

**COMMUNITY HOUSING
REGULATORY AUTHORITY**

Annual Monitoring and Reporting Framework 2018-19



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
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New Zealand Government

Introduction

This framework sets out the Community Housing Regulatory Authority's (the Authority's) approach to the monitoring and reporting requirements for registered Class I Social Landlords for 2018-19. It describes:

- what annual monitoring is and why it is important;
- the annual monitoring and reporting process and the focus for 2018-19;
- how the Authority assesses compliance with the [Performance Standards](#);
- what enhanced monitoring is and when it is used;
- the requirements for disclosure and change reporting by registered Community Housing Providers (CHPs); and
- the protocols around sharing information with other agencies involved in community housing.

We work hard to minimise the compliance burden on registered CHPs wherever possible, whilst fulfilling our legislative requirements of ensuring registered CHPs are meeting the minimum standards expected of a Class I Social Landlord.

What is annual monitoring?

Annual monitoring is required under [Part 10 of the Housing Restructuring and Tenancy Matters Act 1992](#) (the Act). The Authority must monitor the compliance of registered CHPs with the prescribed eligibility criteria and Performance Standards, at least on an annual basis.

We use an **evidence-based compliance framework** in our monitoring activities. This means that Class I Social Landlords are required to provide information to the Authority that demonstrates that it is following its policies and procedures in practice.

For example, the Authority requires registered organisations to provide their Board Minutes. The minutes allow us to see whether:

- apologies are being taken and Board members present are recorded (i.e. they provide evidence of a documented quorum);
- that conflicts of interest recorded, that the Board gives regular consideration to risk;
- there is regular reporting of key aspects of organisational performance by management;
- that Board decisions are clearly recorded; and
- if the Board is regularly considering the strategic direction of the organisation, is aware of its financial status, and is receiving reports on core aspects of operational performance (e.g. tenancy management, and property and asset management).

Why is annual monitoring and reporting important?

Our focus is on the ongoing viability of a CHP and its ability to deliver social housing over the long-term. This differs from contract monitoring, which is focused on ensuring the delivery of the outcomes that have been contracted for (for example, the provision of a contracted number of Income Related Rent tenancies and associated outcomes in the Ministry of Social Development (MSD) contract).

All of the Authority's activities are designed to help:

- grow a fair, efficient and transparent community housing sector; and
- ensure tenants are appropriately housed.

In doing this, we provide an assurance to Government and tenants that Class I Social Landlords are viable organisations that can provide appropriate landlord services to tenants.

The annual monitoring process

The annual monitoring process works as follows:



However, if the information provided with the Annual Regulatory Report is not sufficient for us to make an assessment, or it does not demonstrate compliance, we will take the following steps:

1. request further information from the registered organisation to complete the assessment;
2. if that information still does not demonstrate compliance with the Performance Standards, we may proceed to enhanced monitoring; and
3. this may lead to mediation or suspension of registration if the issues cannot be resolved.

How is compliance assessed?

We apply three principles when assessing ongoing compliance with the Performance Standards. These are:

- proportionality - assessing whether the policies, procedures and systems in place meet the Performance Standards for an organisation of its size and scale of housing provision;
- accountability and transparency – we are able to justify our decisions; and
- fairness and consistency – ensuring a level playing field, based on fair, clear and open processes and decisions, and consistent application of information and methods.

This approach means we can consider factors specific to an organisation and how it operates. Factors include, but are not limited to:

- does the organisation have appropriately skilled people to govern and manage it?
- is the organisation financially viable?
- is the organisation complying with its own policies and procedures in practice?
- does the organisation have, or plan to have, Income Related Rent tenants, or embark on a capital build programme, or increase its portfolio?

Annual regulatory report

The main way we monitor ongoing compliance is by requiring registered organisations to complete and submit the **Annual Regulatory Report**¹, along with requested core documents that show how your organisation is meeting the [Performance Standards](#).

As stated in the legislation, this report must be provided to the Authority no more than 28 days after the organisation's annual general meeting (AGM). If the organisation does not hold an AGM, the annual report date will be set to align with the sign-off of year-end financial accounts.

The Annual Regulatory Report is divided into four sections:

1. Organisational information - this is the information we currently hold on the organisation that should be reviewed and updated where necessary;
2. Response to areas of improvement - this section relates to any areas of improvement we asked the organisation to work on, either at the time of registration, through the previous year's annual reporting, or through disclosure or change reporting;
3. Annual reporting – this section requests a set of core documents we assess to ensure the organisation is complying with the prescribed Performance Standards; and
4. Declaration signed by the Chair (or equivalent position) to confirm the information provided is correct.

