

# OPERATING ARRANGEMENTS AND INFORMATION SHARING PROTOCOLS

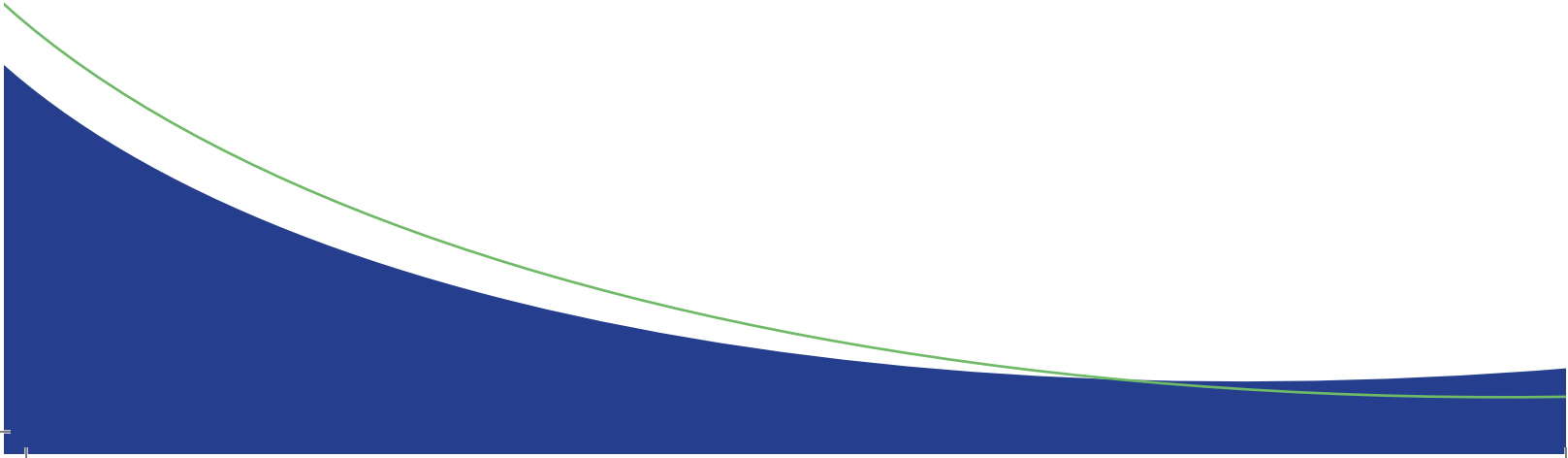
BETWEEN RENEWAL SA AND  
THE OFFICE OF HOUSING REGULATION

NOVEMBER  
2017



Government  
of South Australia

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# PREAMBLE

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The Government of South Australia is committed to developing the community housing sector in this State, building a stronger social housing system and increasing the supply of affordable housing. To ensure that community housing providers are best supported to operate in a national community housing environment, South Australia is a participating jurisdiction in the National Regulatory System for Community Housing.

The South Australian Parliament passed the *Community Housing Providers (National Law) (South Australia) Act 2013* (the '**Act**') introducing at Schedule 1, nationally consistent requirements against which all registered providers are now regulated (the '**National Law**').

A key principle of the National Regulatory System is that each participating jurisdiction maintain clear separation of regulatory decision making from policy and funding decisions. To achieve this separation, an independent Office of Housing Regulation has been established in South Australia which regulates the operations of community housing providers registered under the **National Law**. Renewal SA, acting on behalf of the South Australian Housing Trust (the '**SAHT**') maintains responsibility for administering community housing funding contracts and for promoting the development of community housing in South Australia.

Renewal SA and the Office of Housing Regulation have agreed the following operating and information sharing protocols to maintain transparency and protect independent decision making.

These arrangements will remain in place unless varied by agreement between the agencies.



