



Registrar of Community Housing Compliance Assessment Scheduling System (CASS)



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1. Introduction

The *Housing Act 2001* (NSW), and the Regulatory Code for Community Housing Providers under the Housing Regulation 2009, provide the legislative platform for the regulation of community housing providers in NSW.

The regulatory system is administered by an independent statutory officer, the Registrar of Community Housing.

Ongoing regulation of the registered community housing sector is managed through compliance promotion and assessment, to ensure that registered community housing providers maintain performance in accordance with the Regulatory Code. In December 2010, following consultation with the community housing sector and Housing NSW, the Registrar published an Interim Compliance Framework to provide a platform for compliance promotion and assessment in the administration of the regulatory system.

Registered community housing providers and industry stakeholders are entitled to expect that, in administering the regulatory system, the Registrar will operate in a proportionate manner, focusing compliance assessment activity on providers and performance areas that are most significant to ensuring a viable and diverse community housing sector in NSW.

Registered community housing providers and industry stakeholders are also entitled to expect that the Registrar will administer the regulatory system prudently to minimise potential registered community housing provider failure and its impact, and to promote confidence in the community housing sector.

Registered community housing providers and industry stakeholders are further entitled to expect that the Registrar will be efficient and effective in the deployment of limited regulatory resources.

These expectations are recognised by the Registrar through the use of a risk-based approach to administering the regulatory system.

The Compliance Assessment Scheduling System has been developed for this purpose and sets out the risk based-approach used by the Registrar in scheduling the frequency, scope and level of engagement for compliance assessments on the basis of reliable data and information indicative of the exposure of the sector and each registered community housing provider to the risk of potential non-compliance with the performance requirements of the Regulatory Code.

By being transparent about this risk-based approach, the Registrar aims to promote an understanding of the administration of the regulatory system and to have a relationship with the sector that is based on open and honest exchanges, discussions and responses to compliance assessment scheduling.

The Compliance Assessment Scheduling System is a component of the Registrar's Interim Compliance Framework.

1.1 Summary of the Compliance Assessment Scheduling System

The regulation of the registered community housing sector is managed through compliance promotion and assessment, to ensure that registered community housing providers maintain performance in accordance with the Regulatory Code.

Compliance assessment is a continuous process involving each registered community housing provider periodically demonstrating compliance with the Regulatory Code.

1. Each provider is notified of its next scheduled compliance assessment;
2. At the scheduled time (typically annually for Classes 1, 2 and 3 and biennially for Class 4) the provider submits a Provider Details Update followed by a Compliance Return;
3. This evidence of performance is assessed against the Regulatory Code;
4. The findings and conclusions of the compliance assessment then come together in the Compliance Assessment Scheduling Review (CAS Review), together with a consideration of indicators of exposure to potential non-compliance, to determine the scope, frequency and level of engagement of the next scheduled compliance assessment; and
5. The provider is notified of its next scheduled compliance assessment.

Outside of this cycle, the findings and conclusions of investigations of complaints, notifications under the Regulatory Code, and advices will result in a CAS Review. The findings and conclusions of complaints, notifications and advices come together in a CAS Review, together with a consideration of indicators of exposure to potential non-compliance, to determine whether the frequency, scope and level of engagement of the next scheduled compliance assessment ought to be adjusted.

CAS Reviews are the key feature of the Compliance Assessment Scheduling System.

Conducting a CAS Review following every assessment of compliance, complaint, notification, and advice enables us to bring together the full range of regulatory information held by the Registrar to gain a holistic and contemporaneous view of each provider's exposure to potential non-compliance.

For example, while the events of a single complaint may not, in and of itself, increase the provider's exposure to potential non-compliance, that single complaint in combination with a range of other factors may be indicative of exposure to potential non-compliance. By bringing all information together into a CAS Review at the conclusion of every assessment of compliance, complaint, notification and advice, means that patterns and compounding effects can be identified quickly and compliance assessment can be scheduled accordingly.

In this way, CAS Reviews support our regulatory oversight by ensuring important regulatory information is not overlooked, and enable us to respond to emerging potential non-compliance issues in a timely manner.

CAS Reviews are intended to be dynamic. This is illustrated in Figure 1.



