

The Register of Social Landlords



4. The Register of Social Landlords

Introduction

4.1. We keep a public Register of social landlords available on our website which we update regularly with the information which RSLs provide to us. The Register provides accurate and transparent information about RSLs that is easily accessible for anyone with internet access. The Register does not include local authority landlords or local authorities which provide housing services.

4.2. We provide key information on this public Register about each of the social landlords registered and regulated by us, including their registered address, contact details, legal status, and associated organisations. We also use the online Register to provide access to other information about the RSLs such as the published annual accounts, annual information returns, inquiry reports, regulation plans, and each RSL's constitution which will detail its purposes, objects and powers. We expect RSLs to make this information available and accessible to their own tenants and other service users.

We retain on the Register details of formerly registered organisations which have been de-registered, giving reasons for the de-registrations.

Registration of new social landlords

4.3. We will not be a barrier to new organisations which can contribute to the social rented sector and support the increased supply of social housing and provide greater choice for tenants. Any new organisation which wishes to register with us must meet our criteria for registration and demonstrate that it will be a viable and well-run RSL, able to deliver good outcomes for tenants and other service users and meet our regulatory standards in relation to governance and financial management. We must also be assured that we are able to effectively regulate any organisation that proposes to register with us.

4.4. Our registration criteria establish a threshold which prospective RSLs must achieve. We will also have regard to the particular circumstances of each application. We will assess each application to determine whether it will be a viable organisation that can meet the demands of managing a social landlord's business and, where appropriate, providing services to tenants.

4.5. If the RSL is registered to carry out certain activities, for example build new houses, and subsequently wishes to carry out additional activities, for example, manage houses for let, then it will need to seek our consent to the changes to its purpose, objects and powers in its constitution. In seeking our consent for any such expansion in its constitution the RSL will need to demonstrate that it is able to deliver its additional activities and comply with the Regulatory Standards and the Scottish Social Housing Charter.

4.6. If an applicant body 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. We need to be assured that we will be able to regulate the group parts effectively 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 demonstrate compliance with our requirements of group structures. We will take account of the applicant's role within the group when assessing it against registration criterion 2, particularly with regard to the relevant constitutional requirements relating to group structures.

Our approach to registration

4.7. We tailor our registration assessment to the activities of the applicant. We will assess the applicant's achievement of the registration criteria which are relevant to the type of RSL the applicant intends to be. The applicant must ensure that the purpose, objects and powers in its constitution reflect its proposed activities. In all cases we require applicants to demonstrate that they have a sustainable role within the existing social housing network and that they are properly constituted and governed and financially viable.

Criteria for registration

4.8. There are two types of registration criteria: legislative and regulatory. The Housing (Scotland) Act 2010 (“the Act”) sets out the legislative criteria and requires that we set out regulatory criteria.

4.9. The legislative criteria in summary are:

An applicant must:

- (i)** not trade for profit;
- (ii)** have purposes, objects and powers which conform with section 24(1)(b) and, if relevant 24(1)(d) of the Act; and
- (iii)** carry out or intend to carry out its purposes, objects or powers in Scotland.

4.10. The Act also establishes that we may set regulatory registration criteria about:

- (a)** a body’s financial situation;
- (b)** the arrangements for a body’s governance and financial management; and
- (c)** the manner in which the body provides housing services.

Different criteria can be set for different types of bodies or cases.

Our regulatory registration criteria and guidance on how we assess applicants against each criterion are set out below.

Criterion 1:

The applicant must demonstrate that it has a sustainable role within the existing social landlord network in Scotland.

4.11. We will assess whether an applicant is able to demonstrate that it adds value to the established social landlords in its area of operation. Our role is not to act as a barrier to entry for landlords wishing to enter the sector. We will, however, test what housing needs the applicant seeks to meet, what additional benefits it brings to the sector and that it has support from the relevant local authorities and funding bodies.

Criterion 2:

The applicant must demonstrate it can meet our Regulatory Standards on governance and financial management and our constitutional requirements.

4.12. The eligible body must have appropriate constitutional governance arrangements for the organisation. We will test that these arrangements meet our Regulatory Standards of governance and financial management and constitutional requirements and allow the organisation to achieve its objectives for tenants and prospective tenants. The body’s constitution and governance arrangements must support the organisation to adhere to all relevant legislation, be accountable to its stakeholders and safeguard taxpayers’ interests and the reputation of the sector. The eligible body must be able to demonstrate its governance arrangements are such as to allow the Regulator to regulate effectively, and exercise our full regulatory powers.

