



Regulator of  
Social Housing

# Regulating the Standards

March 2022



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**Annex B: Guidance on the regulator’s approach to intervention, enforcement and use of powers.**

Please note that this is a separate document on the Regulator of Social Housing’s website.<sup>1</sup>

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<sup>1</sup> <https://www.gov.uk/government/publications/guidance-on-the-regulators-approach-to-intervention-enforcement-and-use-of-powers>.

## Foreword by Fiona MacGregor Chief Executive of the Regulator of Social Housing

Welcome to the latest version of 'Regulating the Standards' in which we set out what providers can expect from the Regulator of Social Housing (RSH). This document is part of our commitment to being open and transparent with stakeholders about how we approach our work.

RSH is an independent regulator and non-departmental public body, sponsored by the Department for Levelling Up, Housing and Communities. We regulate registered providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver and maintain homes of appropriate quality that meet a range of needs.

Our approach to regulation is driven by our fundamental objectives, which are set out in the Housing and Regeneration Act 2008. We have an economic objective in relation to the governance, financial viability and efficiency of registered providers.

Our economic remit is both proactive and reactive. We actively assess the performance of private registered providers as well as responding to information where we become aware of governance and viability issues within individual providers. We have a consumer objective in relation to the management of social housing, and tenant choice and involvement.

Our current consumer remit is reactive. We consider information that we become aware of, including referrals made to us about consumer issues within individual providers, but we do not currently proactively monitor providers' performance. The Government intends to introduce legislation expanding our consumer regulation role and enabling us to carry out proactive consumer regulation. We welcome this development and will work with stakeholders including landlords and tenants as we design the new consumer regulation framework. We expect to make further changes to 'Regulating the Standards' as our role develops.

We take a co-regulatory approach. Board members and councillors are responsible for ensuring that providers are being managed effectively and meeting regulatory requirements. In this document we set out our operational approach and the types of engagement that providers can expect from us. For ease of reference, we have included a summary of the principal changes we have made to the previous version of the document which was issued in March 2020.

We hope that in being clear about our approach we will make it easier for providers to achieve their objectives and deliver good quality homes and services for the people they serve.



Fiona MacGregor  
Chief Executive

# 1. Introduction

- 1.1 'Regulating the Standards' outlines our operational approach to assessing providers' compliance with the economic and consumer standards.<sup>2</sup> Those standards<sup>3</sup> and the requirements they place upon registered providers are set out in separate documents available on the Regulator of Social Housing's pages on [www.gov.uk](http://www.gov.uk).
- 1.2 The table below summarises our approach to different categories of provider and the requirements which apply to them.

## Private registered providers which own 1,000 social housing homes or more<sup>4</sup> (we refer to these providers as 'large')

- Economic and consumer standards applicable
- Data return requirements applicable
- Must publish annual Value for Money performance information
- Must complete Quarterly Survey
- Must submit early information on restructures
- Must submit relevant statutory notifications in relation to constitutional changes, including restructures and disposals
- Subject to annual Stability Check, periodic In Depth Assessments and in some cases to planned engagement meetings
- Regulatory judgements published
- Regulatory notices applicable for findings of serious detriment and where otherwise appropriate
- Gradings under Review list applicable.

## Private registered providers which own fewer than 1,000 social housing homes (we refer to these providers as 'small')

- Economic and consumer standards applicable
- Limited data requirements applicable
- Must publish annual Value for Money performance information
- Must submit early information on restructures
- Must submit relevant statutory notifications in relation to constitutional changes and disposals

<sup>2</sup> This March 2022 version of 'Regulating the Standards' replaces the one published in March 2020.

<sup>3</sup> <https://www.gov.uk/government/publications/regulatory-standards>.

<sup>4</sup> Throughout this document, 'homes' is understood as encompassing both self-contained properties and bedspaces in supported housing schemes.

- Subject to annual review of financial statements and also, if relevant, of the audit management letter. As appropriate, other information may be assessed e.g. if developing new homes, we normally seek and consider financial forecast information
- Regulatory notices issued where we have evidence that provider is in breach of an economic standard and for serious detriment findings
- Gradings under Review list applicable
- Not required to complete Quarterly Survey, or subject to Stability Checks, In Depth Assessments or regulatory judgements.

#### Local authority registered providers

- Rent Standard is the only economic standard which is applicable
- Consumer standards applicable
- Regulatory notices published where we judge breach of the Rent Standard and also where consumer standards breach resulting in serious detriment.

#### 1.3 It should be noted that:

- the consumer standards apply to all registered providers
- the Rent Standard applies to all registered providers
- the Governance and Financial Viability Standard and the Value for Money Standard apply to private registered providers only
- our approach to regulating providers against the economic standards is different for private registered providers which own fewer than 1,000 social housing homes.

#### 1.4 'Regulating the Standards' sets out the broad principles which underpin our regulatory approach and gives details of our key processes such as Stability Checks and In Depth Assessments (IDAs). As well as providing information about our planned work, the document also outlines our approach to consumer regulation and to reactive economic regulation. We rely upon providers supplying us with timely and accurate data and in the pages that follow we set out the regulatory data and information requirements as they apply to different categories of provider. The document also outlines the approach we take to issuing regulatory judgements, providing explanations of the straplines we use and sets out how we maintain the register, including our registration and de-registration activity.

## The statutory basis for regulation

### Our objectives

1.5 Parliament has given us two fundamental objectives: an economic regulation objective and a consumer regulation objective. The RSH Board is accountable to Parliament for the discharge of these fundamental objectives.

1.6 The economic regulation objective is:

- to ensure that registered providers of social housing are financially viable and properly managed and perform their functions efficiently and economically
- to support the provision of social housing sufficient to meet reasonable demands (including by encouraging and promoting private investment in social housing)
- to ensure that value for money is obtained from public investment in social housing
- to ensure that an unreasonable burden is not imposed (directly or indirectly) on public funds
- to guard against the misuse of public funds.

1.7 The consumer regulation objective is:

- to support the provision of social housing that is well-managed and of appropriate quality
- to ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection
- to ensure that tenants of social housing have the opportunity to be involved in its management and to hold their landlords to account
- to encourage registered providers of social housing to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.

- 1.8 We also have a duty to exercise our functions in a way that minimises interference and, as far as is possible, is proportionate, consistent, transparent and accountable. These requirements underpin how we carry out all of our functions. We operate within the provisions of the Government’s Regulators’ Code<sup>5</sup> and have due regard to it when developing policies and procedures that guide our regulatory activities. The Code does not apply to the exercise by a regulator of any specific regulatory function in individual cases.

### Achieving these objectives

- 1.9 We recognise that the social housing market has become increasingly complex and that the nature and extent of the risks which providers’ boards must manage are correspondingly more challenging. We are also aware of the importance of promoting continued private investment in the sector and facilitating the sector’s growth, given our fundamental objective of supporting the provision of new social housing. The Value for Money Standard<sup>6</sup> reflects this with a requirement that providers must articulate their strategy for delivering homes that meet a variety of needs.
- 1.10 Our primary focus is on promoting a viable, efficient and well-governed social housing sector able to deliver and maintain homes of appropriate quality that meet a range of needs. Our regulatory approach aligns with this principal focus by ensuring that we have a grip of short-term viability issues, and that when we engage in depth, we have a strategic conversation with providers about the quality of their governance and their financial strength, with a focus on performance, the effectiveness of their risk and control framework and their approach to value for money.

