

An tÚdarás Rialála Comhlachtaí
Tithíochta Ceadaithe

Approved Housing Bodies
Regulatory Authority



AHBRA

Assessment Policy

Policy Document – August 2024

ahbregulator.ie

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1.Introduction

1.1 The Role of AHBRA

The Approved Housing Bodies Regulatory Authority (“**AHBRA**”) was established under the Housing (Regulation of Approved Housing Bodies) Act 2019 (“**the Act**”). The Act provides for the regulation of Approved Housing Bodies (AHBs) for the purposes of protecting housing assets provided or managed by such bodies. It seeks to support stronger governance, financial management and reporting, property and asset management, and tenancy management by AHBs, with a focus on safeguarding the significant public investment being made in the delivery of social housing by AHBs.

1.2 AHBRA’s Legal Remit

Section 9 of the Act sets out AHBRA’s functions including monitoring and assessing compliance by AHBs with the Act and the approved Standards. Section 37 of the Act sets out AHBRA’s responsibility for the drafting of standards and publishing approved standards in relation to the following:

- (a) the governance of AHBs,
- (b) the financial management of, and financial reporting by, AHBs,
- (c) property and asset management by AHBs, and
- (d) tenancy management by AHBs.

Section 38 of the Act sets out AHBRA’s remit in relation to the making of a standards assessment, where AHBRA may for the purpose of monitoring compliance with the approved Standards, conduct an assessment of compliance by an AHB with the approved Standards (“Standards Assessment”).

1.3 Purpose of Policy

The purpose of this policy document is to set out AHBRA’s approach to conducting a Standards Assessment where an individual AHB’s compliance against the Standards is

evaluated and reported on. This policy document also sets out AHBRA's approach to the next steps following completion of the Standards Assessment and AHBRA's regulatory powers.

1.4 Scope

This policy applies to AHBRA's assessment framework and the process for assessing an AHB's compliance with the approved Standards. This policy does not extend to the annual monitoring programme.

This policy should be read in conjunction with the Act. For the avoidance of doubt, in the event of any conflict or inconsistency between this policy and the Act, the legislative provisions prevail.

2. AHBRA's Assessment Framework

2.1 The Standards for AHBs

The Standards for AHBs establish a set of outcomes that AHBs are required to achieve. The outcomes-based Standards allow for flexibility and a recognition of the diversity within the AHB sector. AHBs are required to demonstrate and evidence their compliance against the approved Standards, recognising that AHBs have different deliverables and business models based on their nature, scale, and the complexities of activities. You can access the Standards for AHBs [here](#).

While an AHB should familiarise itself with the Standards in full by reviewing the Standards, a high-level introduction of the Standards is set out below.

2.2 Governance Standard

The Governance Standard establishes a set of outcomes that AHBs are required to achieve in relation to the governance and management of their organisations. It relates to the responsibility and accountability of the Board of an AHB and outlines the key outcomes that AHBs are required to demonstrate including:

- Compliance with all relevant legal, regulatory, funding and statutory obligations;
- An effective Board.
- Accountability to tenants, the regulator, and its other key stakeholders.
- Acting with honesty and integrity and in the best interests of the AHB.
- Effective risk management.

2.3 Financial Standard

The Financial Standard establishes a set of outcomes that AHBs are required to demonstrate in relation to their financial management and reporting of their organisation and outlines the key outcomes that AHBs are required to demonstrate relating to:

- Effective management of resources to ensure financial viability.
- Effective financial governance framework.
- Appropriate financial management, cashflow and treasury management.
- Effective systems for reporting and monitoring of financial performance.
- Robust financial risk framework.

2.4 Property and Asset Management Standard

The Property and Asset Management Standard establishes a set of outcomes that AHBs are required to demonstrate in their management and delivery of housing, ensuring the provision of safe, suitable and sustainable housing for tenants and service-users. It relates to how AHBs manage their current and future housing assets in a sustainable manner and outlines the key outcomes that AHBs are required to demonstrate relating to their:

- Compliance with all relevant legal, regulatory, funding and statutory, obligations.
- Delivery of effective asset management.
- Provision of a cost-effective repairs and maintenance programme that meets the needs of tenants.