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**Renewal SA**



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**Office of Housing Regulation**

# 1. PURPOSE

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## **This document sets out:**

1. Key principles for agency interactions
2. Governance and accountability arrangements
3. The role of both agencies
4. Areas of mutual interest and how these will be managed
5. What information can be shared and how it will be exchanged

## **The supporting documents underpinning these arrangements are:**

- The Community Housing Providers (National Law) (South Australia) Act 2013<sup>1</sup>
- The National Regulatory System for Community Housing: Regulatory Framework
- The National Industry Development Framework for Community Housing (January 2014)
- The Inter-Government Agreement for a National Regulatory System for Community Housing Providers (agreed to by participating jurisdictions)
- The Master Community Housing Agreement (SA)<sup>2</sup>
- SA Government Information Privacy Principles<sup>3</sup>

<sup>1</sup>Specifically Schedule 1, section 26

<sup>2</sup>Specifically Part 6, section 271.3

<sup>3</sup>Department Premier and Cabinet Circular (PC012)

## 2. KEY PRINCIPLES

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All actions, interactions and information exchange between the agencies will reflect the following nationally agreed principles<sup>4</sup>:

- There will be transparency for the separation of regulatory decisions and policy/funding decisions.
- The Registrar will make regulatory decisions in their own right in performing their statutory function.
- Renewal SA acting on behalf of the SAHT will not instruct or seek to influence regulatory decisions.
- Exchange of information will comply with the agreed protocols as set out in Section 12 of the Regulatory Framework and as articulated further in this document.
- The Housing Agency (Renewal SA) will direct all information requests through the SA Registrar who will act as the conduit where a provider's Primary Registrar operates in another jurisdiction.

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<sup>4</sup>National Regulatory Framework for Community Housing (Version 1.0) (section 9)

### 3. GOVERNANCE AND ACCOUNTABILITIES

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#### The Registrar

- Is a statutory appointment by, and reports directly to the Minister for Social Housing.
- Has independent decision making authority in relation to the registration of community housing providers in South Australia and administration of the *National Law*.
- Reports to the Director, Property and Contract Management, Housing SA on administrative matters only. Housing SA has a role to play in ensuring there is a robust framework in place for regulation, but has no role in influencing or making regulatory decisions.
- Directs all aspects of the Office of Housing Regulation operations.
- Liaises with participating jurisdictions through the Registrars' Forum in the context of supporting national decision making that impacts on the regulatory environment.

#### Renewal SA (acting on behalf of the SAHT)

Renewal SA reports directly to the Minister for Housing and Urban Development and the SAHT Board, as applicable, in relation to the provision of SAHT services including those relating to:

- Community housing funding;
- Strategic and operational policy;
- Program and contract management; and
- Promoting initiatives which develop the broader community housing industry.