### Public sector equality duty

- 1.11 We are also mindful of our public sector equality duty under Section 149 of the Equality Act 2010.<sup>7</sup> More information about what this means is available on the website of the Equality and Human Rights Commission.<sup>8</sup> Following our establishment as a standalone body in October 2018, and a statutory consultation between January and March 2020, we set our first organisational equality objectives.<sup>9</sup>

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<sup>5</sup> <https://www.gov.uk/government/publications/regulators-code>.

<sup>6</sup> <https://www.gov.uk/guidance/regulatory-standards#economic-standards>.

<sup>7</sup> For further information see <https://www.gov.uk/government/publications/public-sector-equality-duty>.

<sup>8</sup> <https://equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty>.

<sup>9</sup> <https://www.gov.uk/government/organisations/regulator-of-social-housing/about/equality-and-diversity>.

### Information sharing

- 1.12 Where appropriate, we may share information with other regulators. However, we will only share personal data where there are legal grounds to do so. Information on how we collect and process personal data is set out in our privacy notice.<sup>10</sup>
- 1.13 We are subject to the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). Both pieces of legislation provide a right of access to information that we hold. We work daily with third parties not subject to FOIA/EIR, and our statutory obligations should not affect the information sharing required for us to carry out our regulatory duties. Upon receipt of a request and where possible and appropriate, we will consult with affected third parties to discuss any concerns where disclosure of the information could harm their interests.

## Our overall approach

### Co-regulation

- 1.14 Mindful of our duty to minimise interference, our fundamental objective of supporting the provision of social housing and our commitment to proportionate regulation, we take a co-regulatory approach. This means:
- we regard board members and councillors as responsible for ensuring that providers' businesses are managed effectively and that providers comply with all regulatory requirements
  - providers must support tenants to shape and scrutinise service delivery and to hold boards and councillors to account
  - we operate as an assurance-based regulator, seeking assurance from providers as to compliance with the standards. In other words, the onus is on providers to demonstrate their compliance to the regulator. Where providers do not supply the requisite assurance, this will be reflected in the decisions that we reach.

### Communication with the regulator

- 1.15 The Governance and Financial Viability Standard includes a specific expectation that providers should communicate with the regulator in an accurate and timely way. As outlined in the Governance and Financial Viability Standard Code of Practice,<sup>11</sup> this includes the provision of information in regulatory returns, or as otherwise requested. Providers should have appropriate control arrangements in place to ensure that the information they supply is accurate. We regard failure to provide information and the submission of late, incomplete, or inaccurate information as potentially indicative of a

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<sup>10</sup> See <https://www.gov.uk/guidance/regulator-of-social-housing-privacy-notice>.

<sup>11</sup> <https://www.gov.uk/government/publications/governance-and-financial-viability-standard-code-of-practice>.

weak control environment and possibly as evidence of a failure to comply with the Governance and Financial Viability Standard.

1.16 The standard also sets out our specific expectation that providers must:

- certify their compliance with the Standard in their annual accounts, and
- communicate in a timely manner with the regulator on material issues that relate to non-compliance or potential non-compliance with the standards.

1.17 As explained in the Code of Practice, we view transparency on the part of registered providers as a cornerstone of the co-regulatory approach and any failure to comply may affect our assessment of a provider.

## Regulating different providers

1.18 Reflecting our risk-based proportionate approach, we regulate providers differently with regard to the economic standards, depending on their level of risk exposure.

### Small providers

1.19 Private registered providers which own fewer than 1,000 social housing homes<sup>12</sup> collectively account for less than five per cent of the sector's total assets, turnover and debt. They are subject to a different level of regulatory engagement, as set out in the summary table at paragraph 1.2. We review the annual accounts of all private registered providers in this category as well as analysing information they submit via the Statistical Data Return<sup>13</sup> (SDR) and any notifications about disposals or constitutional changes. This enables us to take a proportionate approach, focusing our follow-up work on seeking assurance on the management of risks faced by individual providers. We may also review the business plans and board reports of a subset of providers which we judge to be higher risk, taking account of their scale and the potential impact that the crystallisation of risks could have on financial viability.

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<sup>12</sup> The calculation of the number of homes that a provider owns is based upon the total of its social units/bed spaces which are held freehold or on a lease of any duration. The annual cut-off date when we determine if a provider is above or below the 1,000 home threshold is 31 May. This is the deadline by which providers submit their annual Statistical Data Return (SDR) and report on the number of social housing homes which they own. By exception, we may re-categorise a provider sooner, if it self-reports a significant increase in its number of homes outside of the SDR reporting timelines.

<sup>13</sup> <https://www.gov.uk/government/collections/statistical-data-return-statistical-releases>.

### Large providers

- 1.20 We make use of our sector risk profile analysis<sup>14</sup> and other relevant information to assess the risk profile of private registered providers which own 1,000 or more social housing homes to determine our regulatory approach. This enables us to identify those providers we judge to be more complex and to have an increased level of risk exposure, taking into account providers' underlying financial strength and complexity. This then informs the way in which we allocate our regulatory resources.
- 1.21 Where a private registered provider owns 1,000 or more social housing homes but is part of a group which has a registered provider parent, we assess compliance at the group level. This means that we do not publish separate judgements for each of the registered providers within the group. However, each individual registered provider must comply with the standards and we do not restrict our regulation to looking at the parent entity. Indeed, where one or more private registered providers sit within a group of organisations headed by a registered parent, we are likely to look at risks and exposures across the entire group in order to reach an accurate conclusion as to compliance with the standards. Where registered providers sit within groups headed by an unregistered parent, specific requirements apply under the Governance and Financial Viability Standard.

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<sup>14</sup> <https://www.gov.uk/government/collections/sector-risk-profiles>.

## 2. Planned economic regulation

- 2.1 There are three economic standards:
- Governance and Financial Viability
  - Value for Money
  - Rent
- 2.2 Through our regulation of private registered providers against the economic standards, we seek to gain a strategic and evidenced understanding of both the short-term and longer-term risks to which they are exposed and to gain a comprehensive understanding of their approach to value for money. This helps us to reach informed conclusions about their compliance. We may seek assurance in a variety of ways and from such sources as we consider appropriate to a particular provider's circumstances. We will always require evidence of compliance, rather than assuming it. Unless the available evidence provides us with adequate assurance of compliance, the decisions we reach will reflect our concerns.
- 2.3 In carrying out our regulation of the economic standards, we are likely – as a minimum – to seek assurance about private registered providers' financial strength and governance through:
- delivery of organisational purpose/strategic objectives
  - vulnerability to covenant breaches
  - liquidity
  - approach to value for money
  - approach to managing the risks to social housing assets arising from non-social housing activity.
- 2.4 We expect the boards of private registered providers to be able to demonstrate that they have considered both the long-term, cyclical nature of economic factors that impact on the business, as well as internal business risks and one-off shocks.
- 2.5 It is widely recognised that poor governance is often a leading indicator of financial weaknesses. A failure to maintain an effective framework of risk management/internal controls assurance, for instance, can compromise an organisation's ability to meet its financial obligations. Poor governance can also be indicative of weaknesses in a provider's ability to deliver value for money and present broader risks to the reputation of the sector.
- 2.6 Accordingly, we look for very clear assurance as to private registered providers' compliance with the governance elements of the Governance and Financial Viability Standard. We may look for this directly, for instance, by seeking assurance about how specific business critical decisions have been taken. We may also conclude that evidence of poor governance is indicated by other behaviours or events. For

example, we may conclude, upon investigation of a breach of a consumer standard, or a failure to set rents in accordance with the relevant legal and regulatory rules, that there is evidence of governance failures, such as that the board had little oversight of performance/key operational data, that senior executive reporting was inadequate and that various internal controls failed. In other words, since we regard good governance as so fundamental, we will seek assurance on this subject from a wide range of sources.

