



Part 1

NRSCH Overview
2018 -2019



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Community Housing (NRSCH) National Office

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About this document

This report details the work in administering the National Regulatory System for Community Housing (NRSCH).

This is the first part of a series of reports to be issued for the NRSCH reporting period 2018-2019. The Annual Overview will be released in four discrete parts progressively between July and September 2019. Below is the proposed schedule for the release of these documents.

Part 1 – NRSCH Overview
Release July 2019

Part 2 – Our Performance
Release August 2019

Part 3 – Sector Performance – Non financial
Release September 2019

Part 4 – Sector Performance – Financial
Release September 2019

This is the second published Annual Overview report for the NRSCH, compiled by the NRSCH National Office in collaboration with all NRSCH participating jurisdictions. Previous published NRSCH reports can be found at <http://www.nrsch.gov.au/publications/nrsch-reports>

Scope of this document

In this report, **Part 1 – NRSCH Overview**, you will find an overview of the providers we regulate and our regulatory activities during 2018-2019.

Part 2 – Our Performance looks at the performance of regulators through the lens of registered community housing providers who underwent an assessment during the year and provided feedback through the Service Evaluation Survey. It also looks at our achievements based on the principles of good regulation throughout the year.

Part 3 – Sector Performance – Non financial provides a picture of the community housing sector against non-financial performance measures.

Part 4 – Sector Performance – Financial shows the viability of CHPs assessed against a suite of indicators used to assess financial performance.

To learn more about the status of the NRSCH in a particular State or Territory, as well as local policies and news please visit https://www.nrsch.gov.au/states_and_territories/jurisdiction-policy

For further information about the Regulatory Framework and how Registrars deliver their functions under the NRSCH please visit <https://www.nrsch.gov.au/publications/nrsch-framework>

Message from the Chairperson



I am pleased to present the 2018-2019 NRSCH Annual Overview. This year the report will be delivered in four discrete parts between July and September 2019. Collectively the parts that make up the

Annual Overview deliver on the Registrars' commitment to transparency by making available information about regulated providers and charting our progress over the last year.

It has now been five years since the commencement of the NRSCH. Ministers agreed at the time the NRSCH was established that there should be a review five years after its commencement to determine if the NRSCH had played a role in ensuring a well governed, well managed and viable community housing system. On 1 March 2018, the Australian and State and Territory governments established a joint Working Group of officials to undertake a review of the NRSCH.

The Review is an opportunity to consider the system with respect to the many changes in the operating environment of providers since the NRSCH commenced, such as the increasing complexity of financial arrangements for Community Housing Providers (CHPs), increased management transfers of public housing and the establishment of the National Housing Finance Investment Corporation (NHFIC).

As part of the NRSCH Review, the NRSCH National Office with the assistance of State and Territory Registrars commenced a review of the data reporting needs of the NRSCH.

The data review has provided the strategic context for a program of work that will enhance capability and capacity and deliver improvements to the regulatory system. Some of the work, such as changes to the National Register, are covered in the report whereas other projects are currently under development. The scope of some projects will be informed by the outcome of the broader NRSCH Review. We look forward to sharing our insights and working with the sector and the Review Working Group to improve data collection, consistency, analysis and transparency.

On behalf of the Registrars of the NRSCH in Australian Capital Territory, New South Wales, Northern Territory, Queensland, South Australia and Tasmania, I hope you find this report useful and encourage you to provide feedback or otherwise make comment by emailing: NRSCHNationalOffice@facs.nsw.gov.au

