

NRSCH Assessment Policy

1. Background

The National Regulatory Code sets out the performance outcomes and requirements that must be met by registered community housing providers under the National Regulatory System for Community Housing.

Community housing providers must demonstrate their capacity to comply with the Code on application and once registered, must demonstrate ongoing compliance with the Code.

Assessment is undertaken in the context of the community housing provider's business with an understanding of the provider's scale and scope, operating environment, business plan and outcomes, and history of delivering community housing.

2. Definitions

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

Table 1: Definitions

Term	Definition
National Law	Community Housing Provider's National Law
NRSCH	National Regulatory System for Community Housing
NRC	National Regulatory Code
Primary Registrar	The Primary Registrar is typically the Registrar for the jurisdiction in which the provider has the majority of its community housing stock
Eligibility and Tier assessment	Assessing a providers' eligibility to apply for registration and tier level taking into account the risk associated to scale and scope of operation
Registration assessment	Assessing a providers <u>capacity</u> to comply with the performance outcomes in the National Regulatory Code
Compliance assessment	Assessing a registered providers ability to fully meet, on an ongoing and continuous basis, all conditions of registrations – including achieving the outcomes in the National Regulatory Code and other conditions of registration outlined in Section 15

Term	Definition
	of the National Law
Targeted compliance assessment	A targeted compliance assessment may be sought where a recommendation is required to be addressed sooner than the next standard compliance. A targeted compliance assessment is a planned engagement with the provider and the date for it will be identified in the compliance assessment report
Triggered compliance assessment	A triggered compliance assessment is conducted following an event or the occurrence of a particular circumstance (such as a serious complaint, a provider notification and/or a meaningful change of circumstances within an organisation).

3. Purpose and Scope

The purpose of this assessment policy is to achieve a consistent approach to completing assessments and exercising regulatory judgement.

This policy is to be used by housing providers, analysts, managers and Registrars to provide guidance through the registration and compliance assessments. It details the types of regulatory assessments undertaken under the NRSCH, the assessment process, and the additional sources of information and evidence that may be used to assess the provider's compliance with the National Regulatory Code.

This policy provides guidance on how performance outcomes and overall / final determination outcomes are determined and reported. It also provides information about issuing assessment recommendations and observations.

4. Business Rules

- Registrars will manage assessments in accordance with the provisions of Part 3 of the *Community Housing Providers National Law* (the National Law)
- Assessments will be carried out by the Registrar in the provider's primary jurisdiction in a consistent way with other jurisdictions
- All applications, documentation and evidence will be submitted to the Primary Registrar, ensuring that all assessments and reporting activities will only need to be completed once by each provider, regardless of how many participating jurisdictions they operate in
- All assessments will be recorded in the Community Housing Regulatory Information System (CHRIS)

5. Policy statement

The legislation requires Registrars to conduct a:

- **registration assessment** to assess the *suitability of entities to be registered as registered community housing provider*

- **compliance assessment** to monitor compliance by registered community housing providers with community housing legislation

(Section 10 – National Law)

Principles

Broad principles of good regulation underpin the National Regulatory Code and also inform, and are applied, in the NRSCH Assessment policy.

- **Proportionate** – Assessments will reflect the scale and scope of regulated activities and consider what is reasonable to expect from a provider given its size, type and scope of business
- **Accountable** – Assessments will be justifiable and subject to scrutiny
- **Consistent** – There will be a consistent approach to assessments in all participating jurisdictions based on standardised information and methods
- **Transparent** – There will be clear and open communication with providers about assessment processes and the reasons for determinations
- **Flexible** – Assessments will not be prescriptive and will recognise that providers have flexibility to organise their business so long as they meet their legislative, regulatory and contractual obligations
- **Targeted** – Assessments will be targeted to requirements under the National Law and the National Regulatory Code and will be focused on the core purpose of improving tenant outcomes and protecting vulnerable tenants, protecting government funding and equity, and ensuring investor and partner confidence.

6. Assessments

A regulatory assessment occurs when:

- a provider seeks registration under the NRSCH
- a scheduled compliance assessment is due
- a provider, at the last assessment, was assessed as having performance areas of moderate or high risks that warrant closer monitoring
- the Registrar receives new information from the provider, other individual or agency that indicates performance areas of moderate or high risks that warrant closer monitoring.

A risk-based approach to assessment and regulation will be an overarching principle that will be used by the Primary Registrar in all assessments. The regulatory assessment and evidence requirement is dependent on the provider's Tier level taking into account the risk associated with the scale and scope of its community housing operation.

