

PERFORMANCE STANDARDS GUIDANCE

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April 2005

These Performance Standards are made under Section 93 of the *Housing Act 1983*, and take effect 30 days from their date of publication.

Introduction

These performance standards represent the standard of operation required of Registered Housing Agencies while registered under the provisions of the Act. The agency should note that compliance at all times with all standards, and the measures that apply to them, is mandatory. It is the responsibility of the agency to provide when requested supporting evidence to show that the standards have been met.

One of the principal mechanisms for measuring performance and improvement will be the agency's annual business plan and the measures of performance contained in that document. The business plan will not be static, and the agency will be required to demonstrate continuous improvement against its measures to the satisfaction of the Registrar.

Failure to meet any measure of a standard may result in intervention under Division 8 of Part VIII of the Act where the Registrar of Housing Agencies is satisfied that intervention is appropriate in the circumstances and accords with guidelines made by the Minister under Section 130(3) of the Act.

Application of the Performance Standards

Agencies registering under the Act will range from small to large-scale operations. The performance standards apply, regardless of the size of the agency. However, the standards are broad, and the measures of performance will be assessed with reference to the individual agency's scale and complexity of operation, the concomitant risks, and the extent to which it has achieved improvement over the previous years' performance against its business plan.

Guidance

The regulatory 'package' provided by the Housing Act 1983 ('the Act') comprises a number of elements. The Act provides the regulatory framework, establishing the Registrar of Housing Agencies ('the Registrar') and investing it with powers to register and monitor the performance of registered agencies. It also provides the Registrar with inspection and enforcement powers.

The registration criteria are contained in Schedule 7 to the Act. These criteria must be met and maintained if the agency is to be registered and remain registered.

In addition to maintaining registration eligibility, a registered agency is required to demonstrate compliance with a set of performance standards established by direction of the Minister for Housing. Failure to comply with a standard may provide the Registrar with grounds to consider intervention in

the agency's affairs. In making that consideration, the Registrar is bound both by the provisions of Part VIII of the Act and by guidelines made by the Minister under that Part.

This document explains the operation of the performance standards. The performance standards can be viewed as a set of operating rules. It is a condition of being registered that the agency complies with the performance standards and other requirements of the Registrar at all times.

The focus of the performance standards is in ensuring that the agency delivers the best possible rental housing services to its community. To do that requires effective, ethical governance, competent management and a sound business strategy, incorporating all elements of rental housing provision, management and maintenance.

Planning and forecasting of the agency's business strategy needs to be accurate and sustainable, and must address the particular rental housing needs of the community it serves.

Registered Housing Associations, and Registered Housing Providers seeking to upgrade their registration status to Registered Housing Associations, must also demonstrate the capacity and viable strategies to expand their stock of housing from funds additional to State Government funding.

There are many useful resources to assist agencies to develop and articulate their business vision and to shape their operation. Agencies are encouraged to consider and incorporate relevant aspects of the National Community Housing Standards (May 2003). These standards are particularly recommended because of their relevance to community housing agencies in Australia. However a number of useful resources are available through various industry websites, for example:

Further information on good governance can be found at: www.australian-corporate-governance.com.au

Further information relating to the Australian Securities & Investment Commission financial reporting can be found at: www.asic.gov.au/asic/asic_pub.nsf

The Housing Corporation website also contains useful information relating to regulation and quality improvement: www.housingcorp.gov.uk

Important note

The performance standards govern the relationship between the agency and the Registrar of Housing Agencies. The agency may also be bound by contractual relationships with the Director of Housing. The agency will need to ensure it can comply with both.

