

MONITORING AND REPORTING FRAMEWORK 2016-17

INTRODUCTION

This framework sets out the Community Housing Regulatory Authority's (the Authority's) approach to the monitoring and reporting requirements for registered Class I Social Landlords. It describes:

- what annual monitoring is;
- the annual monitoring and reporting process;
- how the Authority assesses compliance with the Performance Standards;
- what enhanced monitoring is and when it is used;
- the requirements for disclosure and change reporting by registered Community Housing Providers (CHPs); and
- the protocols around sharing information with other agencies involved in social housing.

Annual monitoring is required under Part 10 of the Housing Restructuring and Tenancy Matters Act 1992 (the Act). The Authority must monitor the compliance of registered CHPs with the prescribed eligibility criteria and Performance Standards, at least on an annual basis.

Reporting is when CHPs proactively advise the Authority of any changes to the way their business is governed or operates. This is where the Disclosure or Change reporting process is used.

All of the Authority's activities, including registration, annual monitoring and reporting processes, are designed to ensure:

- the growth of a fair, efficient and transparent community housing sector; and
- that tenants are appropriately housed.

In undertaking these functions, the Authority provides an assurance to the Government and tenants that Class I Social Landlords remain financially viable and provide appropriate services to tenants.

The Authority works with the Ministry of Social Development (MSD), Community Housing Aotearoa, and other agencies involved in social housing, to reduce the compliance burden on registered CHPs wherever possible, while ensuring they are meeting the minimum standards expected of a Class I Social Landlord.

The Authority's focus is determining the ongoing viability of a CHP and its ability to deliver social housing over the long-term. This differs from contract monitoring, which is focused on ensuring the delivery of the outcomes that have been contracted for (in this instance, the provision of a contracted number of Income Related Rent Subsidy (IRRS) tenancies and associated outcomes in the MSD contract).

WHAT IS ANNUAL MONITORING?

At the time of registration, CHPs must demonstrate they have the *capacity* to meet the Performance Standards. Once registered the Authority is required to monitor a CHP's *compliance* with the Performance Standards. Please see Appendix 1 for the legislative basis for this requirement.

The Authority utilises an evidence-based compliance framework in its monitoring activities. This simply means that a registered CHP is required to provide information to the Authority that demonstrates compliance with the Performance Standards, and that it is following its policies and procedures in practice.

For example, as part of its application for registration, a CHP may provide its Governance Manual to show that it has in place effective, transparent, and accountable arrangements and controls for decision making (Performance Standard 1.1(b)(iii)). For annual monitoring purposes, it would be the Authority's assessment of the CHP's Board Minutes that would demonstrate effective governance in practice, including apologies being taken, conflicts of interest recorded, consideration of risks, regular reporting of key aspects of organisational performance by management, and Board decisions being clearly recorded.

Annual Regulatory Report

The main way the Authority monitors ongoing compliance is by requiring registered CHPs to complete and submit the **Annual Regulatory Report**¹ and mandatory supporting documents that show how a CHP is meeting the Performance Standards.

This report must be provided to the Authority no more than 28 days after the organisation's annual general meeting (AGM). If a CHP does not hold an AGM, the annual report date will be set to align with the CHP's sign-off of its year-end financial accounts.

The Annual Regulatory Report is in three parts:

- **Section I:** This section is where the CHP responds to the areas of improvement the Authority has identified either: in the Evaluation Report at the time of registration; during the previous year's Assessment Report from the Authority (see below); or resulting from a Change or Disclosure Report. The information requested in this section is mandatory to enable us to assess that an organisation is complying with the prescribed Performance Standards.
- **Section II:** This section is for the CHP to demonstrate how it is complying with the prescribed Performance Standards by providing a set of mandatory documents. The Authority assesses these documents to ensure the CHP remains financially viable and continues to follow good governance and management practices in its daily operations.

The mandatory documents that must be provided to the Authority are:

- board minutes (for the previous 12 months);
- audited financial accounts in the name of the registered CHP;
- current insurance schedules;
- updated Business and/or Strategic Plans and
- a summary of any new capital expenditure (planned or undertaken) that is not already captured in the audited financial accounts or budget forecasts.

¹ Referred to in the Housing Restructuring and Tenancy Matters Act 1992 as the annual report.

The Authority considers that these documents should not impose a significant compliance burden on CHPs, as these are documents that CHPs should have to hand.

- **Declaration:** A declaration is required to be signed by the Chair (or equivalent position) of within the CHP, to confirm that the information provided is correct.

