



# Annual Monitoring & Reporting Framework 2021/22

## Introduction

1. This framework sets out the Community Housing Regulatory Authority's (the Authority's) approach to the monitoring and reporting requirements for registered Class 1: Social Landlords for 2021/22. It describes:
  - the annual monitoring and reporting process and the Tenancy Management focus for 2021/22 (see 'Tenancy Management focus' below)
  - how the Authority assesses compliance with the [Performance Standards](#)
  - what enhanced monitoring is and when it's used
  - the requirements for Change and Disclosure Reporting
  - how we share information.
2. As we fulfil our legislated requirement of ensuring registered CHPs are meeting the standards expected of a Class 1: Social Landlord, we minimise the compliance burden on registered Community Housing Providers (CHPs) wherever possible.
3. For background information on the annual monitoring process and why it's important, see Appendix 1. The statutory basis for the process is described in Appendix 2.

*This year's Performance Standard focus is **Tenancy Management**.*

*The additional documents that the Authority requires for 2021/22 annual monitoring are:*

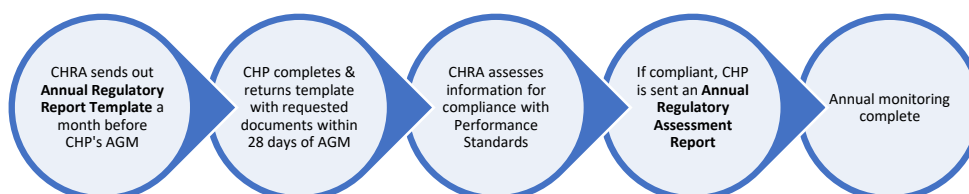
1. *Updated privacy policies and processes that:*
  - a. *include a statement that 'the Privacy Act 2020 is in some instances overridden by the Oranga Tamariki Act 1989 and the Family Violence Act 2018'*
  - b. *include provisions for notifying the Privacy Commissioner in instances where there has been a breach of tenant privacy, and including a definition of when a breach constitutes a notifiable event.*
2. *Tenancy management policies and procedures that:*
  - a. *deal with tenant, visitor and neighbour anti-social behaviour.*

*b. reflect Phase 1 and 2 of changes to the Residential Tenancies Act 1986 implemented since August 2020, including those limiting the frequency of rent increases, increasing rental tenure security, and changes to fixed-term tenancies.*

4. The statement regarding the Oranga Tamariki Act and the Family Violence Act does not need to go into a detailed explanation of how the Privacy Act is overridden. A simple statement using the exact phrase outlined above will suffice.
5. For details of how to prevent, respond to and report privacy breaches, please see the Privacy Commissioner's website: [www.privacy.org.nz/responsibilities/privacy-breaches/](http://www.privacy.org.nz/responsibilities/privacy-breaches/).
6. The problem of anti-social behaviour has been increasing. The Authority is collecting information with the intention of publishing a Guidance Note to help CHPs respond to instances of anti-social behaviour. We would also welcome examples of good sector practice in this regard (please email [chra@hud.govt.nz](mailto:chra@hud.govt.nz)).

### **Annual monitoring process**

7. The annual monitoring process works as follows:



8. If the information provided with the Annual Regulatory Report is insufficient to make an assessment, or it does not demonstrate compliance, we will request further information from the registered organisation to complete the assessment. If that information still does not demonstrate compliance with the Performance Standards, we may proceed to enhanced monitoring (see p.5 for further information). This may lead to mediation or suspension of registration if the issues cannot be resolved. In the worst-case scenario, matters that cannot be resolved to the Authority's satisfaction could lead to a CHP's registration being revoked.
9. If an issue is identified, the Authority will work with registered providers as they bring themselves back into compliance. Suspension and deregistration are a last resort, unless a breach is so serious, there is no ability to fix it.

### **How is compliance assessed?**

10. We apply three principles when assessing compliance with the Performance Standards:
  - Fairness and consistency – we have fair, clear and open processes, and our decisions are made consistently and without bias.