Further information in relation to the tier level is available in the [NRSCH Tier Guidelines](#)

The community housing provider must identify the piece of evidence relied upon to demonstrate their capacity to comply with the National Regulatory Code. At compliance providers must submit core documents and evidence in response to previous recommendations, and again must identify where that evidence sits in relation to the National Regulatory Code. This will ensure all relevant evidence submitted by the community housing

provider is taken into account during the assessment. It will also ensure that the provider demonstrates an understanding of the requirements of the Regulatory Code.

The Registrar will decide whether an evidence source is relevant and is used in an assessment. If the evidence submitted by a community housing provider is insufficient to demonstrate performance the Registrar may request additional evidence from the provider.

Further information in relation to evidence requirements is available in the NRSCH [Evidence Guidelines](#)

7. Types of assessments

7.1 Registration assessment

This assessment occurs when a provider applies for registration under the NRSCH. Initially, the assessment will focus around the eligibility requirements and tier level assessment. Then it will look at whether a provider has the capacity to comply with performance outcomes in the National Regulatory Code.

In normal circumstances, the registration application process will be completed in three months but this can be influenced by many factors including the preparedness of a provider to be registered under the NRSCH. Further information in relation to registration and assessment timeframes is available in Appendix C of the [Registration Return Guide](#)

Once a registration assessment has been completed a decision will be made about the overall capacity of a provider to comply with the National Regulatory Code. Table 2 shows the possible final determinations for a registration assessment.

In reaching the final determination the Registrar will assess the result against each National Regulatory Code performance outcome individually and reach the final determination based on the overall assessment of the provider's capacity.

For further information in relation to the assessment of performance outcomes see *Section 8 – Performance outcome results*

Table 2: Possible final determinations for registration assessments

	Definition
Registration Assessment	
Capacity to comply – no recommendation	At the time of the assessment the evidence submitted is sufficient to give assurance the provider will be compliant at its first scheduled assessment
Capacity to comply – with recommendations	The provider has demonstrated evidence that gives assurance that it will reach compliance but that further action on the part of the provider will be necessary to ensure this. The action required is however: <ul style="list-style-type: none"> • Relatively minor and the issue can be resolved in a short period

	Definition
	<ul style="list-style-type: none"> • The deadlines for the provider reaching compliance are reasonable and likely to be met- i.e. evidence of progress has been seen • Its overall impact on financial viability and service to residents is relatively insignificant • The concerns have been accepted by the provider and can be completed by the provider i.e. they have the resources, track record.
Capacity to comply - not demonstrated	A significant failing has been identified and/ or the senior management/ governing body have not accepted, recognised or demonstrated they are able to resolve the problem.

Upon registration, community housing providers will be advised of the provisional scheduled date of the standard compliance assessment.

7.2 Standard compliance assessment

All registered community housing providers must complete a Compliance Return on a regular basis, and submit it to their Primary Registrar for assessment. This assessment seeks to ensure ongoing compliance with the National Regulatory Code and constitutes the minimum level of oversight that will be applied.

The frequency of assessment will depend on the provider's Tier.

- Tier 1 and Tier 2 providers must complete a Compliance Return every year.
- Tier 3 providers must complete a Compliance Return every two years.

Timeframes for completing an assessment are indicative and will be influenced by many factors including the information submitted by providers and the necessity for carrying out site visits.

A draft determination will generally be provided within 8 weeks (minimum) of receipt of the completed compliance return. The draft determination report will be issued to the provider for comment before the final compliance report is issued.

Table 3: Possible final determinations for compliance assessments

	Definition
Compliance Assessment	
Compliant	At the time of the assessment the evidence submitted is sufficient to give assurance the provider is compliant.
Non-compliant	A significant failing has been identified and/ or the senior management/ governing body have not accepted, recognised

	Definition
	or demonstrated they are able to resolve the problem

7.3 Targeted compliance assessment

As an outcome of a registration assessment or standard compliance assessment, registered community housing providers may be required to undertake a targeted compliance assessment. A targeted compliance assessment may be sought where a recommendation is required to be addressed sooner than the next standard compliance. A targeted compliance assessment is a planned engagement with the provider and the date for it will be identified in the compliance assessment report. It is commonly a compliance check of one or more performance outcomes or performance requirements.

7.4 Triggered compliance assessment

A triggered compliance assessment is conducted following an event or the occurrence of a particular circumstance (such as a serious complaint, a provider notification and/or a meaningful change of circumstances within an organisation). In common with a targeted assessment, a triggered compliance assessment will consider only those performance outcomes impacted by the event or circumstances. A triggered compliance assessment may include an investigation.

