



Regulator of  
Social Housing

# Regulating the Standards

March 2019



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## Foreword by Simon Dow, Interim Chair of the RSH Board



'Regulating the Standards' sets out what providers can expect from the Regulator of Social Housing, and is an important part of our commitment to being open with stakeholders generally about how we approach our work. This version updates the document published in April 2018.

The main change in this new version of 'Regulating the Standards' which I'd like to highlight concerns our approach to planned engagement. It is now almost four years since we introduced In Depth Assessments (IDAs) and by this autumn we anticipate that almost all providers which have 1,000+ social housing units will have had an IDA. Having established this baseline and in accordance with our commitment to taking a proportionate approach to planned regulation, we now intend to carry out IDAs for the largest and/or most complex providers on a biennial basis.

We also intend in the new financial year to begin holding a face-to-face meeting with the executive teams of these providers in the years when we are not carrying out IDAs. Such meetings are likely to take place between August and December, leading into the period when we are carrying out the annual Stability Checks. Reflecting the consolidation that has been taking place in the sector, we believe that these changes will help to ensure that the way we engage with the largest most complex providers remains appropriate.

Assessing providers' understanding of the main risks they face and how they are managing them remains a key element of the IDA process. All IDAs involve consideration of the quality of provider's stress testing and board oversight, and, as part of this update, we have sought to clarify our expectations in the section which outlines the IDA model and the more detailed description included at Annex C. We have also provided more information on our use of interim judgements and the circumstances in which we may issue them.

Thank you for your continuing help.

A handwritten signature in black ink, appearing to read 'Simon Dow', enclosed within a circular scribble.

Simon Dow  
Interim Chair of the Board  
Regulator of Social Housing

## 1. Introduction

- 1.1 'Regulating the Standards' outlines the regulator's operational approach to assessing providers' compliance with the economic and consumer standards.<sup>1</sup> Those [standards](#)<sup>2</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 A summary of our approach to different categories of provider and the requirements which apply to them is included at [Annex A](#). In particular, it should be noted that:
- only the consumer standards (and not the economic standards) apply to local authority registered providers
  - our approach to regulating providers against the economic standards is different for providers which own fewer than 1,000 social housing units<sup>3</sup>
- 1.3 'Regulating the Standards' outlines how we regulate. It sets out the broad principles which underpin our approach and gives details of our key processes such as Stability Checks and IDAs. As well as providing information on our planned work, the document also outlines our approach to reactive engagement, including notifications and consumer 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

- 1.4 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.

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<sup>1</sup> This March 2019 version of 'Regulating the Standards' replaces the one published in April 2018

<sup>2</sup> <https://www.gov.uk/government/publications/regulatory-standards>

<sup>3</sup> The calculation of the number of units 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 unit threshold is 31 May. This is the deadline by which providers submit their annual Statistical Data Return and report on the number of social housing units which they own. By exception, we may re-categorise a provider sooner, if it self-reports a significant increase in its number of units outside of the SDR reporting timelines.

1.5 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.

1.6 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.

1.7 The regulator also has a duty to exercise its functions in a way that minimises interference and (as far as is possible) is proportionate, consistent, transparent and accountable. In addition, the regulator has a duty to have regard to the desirability of promoting economic growth (the 'growth duty').<sup>4</sup> These requirements underpin how the regulator carries out all of its functions. We also 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.

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<sup>4</sup> Section 108 of the Deregulation Act 2015 establishes that any person exercising a regulatory function must have regard to the desirability of promoting economic growth (the 'growth duty').

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

### Achieving these objectives

- 1.8 The RSH Board recognises 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. The board is also aware of the importance of promoting continued private investment in the sector and facilitating the sector's growth (given its fundamental objective of supporting the provision of new social housing and the growth duty). The Value for Money Standard reflects this with a requirement that providers must articulate their strategy for delivering homes that meet a range of needs.
- 1.9 The regulator's primary focus is on promoting a viable, efficient and well-governed social housing sector able to deliver homes 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 their financial strength, risk profile, approach to value for money and their quality of governance.

## Our overall approach

### Co-regulation

- 1.10 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 judgements that we reach.

