



Regulator of
Social Housing

Guidance for local housing authorities applying for approval to the making of or the variation of management agreements

Under Section 27 of the Housing Act 1985

September 2023



Version control

What updates have been done and why

Version number / name	Date issued	Brief summary of changes from previous version
Version 1	November 2021	
Version 2	September 2023	Amended to reflect the regulator's updated fundamental objectives brought in by Royal Assent of the 2023 Social Housing (Regulation) Act and other minor amendments

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1. Introduction and interpretation

- 1.1 Section 27 of the Housing Act 1985 (HA 1985) requires the approval of the Regulator of Social Housing (the regulator) to the making of or in certain circumstances the variation of management agreements by a local housing authority.
- 1.2 The regulator's power to give an approval under Section 27 only applies in relation to a local housing authority in England which is a registered provider of social housing. Any local housing authority that is a landlord of social housing is subject to compulsory registration under Section 114 of the Housing and Regeneration Act 2008 as amended (the HRA 2008).
- 1.3 This guidance sets out in relation to Section 27 applications:
 - Section 2: the process that should be followed by applicants
 - Section 3: how the regulator will assess any application for approval
 - Section 4: what information the applicant should supply
 - Section 5: the regulator's approach to refusal of an application.

Applicant

- 1.4 In this guidance, the provider making the application will be referred to as the applicant.

The regulator's general approval under Section 27

- 1.5 The regulator has issued a general approval which allows for certain types of management agreements to be made without seeking specific approval. The general approval can be found on the regulator's website and should be considered in full, but in summary a local housing authority may enter into a management agreement which complies with the following conditions:
 - the agreement is for no more than five years duration
 - tenants have been consulted as required by the HA 1985
 - the selection process for the manager has been fair and open, in accordance with European Union and national law.

1.6 The following categories of agreement which meet the above conditions are covered by the general approval:

- those subject to tendering conditions and containing certain terms; or
- those dealing with a small number of homes (i.e. no more than ten homes or twenty hostel spaces); or
- those entered into with a Tenant Management Organisation which are in the form approved by the Secretary of State; or
- local management agreements made with a local authority's tenants which are in accordance with any model form of agreement approved by the regulator. Note that although this is included in the general approval, the regulator has not approved a model form of agreement.

2. Applying for approval and the process to follow

- 2.1 It is up to local authorities to satisfy themselves on whether the agreement they are making falls within the general approval or an application for specific approval is required. As explained above, the general approval should be considered in full.
- 2.2 Specific approval for a variation of a management agreement is only necessary where such a requirement has been included in an initial approval to the making of a management agreement. In those instances the initial approval document will have stated those variations that require further approval – this may be specific provisions or provisions that fall within a certain description. All other variations do not require specific approval by the regulator.
- 2.3 Providers wishing to apply for specific approval should complete the appropriate application form: i.e. S27MA for approval to the making of an agreement or S27VAR for approval of a variation. Both of these forms are available on the regulator's website.
- 2.4 Wherever possible, applicants should submit all necessary evidence to support their application at the outset.
- 2.5 Applicants may be asked to provide additional information at any stage of the regulator's consideration of the application.
- 2.6 The applicant should note that the Regulator of Social Housing as a public authority is subject to the provisions of the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and the Data Protection Act 2018. The regulator may also (section 109 of the HRA 2008) share information with a public authority if the regulator thinks the disclosure is necessary for a purpose connected with its functions or the functions or for a purpose connected with the authority's functions.
- 2.7 This form provides a link to the regulator's privacy notice which explains how the regulator protects and processes personal information. The personal information includes names, contact details and other information contained in these applications. The regulator may share relevant information with Homes England and other third parties as necessary in order to fulfil its public task. Should you wish to object to the use of personal information for these purposes please contact enquiries@rsh.gov.uk.
- 2.8 For any enquiries on Section 27 approvals, please contact the Referrals and Regulatory Enquiries team. Tel: 0300 124 5225. Email: enquiries@rsh.gov.uk.

2.9 The regulator prefers scanned copies of signed applications and supporting documents when they originate from an email address of a provider or its legal advisor. Electronic applications should be submitted to RNTeam@rsh.gov.uk. Please **do not** follow up a scanned application with the original through the post. All applications received will be acknowledged.