- Proportionality – we assess whether the policies, procedures and systems in place meet the Performance Standards for an organisation of the CHP’s size and scale of housing provision.
- Transparency – we collect, use and share information consistent with the Official Information Act 1982, the Privacy Act 2020 and the Ministry of Housing and Urban Development [Transparency Statement](#).

11. Factors we consider when assessing whether a registered CHP has demonstrated ongoing compliance with the Performance Standards 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?
  - does the organisation plan to embark on a capital build programme, or increase its portfolio, and is it appropriately managing for that increase in scale and risk?

### **The Annual Regulatory Report Template and the Regulatory Assessment Report**

12. The main way we monitor ongoing compliance is by requiring registered organisations to complete the Annual Regulatory Report Template. The completed template, plus certain key documents, are used to assess if the organisation is meeting the Performance Standards. The Act specifies that the template 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.
13. The Annual Regulatory Report Template is divided into four sections:
- a. Organisational information – the information we currently hold on the organisation, which should be reviewed and updated where necessary.
  - b. Response to areas of improvement – any areas of improvement we asked the organisation to work on at the time of registration, through the previous year’s Annual Reporting, or through Change and Disclosure Reporting.
  - c. Annual Reporting – a core set of mandatory documents that we assess to ensure the organisation is complying with the prescribed Performance Standards. This includes the additional documents required under the annual monitoring focus area, which this year is Tenancy Management.
  - d. Declaration – a legal commitment, signed by the Chair, confirming the information provided is correct.
14. After the Authority has received the completed Annual Regulatory Report Template, along with the requested documentation, we assess the evidence and either:
- accept the information provided, and pass the organisation as complying with the Performance Standards
  - request further information to help make an assessment as to whether the organisation is meeting the Performance Standards if the initial information is insufficient.
15. We work with the registered CHP as it resolves any identified issues. The aim is to ensure registered providers remain viable and continue to operate in accordance with the Performance Standards. Once the assessment is completed, the Annual Regulatory Assessment Report is sent back to the organisation outlining our decision.

16. We may pass an organisation as complying, but identify 'areas of improvement' we expect to see in time for the next year's monitoring phase, or sooner if required.
17. As noted above, if the organisation cannot pass annual monitoring, we may proceed to enhanced monitoring. This may lead to the Authority suspending a CHP's registration if the issues cannot be resolved, and ultimately to registration being revoked. See paragraphs 23-25 below for more detail.
18. The Authority is continuing its exceptions-based reporting approach to monitoring reporting first trialled in 2020/21. Our commentary on areas in which providers are meeting the requirements set out in the Performance Standards will be kept to a minimum and the main focus of reporting will be on areas for improvement.

### **Documents required for 2021/22**

19. A set of core documents must be provided to ensure the Authority retains confidence that Class 1: Social Landlords remain viable and able to deliver community housing over the long term. The core documents that must be provided to the Authority for 2021/22 annual monitoring are:
  - complete and unredacted board minutes for the previous 12 months (apart from redacting the names and personal details of tenants and operational staff)<sup>1</sup>
  - audited financial accounts in the name of the registered entity
  - complete and unredacted budget forecasts for the registered entity for the next year (this includes: statements of income and expenditure, cash flow, financial position, changes in equity (or a reconciliation of opening equity to closing equity), and a statement of the underlying assumptions upon which the budget forecast is based)
  - current insurance schedules that cover both organisational insurance and material damage to properties
  - business and/or strategic plans if these have been updated in the previous 12 months
  - policies and procedures created or updated in the previous 12 months
  - a summary of any new capital expenditure (planned or undertaken) not already captured in the audited financial accounts or budget forecasts.
20. In addition, each year we focus on a particular area of the Performance Standards, and request documents that will enable us to determine compliance with that Performance Standard. This year's Performance Standard focus is **Tenancy Management**. The focus documents that must be provided to the Authority for 2021/22 annual monitoring are:
  1. Updated privacy policies and processes that:
    - a. include a statement that 'the Privacy Act 2020 is in some instances overridden by the Oranga Tamariki Act 1989 and the Family Violence Act 2018'
    - b. include provisions for notifying the Privacy Commissioner in instances where there has been a breach of tenant privacy, and including a definition of when a breach constitutes a notifiable event.
  2. Tenancy management policies and procedures that:
    - a. deal with tenant, visitor and neighbour anti-social behaviour
    - b. reflect Phase 1 and 2 of changes to the Residential Tenancies Act 1986 implemented since August 2020, including those limiting the frequency

