



The Regulatory Framework for Approved Housing Bodies

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1 **The Housing Agency, Regulation Office**

1.1 **About the Regulation Office**

The Housing Agency was set up in May 2010 to work with and support local authorities, Approved Housing Bodies (AHBs) and the Department of Housing, Planning and Local Government (DHPLG) in the delivery of housing, planning and related services.

The Housing Agency was given responsibility in 2014 on an interim basis for regulating AHBs and the Regulation Office was established for this purpose, pending enabling legislation.

The Regulation Office's key goal is the protection of AHB assets and safeguarding the interests of current and future tenants. This is done by regulating for a well governed, well managed and financially viable AHB sector.

The Regulation Office continues to embed the principles of regulation across the AHB sector and advance the Regulatory Framework in preparation for statutory regulation.

1.2 **Why is Regulation important?**

AHBs are at the centre of the Government's [Rebuilding Ireland Action Plan for Housing and Homelessness](#), with a view to the sector playing a key role in the supply and provision of new social housing.

Regulation of the AHB sector is important as it:

- Is an integral part of an effective housing system
- Is an enabler for investment and new supply
- Safeguards the significant investment made by the Irish State for social housing
- Protects existing tenants
- Develops the capacity of the sector to grow
- Builds confidence of both public and private funders to invest in the sector

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1.3 Key Objectives

The Regulation Office operates with the core values of independence, confidence, fairness, and integrity. These values underpin the Office’s objectives, which are to:

- Provide assurance to tenants, Boards, Government and potential investors that the sector is stable and well-regulated
- Safeguard tenants and public investment in the sector
- Improve and encourage good governance and financial health across the sector
- Provide a framework for AHBs to manage risk effectively and to focus on achieving best outcomes for tenants

1.4 Governance of the Regulation Office

The work of the Regulation Office is overseen by an interim Regulatory Committee (iRC). Committee members have extensive experience ranging across regulation, law, finance and housing. The iRC sets the goals, objectives and priorities for the Regulation Office.

The Committee was appointed by the Minister for Housing, Planning and Local Government in February 2014. The iRC has clearly established regulatory duties and functions, outlined in regulatory committee protocols and terms of reference.

These include:

- Overseeing the assessment of participating AHBs in respect of their financial viability, governance, management and compliance with the Voluntary Regulatory Code
- Providing advice and recommendations on implementing the Voluntary Regulatory Code
- Providing guidance to participating AHBs to assist in the attainment of compliance
- Bringing significant non-compliance issues to the attention of the Minister
- Advising the Minister on the development of a statutory regulatory framework

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2 **The Voluntary Regulatory Code and Standards**

- I. Regulation of the AHB sector is based on a Voluntary Regulation Code [*Building for the Future - A Voluntary Regulation Code For Approved Housing Bodies in Ireland*](#) (July 2013)
- II. [*The Financial Standard and Assessment Framework*](#) (“The Financial Standard” July 2015)
- III. [*The Governance Standard and Assessment Framework*](#) (“The Governance Standard” December 2017).

The Regulation Office has committed to the introduction of a **Performance Standard and Assessment Framework in November 2018.**

The Voluntary Regulatory Code (The Code), Financial Standard, the Governance Standard and the Performance Standard are a precursor to statutory regulation for which legislation is currently being drafted.

The Code sets out key governance, financial and performance management requirements that all AHBs signed up to the Code are required to adhere to.

The Code is both proportionate and risk-based, meaning the extent of regulation and what is required by an AHB is dependent on the size, scale and level of risk of each individual AHB. ***Larger scale AHBs and those AHBs with significant development plans are subject to more rigorous regulation.***

The Code operates on a “comply or explain” basis, where AHBs are required to either comply with the Code or explain the alternative arrangements in place. This acknowledges there may be good reasons for non-compliance, such as local context and individual circumstances.

A three-tier system is used to categorise AHBs for regulatory purposes: Tier 1 refers to smaller AHBs, Tier 2 to medium sized AHBs, and Tier 3 refers to larger AHBs.

