* with SHIs in which the municipality commits itself to the delivery of e.g. (low cost) land or buildings while the social housing institution commits itself to the delivery of a certain number of units for a particular income or target group of tenants. Progress in this respect should be monitored periodically.

The municipality and the SHI(s) have to sign a *performance agreement* (See: Box 8) in which both parties clearly state what is expected of them. Besides a performance agreement signed with each SHI, the municipality can also sign partnership agreements with a group of SHIs. Part of the performance agreement can, for instance, be the percentage of units for special groups, or even agreements on how to improve the security and the quality of life in the area.

In Chapter VI we will go into the performance agreements in more detail. Chapter VI contains a template for the development of a performance agreement.

Ekhaya Municipality:

Ekhaya has established a SHI, called Ekhaya Housing Institution. Together they agreed on specific obligations and benefits, which they formally acknowledged in a performance agreement. In this agreement they stated that the SHI will deliver and manage 1000 social housing units in five years and manage another 800 units from the former hostels. The municipality will assist the SHI in the establishment phase and it will provide funds for operation and research, office space and staff.

Contracts have been signed with the private sector companies that are executing social housing projects. They will be delivering and managing 1500 unit in five years. Apart from the support to the SHI in the establishment phase, the municipality will apply the same provisions to the private sector as it does to the SHI.

9. Monitoring and evaluation

How do we monitor and evaluate the policy?

When all the targets have been set, the actions have been planned and every stakeholder knows what role it has to play, it is important to think about the implementation and how you want to monitor it. Specific implementation and monitoring plans can be made after the policy has been integrated into the IDP and concrete projects are formulated. In this chapter, however, you should write how you want to monitor and evaluate the activities planned in your policy.

Monitoring is essential because it is the only way you can control the implementation and delivery process. It enables you to detect problems early and intervene when necessary, and it can highlight progress. You should keep a close eye on what is happening in the field and be prepared to make necessary adjustments in time.

The strategy should include monitoring of SHIs and other actors involved. In order to determine to what extent SHIs are actually operating according to the performance agreement, municipalities should monitor their achievements. This can be done through regular meetings and annual reports, which can also be regulated in the performance agreement. Monitoring criteria could be the number and

type of units built, vacancies and arrears, demographics of tenants, financial status, etc.

After you have finished a project, *evaluation* is essential to get a clear picture of what you have achieved. If your goal was to deliver 6000 social housing units in five years and after those five years you see that only 1000 units are finished, you have to ask yourself what went wrong. *Why was the target not reached?* Maybe goals were set too high, or unforeseen obstacles were encountered. Knowing what went wrong will help you in the future. So in this chapter you should state how you will evaluate the social housing projects, who will be coordinating it, which criteria will be used, etc.

Criteria for monitoring and evaluation can be derived from the objectives and goals that you have stated in chapter six of the policy.



Box 9: Approval of the policy

After you have finished the process of writing the policy, now it is time to seek council approval so that the implementation process can start.



Ekhaya Municipality:

The social housing champion of Ekhaya is in charge of the monitoring, and decided to meet at least once quarterly with the SHIs and the private companies to discuss their progress and/or possible problems that have come up. All delivery agents agreed to write a report every six months on their situation.

The criteria for evaluation of the main goal of Ekhaya are closely connected to the original goals and are defined as follows:

- 1) The number of units that have been established in five years.
- 2) The number of units established in the inner city.
- 3) The income groups divided over the new units.
- 4) The number of commercial units established and rented out in five years.

In addition, inhabitants of social housing projects will be asked for their opinions on the quality of the units and the work of the SHIs and the municipality.

Ten Golden Principles

Out of all the previous information we have we have extracted the 10 most important conditions that you have to keep in mind while developing your (social) housing policy. We call them the Ten Golden Principles. This overview can support you during the process of developing a municipal social housing policy.

Ten Golden Principles for Developing a Municipal Social Housing Policy

1. Identify a champion for social housing and establish a (social) housing unit. (See: Box 5 and Case 2)
2. Find and ensure political support for the social housing policy. (See: Box 5)
3. Find or create enough capacity to develop and implement the policy, in the number of staff, as well as in competency and knowledge of staff. (See: Box 5)
4. Inform stakeholders before and during the writing process. The best way to do that is to organise a stakeholders forum. (See: Box 5 and Case 3)
5. Aim for reasonable objectives and goals; don't be too ambitious. Consider your constraints and the local situation when formulating the objectives. See: Chapter IV, headings 5 and 6)
6. Integrate the social housing policy into the IDP. (See: Chapter III)
7. Sign clear agreements with the SHIs on the obligations and benefits. This can be done in a performance agreement. (See: Box 8 and Chapter VI)
8. Agree with the province on subsidies and tasks. This can be done in a Memorandum of Understanding. (See: Case 7)
9. Ensure community support for social housing. People in the area where social housing is planned need to understand what social housing is and what it means for their neighborhood. (See: Chapter IV, heading 8)
10. Measure your outcomes periodically by monitoring. Evaluate every project when it has been finalised. (See: Chapter IV, heading 9)

Chapter V: The MFMA and Social Housing Delivery

Part one: The MFMA

1. Why this chapter on the MFMA?

The interpretation of the MFMA and the related legislation can be complicated and has raised questions at quite a number of municipalities. This chapter has been developed to answer some of these questions. Many municipalities are struggling with the legal side of the establishment of, and their relationship with SHIs in the sense of ownership. Some municipalities, for example, have a SHI that is a section 21 company, but they want to convert that into a municipal entity. Other municipalities don't have any SHIs and want to establish one, but don't know which structure would function best in their case. Then there are questions about the relation between the delivery agents of social housing and the municipality, for example about the control that the municipality has over a SHI.

We would like to give some clarity on the most recurring questions within this chapter of the toolkit. Because of the complexity of the matter we will not be able to get into all the legal details, but at least we can give some guidance that may make it possible for you to make an informed decision on how to proceed when it comes to the delivery of social housing in your municipality.

2. What is the overall aim and purpose of the MFMA?

The MFMA is enacted in 2003. It regulates and creates norms and standards for the financial management in local government. The MFMA applies to all municipalities, all municipal entities and to the national and provincial institutions of the state in so far that they are dealing with municipalities. The MSA, the Companies Act and the Public Finance Management Act (PFMA) are important acts in combination with the MFMA. It is stated in the MFMA that in the event of any inconsistency between a provision of the MFMA and any other

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legislation in force, which regulates any aspect of the fiscal and financial affairs of municipalities or municipal entities, the provision of the MFMA prevails.

Part two: Delivery agents of social housing

1. What kinds of delivery agents for social housing can you choose from?

For the delivery of social housing, the municipality needs an independent company that will deliver and manage the social housing units (see also paragraph 7 in Chapter II). Each municipality will need to decide which kind of company will be most suitable in their case to deliver and manage the social housing stock. There are several options that the municipality can choose from. With each different delivery agent comes a different level of control that the municipality has over the agent that will do the delivery. The choice for a specific delivery agent depends on the local circumstances. Later in this chapter we will elaborate on the advantages and disadvantages of the different delivery agents, here we will first explain the options for the delivery of social housing.

Delivery agents:

Option 1 Municipal entity: One option would be to establish a SHI as a municipal entity. In effect this means that the municipality will be the owner of the SHI and will mainly monitor it, but that the actual work will be done by the entity itself.

Option 2 Public Private Partnership (PPP): The second option of social housing delivery is through a PPP construction. This means that the municipality will create a joint-venture with a private party. A PPP is not a SHI in itself but a partnership between the municipality and a SHI or another company that does the delivery of social housing units.

Option 3 Third party: The last option that we will discuss here is delivery through a third party. This means that a company, other than a municipal entity, will do the delivery. This can be a non-profit or a for-

profit company. It can be for instance a SHI, or an independent for-profit company.

It is not an option to have social housing units developed and managed by your municipal housing department; you need an institution to which the subsidies, either the capital grant or the institutional subsidy, can be paid.

Please bear in mind that it is not our intention to promote one of the options over the others; we merely want to display the different possibilities. It is up to you as a municipality to decide which option will be the best in your specific circumstances.

2. How does the municipality relate to the different delivery agents?

These three options all have a different level of ownership or involvement of the municipality. Although the municipality has control over the output of the project, the control over the internal management of the institution becomes less from delivery option 1 to 3. Yet, whichever option is chosen, the municipality will have to sign a performance agreement with the delivery agent. This agreement is an instrument for the municipality to exercise some control.

If the SHI is a *municipal entity*, the municipality is the owner and the main shareholder. The municipality has so-called shareholder powers. This means that they have the power to appoint directors and the exercise of the majority of the votes at the general meeting of the company. Furthermore, the budgets of the municipal entity must be submitted to the municipality and recommendations from the municipality must be considered. The budget must be in line with the budget and IDP of the municipality. The municipality may intervene in the financial affairs of the municipal entity and it may disestablish the entity if certain conditions are met. The board of directors and the executive management of the SHI run the day-to-day affairs. In principle a municipal entity is, at least in its management, independent from the municipality.