2.5 Tenancy Management Standard

The Tenancy Management Standard establishes a set of outcomes that AHBs are required to achieve in their management of tenancies and in their communication with tenants. It relates to ensuring that AHBs have effective policies and procedures for the delivery of tenant services and outlines the key outcomes that AHBs are required to demonstrate including:

- Compliance with legal, regulatory, funding and statutory obligations.
- Fair transparent and efficient allocation of homes aligned to funding obligations.
- Effective communication with tenants.
- Fair and transparent rent policies, where rents are charged and collected in an accurate and efficient manner.
- Clear and accessible complaints process.
- Tenant engagement in relation to future delivery of tenant services is encouraged and facilitated.
- Understanding tenant satisfaction through monitoring and reporting on the performance of service delivery.

2.6 Guidance on the Standards

AHBRA has published guidance on the Standards for AHBs. The guidance documents aim to help AHBs better understand the 'Standards for AHBs' and provide useful advice on how organisations can demonstrate compliance.

The Governance Standard Guidance document is available [here](#).

The Financial Standard Guidance document is available [here](#).

The Property & Asset Management Standard Guidance document is available [here](#).

The Tenancy Management Standard Guidance document is available [here](#).

3. AHBRA's Approach to Assessments

3.1 Risk Based Regulation

AHBRA is implementing a risk-based assessment framework. Risk-based regulation ensures that AHBRA's regulatory approach is proportionate, appropriate, and measured. AHBRA will tailor its engagement with individual AHBs depending on their risk profile. Additionally, risk-based regulation enables the effective use of AHBRA's resources.

The annual monitoring programme alongside AHBRA's regulatory oversight framework, such as the Notifiable Events and Concerns processes enables AHBRA to identify potential areas of risk and to align regulatory responses and actions to those risks in a proportionate and effective manner.

3.2 Categorisation of AHB's

AHBRA categorised AHBs into the following five key areas based on their size, funding, and operational models:

- Micro (less than 20 dwellings)
- Small (between 20 and 100 dwellings)
- Medium (between 100 and 1,000 dwellings)
- Care & Support (Less than 1,000 dwellings and one or more of the following criteria: more than 50% of income comes from HSE/Tusla; more than 200 FTE employees; income per dwelling is more than €20,000; no dwellings but has income)
- Large (more than 1,000 dwellings)

This breakdown assists AHBRA in considering appropriate regulatory tools, the application of proportionality and informing policy. By recognising the diverse characteristics and risk profiles within the sector, categorisation enables more effective application of risk-based regulation.

In line with proportionality, although Micro and Small AHBs must achieve compliance with the Standards, the ways in which they are expected to demonstrate and evidence compliance with these Standards to the Regulator will be proportionate to their size,

complexity and risk profile. Medium and Large AHBs will be expected to demonstrate and evidence compliance in a more sophisticated manner with reliable and well documented discussions, decisions with procedures and policies.

Care and Support AHBs often have very different business models and obligations. However, Care and Support AHBs of all sizes are expected to demonstrate the ability to account for a separation between housing element costs and support services. Care and Support organisations are also expected to have clear governance arrangements and management structures documenting the roles and responsibilities of individuals involved in housing. The Board of a Care and Support AHB should ensure it has sufficient information relating to the housing management and landlord functions to enable the Board to provide appropriate oversight. Specific guidance for Care and Support AHBs can be found in the Standards Guidance documents, available on AHBRA's website [Here](#).

3.3 AHBRA's Assessment Programme

AHBRA's assessment programme will be conducted on a continuous basis throughout the year. AHBRA uses judgement sampling which is aligned to its risk-based approach.

