



DfC

Department
for Communities

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How We Regulate

How to become a Registered Housing Association

May 2018

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Introduction

1.1 The Department for Communities (DfC) is the Regulatory Authority for Registered Housing Associations (RHAs) in Northern Ireland. The Housing Regulation Branch within DfC undertakes this Regulatory activity on behalf of the Department and we seek to protect the interests of tenants, homeless people and others who use the services provided by the associations.

1.2 To ensure this is achieved, associations must provide us with the necessary information on a regular basis to demonstrate how the Regulatory Framework Standards are being achieved.

1.3 Through our risk-based and proportionate approach to associations we will:

- focus our attention on the key risks and important aspects of the association's performance
- have different levels of engagement depending on the association's risk and performance profile
- use our discretion and knowledge to ensure we optimise the right

level of scrutiny and analysis to get the level of assurance and type of improvement we need

- publish accessible information to encourage better comparison, performance management, public accountability and drive improvement (this could be for example in the form of best practice advice from the sector, research papers, statistics. List is not exhaustive)
- highlight good innovation and best practice in achieving outcomes
- give associations the opportunity to self-improve where we have identified problems, unless immediate regulatory action is needed
- use our powers in a proportionate and fair way, to secure improvement and/or to protect the interests of tenants; and help to ensure an orderly transition that protects tenants' interests if an association is failing

Registration of Housing Associations

- 2.1 We welcome new applicants who can contribute in a positive manner to the social housing sector in Northern Ireland. They must clearly identify how they will contribute towards increasing the supply of social housing and providing greater choice for tenants in Northern Ireland.
- 2.2 Any applicant who wishes to register with us must meet the following criteria for registration:
- demonstrate that it will be a viable and well-run association
 - be able to deliver good outcomes for tenants and other service users
 - meet our regulatory standards in relation to governance, consumer, and financial management
- 2.3 We must be assured that we are able to effectively regulate any applicant that wants to register with us. We will assess each application to determine whether it will be a viable organisation that can meet the demands of managing the Registered Housing Association (RHA) and providing services to tenants, where appropriate. We will also have regard to the particular circumstances of each application.
- 2.4 If the applicant is registered to carry out certain activities, for example building new houses and subsequently wishes to carry out additional activities, for example, managing houses for let, then it will need to seek our consent to the changes to its purpose, objects and powers. In seeking our consent for any such expansion the association will need to demonstrate that it is able to deliver additional activities and comply with the criteria for Registration.
- 2.5 If an applicant wishing to become an RHA intends to be part of a group structure either as the parent or a subsidiary then it will need to set out the proposed group arrangements. It must be clear what the roles and relationships are between each part of the group structure and that the parent has ultimate responsibility and effective control over any subsidiary.
- 2.6 We need to be assured that we will be able to protect the interests of tenants and other service users, the social housing assets, and public and private investment. We require the applicant to have regard to our guidance on group structures and Partnerships **Group Structures and Partnerships** and to demonstrate compliance with these. We will take account of the applicant's role within the group when assessing it.
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Our Approach to Registration

3.1 We tailor our registration assessment to the activities of the applicant. We will assess applicants against those registration criteria. The applicant must ensure that the purpose, objects and powers in its rules reflect its

proposed activities. In all cases we require applicants to demonstrate that they have a sustainable role within the existing Northern Ireland social housing network and that they are properly governed and financially viable.

Criteria for Registration

4.1 Before an association can obtain access to government funding it is required to register under the **Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016**. It is also essential that they register with the Department where a number of criteria must be met.

4.2 In exercise of the powers conferred by Article 16(2) of the Housing **(Northern Ireland) Order 1992 ('the 1992 Order')**, the Department has amended the criteria which should be satisfied by a Housing Association seeking registration with the Department and can be found at **Appendix A**.

Statutory Requirements

- 5.1 As above, the applicant will be required to fulfill the statutory requirements relevant at the time of registration. **Appendix B** is a summary of legislation applying to Housing Associations. These are the statutory requirements which the applicant must satisfy before it is eligible for registration.
- 5.2 Applicants who do not appear to satisfy the statutory requirements can contact us for advice on the steps they will need

to take. The form of rules chosen (for example charitable or non-charitable) has a significant effect on the activities which the applicant can undertake, on its financial status and on whom it may provide housing to. Applicants who are uncertain about the form of rules they should adopt should seek advice from their legal advisers or from the Northern Ireland Federation of Housing Associations (NIFHA) or the Department.