## Communication with the regulator

- 1.11 The [Governance and Financial Viability Standard](#)<sup>6</sup> 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>7</sup> this includes the provision of information in regulatory returns, or otherwise requested by the regulator. 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 weak control environment and possibly as evidence of a failure to comply with this Standard.
- 1.12 The Governance and Financial Viability Standard 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.
- 1.13 As explained in the Governance and Financial Viability Standard Code of Practice, we view transparency on the part of registered providers as being a fundamental pillar of the co-regulatory approach and any failure to comply may affect our assessment of a provider.
- 1.14 Transparency is a key element of our approach to assessing value for money. The [Value for Money Standard](#)<sup>8</sup> requires providers to articulate and deliver a comprehensive and strategic approach to achieving value for money in meeting their organisation's objectives. As part of that process, providers are required to publish evidence which enables stakeholders to understand their performance. The evidence should explain in a transparent and accessible way how providers are achieving value for money in delivering their strategic objectives.
- 1.15 The Value for Money Standard sets a specific expectation that the published evidence in a provider's statutory accounts should enable stakeholders to understand:
- performance against its own value for money targets and any metrics set out by the regulator, and how that performance compares to peers
  - measurable plans to address any areas of underperformance, including clearly stating any areas where improvements would not be appropriate and the rationale for this.
- 1.16 The regulator has defined and published the metrics that it expects providers to report against to meet the requirement of the Value for Money Standard. The details are set out in a [technical note](#) which is available online.<sup>9</sup>

<sup>6</sup> <https://www.gov.uk/government/publications/regulatory-standards>.

<sup>7</sup> <https://www.gov.uk/government/publications/governance-and-financial-viability-standard-code-of-practice>.

<sup>8</sup> <https://www.gov.uk/guidance/regulatory-standards#economic-standards>

<sup>9</sup> <https://www.gov.uk/government/publications/value-for-money-metrics-technical-note>.

## 2. Our operational approach

### Regulating different providers

- 2.1 Reflecting our risk-based proportionate approach, we regulate providers differently depending on their level of risk exposure.<sup>10</sup> Providers which own fewer than 1,000 social housing units 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 (see summary table at [Annex A](#)). We review the annual accounts of all providers in this category as well as analysing information they submit via the Statistical Data Return 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.
- 2.2 We make use of our sector risk profile<sup>11</sup> analysis and other relevant information to assess the risk profile of registered providers which own 1,000 or more social housing units 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.
- 2.3 Where a registered provider owns 1,000 or more social housing units 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 registered providers sit within a group of organisations, 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.

### Regulation of the economic standards

- 2.4 There are three economic standards:
- Governance and Financial Viability
  - Value for Money
  - Rent
- 2.5 The remaining standards are described as the consumer standards. Our approach to regulating these standards is set out in the reactive engagement section of this document and in more detail at [Annex B](#).

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<sup>10</sup> We do not regulate local authority registered providers against the economic standards as they are not applicable to them

<sup>11</sup> <https://www.gov.uk/government/collections/sector-risk-profiles>

- 2.6 Through our regulation of the economic standards, we seek to gain a strategic and evidenced understanding of both the short-term and longer-term risks to which providers are exposed and to gain a comprehensive understanding of their approach to value for money. This helps us to make informed judgements about their compliance. We may seek assurance in a variety of ways and from such sources as we consider appropriate to the 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 judgement we issue will reflect our concerns.
- 2.7 Providers should be aware that in carrying out our regulation of the economic standards, we are likely – as a minimum – to seek assurance about providers'
- financial strength
  - governance and risk management
  - 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.
- 2.8 We expect boards 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. 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.
- 2.9 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 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.
- 2.10 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>12</sup>.

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<sup>12</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.

## Regulating the Standards

- 2.11 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.
- 2.12 Accordingly, we look for very clear assurance as to 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.

## Operational approach

- 2.13 We have four main ways of carrying out our planned regulatory engagement with private registered providers which own 1,000 or more social housing units, each of which is explained in more detail below:
- Review of Quarterly Surveys
  - Stability Checks
  - In Depth Assessments
  - Annual planned engagement meetings (for a subset of larger, more complex providers only)
- 2.14 We also need to respond to new issues as they emerge and our approach to reactive regulatory engagement (including the way in which we regulate the consumer standards) is also explained in more detail below.

### Review of Quarterly Surveys

- 2.15 All private registered providers which own 1,000 or more social housing units 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.
- 2.16 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.

## Stability Checks

- 2.17 In addition, we carry out an annual Stability Check of all private registered providers which own 1,000 or more social housing units. This is a financially focused 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.
- 2.18 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.<sup>13</sup> 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.
- 2.19 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, its 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 the regulator.
- 2.20 As part of the Stability Check, we also review providers' performance against their own value for money targets and the metrics set out by the regulator and how that performance compares to peers, to help us determine if they are meeting the requirements of the Value for Money Standard. 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.
- 2.21 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. On the other hand, 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.

## In Depth Assessment

- 2.22 Private registered providers which own 1,000 or more social housing units are also 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 the occurrence of 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. Our intention, for some of the largest and/or most complex providers, is to carry out IDAs on a biennial basis.