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In a PPP there are two partners; one of them is the municipality. The private party is a completely independent company which means that the municipality has no control over its internal affairs. The private party will perform a municipal function on behalf of the municipality, or will acquire the management or use of municipal property for its own commercial purposes. The municipality keeps ownership of the housing stock and land, while the private party takes on most of the risks and the daily work. A PPP is a temporary partnership that has a fixed duration. After the contract ends the stock and land will return to the municipality.

And finally, if the delivery agent is a third party it is a completely separate company. This means that the municipality cannot interfere in any way in its management. Considering that the municipality is not the owner or partner, as was the case in the two previous delivery options, it is essential for the municipality to sign a performance agreement with the third party. This is the only tool for the municipality to organise its relationship to the delivery agent. It enables the municipality to exercise control over the delivery of the social housing units.

The correct 'distance' between you as a municipality and any kind of delivery agent is very important. For the municipality it is important to have enough influence in the delivery process to ensure that the goals of your social housing policy will be reached. On the other side, it is important that the delivery agent can function without (too much) political interference. Having a commercially well functioning delivery agent is also in the interest of the municipality. All three delivery options should be considered as they all have their advantages and disadvantages.

3. What are the advantages of a municipal entity?

A municipal entity is the only kind of company that can be established by a municipality. Establishing a SHI as a municipal entity can be done for several reasons, which may vary, for example, from legal reasons to a lack of other alternatives. There are three different kinds of municipal entities; the private company, the service utility and the multi-jurisdictional service utility.

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Out of these three options, the first is most probably the best structure for social housing. Service utilities and multi-jurisdictional service utilities are more appropriate for the delivery of services like electricity and water and will not be able to acquire institutional subsidies. The advantages of a private company can be that many lenders prefer to lend to a private company in which they can take an equity stake, especially if there are financial guarantees from the parent municipality. Without this guarantee, lenders are not very likely to provide finances. This kind of guarantee needs council approval and there are other restricting measures. It can be a complicated process. For further details on this we refer you to section 50 of the MFMA.

Please note that a private company in this context does not mean that it is owned by private individual(s) but private as stipulated in the companies act (section 20). In the box below we have summarised the positive reasons for establishing a SHI as a municipal entity.

Through the SHRA there are funds available for capacity building in accredited SHIs. This should enable municipal entity SHIs to build the necessary capacity. The municipality can also assist the SHI in the initial stages with finance and/or material assets.

Box 10: Advantages of a municipal entity

Reasons for establishing a SHI as a municipal entity (private company) can be:

- a) **Short communication lines:** Because the municipality is the owner of the entity, the communication lines will be short. The municipal entity is operating independently to a certain extent, but is still owned by and accountable to the municipality as a representative of the public. Policy and implementation processes are closely linked. Yet, one needs to keep in mind that this close connection can also become a disadvantage when the council is executing too much influence in the strategy of the entity.
- b) **Access to capital funding:** By establishing a municipal entity the service of social housing that is provided is 'ring-fenced', which means that the revenues coming from this service remain within the entity and can be reinvested in social housing again. This is a very attractive feature for investors.
- c) **Preferential procurement:** For the implementation of social housing projects, the municipality will most likely prefer to make use of the municipal entity for the delivery because all assets will remain in municipal ownership. Yet, one has to keep in mind that it is often better to have more than one supplier for social housing to spread the delivery.

4. What are the disadvantages of a municipal entity?

As a municipality you cannot just establish a municipal entity, there are some restrictions to it. In the MSA there are five rules that put restrictions on the establishment and use of municipal entities. These are explained in appendix 4. According to the MFMA and the MSA a municipality can only establish a municipal entity for the delivery of a municipal service. According to the Housing Act, housing is not a municipal service but a provincial and national service. But the municipality definitely has some tasks when it comes to (social) housing. As already mentioned in the chapters II and III, the municipality is compelled to plan for (social) housing in the Housing Chapter of the IDP and has to create an enabling environment for (social) housing.

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If a municipality wants to establish a municipal entity for the delivery of social housing, it will have to show that there is a need for social housing and therefore it is in that case a municipal service. This needs to be demonstrated to the council and treasury of the municipality. Of course, when a municipality is accredited, housing is a municipal function.

Box 11: Disadvantages of a municipal entity

Although there are quite some advantages to having a municipal entity as a SHI, there can also be some constraints to achieve the objectives of the entity:

- a) **Realising ring-fencing benefits:** This will enable the SHI to reinvest the revenues, but municipalities may be unwilling to ring-fence major services, and may want to stay in control of the revenue collection.
- b) **Managing relationships:** It is very important for the municipality to have sufficient control over what happens. There should be a performance agreement between the two parties including a good monitoring system, but that can be difficult to negotiate, monitor and enforce. Highly important is a good relationship between the partners based on trust. There are also other contracts that will manage the relationship.
- c) **Human Resource issues:** To ensure that the performance of the entity is good, one should keep in mind that qualified and dedicated staff is necessary. The entity and the staff should have a commercial view on performance. Yet, municipalities may have guidelines for, or restrictions to the procurement of staff that other companies don't have. This can influence the quality of the staff that can be hired.
- d) **Ability to access capital:** Lenders will be hesitant if the relation between the municipality and the entity is not clear or could cause problems in their view. Therefore it is important to have the above mentioned issues resolved. On top of that, a municipal entity cannot own any stock or land, it will remain municipal property. Investors will be hesitant to invest when the company does not own the property that it is working with.
- e) **Administrative burden:** Having a municipal entity for the delivery of social housing puts an enormous administrative burden on the municipality because of bureaucratic rules of governmental organisations.
- f) **Political influence:** Because the municipality is the owner of the municipal entity, they can easily cut the budget for the entity, and/or change the strategy. This can happen, for instance, when there are major changes in the priorities of the council after elections.



Case 8: Access to capital funding

Challenge: Getting capital funding for projects can be difficult for a municipal entity. Investors may be hesitant to fund when there is a close link to the municipality because they may fear political involvement which can delay or otherwise influence the project.

Case: Johannesburg

In Gauteng, the Gauteng Partnership Fund (GPF) prefers to lend to a 'Special Purpose Vehicle' (SPV), established as a private company, in which they can take shareholding as a way of securing control over their investment. The Johannesburg Housing Company that undertook the Brickfields Development in the centre of Johannesburg, for example, has incorporated a separate private company (PTY) as a project vehicle so that project funds are ring-fenced and so that the different investors (such as GPF) can take equity in the project. This way, investors are more motivated to invest in projects.

5. What are the advantages of a PPP?

A PPP is a joint-venture between the municipality and a private party. It is a temporary arrangement, although it may, for example, last as long as 30 years. The municipality and the private party both carry part of the ownership of the PPP. The company will be in charge of the development and management of the social housing project(s), while the municipality monitors it.

Box 12: Requirements for a PPP

There are some requirements for a PPP, which are:

- 1) Within the PPP the private party must perform a municipal function or manage or use municipal property for its own commercial purposes. In this case it will be for the development and/or management of social housing stock.
- 2) The private party must assume substantial financial, technical and operational risks with regards to performing the municipal function or with managing or using the municipal property. This would mean that the private party carries the risks of the project.
- 3) The private party must receive a benefit from performing the municipal function or from the utilisation of the municipal property. In return for the development and/or management and carrying the risks, the private party will at the end of the project make earnings out of it.

In a PPP the municipality will keep the ownership of the land or housing stock that will be developed and/or managed by the private party. The private party and the municipality will sign a lease agreement and at the end of the term of the PPP all assets will be handed back to the municipality. This means that there can be no permanent transfer of land or housing stock from the municipality to the private party within a PPP. This way the municipality will in the future regain control of the land or stock and will be able to continue to use it for social housing or other municipal purposes. The fact that the land is not owned by the private partner can cause some difficulties for the acquirement of loans, as is the case with municipal entities.

One of the main reasons for municipalities to enter into a PPP is to transfer risks to an external service provider. The amount of risk that the private party will accept can differ per PPP. The municipality and the private party have to sign an agreement on the risks and responsibilities that they both will take. Of course the project has to be economically viable and the private party will have to be able to retrieve a reasonable profit from it, otherwise they will never enter into an agreement with the municipality. So the goal of the PPP is to provide a municipal service with a commercial quality and efficiency rate.

