



# Regulator of Social Housing

## Direction about notifications of disposal of social housing dwellings and of land other than a dwelling 2017

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# 1 Overview

- 1.1 Private Registered Providers of Social Housing (providers) are required by section 176 of the Housing and Regeneration Act 2008, as amended (HRA 2008), to notify the Regulator of Social Housing (the regulator) about any disposal of a dwelling (as defined in section 275 HRA 2008) that is social housing; and non-profit providers are in addition, required to notify the regulator about any disposal of land other than a dwelling.
- 1.2 Section 176 of the HRA 2008 gives the regulator a power to give a direction about the period within which such notifications must be given and/or about the content of such notifications; and a power to direct that a requirement for notification is dispensed with.
- 1.3 In this Direction the regulator sets out the disposals which it requires providers to notify it about, what information it requires, and when it requires the information to be supplied. That means that this Direction sets out the circumstances when the requirement for notification is dispensed with so that providers do not have to notify the regulator.
- 1.4 The regulator can change or withdraw this Direction, whether generally or in relation to a particular provider, particular property, particular forms of disposal or in any other way. It can also give a further Direction in different terms to this Direction to particular provider(s).
- 1.5 The regulator will make arrangements for bringing changes to this Direction to the attention of every provider to which it applies.
- 1.6 This Direction supersedes the 'General Direction 2010 under section 176 of the Housing and Regeneration Act 2008 in respect of notification of disposals of land by non-profit Private Registered Providers' dated 1 April 2010 and given by the Tenant Services Authority.
- 1.7 This Direction has effect from and including 6 April 2017.
- 1.8 The regulator has also published '*Guidance for private registered providers on how to notify the regulator about the disposal of social housing dwellings*' to assist providers in fulfilling the requirements, and a form on which to provide the information to the regulator. These are available from the Regulation pages of the Gov.uk website and within the regulator's NROSH+ data collection system.
- 1.9 The terms used in this document are set out in the Glossary of Terms in Annex 1.

## 2 The Direction

- 2.1 The regulator in exercise of the powers conferred by sections 176(4) and 176(5) of the HRA 2008 makes the following Directions.

## 3 Relevant Disposals

- 3.1 The regulator directs that the statutory notification requirement on providers in section 176(2) of the HRA 2008 regarding land other than a dwelling is dispensed with in its entirety.
- 3.2 The regulator directs that the notification requirement on providers in section 176(1) of the HRA 2008 regarding 'a dwelling that is social housing' is dispensed with **except** in relation to Relevant Disposals of dwellings. That means that the obligation on providers to notify the regulator only applies in relation to Relevant Disposals (which are those set out in Table 1) of a dwelling (which means 'dwelling' as defined in Annex 1).
- 3.3 If a Relevant Disposal fits into more than one category within Table 1, it need only be notified once (see paragraph 4 'Timing of notifications' for the required approach to timing of notification).

**Table 1: Categories of Relevant Disposals**

Transaction category	Type of disposal	Large provider to notify?	Small provider to notify?
<p>1. <b>Out of sector</b> (Occupied and not Occupied)</p> <p>A disposal to someone who is not a Registered Provider OTHER THAN a sale to the Residential Occupier whether that sale is pursuant to a statutory or contractual right or otherwise</p>	<p>Only disposals the result of which is that the provider making the notification will not, after the disposal, be the landlord of the current Residential Occupier or any future Residential Occupier; <b>EXCEPT</b> that the disposal of a freehold or leasehold interest must be notified where the provider will, after that disposal, be the landlord of the current Residential Occupier or any future Residential Occupier by virtue of a lease or sub-lease for a period of less than 7 years.</p>	Yes	Yes
<p>2. <b>Within sector</b> (Occupied only)</p> <p>A disposal to someone who is a Registered Provider</p>		Yes	Yes

