

Our regulatory framework

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Registration

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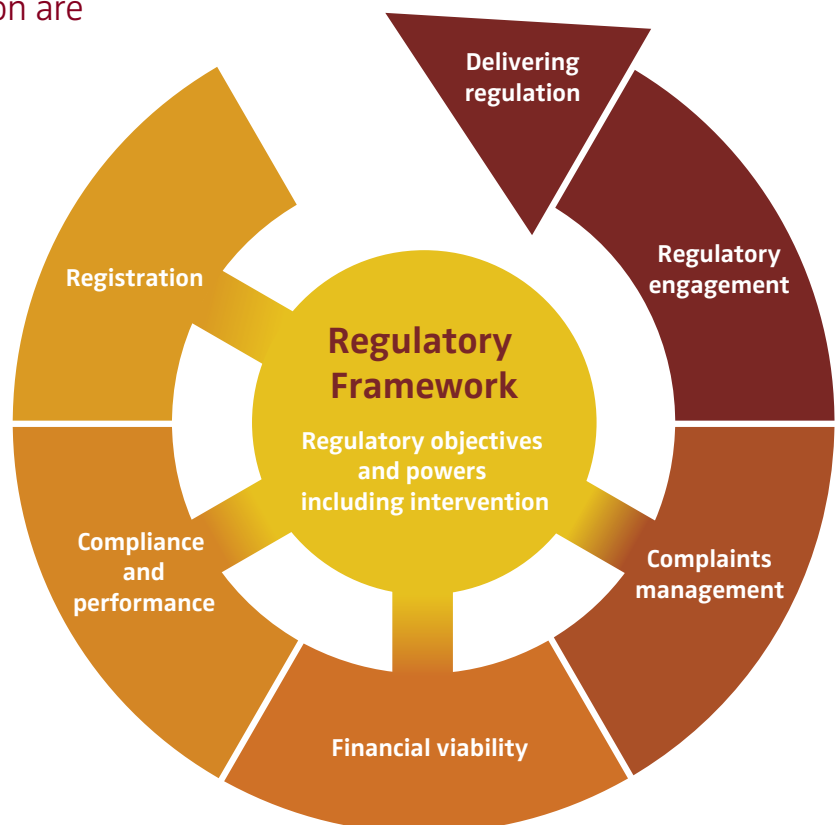
1 Introduction

Registration is the first of our regulatory framework series and provides:

- > information for agencies seeking registration under the *Housing Act 1983* (the Act)
- > details of the registration criteria
- > how applications for registration are assessed.

Our Regulatory Framework provides an overview of how regulation and registration works under the new regulatory system. We now present a series of complementary publications that progress to the next level of detail.

Our regulatory framework



2 Registration

Registration is a process whereby a rental housing agency satisfies the Registrar that it meets all criteria specified within Schedule 7 of Part VIII of the Act.

Registration criteria include specific general requirements of agencies, specific provisions within agency constitutions and demonstrated capacity to meet gazetted Performance Standards applicable to registered housing agencies.

View the Act and Performance Standards at:
www.housingregistrar.vic.gov.au.

2.1 Categories of registration

The legislation allows two categories of registration, either:

- > housing association; or
- > housing provider.

Regardless of size and/or category, agencies seeking registration must meet registration criteria including capacity to meet gazetted Performance Standards that apply to registered housing agencies.

In addition, an agency seeking registration as a housing association must demonstrate capacity to grow affordable housing at scale and over time, by leveraging government funding through additional funding sources. In practice, housing associations are larger, more complex businesses.

The agency must remain financially stable and viable at all times.



2.2 Who needs to register?

All agencies that wish to manage or continue to manage Director of Housing (the Director) owned rental housing need to be registered by December 2008. In addition, the Director has also determined that future capital funding for social housing will be targeted to registered agencies, primarily housing associations.

The Victorian Government is promoting a number of housing and homelessness reforms to strengthen the community-managed sector to help address disadvantage.

While agencies may be participating in a number of reforms, the roll-out of the Housing Provider Framework lease to agencies managing Director owned community housing is of particular relevance to rental housing agencies.