Interpretation

1. Definitions

The Act	The <i>Housing Act</i> 1983 as amended from time to time
The agency	A registered agency as defined in Section 4 of the Act
Affordable rent	Rent set within the parameters applying to rents determined from time to time by the Director of Housing
CEO	The Chief Executive Officer of the agency or the person employed to manage the agency, by whatever title known
Conflict of personal interest	Any matter, circumstance, interest or activity relating to an interested person that may or may appear to impair the ability of the interested person to make decisions and judgments, or to act, in the best interests of the agency
Conflict of agency interest	Any matter, circumstance, interest or activity relating to an entity which is a subsidiary of the agency or with which an interested person is associated that may or may appear to impair the ability of the interested person to make decisions and judgments, or to act, in the best interests of the agency
Finance Officer	The person employed by the agency having primary responsibility for the preparation of its financial accounts
Governing body	A governing body as defined in Section 4 of the Act
Interested person	A member of the governing body, an officer or employee of the agency or a person contracted to perform works and services on behalf of the agency
Registrar	The Registrar of Housing Agencies
Relevant regulatory body	Has the meaning provided to that term in Section 132 (12) of the Act

2. In these standards, where reference is made to the existence of policies or strategies, the standard requires compliance with, and enforcement of, those policies or strategies.
3. Words importing the singular shall include the plural, and vice versa.

GOVERNANCE OF THE AGENCY

The agency must be governed effectively at all times.

Indicators:

1. The agency's core purpose, mission and values are aligned with the provision of affordable housing and the agency acts at all times in accordance with its core purpose.
2. The agency has policies to secure a sufficient number of appropriately qualified or experienced persons, with reference to the nature, size and complexity of the agency's operations, to participate as members of the governing body and ensure that vacancies are filled in a timely manner.
3. The roles and responsibilities of members of the governing body are communicated to each member in writing on their appointment and on any re-appointment.
4. The agency employs strategies to identify, manage and mitigate potential conflicts of personal interest and conflicts of agency interest and ensures that decisions are taken in the best interests of the agency.
5. The governing body meets regularly and provides effective oversight of the operations of the agency and the actions of management.
6. Where appropriate, the governing body obtains specialist advice to assist it in decision-making, and an appropriate allocation is included in its business plan for this purpose.
7. The agency conducts its business in a manner that does not compromise the reputation of the community housing sector within the wider community.
8. The agency has consideration of the *National Community Housing Standards* Signposts of Good Practice in regard to governance and governing bodies:
 - Standard 5.1: Establishing and Maintaining Governing Bodies
 - Standard 5.2: Good Governance

Guidance

It is expected that the governing instrument of the agency (being its constitution or rules, depending on how it is incorporated) will deal with the democratic election of members to the governing body, and with the co-option of members to fill short-term vacancies between elections.

In drawing up its governing instrument however, and selecting members for the governing body, the agency will need to consider the required numbers, qualifications and experience of members and resource requirements, having regard to the scale and complexity of its business, to enable it to provide effective direction to the agency's objectives and to provide effective guidance to management.

The agency should ensure that there is sufficient flexibility in the structure to ensure that decision making is undertaken by a reasonably representative and appropriately informed group, and to ensure that decision making at meetings is not frustrated by the lack of a quorum or by deadlocks in voting.

Careful consideration should also be given to the structure, conduct and frequency of meetings to ensure democratic and balanced decision making, bearing in mind the responsibility for decisions that attaches to members of the governing body.

It is acknowledged that not all agencies will have among their members or constituents people with specialist qualifications or training, such as accounting and law. Agencies can deal with that eventuality by ensuring that it is alert to possible contingencies and make adequate provision in their business plan to obtain specialist advice when required.

All members of the governing body of any agency must understand clearly their legal obligations as members. This can be ensured by measures such as providing:

- Letters of appointment outlining legal requirements, estimated time commitments and the agency's expectations of the member, and the division of responsibility between the governing body and management of the agency.
- Resource kits comprising essential information about incorporation requirements, compliance requirements under the Act, the agency's business plan, policies and code of conduct; and
- Regular training and information sessions.

Members should specifically acknowledge and adopt the requirements of the agency's code of conduct.

Detailed and accurate written records of decision-making should be produced and verified at the next meeting. Where a management decision is delegated to an individual member or sub-group of the governing body or to management, the scope of authority, period of delegation and reporting requirements should be recorded, as should decisions taken by the delegate.