 **Box 13: Advantages of a PPP**

The positive aspects of a PPP for the municipality are the following:

- a) **Commercial operation:** The private partner that will do the development and/or management has the necessary experience and expertise to provide the service in a commercially oriented fashion.
- b) **Separation from politics:** By handing over the day-to-day business to a private partner, there will be no political interference. The municipality will still need to monitor the performance of the company and will set all tariffs, but will not be able to get involved in the way the company is run.
- c) **Accountability:** By signing performance agreements with the private party, the municipality can hold the company accountable for the service delivery. If the company doesn't perform according to the agreement, the municipality can, in the worst case, apply sanctions or end the contract.
- d) **Access to capital funding:** A private partner will have easier access to capital than a municipality, provided that it is a financially healthy company.
- e) **Capacity:** Through a PPP it is possible to implement large scale projects.

6. What are the disadvantages of a PPP?

As with all the options establishing a PPP also has its downsides. Firstly, it can be a procedurally demanding and expensive process. National Treasury has described the project cycle for the establishment of PPPs in a manual. In this cycle there are several modules that need to be passed to establish a PPP and at certain stages in the project cycle one needs to get approval from Treasury to continue. The requirements to get all approvals and to go through the whole cycle can be time consuming and expensive.

Secondly, to make a PPP economically viable, you need a project of a certain scale. Some experts consider a financial threshold for viable PPPs at around R50 to R100 million. Not all projects will reach this range and in those cases a PPP is considered not to be a viable option.

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A third motivation for not choosing a PPP could be that the municipality lacks the capacity and experience to properly monitor the private partner. Things that the municipality should be capable of are for example:

- a) Carefully structuring the transaction with realistic investment requirements
- b) Committing funding and internal expertise to a rigorous procurement process
- c) Monitoring contract compliance during implementation of the project
- d) Dealing with at least some opposition to the project from organised labour.

This last point can occur when there will be a cut back on municipal staff or when fundamental socio-economic rights or expectations are endangered, such as the right to proper housing.

Box 14: Disadvantages of a PPP

There are some constraints when considering engaging a PPP:

- a) **Establishment:** Establishing a PPP is procedurally a demanding and expensive process.
- b) **Economical viability:** For a PPP to be economically viable, one will need large projects.
- c) **Capacity:** The municipality will need quite some capacity and experience to properly monitor the private partner.

The financial threshold will be a big constraint for many municipalities. Yet, there are examples of a form of co-operation below the threshold range in Cape Town with non-profit SHIs that are financially sustainable (See Case 9). These forms of co-operation are not formally acknowledged as PPPs, yet in practice show a lot of similarities. They are based on lease agreements that can run for 30 years. The essential principle is that the flow of resources to the SHI in terms of leasehold land and housing subsidy must ensure the viability of the specific project as well as the institution over time. It is also possible to have an agreement for 5 years and then control the land leased on the basis of the

leasehold agreement. In such instances the initial PPP gives way to a strong contractual relationship with a private SHI.

The National Treasury has developed a PPP manual that can be downloaded from their website. This can further assist you in your decision making. www.ppp.gov.za

7. What are the advantages of a third party?

The third option that we discuss here is delivery of social housing through a third party. A third party can be a non-profit or a for-profit company. It can be an accredited SHI, but also for example a private, for-profit party or even a municipal entity from another municipality. Though the social housing sector is not a very profitable sector, some companies that work for profit may still be interested in certain projects in which they can make a small profit. Non-profit companies will have to reinvest any profit they make into social housing. This can be done in new projects or in existing projects.

The third party, having the necessary practical knowledge and experience, will perform the implementation of social housing projects. The advantage here is that the delivery and management will be done separately from political interference. Also, the municipality will not need to put any additional burdens on its own capacity because the day-to-day work and challenges will be handled by the company.

The municipality does not have any control over the company itself; it does not have any shares or any right to monitor the internal management of the company. To make sure that the company will deliver and manage social housing units as agreed upon with the municipality, the two parties have to sign performance agreements and other contracts. In the performance agreements both parties commit themselves to the overall goal of the delivery of social housing units. The performance agreements are an instrument for both parties to ensure that their partner will hold his end of the bargain. See also chapter VI on performance agreements.

Box 15: Advantages of a third party

This option has a number of advantages:

- a) **Commercial operation:** The company can function in a commercial way. It will have the necessary experience.
- b) **Separation from politics:** The SHI will be completely separated from politics. The burden on the municipal housing department will be reduced.
- c) **Accountability:** By signing a performance agreement the municipality can keep control over the output of the social housing project(s).
- d) **Access to capital funding:** A private sector company will have easier access to capital than a municipality, provided that it is a financially healthy company.

Case 9: PPP-like co-operation

Challenge: The municipality is planning a social housing project on municipal land in a preferential area. The municipality does not want to sell the land because they want to keep it available for social housing in the long term as well. Transferring the ownership of the land to an independent SHI may mean that they lose control over what happens to it and the units may be sold after a number of years. The project they want to execute is not large enough to reach the economic threshold for a PPP.

Case: City of Cape Town:

To ensure that they keep control over the municipal land and the social housing units that are being built, the City of Cape Town has chosen for a combination of a PPP and a third party. They have entered into performance agreements with several non-profit SHIs to do the delivery and management of social housing units. They have also signed land lease contracts of 30 years, in which the SHIs will be able to make enough money from the project to cover the costs. After the 30 years the assets will be returned to the municipality. The municipality has carefully selected their partners based on their financial stability and their experience. If the initial projects are successful, these partners will receive more projects to enlarge their financial viability. Cape Town has chosen not to engage with too many partners, because the partners require sufficient housing stock to be financially viable.

8. What are the disadvantages of a third party?

The transfer of land or housing stock to a third party is a very complicated business. If the municipality transfers stock and/or land to a third party, it will be lost for future municipal purposes, while in the case of a municipal entity or a PPP arrangement, it remains municipal property. The stock or land has to be sold at market value, yet also the economic and community value of the transfer need to be taken into account. This means that if the stock or land will be used for social housing there will be a certain value returned to the community by the development of social housing units. The municipality can also transfer 'bad buildings', that is, municipal buildings that are not being used, but may have potential for social housing. In this case one can think of former office buildings or hospitals within the city that are vacant, these can be converted into social housing units. Of course you can also consider a lease agreement with the SHIs instead of a definite transfer of the land (See: Case 9). That way, you will eventually remain in control of the land/stock.

Box 16: Disadvantages of a third party

Having a third party as a delivery agent also comes with some possible constraints:

- a) **Municipal ownership:** The municipality has no form of ownership in the third party and therefore can only apply control via performance agreements and other contracts with the third party.
- b) **Land transfer:** With a third party the issue of land and/or stock transfer is complicated. If transfer takes place it will be permanent and the municipality will lose control over that stock in the future.
- c) **Procurement:** Procurement of social housing projects may be disadvantageous for third parties because municipalities will, in most cases, prefer to use their own municipal entity, if existent.

Which option to choose?

Having discussed the different options that are available for social housing delivery, it is now up to you to weigh the advantages and disadvantages and to decide which option will be the best in your municipality.

There are some issues that you would have to take into account when making this decision, such as the capacity of your municipal housing department, the social housing demand in your municipality and the (lack of) presence of SHIs or other possible providers. Also consider the time that it will take before the entity will be able to deliver. If you need fast delivery, you would want to look for a provider that is already up and running.

Ekhaya Municipality:

Considering the different possibilities for SHIs, the local circumstances and the capacity of the housing department, Ekhaya has established a SHI as a municipal entity, Ekhaya Housing Institution. They also decided to attract a SHI that is currently operating in another municipality, Kolapeng Housing. Shortly after the approval of the social housing policy a non-profit SHI, Smart Home Solutions (section 21), was established by a church-based organisation. This SHI will be responsible for a part of the delivery and management of the social housing units in Ekhaya. Ekhaya Housing Institution will be able to take over the management of the municipal rental stock. With the other SHIs and the private sector companies the municipality will sign land lease agreements.

Part Three: Frequently Asked Questions

1. What to do if there is no existing SHI available?

Some municipalities already have a municipal entity or independent SHI in their area of jurisdiction, some municipalities do not. If there already is a SHI (in your municipality or in a neighbouring municipality), or another company that can execute the implementation of a social housing project, you don't have to establish a SHI yourself, but you can make use of them.

If you can't make use of any existing companies, or if there is no SHI, you may have to consider establishing a municipal entity. This option can be a complicated and delicate undertaking. If you decide to establish a municipal entity, you first need to make an assessment of the impact that it will have on your municipality. For instance, how much money will be needed to invest, what kind of assistance will be given to the entity, will there be any staff or assets transferred, etc. For the formation of municipal entities there are some restrictions, summarised in five rules that limit the options in the establishment and use of the municipal entity. These are mentioned in Appendix 4.

2. What to do with existing section 21 Companies as municipal entities?

The Municipal Systems Amendment Act states that a municipal entity cannot be a section 21 company; only a private company, service utility or a multi-jurisdictional service utility. Some municipalities have established municipal entities as section 21 companies for social housing before the Municipal Systems Amendment Act took effect in 2003. For those SHIs an exception is being made. The municipality does *not* have to disestablish the section 21 company or convert it; it will be treated as a normal municipal entity. Though, newly established municipal entities will have to be one of the three prescribed types of entity.

