



Homes &
Communities
Agency



Regulating the Standards

Campbell Tickell mark-up Compares July 2017 version with December 2016 version

*Substantive new text is highlighted
No indication of removed text*

July 2017

The Regulator of Social Housing



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If you have any enquiries regarding this document/publication, email us at mail@homesandcommunities.co.uk or write to us at:

Homes and Communities Agency
Fry Building
2 Marsham Street
London
SW1P 4DF

Telephone: 0300 1234 500

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Regulating the Standards

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Annex C: Guidance on the regulator's approach to intervention, enforcement and use of powers. Please note that this annex is a separate document which can be accessed on the HCA regulation pages on gov.uk.	

Foreword by the Chair of the Regulation Committee



This version of 'Regulating the Standards' updates the one published in December 2016. The document continues to be a key element of our commitment to be transparent with registered providers and other stakeholders about our operational approach and to help ensure that they know what to expect from the regulator.

This new version reinforces our expectations of providers, based upon our experience of carrying out In Depth Assessments (IDAs) over the past 18 months. We have provided more detail about what we are looking for as part of the 'risk profile and mitigation' element of the model. In particular, we emphasise the extent to which we analyse, as part of the IDA process, the rigour of providers' stress testing, the centrality of appropriate board oversight and the evidence of credible mitigation strategies.

This new version also takes account of the introduction of the de-regulatory measures in the Housing and Planning Act 2016 which withdrew the consents regime and introduced requirements to notify the regulator of disposals and certain types of constitutional changes, including restructures. We have outlined how the regulator is approaching the new regime and our expectations that registered providers continue to engage with us on relevant corporate restructures in a timely way. We have also made some small changes to the description of how we regulate the consumer standards, to align with our other published materials and practice.

While all providers should seek to be G1 (the highest governance grade), we recognise that providers' viability gradings can be impacted by a conscious decision to import more risk into the business to deliver strategic goals. If a provider's grade is V2 as a result of such a decision, and if the risks are being well-managed (as indicated in the governance grade) then the regulator recognises that this may well be an appropriate business decision. We have reflected this in the section of the document that covers regulatory judgements.

In the wake of the terrible fire at Grenfell Tower on 14 June, the regulator has been working closely with colleagues in the Homes and Communities Agency (HCA) and with the Department for Communities and Local Government (DCLG). Meeting health and safety obligations is a key responsibility for registered providers and last month we wrote to all providers, emphasising their responsibility to ensure that they comply with health and safety legislation. The Prime Minister has confirmed that there will be a full public inquiry into the fire and it will be of paramount importance that as a sector, we learn the lessons from this tragic event.

A handwritten signature in black ink, appearing to read 'Julian Ashby'.

Julian Ashby
Chair of the HCA Regulation Committee

1. Introduction

- 1.1 'Regulating the Standards' outlines the regulator's operational approach to assessing providers' compliance with the economic and consumer standards.¹ Those [standards](https://www.gov.uk/government/publications/regulatory-standards)² and the requirements they place upon registered providers are set out in separate documents available on the HCA regulation pages on www.gov.uk.
- 1.2 A summary of our approach to different categories of provider and the requirements which apply to them is included at Annex A. In particular, it should be noted that:
- i. only the consumer standards (and not the economic standards) apply to local authority registered providers
 - ii. our approach to regulating providers against the economic standards is different for providers which own fewer than 1,000 social housing units³
- 1.3 'Regulating the Standards' outlines how we regulate. It sets out the broad principles which underpin our approach and gives details of our key processes such as Stability Checks and In Depth Assessments (IDAs). As well as providing information on our planned work, the document also outlines our approach to reactive engagement, including **notifications** and consumer regulation. We rely upon providers supplying us with timely and accurate data and in the pages that follow we set out the regulatory data and information requirements as they apply to different categories of provider. The document also outlines the approach we take to issuing regulatory judgements, providing explanations of the straplines we use and explains how we maintain the register, including our registration **and de-registration activity**.

The statutory basis for regulation

Our objectives

- 1.4 Parliament has given us two fundamental objectives: an economic regulation objective and a consumer regulation objective. The Regulation Committee is accountable to Parliament for the discharge of these fundamental objectives.

¹ This July 2017 version of 'Regulating the Standards' replaces the one published in December 2016.

² <https://www.gov.uk/government/publications/regulatory-standards>

³ The calculation of the number of units that a provider owns is based upon the total of its social units/bed spaces which are held freehold or on a lease of any duration. The annual cut-off date when we determine if a provider is above or below the 1,000 unit threshold is 31 May. This is the deadline by which providers submit their annual Statistical Data Return and report on the number of social housing units they own.

1.5 The economic regulation objective is:

- i. to ensure that registered providers of social housing are financially viable and properly managed and perform their functions efficiently and economically
- ii. to support the provision of social housing sufficient to meet reasonable demands (including by encouraging and promoting private investment in social housing)
- iii. to ensure that value for money is obtained from public investment in social housing
- iv. to ensure that an unreasonable burden is not imposed (directly or indirectly) on public funds
- v. to guard against the misuse of public funds.

1.6 The consumer regulation objective is:

- i. to support the provision of social housing that is well-managed and of appropriate quality
- ii. to ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection
- iii. to ensure that tenants of social housing have the opportunity to be involved in its management and to hold their landlords to account
- iv. to encourage registered providers of social housing to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.

1.7 The regulator also has a duty to exercise its functions in a way that minimises interference and (so far as is possible) is proportionate, consistent, transparent and accountable. In addition, the regulator has a duty to have regard to the desirability of promoting economic growth (the 'growth duty')⁴ These requirements underpin how the regulator carries out all of its functions. We also operate within the provisions of the Government's Regulators' Code and have due regard to it when developing policies and procedures that guide our regulatory activities. The Code does not apply to the exercise by a regulator of any specific regulatory function in individual cases.

⁴ Section 108 of the Deregulation Act 2015 establishes that any person exercising a regulatory function must have regard to the desirability of promoting economic growth (the 'growth duty').

Achieving these objectives

- 1.8 The Regulation Committee recognises that the social housing market has become increasingly complex and that the nature and extent of the risks which providers' boards must manage are correspondingly more challenging. The committee is also aware of the importance of promoting continued private investment in the sector and facilitating the sector's growth (given its fundamental objective of supporting the provision of new social housing **and the growth duty**). Furthermore, it is committed to a proportionate approach to regulation.
- 1.9 The regulator's principal focus is on promoting a viable, efficient and well-governed social housing sector able to deliver homes that meet a range of needs. Our regulatory approach aligns with this principal focus by ensuring that we have a grip of short-term viability issues, and that when we engage in depth we have a strategic conversation with providers about their financial strength, risk profile, approach to value for money and their quality of governance.