Mark Francis
Chairperson
NRSCH Registrars Forum

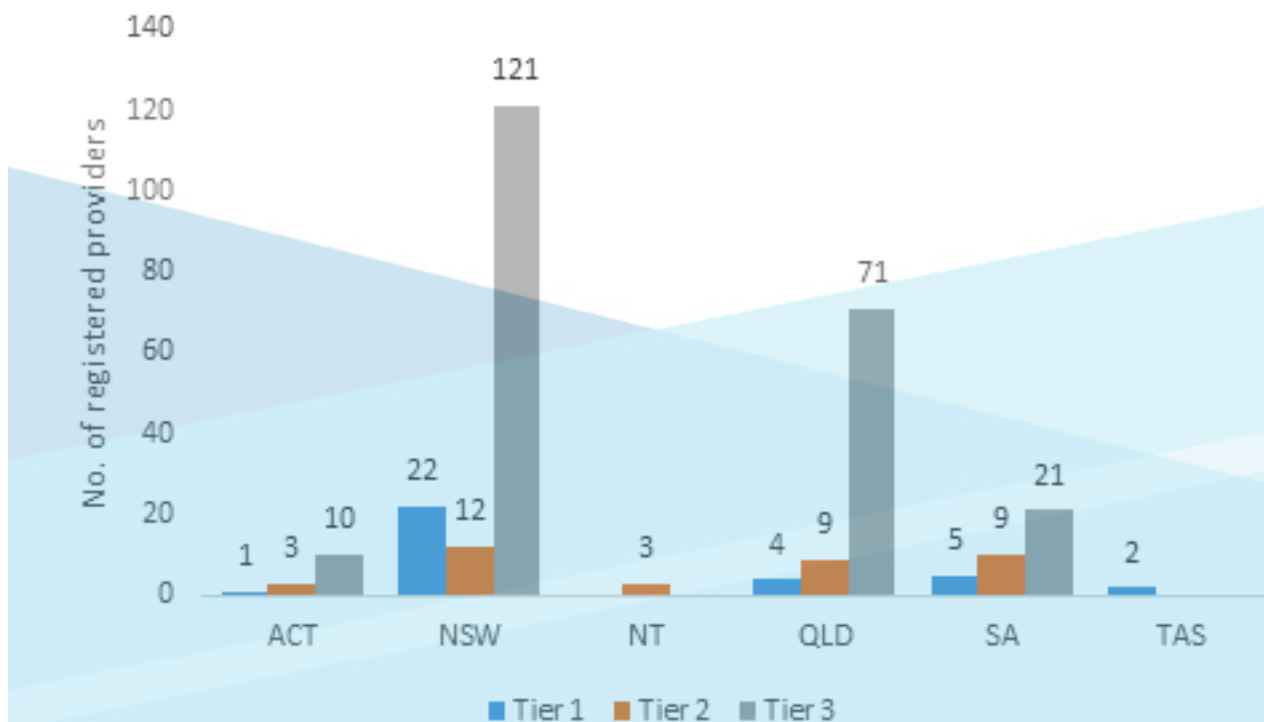
Who we regulate

This section presents an overview of the Sector we regulate.

At the end of June 2019 Registrars were responsible for the regulation of 293 providers who managed over 62,000 tenancies of which about 19,500 were new tenancies created in the financial year.

Discrepancies can occur in the reporting of tenancies due to ambiguity in the reporting requirements related to residents and tenants. The term *resident* is used in particular accommodation agreements under applicable legislation in jurisdictions. Residents may have an agreement called a *residency, rooming or accommodation* agreement. CHPs will sometimes exclude these types of agreements when reporting on tenancies (the number of tenancy agreements). For the purpose of the NRSCH a *resident* is taken to be the equivalent of a *tenant*. Registrars will issue guidance on residents and tenants in the new financial year to improve the consistency of reporting.

Figure 1: Registered community housing providers by tier as at 30 June 2019



As predicted in the NRSCH Annual Overview 2017-2018, there has been an increase in the number of properties owned or managed by CHPs as a result of management transfers from public housing to the community housing sector and the acquisition of new stock. Over 78,000 properties were reported as owned or managed by registered providers this year which represents an increase of almost 17% compared to last year.

Almost 77% of all properties were held by 34 Tier 1 providers. Tier 1 and Tier 2 providers though fewer in number, dominate nationally by the number of tenancies and assets managed.

Tier 3 registered CHPs operate at a smaller scale of property and tenancy management and have no ongoing development activities or have one-off or very small-scale development activities. They account for over 75% of registered providers operating nationally. During the year, 16 Tier 3 providers applied to have their registration cancelled. Some Tier 3 providers are merging with other registered community housing providers to benefit from economies of scale. This is higher than previous years and probably reflects the shift in opportunities within state schemes in addition to business decisions of the provider. This assessment is supported by there being more entrants than exits from the Scheme.

No Tier 1 or Tier 2 providers sought de-registration. Two Tier 3 provider had their registration cancelled for non-compliance under Section 16(3) of the Community Housing Providers (Adoption of National Law) Act 2012.