8. Performance outcome determination

The National Regulatory Code sets out the performance requirements with which registered housing providers must comply in providing community housing under the National Law.

The evidence submitted by community housing providers is assessed against each performance outcome. The possible results of the assessment of the performance outcome are represented in the table below.

Table 4: Performance outcome determination

Performance Outcome	Definition
Compliant	The provider has submitted sufficient evidence to demonstrate on going compliance with the performance outcome, or in the case of registration, capacity to comply.
Compliant with recommendations	The provider has submitted evidence to demonstrate a minimum level of compliance with a performance outcome but needs to take further action to reach complete compliance. The action required is: <ul style="list-style-type: none"> • Relatively minor and the issue can be resolved in a short period • The deadlines for the provider reaching compliance are reasonable and likely to be met i.e. evidence of progress has been seen

Performance Outcome	Definition
	<ul style="list-style-type: none"> • Its overall impact on financial viability and services to residents is relatively insignificant • Has been accepted by the provider and can be completed by the provider i.e. they have the resources, track record, expertise
Non compliant	The provider has not submitted sufficient evidence for the purposes of registration or to demonstrate on going compliance with a performance outcome

8.1 Assessment recommendations

Findings of compliant with recommendations will be accompanied by recommendations that indicate the action the provider needs to take to reach full compliance within a specified timeframe. Significant recommendations will be followed up before the next scheduled assessment through regulatory engagement or a targeted compliance assessment. Providers will be advised of the timeframe for responding to recommendations.

8.2 Assessment observations

Observations may relate to achieving best practice or be indicators of potential areas of improvement or issues of concern that may not strictly relate to the assessment of compliance. Observations can also be made where the provider may be compliant but could need to take action to maintain compliance in the future. Assessment observations will be identified as improvement opportunities and will be included in the provider draft and final determination report. Observations relating to improvement opportunities may not require regulatory engagement prior to the next scheduled assessment.

9. Additional evidence

9.1 Evidence from other sources

In order to make a compliance assessment on registration and on an ongoing basis, a Registrar, on occasion, may use information from sources other than what was submitted by the provider. The sources may include:

- The National Registrar
- The Registrar’s record of complaints and notifications under the National Law
- The relevant housing agency
- Other government agencies (this may include information about the provider’s funding terms or compliance with a policy or contract, or housing related service delivery)
- Other regulatory authorities (this may include information about regulatory engagement with the provider)
- The public record (this may include information about the provider’s body corporate status, court or tribunal decisions or media)

A Registrar will obtain information from other sources only in accordance with the exercise of its function under the National Law.

9.2 Lines of enquiry and supplementary evidence

Lines of enquiry may supplement an assessment when needed. If the evidence submitted is not sufficient the regulator may seek further clarification through lines of enquiry and/or request supplementary evidence to reach a decision about compliance. The scope of this activity will be consistent with the performance outcome(s) and of a type that is best suited to gathering the evidence with the minimum burden to the provider. It could range from a more in-depth review of documents already held or a site visit that includes meeting with the governing body and/ or inspection of records, multiple interviews and phone calls.

9.3 On site compliance visit

An onsite compliance visit may be scheduled to collect further evidence that demonstrates compliance with the National Regulatory Code. Registered community housing providers will be contacted prior to on-site visits to arrange a suitable time and to determine the specifics of the visits.

10. Legislation and compliance

- Community Housing Providers National Law

11. Related documents

This policy should be read in conjunctions with the following:

- [NRSCH Regulatory Framework](#)
- [National Regulatory Code](#)
- [Evidence Guidelines](#)
- [Tier Guidelines](#)
- [Enforcement Guidelines](#)
- [Manage Enforcement Action policy](#)

12 Further information

Internal reviews and external appeals

In undertaking their work, Registrars and their delegates will exercise discretion and make decisions. Good public administration requires the proper use of discretionary powers that affect the rights and interests of individuals and organisations. Accepted good practice allows for the review of decisions of public officials.

While some decisions trigger a specific right to external review under the National Law and jurisdiction-specific Acts, Registrars will also provide an option of internal review on all administrative decisions.

Further information in relation to reviews and appeals is available in the [Internal reviews and external appeals FAQ](#).

Document Control

The NRSCH Assessment Policy has been reviewed and endorsed at the following forums:

1. Progress meeting 24 May 2017
2. Registrars Forum 3 August 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