Our overall approach

Co-regulation

- 1.10 Mindful of our duty to minimise interference, our fundamental objective of supporting the provision of social housing and our commitment to proportionate regulation, we take a co-regulatory approach. This means:
- we regard board members and councillors as responsible for ensuring that providers' businesses are managed effectively and that providers comply with all regulatory requirements
 - providers must support tenants to shape and scrutinise service delivery and to hold boards and councillors to account
 - we operate as an assurance-based regulator, seeking assurance from providers as to compliance with the standards. In other words, the onus is on providers to demonstrate their compliance to the regulator. **Where providers do not supply** the requisite assurance, this will be reflected in the judgements that we reach.

Communication with the regulator

- 1.11 The Governance and Financial Viability Standard includes a specific expectation that providers should communicate with the regulator in an accurate and timely way. As outlined in the Governance and Financial Viability Standard Code of Practice (the Code), this includes the provision of information in regulatory returns, or otherwise requested by the regulator. We regard failure to provide information and the submission of late, incomplete, or inaccurate information as potentially indicative of a weak control environment and possibly as evidence of a failure to comply with this standard.

- 1.12 The Governance and Financial Viability Standard sets out our specific expectation that providers must:
- certify their compliance with the standard in their annual accounts, and
 - communicate in a timely manner with the regulator on material issues that relate to non-compliance or potential non-compliance with the standards.
- 1.13 As explained in the Code, we view transparency on the part of registered providers as being a fundamental pillar of the co-regulatory approach and any failure to comply may affect our assessment of a provider.
- 1.14 Transparency is a key element of our approach to assessing value for money. The Value for Money Standard requires providers to articulate and deliver a comprehensive and strategic approach to achieving value for money in meeting their organisation's objectives. As part of that process, providers are required to publish a robust annual self-assessment which sets out in a way that is transparent and accessible to stakeholders how they are achieving value for money in delivering their purpose and objectives.
- 1.15 The Value for Money Standard sets a specific expectation that the assessment shall:
- set out the absolute and comparative costs of delivering specific services
 - evidence the value for money gains that have been and will be made and how they have and will be realised over time
 - enable stakeholders to understand the return on assets measured against the organisation's objectives.

2. Our operational approach

Regulating different providers

- 2.1 Because we take a risk-based proportionate approach, we regulate providers differently depending on their level of risk exposure.⁵ Providers which own fewer than 1,000 social housing units collectively account for less than 5% of the sector's total assets, turnover and debt and are subject to a different level of regulatory engagement (see summary table at Annex A). We review the annual accounts of all providers in this category as well as analysing information they submit via the Statistical Data Return and any notifications about disposals or constitutional changes. This enables us to take a proportionate approach, focusing our follow-up work on seeking assurance on the management of risks faced by individual providers. We may also review the business plans and board reports of a subset of providers which we judge to be higher risk, taking account of their scale and the potential impact that the crystallisation of risks could have on financial viability.
- 2.2 We make use of our sector risk profile analysis and other relevant information to assess the risk profile of registered providers which own 1,000 or more social housing units to determine our regulatory approach. This enables us to identify those providers we judge to be more complex and to have an increased level of risk exposure (taking into account providers' underlying financial strength and complexity). This then informs the way in which we allocate our regulatory resources.
- 2.3 Where a registered provider owns 1,000 or more social housing units but is part of a group which has a registered provider parent, we assess compliance at the group level. This means that we do not publish separate judgements for each of the registered providers within the group. However, each individual registered provider must comply with the standards and we do not restrict our regulation to looking at the parent entity. Indeed, where one or more registered providers sit within a group of organisations, we are likely to look at risks and exposures across the entire group in order to reach an accurate conclusion as to compliance with the standards.

Regulation of the economic standards

- 2.4 There are three economic standards:
- Governance and Financial Viability
 - Value for Money
 - Rent
- 2.5 The remaining standards are described as the consumer standards. Our approach to regulating these standards is set out in the reactive engagement section of this document and at Annex B.

⁵ We do not regulate local authority registered providers against the economic standards as they are not applicable to them.

- 2.6 Through our regulation of the economic standards, we seek to gain a strategic and evidenced understanding of both the short-term and longer-term risks to which providers are exposed and to gain a comprehensive understanding of their approach to value for money. This helps us to make informed judgements about their compliance. We may seek assurance in a variety of ways and from such sources as we consider appropriate to the particular provider's circumstances. We will always require evidence of compliance, rather than assuming it. Unless the available evidence provides us with adequate assurance of compliance, the judgement we issue will reflect our concerns.
- 2.7 Providers should be aware that in carrying out our regulation of the economic standards, we are likely – as a minimum – to seek assurance about providers'
- financial strength
 - governance and risk management
 - vulnerability to covenant breaches
 - liquidity
 - approach to value for money
 - approach to managing the risks to social housing assets arising from non-social housing activity.
- 2.8 All IDAs involve close consideration of a provider's compliance with our specific expectations relating to the maintenance of accurate records of assets and liabilities and our related expectations regarding detailed and robust stress testing. We regard both as key components of effective business planning and risk management. Through the IDA we will seek assurance that providers understand their assets and liabilities (including contingent liabilities), and security position. We will look for evidence that providers' stress testing is aligned with this information; and that they can demonstrate swift access to it in decision making and risk management.⁶
- 2.9 We expect stress testing to be pivotal to, and integrated with, providers' overall approach to business planning, risk and performance management. Through the IDA we will seek assurance that providers stress test their plans across a range of severities and scenarios which reflect identified risk exposures wherever they arise in the group. This should include situations arising in subsidiary entities and non-social housing activities. We will seek evidence that providers go beyond simple sensitivity testing to include multivariate analysis, which tests against relevant serious economic and business risks and demonstrates the effects on cash, covenants and security. We expect providers' stress testing to test financial and operational resilience across a range of scenarios. We will seek assurance that providers have explored those conditions which could cause the business to fail, even if planned mitigations and controls are implemented successfully.

⁶ More detail on our expectations relating to assets and liabilities is set out in paragraphs 30 to 34 of the Governance and Financial Viability Standard Code of Practice.

- 2.10 We expect boards to be able to demonstrate that they have considered both the long term, cyclical nature of economic factors that impact on the business as well as internal business risks and one-off shocks. As part of an IDA we are likely to explore how boards identify risks and stresses appropriately and how, when taking on risks, they can demonstrate they fully understand the impact on the business as a whole. Through the IDA we will consider how boards have gained assurance about the likely effectiveness of identified mitigations and evidence of how well they understand the trigger points for their implementation.⁷
- 2.11 It is widely recognised that poor governance is often a leading indicator of financial weaknesses. A failure to maintain an effective framework of risk management/ internal controls assurance, for instance, can compromise an organisation's ability to meet its financial obligations. Poor governance can also be indicative of weaknesses in a provider's ability to deliver value for money and present broader risks to the reputation of the sector.