As outlined above, when selecting AHBs for assessment AHBRA considers several factors, including:

- Risk profile of the AHB, including size and future growth plans.
- Notifiable events and/or concerns received.
- Information provided in the annual monitoring programme.
- Random sampling of AHBs.
- Information received from other sources.

When selecting an AHB for assessment, AHBRA may consider how likely an identified risk is to occur as well as its potential impact.

AHBRA may prioritise assessments of AHBs where the potential impact of a risk is high, for example Large or high growth AHBs. AHBRA may also prioritise the assessment of an AHB where the information submitted as part of the regulatory oversight programme indicates issues such as financial viability or a risk to the wider AHB sector. This may lead to a reactive assessment against one or more standards.

AHBRA may also include AHBs for assessment based on random sampling across the AHB sector. AHBRA reserves the right to assess an AHB at any time.

3.4 Notification of Assessment

AHBRA will issue a notice to each AHB that has been selected for assessment. The notice will state the purpose of the assessment and specify the information to be provided to AHBRA. The notice will also provide details on how this information must be submitted, including a reasonable submission deadline.

The notice will be accompanied by the Assessment Return document, in which the AHB is required to answer a number of questions. The information will ordinarily be required to be provided to AHBRA in electronic form.

AHBRA may request a meeting at any time during the process, with members of the Board and/or the executive to communicate the assessment process in more detail and to understand any ongoing issues for the AHB.

3.5 Accuracy of Information

AHBs must ensure they provide accurate information to AHBRA.

AHBs are reminded that it is an offence to knowingly or recklessly provide information to AHBRA that is false or misleading in a material respect, in relation to the assessment information and documentation.

3.6 Extension Request

An AHB can apply, in writing, for an extension to the submission date that is included in the notice. AHBRA expects AHBs to contact it to discuss any anticipated delays or request for an extension as soon as it comes to the organisation's attention.

AHBRA ordinarily requires any extension request to be submitted at least five business days prior to the submission date included in the notice. AHBRA will acknowledge receipt of an extension request within three working days.

AHBs should set out the reasons for seeking an extension. These will be considered by AHBRA and may result in the submission date changing. AHBRA will notify the AHB of its

decision relating to this extension application within three working days of the confirmation of receipt of the extension request.

Exceptions to this may arise, and AHBRA will consider individual circumstances and communicate with an individual AHB where it requires further time or information to consider an extension request.

3.7 Conducting the Assessment

AHBRA will conduct the Standards Assessment by reviewing the information provided by the AHB in compliance with the Notice of Assessment. AHBRA's Standards Assessment will be based on information relating to the period up to the date of the Notice of Assessment. AHBRA may also take into consideration any other relevant information available to it, relating to the assessment period.

Should AHBRA have any queries regarding the information provided or require clarification, it may contact the AHB during the assessment. Where relevant, AHBRA may ask to attend Board or subcommittee meetings for the purposes of clarification.

3.8 Failure to Comply with Assessment Requirements

AHBs are legally obliged by section 38(4) of the Act to comply with the Notice of Assessment including the requirement to submit the specified information by the date included in the Notice or any agreed extension, if applicable.

If an AHB submits a return which is incomplete or does not provide the information, then AHBRA may proceed to carry out an assessment of compliance with the Standards. As noted previously, an AHB may receive a non-compliant outcome, if limited or no information is provided to demonstrate compliance with the Standards.