The documents listed above are all that the Authority requires for annual monitoring in 2016/17. However, the Authority will review the documents required each year and advise CHPs of any changes.

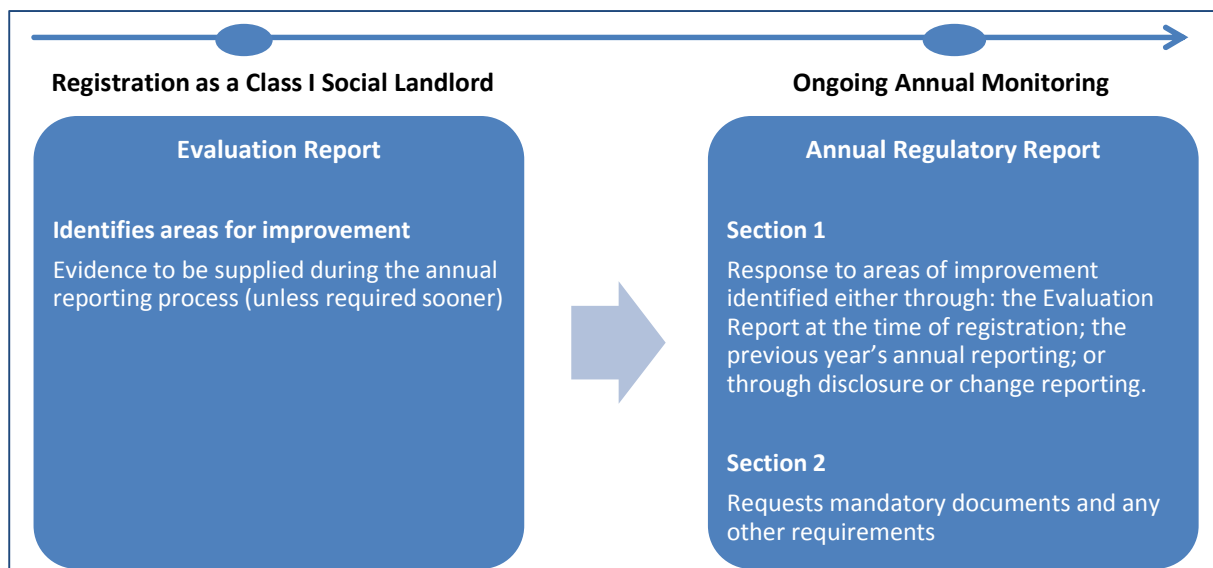
Following receipt of the **Annual Regulatory Report** and mandatory documents, the Authority will assess the evidence provided and either:

- accept the information provided, and pass the CHP as compliant with the Performance Standards; or
- request further information to help make an assessment of whether the CHP is meeting the Performance Standards (if the information initially provided is insufficient).

The Authority's approach is to work with the CHP as it resolves any identified issues; the aim is to ensure the CHP remains viable and is operating within the parameters of the Performance Standards.