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<sup>13</sup> In other words our expectation is 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.

## Regulating the Standards

- 2.23 Through IDAs, we assess providers' compliance with the economic standards. 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 are likely to encompass assessment of risk profiles, exposures, financial strengths and weaknesses, governance and the delivery of value for money in the broadest sense.
- 2.24 Each IDA is scoped to ensure we focus on the key issues impacting upon a particular provider's compliance. However, IDAs are framed around a consistent model (see [Annex C](#)) which comprises five components:

Component	Focus
<b>Strategy</b>	The provider's short and medium-term priorities, how they relate to its operating environment and its strategic approach to delivering value for money in meeting its objectives.
<b>Structure</b>	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 significant risks arising from the provider's operating environment, strategy, structure and financial position. The provider's risk and control framework, including the quality of its stress testing and associated mitigation strategies.
<b>Governance</b>	The overall effectiveness of the provider's governance arrangements and how they help to mitigate key risks to acceptable levels.
<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.

- 2.25 When the regulator determines that it is going to carry out an IDA of a registered provider it notifies the organisation of its decision. On occasion, we may need to carry out an IDA at short notice, but generally we will seek to give providers at least six weeks' notice of our intention and to discuss the planned process. Each IDA is led by a senior member of staff, supported by staff with a range of skills from across the regulator. The size of the team and the particular skills required reflect what is appropriate for the specific assessment.
- 2.26 The regulator produces a document setting out the proposed scope of the IDA. This is shared with the provider for comment. In accordance with our co-regulatory approach, we always start by looking at the how the board itself gains assurance that it is compliant with the standards.

- 2.27 The documents required by the regulator 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 will always require the following:
- business plan and risk assessment
  - accounts and financial statements
  - audit management letter
  - organisational/group structure chart
- 2.28 The regulator specifies a date by which written evidence for the IDA must be submitted. Each IDA will be an assessment of the provider's compliance at a given time and our expectation is that providers will supply requested information within the agreed timescales for completion of the assessment.
- 2.29 IDAs involve a mixture of desktop research and on-site work. We will normally want to interview the board chair individually 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 the regulator's requirements throughout the process.
- 2.30 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 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 explaining the reasons for the assessment.<sup>14</sup> This report will be shared with the provider for factual accuracy checking, prior to publication on the RSH website.<sup>15</sup>

### Annual planned engagement meetings

- 2.31 As outlined above, we anticipate carrying out IDAs of some providers on a biennial basis because of their size and complexity. In the year when we are not conducting an IDA, we will arrange to meet face-to-face with the executive teams of this group of providers. These structured regulatory engagement meetings are likely to take place between August and December, leading into the period when we are carrying out the annual Stability Checks. The agenda for the meetings will in part be driven by the content of the provider's current business plan but they will also accommodate discussion of particular sector issues relevant to the provider. Within the context of a co-regulatory approach, we believe that these meetings will help to ensure that we have an accurate understanding of such providers' developing strategies and emerging risk profiles.

### Reactive engagement

- 2.32 As well as our planned work, we also respond to new issues as they emerge (what we call reactive engagement). Our remit here, with regard to the consumer standards, encompasses all categories of registered provider.

<sup>14</sup> For an explanation of our grades, see [Section 4](#).

<sup>15</sup> <https://www.gov.uk/guidance/regulatory-judgements-and-regulatory-notice-a-to-z-list>

## Regulating the Standards

2.33 The regulator receives information and allegations about providers from various sources, including complaints. We seek to ascertain whether any of this information suggests a breach of one of the economic or consumer standards that might warrant further regulatory action. We take a different approach depending on whether it is an economic or a consumer standard which may be impacted.

### **Possible breach of economic standards**

2.34 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, the regulator investigates matters pertaining to the economic standards only in the following circumstances:

- where the issues relate to the viability of an organisation, or
- where the issue, if proven, may affect our regulatory judgement of the organisation, or
- where the issues, if proven and unaddressed, could have a significant reputational risk for the sector.

2.35 In addition to the factors listed above being in evidence, in the case of providers which own fewer than 1,000 social housing units 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.

