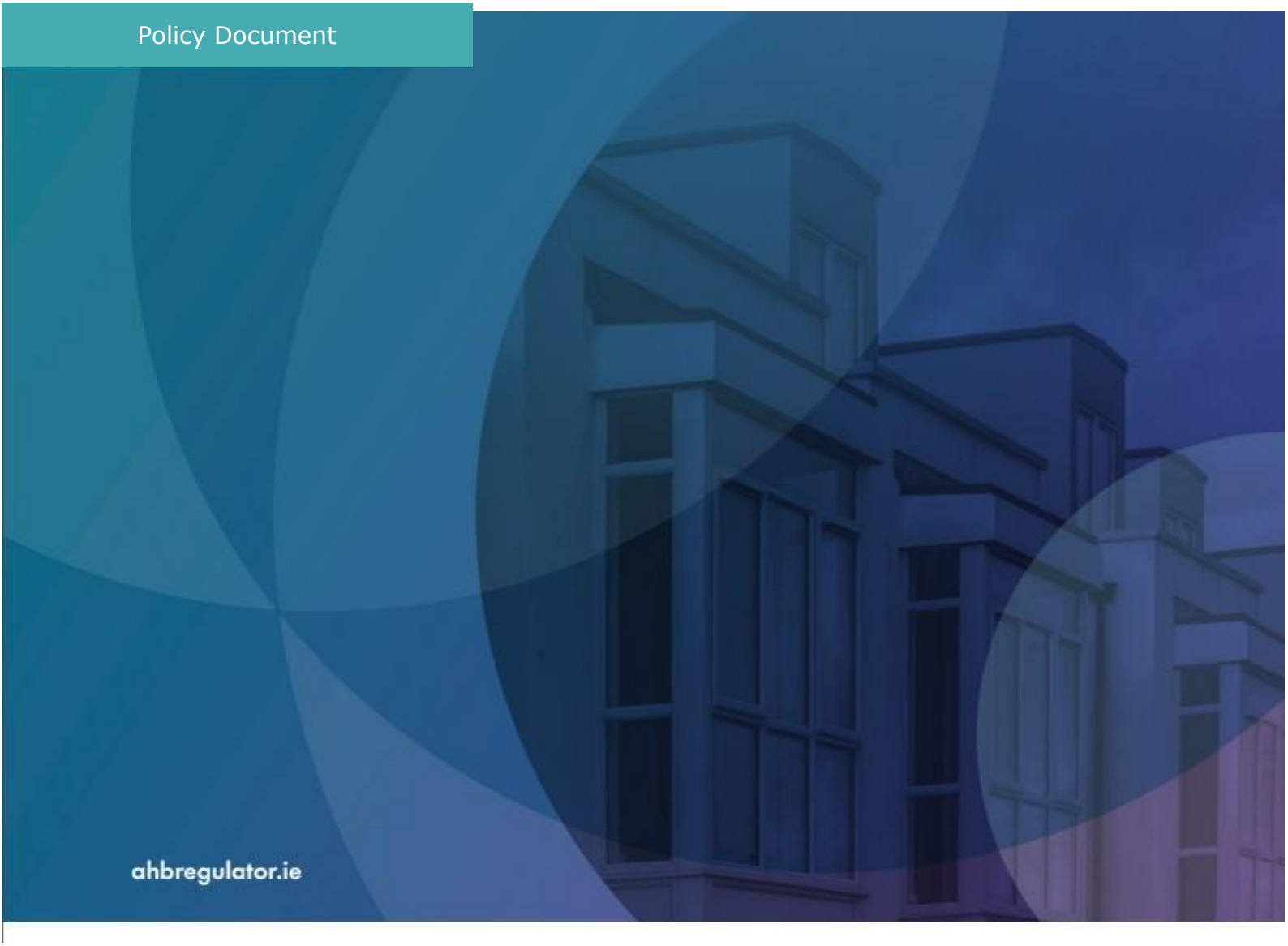
An tÚdarás Rialála Comhlachtaí Tithíochta Ceadaithe
Approved Housing Bodies Regulatory Authority

Cancellation of Registration (on Request by an AHB) Policy

Policy Document



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1. Introduction

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.

This policy sets out the approach that AHBRA will follow when considering a request to cancel the registration of an AHB under section 57 of the Act ("**Cancellation Request**").