- 2.7 We have four main ways of carrying out our planned regulatory engagement with private registered providers which own 1,000 or more social housing homes, each of which is explained in more detail below:
- In Depth Assessments
  - Stability Checks
  - Quarterly Surveys
  - Planned engagement meetings (normally for a subset of larger, more complex providers only)

## In Depth Assessments

### Scope

- 2.8 Private registered providers which own 1,000 or more social housing homes are subject to periodic IDAs. For most providers, we anticipate conducting an IDA every three or four years. As a general principle, the frequency with which we carry out an IDA is linked to our assessment of the relative risk profile of providers, including any significant changes in the scale and nature of activities that a provider undertakes. Our risk-based approach considers both the probability of risks materialising and the impact given the inherent nature of providers (including size and complexity), to help determine where we need to carry out IDAs more often.
- 2.9 We assess providers' compliance with the economic standards through IDAs but if, as part of the assessment, concerns are raised that relate to the consumer standards, these are then followed up in accordance with the approach set out in Section 4.
- 2.10 Each IDA is a bespoke piece of work and considers in detail a provider's viability (its ability to meet financial obligations), its approach to value for money and its governance. IDAs encompass assessment of strategic delivery, including the delivery of value for money in the broadest sense, risk profiles, exposures and financial strengths and weaknesses. While individual IDAs are tailored to ensure that we focus on the issues that are most pertinent to a particular provider's compliance, in accordance with our co-regulatory approach, we will always focus on how well the board is delivering its strategic aims and managing its risks effectively.

- 2.11 We use a consistent model, comprising five components, to underpin the scoping of all IDAs:

Component	Focus
<b>Strategy</b>	The delivery of the provider's short and medium-term priorities and its strategic approach to delivering value for money in meeting its objectives.
<b>Structure</b>	The corporate, financial and governance structures and the interaction between the provider and the various organisations connected to it, and how risks flow between them.
<b>Risk profile and mitigation</b>	The alignment of the provider's risk appetite with the risks associated with delivery of its strategy. The board's assurance on key risks and compliance areas and the overall adequacy of the provider's risk and control framework, including the quality of its stress testing and associated mitigation strategies.
<b>Financial resilience</b>	The provider's financial performance (its inherent financial strength); debt levels, sources of liquidity and future funding requirements; and its costs and the main drivers for those costs.
<b>Governance</b>	The role of the board in ensuring delivery of strategic outcomes that promote the long term, sustainable success of the organisation. Alignment of leadership capacity and governance arrangements with the activities of the organisation and overall effectiveness of those arrangements.

### Stress testing

- 2.12 All IDAs involve close consideration of a provider's compliance with our specific expectations regarding detailed and robust stress testing. Alongside the maintenance of accurate records of assets and liabilities, we regard this as a key component of effective business planning and risk management. Through the IDA we will seek assurance that providers understand their assets and liabilities, and security position. We will look for evidence that providers' stress testing is aligned with this information, and that they can demonstrate swift access to it in decision making and risk management.
- 2.13 We expect boards to have ownership of stress testing and for this to be pivotal to, and integrated with, providers' overall approach to business planning, risk and performance management. As part of an IDA, we are likely to explore how boards identify risks and to seek assurance that providers stress test their plans across a range of sufficiently severe scenarios which reflect key risk exposures wherever they arise in the group. This should include situations arising in subsidiary entities and non-social housing activities.

- 2.15 We will seek evidence that providers go beyond simple sensitivity testing to include multivariate analysis. Such analysis should test severe but plausible scenarios reflecting key economic and business risks and demonstrate their effects on cash, covenants and security. We expect providers' stress testing to examine financial and operational resilience, exploring conditions that could cause the business to fail. We will seek assurance that the provider has established credible mitigation strategies to restore its financial position in the event of risks materialising, and understands the effectiveness of these, as well as the trigger points for their implementation.<sup>15</sup>

### The process

- 2.16 Once we decide that we are going to carry out an IDA of a registered provider, we will notify it of our decision. On occasion, we may need to carry out an IDA at short notice, but generally we will give providers six weeks' notice of our intention. Each IDA is led by a senior member of staff, supported by colleagues with a range of skills from across the regulator. The size of the team and the particular skills required will reflect what is appropriate for the specific assessment. Each IDA considers a provider's compliance at a given time and so to facilitate the process we expect providers to supply information within agreed timescales.
- 2.17 We produce a document setting out the scope of the IDA which is framed around the five components described above, together with an initial document request. The documents we require for an IDA will vary depending on the scope of each assessment, and we are mindful of our duty to be proportionate and to minimise interference. We specify a date by which requested documents must be submitted. Providers will normally have between two and three weeks to submit documents. Before sending documents, providers should discuss with the IDA team what they intend to submit, especially if they plan to supply materially more documents than requested. The document request that comes with the scope is an initial request and as the IDA progresses, we will ask for further documents, if required.
- 2.18 IDAs involve a mixture of desktop research and in-person or virtual on-site work. We will normally want to interview the board chair as part of our work, as well as other members of the board and the executive leadership team. We will keep the provider informed of our requirements throughout the process.
- 2.19 Upon the conclusion of an IDA, we will advise the provider of the outcome. If the provider continues to be assessed as G1/V1 we will not normally produce a narrative report. We will, however, give oral feedback to the provider and update our published table of judgements<sup>16</sup> to indicate that the grades are now based upon an IDA. Where our assessment has changed or if the IDA confirms a provider's existing non-G1/V1 grades, then we will discuss this with the provider and publish a report

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<sup>15</sup> More detail on our expectations relating to stress testing is set out in paragraphs 35 to 39 of the Governance and Financial Viability Standard Code of Practice.

