

## GUIDANCE NOTE

## Changes to public reporting of compliance outcomes and regulatory intervention

These guidelines summarise changes to public reporting of compliance information for agencies registered under the *Housing Act 1983*.

### What are the changes?

From 1 July 2019 there will be changes to public reporting of compliance information for all registered agencies. These changes include the introduction of reporting on:

- formal intervention by the Registrar of Housing Agencies (Registrar) under the *Housing Act 1983* (Vic) (the Housing Act) and Intervention Guidelines on or after 1 July 2019. This will include any binding instructions on a registered agency; and
- outcomes of annual compliance assessments for the performance year 2018-19 onwards.

This information will be published on the Housing Registrar's website.

### Why publicly report this information?

These changes are driven by the Housing Registrar's commitment to increasing transparency in the management, delivery and regulation of the community housing sector in Victoria. Increased transparency of regulatory outcomes is intended to:

- promote market confidence in the sector to facilitate growth (through both private sector and government investment and funding);
- empower and protect tenants by providing more visibility over a registered agency's compliance history;
- improve the capability of the sector through the availability of sector-wide compliance data to enable agencies to compare their compliance history with similar sized agencies; and
- promote the accountable use of government investment in the sector.

The publication of this information is consistent with:

- a direction by the Assistant Treasurer, as the portfolio minister for community housing regulation, under Section 80 of the Housing Act;
- outcomes of the Housing Registrar's review of public reporting arrangements including consultation and feedback from the sector; and
- the Housing Registrar's ongoing efforts for cost-effective alignment with the National Regulatory System for Community Housing (NRSCH).

## What exactly will be published?

### Formal intervention

If your agency is subject to formal intervention by the Registrar on or after 1 July 2019 a summary of the formal intervention will be published on the Housing Registrar's website.

The Intervention Guidelines are made under the Housing Act and describe how the Registrar can formally intervene in the affairs of a registered agency as a result of specific circumstances or triggers. These triggers are defined in Division 8 of Part VIII of the Housing Act and are summarised below.

#### **Formal intervention triggers under the Housing Act include:**

- Failure to meet the registration criteria or Performance Standards;
- A failure to comply with a requirement or direction under any of sections 91, 100, 104, 106, 108 or 109 of the Housing Act;
- An adverse effect (or potential adverse effect) on an agency's capacity to comply with registration criteria or Performance Standards, or its capacity to provide affordable housing, arising from either a change to the agency's governing instrument or business activities; or
- A failure to comply with a recommendation of the Registrar concerning an appointment or appointments to the agency's governing body.

When regulatory, performance and compliance risks are identified by the Housing Registrar these are often addressed cooperatively with the registered agency through agreed regulatory action items without the need for formal intervention from the Registrar. Such regulatory action items will not be publicly reported.

Formal intervention is described by the Intervention Guidelines as a last resort and the Registrar must act in accordance with the Intervention Guidelines. Formal intervention action will most commonly be binding instructions from the Registrar to address issues of non-compliance with Performance Standards. Other formal intervention powers available to the Registrar include:

- requiring registered agencies to enter into arrangements with other agencies;
- making appointments to the governing body; and
- winding up an agency and distributing its assets.

### Outcomes of annual compliance assessments

The Housing Registrar will publish the outcomes of annual compliance assessments for registered agencies for the performance year 2018-2019 onwards. Publication will be prospective only and a registered agency's prior compliance history will not be published.

The information, published on the Housing Registrar's website, will include a table providing an executive summary of each registered agency's annual compliance assessment and its compliance against each of the seven Performance Standards (against the criteria of 'met', 'capacity to meet' and 'did not meet'). The executive summary provides a snapshot of the outcomes and overarching findings of the annual compliance assessment for each registered agency. The executive summary may include summary reasons for an agency being assessed as having 'capacity to meet' and 'did not meet' performance standards (noting that regulatory action items will not be publicly reported).

Below is a (fictional) example of an executive summary report:

## SAMPLE EXECUTIVE SUMMARY

### Better Housing Plus

#### Executive Summary 2018-19 annual compliance assessment

##### Background

Better Housing Plus (BLP) was registered as a housing association under the *Housing Act 1983* Vic (the Housing Act) on 21 February 2009. The last annual compliance assessment was completed on 30 March 2018.

BLP is a not-for-profit community organisation that has provided affordable housing to low income tenants for 15 years, currently managing 5 549 properties across northern and western Victoria.

Since BLP attained registration, the organisation has a history of overall compliance with all performance standards and has responded to and addressed requests for information made by the Registrar in a timely and efficient manner.

##### Summary of findings

The Housing Registrar's 2018-19 annual compliance assessment assessed BLP as compliant with performance standards, except for the management (capacity to meet) and governance performance standards (capacity to meet).

BLP has demonstrated to the Housing Registrar that the organisation has strong operational planning, good standards of internal reporting, and a strong focus on continual improvement to support positive tenant outcomes and opportunities.

As evidenced as part of the compliance process, BLP has established policies and practices to maintain the standards of probity and a strong committee structure, inclusive of an audit and risk committee.

BLP has experienced volatility in its surpluses historically due to unforeseen financial events and has absorbed these shocks due to its adequate capital structure that includes very high levels of restricted funds.

BLP has a strong track record of undertaking development activities and is expected to continue expanding its housing stock, demonstrated by its development pipeline for the next five years. Maintaining adequate maintenance reserves in the future will require monitoring as trends in the agency's maintenance spend over recent years have been significant.

##### Recommendations to demonstrate compliance

The 2018-19 annual compliance assessment assessed BLP as having the capacity to meet the governance and management performance standards. The Registrar determined that BLP failed to make several of its policies relating to tenancy management and rent setting available online at the date of assessment contrary to the Housing Registrar's guidance note (Agency publication of key policies). The Registrar also determined that BLP did not have a succession plan for key staff despite several ongoing vacancies in the management team over the past 24 months. The Housing Registrar is working cooperatively with BLP to address these compliance issues and support its plan to meet the governance and management performance standards over the next quarter.

##### Conclusion

There are no current circumstances warranting a change to the planned level of compliance engagement with BLP. The next annual compliance assessment will commence in September 2020.

## Where to find related guidance materials

- Intervention guidelines for Registrar of Housing Agencies
- Current Performance Standards
- Evidence guidelines