You can convert a section 21 company if you wish to do so, but it is not required. If you choose to convert, it should be done by means of a by-law into a service utility. Yet, if the municipality would want to change

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it into a private company it requires winding up of the company. Considering that a private company is the most suitable kind of municipal entity for social housing, you would have to choose between leaving the section 21 company as it is, or winding up and changing it into a private company municipal entity. But as said before, existing section 21 companies, established before 2003, can continue as normal municipal entities.



Case 10: Section 21 Company

Challenge: Municipal entities cannot be section 21 companies. Yet, there are municipal entities (SHIs) that were established as a section 21 before the enactment of the MFMA in 2003, and some municipalities are struggling to address this.

Case: The City of Tshwane

The City of Tshwane established a municipal entity SHI as a section 21 company in 2001. Because it was established before the enactment of the MFMA they can continue with this SHI as a section 21 company.

3. What to do with your municipal housing stock?

If you have municipal housing stock it may be worthwhile considering the transfer of your housing stock to the social housing provider. Municipal housing stock can put a burden on your housing department and it may be financially attractive for a SHI to obtain the stock. Extra housing stock can possibly make the SHI financially more viable. Yet, if the stock is in a bad condition or there are other problems like non-payment or a bad geographical location, it may also jeopardise the economic position of the SHI.

A municipal entity cannot own stock, but it can manage stock that remains municipal property. In the case of a PPP the ownership is shared, yet after the PPP ends, the stock will be returned to the municipality. For third parties the ownership of stock can be handled in different ways. There can be a lease agreement which means that the municipality will keep ownership. There can also be a sale, in which case the third party will obtain ownership. There are some advantages and disadvantages to these two options. For a municipality it is important to

keep control over the land, in which case a lease agreement would be the best option. Yet, for the SHI it can be important to get full ownership, which will increase their possibilities to access loans.

A municipality is not allowed to transfer any stock if that can jeopardise the minimum level of basic municipal services. If the municipality wants to transfer housing stock to a SHI, both parties must agree to it. Of course an independent SHI can never be forced to take over unviable stock and in most cases a municipality also cannot force a municipal entity to take over the management of unviable stock. On top of that the NDoH is striving for SHIs that are economically viable and it will not give subsidies to unviable, and therefore, non-accredited SHIs. In some cases a SHI can come to an agreement with a municipality on taking over economically non-viable stock if the municipality offers something in return, for example a profitable piece of land or stock to compensate for the costs

The SHF has done extensive work on the transfer of municipal rental stock for social housing purposes. They can provide you with more detailed information. See www.shf.org.za

4. In what ways can a municipality assist a municipal entity?

A municipality can decide for itself to what extent it wants to support a SHI and what kind of support it wants to give. When you are establishing a municipal entity, the municipality can assist that SHI in different ways. Especially in the starting phase the SHI may need assistance in the form of office space and equipment, temporarily secondment of municipal staff or assistance in the payment of staff. This kind of assistance should only be given to help the SHI in the beginning. After a certain agreed period, when the SHI is up and running, it should be financially self-sustaining.

Another way in which you could assist a SHI is in the sale of land or stock, or the delivery of bulk services at a favourable price, so that the SHI will be able to keep the rental prices of the social housing units low. SHIs should get preferential treatment in the access to municipal land, buildings and/or rental stock over companies that will not provide

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social housing. This can be applied to all kinds of SHIs or social housing projects.



Case 11: Municipal assistance to SHI

Challenge: For any SHI, either a municipal entity or a private sector SHI, the establishment phase is difficult. There is no housing stock yet, so no income and still, office space and equipment is necessary and salaries need to be paid.

Case: Ethekwini Municipality

The Ethekwini Housing Association (ETHA) received assistance from the municipal housing unit in their establishment phase. This assistance was in the form of:

- administration support by communicating to their clients and stakeholders
- facilitating access to well located land for social housing development
- facilitating access to capital money for projects
- assisting in the application for restructuring grants
- identification and finalisation of provisional restructuring zones for SHIs.

5. Is it recommended to second municipal staff to the SHI?

It is understandable that a municipality would consider seconding staff to the SHI. It can be helpful in the starting phase of a municipal entity SHI to have one or a few staff members seconded from the municipality. The seconded staff has experience with housing and could help getting the SHI started. Yet, there are some possible problems that come with the secondment of staff. The staff will be paid by the municipality, but working for the SHI. That makes it difficult to determine to whom they are accountable, the municipality or the SHI. Another issue that can arise is the working culture of the municipality compared to the SHI. The SHI needs to have a commercial attitude to be able to survive as opposed to a municipality that is focused on service delivery and not on profit. It could also be difficult for the seconded staff member to be placed adequately once transferred back into the municipality.



Case 12: Secondment of municipal staff

Challenge: When a municipal entity is being established it can be a challenge to find suitable staff that is already experienced in social housing and that is able to get the entity started.

Case: Ekurhuleni

For the establishment of the municipal entity, Ekurhuleni Development Company (EDC), the municipality seconded municipal officials to EDC. As EDC improved its capacity and resources gradually the seconded staff was released back to the municipality.

Currently EDC is functioning with its own human resource capacity.

6. What is the role of the board of a municipal entity?

In a municipal entity it is not allowed to have any members, politicians or officials, of the municipality in the board of directors. In some cases there have been municipal members on the board of a municipal entity, but in most cases this has already been altered. The municipality does have the right to have a municipal representative attending meetings of the board as a non-participating observer, but as said before, not as a board member.

The tasks of the board of directors are:

- a. To provide effective, transparent, accountable and coherent corporate governance and conduct effective oversight of the affairs of the municipal entity.
- b. Ensure that the board and the municipal entity comply with all applicable legislation and agreements.
- c. Communicate openly and promptly with the parent municipality of the municipal entity.



Case 13: Board of the municipal entity

Challenge: The board of the SHI should be formed by people with knowledge of social housing and/or related fields of expertise. Besides that there should not be any politicians or civil servants from the municipality on the board.

Case: Ethekwini Municipality

Ethekwini Housing Association experienced some problems concerning some of its board members who were not attending meetings regularly and some of the board members were officials of the municipality. They had to resign their positions because of the MFMA.

Council assisted the board in the recruitment of new members. The recruitment was on the basis of relevant business and/or social housing experience in order for these members to add value to the SHI. It has been observed by the council's social housing unit that the current board is very proactive. They recently launched their first social housing project.



Ekhaya Municipality:

The municipality had determined that one of their actions would be the establishment of a SHI as a municipal entity and that they would support it with staff and operational costs in the first two years. They opted for a private company municipal entity as an addition to the private sector developers that are already present. One of the reasons for establishing a municipal entity was that it would be possible to transfer the existing 800 units of municipal rental stock to the SHI without having to sell them.

Council agreed, based on the demand for social housing in the municipality, that it is indeed a task of the municipality to supply sufficient housing for this target group. Ekhaya is careful to keep the correct 'distance' between Ekhaya Housing Institution and the municipality. Therefore the municipal staff that will be seconded to the SHI will only be there in the initial phase. The municipality has appointed the board of directors after a transparent selection procedure and has chosen board members with different working backgrounds. The CEO was appointed by the board.

Chapter VI: Performance Agreements

Part one: Introduction

1. Why a chapter on Performance Agreements?

According to the Social Housing Bill all municipalities have to *sign performance agreements* for their (long term) relations with SHIs. It is not only compulsory, but also advisable to do so. As this is a new aspect of social housing for many municipalities we want to give some attention to what performance agreements exactly are and why they are needed. We will also provide a *template* that can be used as a guide for your own performance agreements with the SHI(s) that you are working with. This chapter and the template are designed to assist you in the development of performance agreements between the municipality and the SHI(s).

2. What are Performance Agreements?

A performance agreement is a contract between the municipality and a SHI in which the parties agree on the general terms and common goals and targets for social housing. The performance agreement is signed for a number of years and is legally binding. Provision can be made for changes or adjustments in the performance agreement during the course of the contract as long as both parties agree.

The performance agreement should reflect the objectives in the social housing policy of the municipality and be aligned with the IDP. It is an instrument for the municipality to manage the delivery of social housing units. It enables the municipality to ensure, for example, that the social housing units will be allocated to the correct target group, will be developed in areas where it is suitable and necessary and will create sustainable living environments. For the SHI it is an instrument to ensure that the municipality will hold its part of the deal and will, for example, provide bulk services at favourable prices or allocate land for social housing. A performance agreement can also be seen as a security measure in case something goes wrong or if the other party is unable or unwilling to keep its promises.