The original records of decisions should be securely stored, and copies made available to all members of the governing body. Records must also be available on request to the Registrar or an inspector appointed by the Registrar.

The agency's administrative systems should cater adequately for the storage and prompt retrieval of records of decisions, policies and other important records.

MANAGEMENT OF THE AGENCY

The agency must be managed effectively to achieve the outcomes of its business plan in a timely manner and within a continuous improvement framework.

Indicators:

Organisational Structure

1. The agency has an appropriate organisational structure.
2. Staff of the agency are selected on the basis of skills and experience required to effectively carry out the functions of the agency, and in compliance with principles of merit and equity.
3. The agency has policies with respect to staff development and training and regularly reviews the staffing of the agency to ensure that the operational needs of the agency can be met.
4. Remuneration of staff is commensurate with skills and experience and the scale and complexity of the agency's operations and the relationship between agency performance, individual performance and remuneration is clearly and appropriately defined.
5. The agency has consideration of the *National Community Housing Standards* Signposts of Good Practice in regard to organisational management:
 - Standard 5.3: Effective Management
 - Standard 7.1: Recruiting, Selecting and Appointing Staff
 - Standard 7.2: Supervision, Training and Development of Staff

Guidance

The agency should be adequately staffed to achieve its objectives, and conversely, the objectives of the agency should be within the capabilities of the staff to achieve. The skills and experience required for particular positions should be carefully identified, as should the training and development requirements to enable employees to maintain and develop their skills.

Management objectives, and the role of each employee in achieving those objectives, should be clearly articulated in the business plan at a high level and within individual job descriptions at a detailed level. Compliance with the agency's code of conduct should be a condition of employment.

Remuneration and performance assessment of all positions should be commensurate with other like agencies and comply with any applicable industrial awards. Outsourcing of roles and responsibilities should be carefully monitored. A full staffing budget, including anticipated outsourcing, should be included in the agency's business plan.

Business Systems and Processes

1. The agency has effective financial systems in place that meet Australian accounting standards and that enable a true and fair view of the agency's financial condition and operational results to be ascertained at any time.
2. The agency has effective administrative systems in place to support the functions of management.
3. The agency has privacy policies that comply with the Information Privacy Principles contained in the *Information Privacy Act 2000* and has strategies to ensure that tenants privacy is maintained with respect to disclosure within the agency and to third parties.
4. Where any aspect of the management of the agency's business or functions is outsourced, the agency ensures that the entity to which the business or functions are outsourced complies with these performance standards and with the agency's policies to the extent they apply to the business or functions outsourced.
5. The agency complies with all laws regulating any aspect of its business or operations.

6. The agency has consideration of the *National Community Housing Standards* Signposts of Good Practice in regard to business systems and compliance with workplace requirements:
 - Standard 6.4: Office Environment
 - Standard 7.3: Employment Systems
 - Standard 7.4: Occupational Health and Safety

Guidance

Where an agency outsources any aspect of its operation, it must ensure that the person or agency to which a function is outsourced provides service to the standard against which the agency will be assessed, and in compliance with the agency's policies and strategies. The agency, being the registered body, ultimately bears responsibility for the standard of output of the outsourced function. The costs and benefits of outsourcing must be clearly reflected in the agency's business plan.

Business Planning

1. The agency has a business plan that identifies key aspects of its business operations and business development, including but not limited to:
 - The strategic objectives of the agency and its strategies to achieve those objectives;
 - Its strategies to ensure it delivers quality services;
 - Its strategies to optimise rent collection and recovery;
 - Its processes to ensure its activities are financially sustainable;
 - Its risk management plan, including a framework for identifying key business risks and mechanisms for managing and mitigating those risks;
 - Its plan for continuous improvement of its functions and services;
 - Its strategies to sustain, expand and develop its housing portfolio including leverage on its portfolio through such avenues as private investment, philanthropic agencies, and local government participation; and
 - Its strategies to secure additional funds and the sources of those funds.
2. The agency demonstrates how it will achieve outcomes described in its business plan.
3. The business plan is reviewed as required by the Registrar.
4. The agency has consideration of the *National Community Housing Standards* Signposts of Good Practice in regard to performance planning and management for agencies:
 - Standard 5.4: Planning and Development
 - Standard 5.5: Organisational Review

Guidance

Although the requirements of the business plan are included under the heading of 'Management of the Agency', the matters to be included will impact on all the performance standards, and the document is expected to be detailed and comprehensive.