Multi-jurisdictional providers

Of all the providers registered, 15 were operating in more than one jurisdiction. To make it easier for providers to operate in more than one jurisdiction and to reduce regulatory burden and red tape, multi-jurisdictional providers only need to deal with one Registrar. Registrars from the jurisdictions that the registered provider is operating in will appoint a Primary Registrar. The Primary Registrar is typically the Registrar for the jurisdiction in which the provider has the majority of its community housing stock.

A detailed list of registered providers is available on the [National Provider Register](#).



Hobart Registrars Forum – May 2019 - Left to right: Bernard Gustin (VIC), Kate Kent (TAS), George Timson (NT), Sally Gibson (ACT), Neil Quarmby (NSW), Lyn Anderson (WA), David Schreuder (VIC), Craig Thompson (SA), Mark Francis (QLD).

This section of the report relates to our registration and compliance related activities during 2018-2019.

The [National Regulatory Code](#) (the Code) within the National Law sets out the performance outcomes that must be demonstrated by all registered providers. The Tier of registration is determined by an entity's level of risk arising from the scale and scope of its community housing activities, which in turn determines the intensity of regulatory engagement and oversight.

The Code requires CHPs to be well-governed, financially viable and to perform in compliance with standards to deliver quality housing services. [Read more about the NRSCH and the regulatory system.](#)

An increase in new registrations

Providers must meet a number of standard conditions of registration, as well as other requirements identified as applying to that provider on the National Register to become and remain registered under the NRSCH. The provider must also comply with any relevant requirements under the State or Territory community housing laws in the jurisdiction in which they operate.

New government initiatives in some States and Territories are also encouraging new entrants including for-profit companies. CHPs have diversified their business and are becoming more organisationally complex through the creation of subsidiaries and entering into partnerships and joint ventures.

The NRSCH has seen an increase of over 56% in new registrations compared to last year with 23 new providers registered. In addition, there were 11 providers seeking to gain registration and scheduled for assessment. These were from New South Wales, Queensland, Northern Territory and South Australia.

Table 1: New registrations by tier 2018-2019

| | New registrations |
|---------------|-------------------|
| Tier 1 | 1 |
| Tier 2 | 2 |
| Tier 3 | 20 |
| TOTAL | 23 |

Assessing the on-going compliance of providers

Once registered, CHPs must submit evidence supporting their suitability to remain registered in the Scheme to their Primary Registrar for assessment on a regular basis. This assessment seeks to ensure ongoing compliance with the [Code](#) and constitutes the minimum level of oversight that will be applied.

The frequency of assessment currently depends on the provider's Tier. Tier 1 and Tier 2 providers must complete a compliance assessment every year whilst Tier 3 providers must complete a compliance assessment every two years.

Between 1 July 2018 and 30 June 2019, 150 scheduled compliance assessments were completed nationally (being approximately half of the participants in the Scheme). This is a 14% increase on the previous year. Some providers had more than one standard compliance assessment in the year. The reason for this was the complexity and timeliness of some assessments. Over 55% of compliance assessments completed in 2018-2019 were for Tier 3 providers.

Table 2: Standard compliance assessments completed 2018-2019

| | Standard compliance Assessments |
|--------|---------------------------------|
| Tier 1 | 33 |
| Tier 2 | 34 |
| Tier 3 | 83 |
| TOTAL | 150 |

Assessing each performance outcome

The evidence submitted by community housing providers is assessed against each Performance Outcome. The Code sets out the performance requirements that registered CHPs must comply with in providing community housing under the National Law. The possible results of the assessment for any performance outcome are:

- **Compliant** – The provider has submitted sufficient evidence to demonstrate ongoing compliance with the performance outcome, or in the case of registration has demonstrated the 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 recommendations will generally fall into one or more of the following categories:
 - 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,
 - The overall impact on financial viability and services to residents is relatively insignificant,
 - 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 to demonstrate capacity to comply (registration) or to demonstrate on-going compliance with performance outcomes of the Code.

Table 3 shows the outcome of the assessment of each performance outcome. A given compliance assessment may result in a number of recommendations in one or more performance outcomes. Those with an outcome of compliant did not receive any recommendations.