Other housing agencies will be providing contracted housing and homelessness services under the Homelessness Assistance Program.

Where possible, agencies seeking registration need to have secured future funding and service agreements with the Office of Housing to enable effective business and financial planning.

Where applicable, agencies must sign the Housing Provider Framework lease prior to the completion of their registration application.

3 Registration criteria

Schedule 7 of the Act outlines four registration criteria for rental housing agencies.

The four registration criteria cover the following areas:

1. General
2. Constitution – objects and powers
3. Constitution – additional provisions
4. Capacity to meet Performance Standards

3.1 Legal and constitutional requirements

The first three registration criteria specify the form and type of legal entity that can apply for registration. They also describe powers, restrictions and particular provisions that must be contained within the organisation's constitution or rules.

We commissioned Minter Ellison Lawyers to produce a commentary to assist agencies on the registration criteria 1-3 and aspects relevant to assessment of agencies against the criteria.

Minter Ellison Lawyers have also produced further guidance for the Housing Registrar concerning the winding up provisions of the registration criteria.

Both documents are available on our website at www.housingregistrar.vic.gov.au

3.2 Performance Standards

The fourth registration criterion requires agencies to demonstrate a capacity to meet Performance Standards applicable at registration.

The Performance Standards for rental housing agencies are based on best practice within a quality improvement environment. They aim to assist rental housing agencies achieve quality outcomes for clients by establishing good governance and business practices.

Published in the Government Gazette on 8 August 2005, the Performance Standards were established by the Minister for Housing pursuant to Section 93 of Part VIII of the Act.

The seven Performance Standards are:

- > **Governance of the agency**
The agency must be governed effectively at all times
- > **Management of the agency**
The agency must be managed effectively to achieve the outcomes of its business plan in a timely manner and within a continuous improvement framework
- > **Probity**
Decisions relating to the business and functions of the agency must be made ethically, and conform to the agency's code of conduct
- > **Financial viability**
The agency must remain financially viable and solvent to the satisfaction of the Registrar at all times
- > **Tenancy management**
The agency must provide effective tenancy management
- > **Housing management and maintenance**
The agency must maintain its housing stock to a high standard
- > **Risk management**
The agency must manage the risks associated with its business effectively

(The full Performance Standards, including indicators and guidance for agencies are published on our website).

3.3 Legislative responsibilities of registered agencies

In practice, the Performance Standards form the most significant component of regulation. The Performance Standards relate to the overall performance and strategic directions of a registered agency.

Once registered, an agency is required under s105 of the Act to submit an annual report to the Registrar detailing compliance against the Performance Standards.

Agencies seeking to register under the Act must appraise themselves of the full requirements including compliance, reporting and complaints management responsibilities of registered agencies, and the interventions powers of the Registrar. Further information concerning the requirements of registered housing agencies is provided in the complementary publication, *Compliance and performance*.

Agencies should seek their own legal advice for all matters affecting the agency.

3.4 Confidentiality

We have developed a policy statement on confidentiality and privacy in the context of registration and regulation.

The registration and regulation of housing agencies require agencies to provide a range of information to the Registrar. This information may include confidential and sensitive material such as:

- > **commercial in-confidence information**
(business plans, financial plans, reports of internal operational reviews, etc)
- > **personal information**
(relating to members of agency governing bodies or tenants and prospective tenants of an agency)

This statement can be viewed on our website at www.housingregistrar.vic.gov.au

4 Assessing agencies for registration

We have developed a registration process to enable housing agencies to demonstrate:

- > compliance with the registration criteria
- > capacity to meet Performance Standards.

Agencies wanting to apply for registration need to complete an online application form using REGIS, the Housing Registrar's information system. REGIS can be accessed directly from our website.

The registration application form details information requirements and evidence agencies must provide to apply for registration. Further guidance is also available on REGIS.

Once agencies have submitted a completed application, we undertake an assessment against registration criteria and the Performance Standards and make a recommendation to the Housing Registrar.

The assessment of an agency's registration application comprises:

- > legal and constitutional requirements of the registration criteria of Schedule 7
- > the capacity to meet Performance Standards
- > compliance with other legislative requirements of Part VIII of the Act.