3. Why do you need a Performance Agreement?

First of all, a performance agreement is a legal requirement as is stated in the Social Housing Bill. A performance agreement is not a business transaction. The municipality and the SHI(s) engage in the performance agreement not only to manage the performance of each party, but also to manage and organise the relationship itself. It will indicate how the two parties are related to each other in the social housing sector; it indicates their tasks and the way they cooperate. It also contains public interests and social objectives which are part of the municipal policy.

A performance agreement is needed to regulate the relation between the municipality and the SHI. The two parties are relying on each other to be able to reach their goals and objectives. Most important is that your objectives and the objectives of the SHI are aligned and that both of you enter the performance agreement in good faith and with a common goal. The objective of the municipality is the delivery of sufficient and good quality social housing units for its people and the objective of the SHI is to deliver and manage sufficient and good quality social housing units in an economically viable way. To achieve these objectives both parties have to cooperate and it is therefore important to make proper performance agreements.

4. What kind of things should be covered in the Performance Agreement?

The kinds of topics that you put in your performance agreement depend on a number of things. First of all, it depends on the level of detail of the subjects that you want to agree on. As said before, you can decide, together with the SHI(s) on the level of detail that you put into the performance agreement. The topics included can also depend on the experience of the parties in social housing and experiences from cooperation in the past. Furthermore, there can be local circumstances that will determine part of the topics that need to be covered.

The performance agreement should describe the roles and responsibilities of the signing parties. Besides that, it should state the general objectives for social housing in the municipality based on the IDP and the social housing policy. Apart from the roles and

responsibilities, you need to decide on a system for monitoring and evaluation. You should also make provision for conflict resolution in case a conflict arises between the parties.

In the second part of this chapter, we will give you a detailed overview of the possible topics that can be covered in the performance agreement. Technical details for specific projects need to be put in a project proposal of the SHI. That proposal will need to be approved by the national and/or provincial government for the subsidy. This project proposal should of course be aligned with the content of the performance agreement.

Box 17: Functions of a performance agreement

Specific functions of a performance agreement are:

- to give form and content to the cooperation between a municipality and a SHI. The tasks of the partners are specified and the contributions of each partner in the cooperation will be defined;
- to specify the nature and business of the partnership. It is both about managing the relationship and about managing the performance of delivery;
- to ensure that the partnership and the projects meet with all the necessary policy and legal requirements for social housing delivery;
- to unpack complex issues and outline how the partnership has agreed to view and respond to these issues;
- to contain information relating to public interests and social objectives;
- to highlight the problems in the local housing market and help establish the relevance of the planned project(s);
- to provide measurable indicators for monitoring and evaluation, including a timeframe;
- to determine service levels and the quality of service.

5. What additional agreements are there?

The performance agreement should be signed by the municipality and individual SHIs. It is an agreement that regulates the relationship between these two parties and it is not for one specific project. It should state what the SHI will do for the municipality and vice versa. If wanted the municipality can sign project level agreements with the SHI as well. The municipality can choose to sign one single partnership agreement with a number of SHIs. This can be done to ensure that a limited number of SHIs will be conducting the social housing projects in the municipality. This will enhance the possibilities for them to be economically viable. (See: Case 14)

Municipal entities and PPPs have different regulatory requirements from SHIs that will need to be taken into the performance agreement. But there are many parts of the performance agreement that will still be applicable and easily customisable for these relationships.



Case 14: Type of performance agreement

Challenge: The municipality has to decide on the level of details that it wants to put in the performance agreements with SHIs. The agreement can be an overall agreement complimented with separate agreements for each project or it can be an agreement containing more details with or without additional project level agreements.

Case: City of Johannesburg

The City of Johannesburg has signed an overall service delivery agreement with JOSHCO (municipal entity) as well as service level agreements on individual projects. As a municipal entity JOSHCO is also expected to annually prepare and submit a business plan.

6. What are the legal considerations?

Once you have discussed the content of the performance agreement with the SHI and written down the issues that you agreed upon, you can take that document to your legal department to put it into a legally binding contract.

There are some legal considerations that will impact on a performance agreement, such as:

- The performance agreement must comply with the municipality's existing legal processes for entering into a project contract with a third party.
- It must comply with the various legal requirements including the MFMA and the MSA in relation to board representation and procurement.
- The performance agreement must be signed by the municipal manager and the accounting officer of the SHI. Considering that there are political decisions involved in the performance agreement, it may be necessary to have the approval of the Mayoral Committee.

The SPSH has developed templates and guidelines for the social housing sector. It includes a template that can be used for the legal document of the performance agreements. This document is available in a printed version and on the website of the SHF (www.shf.org.za).

7. Before getting started

Before you can start with the discussion of a performance agreement with a SHI you need to ensure that you have a social housing policy that has been approved by the council. This should include a situational analysis (demography, current social housing services rendered by both the municipality and the SHI) with a clear outline of the gap there is in social housing services. The situational analysis should be integrated into the municipal IDP. Both parties should also have an idea of the expectations of the other party and to know what it is they can and are willing to contribute to the relationship.

Ekhaya Municipality:

Ekhaya has signed performance agreements with each private sector company that will deliver social housing and with each SHI, including the municipal entity. In the performance agreements the parties commit to the social housing objectives as stipulated in the municipal social housing policy and to the establishment of sufficient and good quality social housing units. The roles and responsibilities of the municipality and the SHIs in reaching these objectives are clearly outlined. With the municipal entity the municipality has signed an agreement for the transfer and refurbishment of the old hostel units. The support that the municipality will give to the municipal entity and the other delivery agents will be included in the performance agreements that the municipality signs with each party.

Part Two: Generic Framework for a Performance Agreement

In this framework we will explain the specific topics that you could cover in your discussions with the SHI(s). We would like to emphasize that the performance agreement is an agreement that needs to be tailor-made for the specific municipality and SHI(s). This means that you should not just copy and paste the framework, but use it to fit your own local circumstances. The framework is also not exhaustive, so don't feel limited by the issues that we mention. This is a mere guide to show you the most important topics to discuss with your SHI(s).

On the next page you will find the generic framework for the performance agreement, which can be used as the table of contents for your performance agreement. We also refer you to the CD-ROM included in the Toolkit, which provides you with the framework in a format in which you can write your performance agreement. (See also Chapter I, section 5).



Generic Framework for a Performance Agreement

- 1. Parties to the performance agreement and duration of the agreement**
- 2. Objectives of the performance agreement**
- 3. Roles of the municipality**
- 4. Role of the SHI(s)**
- 5. Topics to agree upon**
 - Number of social housing units
 - Housing options and typologies
 - Target markets
 - Defining beneficiaries
 - Restructuring issues
 - Quality of life and security
 - Consultation
 - Other
- 6. Cancellation or adjustment of the performance agreement**
- 7. Breach and dispute resolutions**
- 8. Monitoring and evaluation of the performance agreement**

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1. Parties to the performance agreement and duration of the performance agreement

Who are the parties involved in this performance agreement?

What will be the duration of our performance agreement?

In this section of your performance agreement you will need to give the details of the various parties, which are the municipality and the SHI. Performance agreements are ideally meant to be multi-year agreements. However a municipality is not obligated to establish a multi-year agreement. The duration can depend on a number of factors, such as the duration of the municipal support to a SHI, or the development time of a project.



Ekhaya Municipality:

Ekhaya is dealing with a municipal entity, Ekahaya Housing Institution, two independent SHIs, Smart Home Solutions and Kolapeng Housing and a number of private sector companies (for-profit). With each delivery agent a performance agreement will be signed. In this example we will give further details of the agreements Ekhaya has made with the three SHIs.

The parties in the performance agreements are:

- The Ekhaya Municipality (demarcation number: EM285) whose registered office is at 120 Church Square, Ekhaya Town, 0001;

and:

- Ekhaya Housing Institution (municipal entity) (registered number: 543547214) whose registered office is at 84, Church Street, Ekhaya Town, 0001
- Smart Home Solutions (registered number: 487679399) whose registered office is at 121 Smal Street, Ekhaya Town, 0001.
- Kolapeng Housing (registered number: 247835814) whose registered office is at 56, Nelson Mandela Road, Madikwe City.

The performance agreements shall all commence from the date of signing and shall remain in force and effect for a period of five years. They will terminate after this period unless the parties jointly decide to end the performance agreements earlier, or to extend them beyond the determined end date.

2. Objectives of the performance agreement

What are our objectives of the performance agreement?

In this section of your performance agreement you should indicate the broad objectives of the performance agreement. These objectives must be aligned to the policy objectives of the municipality. The reason you need to do this is that all parties can quickly come to terms with what the expectations are of the performance agreement as well as the municipality's social housing policy.

Ekhaya Municipality:

The objective of the agreement is *to specify the obligations of each party in ensuring the delivery of well located social housing to low income earning households* through a programme that contributes to:

- Access of low income households to good basic housing in well located urban environments.
- Access of these households to the socio-economic amenities of the municipality.
- Access to such housing opportunities for people with special needs.