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AHB Tier Classification

Tier 1	0-50 units with no development plans or development plans that keep the total under 50 units.
Tier 2	50-300 units or development plans that keep the total under 300 units, or the use of loan finance for development.
Tier 3	>300 units or sizeable development plans, including the use of loan finance for development.

The Regulation Office notes there are over 200+ AHBs who have not signed up to the Voluntary Regulatory Code. These AHBs are actively encouraged to sign up to the Code and align themselves with best practice alongside the AHBs that have embarked on ensuring compliance with the Code and key standards.

2.1 Charter of Commitments

AHBs sign up to the Code by way of a signed Charter of Commitment. The Charter of Commitments is signed by the AHB Board Chairperson and Secretary. AHBs are required to renew this commitment annually.

Once an AHB signs up to the Code, it agrees to comply with the requirements of the VRC.

AHBs that are signed up and are engaging with the Code are listed on the Housing Agency [website](#).

2.2 Circular 15/2016

While the Code is voluntary, funding eligibility is aligned to those AHBs signed up to and demonstrating compliance with the Code, as per Department Circular 15/2016:

'From 1 January 2017, in addition to the requirement to have signed up to the Code, only those AHBs that are able to demonstrate commitment to and engagement with both the VRC [Voluntary Regulatory Code] and the Financial Standard and

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Assessment Framework, having undergone a satisfactory assessment as part of the annual assessment process by the Regulation Office will be considered eligible for funding.'

3 AHBs and the Annual Assessment Cycle

The Regulatory Assessment Framework and cycle:

Requirement	What Tier?	Timeline
1. Submit signed Charter of Commitment to the Regulation Office	AHB self-selects Tier based on size and scale of AHB	Annually AHBs signed up to Code are listed on the Regulation Office website
2. AHB submits Annual Regulatory Return (ARR)	All Tiers ARR – Tier 1 ARR – Tier 2 ARR – Tier 3	Issued by the Regulation Office Annually <i>ARRs are emailed to AHBs signed up to the Code and are also made available on the website each year.</i> Submission Deadline: 31st October of same year
3. AHB submits Annual Financial Return (AFR) a. Strategic Plan b. Business Plan c. 30-year Extrapolated financials d. Stress Testing	ONLY applicable to Tier 3 and Tier 2 AHBs which are required to meet the financial standard requirements per the guideline thresholds	Issued Annually <i>The Regulation Office emails AFRs to Tier 3 and appropriate Tier 2 AHBs</i> Submission Deadline: 31st October of same year

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4. Regulation Office conducts Regulatory Assessments	All Tiers	Issued – November through to June Regulation Office issues: <i>Regulatory Assessment Report</i> <u>OR</u> <i>Regulatory Outcome Statement</i> Regulation Office issues Financial Assessment Report, where applicable
5. AHBs signed up to the Code but <u>fail to submit</u> an Annual Regulatory Return	Delisted <u>Impact:</u> Eligibility Funding Circular 15/2016	Annually Delisted AHBs are listed on the Regulation Office website
6. AHBs who have not signed up to the Code	Impact: Eligibility Funding Circular 15/2016	Annually

AHBs agree to abide by the Voluntary Regulatory Code by signing up with the Charter of Commitment. Each organisation self-selects the Tier that reflects their organisation’s size and scale. Where a Tier selection is considered incorrect, the Regulation Office will re-assess the organisation based on size, scale, and private finance exposure and, if appropriate, allocate the organisation the correct Tier.

As outlined above, each AHB receives an Annual Regulatory Return reflecting their Tier. This return is required to be completed annually by AHBs.

The information contained in the Assessment Reports is based on information supplied by the AHB. The Regulation Office does not in any way edit the data. The

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Regulation Office cannot, and does not, vouch for the accuracy of the information which has been supplied by the AHB and the Regulation Office shall not be responsible for the consequences of any error or omissions in the information provided to it.

It expected that a full review of the ARR and AFR, and any other information supplied, has been conducted by the Board and Executive prior to submission. The Board and Executive should ensure it is satisfied that the information provided is correct, consistent and accurately represents the organisation.