The Compliance Assessment Scheduling System is implemented through the Registrar's Regulation Management System (RMS) to ensure compliance assessment and scheduling activities are maintained within a single database to enable single system access to comprehensive data, that is analysable and reportable.

1.2 Intent

The Compliance Assessment Scheduling System is intended to identify each registered community housing provider's exposure to potential non-compliance with the Regulatory Code, and to set the frequency, scope and level of engagement of compliance assessments in response.

The exposure being assessed is a combination of the likelihood and consequences of each registered community housing provider's potential non-compliance with the Regulatory Code.

It is important to recognise that the CAS Review outcomes are not a measure of the performance or compliance of the provider. It is not an assessment of the registered community housing provider's *actual* performance or *actual* compliance with the Regulatory Code, and should not be taken as indicative of such. A CAS Review is simply a tool for the scheduling of compliance assessments.

The Compliance Assessment Scheduling System is designed to:

- Provide a systematic approach to prioritising compliance assessment activities proportionately – in relation to each provider and the sector as a whole
- Determine the frequency, scope and level of engagement of compliance assessments in response to exposure to potential non-compliance
- Provide certainty to registered community housing providers and industry stakeholders in relation to nature of the Registrar's compliance assessment activities
- Provide for consistent treatment of providers in like circumstances
- Enable the deployment of resources to be matched proportionately to the likelihood and consequence of potential non-compliance
- Avoid unjustifiable regulatory burden

This means that registered community housing providers that have low exposure to the likelihood of potential non-compliance and/or have exposure to less severe consequences from potential non-compliance will be subject to a lower level of compliance assessment activities; whereas registered community housing providers that have higher exposure to the likelihood of potential non-compliance and/or have exposure to severe consequences from potential non-compliance, will be subject to a higher level of compliance assessment activities.

It is important to recognise that the CAS Review outcomes are not a measure of the *actual* performance or compliance of the provider.

1.3 Limits

The Registrar's statutory responsibility is to monitor and respond to registered community housing providers' compliance with the Regulatory Code to ensure that the community housing sector is diverse and viable.

The Registrar's approach to administering the regulatory system is based on the premise that each registered community housing provider and its governing body are responsible for its good governance, financial viability and compliance with the Regulatory Code.

The Registrar's role is to promote compliance by registered community housing providers through a robust regulatory system of legislation, performance requirements and regulatory guidance.

In doing so, the Registrar does not pursue a zero failure objective in relation to independent organisations registered as community housing providers. The Registrar cannot eliminate completely the risk that a registered community housing provider might fail to meet its obligations in relation to the Regulatory Code or might fail as a body corporate. That level of regulatory assurance is neither feasible nor desirable. Any attempt to meet a zero failure objective would lead to most registered community housing providers having a disproportionate level of regulation compared with the likelihood and consequences of failure, and would act to stifle growth, and competitive and innovative service delivery.

The Registrar's role is to detect potential non-compliance early and act to have the registered community housing provider bring itself to compliance, thereby protecting the interests of tenants, investors, government, and communities, and the reputation of the community housing sector. In the event of non-compliance leading to failure of the registered community housing provider, the Registrar notifies Housing NSW. Housing NSW is not to give assistance to a community housing provider unless the community housing provider is registered and, as far as reasonably practicable, Housing NSW is to withdraw assistance from a community housing provider that ceases to be registered.

1.4 Evidence collection

The Compliance Assessment Scheduling System is designed to use evidence, data and information already collected through the registration, compliance, notification, complaint, and advice assessment processes. In this way, CAS Reviews do not require the submission of evidence, data or information by providers.

The evidence, data and information already collected and relied upon for CAS Reviews includes:

- the submitted Provider Details Update, Compliance Return and attached documentation from the current or previous compliance assessment
- the submitted Financial Performance Report from the current or previous compliance assessment
- the submitted Statement of Action on Recommendations from the current or previous compliance assessment
- the Registrar's record of the previous registration or compliance assessment
- the Registrar's record of complaint investigations
- the Registrar's record of notification investigations
- the Registrar's record of information/advice from authorised sources
- the Registrar's record of site visits

1.5 Principle of co-regulation and provider notifications

A risk-based approach to administering the regulatory system requires an element of 'co-regulation'.