This agreement serves as an enabling mechanism to facilitate the process of the SHIs providing services within the jurisdiction, administered by the municipality. The SHI will administer and provide services in accordance with the municipality's policy on social housing.

3. Roles of the municipality

What are the tasks of the municipality in their relation to the SHI(s)?

In the Social Housing Bill it is stated that the municipality has a task to facilitate social housing development. In practice this means that they have to create the right conditions to enable SHIs to deliver social housing units. The support that the municipality can give to SHIs can be divided into three categories:

- To provide development support
 - Land and buildings;

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- Municipal rental stock;
- Infrastructure and services; and
- Local fiscal benefits such as rebates on rates and service charges.
- To provide process support
 - Identifying the point of contact for communication (someone with sufficient authority to streamline decision making);
 - Prioritising planning approvals;
 - Convening a forum of SHIs operating in the municipal area;
 - Lending support in grant applications and submissions for accreditation; and
 - Committing to the SHI as a stakeholder in planning processes.
- To provide institutional support
 - Logistical and resource support to the SHI in its establishment phase;
 - Grant funding; and
 - Financial support.

It is the decision of the municipality to decide how much support it will and can give to the SHI(s). This will also depend on the kind and amount of assistance that the SHI needs, especially if it is a newly established company. These aspects of support should be negotiated with the SHI(s) and recorded in the performance agreements. This list can be used in your negotiation with the SHI(s) about the support you will give them.

4. Roles of the SHI(s)

What are the tasks of the SHI(s) in their relation to the municipality?

The main task of the SHI(s) is to deliver and manage social housing units in accordance with the municipal policy. In this part of the performance agreement more specific tasks can be stipulated such as:

- Contribution to municipal targets
- Delivery and management of units (in RZs)
- Management of tenancies

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- Target market specification
- Allocation by means of an agreed allocation process
- Tenant participation.

The municipality and the SHI(s) need to determine the requirements of the performance agreement based on their own needs.

Ekhaya Municipality:

With each of the three SHIs the municipality has made the following general agreements that apply to all parties:

- Assisting and engaging with each other in good faith to implement and create social housing
- Respecting the institutional integrity of each other in implementing social housing projects
- Resolving any disputes between each other in a manner that supports the realisation of the objectives of the agreement
- Setting up appropriate structures and systems to facilitate the implementation of social housing projects
- Sharing information and ensuring effective communication between each other and other stakeholders
- Commitment to building trust between the parties of the agreement.

For the development that is being done by private developers, the municipality will sign separate agreements for each project with them.

Besides the general agreements, the municipality had discussions with the SHIs to determine the roles of the municipality and the SHIs. The generic roles of the parties are as follows:

- The roles of the municipality:
 - Facilitate access to available subsidies,
 - Facilitate access to land and buildings to assist in the delivery of social housing,
 - Assist with facilitating the necessary planning process for the use of land and buildings for social housing purposes
- The roles of the SHIs:
 - Facilitate the development of social housing units,
 - Management of units and tenancies,
 - Allocation of units on basis of agreement with the municipality

5. Topics to agree upon

On what topics do we need to agree?

Once you have discussed the general roles of the parties involved, you can specify these roles by going into more detail on specific topics. These can be very generic agreements based on the targets in the social housing policy of the municipality and the long term business plans of the SHI(s). But the topics can also be more detailed depending mostly on the experience of both parties and on possible previous cooperation.

The starting point for these topics will be the objectives and goals of the municipal social housing policy on the one hand and the objectives of the SHI on the other. As a municipality you have to ensure that your objectives are being accomplished, but the SHI also has its own objectives that it needs to pursue.

Topics that you can include in your performance agreement are:

- Number of social housing units

The municipality has set a target in the social housing policy for the number of social housing units that are required. It is up to the SHI to deliver (part of) these units. In this section you determine how many units the SHI will deliver. This can be the total amount of units, if the SHI has enough capacity, or it can be a part of that amount when there are other delivery agents who also will deliver parts of the required number of units. When the municipality has, for example, set a target for 1100 units, it can agree with one SHI that it will deliver 500 units and that two other delivery agents will deliver 300 units each.

- Housing options and typologies

Under this topic you agree on common targets for social housing. These can be based on the social housing policy and on the business plans of the SHI(s). These can be the targets in the sense of the areas that you have allocated, or would like to allocate for social housing, or the mix of different types of housing. The quality of the buildings, the inclusion of units for commercial purposes in the projects and other details can be included here.

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- Target markets

The target market for social housing in RZs is the income group of R1500 to R7500 per month, for non-RZs it is the income group up to R3500. To encourage the economic, social and racial integration, especially in the RZs, the municipality can, in agreement with the SHI(s), strive for a mix of people of different income levels within projects. This can be done for example, by reserving a certain percentage of the units for the income group of R1500-R3500, another percentage for the income group of R3500-R7500 and perhaps even a small percentage of units for ownership.

- Defining beneficiaries

Besides the fact that the income bracket for social housing beneficiaries is set by national policies, a municipality has the option to develop its own profile of who a beneficiary shall be. The municipality must strive to ensure that a representative balance is attained in the beneficiary mix.

The municipality and the SHI(s) will have to agree upon a system to select the beneficiaries for the projects. The SHI could create a waiting list. This cannot be the same as the municipal waiting list for housing because that includes people that are waiting for BNG houses (former RDP) and are not able to afford rent. The kind of beneficiaries will vary from one municipality to the other because of socio-economic and demographic aspects. The beneficiaries may even vary from one project to the other.

- Restructuring issues

You can make agreements with the SHI(s) on topics related to the land and infrastructure that is available and/or necessary for the development of housing units. These agreements can include, for example, that the municipality will cater for the infrastructure and service the land at a reduced price. Another issue can be the racial integration, though this will be very difficult to direct. Also included in this section can be the access to social and economic facilities for the residents. The social housing projects either have to be established in areas where these facilities are present, or these facilities need to be developed. One can think of the development of a shopping centre or a taxi stand among others.

- Quality of life and security

Safety is a major issue in South Africa and it would be wise to make agreements about this as well. In the design and location of the units, provision can be made for security, such as ensuring that the area is well lit at night and that there are no dark alleys. Both the municipality and the SHI(s) can contribute to this. A good relation among the residents, knowing each other, will also improve safety. Besides the safety, service should be well organised. You can agree with the SHI(s) that they have to maintain a certain service level. Details for this can be part of the specific project level agreements.

- Consultation

In the section of consultation, you can make agreements on the consultation of the public during the planning of social housing projects. Another issue can be the level and ways of participation of (future) tenants.

After you have agreed on the roles of both the municipality and the SHI and on the topics, you can make a list of all the things that both parties have to do. On the one hand, you have the obligations of the municipality, such as the land it will make available, the assistance it will give the SHI with the application for subsidies, etc. On the other hand, you have the obligations of the SHI, such as the delivery of a certain amount of units, the quality of the units, the services it will provide, etc. As a municipality you need to make sure that all the details that you think are important, are covered in the performance agreement.

Please bear in mind that you need council support for the performance agreements that you make with the SHI(s), especially when it concerns issues like the support that you will give them or issues of land allocation for social housing.

Ekhaya Municipality:

Ekhaya municipality, Ekhaya Housing Institution, Smart Home Solutions and Kolapeng Housing have agreed on the following themes:

- **Housing options:** The target of the social housing policy is to develop 6000 units over the next five years of which 2700 should be delivered by Smart Home Solutions and Kolapeng Housing and 1000 units by Ekhaya Housing Institution. Smart Home Solutions will develop and manage 1000 units in a restructuring zone in the city centre, considering the expertise they have in the transformation of old office buildings into housing units. Kolapeng will develop 1700 units in a restructuring zone, called Ekhaya East, between the city and the main township. Kolapeng will also be given the opportunity to develop 200 extra units for ownership in the same area to increase the economic viability and to stimulate economic integration. Ekhaya Housing Institution will develop 1000 units divided over several areas and they will do the refurbishment of the old hostels into social housing units. The projects of Ekhaya Housing Institution will be in RZs and in non-RZ areas. The latter projects will be financed by the institutional subsidy and other financial sources. Within the social housing projects there will be a mix of different sizes and price classes.
- **Target markets:** The allocation of the units will be done according to the percentages for the different income groups that the municipality has stipulated in its social housing policy. These income groups are: R1500-3500, R3500-5500 and R5500-7500.
- **Defining beneficiaries:** The municipality has developed a waiting list for social housing, which is subdivided into the three income sub-groups that the municipality has developed. The SHIs will make use of this list and beneficiaries will be offered a unit according to their position on the list based on the moment of registration and urgency factors.

