



Regulating the Standards: March 2022 update

On 16 March 2022, the Regulator of Social Housing (the **RSH**) published an updated edition of 'Regulating the Standards', which sets out the RSH's operational approach to assessing registered providers' (**RPs**) compliance with their economic and consumer standards.

Whilst many of the updates are minor in nature, there are some important amendments to the updated guidance. In particular, the RSH has set out its approach to the grading of for-profit registered providers (**FPRPs**) and how it will report its findings from In-Depth Assessments (**IDAs**) of them, in advance of the RSH's first regulatory judgements of FPRPs which own more than 1,000 homes.

Whilst the RSH expects FPRPs to meet the same regulatory standards as not-for-profit RPs, the guidance acknowledges the differences between the two types of providers and the different 'capital structures' and 'cash-flow dynamics' in the FPRP model. As such, the RSH will use an asterisk when publishing a FPRP's grade (e.g. G1*) to distinguish FPRPs from not-for-profit providers.

The RSH also states that it wants to be transparent about the 'qualitative' differences between groups of connected companies including FPRPs and groups headed by not-for-profit providers. Where a narrative regulatory judgement is published (which the RSH sometimes publishes for large RPs alongside its grades), the RSH has confirmed that it will include an explanatory statement to make it clear that the

judgement concerns only the FPRP and will not represent an assessment of any other companies in the FPRP's group which are not themselves RPs, or – importantly- their ability (or not) to support the FPRP.

These are useful clarifications, particularly ahead of the RSH reporting its first regulatory judgements for large FPRPs. However, notwithstanding the above, when reviewing a FPRP, the RSH *will* take into account the risks to the FPRP from its relationship with the wider group.

Other changes in the updated edition of the guidance include:

- Referring to private (i.e. non local authority) RPs which own 1,000 or more social housing homes as 'large' providers and those which own fewer than 1,000 social housing homes as 'small' providers.
- Clarifying the RSH's approach that where it judges it appropriate, small private RPs may be placed on its Gradings under Review list.
- Explaining that in some complex cases, it may take longer for the RSH to publish a narrative judgement or regulatory notice than the stated six to eight weeks from a RP being placed on the Gradings under Review list.
- Clarifying that non-compliant regulatory judgements will remain in force until the issues are resolved.

- Removing the requirement for large providers to submit an annual return on Disposal Proceeds Fund.
- Clarifying that the RSH may, by exception, ask for specific returns like the Quarterly Survey from small providers.
- Referring to the specific requirements under the Governance and Financial Viability Standard for RPs which sit within groups headed by unregistered parents. This requires RPs not to enter into agreements to support their parents or other group members which may have a material negative impact on the RP's social housing assets. Parent companies must also have in place effective mechanisms to support the RP and ensure it meets the RSH's regulatory requirements.
- Updating the summary table of the model to underpin the scoring of IDAs, with more of a focus on the role of the board.
- Providing additional information on the RSH's expectations about the reporting requirements of the Value for Money Standard in Stability Checks – and in particular that RPs' own measures should mirror their strategic priorities.
- Amending the approach to the timing of planned engagement meetings for the largest and/or most complex RPs – the previous guidance stated that these would be carried out on a biennial basis, likely between August and December in the years the RSH is not conducting an IDA. The new guidance takes a more flexible risk-based approach to the timing of these meetings.
- Referring to the RSH's public sector equality duty.

A full outline of the changes can be found in [Annex A](#) of the updated edition of 'Regulating the Standards.'

If you would like to discuss any aspect of this article or the updated guidance, please contact any of our following experts or your other contacts in Trowers & Hamlins.

— trowers.com

Key contacts

Robert Bailey

Partner, Real Estate

☎ +44 (0)20 7423 8332

✉ rbailey@trowers.com

Sharron Webster

Partner, Real Estate

☎ +44 (0)20 7423 8479

✉ swebster@trowers.com

Sarah Monaghan

Solicitor, Real Estate

☎ +44 (0)20 7423 8588

✉ smonaghan@trowers.com



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