Co-regulation is an established principle of good regulatory practice, and is taken to mean that the regulator shares the responsibility for effective regulation with the community housing sector itself. This is true in NSW in a number of ways.

Firstly, since 1998 the community housing sector has utilised an accreditation system jointly developed by the sector and government; the National Community Housing Standards. Accreditation is a voluntary, industry endorsed quality assurance system designed to be used for continuous quality improvement in the delivery and management of community housing. Accredited providers are well positioned to meet the requirements of the Regulatory Code.

Secondly, the Registrar's administration of the regulatory system is governed with the advice of the industry through the Registrar's Advisory Forum and project advisory groups.

Lastly, all registered community housing providers are expected to take responsibility for compliance with the Regulatory Code and working with the Registrar as a 'critical friend'.

In this regard, it would be counter-productive for providers to consider in a negative light the making of complaints or its own notifications to the Registrar. Appropriately scheduled compliance assessments in terms of frequency, scope and level of engagement are in the interests of providers. Aiming for, and withholding information to achieve, a low level of compliance assessment serves only to isolate a provider in circumstances where the Registrar would otherwise work with the provider to address potential exposure to non-compliance.

The information we receive directly through Compliance Returns, notifications and advice from providers is fundamental to the effectiveness of the regulatory system. It also requires accurate and timely information in order for the Registrar to make sound assessments of exposure to potential non-compliance and to provide the appropriate guidance to registered community housing providers to mitigate that exposure and protect all interests, including the provider's interests.

1.6 Publication of compliance assessment scheduling reviews

The Registrar does not publish the CAS Review or results. CAS Reviews are internal to the Registrar and are only used to determine the frequency, scope and level of engagement of a provider's next compliance assessment.

The outcome of the CAS Review and resulting CAS Category is shared with each registered community housing provider in compliance assessment reports.

2. Compliance Assessment Scheduling Reviews

A CAS Review is undertaken at the completion of each compliance assessment, and at the completion of each advice, notification or complaint investigation, to determine the provider’s exposure to potential non-compliance and to provide a CAS Category to guide the scheduling of the next compliance assessment.

The CAS Review involves both a quantitative and qualitative assessment of a range of indicators to determine a score and corresponding CAS Category. The provider’s next compliance assessment will be scheduled in terms of frequency, scope and level of engagement according to the CAS Category. The provider will be advised of its CAS Category and the date of the next scheduled compliance assessment in compliance assessment reports.

2.1 CAS Reviews

Conducting a CAS Review following every assessment of compliance, complaint, notification, and advice enables us to bring together the full and current range of regulatory information held by the Registrar to gain a holistic and contemporaneous view of each provider’s exposure to potential non-compliance.

Compliance Assessment
At the end of each scheduled compliance assessment, the next compliance assessment will be scheduled. The next compliance assessment may be adjusted following any of the following:



Complaint Assessment	Notification Assessment	Advice Assessment
At the end of each complaint assessment a CAS Review will be conducted to update the profile of the provider to see whether there are any patterns or compounding effects that ought to adjust the CAS Category. This could result in the same, higher or lower CAS Category depending on whether the provider’s exposure to potential non-compliance remains steady, increases or decreases.	At the end of each notification assessment a CAS Review will be conducted to update the profile of the provider to see whether there are any patterns or compounding effects that ought to adjust the CAS Category. This could result in the same, higher or lower CAS Category depending on whether the provider’s exposure to potential non-compliance remains steady, increases or decreases.	At the end of each advice assessment a CAS Review will be conducted to update the profile of the provider to see whether there are any patterns or compounding effects that ought to adjust the CAS Category. This could result in the same, higher or lower CAS Category depending on whether the provider’s exposure to potential non-compliance remains steady, increases or decreases.

2.2 CAS Indicators

The CAS Review takes account of a range of indicators considered to be reflective of likelihood and consequence of exposure to non-compliance. The indicators account for individual provider and sector wide considerations. The indicators consider qualitative and quantitative factors that contribute to increasing or decreasing a provider's exposure.