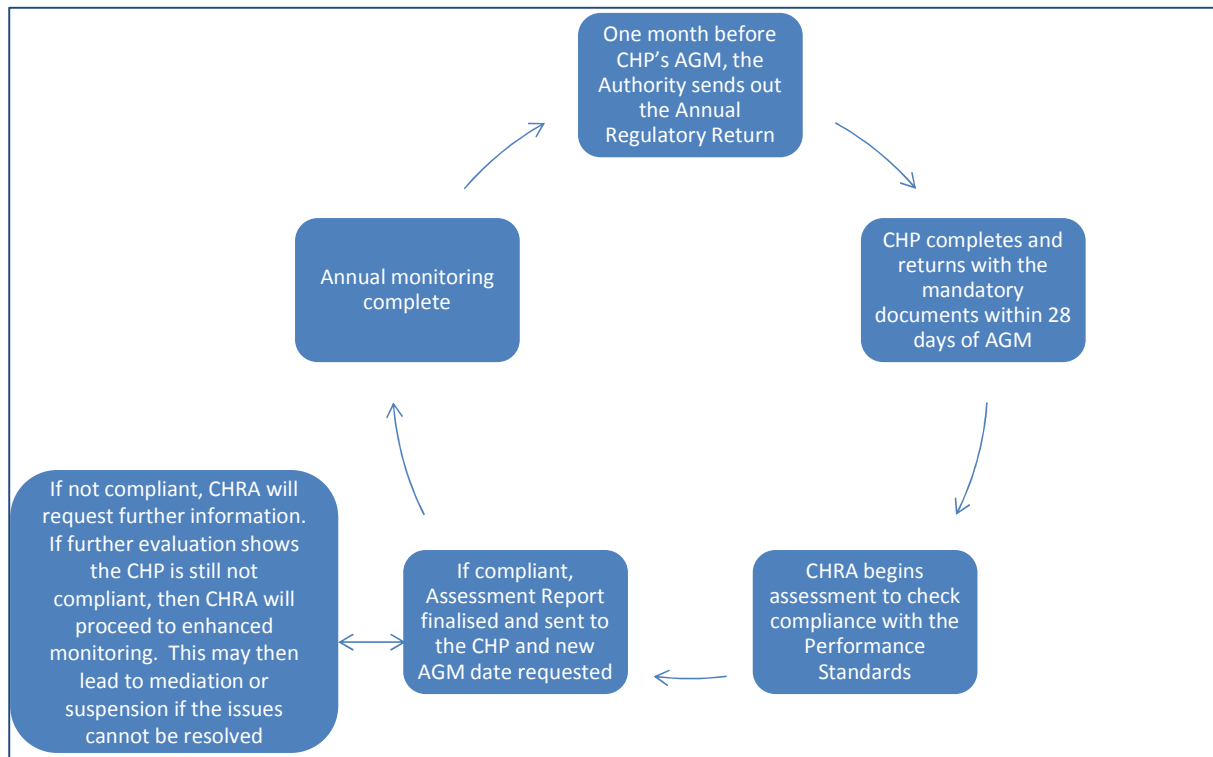
Once the assessment is completed, the **CHRA Annual Assessment Report** is sent to the CHP outlining the Authority's decision. The Authority may pass the CHP as compliant, but highlight areas the CHP needs to work on for the following year's annual reporting – which forms part of Section I of the next Annual Regulatory Report.

Below is a diagram of the requirements for annual monitoring:



WHAT IS THE ANNUAL MONITORING PROCESS?

The annual monitoring and reporting process works as follows:



HOW DOES THE AUTHORITY ASSESS COMPLIANCE?

The Authority applies three principles when assessing a CHP's ongoing compliance with the Performance Standards. These are:

- proportionality - this means assessing whether the policies, procedures and systems that the CHP has in place, meets the Performance Standards for an organisation of its size and scale of housing provision;
- accountability and transparency – this means we are able to justify our decisions; and
- fairness and consistency - ensuring a level playing field, based on fair, clear and open processes and decisions, and consistent application of information and methods.

This approach means the Authority can consider factors specific to the CHP and how it operates. Factors include, but are not limited to:

- does the CHP have experienced people in governance and management?
- is the CHP financially viable?
- does the CHP have, or plan to have, Income Related Rent tenants, or be involved in Housing New Zealand asset transactions, or a capital build programme?

WHAT IS ENHANCED MONITORING?

In addition to annual reporting, the Authority may, in certain circumstances, undertake **enhanced monitoring**. This may be triggered if the Authority receives information that would cause us to believe a CHP has breached, or is likely to breach, the eligibility criteria or Performance Standards. Examples that would trigger enhanced monitoring are, the Authority:

- has reason to be concerned about any information received during annual reporting, or through the submission of a Disclosure or Change Report (see next section);
- does not receive requested information from a CHP in the required timeframe;
- receives a relevant complaint against a CHP from a tenant or third party;
- receives information from another agency regarding concerns about a CHP; and/or
- learns of a media report that may raise concerns about the CHP's operation.

In these instances, the Authority's first action would be to seek further information from the CHP to clarify the issue. The Authority may also request a meeting with both the CHP's Board and/or management to discuss concerns, and offer to work alongside the CHP as it resolves the issue. Once the CHP is complying again, standard annual monitoring would resume.

However, if, after working with the CHP, the Authority is not satisfied that it is meeting the eligibility criteria or Performance Standards, then it may move to mediation to help resolve the issue. As a last resort, the Authority could suspend or revoke the CHP's registration.

DISCLOSURE AND CHANGE REPORTING BY CHPs

Changes to the way a CHP is governed or operates can occur at any time, meaning it can fall outside of the annual reporting process. For this reason, CHPs are required to report significant changes to the Authority.

