

# Registrar of Community Housing

## 2. The Registration Process



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# 1. Introduction

The Registration Process explains each part of the registration process and directs readers to other guides and tools they will need to use when applying for registration.

To prepare an application, this booklet should be used together with the:

- Evidence Guidelines
- Application Guide
- Application Form
- Financial Performance Report template

These documents can be downloaded from Registrar of Community Housing's website [www.rch.nsw.gov.au](http://www.rch.nsw.gov.au). See section two, about 'Application' for more detail on accessing application forms.

## 1.1 Overview of the registration process

The registration process has four main stages: application; assessment; reports and determinations; and registration. After initial registration the focus is on maintaining registration rather than re-applying at regular intervals.

### The Registration Process



To become registered as a community housing provider, an organisation must complete the application process online.

Organisations who wish to express an interest in applying for registration may contact the Registrar of Community Housing's office by using the 'Enquiry' facility on the website or by phoning 1800 330 940.

Prior to accessing the Application Form, a provider will receive a user name and password from the Registrar's office which provides access to a Request to Register Form. This form must be completed and submitted to the Registrar's office. This information is used to confirm that the organisation is eligible to apply and to determine the class under which it will be registered.

Evidence Guidelines are provided that set out the evidence that will be relied on to assess the suitability of organisations to be registered. This includes a Financial Performance Report in a form prescribed by the Registrar.

Along with a completed application form, the housing provider must submit a range of supporting documents and data as evidence that it complies with the Regulatory Code.

Each application for registration is assigned to an analyst who undertakes an assessment against the requirements of the Regulatory Code and recommends a determination on the application. A registration report is prepared that sets out

the determination on class and registration and the reasons for this determination. A draft version of the report is sent to the provider for comment before a final registration report is issued. Community housing providers that achieve registration will receive a signed registration certificate from the Registrar of Community Housing certifying that they are a registered community housing provider.

Depending on the outcome of the registration assessment, the provider is either listed on the Registrar of Community Housing's Provider Register or advised of its right to a review of the decision to refuse registration.

### **1.2 Confidentiality and privacy**

In undertaking its regulatory activities, including when assessing applications for registration, the Registrar's office will gain access to a variety of information about the provider and its operations, some of which might be considered confidential or commercially sensitive in nature. The Registrar's office will not normally release information concerning community housing providers. Exceptions may be made where there is a lawful reason for releasing the information, and this would depend on individual circumstances.

In the exercise of its functions, the Registrar's office will also abide by the *Protection of Privacy and Personal Information Act 1998* (NSW) and other relevant legislative provisions. Any personal information given to the Registrar's office by a board member, staff member, tenant or other person in the course of regulating a community housing provider will not be disclosed and will be kept confidential.

Confidential and personal information may be passed between Registrar's office staff where required in the normal course of their duties.

Further information about confidentiality and privacy is available on the Registrar of Community Housing's website.

### **1.3 Complaints**

The Registrar's office has a responsibility to investigate complaints about registered community housing providers and the services of the Registrar's office.

Complaints about the registration process, or any other service provided by the Registrar's office, are welcomed and will be used to improve the process. Complainants will not be discriminated against or unfairly dealt with as a result making a complaint.

Complaints may be made to the Registrar of Community Housing's office about any of the following:

- the Registrar of Community Housing's office, its policies or administrative practices
- the conduct of the Registrar
- the conduct of a staff member of the Registrar's office
- a registered community housing provider in relation to its responsibilities set out in the *Housing Regulation 2009* under the *Housing Act 2001* (NSW)

Further information about the complaints policy, including how to lodge a complaint, is available on the Registrar of Community Housing's website.

#### 1.4 Who can apply?

In order to apply for registration as a community housing provider, an organisation must be a body corporate that provides housing (other than public housing) for people on very low, low or moderate income or people with additional needs.

