

NRSCH Regulatory Engagement – Policy

1. Background

The purpose of this policy is to provide a framework for regulators to initiate regulatory engagement with registered community housing providers and to facilitate growth within the community housing sector.

2. Definitions

The table below is a list of terms, keywords and/ or abbreviations used throughout this document.

Term	Definition
NRSCH	National Regulatory System for Community Housing
Regulatory Engagement	A range of interactions between regulators and community housing providers—with each form of engagement having a specific intended outcome.

3. Scope

This policy has been agreed and adopted by all jurisdictions participating in the National Regulatory System for Community Housing (NRSCH)

4. Business Rules

- Registrars will manage engagement with community housing providers in accordance with the provisions of the *Community Housing Providers National Law* (the National Law)
- All engagement with a community housing provider will be registered in the Community Housing Regulatory Information System (CHRIS)

5. Policy Statement

The NRSCH is designed to identify, monitor and respond to risks that have serious consequences for tenants, funders and investors, community housing assets and the reputation of the sector.

Registrars support transparency and consistency of decisions about engagement interventions across jurisdictions. The essence of the framework is to provide early, helpful engagement to encourage and support providers in responsibly managing their risks and the broader risks to the sector.

Principles

The principles of good regulation that underpin the National Regulatory Code are recognised in the regulatory engagement policy.

- **Proportionate** – The level of regulatory engagement will reflect the scale and scope of risk to the community housing provider
- **Accountable** – Decisions to engage with a community housing provider and the intended outcomes will be justified and be subject to scrutiny
- **Consistent** – Regulatory engagement will be based on a consistent approach across all participating jurisdictions
- **Transparent** – There will be clear and open communication with providers about regulatory engagement
- **Flexible** – Adopt the most appropriate engagement pertinent to the desired outcome
- **Targeted** – Regulatory engagement will be focused on the core purposes of improving tenant outcomes and protecting vulnerable tenants, protecting government funding and equity, and ensuring investor and partner confidence.

6. Service Delivery Commitment

- Performance and assessment data will be used to inform a risk based assessment of all registered providers to determine compliance with the National Law and the National Regulatory Code. This will determine the nature of regulatory engagement.
- Regulatory engagement will recognise:
 - The impact of complex business structures, for instance multi-jurisdictional providers
 - Potential or actual problems and best practice arising from providers taking on development and asset management activities
 - Potential or actual problems and best practice in risk management, governance and internal controls
- Regulatory engagement will support Registrars to:
 - Maintain a minimum level of regulatory engagement for consistently well-performing providers
 - Develop an approach for multi-jurisdictional providers where there is an increased level of risk arising from size or the amount of money they receive for development
 - Engage with providers more intensively where higher levels of risk are identified, in ways that reflect their particular circumstances.
- The appropriate level of regulatory engagement will be regularly reviewed in light of changing business focus and complexity and performance.

7. Regulatory engagement

The term regulatory engagement covers the full range of interactions between regulators and community housing providers—with each form of engagement having a specific intended outcome.



A regulator will, generally, engage with a provider for one or more of the following reasons:

- Assessment
- Collection of information
- Monitoring compliance
- Education
- Investigation
- Enforcement

Table 1: Purpose of regulatory engagement and intended outcome

Purpose	Function	Intended engagement outcome
Assess	<ul style="list-style-type: none"> • Registration 	<ul style="list-style-type: none"> • Determine capacity to comply with the National Law • Assurance to the sector, tenants, funders and investors
Collect	<ul style="list-style-type: none"> • Enquiries • Provider Notifications • Complaints • Appeals • Inspections • Critical Incident • Ministerial Representations 	<ul style="list-style-type: none"> • Provision of information and Compliance with the National Law • Advise Minister as necessary
Monitor	<ul style="list-style-type: none"> • Standard Compliance • Targeted Compliance • Provider notifications • Enquiries • Complaints • Ministerial representations 	<ul style="list-style-type: none"> • Demonstrate compliance with the National Law • Assurance to the sector, tenants, funders and investors • Strengthening good practice • Encourage the development, viability and quality of community housing
Educate	<ul style="list-style-type: none"> • Registration 	<ul style="list-style-type: none"> • Encourage the development, viability and

Purpose	Function	Intended engagement outcome
	<ul style="list-style-type: none"> • Compliance • Engagement • Enquiries • Inspections • Complaints • Appeals • Investigations • Enforcement 	<ul style="list-style-type: none"> • quality of community housing • Strengthening good practice
Investigate	<ul style="list-style-type: none"> • Investigations • Complaints • Critical Incidents 	<ul style="list-style-type: none"> • Create a sense of justice • Fact finding and seeking the truth • Demonstrate compliance with the National Law
Enforce	<ul style="list-style-type: none"> • Enforcement 	<ul style="list-style-type: none"> • Demonstrate compliance with the National Law • Achieve best practice • Assurance to the sector, tenants, funders and investors

Regulatory engagement can occur at different points in the registration process, ongoing compliance process or when information becomes available to the regulator.