Transaction category	Type of disposal	Large provider to notify?	Small provider to notify?
<p>3. <b>Last social housing</b> (Occupied and not Occupied)</p> <p>Where after the disposal, the provider would no longer be a provider of social housing in England (that is, would no longer satisfy section 112(2)(a) of the HRA 2008)</p>	<p>Only disposals the result of which is that the provider making the notification will not, after the disposal, be the landlord of the current Residential Occupier or any future Residential Occupier; <b>EXCEPT</b> that the disposal of a freehold or leasehold interest must be notified where the provider will, after that disposal, be the landlord of the current Residential Occupier or any future Residential Occupier by virtue of a lease or sub-lease for a period of less than 7 years.</p>	Yes	Yes
<p>4. <b>To a profit making private registered provider</b> (Occupied and not Occupied )</p> <p>Where the disposal is to a Profit Making provider</p>		Yes	Yes
<p>5. <b>More than 5% of stock</b> (Occupied and not Occupied)</p> <p>Where the disposal comprises of 5% or more of the provider's Social Housing dwellings prior to the disposal</p>		No	Yes
<p>6. <b>Finance – Standard and Non-Standard Finance</b> (Relevant to Small providers only)</p> <p>Where the purpose of the disposal is connected to obtaining Finance including both Standard and Non-standard Finance</p>	<p>All disposals (as defined by section 273 of the HRA 2008)</p>	No	Yes

Transaction category	Type of disposal	Large provider to notify?	Small provider to notify?
<p>7. <b>Finance – Non-standard Finance only</b> (Relevant to large providers only)</p> <p>Where the purpose of the disposal is connected to obtaining Non-standard Finance</p>	<p>All disposals (as defined by section 273 of the HRA 2008)</p>	<p>Yes</p>	<p>No</p>
<p>8. <b>Guarantees and other obligations</b></p> <p>Where the purpose of the disposal is to provide or support a guarantee or other obligation EXCEPT WHERE the purpose is to obtain Finance (see Transactions 6 and 7 above) or to obtain grant from a public sector body</p>	<p>All disposals (as defined by section 273 of the HRA 2008) which mean that if the guarantee or other obligation is not met, the provider could lose its interest in the dwelling</p>	<p>Yes</p>	<p>Yes</p>

## **4 Timing of notifications: Requirements about the period within which notifications must be given**

- 4.1 The regulator directs that a notification to the regulator about a Relevant Disposal must be given as set out at paragraphs 4.2 and 4.3. If a Relevant Disposal fits into more than one category within Table 1, and one of those categories is a 'Priority Notification' as set out in 4.2, then the notification must be dealt with as a Priority Notification.

### **Priority Notifications**

- 4.2 Providers must notify the regulator within 3 weeks of completion of the disposal of the following Relevant Disposals:
- 4.2.1 Disposals within Transaction Category 1 'Out of Sector' in Table 1 above ONLY where the dwelling is Occupied at the point of disposal;
- 4.2.2 Disposals within Transaction Category 3 'Last social housing' in Table 1 above;
- 4.2.3 Disposals within Transaction Category 5 'More than 5% of stock' in Table 1 above (applicable to Small Providers only);
- 4.2.4 Disposals within Transaction Category 6 'Private finance – All types of finance' in Table 1 above (applicable to Small Providers only).

### **Quarterly Notifications**

- 4.3 Providers must notify the regulator of all other Relevant Disposals (that is other than those set out in paragraph 4.2) which complete within the quarterly periods set out below. The notification must be made within 3 weeks of the end of each quarter.

1 April – 30 June

1 July – 30 September

1 October – 31 December

1 January – 31 March

## **5 Content of notifications: Requirements**

5.1 The regulator directs that a notification to the regulator about a Relevant Disposal must contain the following information.

### **For Relevant Disposals within transaction categories 1- 5 above:**

- 5.1.1 Identification of the dwelling(s), including information about the local authority area in which the dwelling is located;
- 5.1.2 The type and/or use of the dwelling immediately before the disposal;
- 5.1.3 The type of disposal;
- 5.1.4 Confirmation of whether the consideration for the disposal was at the Open Market Value of the dwelling at the point of disposal;
- 5.1.5 Confirmation of whether the full consideration for the disposal was received at the date of disposal;
- 5.1.6 For category 5 only, the percentage of Social Housing dwellings disposed as a proportion of dwellings owned prior to the disposal;
- 5.1.7 Identification of the person or category of person to whom the disposal was made<sup>1</sup>.