¹ Referred to in the Housing Restructuring and Tenancy Matters Act 1992 as the annual report.

Following receipt of the **Annual Regulatory Report** and requested core documents, we will assess the evidence and either:

- accept the information provided, and pass the organisation as compliant with the Performance Standards; or
- request further information to help make an assessment as to whether the organisation is meeting the Performance Standards (if the information initially provided is insufficient).

Our approach is to work with the organisation as we resolve any identified issues; the aim is to ensure registered providers remain viable and are operating within the parameters of the Performance Standards.

Once the assessment is completed, the **Annual Assessment Report** is sent back to the organisation outlining our decision. We may pass an organisation as compliant, but highlight areas needed to work on for the following year's annual reporting – which will be areas of improvement for the next Annual Regulatory Report (or sooner if required).

Monitoring focus for 2018-19

Before the start of each financial year, we review the documents required for the upcoming year's annual monitoring and advise registered providers of any changes. To ensure Class I Social Landlords remain viable and able to deliver community housing over the long-term, there are a set of core documents that must be provided.

In addition, each year, we will focus on a particular area of the [Performance Standards](#). The focus of this year's annual monitoring is tenancy management. This means organisations will need to provide the core documents, as well as documents to show examples of how tenancy management policies are being implemented in practice.

The **core documents** that must be provided to the Authority for 2018-19 annual monitoring are:

- Board minutes (for the previous 12 months);
- audited financial accounts in the name of the registered entity;
- budget forecasts for the registered entity for the next three years;
- current insurance schedules that cover both organisational insurance and material damage to properties in the portfolio;
- updated Business and/or Strategic Plans; and
- a summary of any new capital expenditure (planned or undertaken) that is not already captured in the audited financial accounts or budget forecasts.

For this year's area of focus, **tenancy management**, we also require the following documents:

- a sample of the organisation's most recent Tenancy Agreements, redacted of personal information, which covers both Income Related Rent (if applicable) and affordable rental tenancies. Please note that the social rental tenancy agreements will need to include

separately signed insulation statements for tenancies started after 1 July 2016. The Authority will advise each provider of the number of agreements required to ensure it is proportional to the size of the organisation's portfolio;

- a copy of the complaints register for the previous 12 months (or equivalent information you hold relating to tenant's complaints); and
- any tenant survey data for the previous 12 months (or equivalent tenant feedback information).

We are confident providing these documents will not impose a significant compliance burden on registered providers, as they are documents that organisations should have to hand. As stated above, we take a proportional approach when assessing an organisation's compliance with the Performance Standards.

Enhanced monitoring

In addition to annual reporting, we may, in certain circumstances, undertake **enhanced monitoring**. This may be triggered if we receive information that would cause us to believe an organisation has breached, or is likely to breach, the eligibility criteria or Performance Standards. Examples that would trigger enhanced monitoring are, we:

- have reason to be concerned about any information received during annual reporting, or through the submission of a Disclosure or Change Report (see next section);
- do not receive information we have requested in the required timeframe;
- receive a relevant complaint from a tenant or third party;
- receive information from another agency regarding concerns about an organisation; and/or
- learn of a media report that may raise concerns about an organisation's operation.

In these instances, our first action would be to seek further information from the provider to clarify the issue. We may also request a meeting with either the Board and/or management to discuss our concerns, and offer to work alongside the organisation as it resolves the issue. Once back in compliance, standard annual monitoring would resume.

However, if, after working with an organisation, we are not satisfied that it is meeting the eligibility criteria or Performance Standards, we may move to mediation to help resolve the issue. As a last resort, we could suspend or revoke an organisation's registration. The Authority can, if required, move to direct suspension or revocation. Immediate revocation would require a significant adverse event to have occurred with no apparent remedy in place by the affected organisation. Further information on the suspension and revocation process can be found in our [Guidance Note](#).

Disclosure and change reporting

Reporting, as opposed to monitoring, is when an organisation proactively advises us of any changes to the way its business is governed or operates. This is where the [Disclosure](#) or [Change](#) reporting process is used.

Changes to the way an organisation is governed or operates can occur at any time, meaning it can fall outside the annual reporting process. For this reason, providers are required to report significant changes to the Authority.