The Proposed Role of the Association

- 6.1 We will consider the proposed role and scope of operation envisaged by the applicant in relation to:

- the housing needs of the area in which it intends to work
- the desirability of offering an appropriate range of housing alternatives to the community
- the development plans of other associations in the area

- the general need to make best use of public funding

We will also consider whether registration is an appropriate and cost effective way for the applicant to achieve its aims of providing a housing service.

- 6.2 These criteria are about the applicant's role as an Association in meeting housing need. The applicant will need to show evidence of the unmet housing need

that it intends to fulfill, that existing associations do not or could not meet in an effective way and that it will be able to do so. Where appropriate, potential tenants should have been informed and consulted about the applicant's proposals. Usually, applicants will need statements of support from the Northern Ireland Housing Executive (NIHE) or other public bodies (where appropriate) and organisations such as tenant bodies and voluntary groups.

- 6.3 The applicant will need to demonstrate that registration with us is necessary to achieve its aims and will be a cost-effective way of doing so. If the same results could be achieved more effectively or economically by remaining unregistered and working in partnership with an existing Registered Housing Association (RHA), we may recommend this, although we recognise that, in some cases, registration may be desirable for other reasons.

- 6.4 Applicants intending to serve a particular need group will need to present a 'Statement of Need', demonstrating that the group of people in question is not being served effectively by existing associations of housing. They will also be required to demonstrate that their housing allocations policy is fair and based primarily on housing need.

- 6.5 Where applicants are planning to use exclusively or mainly Departmental funding provided through NIHE for new build, they will in general only be registered when the funding is available to enable them to achieve their stated role. Applicants seeking Departmental funding should be aware that bids for funding greatly exceed the money available. Only those RHAs able to provide housing in a cost effective way, and meeting housing need as identified by the NIHE, will be able to achieve registration.

Responsibility for Control of the Association

- 7.1 The proposed association must be under the control of responsible persons of appropriate skills and experience to be capable of managing public finance and the continuing proper stewardship of social rented housing and publicly funded assets. These criteria are about the applicants Committee of Management (also commonly referred to as their Board). In deciding what are appropriate skills and experience, the Department will look at the type and level of the applicants present and planned activities. It will be essential to have members of the committee with experience in such fields as finance, housing development, housing management or with other relevant business or professional experience. In the case of small newly formed associations, we will also take into account:
- the existence of training programmes for committee members
 - the involvement of another association in a supporting capacity
 - the existence of formal service or development agreements between the applicant and other registered association
 - the presence of experienced co-optees on the committee
- 7.2 The Board must be able to demonstrate that it is neither under the control of, nor subject to, influence which could prejudice its independence from any other person or organisation other than where that organisation is a Registered Housing Association (RHA) and that in these cases such influence or control operates in the best interests of the applicant.
- 7.3 In the case where an applicant is sponsored or assisted by an organisation which is not an RHA, we will generally require safeguards to ensure that the applicant's independence is incorporated in its rules.
- 7.4 The applicant will be required to demonstrate that Persons with whom the applying association has a contract

of employment with, or who are close relatives, have no duality or conflict of interest between the applying association and the members of its Board and their close relatives.

- 7.5 After registration, the association is prohibited by **The Housing (Northern Ireland) Order 1992 (Article 31)** from granting any benefit or payment, except as permitted under statute or by virtue of a determination under Article 31, to its committee members, officers or employees.

- 7.6 All subsidiaries of the association will also be expected to comply with the requirements set out in **The Housing (Northern Ireland) Order 1992 (Article 31)**. Applicant bodies and the individual members of their Boards must familiarise themselves with the provisions within this Article and relevant determinations which the Department might make. They must also ensure that any problems or potential problems are resolved before registration. If in doubt, applicants should get early advice from their legal advisers and the Department.

Financial Requirements

- 8.1 These criteria are about the need for the applicant to demonstrate continued financial viability and the strength to cope with financial risks. Satisfying them is key to achieving registration.

- 8.2 The applicant must be able to demonstrate that it is operating, or will operate, on a sound and proper financial basis and in particular:

- The applicant must prepare annual budgets, keep proper accounting records, have adequate systems of control (including the production of regular management accounts) and produce annual accounts which

have been audited by properly qualified auditors. After registration, the association will be required to produce annual accounts in the format laid down under Article 19 of the 1992 Order, to have those accounts audited by qualified auditors and to submit them to the Department within six months of the end of each accounting period.

- The applicant will be expected to require its auditors to conduct audits in accordance with Auditing Standards issued by the Auditing Practices Board.