<sup>16</sup> <https://www.gov.uk/government/publications/regulatory-judgements-and-regulatory-notice>.

explaining the reasons for the assessment.<sup>17</sup> This report will be shared with the provider for factual accuracy checking, prior to publication on the RSH website.<sup>18</sup>

## Stability Checks

- 2.20 We carry out an annual Stability Check of all private registered providers which own 1,000 or more social housing homes. This is a financially based assessment of a provider's most recent business plan and annual accounts. It focuses on indicators of financial robustness and considers evidence of any significant changes in risk profile. In assessing a provider's governance grade as part of a Stability Check, our work is limited to verifying that the information contained in the standard regulatory returns does not appear inconsistent with the provider's existing published governance grade.
- 2.21 In carrying out a Stability Check, we primarily extract information from regulatory returns, in particular, providers' Financial Forecast Returns (FFRs) and their annual accounts. We use the FFR to gather medium to long-term business planning data in a standard format. Our expectation is that registered providers will complete the FFR at group level, i.e. that groups will submit a consolidated FFR which includes unregistered parts of the group rather than separate returns for the different registered providers within the group. The information provided through the FFR helps, in particular, to inform our assessment of a provider's ability to meet the requirements of the viability elements of the Governance and Financial Viability Standard and the Value for Money Standard.
- 2.22 We expect the financial forecast information to mirror a provider's strategy. It should be an accurate reflection of what the provider intends to do, including for example, planned investment in existing stock and projected development activity. The financial forecast should be tested against changes to key assumptions and key financial risks (multivariate scenario testing or stress testing). The results of this testing should be reported to us.
- 2.23 As part of the Stability Check, we also review providers' compliance with the reporting requirements of the Value for Money Standard. Registered providers are required to report performance against the metrics we define, together with their own value for money measures and targets at a group level. We expect a provider's own measures to mirror its strategic priorities. The details of our metrics are set out in a technical note which is available online.<sup>19</sup> Reporting on value for money as part of the accounts helps to inform our assessment of whether providers are meeting the reporting requirements of the Value for Money Standard. It is therefore important that the information is accurate and submitted in accordance with our requirements.

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<sup>17</sup> For an explanation of our grades, see Section 6.

<sup>18</sup> <https://www.gov.uk/guidance/regulatory-judgements-and-regulatory-notice-a-to-z-list>.

<sup>19</sup> <https://www.gov.uk/government/publications/value-for-money-metrics-technical-note>.

- 2.24 We do not anticipate that providers will be required to supply supplementary information for a Stability Check unless our review generates concerns or doubts about an existing published judgement. We will re-publish a provider's existing grades if, following a Stability Check, we conclude that there is no evidence to indicate we need to change them. Where a Stability Check generates evidence indicating that an existing judgement may need to be revised, further assessment will be undertaken. This may involve follow up with the provider and in some cases an IDA.

### Quarterly Surveys

- 2.25 All private registered providers which own 1,000 or more social housing homes are required to complete Quarterly Surveys. These returns provide us with a regular source of information about providers' financial health, in particular their access to cash and their liquidity position. The exact details of the information required are specified in the return and are reviewed annually.
- 2.26 The information submitted through the surveys is critical in alerting us to short-term viability issues and, as such, it is vital that the returns are timely and accurate. If we have concerns about any of the information supplied via the Quarterly Survey, we will follow up the matter directly with providers.

### Planned engagement meetings

- 2.27 For some larger, more complex private registered providers or other private registered providers that may be planning a significant shift in strategy or have recently undergone a merger, we may arrange to meet with their executive teams in years when we are not carrying out an IDA. The agenda for the meetings will reflect the provider's current business plan and sector issues of particular relevance. Within the context of a co-regulatory approach, these discussions help to ensure that we have an accurate and up to date understanding of a provider's developing strategies and emerging risk profile.

### Value for Money Standard

- 2.28 The Value for Money Standard requires private registered providers to articulate and deliver a comprehensive and strategic approach to achieving value for money in meeting their organisational objectives. As outlined above, large private registered providers' strategic approach to achieving and delivering value for money is assessed as part of the scope of IDAs.

- 2.29 One of the requirements of the Value for Money Standard is that private registered providers publish evidence which enables stakeholders to understand their performance. Such evidence should explain in a transparent and accessible way how providers are achieving value for money in delivering their strategic objectives.
- 2.30 The Value for Money Standard sets a specific expectation that the published evidence in a private registered provider's statutory accounts should enable stakeholders to understand:
- performance against its own value for money targets and any metrics that the regulator sets out
  - how the provider's performance compares to peers
  - measurable plans to address any areas of under-performance, including clearly stating any areas where improvements would not be appropriate and the rationale for this.
- 2.31 As set out above, this information is used as part of the Stability Check process. Where we do become aware of non-compliance with the requirements of the Value for Money Standard, we will determine the most appropriate next steps.

## Rent Standard

- 2.32 The Rent Standard is the only economic standard which applies to both private and local authority registered providers.<sup>20</sup> All rents must be charged in accordance with the Government's Policy Statement on Rents for Social Housing 2019.<sup>21</sup> This is a required outcome, as set out in the 2020 Rent Standard.
- 2.33 We take a risk-based approach to rents regulation, seeking assurance that providers have appropriate controls and assurances to ensure that rents are being set and charged correctly. We expect providers to be informed about all relevant rent rules, and to be complying with them. On an annual basis, we identify providers which appear to be outliers based upon the rents data they have supplied in their Statistical Data Returns. We engage with these providers to seek assurance about their compliance with requirements, distinguishing between data quality errors and substantive issues, such as rents being calculated incorrectly.

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<sup>20</sup> See <https://www.gov.uk/guidance/regulatory-standards>.

<sup>21</sup> See <https://www.gov.uk/government/publications/direction-on-the-rent-standard-from-1-april-2020>.

- 2.34 Where we do become aware of potential material non-compliance with rent requirements we will investigate and determine the appropriate regulatory response. We may also investigate rents issues as part of planned engagement with large private registered providers (for example, as part of the scope of an IDA) or, where there are presenting issues as part of reactive engagement, with both private and local authority registered providers.
- 2.35 We publish separate guidance about the process by which private registered providers can seek an exemption from adhering to the Rent Standard.<sup>22</sup> Local authority registered providers seeking an exemption should follow the guidance produced by the Department of Levelling Up, Housing and Communities.<sup>23</sup>

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<sup>22</sup> See <https://www.gov.uk/government/publications/rents-guidance>.

<sup>23</sup> See <https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities>.

### 3. Reactive economic regulation

- 3.1 In addition to our planned economic regulation, we also respond to new issues of potential concern relating to the economic standards as they emerge. We describe this as 'reactive' engagement.
- 3.2 We receive information and allegations about providers from various sources, including complaints. When we do so, we seek to ascertain whether any of this information suggests a breach of one of the economic standards that might warrant further regulatory action.
- 3.3 To ensure that we use our resources to best effect in meeting our statutory objectives and in accordance with the regulatory principles set out in this document, we investigate matters pertaining to the economic standards only in the following circumstances:
- where the issues relate to the viability of a private registered provider, or
  - where the issue, if proven, may affect our regulatory judgement of the private registered provider, or
  - where the issues, if proven and unaddressed, could have a significant reputational risk for the sector
  - where the issue, if proven, may affect our view of a local authority registered provider's compliance with the Rent Standard.
- 3.4 In addition to the factors listed above being in evidence, in the case of providers which own fewer than 1,000 social housing homes we will only investigate where the issue, if proven, might trigger the use of our statutory powers by reason of either:
- a failure to comply with the standards, or
  - mismanagement.
- 3.5 Where we are seeking further assurance on a particular issue, we will always make a rounded judgement based upon all of our knowledge of a provider and seek to act in a proportionate and transparent way. The possible outcomes from any investigation we undertake are:
- no regulatory action necessary
  - further action incorporated into planned regulatory engagement
  - a downgraded regulatory judgement or a regulatory notice (as applicable)
  - enforcement action.