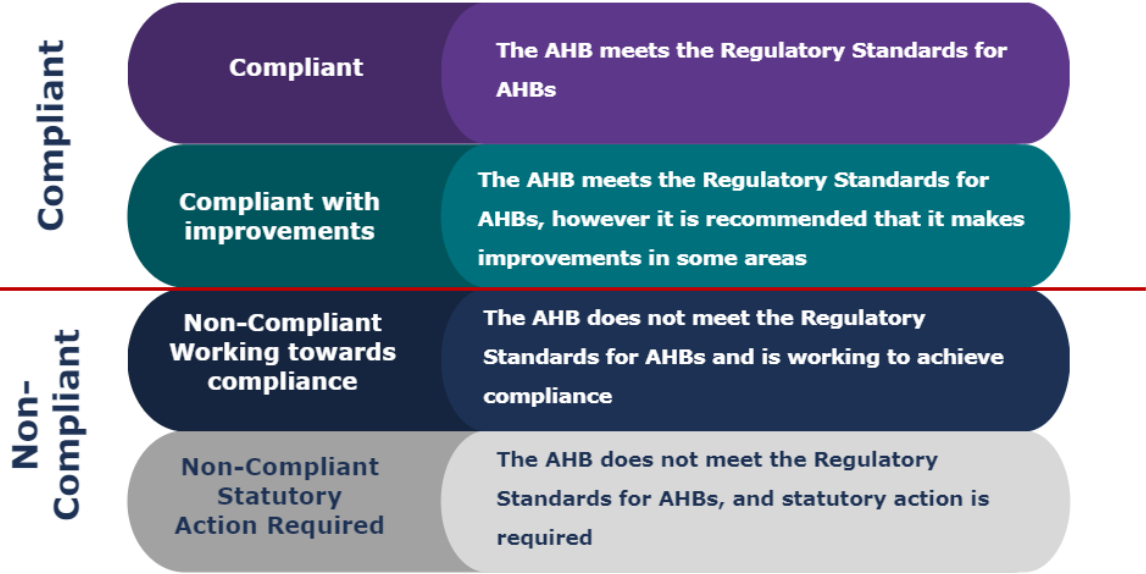
3.9. Assessment Report & Outcomes

When the information provided has been fully evaluated and assessed, AHBRA will issue a Draft Assessment Report to the AHB in question. This report will set out AHBRA's

findings and recommendations as a result of the Standards Assessment and will include an overall regulatory outcome.

The following table sets out the four possible regulatory outcomes:

Figure 1.1:



3.10 Representations and Extension

When sending a draft Assessment Report to an AHB, AHBRA will also notify it that written representations may be made to it before the end of a specified period. Representations made by that date will be considered by AHBRA before the final report is issued to the AHB. No final report will be issued until the expiry of the deadline for representations.

An AHB can apply, in writing, for an extension to the timeframe for the provision of representations. This will be considered by AHBRA and may result in the timeframe for representations changing. AHBRA will notify the AHB of its decision relating to any extension application in a timely manner.

3.11 Publication of Outcomes

Following the issue of a draft report, the expiry of the date for representations and a review of any written representations received before that date, a Final Assessment

Report will be issued to the AHB, which will detail AHBRA's findings and recommendations (if any). The Final Assessment Report will also detail the outcome of the Standards Assessment.

AHBRA will not publish individual AHB assessment reports but reserves the right to publish outcomes identifying individual AHBs or to publish anonymised reports or summary assessment outcomes, if appropriate.

Where following an assessment, AHBRA finds an AHB "Non-Compliant: Statutory Action Required" and enters an organisation into a Compliance Plan, certain entries will be made and published on the Register as outlined in the sections below.

4. Assessment Outcomes

4.1 Compliant Regulatory Outcomes

As outlined in section 3.9 above, there are two compliant regulatory outcomes, namely "Compliant" and "Compliant with Improvements".

4.1.1 Compliant

Where an AHB is found to be "Compliant" with the Standard(s), AHBRA will decide on what follow-up (if any), is required on an individual basis.

4.1.2 Compliant with Improvements

Where an AHB is found to be "Compliant with Improvements" with the Standard(s), AHBRA will decide on any follow-up on an individual basis. AHBRA may require an AHB to provide updates on its implementation of any recommendations made as part of the Standards Assessment.

When determining the appropriate level of follow up, AHBRA will consider any additional information received from the AHB or via notifiable events and concerns. This will vary from organisation to organisation and may be subject to change where further information is brought to AHBRA's attention.