- Newly formed associations which have not yet traded will not be able to provide past annual accounts. In such cases, we will wish to be satisfied that proper arrangements exist (or will exist) to ensure that the applicant can comply with the financial requirements after registration. This includes the preparation of annual budgets and the monitoring of progress against predictions at intervals that we specify. It will be expected that the association has financial expertise on the Board and the services of an accountant and auditor with experience of housing association accounts.
 - circumstances and taking one year with another, to meet its outgoings and provisions
 - as appropriate, its property equity and available free reserves will be sufficient cover for anticipated levels of financial risk
 - the association's overheads, (for example salaries and expenses), must be reasonable having regard to the size and level of activity of the association and must be properly allocated in a consistent manner to its various functions.
 - In order to demonstrate its future viability, the applicant must provide detailed financial projections for at least three years to show that:
 - its current and known future commitments in relation to capital expenditure are, or can be, fully financed by loans, grants or other permanent sources of capital
 - its income will be sufficient, having regard to present
- 8.3 Financial viability and the strength to cope with anticipated levels of risk are essential pre-requisites for registration and it is important for applicants to give full details and to submit full budgets and past accounts. Assumptions in the budgets, particularly concerning future income and likely levels of financial risk, should be supported where possible with documentation, including copies of any professional advice received. Applicants may wish to prepare full business plans and have these professionally validated.

- 8.4 Financial viability will be of particular importance for applicants using, or planning to use, private finance for the development of schemes, or the acquisition of existing stock. Full financial details will be required, including cash-flow forecasts for the period of any loan, together with a copy of the offer of advance from the lending body.
- 8.5 Applicants with plans to participate in development activity, whether publicly or privately funded, should be fully aware of the financial risks involved and will need to discuss their plans with the Department. Clearly most new organisations will not be in a position to satisfy fully this requirement at time of registration, but will need to provide projections over an appropriate period to reach the necessary position.
- 8.6 The requirements for the preparation of accounts are set out in the **Registered Housing Associations (RHAs) (Accounting Requirements) Order 1993 (SR 1993 No 70)**. Applicants must ensure that their auditors are familiar with these requirements and that the records the applicant keeps have sufficient information for the auditors to certify a proper apportionment of income and expenditure between the various functions and activities of the applicant.
- 8.7 The applicant will be required to maintain its bank, building society or other accounts in Northern Ireland, unless the consent of the Department has been given. This will allow the Department to protect the assets of the applicant more effectively should the need arise.

Managerial Efficiency

- 9.1 We will take into account the property development, finance, housing management and maintenance skills of associations. Having regard to the size of the Association and its present and planned level of activity, the applicant must be able to show that it has made proper arrangements to ensure the efficient provision, and management to a high standard, of housing, either from its own staff or from other associations, persons or firms.
- 9.2 The applicant will also need to demonstrate that these arrangements:
- are cost effective
 - are fully under the control of the association's Board
 - serve its objectives and the best interests of its tenants
 - do not restrict its independence
- 9.3 Applicants should ensure that any agreements do not restrict their ability to make free decisions about the best way of carrying out their business. Full and properly financed training programmes for committee members and staff will also need to be planned and provided for in the budgets submitted.
- 9.4 In all cases applicants will be expected to provide a caring and responsive service to tenants in a cost effective way and in accordance with the terms of the Tenants' Guarantee. The applicant should provide us with full details of the arrangements it has made together with copies of any relevant supporting documents.

General Conduct

- 10.1 The applicant must be able to demonstrate by reference to its actual or proposed policies, procedures and practices that it will conduct its business in accordance with good practice. The applicant will also follow guidance and standards as set down or endorsed by the Department, either under its general powers or under specific power conferred by **Article 11 of the 1992 Order** (the guidance issued under this power is known as the Tenants' Guarantee).
- 10.2 The Department will take into account the property development, finance, housing management and maintenance skills of applicants. Having regard to the size of the association and its present and planned level of activity, applicants must be able to show that it has made proper arrangements to ensure the efficient provision, and management to a high standard, of housing, either from its own staff or from other associations, persons or firms.
- 10.3 These criteria are aimed at ensuring that new associations uphold the high standards and good practice which are now clearly evident throughout the housing association movement.
- 10.4 The applicant should provide details of its actual or proposed policies and procedures and should indicate which policy documents it has formally adopted. Examples include the National Federation Housing Association (NFHA) Code of Practice and the NFHA Standards for Housing Management. Small, newly formed Registered Housing Associations (RHAs) are not expected to have comprehensive policies and procedures in place at registration. They should however at least provide key documents such as their allocations policy, equal opportunities policy and tenancy agreement. Larger associations will be expected to provide more comprehensive documentation covering all areas of planned activity.