Some important points to note are that the business plan must contain the measures against which the Registrar can assess the agency's performance. The agency will be held accountable to these measures.

Moreover, preparation of the business plan will not be a once-off process. It will be reviewed at least at intervals agreed with the Registrar, and is always subject to agreement by the Registrar. It will be used also to gauge the level of improvement in performance. Failure to achieve the agreed outcomes of the business plan in an assessment period, and failure to develop and review its objectives over time would generally result in closer monitoring by the Registrar.

Reporting

1. The agency meets mandatory verifiable measures of performance as agreed with the Registrar.
2. Reports required to be produced to the Registrar or to the relevant regulatory body are provided when due and represent an accurate and balanced account of the matters reported.

Guidance

Refer to guidance on reporting contained in the standard on Risk Management.

PROBITY

Decisions relating to the business and functions of the agency must be made ethically, and conform to the agency's code of conduct.

Indicators:

1. The agency has established or adopted a code of conduct which includes such matters as:
 - Managing conflicts of personal interest or conflicts of agency interest in decision making;
 - Preventing exploitation of knowledge or information about the affairs of the agency for personal financial gain;
 - Maintaining transparency and accountability in all decision-making by the agency;
 - Observing the confidentiality of the agency's business transactions and the privacy of individuals dealing with the agency;
 - Dealing fairly with stakeholders; and
 - Protecting the agency's assets.

Guidance

Probity refers to integrity and honesty in the agency's operations and in the conduct of its governing body and employees. The performance standards require the agency to establish or adopt a code of conduct incorporating measures such as mechanisms to manage conflicts of interest and to make policy and business decisions within an ethical framework.

The ASX Corporate Governance Council has developed *Principles of Good Corporate Governance and Best Practice Recommendations* that provide sound advice relating to the probity and integrity of a governing body.

FINANCIAL VIABILITY

The agency must remain financially viable and solvent to the satisfaction of the Registrar at all times.

Indicators:

1. On registration, the agency demonstrates its financial viability and documents within its business plan strategies for maintaining ongoing viability.
2. Within its business plan, the agency identifies matters that impact on the viability of the agency.
3. The agency has policies and strategies to minimise prolonged vacancies in housing stock and loss of rental income.
4. The agency identifies the Australian accounting standards with which it will comply.
5. Financial records certified by the CEO or Finance Officer as representing a true and fair view of the agency's financial condition and operational results are reviewed by the governing body not less than quarterly and are independently audited not less than annually.
6. The agency submits financial and other reports relevant to its ongoing viability and business operations in the form and reporting timeframe determined by the Registrar.
7. The agency has consideration of the *National Community Housing Standards* Signposts of Good Practice in regard to management systems to support an agency in delivering its service provision:
 - Standard 6.1 - Financial Systems
 - Standard 6.2 - Administrative Systems
 - Standard 6.3 - Management Information Systems

Guidance

The agency must demonstrate continuing financial viability. The most important tool will be a comprehensive business plan that identifies the key objectives of the agency and identifies the strategies to achieve those objectives, and the measures against which performance and improvement in performance can be assessed.

Refer also to guidance on business planning contained in the standard on Management of the Agency – Business Planning.

TENANCY MANAGEMENT

The agency must provide effective tenancy management.

Indicators:

Allocations and accessibility

The agency must allocate rental-housing stock using processes that are fair and transparent.