2.36 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 breach of consumer standards**

2.37 There are four consumer standards:

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

- 2.38 Requirements relating to our consumer regulation role are set out in legislation. Our approach is reactive only and therefore we do not have a role in monitoring providers' performance on consumer standards. We only use our regulatory and enforcement powers where we judge that there has been a breach of a consumer standard which has caused or could cause serious detriment. In line with our overall regulatory approach, in reaching these judgements we take a proportionate approach to each case and focus on whether there is evidence of a systemic failure by a provider. We do not have a role in resolving individual disputes between landlords and tenants. Further guidance about how we deal with consumer standards and how we define serious detriment, is set out at [Annex B](#).
- 2.39 When we judge that a provider has failed (or may fail if no action is taken) to meet one or more of the consumer standards, we can use our powers if we also judge that there are reasonable grounds to suspect:
- that the failure (or potential failure) has resulted in serious detriment to the provider's tenants (or potential tenants)
  - that if no action is taken by the regulator, there is a significant risk that the failure (or potential failure) will result in a serious detriment to the provider's tenants (or potential tenants).
- 2.40 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 Consumer Regulation Panel.<sup>16</sup> The panel will consider whether and how the issue should be followed up. In most cases that we investigate, we are likely to seek further information from the provider.
- 2.41 Where we judge that there are reasonable grounds to conclude that the breach (or potential breach) of standards has resulted in, or could result in, serious detriment to tenants (or potential tenants), we publish a regulatory notice setting out our findings.
- 2.42 The threshold for regulatory intervention in consumer standards is intended to be significantly higher than that in relation to economic standards, and so 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. We will consider the provider's compliance with the economic standards and where we conclude that a provider's grading should change, we will publish a narrative judgement.

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<sup>16</sup> Information we receive in the form of a statutory referral will always be considered by the Panel. A statutory referral is a referral from an authority, representative body, or individual specified in the Housing and Regeneration Act 2008 (as amended). 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 and fire and rescue authorities.

### Possible next steps

- 2.43 If further regulatory action is needed to ensure compliance with any of the standards, then we will consider the use of our powers in accordance with the guidance set out in Annex D. Please note that this is a separate document available on the '[Regulating the Standards](#)' page of the RSH website.<sup>17</sup>

### Restructures and disposals

- 2.44 The Housing and Planning Act 2016 introduced new notification requirements for disposals and certain types of constitutional changes. We have issued directions, available on the RSH website, which set out when providers must notify the regulator about [disposals](#)<sup>18</sup> and [constitutional changes, including restructures](#).<sup>19</sup> There is also supporting guidance detailing the timing and content of related processes.
- 2.45 Non-profit providers are required to make statutory notifications to the regulator 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.
- 2.46 We expect providers to engage with the regulator appropriately where restructures are planned. As outlined above in paragraphs 1.12 and 1.13, we view transparency as being of fundamental importance in a co-regulatory regime and require registered providers to communicate with us in a timely manner in relation to 'material issues'. We consider that a restructure is a material issue for these purposes.
- 2.47 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.
- 2.48 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.
- 2.49 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.

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<sup>17</sup> <https://www.gov.uk/government/publications/social-housing-regulation-regulating-the-standards>.

<sup>18</sup> <https://www.gov.uk/government/publications/notifications-about-disposals>.

<sup>19</sup> <https://www.gov.uk/government/publications/restructures-and-constitutional-changes>.

- 2.50 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 Four](#)).

### Rent Standard

- 2.51 For a four-year period from 2016/17, the Welfare Reform and Work Act 2016 (and regulations made under it) introduced new legislative requirements in relation to the rents charged by registered providers. We expect providers to take steps to ensure that they fully understand these requirements, taking appropriate advice where necessary. Where the legislative requirements apply, we regard compliance with them as a key part of the Governance and Financial Viability Standard obligation to adhere to all relevant law. As such, we expect providers to take care to ensure that adherence with this legislative regime has been considered before they certify compliance with the Governance and Financial Viability Standard. Where the Welfare Reform and Work Act 2016 (and regulations made under it) do not apply, we expect providers to comply with the Rent Standard and Rent Standard Guidance.
- 2.52 Where we become aware of any material non-compliance with the legislative rent requirements or the Rent Standard (as appropriate), we will investigate and determine the appropriate regulatory response.
- 2.53 We have published a separate explanatory note in relation to our powers (which are subject to the consent of the Secretary of State) to issue exemption directions under the Welfare Reform and Work Act 2016 (and regulations made under it).<sup>20</sup>

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<sup>20</sup> See <https://www.gov.uk/government/publications/rent-standard-guidance>.

### 3. Data and information requirements

- 3.1 As explained in paragraph 1.11 above, the regulator relies upon providers supplying it 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 the regulator are kept up to date.
- 3.2 The submission of late and incomplete or inaccurate regulatory data may be indicative of a weak control environment. Hence, failure to provide accurate and timely data may be reflected in our judgement of 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 the regulator in an accurate and timely manner, including through regulatory returns.
- 3.3 We require the following data returns from private registered providers which own 1,000 social housing units 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)
  - annual return on Disposal Proceeds Fund (DPF).
- 3.4 We also require the following non-standardised information from these providers to enable us to carry out our regulation:
- early information on proposed restructures (see '[Restructures and Disposals](#)' above)
  - 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 set out by the regulator, 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>21</sup>
  - audit management letter.