## 4. ROLES AND RESPONSIBILITIES

### Renewal SA (acting on behalf of the SAHT)

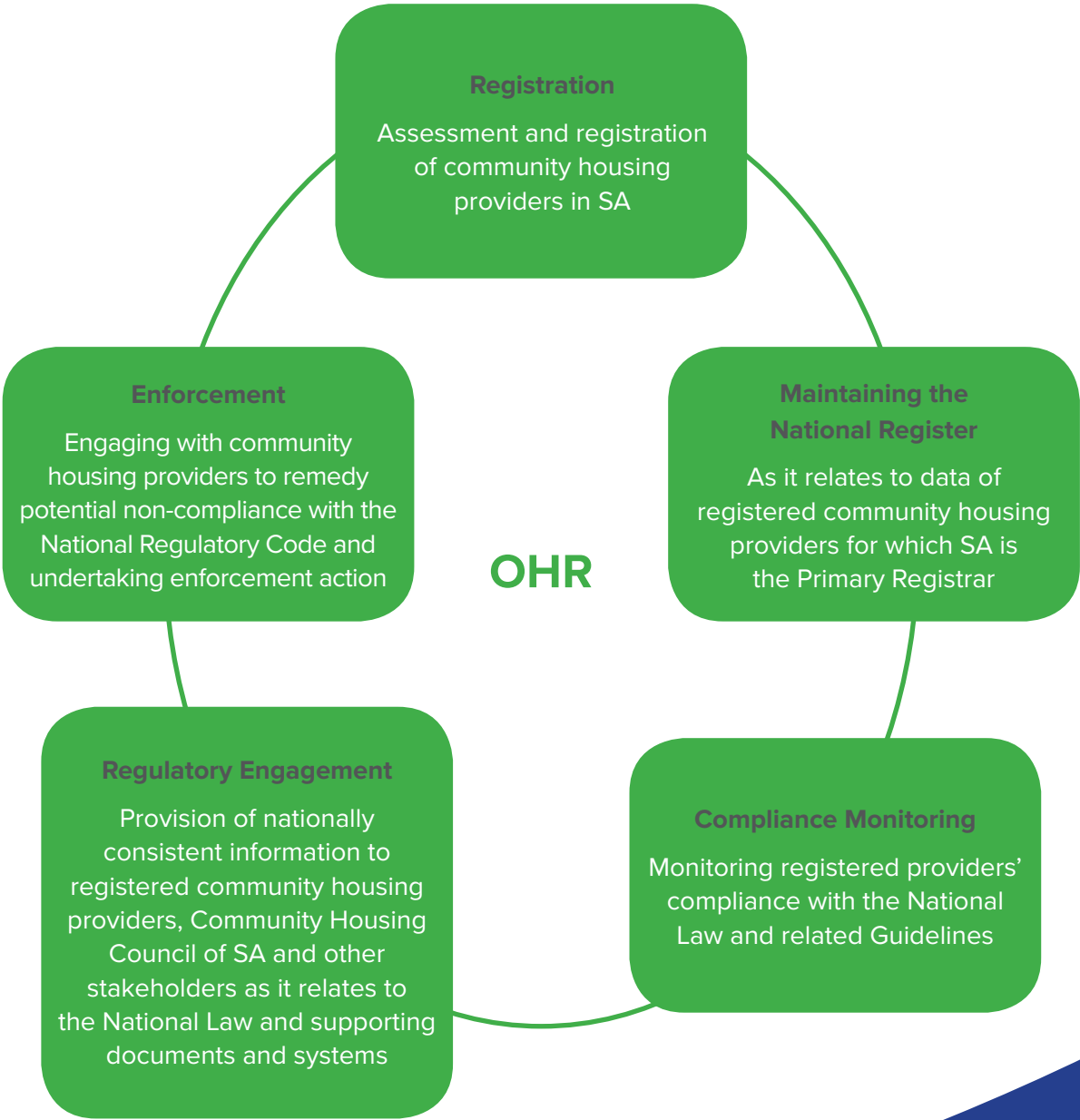
The core responsibilities of Renewal SA are to oversee all aspects of funding, policy, development and administration of community housing providers as well as the management of SAHT assets, as outlined in the diagram below.





**Office of Housing Regulation (including the ‘Registrar’)**

The Office of Housing Regulation is a business unit of Housing SA’s Property and Contract Management Directorate, established to support the Registrar who has legislated authority under the *National Law* for the regulation and registration of community housing providers in South Australia. These regulatory responsibilities are set out in the following diagram.



## 5. AREAS OF MUTUAL INTEREST

**Renewal SA and the Office of Housing Regulation share an interest in the following functions:**

- Asset Management;
- Financial Viability and Sustainability;
- Complaint Handling;
- Industry Engagement and Development.

### **Asset Management**

Renewal SA	OHR
Protects government's interest in community housing assets, by ensuring community housing providers are undertaking asset management appropriately and to agreed standards	Ensures community housing providers have appropriate processes, plans and a strategic approach to asset management including undertaking responsive, cyclical and life-cycle maintenance

### **Financial Viability and Sustainability**

Renewal SA	OHR
Ensures and facilitates as appropriate, the financial viability and sustainability of the community housing sector and of individual providers so as to secure the success of the sector in a multi-provider system	Ensures community housing providers: (i) have viable capital structure and sufficient resources; (ii) maintain appropriate financial performance; (iii) manage financial risks; thereby ensuring continued service delivery to tenants and timely discharge of obligations owed to other stakeholders

## Complaint Handling

Renewal SA	OHR
Receives and responds to complaints from community housing providers <b>only</b> , and only where the complaint relates directly to funding, contractual, program and/or policy arrangements	<p>The OHR is the first point of contact for all other complaints (including from tenants), referring to Renewal SA where required</p> <p>Responsibility for complaints which call into question the performance/compliance of a community housing provider against the National Regulatory Code</p>
<p><b>Both Renewal SA and OHR share responsibility for:</b></p> <ul style="list-style-type: none"> <li>Resolving complaints which involve both contractual and regulatory elements. This might require dealing with the complaint in two parts or working collaboratively to reach a resolution;</li> <li>Recording and investigating complaints received in accordance with agreed procedures; and</li> <li>Working with Housing SA, the Community Housing Council of SA (Industry Peak Body) and the wider community housing industry to ensure suitable information is provided and roles are clear about the handling of complaints from tenants.</li> </ul>	