⁷ More detail on our expectations relating to stress testing is set out in paragraphs 35 to 39 of the Governance and Financial Viability Standard Code of Practice.

- 2.12 Accordingly, we look for very clear assurance as to providers' compliance with the governance elements of the Governance and Financial Viability Standard. We may look for this directly (for instance, by seeking assurance about how specific business critical decisions have been taken). We may also conclude that evidence of poor governance is indicated by other behaviours or events. For example, we may conclude, upon investigation of a breach of a consumer standard, or a failure to set rents in accordance with the relevant legal and regulatory rules, that there is evidence of governance failures such as that the board had little oversight of performance/key operational data, that senior executive reporting was inadequate and that various internal controls failed. In other words, since we regard good governance as so fundamental, we will seek assurance on this subject from a wide range of sources.

Operational approach

- 2.13 We have three main ways of carrying out our planned regulatory engagement with private registered providers which own 1,000 or more social housing units, each of which is explained in more detail below:
- Review of Quarterly Surveys
 - Stability Checks
 - In Depth Assessments
- 2.14 We also need to respond to new issues as they emerge and our approach to reactive regulatory engagement (including the way in which we regulate the consumer standards) is also explained in more detail below.

Review of Quarterly Surveys

- 2.15 All private registered providers which own 1,000 or more social housing units are required to complete Quarterly Surveys. These returns provide us with a regular source of information about providers' financial health, in particular their access to cash and their liquidity position. The exact details of the information required are specified in the return and are reviewed annually.
- 2.16 The information submitted through the surveys is critical in alerting us to short-term viability issues and, as such, it is vital that the returns are timely and accurate. If we have concerns about any of the information supplied via the Quarterly Survey, we will follow up the matter directly with providers.

Stability Checks

- 2.17 In addition, we carry out an annual Stability Check of all private registered providers which own 1,000 or more social housing units. A Stability Check is a financially focussed assessment of a provider's most recent business plan and annual accounts. It focuses on indicators of financial robustness and considers evidence of any significant changes in risk profile. In assessing a provider's governance grade as part of a Stability Check, our work is limited to verifying that the information contained in the standard regulatory returns does not appear inconsistent with the provider's existing published governance grade.
- 2.18 In carrying out a Stability Check, as outlined above, we primarily extract information from regulatory returns, in particular, providers' financial forecast returns (FFRs) and their annual accounts. We use the FFR to gather medium to long-term business planning data in a standard format. Our expectation is that registered providers will complete the FFR at group level.⁸ The information provided through the FFR helps, in particular, to inform our assessment of a provider's ability to meet the requirements of the viability elements of the Governance and Financial Viability Standard and the Value for Money Standard.
- 2.19 We expect the financial forecast information to reflect a provider's strategy and to have been tested against changes to key assumptions. As part of the Stability Check we also review providers' Value for Money self-assessments to help us determine if they are meeting the requirements of the Value for Money Standard. We do not anticipate that providers will be required to supply supplementary information for a Stability Check, unless our review generates concerns or doubts about an existing published judgement.
- 2.20 We will re-publish a provider's existing grades if, following a Stability Check, we conclude that there is no evidence to indicate we need to change them. On the other hand, where a Stability Check generates evidence indicating that an existing judgement may need to be revised, further assessment will be undertaken. This may involve follow up with the provider and in some cases an IDA.

In Depth Assessment

- 2.21 Private registered providers which own 1,000 or more social housing units are also subject to periodic IDAs. For most providers, we anticipate conducting an IDA every three or four years. As a general principle, the frequency with which we carry out an IDA is linked to our assessment of the relative risk profile of providers, including the occurrence of any significant changes in the scale and nature of activities a provider undertakes. Our risk-based approach considers both the probability of risks materialising and the impact given the inherent nature of providers (including size and complexity), to help determine where we need to carry out IDAs more often.

⁸ In other words our expectation is that groups will submit a consolidated FFR which includes unregistered parts of the group rather than separate returns for the different registered providers within the group.

- 2.22 Through IDAs, we assess providers' compliance with the economic standards. Each IDA is a bespoke piece of work and will consider in detail a provider's viability (its ability to meet financial obligations), its approach to value for money and its governance. The IDA is likely to encompass assessment of risk profiles, exposures, financial strengths and weaknesses, governance and the delivery of value for money in the broadest sense.
- 2.23 Each IDA is scoped to ensure we focus on the key issues impacting upon a particular provider's compliance. However, IDAs are framed around a consistent model, as set out in the table below:

IDA Model

	Component		Element	Assessment focus
1	Strategy The clarity of the provider's strategic direction, priorities and its operating markets	1.1	Strategic direction	The provider's short and medium-term priorities and ambitions and how they relate to its operating environments and markets. The provider's strategic approach to the delivery of value for money in meeting its objectives.
2	Structure The provider's structure, the interaction between it and the various organisations connected with it and the activities they each carry out	2.1	Organisational dynamics	The interaction between the provider and the various organisations (including registered providers, non-registered providers, joint ventures and special purpose vehicles) connected to it; the legal identity of and activities carried out by all these organisations; how risks flow between them; transactional (including recourse) arrangements; board and committee structures and memberships; and levels of accountability.

	Component		Element	Assessment focus
3	Risk profile and mitigation Rounded assessment of the provider's understanding of the main risks it faces and how effectively it is managing them. Encompasses the quality of the provider's stress testing and its related use of assets and liabilities records.	3.1	Key and emerging risks in the business	Understanding the significant risks arising from the provider's operating environment, strategy and structure and its financial position and how these risks flow around the organisation (drawing upon our sector risk work and the provider's identification of risks).
		3.2	Quality of stress testing and board oversight	Analysing the rigour of the provider's stress testing and how the board handles the results from it, including the adequacy of the controls which it has in place and how they align with the risks identified under 2.1. Seeking assurance that stress testing encompasses different scenarios across the whole group and evidence of multivariate analysis which tests against serious economic and business risks, including those conditions which could cause the business to fail. Exploring how, when taking on risks, boards can evidence they fully understand the impact on the business in the round and how they gain assurance that appropriate mitigations and controls are in place.