Table 3: Outcome of assessment against each Performance Outcome

| | Compliant | Compliant with recommendations | Non-compliant | % compliant |
|--|------------------|---------------------------------------|----------------------|--------------------|
| Performance Outcome 1 Tenant and Housing Services | 74 | 74 | 2 | 98.6% |
| Performance Outcome 2 Housing Assets | 104 | 44 | 2 | 98.6% |
| Performance Outcome 3 Community Engagement | 146 | 3 | 1 | 99.3% |
| Performance Outcome 4 Governance | 91 | 56 | 3 | 98% |
| Performance Outcome 5 Probity | 83 | 65 | 2 | 98.6% |
| Performance Outcome 6 Management | 106 | 41 | 3 | 98% |
| Performance Outcome 7 Financial Viability | 89 | 58 | 3 | 98% |

Recommendations

Trends in recommendations, where they occur, often follow an area of sector interest or 'deep dive' that has attracted focus in the assessment program. The reporting year's compliance program included – in some jurisdictions – targeted questioning of: preparation for changes in National Rental Affordability Scheme (NRAS) funding arrangements impacting preparedness and viability; conflict of interest governance arrangements; notifications; and accounting changes.

Assessing overall compliance with the National Regulatory Code

Once an assessment has been completed a decision will be made about overall compliance with the Code. Providers who are found non-compliant with a Performance Outcome may not necessarily have a final overall judgement of non-compliant.

Of the 150 standard compliance assessments completed only three providers had a final overall judgement of non-compliant. The level of engagement with a provider who has a final judgement of non-compliant will reflect the scale and scope of risk to the community housing provider. If the matter is not serious or urgent, the Registrar will endeavour to work cooperatively to encourage the provider to remedy non-compliance before a Registrar takes enforcement action. This may be in the form of an investigation or targeted assessment.

Targeted assessments - encouraging providers to remedy non-compliance

In addition to standard compliance assessments, certain events or the outcome from the last assessment may trigger additional compliance assessments outside of the normal cycle. A targeted compliance assessment may be sought where a recommendation is required to be addressed sooner than the next standard assessment. A targeted assessment is a planned engagement with the provider. It is commonly a compliance check of one or more performance outcomes or performance requirements.

Table 5: Sector trends – number of targeted assessments between 1 July 2016 – 30 June 2018

| | 2016 | 2017 | 2018 | 2019 |
|---------------|----------|-----------|-----------|-----------|
| Tier 1 | 0 | 2 | 6 | 4 |
| Tier 2 | 1 | 2 | 3 | 9 |
| Tier 3 | 8 | 12 | 20 | 40 |
| TOTAL | 9 | 16 | 29 | 53 |

The last four years of data show an increasing trend in targeted assessments. This reflects heightened monitoring by regulators rather than a declining performance in the sector. Better targeting and more risk-focused assessments by regulators are contributing to the increase in targeted assessments.

Targeted assessments - focus on Probity

During the reporting period Performance Outcome 5 (Probity) was of particular focus for targeted assessments. Under Performance Outcome 5, providers are required to notify the primary Registrar of any incident related to its operations that may damage or has the potential to damage the reputation of the community housing sector. Examples include:

- Significant operational restructure
- Corporate mergers or restructure plans to change corporate entity type
- Significant system failures
- Legal action against a provider associated with potential and/ or reputational costs.

A compliance program in 2018-2019 targeted the compliance issue of an absence of a Notification Policy which resulted in an increase in targeted assessments, particularly for Tier 3 providers. The majority of providers addressed the concern in a timely manner and as a result any incident that damages or may damage the reputation of the community housing sector is dealt with in a prompt and effective manner.

Providers subject to regulatory enforcement due to non-compliance

Enforcement action may be taken where a provider demonstrates non-compliance with the National Law or the Code following a compliance assessment or investigation. Performance and assessment data is used to inform a risk-based assessment of all registered providers to determine compliance with the National Law and the Code. This determines the nature of regulatory engagement and, where necessary, action. The preferred approach to non-compliance is for a Registrar to choose the most appropriate enforcement tool from within an escalating tool set. In some cases this may mean a sequence of escalating responses depending on the outcome sought and the level of egregious behaviour.

Before taking enforcement action, Registrars consider the public interest including the interests of tenants, the providers, secured creditors and government housing agencies (where appropriate) as well as the history and attributes of the entity.

In the last 12 months, enforcement action was taken against seven of the 293 registered providers. As at 30 June the registration of three providers had been cancelled with improvement processes still in place for four providers.