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<sup>1</sup> <https://chra.hud.govt.nz/assets/Uploads/Guidance-notes/Guidance-Note-Board-Minutes.pdf>

of rent increases, increasing rental tenure security, and changes to fixed-term tenancies.

21. The request for details of policy and process updates reflects the importance of registered CHPs undertaking regular and meaningful quality improvement activities, to maintain effective and up-to-date systems at all times. Board consideration of these improvements shows that the governance arm of the organisation is fully aware of and actively invested in this process.
22. As stated above, we take a proportional approach when assessing an organisation's compliance with the Performance Standards. For example, a Risk Register for a 10-house provider that is not undertaking any development activity would contain far fewer risks than the Risk Register of a 1000-unit provider undertaking significant development activity.

### **Enhanced monitoring**

23. In addition to annual reporting, in certain circumstances we may undertake enhanced monitoring. This can occur 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, and which could affect the ongoing viability of the organisation, or tenant safety. Circumstances that could trigger enhanced monitoring include where we:
  - have reason to be concerned about any information received during annual reporting, or through the submission of a Change and Disclosure Report (see next section)
  - do not receive information we have requested within the required timeframe
  - receive a relevant complaint from a tenant or third party
  - receive information from another agency regarding concerns about an organisation
  - learn of a media report that may raise concerns about an organisation's operation.
24. 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 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. If we have worked with an organisation and we are still not satisfied that it meets the eligibility criteria or Performance Standards, we may either move to mediation to help resolve the issue, or we could suspend or revoke an organisation's registration.
25. The Authority can, if required, move directly to 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 [Suspension and Revocation Process Guidance Note](#). As noted above, where possible the Authority will try to work with providers in the first instance as they bring themselves back into compliance.

### **Change and Disclosure Reporting**

26. Reporting, as opposed to monitoring, is when an organisation advises us proactively of any significant changes to the way its business is governed or operates, or of any adverse events. This is where the [Change and Disclosure Reporting process](#) is used.
27. Changes to the way an organisation is governed or operates can occur at any time, so can fall outside the annual reporting process. For this reason, providers are required to

report significant changes to the Authority, and disclosure reporting is required for any significant event that might adversely impact on an organisation's ability to comply with the Performance Standards. Both such reports are made through a Change and Disclosure Report.

28. These reports advise the Authority proactively of significant changes to the way CHPs are governed or operate, which might affect the CHP's ability to comply with the Performance Standards. Reports are usually made after the event(s) has occurred, but are also welcomed pre-emptively. Such changes or events include, but are not limited to:

- CHP's legal name, contact details, geographical location, or AGM date
- Legal entity type or the constitution/enabling document, e.g. the CHP's objects, functions, or scope of activities
- Structure of the organisation, e.g. merger, takeover or related party agreements the CHP is considering entering
- Membership of the governing body (please include new member's biographies)
- Name or job title of any member of the CHP's senior management team
- Rental housing stock numbers (can be a quarterly update if frequent changes occur)
- Material changes to the rent-setting policy that impacts non-IRR rents
- Financial viability of the CHP
- Notice of any action being taken against the CHP by any statutory body, individual company, or another agency
- Notification of any significant cases of fraud, corruption, or criminal misconduct by employees or members of the governing body and any action taken
- Notification of any adverse event that may result in housing units becoming uninhabitable or triggers significant media interest
- Notice from a lender regarding ongoing defaults on loans
- Appointment of a statutory manager, receiver, liquidator, or voluntary administrator.