	Component		Element	Assessment focus
4	Financial Resilience In depth analysis of the provider's long-term viability: financial strength and financial management.	4.1	Financial performance	<p>Seeking assurance that there are effective systems in place to monitor and accurately report delivery of plans and that, for example, funders' covenants are monitored, reported on and complied with.</p> <p>Understanding the provider's inherent financial strength; its ability to respond/headroom e.g. committed development, how aggressive/defensive are its assumptions; return on investment.</p>
		4.2	Debt, liquidity and future funding	<p>Understanding the sources of liquidity available to a provider, how much debt it is carrying, the price of that debt, associated exposures to changes in the market, as well as new and non-standard types of funding.</p> <p>Alignment between strategic direction and forecast funding requirements. Availability of security.</p>

	Component		Element	Assessment focus
		4.3	Cost structure and efficiency	<p>So that we can assess the sustainability and deliverability of cash flows and operating efficiencies, we need to understand the provider's costs and the main drivers for those costs (including its actual and projected operating costs as well as its capital investment and stock re-investment costs).</p> <p>As part of our consideration of value for money, we use unit cost data derived from a provider's annual accounts and FFRs to determine its approach to optimising efficiency in achieving its overall objectives. Where, for example, data identifies that a provider has unusually high costs, we will look for evidence of the additional benefits those higher costs deliver, whether as a result of a conscious business decision (high investment for high outcomes) or if not, what the provider is doing to reduce costs or improve outcomes.</p>

	Component		Element	Assessment focus
5	Governance	5.1	Overall governance control	<p>Analysing how far we have assurance that the provider is mitigating key risks to acceptable levels. This includes:</p> <ul style="list-style-type: none">• quality of business plans• quality of management reporting and forecasting• timely arrangement of financing• overall and specific controls assurance• board skills, effectiveness and interface with the executive <p>Our assessment of the overall quality of governance arrangements (including evidence relating to how the board has taken significant decisions) will be linked to how well providers are delivering their corporate strategy and managing the associated risks.</p>
		5.2	Value for Money	<p>Boards’ ability to articulate and deliver a comprehensive and strategic approach to value for money is a leading indicator of good governance. We seek assurance that boards have a comprehensive strategy to deliver ongoing improvements in efficiency and ensure they are using their resources and assets in the most effective way to deliver the provider’s overall strategy.</p>

- 2.24 When the regulator determines that it is going to carry out an IDA of a registered provider it notifies the organisation of its decision. On occasion, the regulator may need to carry out an IDA at short notice, but generally it will seek to give providers at least six weeks' notice of its intention and to discuss the planned process. Each IDA is led by a senior member of staff, supported by staff with a range of skills from across the regulator. The size of the team and the particular skills required reflect what is appropriate for the specific assessment.
- 2.25 The regulator produces a document setting out the proposed scope of the IDA. This is shared with the provider for comment. In accordance with our co-regulatory approach, we always start by looking at the how the board itself gains assurance that it is compliant with the standards.
- 2.26 The documents required by the regulator for an IDA and the timescale by which they will be required will vary depending on the scope and on our duty to be proportionate and to minimise interference, but we always require the following:
- business plan and risk assessment
 - accounts and financial statements
 - audit management letter
 - organisational/group structure chart
- 2.27 The regulator specifies a date by which written evidence for the IDA must be submitted. Each IDA will be an assessment of the provider's compliance at a given time and our expectation is that providers will supply requested information within the agreed timescales for completion of the assessment.
- 2.28 Each IDA involves a mixture of desktop research and on-site work. We will normally want to interview the board chair individually as part of our work as well as other members of the board and the executive leadership team. We will keep the provider informed of the regulator's requirements throughout the process.
- 2.29 Upon the conclusion of an IDA we will advise the provider of the outcome. If the provider continues to be assessed as G1/V1 we will not normally produce a narrative report. We will, however, give oral feedback to the provider and update our published table of judgements to indicate that the grades are now based upon an IDA. Where our assessment has changed or if the IDA confirms a provider's existing non-G1/V1 grades, then we will discuss this with the provider and publish a report explaining the reasons for the assessment.⁹ This report will be shared with the provider for factual accuracy checking, prior to publication.

Reactive engagement

- 2.30 As well as our planned work, we also respond to new issues as they emerge (what we call reactive engagement). Our remit here encompasses all categories of registered provider.

⁹ For an explanation of our grades, see Section 4.

- 2.31 The regulator receives information and allegations about providers from various sources, including complaints. We seek to ascertain whether any of this information suggests a breach of one of the economic or consumer standards that might warrant further regulatory action. We take a different approach depending on whether it is an economic or a consumer standard which may be impacted.

Possible breach of economic standards

- 2.32 To ensure we use our resources to best effect in meeting our statutory objectives and in accordance with the regulatory principles set out in this document, the regulator investigates matters which relate to the economic standards only in the following circumstances:

- where the issues relate to the viability of an organisation, or
- where the issue, if proven, may affect our regulatory judgement of the organisation, or
- where the issues, if proven and unaddressed, could have a significant reputational risk for the sector.

- 2.33 In addition to the factors listed above being in evidence, in the case of providers which own fewer than 1,000 social housing units we will only investigate where the issue, if proven, might trigger the use of our statutory powers by reason of either:

- a failure to comply with the standards, or
- mismanagement.

- 2.34 Where we are seeking further assurance on a particular issue, we will always make a rounded judgement based on all of our knowledge about a provider and seek to act in a proportionate and transparent way.

- 2.35 The possible outcomes from any investigation we undertake are:

- no regulatory action necessary
- further action incorporated into planned regulatory engagement
- a downgraded regulatory judgement or a regulatory notice (as applicable)
- enforcement action.

Possible breach of consumer standards

- 2.36 There are four consumer standards:

- Home
- Tenancy
- Neighbourhood and Community
- Tenant Involvement and Empowerment.

- 2.37 Requirements relating to our consumer regulation role are set out in legislation. Our approach is reactive only and therefore we do not have a role in monitoring providers' performance on consumer standards. We only use our regulatory and enforcement powers where we judge that there has been a breach of a consumer standard which has caused or could cause serious detriment. In line with our overall regulatory approach, in reaching these judgements we take a proportionate approach to each case and focus on whether there is evidence of a systemic failure by a provider. We do not have a role in resolving individual disputes between landlords and tenants. Further guidance about how we deal with consumer standards and how we define serious detriment, is set out at Annex B.
- 2.38 When we judge that a provider has failed (or may fail if no action is taken) to meet one or more of the consumer standards, we can use our powers if we also judge that there are reasonable grounds to suspect:
- that the failure (or potential failure) has resulted in serious detriment to the provider's tenants (or potential tenants)
 - that if no action is taken by the regulator, there is a significant risk that the failure (or potential failure) will result in a serious detriment to the provider's tenants (or potential tenants).
- 2.39 Where we become aware of an issue that is indicative of a possible consumer standards breach (or potential breach) and possible serious detriment, the matter is referred to our Consumer Regulation Panel. Information we receive in the form of a statutory referral will always be considered by the Panel.¹⁰ This Panel will determine whether and how the issue should be followed up. In most cases that we investigate, we are likely to seek further information from the provider.
- 2.40 Where we judge that there are reasonable grounds to conclude that the breach (or potential breach) of standards has resulted in, or could result in, serious detriment to tenants (or potential tenants), we publish a regulatory notice setting out our findings.
- 2.41 The threshold for regulatory intervention in consumer standards is intended to be significantly higher than that in relation to economic standards, and so a finding of consumer standard breach and serious detriment raises questions about the effectiveness of a provider's governance arrangements. It may also be the case that issues are raised about the governance of a provider even where the serious detriment threshold has not been met. We will consider the provider's compliance with the economic standards and where we consider that a provider's grading should change, we will publish a narrative judgement.