Pursuant to Section 57(6) of the Act, AHBRA shall grant a Cancellation Request, unless specific circumstances arise. Further information in relation to the specific circumstances can be found below.

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 Approach to Cancellation Requests

AHBRA's approach to Cancellation Requests will be based on its evidential, risk-based and proportionate approach to regulation. In evaluating Cancellation Requests, AHBRA will assess requests to cancel registration as an AHB as set out below:

- AHBRA's overall objective in considering a Cancellation Request is to safeguard the interests of tenants and the AHB itself (Section 9(f)).

- AHBRA takes a proportionate, evidence-based approach to cancellation of registration.

- AHBRA will consider all relevant information submitted and must be satisfied that none of the specific circumstances set out in Sections 57(6)(a)-(f) arise. AHBRA may request further supporting evidence, as required, in this respect.

2.1 Information Required

It is vital for AHBRA to understand what dwellings the AHB provides or manages, any associated funding attached to those dwellings and the likely impact on any tenants of the dwellings.

AHBRA will specify the information that should be submitted by the AHB with the Cancellation Request [Section 57(2)] including further information as required by AHBRA pursuant to Section 57(3)(b).

When requesting to cancel its registration as an AHB, the AHB must submit a formal notice in writing to AHBRA. The notice must be in the prescribed form and include:

- information on its proposals in relation to **all** dwellings provided or managed by it;

- details of any assistance it received under Section 6 of the Housing (Miscellaneous Provisions) Act 1992 or Part 3 of the Affordable Housing Act 2021, and its proposals relating to these dwellings, having regard to the terms and conditions of any funding received.

AHBRA will require an AHB which is making a Cancellation Request to furnish it with sufficient information and satisfactory evidence to enable AHBRA to assess its Cancellation Request, including copy notifications to relevant party(s). It remains the responsibility of the AHB to ensure the relevant supporting documentation is provided, due diligence has been carried out in relation to any assets, and its own legal requirements have been met.

Where an AHB has received funding from a local authority or it provides or manages a designated cost rental dwelling, the AHB must provide the relevant local authority with a copy of the notice of its intention to cancel its registration as an AHB. The AHB should provide confirmation to AHBRA that this has been provided to all relevant local authorities.

2.2 Exceptions: Incomplete/ Missing Documentation

AHBRA may not be able to proceed to consider a Cancellation Request where all relevant and necessary information has not been provided by the applicant AHB.

Where there are difficulties for an AHB in providing the documentation, or in circumstances where there are discrepancies between different sources, AHBRA will invite the AHB to engage with ABHRA and outline the issues in relation to the documentation.

In exceptional circumstances where supporting evidence is limited, AHBRA may consider processing a Cancellation Request based on the limited information available, taking into consideration potential risks to tenants or assets, and written representations from the local authority, if any. This approach will be undertaken in exceptional circumstances only and will be assessed on a case-by-case basis.

2.3 Cancellation & Notifiable Events

Through its Notifiable Events process, AHBRA will encourage AHBs to engage with relevant stakeholders, including local authorities, in a timely manner, prior to submitting a Cancellation Request.

The transfer of significant assets, consideration of potential mergers, or the intention to cancel its registration as an AHB are Notifiable Events and AHBRA expects that an AHB notifies AHBRA at an early stage in such deliberations.

2.4 Concerns Evaluation

Where there is a Concern Evaluation ongoing in relation to the AHB, AHBRA may refuse the Cancellation Request, where it is considered necessary. This is on the grounds that AHBRA reasonably considers that granting the request would prejudice the performance of AHBRA's functions, as set out in Section 9 of the Act [Section 57(6)(f)]. It is open to an AHB to submit a further Cancellation Request following the conclusion of the Concern Evaluation process and any resulting regulatory response.

3. The Role of Local Authorities in the Cancellation of Registration

Local authority representation plays a role in the cancellation process. In line with section 57(4) of the Act, an AHB must provide any relevant local authority with a copy notice of its intention to cancel its registration as an AHB where the AHB provides or manages dwellings within the local authority's functional area for which the AHB previously received financial assistance, or is currently receiving financial assistance, under either the Housing (Miscellaneous Provisions) Act 1992 or the Affordable Housing Act 2021. The AHB must confirm to AHBRA that this notice has been provided to the local authority.