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.... Ekhaya Municipality:

- **Restructuring issues:** The municipality will take care of the servicing of the land on which Kolapeng Housing will develop its units. All SHIs will assist the municipality in the development of economic and social facilities in and near the projects that they will develop. In the development of these facilities the SHIs will take into account the fact that a large part of the population looking for social housing units is quite young. The details for these will be determined for each separate project.
- **Quality of life and security:** Ekhaya Housing Institution, Kolapeng Housing and Smart Home Solutions will take safety issues into account in the design of their projects. They will individually consult with the municipality during the designing process and specifics will be determined for each project.
- **Consultation:** The municipality will publish the plans for the projects in the local newspaper and will have copies available at the civic centre. People will get a chance to give comments and/or complaints. The SHIs will ensure that in every social housing project there will be a possibility for residents to select a resident's board that will represent them in meetings with the SHI.

6. Cancellation or adjustment of the performance agreement

How to deal with unforeseen circumstances that require cancellation or adjustment of the performance agreement?

Situations may arise that will require either the municipality or the SHI(s) to cancel the performance agreement. If this should happen you can make provision for a simple process to manage the cancellation.

There can also be material or legislative changes that not necessarily require cancellation of the performance agreement, but that may need renegotiation. For these situations you should always have the option to re-open the negotiation and adjust the performance agreement if necessary

Ekhaya Municipality:

To make provision for any emergencies and/or unforeseen circumstances Ekhaya and the SHIs have included a section for the cancellation of the agreement:

Should either party to the agreement wish to re-open the negotiation of the agreement, this can be done by mutual agreement with notification processes, within a period of 90 (ninety) days.

Should either party to the agreement wish to cancel this agreement, they shall need to adhere to the following conditions:

- 1) This agreement may be cancelled by mutual agreement with notification processes, within a period of 90 (ninety) days.
- 2) A party who wishes to cancel the agreement shall give three months written notice of its intention to do so to the other party.
- 3) Such notice shall contain reasons for such cancellation of the agreement.

7. Breach and dispute resolutions

How to deal with a breach of the performance agreement by one of the parties or a dispute between the parties?

It is advisable to include a section on conflict resolution in case a conflict occurs. It is the intention that both parties enter the performance agreement in good faith and with common goals. But problems can occur and the delivery of the agreed services may be jeopardised. Therefore it is good to think beforehand about a system to solve conflicts. You should first try to solve problems in discussion with the other party. If you can't reach an agreement for the conflict you can think of appointing an objective third party for mediation and/or arbitration. In the performance agreement you can already include (legal) consequences for the party that does not live up to its part of the performance agreement.

 **Ekhaya Municipality:**

Ekhaya municipality and the SHIs have agreed on the following text for the dispute resolution section:

In the event of a breach or a dispute arising between the parties, the parties shall follow the following process to rectify the breach or settle the dispute:

- 1) In the event of any dispute arising between any of the parties relating to or arising out of this agreement, the parties shall immediately meet to attempt to settle such dispute. If a settlement to the dispute cannot be reached within a period of 15 (fifteen) business days, the dispute will be submitted to arbitration in the municipal area in accordance with the rules of the Arbitration Foundation of Southern Africa.
- 2) The arbitration shall be held on an informal basis, the intention being that a decision regarding the dispute should be reached in a cordial way.
- 3) If a party fails to take part in the arbitration proceedings conducted in accordance with this clause, such failure shall constitute consent to an award being made against such party.

8. Monitoring and evaluation of the performance agreement

What kind of monitoring and evaluation system do we use, and how do we use it?

Monitoring and evaluation is a vital activity that needs to take place in all municipal projects and contracts. It shows the success or weakness of particular projects but also the impact that is made on the broader developmental objectives of the municipality. It would be wise to have a monitoring system that will allow the municipality to keep track of the progress that is being made. Further, it is a good instrument for the municipality to (publicly) show its accountability. By including a clause on monitoring and evaluation you set down the procedures for how you will control work undertaken by the SHI. The monitoring and evaluation activities within the social housing programme and the

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performance agreement should be seen as part of the internal monitoring and evaluation processes of the municipality.

You can agree on regular meetings with the SHI(s) on the progress they are making and on the services that you as a municipality have agreed to deliver. Ensure that the SHI knows exactly what to report on, how to report and when to report. You should set a time line of targets for all parties by which you can monitor the progress. It is very important to keep track of what is happening and to be able to detect in time when things are going wrong so one can intervene in time. You will need to take into account that to properly monitor the progress will mean that you need time and capacity within your housing department.



Ekhaya Municipality:

As was stated in the social housing policy, the champion of Ekhaya is in charge of the monitoring. There will be a minimum of four meetings with the SHIs and the private companies per year to discuss their progress and/or possible problems that have come up.

All delivery agents agreed to write a report every six months on their situation. In this report they will give an update on all the topics that have been included in the performance agreements. Further they will give an overview of the number of units that have been developed or are in the process of development. Other issues in the report will be the waiting list that the SHI maintains and the level of rent collection.

The monitoring will be based on the targets and agreements that were stated in the performance agreements and the social housing policy.

Appendices

Appendix 1: Overview of the Social Housing Sector

Appendix 2: Roles and responsibilities of the different actors

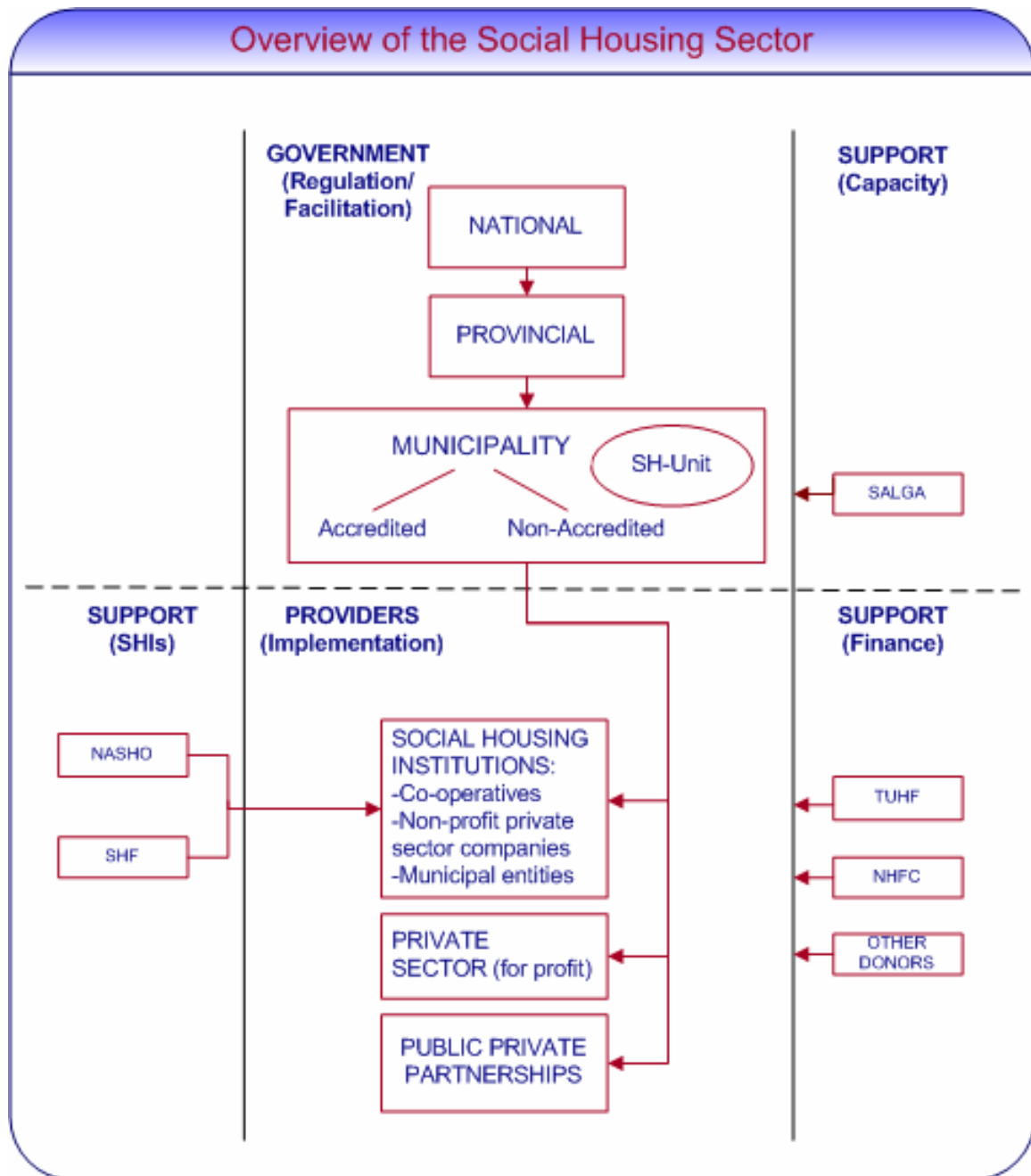
Appendix 3: Municipal Accreditation

Appendix 4: Rules for the establishment of a municipal entity

Relevant literature and websites

Appendix

Appendix 1: Overview of the Social Housing Sector



Appendix

Appendix 2: Roles and Responsibilities of the different actors

1. Social Housing Regulatory Authority

A regulatory body, the Social Housing Regulatory Authority (SHRA), will be established by the National Department of Housing to perform the following functions:

- Accredite Social Housing Institutions (SHIs)
- Assist provinces with the approval of project applications by accredited SHIs.
- Conduct compliance monitoring and enforce compliance as prescribed.
- Enter into suitable agreements with accredited SHIs so as to ensure that Government has the necessary resource to safeguard its financial investment in SHIs.
- Maintain a register of accredited SHIs which is open to the public.
- Carry out regular inspections of SHIs to ensure that they are complying with the relevant prescripts and ensuring that they have effective, efficient and transparent systems of financial and risk management.
- Oversee, direct and coordinate training and capacity building programmes and recruitment measures in order to capacitate individuals involved in SHIs.
- To do all things necessary to ensure good governance and sustainability of SHIs.
- Advise the Minister on developments in the social housing sector.
- Report to the Minister annually within three months of the end of a year in respect of its work during the preceding year.