¹⁰ A statutory referral is a referral from an authority, representative body, or individual specified in the Housing and Regeneration Act 2008 (as amended). These include: the housing ombudsman, tenant representative bodies, MPs, a councillor of the local housing authority for the district in which the property concerned is located, the Health and Safety Executive and fire and rescue authorities.

Possible next steps

- 2.42 If further regulatory action is needed to ensure compliance with any of the standards, then we will consider the use of our powers in accordance with the guidance set out in Annex C. (Please note this is a separate document available on the [Regulating the Standards page](#)¹¹ on [www.gov.uk](#).)

Restructures and Disposals

- 2.43 The Housing and Planning Act 2016 introduced new notification requirements for disposals and certain types of constitutional changes. We have issued directions, available on the HCA regulation pages on [gov.uk](#), which set out when providers must notify the regulator about [disposals](#)¹² and [constitutional changes](#), including [restructures](#)¹³. There is also supporting guidance detailing the timing and content of related processes.
- 2.44 Non-profit providers are required to make statutory notifications to the regulator when making certain changes to their organisational structures and their governing instruments. For restructures, providers should engage with us at two stages. Firstly, providers should inform us when a decision is reached to go ahead with a restructure (we refer to this as 'early information on restructures'). Secondly, providers will need to submit any relevant statutory notification at the required point in time.
- 2.45 We expect providers to engage with the regulator appropriately where restructures are planned. As outlined above in paragraphs 1.12 and 1.13, we view transparency as being of fundamental importance in a co-regulatory regime and require registered providers to communicate with us in a timely manner in relation to 'material issues'. We consider that a restructure is a material issue for these purposes.
- 2.46 Following receipt of early information about a restructure we may request follow-up information where there is reason to do so. This is likely to be where the restructure could have an impact on our (published) view of the provider or where we need assurance about how the risks of the restructure are being managed.
- 2.47 Following receipt of the statutory notifications, we may request follow-up information on an exception basis. This is likely to be where we need assurance about compliance with the Governance and Financial Viability Standard or about management of apparent risks. Further regulatory action may also be necessary if, for example, a registration or de-registration decision may be required as a result of the transaction.
- 2.48 Where no follow-up information is required, the notifications will be considered together with other regulatory information to inform planned regulatory activity. Information about notifications will also be used to support sector analysis.

¹¹ <https://www.gov.uk/government/publications/social-housing-regulation-regulating-the-standards>

¹² <https://www.gov.uk/government/publications/notifications-about-disposals>

¹³ <https://www.gov.uk/government/publications/restructures-and-constitutional-changes>

- 2.49 In the course of dealing with either disposal or constitutional change notifications, we may be presented with new information about how a provider's governance operates in practice. In such circumstances we will deal with the matter in accordance with our reactive engagement approach, as outlined above.

Rent Standard

- 2.50 For a four-year period from 2016/17, the Welfare Reform and Work Act 2016 (and regulations made under it) have introduced new legislative requirements in relation to the rents charged by registered providers. We expect providers to take steps to ensure that they fully understand these new rules, taking appropriate advice where necessary. Where the legislative requirements apply, we regard compliance with them as a key part of the Governance and Financial Viability Standard obligation to adhere to all relevant law. As such, we expect providers to take care to ensure that adherence with this legislative regime has been considered before they certify compliance with the Governance and Financial Viability Standard. Where the Welfare Reform and Work Act 2016 (and regulations made under it) do not apply, we expect providers to comply with the Rent Standard and Rent Standard Guidance.
- 2.51 Where we become aware of any material non-compliance with the legislative rent requirements or the Rent Standard (as appropriate), we will investigate and determine the appropriate regulatory response.
- 2.52 We have published a separate explanatory note in relation to our powers (which are subject to the consent of the Secretary of State) to issue exemption directions under the Welfare Reform and Work Act 2016 (and regulations made under it).

3. Data and information requirements

- 3.1 As explained in paragraph 1.11 above, the regulator relies upon providers supplying it with timely and accurate data. This is fundamental to the success of co-regulation.
- 3.2 The submission of late and incomplete or inaccurate regulatory data may be indicative of a weak control environment. Hence, failure to provide accurate and timely data may be reflected in our judgement of a provider's compliance with the regulatory standards. In particular, but not exclusively, it may provide evidence of a breach of the specific expectation in the Governance and Financial Viability Standard to communicate with the regulator in an accurate and timely manner, including through regulatory returns.
- 3.3 We require the following data returns from private registered providers which own 1,000 social housing units or more:
- financial forecast returns (FFR)
 - electronic annual account returns (FVA)
 - quarterly surveys
 - quarterly and priority notifications of relevant disposals of social housing dwellings including certain financial transactions
 - statutory notification of relevant constitutional changes, including restructures and changes to governing documents
 - annual report on fraud losses
 - annual return about providers' social housing and its use (Statistical Data Return)
 - annual return on Disposal Proceeds Fund (DPF).
- 3.4 We also require the following non-standardised information from these providers to enable us to carry out our regulation:
- early information on proposed restructures (see 'Restructures and Disposals' above)
 - business plan (this may be a single document or take the form of a number of corporate documents covering the strategic objectives of the organisation, the key risks associated with their delivery and how the provider plans to address them, and tested financial forecasts that reflect organisational priorities)
 - financial statements
 - Value for Money self-assessment
 - audit management letter.