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<sup>21</sup> It is a requirement that this information is included in providers' statutory accounts.

- 3.5 We require the following data returns from private registered providers which own fewer than 1,000 social housing units:
- 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>22</sup>
  - early information on proposed corporate restructures
  - financial statements
  - value for money performance as part of the statutory accounts<sup>23</sup>
  - audit management letter (if applicable).
- 3.6 The regulator collects most of its data through the NROSH+ system. All providers are required to make their returns using this system online at: <https://nroshplus.regulatorofsocialhousing.org.uk>.<sup>24</sup>
- 3.7 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 the organisations we regulate, and will only make requests for other information where we believe it is necessary for effective regulation. Where we do request 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.
- 3.8 Where appropriate, we may share information with other regulators, in accordance with the Data Protection Act 2018, where this is personal data.
- 3.9 The Regulator of Social Housing is 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 held by the regulator. 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.

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<sup>22</sup> Detail on how to submit this information is contained in our Guidance on Notification of Restructures and Constitutional Changes which is available on the Regulator of Social Housing website. It should be noted that early information about restructures and notifications on constitutional changes is not required to be submitted through NROSH+.

<sup>23</sup> The Value for Money Standard includes a specific expectation that providers should annually publish evidence in the statutory accounts on value for money performance as set out in paragraph 1.15. 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 approach outlined in paragraph 2.1.

<sup>24</sup> Please also make sure all contact details on the system are correct.

## 4. Regulatory judgements and notices

4.1 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 units or more.

4.2 There are four governance grades:

<b>G1</b>	The provider meets our governance requirements.	}	Compliant
<b>G2</b>	The provider meets our governance requirements but needs to improve some aspects of its governance arrangements to support continued compliance.		
<b>G3</b>	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
<b>G4</b>	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.		

4.3 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.

4.4 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 the regulator 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 are such that we are actively intervening or taking enforcement action.

4.5 We reflect the level of assurance that we have on a provider's compliance with the Value for Money Standard through our published governance judgement.

## 4.6 There are also four viability grades:

<b>V1</b>	The provider meets our viability requirements and has the financial capacity to deal with a wide range of adverse scenarios.	} <b>Compliant</b>
<b>V2</b>	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.	
		} <b>Non-compliant</b>
<b>V3</b>	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.	
<b>V4</b>	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.	

4.7 Providers at V1 will have supplied the regulator with sufficient assurance that they have met the viability requirements of the 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 not be considered to be unreasonable and the regulator will have assurance that the crystallisation of the identified risks can be mitigated successfully by the organisation in most circumstances.

4.8 Providers at V2 will also have provided the regulator with sufficient assurance that they have met the viability requirements of the Standard. However, we may judge that these providers' financial profiles leave them susceptible to the crystallisation of significant downside risks, potentially including changes in market conditions beyond the provider's control.

4.9 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

## Regulating the Standards

- 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
  - 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.
- 4.10 Providers at V3 will have been unable to provide the regulator with sufficient assurance that they meet the requirements of the Standard. In these circumstances the regulator will be working closely with the provider to try and remedy the issue as soon as possible.
- 4.11 Providers at V4 are in serious financial difficulty and the regulator will be working with the provider and others (as appropriate) to remedy the situation, potentially using the regulator's full range of intervention powers.
- 4.12 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.

## Interim judgements

- 4.13 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.
- 4.14 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.
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	Yes	Considered on a case-by-case basis.

Scenario	Interim judgement	Approach to interim judgements
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 units with a large provider	No	The existing grades of the large provider will be maintained in most cases.

- 4.15 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

- 4.16 As well as issuing regulatory judgements, we also publish regulatory notices. Regulatory notices are issued in response to an event of regulatory importance (for example, a finding of a breach of a consumer standard that has or may cause serious harm) that, in accordance with our obligation to be transparent, we wish to make public.
- 4.17 We do not publish regulatory judgements in relation to local authority registered providers because the economic standards are not applicable to them. However, the consumer standards do apply to local authority registered providers and, if we find serious detriment in relation to a consumer standard, we may issue a regulatory notice as we would for other providers.
- 4.18 We also do not publish regulatory judgements for registered providers which own fewer than 1,000 social housing units. 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.

## Regulating the Standards

- 4.19 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.