### Possible next steps following reactive engagement

- 3.6 If further regulatory action is needed to ensure compliance with any of the standards (i.e. both economic and consumer), then we will consider the use of our powers in accordance with the guidance set out in Annex B. Please note that this is a separate document available on the 'Regulating the Standards' page of the RSH website.<sup>24</sup>

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<sup>24</sup> <https://www.gov.uk/government/publications/regulating-the-standards>.

## 4. Reactive consumer regulation

4.1 There are four consumer standards:

- Home
- Neighbourhood and Community
- Tenancy
- Tenant Involvement and Empowerment.

4.2 The Housing and Regeneration Act 2008 places a restriction on the regulator's ability to use its powers in relation to a provider failing to meet a consumer standard. Our ability to use our regulatory and enforcement powers is limited by statute unless we consider that a standard has been failed and there are reasonable grounds to suspect that:

- the failure has resulted in a serious detriment to the provider's tenants (or potential tenants), or
- there is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the provider's tenants (or potential tenants).

4.3 In defining serious detriment, it is clear that the threshold for regulatory intervention is intended to be significantly higher than that in relation to the economic standards. Failure to meet one or more of the consumer standards does not in itself lead directly to us reaching a judgement of serious detriment. We consider that the meaning of serious detriment is when there is risk of, or actual, serious harm to tenants.

4.4 When we consider information or a referral, we examine it to determine whether a consumer standard has been met or not. In line with our proportionate approach to regulation, we focus on whether there is material evidence of systemic or organisational failure on the part of the provider, i.e. a failure against the standard which we judge to be indicative of a wider breakdown in the provider's overall organisation and systems. We have no role in resolving individual disputes between landlords and tenants. However, we recognise that individual disputes can potentially be evidence of a systemic failure that represents a breach of the standards, and we consider the facts in that context.

4.5 Where we consider there is potentially failure to meet a consumer standard, we examine whether actual or potential serious detriment exists, depending on the circumstances of each case and based on an evaluation of the harm or potential harm to tenants. It is not feasible or desirable for us to produce a prescriptive list of issues that constitute harm. Such a list would inevitably fail to cover all current or potential eventualities and would need frequent updating to reflect changes in the policy and operational environment of providers. In addition, the same issue might have very different implications in different circumstances, leading to the risk of a

disproportionate regulatory response. To ensure we use our powers proportionately, we must take the circumstances of each case into consideration.

- 4.6 Where we become aware of an issue that is indicative of a possible consumer standards breach (or potential breach) and possible serious detriment, the matter is referred to our internal Consumer Regulation Panel. The panel considers whether and, if so, how the issue should be followed up. In most cases that we follow up we are likely to seek further information from the provider in the first instance, and other stakeholders where it is necessary.
- 4.7 In assessing if there could be breach of a consumer standard and serious detriment or reasonable grounds to suspect this may be the case, we consider the following initial questions:
- if the issue raised can be evidenced, is it likely that there has been, or could be, a breach of a consumer standard?
  - if the issues raised can be evidenced, would there be any impact on tenants which would cause serious actual harm or serious potential harm?
- 4.8 If we are satisfied that there could be breach of a standard and serious detriment or that there are reasonable grounds to suspect this, we then seek to determine whether this is the case through examining the evidence of a breach of a standard and the nature and extent of the impact or potential impact on tenants. In reaching the serious detriment assessment, we will require evidence of harm or potential harm, in particular but not exclusively in relation to:
- health and safety
  - loss of home
  - unlawful discrimination
  - loss of legal rights
  - financial loss
- 4.9 Irrespective of from where and how information is received, the regulator is ultimately responsible and accountable for the decisions it takes. Therefore, we retain the right to conduct, or agree that the provider commissions, appropriate investigations in order to determine whether there is evidence of a breach of a consumer standard and serious detriment.
- 4.10 Where we judge that there are reasonable grounds to conclude that the breach (or potential breach) of consumer standards has resulted in, or could result in, serious detriment to tenants (or potential tenants), we publish a regulatory notice setting out our findings. Given that the threshold for regulatory intervention in consumer standards is intended to be significantly higher than that in relation to economic standards, a finding of consumer standard breach and serious detriment raises questions about the effectiveness of a provider's governance arrangements. It may

also be the case that issues are raised about the governance of a provider even where the serious detriment threshold has not been met. Where the issues relate to a private registered provider, we will consider if they impact on its compliance with the Governance and Financial Viability Standard. If we conclude that a provider's grading should change, we will publish a narrative judgement.

- 4.11 The Governance and Financial Viability Standard does not apply to local authorities. However, the investigation of a case of serious detriment may raise concerns about governance issues. In these circumstances, as well as taking any necessary action to deal with the presenting serious detriment problem, it may also be necessary for us to refer concerns about governance to the authority's monitoring officer and others where relevant, such as its auditors, chief executive and lead councillor, the Local Government Association and the Department for Levelling Up, Housing and Communities. If we find serious detriment as a result of a breach by a local authority registered provider, we may use relevant powers.
- 4.12 In some cases of serious detriment other agencies or regulators may have responsibility for dealing with the presenting issue. Where this is so, we may refer the issue directly to the relevant authority if this has not already been done. However, in such cases we may also act in anticipation of, or at the same time as, other agencies, with particular reference to any regulatory implications for the provider's governance that may arise from the matter.
- 4.13 In carrying out consumer regulation, we will give reasons for our decisions to intervene or investigate, or for not taking any action. Where a referral does not, in our opinion, constitute serious detriment, we will advise the referring party of alternative routes to take, if applicable. If the referral appears to us to be misdirected, we will advise the referring party of the options available to them. Where we follow up a referral, we will give an indication of our anticipated timetable and keep the referring party informed of the action that is being taken and the outcomes.
- 4.14 In considering whether failure of a consumer standard has or may lead to serious detriment, we are obliged to have regard to information received from a number of authorities, representative bodies and individuals that are specified in the Housing and Regeneration Act 2008. These include the Housing Ombudsman, tenant representative bodies, Members of Parliament, a councillor of the local housing authority for the district in which the property concerned is located, the Health and Safety Executive or a fire and rescue authority. Information received in this context from these specified bodies is designated a statutory referral.
- 4.15 We consider relevant information we receive from all sources, including during the course of our economic regulation work. Such information will be assessed in the same way as information received through the statutory referral routes.

- 4.16 We do not have a statutory mandate to deal with individual complainants and cannot mediate in disputes between landlords and tenants. We have no locus in the contractual relationship between a provider and its employees and cannot become involved in disputes between them or in any other contractual disputes. In relation to such issues, we will direct tenants or other complainants towards the provider's own complaints system and the Housing Ombudsman.
- 4.17 Providers have principal responsibility for dealing with and being accountable for complaints about their service; the Tenant Involvement and Empowerment Standard requires that they have clear and effective mechanisms for responding to tenant complaints. A tenant with a complaint against their landlord should raise the matter with the landlord in the first instance and follow its complaints policy. Should the complaint remain unresolved, tenants can contact a designated person (a local housing authority councillor, MP or recognised tenant panel). Tenants can also pursue the matter directly with the Housing Ombudsman.
- 4.18 The authorities which are able to make statutory referrals to us include parties which may be or could become involved in local complaints resolution processes. Where we receive a referral from one of these specified authorities (or any other party), our role is not to seek redress for an individual complainant. Rather, we will assess whether, in our judgement, the serious detriment test has been met in accordance with the approach set out above.