Pursuant to section 57(5) of the Act, a local authority may make written representations to AHBRA concerning the proposals made by an AHB relating to the dwellings it provides or manages for the purpose of alleviating a housing need and the terms and conditions of any assistance given to the AHB under either the Affordable Housing Act 2021 or the Housing (Miscellaneous Provisions) Act 1992.

AHBRA aims to work collaboratively with local authorities to ensure they are aware of the legal obligation on AHBs to submit copies of their Cancellation Requests to relevant local authorities, and of the legislative potential for relevant local authorities to submit written representation(s). AHBRA may contact relevant local authorities outlining how they may submit representations.

AHBRA may consider submissions from a relevant local authority when assessing a Cancellation Request. Any relevant representations received from a local authority on a Cancellation Request will be shared with the relevant AHB to afford it an opportunity to respond. AHBRA will specifically consider any representations received from a relevant local authority that relate to dwellings with terms and conditions attached when evaluating the proposals made by the AHB in relation to those dwellings.

In circumstances where a local authority does not submit representations within a reasonable timeframe, AHBRA may proceed with a Cancellation Request based on the information available.

4. Granting or Refusing a Cancellation Request

Pursuant to Section 57(6) of the Act, AHBRA *shall grant* a Cancellation Request to an AHB, unless any of the following specific circumstances arise:

AHBRA shall grant a Cancellation Request, unless:
AHBRA considers that the AHB's proposals are not in compliance with the terms and conditions of any assistance given to the AHB, relating to dwellings provided or managed by the AHB for the purpose of alleviating a housing need **[Section 57(6)(a)].**
AHBRA considers that cancellation of registration is sought with a view to enabling the AHB to distribute its assets to members **[(Section 57(6)(b)]**.
The AHB is currently undergoing a Standards Assessment, which has not yet been completed **[Section 57(6)(c)]**.
An investigation under Part 5 of the Act is currently underway into the affairs of the AHB **[Section 57(6)(d)]**.
There are legal proceedings under the Act pending in relation to the AHB **[Section 57(6)(e)]**.
AHBRA reasonably considers that granting the Cancellation Request would prejudice the performance of AHBRA's functions **[Section 57(6)(f)]**.

Each Cancellation Request will be assessed against the requirements of the Act. AHBRA will consider each case on its own merits and individual circumstances.

AHBRA will consider:

- whether the AHB's proposals are in compliance with the terms and conditions of any assistance given to the AHB (Section 57(6)(a)),
- whether, for the purpose of protecting certain housing assets and the protection of tenants, it is necessary to either require the transfer of dwellings under Section

53 of the Act or to ensure that the organisation remains subject to regulation to avoid prejudice to the performance of AHBRA's functions (Section 57(6)(f))

- any representations made by a relevant local authority concerning the terms and conditions of assistance given to an AHB under the Housing (Miscellaneous Provisions) Act 1992 or the Affordable Housing Act 2021.

When deciding to grant or refuse a Cancellation Request, AHBRA will consider:

1. If any of the specific circumstances set out at Section 57(6) apply.
2. Whether granting the Cancellation Request would prejudice the performance of AHBRA's functions set out at Section 9 of the 2019 Act.
3. If the AHB has provided the required notice and associated documentation as required by AHBRA.
4. Relevant submissions received from a local authority.
5. If the applicant has provided satisfactory proposals and/or adequate assurances relating to its tenants and dwellings, as appropriate.
6. Whether the AHB has demonstrated that it has fully implemented its proposals.

AHBRA will communicate its decision regarding the granting or refusal of Cancellation Request to the applicant in a written notice. AHBRA will ensure that any communication issued is clear and consistent.

4.1 Refusing a Cancellation Request

In the case where AHBRA has decided to refuse to grant a Cancellation Request, the notice will include the reason(s) for this decision. Additionally, appeal options will be communicated, including details on how applicants can make an appeal to the Appeals Panel.

4.2 Granting a Cancellation Request

In the case where AHBRA is satisfied that the applicant has met all requirements it will issue a written notice of its decision to grant a Cancellation Request.

Once its decision to grant a Cancellation Request is effective, AHBRA will update the Register by removing all information in the Register related to that AHB and will enter a statement in the Register that the registration of that AHB has been cancelled in line with section 57 of the Act.

AHBRA will give notice to relevant external bodies as required by Section 60(1)(c) of the Act.

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