[See section 3 of the Housing Act as amended by the *Housing Amendment (Community Housing Providers) Act 2007*]

There are restrictions on the type of organisation that may be considered a body corporate. However, in general a body corporate is considered to be a person, association or group of persons legally incorporated in a corporation.

The following entity types are a body corporate:

- Company incorporated with shares
- Company limited by guarantee
- Incorporated association (see section 15 of the *Associations Incorporation Act 1984* (NSW))
- Co-operatives under the *Co-operatives Act 1992* (NSW) (see sections 21 and 29 of *Co-operatives Act*)
- Local Aboriginal Land Council (see section 50(2) *Aboriginal Land Rights Act 1983* (NSW))

Depending on their legal structure some other entity types, (for example some church entities) may be a body corporate. To apply for registration, these organisations must first demonstrate to the Registrar's satisfaction that they are a body corporate.

If a community housing provider has any doubts in relation to its legal status for registration purposes it should contact the Registrar's office.

## 2. Application

### 2.1 What is involved?

The objectives of the application stage are to:

- determine whether the provider is an eligible applicant
- identify which registration class the provider can be registered in
- allow the provider to submit evidence that demonstrates how its performance complies with regulatory requirements

### 2.2 Request to Register and eligibility check

The Registrar will only accept registration applications that are made through the Registrar's online application system. The Registrar may accept hardcopy applications only in exceptional circumstances and on a case-by-case basis. Only community housing providers are eligible to apply for registration.

Organisations who wish to express an interest in applying for registration may contact the Registrar of Community Housing's office by using the 'Enquiry' facility on the website or by phoning 1800 330 940.

Prior to accessing the Application Form, a provider will receive a user name and password from the Registrar's office which provides access to a Request to Register Form.

Providers must then complete and submit a 'Request to Register' form with profile information that identifies the provider and its services. This includes information about type of entity, the size and nature of the services it provides, contact person and governing body members.

This information is used to confirm that the organisation is eligible to apply and to determine the class under which it will be registered.

If the organisation is eligible to apply, the Registrar's office will provide a unique user ID and password to the provider's contact person, which allows them to access the online application system. This includes access to the appropriate Application Form and Financial Performance Report template for that class of provider.

If the Registrar's office determines that an organisation is not eligible to apply, it will inform the organisation of the reasons for this determination.

### 2.3 Registration Class

There are four classes of registration and regulatory requirements are proportional. This means that providers being registered in Class 1 undergo the most complex and intensive assessment because of the higher overall level of risk to stakeholders if the provider performs poorly. Applicants for Class 4 registration have the most basic assessment as they are considered to be of lower risk.

The classes are:

1. **Growth provider:** typically, organisations managing a large portfolio of properties (400 or more) and undertaking community housing development projects utilising private sector funds and investment. Organisations registered in this class are subject to the highest level of regulatory requirements which reflects the greater level of resources committed by government to these providers and the increased level of risk involved in borrowing and community housing development projects.
2. **Housing provider:** typically, organisations managing a large portfolio of properties (200 or more) and undertaking small scale projects to develop community housing. Organisations registered in this class are subject to medium to high levels of regulatory requirements dependant on the scale of their community housing operations and their level of involvement, if any, in community housing development projects.
3. **Housing manager:** typically, organisations managing a small to medium sized portfolio of properties (30 or more) focused on property and tenancy management. Organisations registered in this class are subject to regulatory requirements that are proportionate to the scale of their community housing operations.
4. **Small housing manager:** typically, organisations managing a small portfolio of properties (one or more) focused on tenancy management. Organisations registered in this class are subject to regulatory requirements that are proportionate to small scale community housing operations.

Determinations about registration class reflect the scope and complexity of housing products and services delivered by a community housing provider.

The criteria for determinations about a provider's registration class is indicative and in some cases may be negotiated with the Registrar's office to ensure the class best reflects the provider's current housing portfolio and business structure.