4.1 Meeting the registration criteria

The constitution or rules of the agency need to comply with all of the specific requirements of registration. It is the key legal document pertaining to agency objects, aims, powers and responsibilities.

The assessment of an agency against the legal and constitutional requirements of registration criteria 1, 2 and 3 is undertaken on specific legal advice to ensure compliance with legislative requirements.

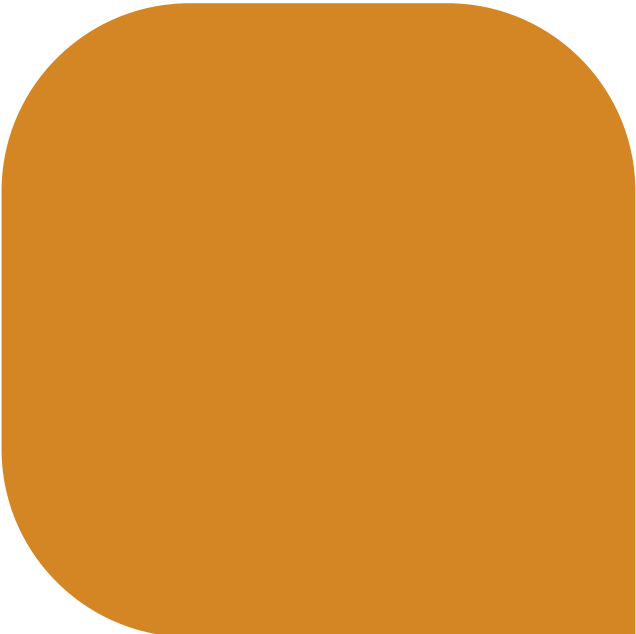
Pre-registration constitution check

We can provide agencies with a pre-registration constitutional check, using our legal advisors. Agencies are provided with a short report that specifies where their current constitution complies or does not comply with the registration criteria.

Where agencies are considering constitutional amendments, we can also provide a further legal review of proposed amendments to advise whether these would be satisfactory.

We encourage all agencies seeking registration to seek their own independent legal advice when considering constitutional amendments.

At submission of a registration application, a current and compliant constitution is required. Any proposed amendments must be fully adopted and approved by the agency and any other regulatory body prior to submission.



4.2 Demonstrating capacity to meet Performance Standards

An agency must be substantially compliant with Performance Standards in order to be registered, although there may be some minor aspects outstanding.

We undertake assessment on the basis of information and evidence supplied by the agency.

We also seek advice from parties relevant to the agency, usually the Department of Human Services lead region for the agency and program areas of the Office of Housing that fund or contract the agency to provide housing services.

We can approve an agency's registration upon agency undertaking that any minor outstanding matters can be addressed within defined timescales to the satisfaction of the Registrar.

Application of Performance Standards to all agencies

The introductory section of the gazetted Performance Standards states:

"The Performance Standards apply, regardless of the size of the agency"

"The standards are broad, and the measures of performance will be assessed with reference to the individual agency's scale and complexity of operation, the concomitant risks..."

Source: gazetted Performance Standards published in the Government Gazette on 8 August 2005, pursuant to Section 93 of Part VIII of the Housing Act 1983.

To this extent, we have identified throughout the application form and this guide, the additional expectations and requirements of housing associations – where applicable.



Housing associations and housing providers

Housing associations need to have the skills, expertise and resources to manage and maintain a viable growing social housing portfolio.

The Victorian Government has committed to significantly increasing the supply of affordable housing through funding growth projects of housing associations.

The Strategy for Growth for Low Income Victorians in the 2007-08 State Budget provides a substantial injection of \$300 million which is available to fund housing association development projects.

Registered housing associations are expected to grow social housing by leveraging government funding and their existing property portfolio to borrow and build more housing.

4.3 Assessment approach

We assess and determine an agency's capacity to meet Performance Standards using a two-layered approach:

- > quality outcomes
- > business practices.

Quality management

Evidence an agency delivers satisfactory outcomes against the Performance Standards is essential. It is a critical aspect of our assessment.

Where applicable, quality outcomes will be assessed by performance measures and agency quality management for each Performance Standard. It is essential an agency demonstrates an effective approach to achieving quality and improvement for meeting Performance Standards.

