



Homes &
Communities
Agency

CONSULTATION ON CHANGES TO THE REGULATORY FRAMEWORK

Annex 1. Existing Governance and Financial
Viability Standard with proposed changes

May 2014

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Governance and Financial Viability Standard

Required outcomes

A1 Governance

Registered providers shall ensure effective governance arrangements that deliver their aims, objectives and intended outcomes for tenants and potential tenants in an effective, transparent and accountable manner. Governance arrangements shall ensure registered providers:

- adhere to all relevant law legislation
- comply with their governing documents and all regulatory requirements
- are accountable to tenants, the Regulator and relevant stakeholders
- safeguard taxpayers' interests and the reputation of the sector
- have an effective risk management and internal controls assurance framework
- protect social housing assets.

B2 Financial viability

Registered providers shall manage their resources effectively to ensure their viability is maintained while ensuring that social housing assets are not put at undue risk.

Specific expectations applicable to all registered providers

1.1 Registered providers shall adopt and comply with an appropriate code of governance. Governance arrangements should establish and maintain clear roles, responsibilities and accountabilities for the board, chair and chief executive and ensure appropriate probity arrangements are in place. Areas of non-compliance with their chosen code of governance should be explained. Registered providers should assess the effectiveness of their governance arrangements at least once a year.

1.2 Registered providers shall ensure that they manage their affairs with an appropriate degree of skill, independence, diligence, effectiveness, prudence and foresight.

~~1.23 Registered providers shall ensure that they operate an appropriate strategic planning and control framework that identifies and manages risks to the delivery of their objectives and compliance with regulatory standards. Providers-~~Registered providers

shall communicate in a timely manner with the Regulator on material issues that relate to non-compliance or potential non-compliance with the standards.

~~1.4 — Where there is a non-regulated element, the registered provider shall demonstrate to the regulator that it has in place effective mechanisms (such as commitments, undertakings or other assurances between itself and the non-regulated element) which ensure that:~~

~~1.4.1 — It is and will be able to comply with the regulator's standards and other regulatory requirements~~

~~1.4.2 — Its ability to meet the regulator's standards and other regulatory requirements is not and cannot be prejudiced by the activities or influence of the non-regulated element~~

~~1.4.3 — In the event that the registered provider does not or may not be able to comply with the regulator's standards or other regulatory requirements:~~

~~a. the non-regulated element will give any necessary support or assistance to enable compliance, and~~

~~b. the registered provider has the ability to require the support or assistance of the non-regulated element to enable compliance~~

~~— In some situations it may be appropriate for the regulator to be a party to such arrangements~~

2. Financial Viability

~~2.1 — Registered providers shall ensure that:~~

- ~~• effective controls and procedures are in place to ensure security of assets and the proper use of public funds~~
- ~~• effective systems are in place to monitor and accurately report delivery of their plans~~
- ~~• the risks to delivery of financial plans are identified and effectively managed~~

~~4.21.4 Registered providers shall ensure that they have an appropriate, robust and prudent business planning, risk and control framework. ~~Through this framework they shall ensure:~~~~

1.4.1 The framework shall ensure:

- there is access to sufficient liquidity at all times
- financial forecasts are based on appropriate and reasonable assumptions
- effective systems are in place to monitor and accurately report delivery of the registered provider's plans

- (d) ~~planning sufficiently considers~~ the financial and other implications of risks to the delivery of plans are considered
- (e) registered providers ~~they~~ monitor, report on and comply with their funders' covenants.

1.4.2 The framework shall be approved by the registered provider's board¹ and its effectiveness in achieving the required outcomes shall be reviewed at least once a year.

1.5 In addition to the above registered providers shall assess, manage and where appropriate address risks to ensure the long term viability of the registered provider, including ensuring that social housing assets are protected. Registered providers shall do so by:

(a) maintaining a thorough, accurate and up to date record of their assets and liabilities and particularly those liabilities that may have recourse to social housing assets

(b) carrying out detailed and robust stress testing against identified risks and combinations of risks across a range of scenarios and putting appropriate mitigation strategies in place as a result

(c) before taking on new liabilities, ensuring that they understand and manage the likely impact on current and future business and regulatory compliance

1.6 Registered providers shall ensure that any arrangements they enter into do not inappropriately advance the interests of third parties, or are arrangements which the Regulator could reasonably assume were for such purposes.

1.37 Registered providers shall ~~provide~~communicate with the Regulator in an accurate and timely manner. This includes returns to the Regulator, including an annual report on any losses from fraudulent activity, in a form determined by the Regulator.

1.8 Registered providers shall assess their compliance with the Governance and Financial Viability Standard at least once a year. Registered providers' boards shall certify in their annual accounts their compliance with this Governance and Financial Viability Standard.

¹ Where a registered provider does not have a board, it should be taken to include an equivalent management body as appropriate

2 Specific expectations applicable to specific categories of registered provider

Profit making registered providers

2.1 Profit making registered providers shall ensure that they undertake their social housing activities in an entity which is legally and operationally separated from any other activities they may undertake, except as set out below:

Profit making registered providers should ensure that activities they undertake which do not relate to the provision of social housing:

- (i) form only a very small part of the activities they undertake
- (ii) are not such as to mean that registered providers place social housing assets, activities relating to the provision of social housing or their own financial viability at undue risk

Registered group parents

2.2 Registered providers which are parent companies shall, as appropriate, support or assist those of their subsidiaries that are registered providers with a view to ensuring compliance with regulatory requirements.

Registered providers with unregistered parents

2.3 Registered providers with parent companies who are not registered providers shall ensure that they do not enter into agreements to support the activity of the parent or another group member that may have a material negative impact on the social housing assets of the registered provider.

2.4 To enable compliance with the Regulator's standards or other regulatory requirements, registered providers with parent companies that are not registered providers shall have in place effective mechanisms to ensure that:

- (a) such parent companies will give any appropriate support or assistance as necessary to the registered provider
- (b) such registered providers have the ability to require the support or assistance of the parent company concerned
- (c) the registered provider's ability to meet the Regulator's standards and other regulatory requirements is not and cannot be prejudiced by the activities or influence of the parent company or another part of the group

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