Regardless of the initial determination on registration class, mobility between classes is possible. For example, a Class 2 organisation that begins to undertake development through private investment could move to Class 1. The organisation would then be subject to the more stringent accountability requirements associated with Class 1 organisations.

A change in registration class must be negotiated with the Registrar who will make the determination of a provider's registration class. To change registration class, additional performance information and supporting evidence may be required.

## 2.4 Evidence Guidelines

The information and evidence needed from providers for registration assessments is set out in the Registrar's Evidence Guidelines.

The Evidence Guidelines are directly aligned with the performance areas and requirements set out in the Regulatory Code. They detail the range of evidence that should be supplied to demonstrate compliance with the requirements. The Registrar relies on the evidence set out in the Evidence Guidelines to assess whether providers comply with the Regulatory Code and should be registered or not.

The registration system aims to ensure that unreasonable demands are not placed on providers – particularly smaller organisations - that want to be registered. Not all classes of provider are required to meet every performance requirement, so some applicants need to supply less evidence than others.

Governing bodies will find that the evidence required by the Registrar is, for the most part, information that it requires to be satisfied that its housing service is well-governed and well-managed. However, for various reasons, providers may sometimes not be able to supply the required evidence or may want to submit alternative evidence. Comment boxes in the Application Form can be used by the applicant to explain about any alternative evidence they may be providing.

## 2.5 Completing and submitting the Application Form

The Application Form asks the provider for information and evidence about its performance against requirements for each of the eight performance areas under the Regulatory Code. This involves self-reporting against indicators of compliance with each requirement under each performance area. In many areas the provider is asked to rate its own performance and to comment on this. This approach is consistent with the Registrar's strategic priority of encouraging providers to proactively manage their own services, assets and risks.

The Application Form incorporates help text and drop-down menus which guide a provider to enter appropriate responses. It also prompts a provider to attach certain key documents which are required as evidence. These documents are listed in the Evidence Guidelines and it is recommended that providers refer to the Evidence Guidelines to ensure they list and submit all required documents.

The Application Form can be saved before it is completed and accessed again later, enabling it to be completed over a number of days. It can also be printed out at any stage. When saved as 'Complete' the form can be lodged online.

A complete application consists of:

- Application Form
- Financial Performance Report
- Attached documents and document list.

Please note - the Registrar requires the governing body to authorise the completed registration application before it is submitted.

The Registrar's office will send a confirmation to the provider when the application is received.

Please see the Application Guide for more detail on how to complete the Application Form.

## **2.6 Completing the Financial Performance Report**

A Financial Performance Report template (in Microsoft Excel) is provided with the Application Form. This report is designed to capture financial data to inform a range of performance measures that are used to assess the provider's financial solvency and viability, efficiency and overall financial management.

The report has a number of spreadsheets. The provider enters its financial data on one sheet. Other sheets have formulae that generate performance measures and charts, based on the data entered by the provider.

In the Evidence Guidelines, the Financial Performance Report is included in the list of evidence that must be submitted under various performance requirements. These performance requirements relate to maintenance, financial performance, efficiency and property development.

The Financial Performance Report must be completed and submitted with the Application Form, along with the other supporting evidence required. Instructions for completing the report are included in the front of the template.

Please see the Financial Viability and Application Guide booklets for further information on completing the Financial Performance Report.

## 3. Assessment

### 3.1 What is involved?

Each application received will be assigned to an analyst who will consider the information submitted and assess whether the provider demonstrates a commitment to comply with the Regulatory Code.

The analyst may contact the provider to clarify evidence it has already submitted, ask for further information or to validate claims made in the application. In some cases this may involve an on-site inspection.

An on-site inspection could include interviews with governing body members and staff, discussions with tenants and other stakeholders (such as partner agencies that provide tenant support) as well as examination of records, processes and systems. Plans for any on-site inspection would be discussed with the provider.

Each assessment is undertaken on the basis of information and evidence supplied by the provider. The analyst may also seek advice, subject to prior consent from parties relevant to the provider, usually the Community Housing Division of Housing NSW or other areas of Housing NSW that have contractual agreements with the provider.