Equal Opportunities

11.1 The applicant must be able to demonstrate that, within the scope of their rules and objects, there will be equality of opportunity for all sections of the community, regardless of age, disability, family circumstances, gender, marital status, race, religion, sexuality, political beliefs or other factors which could prevent the implementation of fair policies and operations. In particular, the applicant must be able to demonstrate that equal opportunities measures will be adopted and implemented in relation to religious and gender record keeping and monitoring, policy reviews and training of staff and members of the Committee of Management.

11.2 These criteria concern the need for the applicant to show that, within the scope of their rules, there is or will be equality of opportunity in its policies and operations.

11.3 Applicants are expected to apply the principles of equal opportunities to all sections of the community. This means that the associations actual or proposed procedures and practices should ensure

equality of access and opportunity in all its areas of work, including:

- the employment of staff
- the composition of the Registered Housing Association's membership and Committee of Management
- the purchase of goods and services
- the disposal, letting and management of property
- the allocation of resources and delivery of services for which the association is responsible

11.4 Registered Housing Associations (RHAs) should provide a copy of an equal opportunities statement that is formally endorsed by its Committee of Management and appropriate to its level and type of activity. RHAs that will be employing staff will need to adopt formal equal opportunities policies and procedures for recruitment and employment, and state this in job advertisements and other published material.

Other Requirements

12.1 An application for registration must be made on the form HAR3 (NI), provided by the Department, and shall be taken as conveying the agreement of the Registered Housing Association (RHA) as follows:

- to ensure that the requirements of these criteria are observed at all times in the future
- to comply with the requirements of Article 21 of the 1992 Order, which confer on the Department specific powers to monitor the activities of registered associations
- to allow the Department access at all reasonable times to the accounting and other records, offices and housing schemes of the association and of any subsidiary
- to authorise its auditors, bank, solicitors and any other consultants, agents or advisers to disclose to the Department such information as the Department may require
- to submit by the end of September each year, an annual return (for 31 March of each year) in such form as the Department may determine. Any follow up requests must be validated or substantiated within a reasonable time limit. Any information provided on the application form, any annual returns or other information requested by the Department must be validated or substantiated within a reasonable time.
- to notify the Department of any changes to the RHAs rules and to obtain the Department's consent to such changes when required by guidance contained within the **Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016**
- to notify the Department in writing within four weeks of any changes. E.g. in the membership of the Committee of Management, the managerial or executive staff separately identified in the application form (HAR 3 (NI)) or most recently submitted annual return
- to maintain at all times a complete register of all properties in which the association has an interest

- to observe any procedures or conditions which the Department may from time to time specify in pursuance of its functions under Article 4 of the 1992 Order to exercise supervision and control over Registered Housing Associations (RHAs).

You can request a copy of the HAR3 (NI) form by email from hagovernance@communities-ni.gov.uk or [click here](#) to download the form.

12.2 Continuing compliance with the requirements of the criteria is checked by us through the **2017 Regulatory Framework** and subsequent engagement. RHAs are encouraged to regularly review and monitor their performance to determine how well they are achieving their goals. As a part of this, they should consider whether they still satisfy the criteria for registration.

12.3 RHAs are expected to co-operate fully with the Department in the exercise of its monitoring and supervisory powers. New RHAs will generally be monitored approximately one year after registration. It is not the Department's intention to examine or monitor the detailed operation of subsidiaries, which are not RHAs, but to have an investigatory safeguard in cases where there may be leakage of public funds in breach of associations' rules or contrary to the purpose for which the funds were allocated by the Department.

12.4 The Department has a general statutory duty to exercise supervision and control over RHAs. (This is not the same as the specific power referred to under criterion 6 above to set standards for the management and maintenance of properties). The Department issues documents such as Housing Association Circulars, advice notes and others under this general duty. RHAs will automatically receive copies of relevant documentation.

Appendix A

Criteria to be satisfied by a Housing Association seeking registration with the Department

1. Under the terms of **Article 3 of the 1992 Order** a housing association is defined as a society (see 2 below), body of trustees or company:
 - a) which is established for the purpose of, or amongst whose objects or powers are included those of, providing, constructing, improving or managing, or facilitating or encouraging the construction or improvement of housing accommodation
 - b) which do not trade for profit or whose constitution or rules prohibit the issue of capital with interest or dividend exceeding such rate as may be prescribed by the Department of Finance, whether with or without differentiation between share and loan capital.
2. To be eligible for registration with the Department a Registered Housing Association (RHA) must be a society registered with the Financial Conduct Authority and adhere to the **Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016**
3. The RHA must also fulfil the conditions set out in **Article 15(2) and (3) of the 1992 Order**, which require that the RHA does not trade for profit and is established for the purpose of, or has among its objects or powers, the provision, construction, improvement or management of:
 - a) houses to be kept available for letting
 - b) houses for occupation by members of the association where the rules of the association restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the association

c) hostels, and any additional purposes or objects as permissible.