Detailed information in relation to regulatory engagement for the purpose of investigation and enforcement are not included in this policy. See Manage Enforcement Action policy <insert link> and Investigation policy <insert link> for further information.

Triggered engagement

Triggered engagement occurs when information becomes available to the regulator, outside of the compliance assessment process. This information may signal there is risk or good practice indicators that suggest an engagement response may be warranted or appropriate. The following trends in performance and associated indicators are used as measures of risk and good practice that in isolation or in combination could trigger a regulatory engagement response.

Table 2: Triggered engagement indicators

	Trends in performance	Indicators
1	Organisational capacity, performance issues or best practice arising from business complexity	<ul style="list-style-type: none"> • Change in strategy, business model or structure. This includes new expansion into other jurisdictions, new services or significant change in portfolio • Changes in operational performance • Incidents
2	Potential or actual problems or best	<ul style="list-style-type: none"> • New development projects,

	Trends in performance	Indicators
	practice arising from providers taking on development and asset management activities	project management capability and experience
3	Potential or actual problems or best practice in risk management, governance and internal controls	<ul style="list-style-type: none"> • Board composition, turnover, capability and reporting • Change in CEO, executive team or relationship with the Board • Regulatory attitude and responsiveness – provider attitude and responsiveness to regulatory oversight and requests for information within timeframe
4	Current and future financial health	<ul style="list-style-type: none"> • Include but are not limited to: <ul style="list-style-type: none"> ○ Gearing ratio ○ Interest cover ○ Operating EBITDA¹ ○ Operating cash flow (includes awareness of philanthropic sources) ○ Working capital ratio • Changes in funding arrangements
5	Quality and performance of service delivery	<ul style="list-style-type: none"> • Complaints • Appeals

Information used in the determination of indicators may come from a variety of sources such as analyst insights, environmental scanning, media coverage, reporting, tenants, providers, the public and housing agencies and other government bodies. Unexpected changes in an organisation, disclosures and/or a rapid change in indicators over a given period of time is likely to give rise to a triggered engagement response.

The number of indicators would influence the regulator with regard to the intensity of the engagement. An isolated single slowly changing indicator may trigger a low level engagement response but if multiple indicators were involved that showed a rapid change, then a more probing engagement response might be triggered.

8. Types of engagement responses

The types of engagement responses available to regulators are varied and differ in the level of time and resources required by both the regulator and the provider. The intensity of the engagement is broadly related to the importance and urgency that the regulator places on the situation and information. There will be different levels of regulatory engagement for providers with different risk indicators.

¹ Earnings before interest, tax depreciation and amortization

Compliance engagement is generally based on a staged and escalating approach. The National Law gives Registrars the power to take enforcement action if the Registrar reasonably believes a provider is not complying with the community housing legislation in a participating jurisdiction.

Triggered engagements is not based on legislative escalation but is determined on a case by case basis taking into account a number of factors, the intended outcome and the suite of responses available.

Table 3: Types of engagement and intended outcomes

	Intended Outcome	Type of engagement responses
1	Establishing the truth/ sense of justice	<ul style="list-style-type: none"> • Request for more information • On site visit • Contact with other regulators, Registrars or housing agencies (or equivalent) • Discussion with Chair and/or CEO • Board meeting observation • Investigation
2	Relationship building and increased visibility	<ul style="list-style-type: none"> • Onsite visit • Discussion with Chair and/or CEO • Board meeting observation
3	Encourage the development, viability and quality of community housing	<ul style="list-style-type: none"> • Capacity building and education • Discussion with Chair and/or CEO • Board meeting observation • Targeted compliance assessment
4	Strengthening good practice	<ul style="list-style-type: none"> • Capacity building and education • Encourage and support • Presentation to board • On site visit
5	Assurance to the sector, tenants, funders and investors	<ul style="list-style-type: none"> • Capacity building and education • Discussion with Chair and/or CEO • Board meeting observation • Request for more information • On site visit • Contact with other regulators, Registrars or housing agencies (or equivalent) • Standard compliance assessment • Targeted compliance assessment • Investigation
6	Monitoring outcomes and requirements under the National Law	<ul style="list-style-type: none"> • Lines of Enquiry • Inspections • Standard compliance assessment • Targeted compliance assessment • Investigation

9. Legislation and compliance

- Community Housing Providers National Law (the National Law)
- *Community Housing Providers (Adoption of National Law) Act 2012 (NSW)* and adopted or mirrored legislation passed in other participating jurisdictions

10. Related Documents

- [NRSCH Manage Complaints Management policy](#)
- [NRSCH Manage Enforcement Action policy](#)
- NRSCH Assessment policy
- NRSCH Manage Internal Review (under development)
- NRSCH Information Sharing policy (under development)
- NRSCH Investigation policy
- [Enforcement Guidelines](#)

Document Control

The NRSCH Regulatory Engagement Policy has been reviewed and endorsed.

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2. Registrars Forum 1 June 2017
3. Regulatory Advisory Group 28 November 2017

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NRSCH operational policy will be reviewed annually or if there is a change in participating jurisdiction membership.