1. The agency has developed policies about fair and equitable access and allocation of housing and strategies responsive to local needs to implement its policies.
2. Allocation of stock occurs in conformity with the agency's policies and the eligibility criteria.
3. The process of housing allocation is open to scrutiny and review.
4. The agency has consideration of the *National Community Housing Standards* Signposts of Good Practice in regard to allocation of housing:
 - Standard 1.1: Allocation of Housing
5. The agency's access and allocations policy is sensitive to clients with complex needs and low incomes and, to the extent permitted by other performance standards, ensures allocation of tenancies to this client group.
6. The agency has developed, documented and readily available information on its eligibility criteria.

Guidance

This standard requires identification of the tenant profile, which includes the demographic group to which services are targeted, the location of properties and other factors. The business plan must address tenancy management issues such as rent policies, arrears policies and so on, providing a statement of policy and identifying the strategy to deliver plan outcomes. Each issue must be fully analysed and costed, with verifiable performance measures.

Affordability of rents

The agency must offer properties for occupation at affordable rents.

1. The agency has policies and strategies to deliver housing services at affordable rents to low income tenants. The Registrar will monitor the extent to which rent charged is below 75% of market rent and exceeds 25% and 30% of tenant income.
2. Policies developed by the agency under the preceding paragraph detail the method of assessing affordability, the treatment of Commonwealth Rent Assistance in the assessment and the treatment of additional service charges if applicable.
3. The agency regularly reviews its rent modelling and the impact of its rent policies on its tenant population and on its financial viability. Where appropriate, adjustments to rent policies are made.
4. The agency has policies and strategies to deal with tenants in financial difficulties and with arrears of rent.
5. The agency has policies and strategies to ensure that service and other charges do not exceed fair market or actual charges.

Guidance

The agency's business must be geared to low income tenants, and will be expected to incorporate the tenant's entitlement to receive assistance such as Commonwealth Rent Assistance (CRA) into its rent modelling.

Affordable rent means rent set within the parameters applying to rents determined from time to time by the Director of Housing.

Security

The agency aims to sustain tenancies.

1. The agency has policies and procedures which strive to sustain tenancies.
2. Enforced transfers are minimised and eviction is treated as a mechanism of last resort.

Client Service

The agency demonstrates a strong commitment to serving and valuing its clients

1. The agency provides safe, secure and affordable housing, managed in accordance with requirements of the *Residential Tenancies Act 2001* (RTA).
2. The agency has identified the tenant profile to which housing services will be provided.
3. The agency has policies and strategies to deliver housing services in a fair and equitable manner to its tenants.
4. The agency has identified the standards of performance it will achieve in tenancy management.
5. The agency has, and regularly maintains, written information on all its policies in a way that is readily accessible to tenants and potential tenants.
6. The dispute resolution procedure the agency has established under Section 97 of the Act is easily accessible by tenants and prospective tenants and provides for prompt and effective resolution of complaints.
7. The agency accepts and deals appropriately with client advocates.
8. The agency has consideration of the *National Community Housing Standards* Signposts of Good Practice in regard to tenancy management:
 - Standard 1.2: Establishing and Maintaining Tenancies
 - Standard 1.3: Changing Needs of Tenants
 - Standard 1.4: Ending Tenancies
 - Standard 3.1: Tenant Rights
 - Standard 3.4: Access to Services of the Organisation
 - Standard 3.6: Complaints and Appeals

Guidance

The Act requires the agency to maintain an effective complaints resolution mechanism, and this must be freely accessible to tenants and prospective tenants. The complaints resolution mechanism should be structured to minimise the need for recourse either to VCAT (Residential Tenancies jurisdiction) or to the Registrar. Tenant consultation should not be limited to the resolution of complaints.

Client Participation

The agency has appropriate participation processes for all tenants

1. The agency has operational policies and practices that are responsive to the needs of the local community and are based on an inclusive approach to tenant participation.
2. The agency assists and allows clients to make informed choices about their housing.