4 How the Regulation Office Assesses AHBs

4.1 Regulatory Assessment Process:

Once the Regulation Office has received the Annual Regulatory Return for an AHB it will assess the AHB in line with their size, scope of activity and risk profile.

The Regulation Office conducts a detailed review of AHBs against the Code and key standards. The Regulatory Assessment is based on the completed ARR, audited Financial Statements, key information provided by the AHB and other publicly available information.

The Regulation Office reviews in detail:

1. **Governance** – that the organisation is well governed, with a fully functioning board, providing oversight, direction, control and challenge to the Executive, where applicable. Review of the governance structure includes roles and responsibilities, delegation of duties to the Executive, where applicable, number of meetings, policies, skills and expertise of the Board members, compliance with legislation and that appropriate board governance structures are in place.
2. **Financial Viability** – the Regulation Office completes a review of the AHB's audited Financial Statements, proportionate to an organisation's Tier level, annual reports, strategic plans and financial plans where appropriate. The Regulation Office reviews whether an AHB is operating a surplus or deficit (over two or more

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years), is liquid and generating operating cashflows. Tier 3 AHBs and developing T2 AHBs submit a detailed financial return as part of the Financial Standard. Such requirements remain proportionate and risk-based in line with the principles of the regulatory framework.

3. **Performance Management** – AHBs must be accountable to their tenants and the regulatory framework emphasises this by requiring AHBs to monitor and report on how they manage their operations including areas such as repairs, allocations, voids and arrears. This involves having an agreed set of performance management indicators, specific tenant service indicators and communication mechanisms.

4.2 Annual Financial Return and Assessment Process:

In addition to the ARR, Tier 3 AHBs and Tier 2 AHBs which are required to meet the financial standard requirements per the guideline thresholds, are required to annually submit an Annual Financial Return (AFR), financial projections extrapolated over a 30-year period, strategic plans, business plans, evidence of stress testing and financial assumptions underpinning the financial modelling.

The Regulation Office works with individual AHBs to determine if they are required to meet the Financial Standard requirements under the threshold guidelines. Where AHBs are unsure of their requirements they should contact the Regulation Office directly.

4.3 Assessment Reports and Outcomes

In line with the proportional and risk-based approach of the Regulatory Framework, at the end of the assessment cycle the Regulation Office will issue either:

- A. Assessment Outcome Statement **OR**
- B. Regulatory Assessment Report

AHBs that have completed an AFR will also receive:

- C. Financial Assessment Report

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Assessment Outcome Statements are issued to Tier 1 AHBs and non-growth Tier 2 AHBs. Outcome Statements provide the outcome of the assessment and list key recommendations for consideration.

Regulatory Assessment Reports are issued to Tier 3 AHBs, growth Tier 2 AHBs, any newly signed-up Tier 1 AHBs, and all AHBs in the **engagement** process. Assessment Reports include the assessment outcome, key recommendations, and provide detailed analysis based on the Code and standards.

Financial Assessment Reports are issued to AHBs that have submitted an AFR, strategic plan, business plan, 30-year extrapolated financials and stress testing. Financial Assessment Reports provide detailed analysis of the AHB’s compliance against the Financial Standard and include key recommendations for consideration.

4.1 Annual Review Meetings

The Regulation Office is committed to meeting all Tier 3 AHBs and growth Tier 2 AHBs annually. Annual review meetings are held with Boards and Executive Teams of Tier 3 AHBs and growth Tier 2 AHBs. These meetings are designed to review governance, financial viability and performance management, alongside unit growth strategies, funding arrangements, risk management, organisational structures and any other relevant matters.