2.10 Paper applications should be posted to:

Referrals and Regulatory Enquiries team
Regulator of Social Housing
Level 2
7-8 Wellington Place
Leeds
LS1 4AP

3. How the regulator will assess applications for approval

- 3.1 The regulator will take into account the matters set out in this section of the guidance and in the application form. You should ensure that the information you provide in support of your application addresses these matters. In considering an application for approval the regulator may also take into account any and all information it already holds about the applicant.
- 3.2 The regulator will consider if granting the approval would be in accordance with its fundamental objectives which can be found in the HRA 2008, Section 92K.
- 3.3 The regulator's fundamental objectives are separated into the economic regulation objective and the consumer regulation objective and apply to all registered providers. Therefore, although Section 194 of the HRA 2008 enables the regulator to set economic standards only in relation to private registered providers (i.e. registered providers other than local authorities), the economic regulation objective is still relevant for the purposes of any decision taken under Section 27 HA 1985.
- 3.4 The regulator considers that it is reasonable to use its standards as guiding principles to determine what is involved in meeting the fundamental objectives. This should be taken into account by applicants when they are completing the application form and considering what (if any) supplementary information may need to be submitted. The failure to meet a regulatory standard would not, in itself, be a basis for refusing a Section 27 application. Where there is a material breach of a standard, the regulator would take that into account but would do so in the context of the wider decision as well as the regulatory history of the applicant and the relevance of the breach to the decision it is taking.
- 3.5 As well as questions about the proposed management agreement and the regulator's fundamental objectives, the application form contains questions relating to the regulator's regulatory framework and legislative requirements for landlords or housing management agreements. Where this is the case, questions have been clearly labelled and links to the regulatory framework or legislation have been provided.

4. Information to supply

- 4.1 Applications must be made on the appropriate application form: i.e. S27MA for approval to the making of an agreement or S27VAR for approval of a variation. Both of these forms are available on the regulator's website. The regulator will consider completed application forms together with any supporting documents, including the proposed management agreement document. Please note that it is not the responsibility of the regulator to approve the overall content of the agreement document, but certain clauses are statutorily required to be included.
- 4.2 The application form and supporting information should contain all of the information necessary to provide assurance to the regulator on the points below. However, as set out in Section 2 above, applicants may be asked to provide additional information at any stage of the regulator's consideration of the application. This might be to clarify information already provided or because the regulator is unable to form a view on the basis of the information provided.
- 4.3 It is your obligation to provide information. If the regulator's view is that you have not provided sufficient information or assurance, your application may be refused.
- 4.4 The questions on the application forms include details on the length of the agreement and when it is due to start. Applicants are also asked for confirmation on a number of issues including:
- how statutory and regulatory tenant consultation requirements have been complied with:
 - how contracting out management:
 - will not interfere or prevent the applicant continuing to meet its regulatory obligations under the consumer standards
 - will not negatively impact services to tenants
 - will ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection
 - will ensure that tenants of social housing have the opportunity to be involved in its management and to hold their landlords to account

- will demonstrate value for money and ensure that value for money is obtained from public investment in social housing
- will support the provision of social housing that is well-managed and of appropriate quality
- might improve economic, social and environmental well-being of the area
- that the agreement complies with EU procurement regulations (where appropriate)
- that there are provisions within the management agreement including for break clauses as required under legislation
- whether the applicant has been subject to any adverse findings regarding use of public funds or statutory interventions
- whether the applicant is compliant with relevant Health and Safety regulations
- if there have been any relevant issues identified through the local audit provisions; and
- that any social housing is developed in line with local plans and funding arrangements.

4.5 In coming to a decision the regulator will take into account any relevant information obtained from other sources and the regulator may receive representations from other parties in relation to a specific application. These representations may be in support or against the application being approved. In making its decision on an application the regulator will consider any representations but be mindful of the need to take only relevant factors into account, and not take into account irrelevant factors.

4.6 The regulator in its discretion and in the interest of fairness may share any representations it receives with the applicant and invite the applicant to comment upon those representations.

4.7 Once a decision is made, that will be communicated to the applicant. If an approval is made then that may be subject to conditions set by the regulator.

5. Refusal of an application for approval

- 5.1 The regulator takes transparent decisions. If the regulator is minded to refuse an application, the regulator will write to the applicant setting out the issues and concerns that have led it to consider refusing the application.
- 5.2 The applicant will be invited to make representations to the regulator and to give the regulator any information or comments it thinks might help the regulator make a final decision.
- 5.3 In deciding what action to take, the regulator will consider any representations received from the applicant in accordance with this guidance and any relevant guidance published on the regulator's website.
- 5.4 Once the regulator has reached a decision, the regulator will notify the applicant, setting out the regulator's reasons for making it.



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