Figure 2 shows enforcement action taken in 2018-2019. However, Provider 1 had been subject to enforcement action over a period of time with a Notice of non-compliance and a Notice of non-compliance with binding instructions issued during 2017-2018. The registration was cancelled in 2018-2019 at the provider's request following events that impacted on their financial viability.

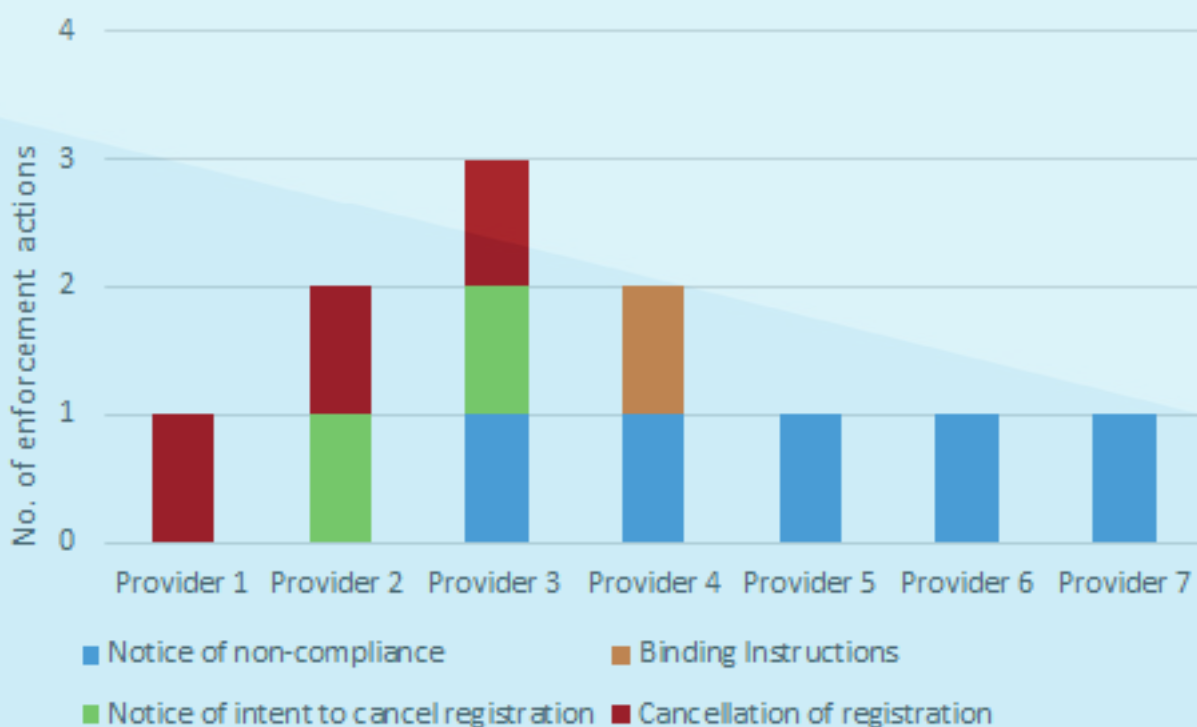
Provider 2 had a serious failure to comply with the community housing legislation that required urgent action. Following the issue of a Notice of intent to cancel registration the provider failed to satisfy the Registrar the registration should not be cancelled.

Two of the three providers whose registrations were cancelled held 245 community housing properties which were transferred to other CHPs for management.

One provider has commenced appeal action with the Administrative Decisions Tribunal against the decision to cancel their registration. The outcome of this appeal is pending.

There do not appear to be any material trends in the nature of non-compliance identified although management and governance weaknesses, tend to indicate poor organisational cultures which lead to financial viability weaknesses over time.

Figure 2: Providers subject to enforcement actions between 1 July 2018 and 30 June 2019



Pilot program - Tier 3 Market Segmentation

In 2018, Registrars commissioned ARTD Consultants to carry out consultation with Tier 3 providers who had recently been through a compliance assessment. Consultation was carried out with providers and peak bodies with the purpose of gaining a clear understanding of issues associated with the administration of the NRSCH from the CHPs perspective – and to seek feedback into what features of the compliance assessment and evidence requirements might be improved. As a result of this consultation, NRSCH Registrars agreed to explore flexibility in scheduling and evidence requirements.