4.2 Assessment Outcomes

Following assessment, the Regulation Office will issue one of three outcomes to AHBs:

Outcome	Explanation	Action/Requirement	Circular 15/2016
Satisfactory	The organisation substantially meets the requirements of the Code.	Considerations to be made by the Board	Meets criteria
Satisfactory with key recommendations	The organisation has high level of compliance.	Improve, develop & strengthen where applicable	Meets criteria

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	Improvement areas identified that require review, action or clarification.	Organisation maybe asked to provide written clarification AHB to consider observations	
Engagement	Significant areas of risk identified in relation to an AHB's governance, financial viability and/or performance management The organisation requires review and action plan. Risk based focus is on the larger AHBs or those with significant growth plans or private finance.	Engagement Meetings Action Plan Where applicable external expertise to be engaged	Does not meet criteria

4.3 Engagement

Where significant areas of risk are identified in relation to an AHB's governance, financial viability and/or performance management, that organisation may be required to enter into a process of Engagement ("Engagement") with the Regulation Office.

As a general principle, in line with risk-based Regulation, it is anticipated that those AHBs which require Engagement will be the larger organisations or those with significant growth plans and/or private finance.

The Regulation Office notes that there are consequences for an AHB, where there is an adverse finding. The Regulation Office will ensure that there is due process and fair procedures in undertaking both the assessment, outcome and engagement process, ensuring that the AHB has received fair procedure.

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Those AHBs which may require Engagement will be invited to meet the Regulation Office to review the assessment outcome within a specified period of time. This is to ensure that AHBs are aware of the risks areas identified and have an opportunity to submit additional documentation in this regard. Following the review of any additional information provided and due process and procedure an AHB may or may not enter Engagement.

Those AHBs will be invited to agree a set of appropriate actions, alongside timelines for completion. In some cases, AHBs may be asked to appoint an external consultant to conduct an independent review of the organisations governance, financial management and performance.

AHBs who have been deemed in 'Engagement', do not meet the funding eligibility criteria under Circular 15/2016.

4.4 Engagement Failure

Where due process has been completed within the engagement process and where an AHB fails to address key issues within a reasonable time-period, the Regulation Office may issue a Notice of Concern to AHB outlining the lack of progress on key items and the implications of Engagement Failure. Organisation are provided the opportunity to respond to Notice of Concern.

The Regulation Office may then seek to issue a Final Notice of its intention to seek approval from the interim Regulatory Committee to deem the organisation unsatisfactory, remove the AHB from public listing, inform the department of engagement failure, inform key stakeholders as appropriate and establish appropriate next steps and action plans with the AHB and stakeholders

4.5 Unsatisfactory

An AHB may be deemed organisation unsatisfactory where:

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- Due process has been completed within the engagement process and where an AHB fails to address key issues within a reasonable time-period OR there are findings of
 - A risk of significant loss or damage to AHB, its assets or beneficiaries
 - Where evidence of breach of duty of trustees
 - Evidence of serious or sustained misconduct by those in management and control of a AHB.

iRC approval is required prior to AHB being deemed 'Unsatisfactory'. The iRC may remove the AHB from public listing, inform the department of engagement failure, inform key stakeholders as appropriate and establish appropriate next steps and action plans with the AHB and stakeholders

AHBs who have been deemed to be unsatisfactory, do not meet the funding eligibility criteria under Circular 15/2016.

4.6 Delisting

AHBs who have signed up to the Code but fail to submit an Annual Regulatory Return during the Regulation Cycle, inhibits the Regulation Office from carrying out this assessment and constitutes a failure to engage fully with the Code.

In the event of non-submission of an ARR, AHBs will be delisted from the Public Register of AHBs signed up to the Code. As noted previously, this will impact their eligibility to funding under Circular 15/2016.

Those entities who have been delisted continue to retain AHB Status. AHBs who wish to rescind their AHB status should contact the Department of Housing, Planning and Local Government at ahb@housing.gov.ie

Delisted AHBs may re-apply to commit to the Code upon satisfactory submission of all required documentation.

AHBs who have been delisted, do not meet the funding eligibility criteria under Circular 15/2016.

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The Regulation Office maintains a record of delisted AHBs on its [website](#).

5 Contact the Regulation Office

For any questions or enquiries, contact the Regulation Office at 01 656 4170 or regulation@housingagency.ie.