4.2 Non-Compliant Regulatory Outcomes

As outlined in section 3.9 above, there are two non-compliant regulatory outcomes, namely “Non Compliant: Working Towards Compliance” and “Non-Compliant: Statutory Action Required”.

4.2.1 Non-Compliant: Working Towards Compliance

Where an AHB is found to be non-compliant with a Standard but has demonstrated or provided evidence that there are satisfactory measures in hand or proposed to be taken to reach compliance, AHBRA may determine that the organisation is “Non-Compliant: Working Towards Compliance”.

Evidence could include an internal action plan and/or an action plan with another regulator or a funder clearly outlining the actions, ownership, and timelines. Evidence may also include the information submitted as part of the assessment, or a high degree of assurance that the work being undertaken by an AHB will achieve compliance with the Standard(s).

Where an AHB receives this regulatory outcome, it will be required to proactively engage with AHBRA to ensure the areas of non-compliance are being adequately addressed within an agreed timeframe. Following engagement with the AHB, AHBRA will determine an appropriate timeline to re-evaluate if the implementation of recommendations is demonstrated through a future Standards Assessment.

4.2.2 Non-Compliant Statutory Action Required

If AHBRA finds that the AHB does not meet one or more of the Standards and there is no evidence or insufficient evidence of the AHB working towards compliance, the Assessment Report will indicate an outcome of “Non-Compliant: Statutory Action Required”. There will be further engagement with the AHB and AHBRA will determine the appropriate regulatory or statutory action.

The initiation of a Compliance Plan will typically be AHBRA’s first point of regulatory action as set out in section 5 of this policy below. Other regulatory actions available to AHBRA are listed in section 6 of this policy.

5. Compliance Plan Framework

5.1 Initiate Compliance Plan in accordance with section 39 of the Act.

AHBRA may require an AHB who is found to be “Non-Compliant: Statutory Action Required” with a Standard to submit a Compliance Plan for approval specifying timelines for implementation.

The Compliance Plan should set out the measures taken or proposed to be taken by the AHB to demonstrate compliance with a Standard (as indicated in the Final assessment report). The timeline for demonstrating compliance should reflect the areas of non-compliance that present the most risk to an AHB, its business and its tenants.

The form, manner and the timeline for submission of the Compliance plan will be provided in the notice requiring the AHB to submit a Compliance Plan. Where an AHB fails to submit a Compliance Plan within the period specified, in line with Section 39(4) of the Act, AHBRA may give a notice of non-compliance to the AHB. AHBRA will enter on the Register of AHBs the particulars of the Notice of Non-Compliance, including the details (in summary form) of the approved Standard(s) in respect of which the notice was given as soon as practicable.

5.2 Approval or Rejection of the Compliance plan

Where a Compliance plan is submitted to AHBRA for approval, AHBRA may in line with section 39(5) of the Act, approve the compliance plan, with or without modifications or subject to any conditions it considers appropriate, as the case may be.

Alternatively, if AHBRA proposes to reject the submitted Compliance Plan, it will notify the AHB of this and set out the reasons for rejecting the submitted Compliance Plan.

Following notice of a proposed rejection of a Compliance Plan by AHBRA, an AHB may make representations, in writing, within a period of time, detailed in the notice of proposed rejection. In line with section 39(6) of the Act, AHBRA will consider the representations, if any, made to it and may approve the Compliance Plan, with or without modifications or subject to any conditions it considers appropriate, as the case may be. Alternatively, AHBRA will notify the AHB stating that it proposes to give notice of non-

compliance to the AHB and inform it of its right to appeal the decision in accordance with section 39(8) of the Act.

5.3 Publication of Approval of Compliance Plan on the Register

Where a Compliance Plan is approved by AHBRA, under section 39(7) of the Act, AHBRA will publish on its Register a summary of the measures taken or proposed to be taken by the AHB under the Compliance Plan.