## 5. Data requirements

- 5.1 We rely upon providers supplying us with timely and accurate data. This is fundamental to the success of co-regulation. It is particularly important that providers ensure that the organisational and contact details that they supply to us are kept up to date.
- 5.2 A pattern of submitting late, incomplete or inaccurate regulatory data can be indicative of a weak control environment and therefore may be reflected in decisions we reach about a provider's compliance with the regulatory standards. In particular, but not exclusively, it may provide evidence of a breach of the specific expectation in the Governance and Financial Viability Standard to communicate with us in an accurate and timely manner, including through regulatory returns.

### Large private registered providers (1,000+ homes)

- 5.3 We currently require the following data returns from private registered providers which own 1,000 social housing homes or more:
- financial forecast returns (FFR)
  - electronic annual account returns (FVA)
  - quarterly surveys
  - quarterly and priority notifications of relevant disposals of social housing dwellings, including certain financial transactions
  - statutory notification of relevant constitutional changes, including restructures and changes to governing documents
  - annual report on fraud losses
  - annual return about providers' social housing and its use (Statistical Data Return)
- 5.4 We also currently require the following non-standardised information from these providers to enable us to carry out our regulation:
- early information on proposed restructures (see Section 7)
  - business plan – this may be a single document or take the form of a number of corporate documents covering the strategic objectives of the organisation, the key risks associated with their delivery and how the provider plans to address them, and tested financial forecasts that reflect organisational priorities)
  - financial statements
  - Value for Money performance – performance against the provider's own value for money targets and the metrics we set out, and how that performance compares to peers. In addition, measurable plans to address any areas of

underperformance, highlighting those where improvements would not be appropriate and the rationale for this<sup>25</sup>

- audit management letter.

### Small private registered providers (below 1,000 homes)

5.5 Currently, we require the following data returns from private registered providers which own fewer than 1,000 social housing homes:

- annual return about social housing and its use (Statistical Data Return but with only a limited data requirement)
- quarterly and priority notifications of relevant disposals of social housing dwellings (including all disposals made to secure finance)
- statutory notification of relevant constitutional changes, including restructures and changes to governing documents<sup>26</sup>
- early information on proposed corporate restructures
- financial statements
- value for money performance as part of the statutory accounts<sup>27</sup>
- audit management letter (if applicable).

5.6 By exception, we may sometimes ask for specific returns, for example such as Quarterly Surveys from a small provider, where we judge it appropriate.

### Local authority registered providers

5.7 We require all local authority registered providers to submit the Local Authority Data Return (LADR). We use the LADR to collect a range of data on stock and rent levels from providers.

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<sup>25</sup> It is a requirement that this information is included in providers' statutory accounts.

<sup>26</sup> Detail on how to submit this information is contained in our Guidance on Notification of Restructures and Constitutional Changes which is available at: <https://www.gov.uk/guidance/register-and-de-register-as-a-provider-of-social-housing>. It should be noted that early information about restructures and notifications on constitutional changes is not required to be submitted through NROSH+.

<sup>27</sup> The Value for Money Standard includes a specific expectation that private registered providers should annually publish evidence in the statutory accounts on value for money performance. This applies to all private registered providers, regardless of size. Reporting on value for money performance is intended to be for the benefit of a range of external stakeholders, not just the regulator. Our approach to regulating smaller providers with regard to the Value for Money Standard is in keeping with our wider economic regulation of small providers.

## Data submission arrangements

- 5.8 We collect most of our data through the NROSH+ system.<sup>28</sup> All providers are required to make their returns using this system online.<sup>29</sup>
- 5.9 In addition to the regular collection of data returns, we may require providers to supply other information or documents. We have a duty to minimise the burdens we place on providers and will only make requests for other information where we believe it is necessary for effective regulation. Where we do ask providers to supply such information, we will take a similar approach to late, incomplete or inaccurate provision as we do to failure to provide data returns.

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<sup>28</sup> <https://nroshplus.regulatorofsocialhousing.org.uk>.

<sup>29</sup> Registered providers should ensure that all contact details on the system are correct.

## 6. Regulatory judgements and notices

- 6.1 We publish regulatory judgements regarding compliance with the governance and the viability requirements in the Governance and Financial Viability Standard for private registered providers which own 1,000 social housing homes or more.
- 6.2 Regulatory judgements are qualitative judgements reached on the circumstances of individual cases. Every judgement takes account of multiple factors and is evidence-based. We always set out in our narrative judgements the reasons for the conclusions we have reached and, in accordance with our overall regulatory approach, we consider the fairness and proportionality of the decisions that result in new judgements.

### Governance and viability grades

6.3 **There are four governance grades:**

G1	The provider meets our governance requirements.	}	Compliant
G2	The provider meets our governance requirements but needs to improve some aspects of its governance arrangements to support continued compliance.		
G3	The provider does not meet our governance requirements. There are issues of serious regulatory concern and in agreement with us the provider is working to improve its position.	}	Non-compliant
G4	The provider does not meet our governance requirements. There are issues of serious regulatory concern, and the provider is subject to regulatory intervention or enforcement action.		

- 6.4 All providers should seek to be assessed at G1. Where we judge a provider to be G2 this will be because we have identified some deficiencies in its governance which it needs to address. Although material, the deficiencies are not judged to affect our overall assessment of compliance. Our expectation is that providers assessed at G2 will take timely remedial action to address the issues identified. For this reason, we describe movement between the compliant governance grades in terms of upgrades and downgrades.

- 6.5 A G3 judgement means that the provider is not compliant with governance requirements. In these circumstances there will be issues of significant regulatory concern and we will be engaging with the provider. A G4 judgement also signifies that the provider is non-compliant with governance requirements, but it is applied where the severity of the governance failures is such that we are actively intervening or taking enforcement action.
- 6.6 We reflect the level of assurance that we have on a private registered provider's compliance with the Rent Standard and the Value for Money Standard through our published governance judgement, although in some circumstances we may also issue a separate regulatory notice for compliance issues relating to the Rent Standard (see 'Regulatory notices' below).
- 6.7 **There are also four viability grades:**

V1	The provider meets our viability requirements and has the financial capacity to deal with a wide range of adverse scenarios.	}	Compliant
V2	The provider meets our viability requirements. It has the financial capacity to deal with a reasonable range of adverse scenarios but needs to manage material risks to ensure continued compliance.		
V3	The provider does not meet our viability requirements. There are issues of serious regulatory concern and, in agreement with us, the provider is working to improve its position.	}	Non-compliant
V4	The provider does not meet our viability requirements. There are issues of serious regulatory concern, and the provider is subject to regulatory intervention or enforcement action.		