- 3.5 We require the following data returns from private registered providers which own fewer than 1,000 social housing units:
- annual return about social housing and its use (Statistical Data Return but with only a limited data requirement)
 - quarterly and Priority Notifications of relevant disposals of social housing dwellings (including all disposals made to secure finance)
 - statutory notification of relevant constitutional changes, including restructures and changes to governing documents
 - early information on proposed corporate restructures
 - financial statements
 - Value for Money self-assessment¹⁴
 - audit management letter (if applicable).
- 3.6 The regulator collects most of its data through the NROSH+ system. All providers are required to make their returns using this system online at:
<http://nroshplus.homesandcommunities.co.uk>.
- 3.7 Early information about restructures and notifications on constitutional changes are not required to be submitted through NROSH+. Information on how to submit this information is contained in our Guidance on Notification of Restructures and Constitutional Changes which is available on the HCA regulation pages on gov.uk.
- 3.8 In addition to the regular collection of data returns, we may require providers to supply other information or documents. We have a duty to minimise the burdens we place on the organisations we regulate, and will only make requests for other information where we believe it is necessary for effective regulation. Where we do request providers to supply such information we will take a similar approach to late, incomplete or inaccurate provision as we do to failure to provide data returns.
- 3.9 Where appropriate, we may share information with other regulators, in accordance with the Data Protection Act 1998.
- 3.10 The HCA is subject to the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). Both pieces of legislation provide a right of access to information held by the agency. We work daily with third parties not subject to FOIA/EIR and our statutory obligations should not affect the information sharing required for us to carry out our regulatory duties. Upon receipt of a request and where possible and appropriate, we will consult with affected third parties to discuss any concerns where disclosure of the information could harm their interests.

¹⁴ The Value for Money standard includes a specific expectation that providers should publish an annual self-assessment showing how they are meeting the standard. This applies to all private registered providers, regardless of size. The self-assessment is intended to be for the benefit of a range of external stakeholders, not just the regulator. Our approach to regulating smaller providers with regard to the Value for Money standard is in keeping with our wider approach outlined in paragraph 2.1.

4. Regulatory Judgements¹⁵

4.1 For all providers which own 1,000 social housing units or more, we publish regulatory judgements of their compliance with the governance and the viability requirements in the Governance and Financial Viability Standard.

4.2 There are four governance grades:

G1	The provider meets our governance requirements.	}	Compliant
G2	The provider meets our governance requirements but needs to improve some aspects of its governance arrangements to support continued compliance.		
		}	Non-Compliant
G3	The provider does not meet our governance requirements. There are issues of serious regulatory concern and in agreement with us the provider is working to improve its position.		
G4	The provider does not meet our governance requirements. There are issues of serious regulatory concern and the provider is subject to regulatory intervention or enforcement action.		

4.3 All providers should seek to be assessed at G1. Where we judge a provider to be G2 this will be because we have identified some deficiencies in its governance which it needs to address. Although material, the deficiencies are not judged to affect our overall assessment of compliance. Our expectation is that providers assessed at G2 will take timely remedial action to address the issues identified. For this reason, we describe movement between the compliant governance grades in terms of upgrades and downgrades. A G3 judgement means that the provider is not compliant with governance requirements. In these circumstances we will be actively involved with the provider as it works to address the failures in governance and move back into compliance with regulatory requirements. A G4 judgement also signifies that the provider is non-compliant with governance requirements but it is applied where the severity of the governance failures are such that we are actively intervening or taking enforcement action.

¹⁵ This section only applies to private registered providers which own 1,000 or more social housing units.

4.4 We reflect the level of assurance that we have on a provider's compliance with the Value for Money Standard through our published governance judgement.

4.5 There are also four viability grades:

V1	The provider meets our viability requirements and has the financial capacity to deal with a wide range of adverse scenarios.	Compliant
V2	The provider meets our viability requirements. It has the financial capacity to deal with a reasonable range of adverse scenarios but needs to manage material risks to ensure continued compliance.	
V3	The provider does not meet our viability requirements. There are issues of serious regulatory concern and, in agreement with us, the provider is working to improve its position.	Non-Compliant
V4	The provider does not meet our viability requirements. There are issues of serious regulatory concern and the provider is subject to regulatory intervention or enforcement action.	

4.6 Providers at V1 will have provided the regulator with sufficient assurance that they have met the viability requirements of the standard. Typically they will have a strong financial profile, built on robust and prudent assumptions, good headroom on their financial covenants and appropriate levels of liquidity. The level of financial risk being taken on by the organisation will not be considered to be unreasonable and the regulator will have assurance that the crystallisation of the identified risks can be mitigated successfully by the organisation in most circumstances.

4.7 Providers at V2 will also have provided the regulator with sufficient assurance that they have met the viability requirements of the standard. However, these providers could potentially lack the ability to meet the standard in certain circumstances. In particular, we may judge that an underlying financial profile while viable on current assumptions would be vulnerable to the crystallisation of significant downside risks, potentially including changes in market conditions beyond the provider's control. If the V2 grading is the result of a conscious decision to import more risk into a business to deliver strategic goals and if the risks are well-managed (as reflected in the governance grading), then this may well be an appropriate business decision. Reflecting this, we now describe movement between the compliant viability grades as regrades rather than upgrades and downgrades.

- 4.8 Providers at V3 will have been unable to provide the regulator with sufficient assurance that they meet the requirements of the standard. In these circumstances the regulator will be working closely with the provider to try and remedy the issue as soon as possible. Providers at V4 are in serious financial difficulty and the regulator will be working with the provider and others (as appropriate) to remedy the situation, potentially using the regulator's full range of intervention powers.
- 4.9 In some cases, as well as publishing a provider's grades, we will also issue a narrative regulatory judgement report. We will usually do this where, for any reason, our assessment of that provider has changed, or there are new issues we want to make public. If our assessment of a provider's grades has not changed since the last publication, we will normally only re-publish its grades, unless the provider remains non-G1/V1 following completion of an IDA.

Interim judgements

- 4.10 Where two or more existing entities merge, we will issue an interim regulatory judgement so that there is an indicative regulatory assessment of the provider's compliance in the public domain. Where two or more G1/V1 graded registered providers merge, the new entity is likely to have an interim judgement of G1/V1 unless there are specific presenting issues. The merger/restructure of any provider at G2 or V2 will be considered on a case-by-case basis but our starting assumption is that the lower of the two existing grades would apply (subject to the relative scale of the providers concerned). Where a registered provider with fewer than 1,000 social housing units merges with a larger provider, the grades will be the existing grades of the large provider where neither party is non-compliant (see para 4.11) and this will not trigger an interim judgement for the larger provider.
- 4.11 We will take a case-by-case approach to issuing an interim judgement where a merger/restructure involves a non-compliant registered provider.
- 4.12 Interim grades will be converted to standard grades either when we have completed the first Stability Check following the merger (assuming that there are no presenting issues in the meantime) or a full IDA, as appropriate.