## Industry Engagement and Development

Renewal SA	OHR
Engage with industry stakeholders to: <ul style="list-style-type: none"> <li>actively support the development of the community housing industry and individual providers;</li> <li>promote community housing and its contribution to the affordable and social housing agenda in SA; and</li> <li>manage funding programs and asset related community housing policy</li> </ul>	Publish nationally consistent information as it relates to elements of the <i>National Law</i> and compliance with the National Regulatory Code
<p><b>Both Renewal SA and OHR share responsibility for:</b></p> <ul style="list-style-type: none"> <li>Communicating key information on community housing in South Australia;</li> <li>Responding to general community housing enquiries as they relate to their key areas of responsibility;</li> <li>Working with stakeholders to identify Industry Development priorities;</li> <li>Preparing appropriate responses to identified Industry Development priorities; and</li> <li>Maintaining a productive and co-operative relationship with the Community Housing Council of SA (Industry Peak Body.)</li> </ul>	

## 6. INFORMATION EXCHANGE PROTOCOLS

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The *National Regulatory Framework for Community Housing* sets high level principles which will be applied to all information sharing in accordance with Schedule 1 of the *National Law*. Renewal SA and the Office of Housing Regulation therefore agree that:

- Information shared will be consistent with the approach adopted across all participating jurisdictions.
- Information shared will uphold the principle of maintaining separation between funding and regulation.
- Renewal SA will only request, and the Registrar will only share, information about individual community housing providers that is either publicly available, provided with the consent of the provider, or falls within the threshold of an occurrence outlined in the *Provider Notifications to the Registrar Guidelines* (refer 7.1 below).

# 7. ADMINISTRATION

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## 7.1 What information will be shared?

### Provider Notifications to the Registrar Guidelines

These national guidelines require that registered providers notify the Registrar of certain events, including:

- Voluntary administration or receivership;
- Events that may have an adverse impact on a provider's compliance with community housing legislation;
- A change in the affairs of a provider; and
- Any incident that damages or may damage the reputation of the community housing sector in South Australia.

Upon receipt of a notified event as outlined above, the Registrar may notify Renewal SA.

### Information sharing under the National Law

The *National Law*<sup>5</sup> requires that the Registrar provide Renewal SA with the following information:

- Registration and regulation of registered providers and any other matter allowed for under the Act.
- Issue of a *Notice of Intent to Cancel Registration*.
- Information regarding providers whose *Application for Registration* has been approved on the National Register and which is publicly available including:
  - Conditions to which the registration is subject;
  - Copy of any *Binding Instructions* issued; and
  - Appointment of a Statutory Manager

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<sup>5</sup>Schedule 1 Part 2, s10

## 7. ADMINISTRATION (CONT)

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### Additional Information Sharing

The *National Regulatory Framework* provides that Renewal SA and the Office of Housing Regulation may also share additional information as follows:

- The Registrar will encourage providers to submit information directly to Renewal SA about any incident or finding that could have a serious negative impact on tenants, community housing assets or the reputation of community housing in South Australia. Where a provider chooses not to submit this information, the Registrar may notify Renewal SA about such an incident and provide appropriate supporting information.
- Renewal SA will inform the Registrar of significant changes to community housing policy and/or legislation.
- Renewal SA will provide the Registrar with a schedule of any significant funding allocations to individual providers.
- Renewal SA will validate for the Registrar on request, basic information about a provider's property numbers in which Renewal SA has an interest, programs under agreement, recurrent funding and maintenance responsibilities.
- Both the Registrar and Renewal SA will immediately inform each other when any significant details about a provider change.
- The Registrar will not share any commercial-in-confidence or Board-in-confidence material without the consent of the provider.

To ensure the effective funding and regulation of community housing in South Australia, Renewal SA and the Office of Housing Regulation have further agreed:

- Renewal SA will notify the Registrar of any *Significant Issue* or *Breach Notice* served to a community housing provider in respect of requirements under their Master Community Housing Agreement.
- Renewal SA and the Register will, where required, collaborate to prepare responses to Government and Ministerial enquiries.
- Authorised Officers appointed by the Minister (whether Renewal SA or Office of Housing Regulation staff), may request information as required for the purpose of an investigation under section 28 of the Act.
- The Registrar will provide a report annually (or more frequently as required) showing provider performance trends against the National Regulatory Code. This information will be used to inform appropriate Industry development responses and will not identify individual providers.