Indicator	Parameters	Rationale
Class	Class 1 Class 2 Class 3 Class 4	Providers are registered under one of four classes which correspond to the provider's scope and scale of community housing operations and delivery. Registration class is indicative of the consequences of potential non-compliance.
Financial Viability Measures	Performance against benchmark ratios and standards: <ul style="list-style-type: none"> • EBITDA Margin • Working Capital Ratio • Amended Quick Ratio • Operating Cash Adequacy • Gearing Ratio • Interest Cover Ratio • Cash Flow Forecast • Return on Assets • Cash Cost of Capital • Net Profit Trend 	Financial viability is defined as the ability to generate sufficient income to meet operating payments, debt commitments and, where applicable, to allow growth while maintaining service levels. Performance outside generally accepted standards increases exposure to potential non-compliance.
Recommendations in Performance Area 4: Sound Governance	Number	Sound governance is central to organisational health. Providers that have recommendations in this Performance Area have areas for governance improvement which increase exposure to potential non-compliance.

Recommendations in Performance Area 6: Protection of Government Investment	Number	Sound financial performance, business planning and risk management supports organisational health. Providers that have recommendations in this Performance Area have areas for service improvement which increase exposure to potential non-compliance.
Recommendations in Performance Area 8: Development Projects	Number Classes 1 and 2 only	Sound management of development projects is required to mitigate exposure to potential non-compliance. Providers that have recommendations in this Performance Area have areas for service improvement which increase exposure to potential non-compliance.
Total Recommendations	Number	A compliance assessment may identify areas for service improvement to maintain compliance, or areas of non-compliance with the Regulatory Code, and make recommendations to improve performance and bring the organisation to compliance. The more recommendations made to a provider, the higher the exposure to potential non-compliance.
Accreditation under the National Community Housing Standards	Yes or No	Accreditation is voluntary. It decreases a provider's exposure to potential non-compliance by operating under a continuous quality improvement system for community housing service delivery.
Change in body corporate structure	Significant changes such as merger, entering a group structure, or moving to a new form of body corporate.	All significant changes to body corporate structure increase the potential exposure to non-compliance as the organisation operates through a period of transition with changing organisational structures, staff, culture, business models, capital structure, legal accountabilities and/or services.

Change in corporate scale	Significant changes to the size of a provider, which may involve changes in non-community housing operations.	All significant changes to scale increase the potential exposure to non-compliance as the organisation operates through a period of transition with changing organisational structures, staff, culture, business models, capital structure, legal accountabilities and/or services.
Change in corporate scope	Significant change in the scope of services delivered by the provider, which may involve changes in non-community housing operations.	All significant changes to scope increase the potential exposure to non-compliance as the organisation operates through a period of transition with changing mission, organisational structures, staff, culture, business models, capital structure, legal accountabilities and/or services.
Body corporate type	Form of body corporate such as company, incorporated association (Tier 1 or 2) and charitable trust.	Different body corporates are subject to different corporate regulatory systems outside of community housing regulation. The exposure to potential non-compliance can be decreased where a moderate or high level of corporate assurance is provided by corporate regulation.
Change in community housing total assets	Percentage change in previous 12 months	A rapid increase in assets can increase the provider's exposure to potential non-compliance as the organisation operates through a period of transition and integration.
Pattern of complaints to the Registrar	Number of complaints over time in a Performance Area	A pattern of similar complaints can indicate an increase in a provider's exposure to potential non-compliance in the Performance Area and/or in the effectiveness of the internal complaint and risk management performance of the provider.

Pattern of notifications to the Registrar	Number of notifications over time in a Performance Area	A pattern of similar notifications can indicate an increase in a provider's exposure to potential non-compliance in the Performance Area and/or in the sound governance of the provider.
Geographical spread	The breadth of operation of a provider by local government area, nationally or internationally.	Wider geographical spread can increase a provider's exposure to potential non-compliance as more complex organisational structures are required in more diverse community and operational contexts to maintain organisational health and service delivery.
New entrant	Yes or no	New entrants to the community housing sector are automatically placed on a moderate CAS Category as they operate through a period of transition with changing mission, organisational structures, staff, culture, business models, capital structures, legal accountabilities and/or services.
Governance	Qualitative	The strength, skill, expertise, and stability of the governance arrangements of the provider.
Management	Qualitative	The strength, skill, expertise, and stability of the management arrangements of the provider.
Risk Management	Qualitative	The reliability of the risk management arrangements of the provider, and whether they adequately account for and control identified indicators of exposure to potential non-compliance.
Responsiveness	Qualitative	The history of the provider in responding to regulatory engagement and remedying non-compliance.