5. Regulatory Notices and Gradings under Review

Regulatory notices

- 5.1 As well as issuing regulatory judgements, we also publish regulatory notices. Regulatory notices are issued in response to an event of regulatory importance (for example, a finding of a breach of a consumer standard that has or may cause serious harm) that, in accordance with our obligation to be transparent, we wish to make public.
- 5.2 We do not publish regulatory judgements in relation to local authority registered providers because the economic standards are not applicable to them. However, the consumer standards do apply to local authority registered providers and, as with all registered providers, if we find serious detriment in relation to such a standard, we may issue a regulatory notice as we would for other providers.
- 5.3 We also do not publish regulatory judgements for registered providers which own fewer than 1,000 social housing units. However, if we have evidence that such a provider is in breach of an economic standard, or we find serious detriment as a result of a breach of a consumer standard, we may issue a regulatory notice.
- 5.4 On occasion, we may use regulatory notices to put specific findings about a provider into the public domain, even though they do not impact on the provider's existing published grades.

Gradings under Review

- 5.5 We maintain an online Gradings under Review list. Where we are investigating a matter and we consider that this investigation might result in a provider (currently judged to be compliant) being re-assessed as non-compliant in relation to the economic standards, we will add it to this list. The purpose of the list is to alert stakeholders to the possibility that the provider may be moving towards non-compliance. Once we have concluded our investigation, we publish a new narrative regulatory judgement for the provider (or regulatory notice, in the case of a provider which owns fewer than 1,000 social housing units) and remove it from the Gradings under Review list. We endeavour to publish a narrative judgement or notice¹⁶ within six to eight weeks of the provider being placed on the list.

¹⁶ We will only issue a regulatory notice for a provider which owns fewer than 1,000 social housing units if we conclude that it is non-compliant.

6. Maintaining the register

6.1 The regulator has specific statutory responsibilities in relation to the following

- registration of new applicants to the sector
- the registration of new bodies resulting from certain types of restructure
- de-registrations for those providers wishing to leave the regulated sector or which no longer provide social housing
- maintaining the content of the register of social housing providers.

Registrations

6.2 We assess applications for registration from new applicants to the sector against the eligibility conditions set out in legislation and the registration criteria we have set. The guidance for new entrants to the sector on how to register, along with associated application forms, is available on the HCA regulation pages on gov.uk.

6.3 We also make registration decisions about new bodies that result from certain types of restructure, as specified in the Housing and Planning Act 2016. We assess these registration applications against more limited criteria. Further information about our approach is set out in the Guidance on Notifications for Restructures and Constitutional Changes which is also available on the HCA regulation pages on gov.uk.

De-registration

6.4 Sections 118 and 119 of the Housing and Regeneration Act 2008 establish two categories of de-registration: compulsory and voluntary. Compulsory de-registration is where the regulator can take action, within prescribed circumstances, to remove a registered provider (including a local authority) from the register. The voluntary de-registration provisions of the Act enable private registered providers (i.e. not local authorities) to apply to the regulator to be de-registered at any time.

6.5 We assess applications for voluntary de-registration against the conditions set out under Section 119 of the Act, including the criteria set by the regulator¹⁷ as detailed in the guidance on the HCA regulation pages on gov.uk.

Operation of the Disposal Proceeds Fund

6.6 As of 6 April 2017 providers are no longer required to deposit net proceeds from relevant disposals into their DPF. However, any provider with an existing DPF on that date is required to operate it in line with current requirements until the fund are exhausted or by April 2020. For further information see our DPF Requirements and associated guidance¹⁸ which is available on the HCA regulation pages on gov.uk.

¹⁷ <https://www.gov.uk/guidance/register-and-de-register-as-a-provider-of-social-housing>

¹⁸ <https://www.gov.uk/government/publications/temp-disposal-proceeds-fund>

- 6.7 Where providers are required to operate a fund, they must be operated in accordance with requirements set by the regulator, including restrictions on the use of the fund and the time period over which funds generated must be used. If funds cannot be or are not used in accordance with the requirements, providers may need to pay over the proceeds in the fund or seek agreement from the regulator to retain the proceeds beyond the prescribed time period.

7. Appeals against regulatory decisions

- 7.1 The regulator operates an appeal scheme under which specific decisions of the regulator can be subject to review. The purpose of the appeals scheme is to give an opportunity to organisations affected by certain decisions made by the regulator to appeal those decisions. The appeals scheme may be used where we have given notice that we are using one of our legislative powers. It may not be used where we have given notice that we are considering using one of our powers. A full list of the matters which may be appealed under the scheme and associated guidance¹⁹ is available on the HCA regulation pages on gov.uk.
- 7.2 In some cases, a provider or individual affected by the exercise of our powers will have a statutory right to appeal to the High Court. The regulator's appeals process is not intended to replace any such statutory right.

¹⁹ <https://www.gov.uk/government/publications/how-to-appeal-against-our-decisions>

Annex A: Summary of our approach by provider type

Private registered providers which own 1,000 social housing units or more
<ul style="list-style-type: none"> • economic and consumer standards applicable • data return requirements applicable • must publish annual Value for Money self-assessment • must complete Quarterly Survey • must submit early information on restructures • must submit relevant statutory notifications in relation to constitutional changes, including restructures and disposals • subject to annual Stability Check and periodic IDAs • regulatory judgements published • regulatory notices applicable for findings of serious detriment and where otherwise appropriate • Gradings Under Review list applicable
Private registered providers which own fewer than 1,000 social housing units
<ul style="list-style-type: none"> • economic and consumer standards applicable • limited data requirements applicable • not required to complete Quarterly Survey • required to publish annual Value for Money self-assessment • must submit early information on restructures • must submit relevant statutory notifications in relation to constitutional changes and disposals • not subject to annual Stability Check or periodic IDAs • subject to annual review of financial statements and, if relevant, the audit management letter. As appropriate, other information may be assessed e.g. if developing new homes, the regulator normally seeks and considers financial forecast information • regulatory judgements not applicable • regulatory notices issued where the regulator has evidence that provider is in breach of an economic standard or for serious detriment finding • Gradings Under Review list applicable
Local authority registered providers
<ul style="list-style-type: none"> • only consumer standards applicable • regulatory notices published where regulator judges serious detriment

Annex B: Consumer Regulation Guidance

1 The Housing and Regeneration Act 2008 (the Act) places a restriction on the regulator's ability to use its powers in relation to a provider failing to meet a consumer standard. We may use our regulatory and enforcement powers only if we think that a standard has been failed and there are reasonable grounds to suspect that:

- the failure has resulted in a serious detriment to the provider's tenants (or potential tenants), or
- there is a significant risk that, if no action is taken by the regulator, the failure will result in a serious detriment to the provider's tenants (or potential tenants).

Therefore, the regulator's powers to intervene in consumer issues are only available in connection with standard breaches.

2 This is the basis of what is called the 'serious detriment test'. Regulatory powers in Chapter 6 of the Act can be used to investigate where the regulator thinks that there is risk of failing a standard and has reasonable grounds to suspect that – if the failure occurs – the failure will or may result in serious detriment to tenants (or potential tenants).