- 6.8 Providers at V1 will have supplied us with sufficient assurance that they have met the viability requirements of the Governance and Financial Viability Standard. Typically, they will have a strong financial profile, built on robust and prudent assumptions, good headroom on their financial covenants and appropriate levels of liquidity. The level of financial risk being taken on by the organisation will be reasonable and we will have assurance that the crystallisation of identified risks can be mitigated successfully by the organisation in most circumstances.

- 6.9 While providers at V2 will also have provided us with sufficient assurance that they have met the viability requirements of the Governance and Financial Viability Standard, we may judge that their financial profiles mean they have greater exposure to the crystallisation of significant downside risks, potentially including changes in market conditions beyond the provider's control.
- 6.10 Providers at V2 can often share some of the following characteristics, amongst others:
- A material reliance on relatively uncertain cash flows, often relating to the type of activities being undertaken (for example, sales versus rental products) or the types of markets in which the provider operates
  - A material change in the business model being pursued by the provider that involves taking on more risk. This could be moving into new business areas or scaling up existing operations, including taking a step change in new development aspirations or significant increase in debt levels
  - A significant financial event in the short term (typically one to two years) that could change the profile of the organisation, for example a refinancing requirement or a material peak in sales exposure
  - A business plan that is built on assumptions that are difficult to achieve or justify on the basis of past experience or current operating conditions, are unsupported by strong data or do not reflect legislative or regulatory requirements
  - A weaker financial profile with less headroom against covenants or insufficient cash generation for the level of risk being taken. Using debt or sales income to meet interest costs is a concern for the regulator
  - A business plan that does not cope with severe but plausible adverse stress testing, and/or cannot absorb a limited amount of stresses without enacting mitigations.
- 6.11 Providers at V3 will have been unable to provide us with sufficient assurance that they meet the requirements of the Governance and Financial Viability Standard. In these circumstances we will be working closely with the provider to try and remedy the issue as soon as possible.
- 6.12 Providers at V4 are in serious financial difficulty and we will be working with the provider and others (as appropriate) to remedy the situation, potentially using our full range of intervention powers.

## Use of narrative regulatory reports

- 6.13 In some cases, as well as publishing a provider's grades, we will also issue a narrative regulatory judgement report. We will usually do this where, for any reason, our assessment of the provider has changed, or there are new issues we want to make public. If our assessment of a provider's grades has not changed since the last publication, we will normally only re-publish its grades, unless the provider remains non-G1/V1 following completion of an IDA. Non-compliant regulatory judgements remain in force until the issues are resolved when they are replaced with a new assessment confirming compliance.

## For-profit registered providers

- 6.14 Narrative regulatory judgements for large for-profit providers are produced in accordance with the framework set out above. However, we recognise that such providers have different capital structures and cash flow dynamics and are often subsidiary organisations within a larger group of connected companies on which the for-profit provider depends to carry out its functions. While the provider may often contribute to the wider group strategy, it must meet the requirements of the regulatory standards. In such cases, the regulator recognises, and wishes to be transparent with stakeholders about the fact that there is a qualitative difference from groups headed by non-profit providers.
- 6.15 This in turn impacts on the nature of our judgement about the provider. Narrative regulatory judgements relating to for-profit providers include an explanatory statement to make it clear that our judgement concerns the registered provider only and does not represent an assessment of non-registered entities within the group or their ability to provide support to the registered provider, although we do take into account risks to the registered provider from its relationships with the wider group. To provide further clarity we use an asterisk with a for-profit provider's grade (e.g. G1\*) to make it clear that the assessment refers to a provider that is designated on the register as being for-profit.

## Interim judgements

- 6.16 Where two or more existing entities merge or a provider undergoes what we judge to be a significant constitutional change or group restructure, we may issue an interim regulatory judgement so that there is an indicative regulatory assessment of the provider's compliance in the public domain.
- 6.17 Our broad approach to using interim judgements is set out in the table below:

Scenario	Interim judgement	Approach to interim judgements
Two or more G1/V1 entities merge	Yes	G1/V1 interim judgement unless there are specific presenting issues.

Scenario	Interim judgement	Approach to interim judgements
Two or more entities merge, at least one of which is G2 and/or V2	Yes	Considered on a case-by-case basis but our starting assumption is that the lower of the two existing grades will apply (subject to the relative scale of the providers concerned).
Two or more entities merge, at least one of which is a non-compliant registered provider	Possibly	Considered on a case-by-case basis.
Merger of a large provider which does not have an existing regulatory judgement (for example, because it is de-merging from a group) with a large provider	Yes	Considered on a case-by-case basis.
Provider undergoes what we judge to be a significant constitutional change or group restructure, including a change in its ownership or other change of control, following a group restructuring	Possibly	We may issue an interim judgement for transparency reasons if we conclude we need additional regulatory assurance before we can publish a standard judgement.
Merger of a provider with less than 1,000 homes with a large provider	No	The existing grades of the large provider will be maintained in most cases.

6.18 Interim grades will be converted to standard grades either when we have completed the first Stability Check following the merger/significant constitutional change (assuming that there are no presenting issues in the meantime) or a full IDA, as appropriate.

## Regulatory notices

6.19 As well as issuing regulatory judgements, we also publish regulatory notices for all types of providers. Regulatory notices are issued in response to an event of regulatory importance (for example, a finding of a breach of the Rent Standard or of a consumer standard that has or may cause serious detriment) that, in accordance with our obligation to be transparent, we wish to make public.

- 6.20 We do not publish regulatory judgements for local authority registered providers because the Governance and Financial Viability Standard and the Value for Money Standard are not applicable to them. However, the Rent Standard and the consumer standards do apply to local authority registered providers. Where we conclude that a local authority registered provider is in breach of the Rent Standard, we may issue a regulatory notice outlining the nature of the breach. Similarly, if we find serious detriment in relation to a consumer standard, we may issue a regulatory notice as we would for private registered providers.
- 6.21 We do not publish regulatory judgements for registered providers that own fewer than 1,000 social housing homes. However, if we have evidence that such a provider is in breach of an economic standard, or we find serious detriment as a result of a breach of a consumer standard, we may issue a regulatory notice.
- 6.22 On occasion, we may use regulatory notices to put specific findings about a provider into the public domain, even though they do not impact on the provider's existing published grades.
- 6.23 Regulatory Notices remain in force until the issues are resolved when they will be archived or removed.

## Gradings under Review

- 6.24 We maintain an online Gradings under Review list.<sup>30</sup> Where we are investigating a matter and we consider that this investigation might result in a large private registered provider's compliance being reassessed and downgraded in relation to the economic standards, we will add it to this list. The primary purpose of the list is to alert stakeholders to the possibility that a provider may be moving towards non-compliance. Where we judge it appropriate, in line with the principles set out above, we may also place a small private registered provider on the Gradings under Review list.
- 6.25 Once we have concluded our investigation, we publish a new narrative regulatory judgement for the provider if it is above the 1,000 home threshold and remove it from the Gradings under Review list. If the provider is below the 1,000 home threshold and we have concluded it is not compliant, we publish a regulatory notice. We will only issue a regulatory notice for a provider which owns fewer than 1,000 social housing homes if we conclude that it is non-compliant.
- 6.26 We endeavour to publish a narrative judgement or regulatory notice within six to eight weeks of a provider being placed on the list but in some cases the complexity of the case may result in a longer time period before publication.