## Gradings under Review

- 4.20 We maintain an online Gradings Under Review list.<sup>25</sup> Where we are investigating a matter and we consider that this investigation might result in a private registered provider, which is currently considered to be compliant being re-assessed as non-compliant in relation to the economic standards, we will add it to this list. The purpose of the list is to alert stakeholders to the possibility that the provider may be moving towards non-compliance.
- 4.21 Once we have concluded our investigation, we publish a new narrative regulatory judgement for the provider if it is above the 1,000 unit threshold and remove it from the Gradings Under Review list. If the provider is below the 1,000 unit threshold and we have concluded it is not compliant, we publish a regulatory notice.<sup>26</sup> We endeavour to publish a narrative judgement or notice within six to eight weeks of the provider being placed on the list.

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<sup>25</sup> Regulatory judgements, notices and the Gradings under Review list are accessible at: <https://www.gov.uk/government/publications/regulatory-judgements-and-regulatory-notices>.

<sup>26</sup> We will only issue a regulatory notice for a provider which owns fewer than 1,000 social housing units if we conclude that it is non-compliant.

## 5. Maintaining the register

- 5.1 The regulator has 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

- 5.2 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. The [guidance for new entrants to the sector on how to register](#), along with associated application forms, is available on the RSH website.<sup>27</sup>
- 5.3 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>28</sup>

### De-registration

- 5.4 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 the regulator 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 the regulator to be de-registered at any time.
- 5.5 We assess applications for voluntary de-registration against the conditions set out under Section 119 of the Act, including the [criteria set by the regulator](#)<sup>29</sup> as detailed in the guidance on the RSH website.

<sup>27</sup> <https://www.gov.uk/guidance/register-and-de-register-as-a-provider-of-social-housing>.

<sup>28</sup> <https://www.gov.uk/government/publications/restructures-and-constitutional-changes>.

<sup>29</sup> <https://www.gov.uk/guidance/register-and-de-register-as-a-provider-of-social-housing>.

## Operation of the Disposal Proceeds Fund

- 5.6 Since 6 April 2017 providers have no longer been required to deposit net proceeds from relevant disposals into their DPF. However, any provider which had an existing DPF on that date is required to operate it in line with current requirements until the fund is exhausted or by April 2020. For further information see our [DPF Requirements and associated guidance](#)<sup>30</sup> which is available on the RSH website.
- 5.7 Where providers are required to operate a fund, it must be operated in accordance with requirements set by the regulator, including restrictions on the use of the fund and the time period over which funds generated must be used. If funds cannot be or are not used in accordance with the requirements, providers may need to pay over the proceeds in the fund or seek agreement from the regulator to retain the proceeds beyond the prescribed time period.

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<sup>30</sup> <https://www.gov.uk/government/publications/temp-disposal-proceeds-fund>.

## 6. Appeals against regulatory decisions

- 6.1 We operate an appeal scheme under which specific decisions of the regulator can be subject to review. The purpose of the appeals scheme is to give an opportunity to organisations affected by certain decisions made by the regulator 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>31</sup>
- 6.2 In addition to the appeals procedure we have a separate complaints procedure, also published on the website<sup>32</sup>. Under the complaints procedure, individuals, registered providers and others who are dissatisfied with the level of service we have provided can raise their concerns.
- 6.3 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. The regulator's appeals process is not intended to replace any such statutory right.

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<sup>31</sup> <https://www.gov.uk/government/publications/how-to-appeal-against-our-decisions>.

<sup>32</sup> <https://www.gov.uk/government/organisations/regulator-of-social-housing/about/complaints-procedure>



## Annex A: Summary of our approach by provider type

### Private registered providers which own 1,000 social housing units or more

- 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 IDAs and in some cases to an annual planned engagement meeting
- 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 units

- 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
- subject to annual review of financial statements and, if relevant, the audit management letter. As appropriate, other information may be assessed e.g. if developing new homes, the regulator normally seeks and considers financial forecast information
- regulatory notices issued where the regulator has evidence that provider is in breach of an economic standard or for serious detriment finding
- Gradings Under Review list applicable
- not required to complete Quarterly Survey, or subject to Stability Checks, IDAs or regulatory judgements.