3 We are required to issue guidance about how we apply the 'serious detriment test' and we also publish an annual report about our consumer regulation work.

4 In defining serious detriment, it is clear that the threshold for regulatory intervention is intended to be significantly higher than that in relation to the economic standards. Failure to meet one or more of the consumer standards does not in itself lead directly to a judgement of serious detriment by the regulator. We consider that the meaning of serious detriment is when there is risk of, or actual, serious harm to tenants.

5 When we consider information or a complaint, we examine it to determine whether a consumer standard has been failed. In line with our proportionate approach to regulation, we focus on whether there is material evidence of systemic failure on the part of the provider. The regulator has no role in resolving individual disputes between landlords and tenants. However we recognise that individual disputes can potentially be evidence of a systemic failure that represents a breach of the standards, and consider the facts in that context.

- 6 Where we consider there is potentially failure to meet a consumer standard, we examine whether actual or potential serious detriment exists depending on the circumstances of each case and based on an evaluation of the harm or potential harm to tenants. It is not feasible or desirable for the regulator to attempt to produce a prescriptive list of issues that constitute harm. Such a list would inevitably fail to cover all current or potential eventualities and would need frequent updating to reflect changes in the policy and operational environment of providers. In addition, the same issue might have very different implications in different circumstances, leading to the risk of a disproportionate regulatory response. In order to ensure we use our powers proportionately, we must take the circumstances of each case into consideration.
- 7 Our assessment of serious detriment is based on the degree of harm or potential harm that may be caused to tenants by a breach of standards. The judgement is formed on the regulator's opinion of the actual or potential impact on tenants, irrespective of the nature of the issue that gives rise to the concern.
- 8 Therefore, in assessing whether to consider if there could be breach of standard and serious detriment or reasonable grounds to suspect this may be the case, we consider the following initial questions. They are:
- if the issue raised were true, is it likely that there has been, or could be, a breach of a consumer standard?
 - if the issues raised were true, would there be any impact on tenants which would cause serious actual harm or serious potential harm?
- 9 If we are satisfied that there could be breach of a standard and serious detriment or that there are reasonable grounds to suspect this, we then seek to determine whether this is the case through examining the evidence of a breach of a standard and the nature and extent of the impact or potential impact on tenants. In reaching the serious detriment assessment, the regulator will require evidence of harm or potential harm, in particular but not exclusively in relation to:
- health and safety
 - loss of home
 - unlawful discrimination
 - loss of legal rights
 - financial loss.
- 10 Irrespective of from where and how information is received, the regulator is ultimately responsible and accountable for the decisions it takes. Therefore, we retain the right to conduct, or agree that the provider commissions, appropriate investigations in order to determine whether there is evidence of a breach of standard and serious detriment.
- 11 Ultimately, decisions on a breach of the consumer standards and serious detriment are a judgement by the regulator, based on the evidence available and its published approach. It is also possible that issues under one consumer standard may result in problems under one or more of the other standards, indicating a systemic failure.

- 12 The circumstances of each case will inform the regulator's response. In some cases, the regulator may need to intervene directly to address the problem(s) identified.
- 13 Where we judge that the serious detriment threshold has been crossed in relation to consumer standards, or may be crossed if effective remedial action is not taken, for private registered providers we will also assess the implications of the issue against the economic standards in accordance with our published approach. We will investigate the issues, determining what assurances on governance may be required of the provider's board and whether any further regulatory action is required.
- 14 If we find serious detriment as a result of a breach by a local authority housing service, we may use relevant powers. The economic standards do not apply to local authorities. However, the investigation of a case of serious detriment may raise concerns about governance issues. In these circumstances, as well as taking any necessary action to deal with the presenting serious detriment problem, it may also be necessary for the regulator to refer concerns about governance to the authority's monitoring officer and others where relevant, such as its auditors, chief executive and lead councillor, the Local Government Association and the Department for Communities and Local Government.
- 15 It is possible in some cases of serious detriment that other agencies or regulators will have responsibility for dealing with the presenting issue. We may refer the issue directly to the relevant authority if this has not already been done. However, in such cases the regulator may also act in anticipation of, or at the same time as, other agencies, with particular reference to implications for the provider's governance that may arise from the problem.
- 15 The regulator will give reasons for its decisions to intervene or investigate, or for not taking any action. Where a referral does not, in the regulator's opinion, constitute serious detriment, the regulator will advise the referring party of alternative routes to take, if applicable. If the referral appears to us to be misdirected, we will advise the referring party of the options available to them.
- 16 Where we follow up a referral, we will give an indication of our anticipated timetable and keep the referring party informed of the action that is being taken and the outcomes.
- 17 In considering whether failure of a consumer standard has or may lead to serious detriment, we are obliged to have regard to information received from a number of authorities, representative bodies and individuals that are specified in the Act. These include the ombudsman, tenant representative bodies, MPs, a councillor of the local housing authority for the district in which the property concerned is located, the Health and Safety Executive or a fire and rescue authority. Information received in this context from these specified bodies is designated a statutory referral.
- 18 We consider relevant information we receive from all sources, including during the course of our economic regulation work. Such information will be assessed in the same way as information received through the statutory referral routes.

- 19 We do not have a statutory mandate to deal with individual complainants and cannot mediate in disputes between landlords and tenants. The regulator has no locus in the contractual relationship between a provider and its employees and cannot become involved in disputes between them or in any other contractual disputes. In relation to such issues, the regulator will direct tenants or other complainants towards the provider's own complaints system and the Housing Ombudsman.
- 20 Providers have principal responsibility for dealing with and being accountable for, complaints about their service; the Tenant Involvement and Empowerment Standard requires that they have clear and effective mechanisms for responding to tenant complaints. A tenant with a complaint against their landlord should raise the matter with it in the first instance and follow its complaints policy. Should the complaint remain unresolved, tenants can contact a designated person (a local housing authority councillor, MP or recognised tenant panel). Or, after eight weeks, they can also pursue the matter directly with the Housing Ombudsman.
- 21 The authorities which are able to make statutory referrals to the regulator include parties which may be or could become involved in local complaints resolution processes. Where the regulator receives a referral from one of these specified authorities (or any other party), the regulator's role is not to seek redress for an individual complainant. Rather, we will assess whether, in our judgement, the serious detriment test has been met in accordance with the approach set out above.
- 22 Although the regulator will not become involved in the resolution of individual complaints, we recognise that assessments of a breach of the consumer standard and serious detriment can stem from individual tenant referrals.
- 23 If an individual or organisation is dissatisfied with the level of service provided by the regulator in relation to a consumer regulation referral they can raise their concerns by going through Stage Two of our complaints procedures. This should be done by writing or emailing the regulator within three months of the date of our response to the referral.