Performance measures

A number of key performance measures have been identified to judge whether an agency is achieving quality outcomes in relation to Performance Standards.



Assessment includes:

- > provision of relevant data showing key results and trends
- > comments from the agency, where appropriate, on results and trends.

Analysis of data is critical in demonstrating operational processes and practices achieve required results.

Agency quality frameworks

The agency's approach, philosophy or practice adopted to ensure the achievement of quality outcomes in operations is sought at registration, generally through a question and answer approach.

To assess this element, the agency is asked to describe how it ensures quality outcomes for each Performance Standard. Key strategic questions are presented to address the issues of each Performance Standard.

Business practices

An agency must be well managed, governed and viable.

Assessment of an agency's business practices is undertaken by considering evidence such as documentation, processes and systems employed to manage agency activities, as well as typical outputs from such processes.

Documentation, processes and systems

- > policies
- > business systems procedures
- > guidelines and plans
- > other relevant publications

Processes and systems

- > registers
- > databases
- > initiatives
- > methods used to implement and inform policy and planning, including
 - evaluation and review
 - surveys and feedback
 - record keeping and recording
 - monitoring and reporting

Financial Viability

A key area of assessment of an agency's capacity to meet performance standards is financial viability. We assess financial viability using an integrated approach involving agency audited financial statements, financial performance reports, the business plan and other related information.

Further details concerning the financial viability of registered housing agencies is provided in the complimentary publication, *Financial viability*, available on our website.

Rating

For each Performance Standard, assessment is made on both agency quality management and business practices, to determine capacity to meet the Performance Standard.

The overall approach to assessment is that if an agency cannot demonstrate capacity to meet one of the Performance Standards, then it should not be registered.

In addition, if an agency only partially meets aspects of a number of Performance Standards, the Registrar needs to consider if on balance the agency can be considered to demonstrate capacity to meet Performance Standards as a whole.

Assessment of an agency's quality management and business practices ensures that:

- > relevant sub areas and indicators within the Performance Standards are managed to a satisfactory level by agencies, and agencies evidence this through relevant information and data against each Performance Standard
- > the required documentation, processes and systems exist in agencies, or plans are in place to develop these where they do not currently exist (certain areas of documentation is mandatory for an agency to be eligible for registration)
- > board approval is obtained for key agency documents
- > the agency demonstrates commitment to quality outcomes against each Performance Standard.

Assessment traffic lights

For assessment against each Performance Standard, we use a traffic light ranking against the two assessment factors:

Where an agency's application for registration scores one or more amber lights, an assessment is made whether the agency has the capacity to address, over a reasonable time period, all of the deficiencies identified in the assessment. If capacity exists, registration could still be supported.

In all cases where an application scores an amber light, outstanding requirements are communicated to the agency, and a satisfactory plan and timescales to address these areas within reasonable timeslines is expected.

Where an application scores at least one red light, it has not demonstrated capacity to meet Performance Standards, and will not be recommended for registration.

Assessment traffic lights

Green	Meets all requirements of the Performance Standard
Amber	Demonstrates the capacity to meet the Performance Standard
Red	Does not meet the requirements of the Performance Standard and cannot demonstrate the capacity to meet the requirements

4.4 Contact with agencies

The Housing Registrar will contact agencies during the assessment process to discuss our initial findings of the assessment and provide agencies with the opportunity to submit further information before the assessment is finalised.

At this time, Housing Registrar staff will also request a visit to the agency's office and/or a meeting with the agency's board if this has not occurred recently. These visits allow Housing Registrar staff to comment on the public face of the agency in the assessment.

4.5 Completing the assessment

Once we have completed the assessment, comments on our findings are sought from lead DHS region and key housing program areas which fund or contract your agency. Recommendations for registration are considered by a Registration Panel comprising senior Office of Housing and DHS regional representatives, chaired by Director, Housing Registrar, before being submitted to the Registrar.

5 Achieving Registration

Agencies approved for registration by the Registrar are advised in writing of their registration and sent a certificate of registration as well as a report on issues arising from the assessment of their application. The report forms the beginning of the ongoing regulatory engagement between the Housing Registrar and the registered agency.