Disclosure reporting is required for any *significant* event, usually after the fact, which might adversely impact on a CHP's ability to comply with the Performance Standards. Events include, but are not limited to:

- action being taken against the CHP by any statutory body, individual or company;
- action being taken by another Government agency;
- serious breaches of the Code of Conduct by Board members or staff;
- cases of fraud or criminal misconduct which are under investigation;
- an adverse event that may trigger media interest or result in housing units becoming uninhabitable;
- defaults on loans, or circumstances that make a default on loans likely;
- financial issues which could impact on the viability of the organisation or lead to a reduction in service level, business, or loss of staff etc.; and
- complaints made to the Privacy Commissioner about the CHP.

Change reporting is required for *significant* changes to a CHP's business, which are usually known in advance. They include, but are not limited to, changes to:

- the legal name of the CHP;
- the type of organisation or incorporation details;

- a CHP’s geographical location, or expansion into other areas;
- the Chair of the CHP’s governing body or the Chief Executive (or equivalent position);
- the contact person the Authority has listed in order to contact the CHP (if it differs from above);
- a CHP’s constitution or enabling document e.g. the CHP’s objects or functions or scope of activities;
- the AGM date, or month in which the annual accounts are signed off;
- the acquisition or development of further rental housing units (including notification of when they become available for use);
- the structure of the organisation e.g. merger or takeover; and
- the rent-setting policy that impacts on non-income-related rents.

When the Authority receives a Disclosure or Change Report from a CHP, we will assess this information to determine whether the change will affect the CHP’s ability to meet the eligibility criteria and/or Performance Standards. For example, if the Authority is notified that a CHP is involved in a proposal to significantly increase the size of its housing stock, the Authority would then assess the CHP’s capacity to manage a larger portfolio.

If the Authority identifies an issue, we would work through it with the CHP, which may involve requesting further information to help make an assessment. The Authority may trigger **enhanced monitoring** until the issue has been resolved.

INFORMATION SHARING WITH OTHER AGENCIES

A number of Government agencies are involved in various aspects of social housing delivery and have different roles in gathering information related to community housing.

To minimise the compliance burden, every effort will be taken by agencies to avoid duplication where possible. As part of this work, the Authority and MSD will in 2016/17 review the information requirements across both agencies, to ensure we are aligned and that our monitoring requirements do not overlap.

While an [Operational Agreement](#) is in place with MSD, it does not currently extend to the Authority sharing any documents submitted as part of the registration or annual monitoring and reporting process. To minimise any compliance burden, the Authority is non-prescriptive as to the format of supporting documents. Therefore, we are happy to receive any reports or documents that have been prepared for other purposes and/or agencies, so long as it is relevant to the prescribed Performance Standards.

APPENDIX 1 - STATUTORY BASIS FOR REGULATION

The statutory basis of the annual monitoring is contained in Part 10 of the Housing Restructuring and Tenancy Matters Act 1992.

Section	Power/Requirement
168	<p>Registration Registration is continuous so long as criteria continue to be met. The Authority must assess at least annually, and may assess at any other time, whether a registered CHP continues to meet the prescribed eligibility criteria and Performance Standards.</p>
169	<p>Suspension The Authority has the power to suspend a CHP if, after making an assessment under section 168, it determines that a registered CHP no longer meets the prescribed eligibility criteria and/or Performance Standards. In these cases, the Authority must suspend the CHP's registration until the Authority is satisfied it does meet the eligibility criteria and/or Performance Standards. The suspension is recorded on the register. If the CHP does not satisfy the Authority within 12 months of the suspension, or any further period that the Authority may determine, registration is revoked in accordance with sections 170 and 171.</p>
170	<p>Revocation The Authority may revoke registration if it is satisfied on reasonable grounds that a CHP has failed, or is failing, to meet one or more of the prescribed eligibility criteria or Performance Standards; the CHP does not comply with a lawful requirement of the Authority under Part 10 of the HRTMA; has ceased to operate as a CHP; or has written to the Authority requesting revocation. Registration may be revoked whether or not the CHP has been suspended under section 169.</p>
171	<p>Revocation procedure Sets out the procedure the Authority must follow to revoke registration.</p>
174	<p>Authority to monitor registered CHPs The Authority must monitor the compliance of registered CHPs with the prescribed eligibility criteria and Performance Standards, and may require CHPs to supply information or produce documents for that purpose under section 178.</p>
175	<p>Reporting requirements Registered CHPs must provide annual reports on their operations to the Authority, or at any other time as required.</p>
176	<p>Information to be included in annual reports Stipulates what information must be contained in the annual reports.</p>
178	<p>Information requests from the Authority The Authority may require a person to supply information or produce documents it considers necessary for the purposes of performing or exercising its functions, powers, or duties under the Act.</p>