### **For Relevant Disposals within transaction category 6 and 7:**

- 5.1.8 Identification of the dwellings;
- 5.1.9 The type of disposal;
- 5.1.10 The value of Finance obtained by disposal of the dwelling(s);
- 5.1.11 Identification of the person providing the Finance.

### **For Relevant Disposals within transaction category 8:**

- 5.1.12 Identification of the dwellings;
- 5.1.13 The type of disposal;
- 5.1.14 Where available the value of guarantee or other obligation provided or value of the interests in the dwellings disposed to support a guarantee or other obligation;
- 5.1.15 Identification of the person to whom the guarantee or other obligation was provided.

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<sup>1</sup> Where the disposal is to another provider or to an organisation that is an associate, subsidiary or parent of the provider the name of the person to whom the disposal is made must be provided. Otherwise, the category into which that person falls is sufficient. Categories are: local authority registered provider; local authority (not a registered provider); charity (whether registered with the Charity Commission or not); other.

## Annex 1: Glossary of terms

Dwelling (dwelling)	a house, flat or other building or part of a building occupied or intended to be occupied as a separate dwelling: it does not include a garden, yard, outhouse or other appurtenance belonging to or usually enjoyed with a dwelling if disposed of separately from the dwelling.
Finance	arrangements made for any of the following:  (i) lending money, including term loan, standby loan, revolving loan or any other lending facilities and including overdraft facilities and unsecured facilities and facilities made available through finance leases of capital leases;  (ii) interest rate hedging including arrangements embedded within loan agreements or those documented separately;  (iii) issuance of loan notes, loan stock and bonds;  (iv) the provision of other facilities including loan notes, loan stock, performance bonds, guarantees, indemnities and letters of credit to the extent the same relate to arrangements within (i), (ii) or (iii).
Large provider	a private registered provider that is not a small provider.
Low Cost Home Ownership Accommodation	has the meaning given in Section 70 of the HRA 2008
Low Cost Rental Accommodation	has the meaning given in Section 69 of the HRA 2008
Non-standard Finance	means Finance that is not Standard Finance.
Occupied	where a dwelling is at the date of the Relevant Disposal the subject of a tenancy, or a licence to occupy, or other similar agreement.
Open Market Value	a valuation made in accordance with a relevant method recognised by the Royal Institution of Chartered Surveyors.



Private Registered Provider (provider)	<p>a private registered provider as described in Section 80(3) of the 2008 Act which means (for the ease of reference) that none of the following are providers:</p> <p>(a) a local authority as referred to in Section 113 of the 2008 Act;</p> <p>(b) a former provider which has been de-registered under the provisions of Sections 118 or 119 of the Act;</p> <p>(c) a registered social landlord removed from the register of the Housing Corporation before 1 April 2010; and</p> <p>(d) a housing association removed from the register of the Housing Corporation before 1 April 2010.</p>
Profit Making and Non-Profit providers	are those organisations so designated on the register of providers of social housing maintained by the regulator under section 115 of the HRA 2008
Registered Provider	has the meaning given to it in Section 80(2) of the HRA 2008 which means (for ease of reference) that it includes providers and local authorities who are listed on the regulator's register.
Relevant Disposals	those disposals set out in Table 1 of this Direction which includes both disposals of Low Cost Rental Accommodation and Low Cost Home Ownership Accommodation; and, unless otherwise stated, disposals of both Occupied and not Occupied dwellings.
Residential Occupier	the person(s) occupying a dwelling by virtue of a tenancy, or a licence to occupy, or other similar agreement.
Social Housing Regulator (the regulator)	the Homes and Communities Agency carrying out its functions as the regulator of social housing contained in Part 2 of the HRA 2008 or in any other statutory power, and any successor to those functions.
Small provider	a private registered provider that owns fewer than 1,000 social housing dwellings.
Social Housing (social housing)	has the meaning given in Sections 68 and 77 of the HRA 2008
Standard Finance	Finance obtained where the disposal by the private registered provider includes a first fixed legal charge to the provider of the Finance and where the provider of the Finance is a: bank, building society, other regulated lending institution; <u>an entity that has issued or is issuing securities on a recognised stock exchange</u> ; local authority; another private registered provider; or an organisation which is the parent, subsidiary or associate of the provider.