### Local authority registered providers

- only consumer standards applicable
- regulatory notices published where regulator judges serious detriment

## Annex B: Consumer regulation guidance

1. The Housing and Regeneration Act 2008 (the Act) places a restriction on the regulator's ability to use its powers in relation to a provider failing to meet a consumer standard. We may use our regulatory and enforcement powers only if we think 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).
2. Therefore, the regulator's powers to intervene in consumer issues are only available in connection with standard breaches.
3. This is the basis of what is called the 'serious detriment test'. Regulatory powers in Chapter 6 of the Act can be used to investigate where the regulator thinks that there is risk of failing a Standard and has reasonable grounds to suspect that – if the failure occurs – the failure will or may result in serious detriment to tenants (or potential tenants).
4. We are required to issue guidance about how we apply the 'serious detriment test' and we also publish an annual report about our consumer regulation work<sup>33</sup>.
5. 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 a judgement of serious detriment by the regulator. We consider that the meaning of serious detriment is when there is risk of, or actual, serious harm to tenants.
6. When we consider information or a complaint, we examine it to determine whether a consumer standard has been failed. In line with our proportionate approach to regulation, we focus on whether there is material evidence of systemic failure on the part of the provider. The regulator has 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 consider the facts in that context.
7. 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 the regulator to attempt 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.

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<sup>33</sup> <https://www.gov.uk/government/collections/consumer-regulation-review>

## Regulating the Standards

8. Our assessment of serious detriment is based on the degree of harm or potential harm that may be caused to tenants by a breach of standards. The judgement is formed on the regulator's opinion of the actual or potential impact on tenants, irrespective of the nature of the issue that gives rise to the concern.
9. Therefore, in assessing whether to consider if there could be breach of standard and serious detriment or reasonable grounds to suspect this may be the case, we consider the following initial questions. They are:
  - if the issue raised were true, is it likely that there has been, or could be, a breach of a consumer standard?
  - if the issues raised were true, would there be any impact on tenants which would cause serious actual harm or serious potential harm?
10. 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, the regulator 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.
11. 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 standard and serious detriment.
12. Ultimately, decisions on a breach of the consumer standards and serious detriment are a judgement by the regulator, based on the evidence available and its published approach. It is also possible that issues under one consumer standard may result in problems under one or more of the other standards, indicating a systemic failure.
13. The circumstances of each case will inform the regulator's response. In some cases, the regulator may need to intervene directly to address the problem(s) identified.
14. Where we judge that the serious detriment threshold has been crossed in relation to consumer standards, or may be crossed if effective remedial action is not taken, for private registered providers we will also assess the implications of the issue against the economic standards in accordance with our published approach. We will investigate the issues, determining what assurances on governance may be required of the provider's board and whether any further regulatory action is required.

15. If we find serious detriment as a result of a breach by a local authority housing service, we may use relevant powers. The economic standards do 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 the regulator 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 Ministry for Housing, Communities and Local Government.
16. It is possible in some cases of serious detriment that other agencies or regulators will have responsibility for dealing with the presenting issue. We may refer the issue directly to the relevant authority if this has not already been done. However, in such cases the regulator may also act in anticipation of, or at the same time as, other agencies, with particular reference to implications for the provider's governance that may arise from the problem.
17. The regulator will give reasons for its decisions to intervene or investigate, or for not taking any action. Where a referral does not, in the regulator's opinion, constitute serious detriment, the regulator 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.
18. 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.
19. 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 Act. These include the Housing Ombudsman, tenant representative bodies, MPs, 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.
20. 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.
21. We do not have a statutory mandate to deal with individual complainants and cannot mediate in disputes between landlords and tenants. The regulator has 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, the regulator will direct tenants or other complainants towards the provider's own complaints system and the Housing Ombudsman.<sup>34</sup>

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<sup>34</sup> See <https://www.gov.uk/government/publications/memorandum-of-understanding-between-the-regulator-of-social-housing-and-the-housing-ombudsman>.

22. 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<sup>35</sup>.
23. The authorities which are able to make statutory referrals to the regulator include parties which may be or could become involved in local complaints resolution processes. Where the regulator receives a referral from one of these specified authorities (or any other party), the regulator's 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.
24. Although the regulator will not become involved in the resolution of individual complaints, we recognise that assessments of a breach of the consumer standard and serious detriment can stem from individual tenant referrals.
25. If an individual or organisation is dissatisfied with the level of service provided by the regulator in relation to a consumer regulation referral they can raise their concerns by going through Stage Two of our complaints procedure.<sup>36</sup> This should be done by writing to or emailing the regulator within three months of the date of our response to the referral.

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<sup>35</sup> Currently tenants must wait eight weeks after the conclusion of the registered provider's complaints process before making raising the matter with the Housing Ombudsman. For the latest information on the process, please see <https://www.housing-ombudsman.org.uk>.

<sup>36</sup> <https://www.gov.uk/government/organisations/regulator-of-social-housing/about/complaints-procedure>.