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- The Registrar will provide to Renewal SA on request, any reports or information held by the Registrar in relation to a community housing provider, which are reasonably required by Renewal SA to assess a provider's compliance with their Master Community Housing Agreement. Consent to source this information has been granted by the provider where they have signed a Master Community Housing Agreement explicitly stating their acceptance of this exchange<sup>6</sup>.

## 7.2 How will information be shared?

Information will be shared electronically where possible to create a record of the exchange, and will be between the Registrar (or delegate) and Renewal SA senior staff (or delegate).

Renewal SA senior staff and the Registrar (or their delegate) will hold a regular meeting to consider:

- Requests for information exchange ensuring adherence to these agreed protocols.
- Sector performance trends (de-identified).
- Potential Industry Development activities in response to these trends.
- A review of these operating arrangements and information sharing protocols where required.

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<sup>6</sup>Master Community Housing Agreement Part 6 section 271.3

# ATTACHMENT 1

Summary: Information that **can** be shared

Information	Who		Authority	Purpose	Frequency
	RSA	OHR			
Provider registration and any conditions to which the registration is granted		←	National Law	Master Community Housing Agreements may only be entered into with registered providers. Registration status therefore impacts contractual arrangements	Immediately
Copy of any binding instructions issued		←	National Law	As above	Immediately
Issue of a Notice of Intent to cancel registration		←	National Law	As above	Immediately
Appointment of a Statutory Manager		←	National law	As above	Immediately
Occurrences outlined in the 'Providers Notifications to the Registrar Guidelines'		←	NRSCH Regulatory Framework	To ensure continuity of service delivery, maintenance of regulatory and contractual arrangements, and protection of Industry reputation	Immediately
Significant changes to community housing policy and/or legislation	→		NRSCH Regulatory Framework	To ensure compliance with current legal requirements and relevant government policies as required by the National Regulatory Code	Immediately
Significant funding allocations to individual providers	→		NRSCH Regulatory Framework	To inform OHR decisions and considerations	Immediately
Change of provider details	→	←	NRSCH Regulatory Framework	To maintain current contact and business details	Immediately



Summary: Information that **can** be shared

Information	Who		Authority	Purpose	Frequency
	RSA	OHR			
Significant Issue or Breach Notice served to a community housing provider in respect of requirements under their Master Community Housing Agreement	➔		Agreed Operating Protocols	To ensure compliance with current legal requirements and relevant government policies as required by the National Regulatory Code	Immediately
Report of sector performance trends against National Regulatory Code (de-identified)		➔	De-identified data not specific to provider	To be able to frame appropriate Industry Development activities and responses	Annually (or more frequently as required)
Community housing asset basic information i.e. numbers, funding source and maintenance responsibilities	➔		NRSCH Regulatory Framework	To inform OHR decisions and considerations	On request
Information required for the purpose of an investigation under the Act	➔	➔	Act (s28)	Authorised Officers appointed by the Minister may request information as required to determine compliance with a community housing agreement or the Act (including the National Law)	On request
Information and reports required to determine compliance with a Master Community Housing Agreement		➔	Provider consent granted (Master Agreement -clause 27)	To inform Renewal SA performance management responses	On request
Any other information exchanged with the express consent of the provider.	As advised by the provider		Provider consent	As consented to by the provider	On request

# ATTACHMENT 1

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Information that **cannot** be shared

Information	Authority
Commercial/Board-in-confidence information e.g. business plans, financial plans, reports (unless consented)	NRSCH Regulatory Framework
Records, files, systems	NRSCH Regulatory Framework

NRSCH – National Regulatory System for Community Housing

# FURTHER INFORMATION

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## Websites

Copies of supporting documents and information about the National Law and Regulation System are available at:

**[www.sa.gov.au/communityhousing](http://www.sa.gov.au/communityhousing)**

**[www.nrsch.gov.au](http://www.nrsch.gov.au)**

The SA Government Information Privacy Principles are available to download at:

**[www.archives.sa.gov.au/privacy/principles.html](http://www.archives.sa.gov.au/privacy/principles.html)**

## Contacts

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