29. When a Change and Disclosure Report is sent to us, we assess the information to determine whether the matter 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.

30. If we identify an issue, we may request further information to help assess how serious the issue is and whether it affects the organisation's ability to meet the eligibility criteria or Performance Standards. The Authority may undertake enhanced monitoring until the issue has been resolved.

### **Information sharing**

31. The Authority and the Ministry's Housing Supply, Response and Partnerships team (the Purchaser) have an operational agreement in place for community housing provision and funding. It stems from our respective statutory functions and allows us to share relevant information only, e.g. informing the Purchaser 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.

32. However, the Authority is subject to the Official Information Act 1982. This means that all information provided to the Authority through our Annual Reporting and Change and Disclosure Reporting processes, is potentially discoverable, including Board minutes.

33. If we receive a request for official information we hold, we will consult with all affected parties as appropriate, including CHPs, and determine what information should be released or withheld. This legislation protects personal and commercially sensitive information to the extent that to do so is consistent with the public interest.

## **Appendix 1 – What is annual monitoring, and why is it important?**

1. Annual monitoring is required under Part 10<sup>2</sup> of the Public and Community Housing Management Act 1992 (the Act). The Authority monitors the compliance of registered CHPs with the prescribed eligibility criteria and Performance Standards, at least annually.
2. We use an evidence-based compliance framework in our monitoring. CHPs must provide information to the Authority that demonstrates they are following their policies and procedures that the Authority assessed at the time of registration. For example, the Authority requires all registered CHPs to provide full, unredacted copies of their board minutes (apart from redacting the names and personal details of tenants and operational staff).<sup>3</sup> The minutes allow us to see whether:
  - effective, accountable and transparent governance arrangements are in place. This includes:
    - apologies are being noted and board members present are recorded in the minutes (i.e. evidence of a documented quorum and due process)
    - conflicts of interest are recorded and appropriate mitigations are put in place to deal with any conflicts
    - board decisions are recorded clearly
    - the Board considers the CHP's strategic direction, and produces and approves strategic and operational plans as necessary
    - the Board considers risks regularly
    - the Board is aware of the financial status of the provider at all times.
  - management provides regular reporting of key aspects of organisational performance
  - tenancy management and property and asset management processes are robust and transparent, take place in accordance with relevant legislation, and data for each is regularly reported to the Board (e.g. aggregate complaints data, arrears, maintenance issues, tenant satisfaction levels, etc.).

### **Why is annual monitoring important?**

3. Annual monitoring is important because it provides an assurance to Government and tenants that Class 1: Social Landlords are viable organisations that can provide appropriate landlord services to tenants over the long term. This differs from contract monitoring, which is focused on ensuring the delivery of the outcomes contracted for.

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<sup>2</sup> ss.158 to 192: [www.legislation.govt.nz/act/public/1992/0076/latest/DLM5772897.html](http://www.legislation.govt.nz/act/public/1992/0076/latest/DLM5772897.html)

<sup>3</sup> <https://chra.hud.govt.nz/assets/Uploads/Guidance-notes/Guidance-Note-Board-Minutes.pdf>



## **Appendix 2 – Statutory basis for annual monitoring**

The statutory basis of the annual monitoring is contained in Part 10 of the Public and Community Housing Management Act 1992.

**168 Registration:** Registration is continuous so long as criteria continue to be met. 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.

**169 Suspension:** 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. 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. 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.

**170 Revocation:** 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 CHP's debts or to continue carrying on its business; or has written to the Authority requesting revocation. 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. Registration may be revoked whether or not the CHP has been suspended under section 169.

**171 Revocation procedure:** Sets out the procedure the Authority must follow to revoke registration.

**174 Authority to monitor registered CHPs:** 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.

**175 Reporting requirements:** Registered CHPs must provide annual reports on their operations to the Authority, or at any other time as required.

**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.