2. Municipalities

Municipalities will be responsible for the following:

- facilitate social housing delivery in its area of jurisdiction;
- encourage the development of new social housing stock and the upgrading of existing stock or the conversion of existing non-residential stock;
- provide access –

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- i to land and buildings for social housing development in approved restructuring zones;
 - ii for social housing institutions to acquire municipal rental stock;
 - iii to municipal infrastructure and services for social housing projects in approved restructuring zones; and to the extent permitted under the Local Government: Municipal Finance Management Act, on a preferential basis;
- initiate and motivate the identification of restructuring zones; and
 - enter into performance agreements with social housing institutions.

The main instruments provided for to enable municipalities to perform their functions are 1) housing planning as part of the IDP and its spatial aspects and 2) performance agreement/s between SHIs and municipalities.

3. Provinces

Provinces will be responsible for the following:

- ensure fairness, equity and compliance with national and provincial social housing norms and standards;
- ensure the protection of consumers through creating awareness of consumer's rights and obligations;
- facilitate sustainability and growth in the social housing sector;
- mediate in cases of conflict between a social housing institution or other delivery agent and a municipality, if required;
- agree on proposed restructuring zones with the Minister for purposes of the social housing investment plan;
- monitor project level compliance;
- approve, allocate and administer the capital grants, as accommodated in the social housing investment plan, in approved social housing projects;
- monitor progress in terms of the grant allocations process; and
- administer the national housing programme contemplated in section 16(1)(a), and may for this purpose approve -
 - any projects in respect thereof; and

- the financing thereof out of money paid into the accredited bank account of the province as contemplated in section 16(3)
- develop the capacity of municipalities in respect of social housing.

4. National Government

National government will be responsible for the following:

- create and uphold an enabling environment for social housing, by providing the legislative, regulatory, financial and policy framework for the delivery of social housing;
- ensure compliance with its constitutional responsibilities;
- address issues that affect the growth, development or sustainability of the social housing sector;
- establish with provinces and municipalities institutional capacity to support social housing initiatives;
- institute and fund the social housing programme as a national housing programme for social housing;
- designate restructuring zones submitted by provinces and identified by municipalities and specifically provided for in a municipality's integrated development plan contemplated in section 25 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and when appropriate, after due notice in the Gazette, withdraw such designation;
- establish capital and institutional investment grants;
- review and approve the social housing investment plan and social housing regulatory plan;
- ensure and make available the funds from the Department's budget for the operational costs and commitments of the Regulatory Authority in accordance with the approved social housing investment plan and social housing regulatory plan, respectively;
- review and approve the guiding principles on request of the Regulatory Authority; and
- monitor and hold accountable the Regulatory Authority.

5. Delivery Agents

The SHIs will be responsible for the following:

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- Develop and/or manage viable social housing projects for low income residents in restructuring areas jointly with local authorities
- Promote the creation of quality living environments for low income residents
- Reinvest operational surpluses in further social housing projects in restructuring areas
- To build up operational reserves for long term maintenance and upgrading of housing stock under management
- Apply for and achieve accreditation and comply with the accreditation requirements of the regulator
- Establish and comply with annual performance agreements with local authorities on social housing projects in the area of jurisdiction
- Consult with residents in social housing projects through meaningful participation
- Inform residents on issues relating to consumer protection
- Observe and operate within a best practice and value regime as supported by national policy
- Comply under all conditions with the Ministerial National Norms and Standards in respect of Permanent Residential Structures, the National Building Regulations and the technical standards imposed by the National Home Builders Registration Council, where applicable.
- Primary and secondary housing co-operatives registered under the Co-operatives Act of 2005, and accessing funding through this programme will be considered together with the social housing institutions and will have to be accredited as social housing institutions.
- Housing co-operatives and the co-operative tenure form will allow for and encourage members' contributions to be invested into the projects as equity contributions in order to reduce the overall debt funding required for the project. In these cases, the housing co-operative option must be structured in such a way to exclude any individual member gain from the grant funding provided to the project.
- Primary and secondary housing co-operatives must operate within the framework of the Co-operatives Act of 2005 and its regulations.

Private sector for profit companies and PPP will be responsible for the following:

- Develop and/or manage viable accredited social housing projects for low income residents in restructuring areas
- Promote the creation of quality living environments for low income residents within the accredited projects
- Submit project accreditation applications and comply with the accreditation requirements of the SHRA
- Inform residents on issues relating to consumer protection
- Observe and operate within a best practice and value regime as supported by national policy in the accredited projects
- Comply under all conditions with the Ministerial National Norms and Standards in respect of Permanent Residential Structures, the National Building Regulations and the technical standards imposed by the National Home Builders Registration Council in accredited projects.

6. National Housing Finance Corporation

The NHFC, in respect of social housing, must

- provide improved access to loan funding;
- make available to the Regulatory Authority when requested thereto such financial information to enable it to assess the institutional health and financial sustainability of social housing institutions;
- facilitate, or where possible, provide access to guarantees for loan funding from financial institutions;
- explore and support mechanisms aimed at gearing public funding for social housing; and
- conclude an agreement with the Regulatory Authority aimed at avoiding the duplication of effort and overregulation of social housing institutions.

7. National Treasury

The National Treasury in respect to social housing Public-private partnerships is responsible for overseeing and regulating PPPs and providing statutory approvals in respect of the PPP procurement process.

Source: NDoH, Social Housing Programme Guidelines.

Appendix

Appendix 3: Municipal Accreditation

Level	Components and Definition
<p>Level 1</p>	<p>Subsidy budget planning and allocation: This includes housing subsidy budgetary planning across programmes and projects; planning of subsidy/fund allocations, and project identification.</p> <p><i>Applicable to all national and provincial housing programmes, with the exception of the individual and relocation subsidy mechanisms, this remains the responsibility of the PHD.</i></p>
<p>Level 2</p>	<p>Programme management and administration: this includes project evaluation and approval, contract administration, subsidy registration, programme management including cash flow projection and management and technical (construction) quality assurance.</p> <p><i>Applicable to all national and provincial housing programmes with the exception of the individual and relocation subsidy mechanisms, this remains the responsibility of the PHD.</i></p>
<p>Level 3</p>	<p>Financial administration: This includes subsidy payment disbursements, and financial reporting and reconciliation.</p> <p><i>Applicable to all national and provincial housing programmes, with the exception of the individual and relocation subsidy mechanisms, this remains the responsibility of the PHD.</i></p>

Appendix

Appendix 4: Rules for the establishment of a municipal entity

In the MSA there are five rules that put restrictions on the establishment and use of municipal entities. We have named these rules as follows:

- a) **The restricted forms rule:** This refers to the limited amount (3) of permitted forms of municipal entities, namely a private company, a service utility and a multi-jurisdictional service utility.
- b) **The subsidiary company rule:** This rule states that it is not allowed for a municipal entity to establish a subsidiary/subordinate entity.
- c) **The private equity rule:** Private parties are allowed to hold a minority share in a municipal entity and only where the parent municipality has effective control.
- d) **The effective control rule:** A municipality must have effective control of the municipal entity. Effective control in the case of a municipal entity as a private company means that the municipality has the power to appoint or remove at least the majority of the board of directors or to control at least the majority of the voting rights at a general meeting of the private company.
- e) **The restricted purposes rule:** A municipality may establish a private company only for the purpose of the performance of any of its constitutional functions or powers, only if the municipality can demonstrate that there is a need to perform that function or power and if the company would benefit the local community and only if any other conditions that may be prescribed have been complied with.

Appendix

Relevant literature and websites

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