5.4 Removal of Compliance Plan from the register

AHBRA will liaise with the AHB at timelines agreed to assess implementation of each action on the Compliance Plan. The AHB will be expected to provide updates showing AHBRA how it has implemented these actions to the level and timelines agreed in the Compliance Plan. AHBRA may request updates on progress during this period and meet with the AHB, its Board or Executive as it considers necessary to satisfy itself that the Compliance Plan is being implemented in accordance with its terms.

The AHB is responsible for ensuring it is proactive in its implementation of the Compliance Plan.

If AHBRA in accordance with section 41 of the Act is satisfied that the Compliance Plan has been implemented in line with its agreed terms, it will:

- a) notify the AHB that AHBRA is satisfied that the plan has been implemented and,
- b) AHBRA will remove the entry made on the register in relation to the approved Compliance Plan.

5.5 Failure to implement a Compliance Plan

Where AHBRA is of the opinion that an approved Compliance Plan has not been or is not being implemented by an AHB, AHBRA may give notice to the AHB in accordance with section 42(1) of the Act informing the AHB of its opinion and the reasons for same, requiring the AHB to confirm implementation of the Compliance Plan in accordance with

its terms within a specified period and informing the AHB that failure to confirm implementation of the Compliance Plan, within the period specified in the notice may result in the AHB being given a “Notice of Non-Implementation” of the Compliance Plan.

Where an AHB fails to comply with the above notice under section 42(1), AHBRA will in line with section 42(2) and 42(3) of the Act issue an “Advance Notice” to the AHB. This “Advance Notice” will inform the AHB of the failure to comply with a Notice of Non-Implementation under section 42(1), give a timeframe within which the AHB must comply and inform the AHB that it has failed to comply with the requirements of the notice issued under section 42(1).

Following this Advance Notice, an AHB may make representations in respect of the proposed Notice of Non-Implementation within a specified period of time, detailed within the “Advance Notice”.

In accordance with Section 42(5) of the Act, AHBRA will have regard to any written representations made by the AHB in accordance with the Advance Notice in determining whether to proceed to issue a Notice of Non-Implementation. A Notice of Non-Implementation will not issue until after the period for representations has expired.

Where an AHB is given a Notice of Non-Implementation”, it may appeal the notice to the Appeals Panel under part 7 of the Act, no later than 21 days from the date of the notice.

A Notice of Non-Implementation from AHBRA will come into effect as follows:

- Where no appeal is brought, 21 days from the date of the notice.
- Where an appeal is brought, on the date on which the notice is confirmed on appeal, or, if the appeal is withdrawn, abandoned or otherwise not proceeded with.

5.6 Publication of non-implementation of the Compliance Plan on the register

Where a Notice of Non-Implementation of a Compliance Plan, comes into effect, AHBRA will in line with section 43(1) of the Act, publish it on the Register for AHBs including the particulars in summary form of the approved Standard(s) in respect of which the Compliance Plan has not been implemented.

5.7 Removal of the notice of non-implementation of Compliance Plan from the register

An AHB may, under section 43(2) of the Act, at any time apply to AHBRA to have the entry made on the register removed by confirming to AHBRA the implementation of the Compliance Plan and requesting the removal from the register.

Where AHBRA is satisfied that the approved Compliance Plan has been implemented, AHBRA will:

- a) inform the AHB that it is satisfied that the Compliance Plan has been implemented and,
- b) remove the entry made on the register regarding non implementation.

6. Other Statutory Actions

Other statutory actions available to AHBRA are listed below. These actions can be initiated independently, without the need for an assessment when AHBRA considers that there is a sufficient need to exercise them based on the individual circumstances.

These include:

- Initiating an Investigation as set out in sections 45 and 46 of the Act
- Initiating High Court application as set out in section 54 of the Act.
- Initiating cancellation of registration on specified grounds as set out in section 58 of the Act.