3. The agency actively consults with tenants on issues that affects their housing, including development and monitoring of its policies on tenancy management, access, allocation of housing and asset management.
4. The agency has consideration of the *National Community Housing Standards* Signposts of Good Practice in regard to tenancy management:
 - Standard 3.2: Tenant Participation
 - Standard 3.5: Confidentiality and Privacy
 - Standard 4.1: Tenant Access to Support
 - Standard 4.3: Providing Housing Information and Referral

Guidance

The agency's policies and strategies for tenancy management must be 'client friendly' and incorporate processes for active consultation and obtaining feedback from tenants.

HOUSING MANAGEMENT AND MAINTENANCE

The agency must maintain its housing stock to a high standard.

Indicators:

1. The agency ensures that properties under its management or ownership are maintained to a community standard, and never below a habitable standard.
2. The agency has a program of inspection and maintenance and upgrade of properties ('standard maintenance') that supports the preceding paragraph and minimises vacancy rates.
3. Maintenance is undertaken by qualified (and where applicable, licensed) tradespeople.
4. The agency has policies with respect to standard maintenance, urgent repairs, non-scheduled maintenance and upgrades, complies with those policies and has adequate provision in its business plan, and the resources, for these matters.
5. Housing stock acquired following the publication of these standards meets building standards before being offered for occupation by tenants.
6. The agency maintains an accurate and current list of the properties it owns and manages.
7. The agency seeks consensual agreement with tenants in relation to access to properties that do not compromise tenants rights under the RTA.
8. The agency has consideration of the *National Community Housing Standards* Signposts of Good Practice in regard to asset management:
 - Standard 2.1: Responsive Maintenance and Repairs
 - Standard 2.2: Planned Cyclical Maintenance and Upgrade
 - Standard 2.3: Acquiring and Developing Stock

Guidance

This performance standard requires maintenance of housing to a high standard. The standard applying to a particular property will depend on several factors:

- All properties offered for rent from an agency's existing stock must be at least of a habitable standard. A 'habitable standard' refers to a standard of repair which, taking into account the age, character, and locality of the property, would make it reasonably fit for occupation by a reasonably minded person.
- The suitability and habitability of a property may also depend on the particular needs of the tenant whom it is proposed to house in the property.
- Newly acquired properties are expected to comply with the Australian Building Code and to have been issued with a Certificate of Occupancy. In effect, this will mean that agencies must acquire newly built stock, or must renovate it to the required standard before offering it for rent.

The agency must gear its repairs and maintenance strategies to maintaining and improving the standards of its stock, bearing in mind that the notion of habitability is based on reasonable tenant expectations, and will change over time.

When acquiring housing stock, agencies should have regard to guidelines applying to properties acquired or constructed by the Director of Housing.

RISK MANAGEMENT

The agency must manage the risks associated with its business effectively.

Indicators:

1. The agency has identified the likely risks to its business and has financially sustainable strategies to manage and contain those risks.
2. The agency critically reviews its performance against its business plan.
3. The agency responds swiftly and appropriately to manage potential risk situations.
4. The agency has policies and strategies to manage collection of rents and rent arrears effectively.

Guidance

The risks to an agency can be anything that impacts on its ability to deliver services or meet its objectives. Risks are determined by the environment in which it operates and can vary greatly. The agency should identify the risks most relevant to its own business and have in place strategies to deal with those risks. The importance of risk management to the success of the agency's business should be clearly understood throughout the agency.

Within the governing body there should be a clear, agreed and understood approach to managing and controlling risk. The responsibility and accountability for day to day dealing with risk should be clearly allocated within management, with appropriate activity limits. The governing body must ensure that there are sufficient levels of reporting to enable it to exercise effective supervision.

In addition to managing foreseeable risk, the governing body must be able to identify, manage and control emerging or new risks, which may have been unforeseen previously. To achieve this, the governing body should insist on receiving timely, relevant and reliable reports on progress against business objectives and the related risks. The frequency and content of the reporting should match the degree of risk, meaning that in some circumstances the governing body should increase the frequency and comprehensiveness of reporting.

The level of reporting should provide the governing body with the information, (both internal and external to the agency) which it needs for decision-making and management review purposes.

The governing body must ensure its information needs are reassessed as objectives and related risks change or as reporting deficiencies are identified.