Criterion 3:

The applicant must show it can meet the needs of tenants and other service users by demonstrating that it is able to meet any relevant standards of performance the Regulator expects it to meet and all other relevant outcomes, standards, legislation and guidance.

4.13. We require the applicant to demonstrate that it can achieve any standards of performance in place at the time the application is made. From April 2012 this will be the Scottish Social Housing Charter. We will test whether the applicant organisation has the management and operational arrangements in place that allow it to achieve these. We will assess the applicant's understanding of the requirements for assessing its performance, engagement with tenants and annual reporting on outcomes.

Criterion 4:

The applicant must be able to demonstrate it is and will remain financially viable.

4.14. We require the applicant to have a business plan that demonstrates it will be financially viable, and we will test the business plan to check it is robust and prudent, and complies fully with our financial requirements and our guidance on business planning. We will assess that the organisation is able to comply with the financial standards in the Regulatory Standards on governance and financial management and other regulatory guidance, and can demonstrate it has effective financial management, planning, and controls within the organisation.

De-registration

4.15. The Act establishes that we may remove an organisation from the Register. A body can be removed from the Register as a compulsory de-registration or as a voluntary de-registration.

4.16. The Act establishes that we may compulsorily remove a body from the register if we consider that the body:

- (a)** no longer meets (or has never met) the registration criteria;
- (b)** has ceased to carry out activities; or
- (c)** has ceased to exist.

4.17. Before any compulsory de-registration however we will ask the organisation involved for information demonstrating that it still meets the registration criteria. We will also have regard to its views before any final decision is made.

4.18. The Act also establishes that we can set de-registration criteria in relation to voluntary de-registration. This can be when a landlord asks us to be removed from the Register, usually after the RSL merges or transfers its engagements to another RSL. When we consider a request for de-registration we are guided by our statutory objective and the criteria below. We will consider each case on its merits and if we are satisfied that the de-registration criteria are met we will remove the RSL from the register.

Criterion 1:

It does not own or manage any houses which are or will be used for the purposes of social renting.

4.19. Our objective is to safeguard and promote the interests of tenants and other service users and regulate RSLs to provide good tenant outcomes. If an RSL does not own or manage any houses used for social renting then we will no longer have a regulatory interest. Our presumption is that houses and assets provided for the social rented sector will remain within the sector or will be managed out in a way that is acceptable to us and ensures that the interests of tenants are protected.

Criterion 2:

The RSL's de-registration does not materially affect the interests of its tenants.

4.20. Where an RSL proposes to de-register but still has tenants then we require the RSL to demonstrate that the proposed de-registration does not materially affect the interests of its tenants. In most circumstances, we would consider a tenant's loss of status as a social tenant to be material. Where we do not consider it to be material, we require the RSL to consult with its tenants and ensure the tenants are provided with independent advice about the implications of de-registration on their interests. We expect the RSL to provide evidence of tenants' views when it is seeking de-registration and we will take the views of tenants into account when we consider an application for de-registration.

Criterion 3:

All borrowings have been repaid or the consent of the lender to de-register has been obtained.

4.21. Lenders invest in registered and regulated social landlords at favourable rates because of their confidence in effective regulation to help protect their funds. It is important that lenders' confidence is maintained in order to retain these favourable investment rates for the sector. We require any RSL proposing to de-register to confirm that it has repaid all outstanding borrowings or obtained the consent of its lender(s) to be removed from the Register.

Criterion 4:

Any public funding has been repaid or an agreement has been obtained from the funding body that no payment is required.

4.22. Many RSLs have benefited from public grants and loans to invest in improving and building new homes. We require the RSL to demonstrate that it has agreement from any public funding body which has provided it with grants or loans that it has repaid the public funding or that the funding body has agreed that no, or a reduced, repayment is required.

Criterion 5:

The applicant has consulted the relevant local authorities in their capacity as strategic housing authorities.

4.23. Where an RSL proposes to de-register, we require it to confirm that it has consulted the local authority. We will take into account the views of the relevant local authorities, in their capacity as strategic housing authorities, in making our de-registration decision.