Further details of the ongoing relationship between the Housing Registrar and registered agencies is provided in the publication, *Our Regulatory Framework*.

Where the Registrar does not approve an application for registration the agency will be advised in writing with full explanations of the reasons for this decision.

A rental housing agency may apply to VCAT (Victorian Civil and Administrative Tribunal) for review of a decision by the Registrar to refuse to register it, or change its category of registration.

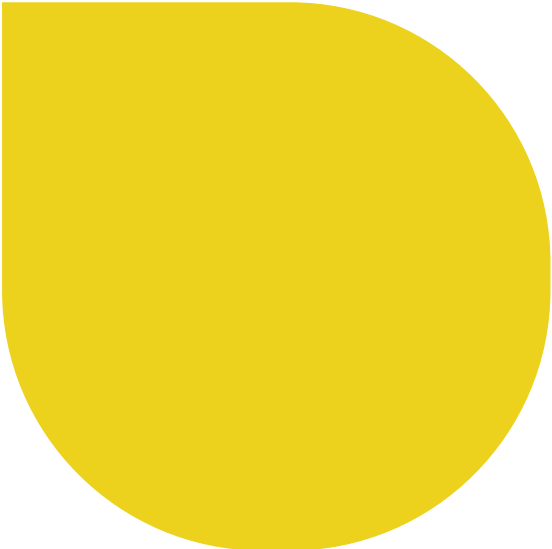
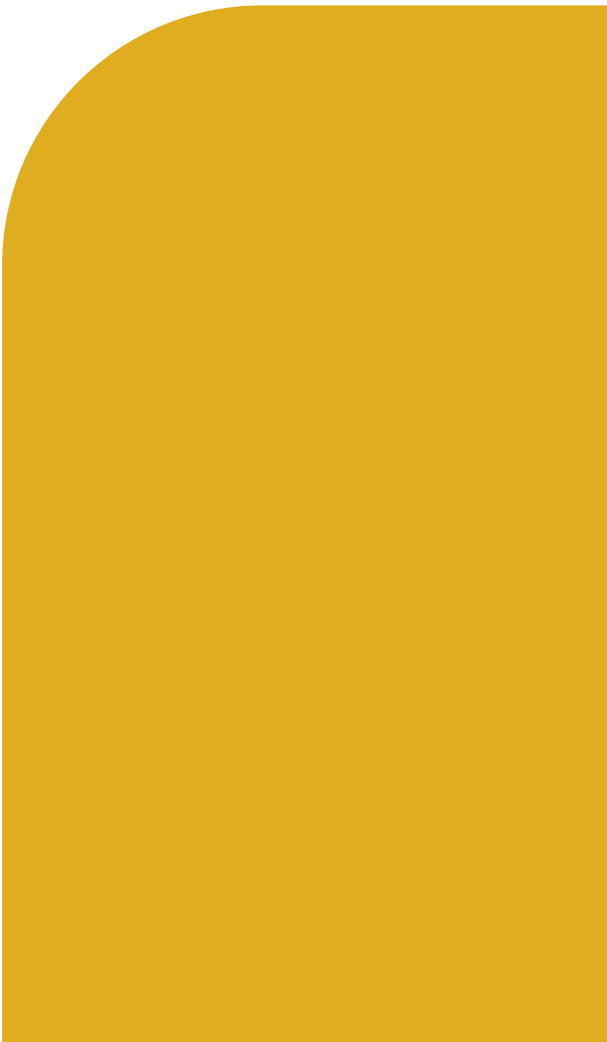
6 Further enquiries

General enquiries regarding registration should be directed to the Housing Registrar, either by:

- > e: housingregistrar@dhs.vic.gov.au
- > our website (www.housingregistrar.vic.gov.au)
- > in writing to: The Housing Registrar, Level 24, 50 Lonsdale Street, Melbourne 3000

Further advice and support for agencies seeking registration is also available via the Community Housing Federation of Victoria, contact:

Community Housing Federation of Victoria
Level 8 / 128 Exhibition St Melbourne 3000
(03) 9654 6077
www.chfv.org.au





Registration