### 3.2 How applications are assessed

Analysts assess and determine a provider's commitment to meet performance requirements under the Regulatory Code by looking at outcomes as well as the business practices that support these outcomes. Providers must be well managed, well governed and viable.

Evidence that a provider delivers or is committed to delivering outcomes in all performance areas is essential – it is a critical part of the Registrar's assessment. Evidence of good governance and management systems, including for planning and risk management, gives the Registrar confidence that the provider will continue to deliver good outcomes. Setting strategic direction, annual planning and budgeting, monitoring progress and compliance, and managing risk are core responsibilities of the governing body. Analysts would expect these activities to influence performance across all requirements under the Regulatory Code.

Assessments also take into account any 'context' information submitted by the provider, including the type of organisation, its business and governance model and the environment in which it is operating. Analysts use a range of standard tools, guides and other quality controls to ensure that assessments - and final registration determinations - are fair and consistent.

## 4. Reports and determinations

### 4.1 Registration reports

Following assessment, the analyst will make a recommendation as to whether the provider meets the requirements for registration.

The analyst prepares a registration report that sets out the determination as to class and registration and the reasons for the assessment. A draft version of the report is sent to the provider before a final registration report and determination is issued.

The provider will have the opportunity to provide comment, clarification or additional information in relation to the draft report, for consideration in the final registration determination.

The provider will be advised about when it can expect the draft and final report, and timeframes for responding.

When the final report is issued the registration is recorded on the Registrar's public Provider Register.

### 4.2 Determinations on registration applications

A provider must comply with the Regulatory Code in order to be registered.

A provider may be registered indefinitely or, in certain cases, for a specified period. All applicants, whether successful or not, are advised in writing of the outcome and the reasons for the determination. Successful applicants also receive a Certificate of Registration signed by the Registrar.

### 4.3 Reviewing registration determinations

The Registrar of Community Housing reports directly to the Minister for Housing and registers community housing providers independently of Housing NSW.

If a community housing provider is not satisfied with the Registrar's determination to refuse to register or to cancel its registration, it can ask for the determination to be reviewed by the Registrar's office. The final determination on all internal reviews is made by the Registrar.

The organisation may also apply (appeal) directly to the Administrative Decisions Tribunal for a review of the determination, whether or not an internal review has already been undertaken. Information about the Administrative Decisions Tribunal can be found at <http://www.lawlink.nsw.gov.au/adt>.

Any other decision made by the Registrar (under Part 9A, Division 2 of the *Housing Amendment (Community Housing Providers) Act 2007*) is final and not subject to review.

### 4.4 Unsuccessful applications

If a provider applies for registration but is unsuccessful it can apply again at a later date. The provider should contact the Registrar's office to discuss a future date to re-apply.

Providers that want to know about alternatives to registering as a community housing provider should contact the Registrar's office for information about where to seek guidance.

## 5. Registration

### 5.1 The Provider Register

The Registrar of Community Housing maintains a Provider Register on their website which is available to the public.

When an application for registration is successful, the registered community housing provider is entered on the Provider Register. Details that are published include:

- registration number
- incorporated name of organisation
- registered business address
- date registration commenced (or registration period if limited)
- registration class

### 5.2 Maintaining registration

After initial registration, the provider must continue to comply with the Regulatory Code in order to remain registered. This includes providing relevant records and information to the Registrar upon request and allowing the Registrar to inspect premises or records at any reasonable time.

The Registrar's office will conduct ongoing reviews to monitor a provider's compliance with the Regulatory Code. As part of this, registered community housing providers must update and submit their Financial Performance Report.

The Registrar also has the power to conduct an investigation in response to complaints made about a provider where there may have been non-compliance with the Regulatory Code.

For more information, please refer to the other guides in this series:

1. The Regulatory Framework
3. The Evidence Guidelines
4. Application Guide
5. Financial Viability





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