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<sup>30</sup> Regulatory judgements, notices and the Gradings under Review list are available at: <https://www.gov.uk/government/publications/regulatory-judgements-and-regulatory-notices>.

## 7. Maintaining the register

7.1 We have specific statutory responsibilities in relation to the following:

- registration of new applicants to the sector
- the registration of new bodies resulting from certain types of restructure
- de-registrations for those providers wishing to leave the regulated sector or which no longer provide social housing
- maintaining the content of the register of social housing providers.

### Registrations

7.2 We assess applications for registration from new applicants to the sector against the eligibility conditions set out in legislation and the registration criteria we have set. Guidance for new entrants to the sector on how to register, along with associated application forms, is available on the RSH website.<sup>31</sup>

7.3 We also make registration decisions about new bodies that result from certain types of restructure, as specified in the Housing and Planning Act 2016. We assess these registration applications against more limited criteria. Further information about our approach is set out in the separate Guidance on Notifications for Restructures and Constitutional Changes which is also available on the RSH website.<sup>32</sup>

### De-registration

7.4 Sections 118 and 119 of the Housing and Regeneration Act 2008 establish two categories of de-registration: compulsory and voluntary. Compulsory de-registration is where we can take action, within prescribed circumstances, to remove a registered provider (including a local authority) from the register. The voluntary de-registration provisions of the Act enable private registered providers (i.e. not local authorities) to apply to us to be de-registered at any time.

7.5 We assess applications for voluntary de-registration against the conditions set out under Section 119 of the Act, including the criteria we set as detailed in the guidance on the RSH website.<sup>33</sup>

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<sup>31</sup> <https://www.gov.uk/guidance/register-and-de-register-as-a-provider-of-social-housing>.

<sup>32</sup> <https://www.gov.uk/government/publications/restructures-and-constitutional-changes>.

<sup>33</sup> <https://www.gov.uk/guidance/register-and-de-register-as-a-provider-of-social-housing>.

## Restructures and disposals

- 7.6 In accordance with the notification requirements for disposals and certain types of constitutional changes set out in the Housing and Planning Act 2016, we have issued directions, available on the RSH website, which explain when providers must notify us about disposals<sup>34</sup> and constitutional changes, including restructures.<sup>35</sup> There is also supporting guidance detailing the timing and content of related processes.
- 7.7 Non-profit providers are required to make statutory notifications to us when making certain changes to their organisational structures and their governing instruments. For restructures, providers should engage with us at two stages. Firstly, providers should inform us when a decision is reached to go ahead with a restructure (we refer to this as 'early information on restructures'). Secondly, providers will need to submit any relevant statutory notification at the required point in time.
- 7.8 We expect providers to engage with us appropriately where restructures are planned. The Governance and Financial Viability Standard requires registered providers to communicate with us in a timely manner in relation to 'material issues' and we consider that a restructure is a material issue for these purposes.
- 7.9 Following receipt of early information about a restructure, we may request follow-up information where there is reason to do so. This is likely to be where the restructure could have an impact on our (published) view of the provider or where we need assurance about how the risks of the restructure are being managed.
- 7.10 Following receipt of the statutory notifications, we may request follow-up information on an exception basis. This is likely to be where we need assurance about compliance with the Governance and Financial Viability Standard or about management of apparent risks. Further regulatory action may also be necessary if, for example, a registration or de-registration decision may be required as a result of the transaction.
- 7.11 Where no follow-up information is required, the notifications will be considered together with other regulatory information to inform planned regulatory activity. Information about notifications will also be used to support sector analysis.
- 7.12 In the course of dealing with either disposal or constitutional change notifications, we may be presented with new information about how a provider's governance operates in practice. In such circumstances we will deal with the matter in accordance with our reactive engagement approach, as outlined above. In some instances, we may decide to issue an interim regulatory judgement as a result of the constitutional changes enacted. (See Section Six.)

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<sup>34</sup> <https://www.gov.uk/government/publications/notifications-about-disposals>.

<sup>35</sup> <https://www.gov.uk/government/publications/restructures-and-constitutional-changes>.

## 8. Appeals against regulatory decisions

- 8.1 We operate an appeals scheme under which specific decisions that we reach can be subject to review. The purpose of the scheme is to give an opportunity to organisations affected by certain decisions made by us to appeal those decisions. The appeals scheme may be used where we have given notice that we are using particular legislative powers. It may not be used where we have given notice that we are considering using one of our powers. A full list of the matters which may be appealed under the scheme and associated guidance is available on the RSH website.<sup>36</sup>
- 8.2 In addition to the appeals scheme, we have a separate complaints procedure which is also published on our website.<sup>37</sup> Under our complaints procedure, individuals, registered providers and others who are dissatisfied with the level of service we have provided can raise their concerns.
- 8.3 In some cases, a provider or individual affected by the exercise of our powers will have a statutory right to appeal to the High Court. Our appeals process is not intended to replace any such statutory right.

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<sup>36</sup> <https://www.gov.uk/government/publications/how-to-appeal-against-our-decisions>.

<sup>37</sup> <https://www.gov.uk/government/organisations/regulator-of-social-housing/about/complaints-procedure>.

## Annex A – Outline of changes made in this version of RTS

The main changes that have been made in this new version of ‘Regulating the Standards’ are highlighted below:

### Section 1 - introduction

- Reference added to the public sector equality duty
- Information sharing sub-section moved to this section
- Explanation of the distinction we make between large and small registered providers moved to this section and reference added to specific requirements relating to registered providers which sit within groups headed by unregistered parents.

### Section 2 – planned economic regulation

- Text setting out our expectations regarding stress testing moved under the sub-section on In Depth Assessments. The IDA Scoping Framework annex has been removed to avoid it becoming out of alignment with the latest version we share with providers
- The summary table outlining the five components of IDAs has been updated to reflect our current approach
- Additional information regarding the Value for Money Standard reporting requirements added to the sub-section on Stability Checks
- Planned engagement meetings – text amended to reflect that we take a more flexible risk-based approach to the timing of these meetings
- Text relating to the Value for Money Standard and the Rent Standard has been moved to this section.

### Section 3 – reactive economic regulation

- In the previous version of RTS this section covered both reactive economic and consumer regulation.

### Section 4 – reactive consumer regulation

- This section brings together information that was previously in the main document and in an annex on consumer regulation.

### Section 5 – data requirements

- Requirement for large providers to submit an annual return on Disposal Proceeds Fund removed
- Reference added to the fact that we may, by exception, ask for specific returns like the Quarterly Survey, from small providers.

### Section 6 – regulatory judgements and notices

- Additional background added on the nature of narrative regulatory judgements and notices
- Clarification added that non-compliant regulatory judgements remain in force until issues resolved
- New text added to set out our approach to publishing regulatory judgements for for-profit providers
- Gradings under Review list – clarification of our approach to small private registered providers and also additional text included to explain that due to the complexity of some cases the time period for publishing a judgement or notice may be longer than six to eight weeks.



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**RSH regulates private registered providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver and maintain homes of appropriate quality that meet a range of needs.**