The CAS Review assessment of indicators requires both quantitative and qualitative analysis, recognising that not all circumstances can be quantified and that, even where they are quantified, they need to be understood in the specific context of each provider's unique history and operating environment.

Qualitative analysis is particularly important in relation to understanding the relevance of complaints and notifications. As with all quantified measures, they are simply indicative, not determinative. While a pattern of complaints and notifications may point to exposure to potential non-compliance, a qualitative analysis allows the pattern to be understood in context.

The indicators are scored to determine the provider's CAS Category to match the frequency, scope and level of engagement of the next compliance assessment to the likelihood and consequence of exposure to potential non-compliance.

2.3 CAS Categories

We set the frequency, scope and level of engagement of compliance assessments to the exposure to potential non-compliance of each provider. In this way we aim to ensure we do not take a blanket approach to compliance assessment.

This is a dynamic process, and the frequency, scope and level of engagement of compliance assessments changes in intensity as a provider's circumstances change.

There are five CAS Categories, detailed in the table on the following page.

Compliance Assessment Scheduling Categories

	Frequency	Scope	Engagement
High	1-3 months	Identified Performance Areas	<p>Desk Site visit Validation interviews:</p> <ul style="list-style-type: none"> • Chair • Governing Body • Chief Executive • Senior Management <p>Others depending on identified issues eg. Chief Financial Officer; Audit & Risk Committee; Tenants; Auditor etc. Reports to monitor progress in response to compliance action eg. a Notice of Non-Compliance or a Notice of Intent to Cancel.</p>
Major	6 months	All Performance Areas	<p>Desk Site visit Validation interviews:</p> <ul style="list-style-type: none"> • Chair • Governing Body • Chief Executive • Senior Management <p>Others depending on Performance Requirement/s eg. Chief Financial Officer; Audit & Risk Committee; Tenants etc. Reports to monitor progress in response to compliance action eg. against recommendations or a Notice of Non-Compliance.</p>
Moderate	<p>Class 1, 2,3 Annual 2nd Quarter</p> <p>Class 4 12 months</p>	<p>Standard Performance Areas</p> <p>+Identified Performance Requirements</p>	<p>Desk Validation interviews:</p> <ul style="list-style-type: none"> • Chair • Governing body • Chief Executive • Senior Management <p>Others depending on Performance Requirement/s eg. Chief Financial Officer; Audit & Risk Committee; Tenants etc. Reports to monitor progress in response to compliance action eg. recommendations.</p>
Minor	<p>Class 1, 2,3 Annual 2nd Quarter</p> <p>Class 4 Biennial on anniversary</p>	Standard Performance Areas	<p>Desk Validation contact:</p> <ul style="list-style-type: none"> • Chair • Primary contact <p>Others depending on identified issues eg. Chief Executive; Chief Financial Officer; Audit & Risk Committee; Tenants.</p>
Low	<p>Class 1, 2,3 Annual 2nd Quarter</p> <p>Class 4 Biennial on anniversary</p>	Standard Performance Areas	<p>Desk Validation contact:</p> <ul style="list-style-type: none"> • Chair • Primary contact

3. Future Development

A key feature of a sound regulatory system is its ability to respond to issues in a timely and appropriately calibrated manner. Accordingly, the Registrar adopts a proactive and flexible approach to the administration of the regulatory system and recognises the Compliance Assessment Scheduling System is an evolving tool that will be progressively refined in line with our growing regulatory experience with the newly registered community housing sector.

The Registrar will review the Compliance Assessment Scheduling System within 12 months of its implementation, in consultation with industry stakeholders, to:

- Check and adjust the calibration of the CAS Indicators and CAS Categories
- Check and adjust the CAS System in light of any emerging thematic and/or systemic industry risks

In the meantime, the Registrar welcomes feedback on the CAS System. If you wish to provide feedback, please contact:

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