The aim of the project is to develop a definition of market segments across Tier 3 CHPs, and explore ways to simplify reporting requirements and reduce regulatory burden. To test options for segmenting evidence requirements NSW is leading on a Pilot Program of Compliance Assessments with Tier 3 providers scheduled for a standard assessment in 2019.

The first phase of the pilot involved 25 providers with a New South Wales primary jurisdiction that owned or managed 10 or fewer properties. Providers were invited to take part in a program to better understand whether a segmented approach reduces regulatory burden on Tier 3 providers. This pilot program is removing the standard two year compliance schedule for participating Tier 3s and replacing it with a rolling monitoring program over a four year period. While providers are engaged more frequently, they provide less information, and engagement is targeted to specific areas of risk with the benefit that interaction is over fewer days overall. As at 30 June 2019, 17 providers had completed the first phase of a four year cycle of assessments and engagements.

Providers involved in the pilot program

Five categories of Tier 3 providers were identified based on their main business activity and number of properties managed:

1. Under 10's – those providers managing 10 properties or fewer, excluding aged care providers
2. Real estate agents – those subject already to a condition placed on their registration limiting their activity to the affordable housing sector and more frequent financial reporting
3. Aged care providers
4. Disability service providers
5. Health care providers

Frequency and scope of compliance engagement

For these 'under 10' providers, a phased compliance cycle that gives regulatory assurances of the provider's performance over a four year period was adopted. In the first and third year, providers are required to complete a return via the Community Housing Regulatory Information System (CHRIS) and submit evidence in relation to tenant and housing services, housing assets and financial viability. In the second and fourth year, information in relation to governance, management, probity and community engagement will be collected via a telephone conversation, a meeting or site visit. Six monthly contact with each provider will also be maintained throughout. Such an enduring testing program requires redesign of regulatory approach, systems and skill-sets to a more adaptive, intelligence-led footing.

If there are major changes to the provider's scale and scope of operations, substantiated complaints or referral of other matters about its operation, a more detailed assessment may be conducted.

Next steps

A report of findings from the first phase of the Pilot Program will be delivered early in the new financial year.

Appendix A- Glossary

Affordable housing

Housing for people on a very low, low or moderate income and priced so that these households are able to meet other basic living costs.

Community housing

Housing for people on a very low, low or moderate income or for people with additional needs that is delivered by non-government organisations

Community housing provider (CHP)

An entity registered under the National Law as a community housing provider

Community Housing Regulatory Information System (CHRIS)

The online portal used by NRSCH to collect regulatory information and to determine compliance with the National Law

National Housing Finance and Investment Corporation (NHFIC)

An independent Corporate Commonwealth entity dedicated to improving housing outcomes. NHFIC offers loans, investments and grants to encourage investment in housing, with a particular focus on affordable housing.

National Law

The state and territory based legislation through which the NRSCH is being introduced. The National Law is enacted in the host jurisdiction, New South Wales, and either applied or adopted by participating jurisdictions

National Regulatory Code (NRC)

The performance requirements that registered housing providers must comply with in providing community housing.

National Regulatory System for Community Housing (NRSCH)

A national system of registration, monitoring and regulation of community housing providers to encourage the development, viability and quality of community housing to promote confidence in the good governance of registered community housing providers

NRSCH Compliance

A periodic assessment of registered community housing providers to fully assure compliance with the national regulatory code.

NRSCH Registration

An initial assessment of a potential community housing provider to determine their capacity to comply with the national regulatory code

NRSCH National Office

Provides executive and program support to the administration of NRSCH.

Participating jurisdiction

States and territories whose governments have agreed to participate in the NRSCH, i.e. a jurisdiction that applies or adopts the National Law

Provider

See Community housing provider

Registrar

The individual responsible for regulating CHPs compliance with the national regulatory code at the jurisdiction level. Decisions are made in accordance with Registrar's functions under the national law.

Registrars' Forum

A body that meets monthly consisting of all Registrars. It shares national experience to promote good practice and the continuous improvement in the administration and design of regulatory function. It facilitates the collection and analysis of national regulatory data to inform decision making and regulatory responses.

For more information

For more information on the
National Regulatory System for
Community Housing, please visit:
www.nrsch.gov.au