## Annex C: In Depth Assessment model

	Component		Element	Assessment focus
1	<p><b>Strategy</b></p> <p>The clarity of the provider's strategic direction, priorities and its operating markets</p>	1.1	Strategic direction	<p>Organisational strategy, including short and medium-term strategic priorities, longer-term strategic direction and the associated risks.</p> <p>Any significant shifts in strategic focus or in the scale or the pace of change around existing strategy activity.</p> <p>Board understanding of the operating environments and markets to which its current and future plans expose it.</p> <p>Embedding of value for money (VFM) within the organisation's objectives and strategic targets.</p> <p>Risk and returns of non-social housing activities and their relevance or contribution to strategic objectives.</p>
2	<p><b>Structure</b></p> <p>The provider's structure, the interaction between it and the various organisations connected with it and the activities they each carry out</p>	2.1	Organisational dynamics	<p>Interaction between the various entities within and connected to the group (registered and unregistered), including intra-group transactions (including the arrangements for recourse in the event of failure/inability to meet obligations) and how risks flow between group entities.</p> <p>Legal identity and purpose of all associated entities.</p> <p>Financing and governance arrangements for all subsidiaries and joint ventures/special purpose vehicles.</p> <p>Intra-group lending and guarantees.</p> <p>Implications of all of the above for group entities with charitable status.</p>
3	<p><b>Risk profile and mitigation</b></p> <p>Rounded assessment of the provider's understanding of the main risks it faces and how effectively it is managing them.</p>	3.1	Key and emerging risks in the business	<p>Identification and assessment of key risks.</p> <p>Plans to mitigate and/or control risks and the assurance the board is receiving that controls and mitigations are being effectively implemented.</p> <p>Use of assets and liabilities information in informing stress testing scenarios, mitigations and overall risk management.</p>

	Component		Element	Assessment focus
	Encompasses the quality of the provider's stress testing and its related use of assets and liabilities records.	3.2	Quality of stress testing and board oversight	<p>How integrated stress testing is with wider business planning, the risk and control framework, and degree of board ownership.</p> <p>Severity of scenarios and combinations of risks tested and how they relate to key risk exposures in the group.</p> <p>Extent to which analysis includes multivariate scenarios and demonstrates effects on cash, covenants, and security.</p> <p>Credibility of mitigation strategies, and extent to which impacts have been quantified and monitoring arrangements for implementing recovery plans developed – including any early warning indicators and defined trigger points.</p> <p>Understanding of how effective identified recovery plans will be in dealing with specific scenarios.</p>
<b>4</b>	<b>Governance</b>	4.1	Overall governance control	<p>Alignment between governance arrangements and leadership skills with the activities and risks of the organisation.</p> <p>Operation, quality and effectiveness of governance arrangements including:</p> <ul style="list-style-type: none"> <li>• board assurance on delivery of the business plan and key risks</li> <li>• overall effectiveness of governance arrangements, including how the board has taken significant decisions</li> <li>• adequacy of the overall control and assurance framework</li> <li>• clarity of roles and responsibilities, accountability and oversight throughout the governance structure</li> <li>• approach to governance effectiveness including Code of governance compliance, board reviews, board skills and appraisal</li> <li>• approach to performance monitoring against targets in the delivery of strategic objectives, including VFM (in particular where presenting issues were identified by the VFM metrics).</li> </ul>

	Component		Element	Assessment focus
5	<b>Financial Resilience</b>  In depth analysis of the provider's long-term viability: financial strength and financial management.	5.1	Financial performance	<p>Financial strength and the quality of financial reporting and forecasting, in particular:</p> <ul style="list-style-type: none"> <li>• Budget monitoring/variance reporting</li> <li>• Reasonableness of assumptions included in the business/financial plan</li> <li>• Covenant headroom and financial health indicators</li> <li>• Monitoring arrangements for all covenants and other treasury matters across the group, including on-lending</li> <li>• Cash flow reporting on sales receipts, committed and uncommitted development spend and intra-group transactions</li> <li>• Track record in and reporting arrangements for, sales and development programmes.</li> </ul>
		5.2	Debt, liquidity and future funding	<p>Available sources of liquidity, the level and price of existing debt as well as new and non-standard types of funding.</p> <p>Alignment between the forecast funding requirements and strategic direction.</p> <p>Security position and level of unencumbered assets.</p> <p>Free standing derivatives and mark-to-market exposure including monitoring, reporting, headroom.</p>
		5.3	Cost structure and efficiency	<p>Sustainability and deliverability of cash flows and operating efficiencies in the business.</p> <p>Scale, timescales and deliverability of efficiency savings and the level of reliance on this in the business plan.</p> <p>Quality of evidence underpinning business plan assumptions on major repairs, including links with stock condition survey information.</p>



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