4. The permissible additional purposes or objects are:

a) providing land, amenities or services, or providing, constructing, repairing or improving buildings, for the benefit of the Registered Housing Association (RHA) residents, either exclusively or together with other persons

b) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale or lease, or by equity-sharing lease

c) constructing houses to be disposed of by equity-sharing lease

d) managing houses which are held on leases or other lettings (not being houses falling within paragraphs 3(a) and (b) above), or blocks of flats

e) providing services of any description for owners or occupiers of houses in arranging or carrying out works of

maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works

f) encouraging and giving advice on the formation of other housing associations or providing services for, and giving advice on the running of, such associations and other voluntary organisations concerned with housing, or matters connected with housing

5. An RHA shall not be ineligible for registration by reason only that its powers include power to:

a) acquire commercial premises or businesses as an incidental part of a project or series of projects undertaken for purpose or objects falling within **Article 15(2) and (3) of the 1992 Order**

b) repair, improve or convert any commercial premises acquired as mentioned in sub-paragraph (a) above or to carry on, for a limited period any business so acquired.

Appendix B

Summary of Relevant Legislation

1. The Departments main functions in relation to Registered Housing Associations (RHAs) are:
 - a) to promote, assist and facilitate the development and proper performance of RHAs (Article 4 of the 1992 Order)
 - b) to exercise supervision and control over RHAs (Article 4 of the 1992 Order)
 - c) to publish guidance as to the management of accommodation by RHAs (the Tenants' Guarantee) (Article 11 of the 1992 Order).
 - d) to establish and maintain a register of housing associations (Articles 14-18 of the 1992 Order)
 - e) to make grants (Article 33 of the 1992 Order) or loans (Article 6 of the 1992 Order) to RHAs
2. Associations and their professional advisers should also be aware of the legislation relevant to their primary registration with the Financial Conduct Authority (a) below) and of those Articles in the 1992 Order that are relevant to the supervision and control of RHAs by the Department:
 - a) Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 sets the statutory framework for associations registered with the Financial Conduct Authority
 - b) Section 9 of the 1969 Act (as amended by Article 29(6) of the 1992 Order) - the need for RHAs to obtain the Departments consent to rule amendments
 - c) Article 13 of the 1992 Order - the need for Registered Housing Associations (RHAs) to obtain the Departments consent before they dispose of land (this includes taking out a loan on security of land). This requirement extends to land owned by unregistered associations which have received public grants

- d) Article 17 of the 1992 Order - provides that, once registered, an association may only be removed from the Register under certain narrowly defined circumstances
- e) Article 19 of the 1992 Order - lays down accounting and audit requirements for RHAs
- f) Article 20 of the 1992 Order - the legal duty and liabilities upon each person directly concerned with the conduct and management of the affairs of a registered housing association (and in that capacity responsible for the preparation and audit of accounts) in relation to compliance with Article 19 of the 1992 Order
- g) Article 21 of the 1992 Order - the power of the Department to monitor RHAs
- h) Article 23 of the 1992 Order - the Departments power to conduct an inquiry into the affairs of an RHA
- i) Article 24 of the 1992 Order - the Departments power to conduct an extraordinary audit of an RHAs affairs for the purposes of an Article 23 inquiry
- j) Article 25 of the 1992 Order - the Departments general powers exercisable as a result of an inquiry or an audit under Article 23 or 24
- k) Article 25 of the 1992 Order - the Departments general power to remove a committee member of a registered housing association and appoint committee member
- l) Article 26 of the 1992 Order - the Departments power to direct transfer of land from one Registered Housing Association (RHA) to another
- m) Article 27 of the 1992 Order - the Departments power to petition for the winding up of a registered housing association
- n) Article 28 of the 1992 Order - on the dissolution or winding up of an RHA, its net assets must be transferred to the Department or to such registered housing association as the Department directs. Where the association is a charity, the property can only be transferred to another charity with like objects

- o) Article 29 of the 1992 Order - the need for RHA to obtain the Departments consent to amalgamation, transfer of engagements, dissolution or winding up
- 3. The attention of associations is also drawn to:
 - a) Articles 30 and 31 of the 1992 Order
 - b) The Housing Association Grant for eligible Housing Activities.
- General (Northern Ireland) Determination 1992 issued under Articles 33, 35 and 36 of the 1992 Order and describing the principles by which Housing Association Grant is allocated and recovered
- c) The Departments published Performance Standards for RHAs
- 4. In addition all associations with charitable status should be familiar with the principles of general charity law.