Disclosure reporting is required for any *significant* event, usually after the fact, which might adversely impact on an organisation's ability to comply with the Performance Standards. Events include, but are not limited to:

- action being taken against an organisation by any statutory body, individual or company;
- action being taken by another Government agency;
- serious breaches of the Code of Conduct by Board members or staff;
- cases of fraud or criminal misconduct which are under investigation;
- an adverse event that may trigger media interest or result in housing units becoming uninhabitable;
- defaults on loans, or circumstances that make a default on loans likely;
- financial issues which could impact on the viability of the organisation or lead to a reduction in service level, business, or loss of staff etc.; and
- complaints made to the Privacy Commissioner about the organisation.

Change reporting is required for *significant* changes to an organisation's business, which are usually known in advance. They include, but are not limited to, changes to:

- the legal name of the organisation;
- the type of organisation or incorporation details;
- geographical location, or expansion into other areas;
- the Chair of the governing body or the Chief Executive (or equivalent position);
- the contact person the Authority has listed;
- the constitution or enabling document e.g. the objects or functions or scope of activities;
- the acquisition or development of further rental housing units (including notification of when they become available for use);
- the structure of the organisation e.g. merger or takeover; and
- the rent-setting policy that impacts on non-income-related rents.

When a Disclosure or Change Report is sent to us, we assess the information to determine whether the change will affect the organisation's ability to meet the eligibility criteria and/or Performance Standards. For example, if we are advised that an organisation is involved in a proposal to significantly increase the size of its housing stock, we assess its capacity to manage a larger portfolio.

If we identify an issue, we may request further information to help make an assessment of how serious the issue is and whether it affects the organisation's ability to meet the Performance Standards. The Authority may trigger **enhanced monitoring** until the issue has been resolved.

Information sharing

The Authority and MSD have an operational agreement in place in relation to community housing provision and funding. It stems from our respective statutory functions, and includes the sharing of relevant information only (e.g. informing MSD within a reasonable timeframe of any registration decision which affects a CHP's eligibility for IRRS).

It is not our intention to share any organisation's information with other agencies. However, the Authority is subject to the Official Information Act 1982. If we receive a request for personal or official information we hold, we will consult with all affected parties as appropriate, and determine what information should be released or withheld. This legislation protects personal information and other information to the extent that to do so is consistent with the public interest, such as information which is commercially sensitive.

Appendix 1 – Statutory basis for annual monitoring

The statutory basis of the annual monitoring is contained in Part 10 of the Housing Restructuring and Tenancy Matters Act 1992.

Section	Power/Requirement
168	<p>Registration</p> <p>Registration is continuous so long as criteria continue to be met.</p> <p>The Authority must assess at least annually, and may assess at any other time, whether a registered Community Housing Provider (CHP) continues to meet the prescribed eligibility criteria and Performance Standards.</p>
169	<p>Suspension</p> <p>The Authority has the power to suspend a CHP if, after making an assessment under section 168, it determines that a registered CHP no longer meets the prescribed eligibility criteria and/or Performance Standards. Prior to suspending a registration, the Authority must give the CHP at least 14 days' written notice and the opportunity to be heard.</p> <p>The Authority must suspend the CHP's registration until the Authority is satisfied it meets the eligibility criteria and/or Performance Standards. The suspension is recorded on the register.</p> <p>If the CHP does not satisfy the Authority within 12 months of the suspension, or any further period that the Authority may determine, registration is revoked in accordance with sections 170 and 171.</p>
170	<p>Revocation</p> <p>The Authority may revoke registration if it is satisfied on reasonable grounds that a CHP has failed, or is failing, to meet one or more of the prescribed eligibility criteria or Performance Standards; the CHP does not comply with a lawful requirement of the Authority under Part 10 of the HRTMA; has ceased to operate as a CHP; is unable to pay the CHPs debts or to continue carrying on its business; or has written to the Authority requesting revocation.</p> <p>Unless the CHP has requested revocation, the Authority must first give the CHP at least 14 days' written notice with the reasons for the decision to revoke, and give them the opportunity to be heard.</p> <p>Registration may be revoked whether or not the CHP has been suspended under section 169.</p>
171	<p>Revocation procedure</p> <p>Sets out the procedure the Authority must follow to revoke registration.</p>
174	<p>Authority to monitor registered CHPs</p> <p>The Authority must monitor the compliance of registered CHPs with the prescribed eligibility criteria and Performance Standards, and may require CHPs to supply information or produce documents for that purpose under section 178.</p>
175	<p>Reporting requirements</p> <p>Registered CHPs must provide annual reports on their operations to the Authority, or at any other time as required.</p>

176	Information to be included in annual reports Stipulates what information must be contained in the annual reports.
178	Information requests from the Authority The Authority may require a person to supply information or produce documents it considers necessary for the purposes of performing or exercising its functions, powers, or duties under the Act.