



# Victoria Government Gazette

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## Housing Act 1983

### MINISTER'S PERFORMANCE STANDARDS FOR REGISTERED HOUSING AGENCIES

I, Candy Broad, Minister for Housing, hereby issue the following Determination pursuant to section 93 of Part VIII of the **Housing Act 1983** (the Act).

In accordance with section 93(4)(a) performance standards for housing agencies registered under the provisions of Part VIII of the Act will come into effect 30 days after the date of publication.

Signed at Melbourne in the State of Victoria

Dated 23 July 2005

CANDY BROAD MLC  
Minister for Housing

## Performance Standards for Registered Housing Agencies

### 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.

### 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 <b>Housing Act 1983</b> 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 |

**SPECIAL**

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

**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

## 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

## 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

#### 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.

#### **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.

#### **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

#### 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.

###### 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.

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## 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

## 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

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**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

**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.
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**Housing Act 1983****MINISTER'S GUIDELINES FOR THE EXERCISE OF  
THE REGISTRAR OF HOUSING AGENCIES POWERS**

I, Candy Broad, Minister for Housing, hereby issue the following guidelines for the exercise of the powers of the Registrar of Housing Agencies, pursuant to section 130 of Part VIII of the **Housing Act 1983** (the Act).

The guidelines come into operation on the day they are published in the Government Gazette.

Signed at Melbourne in the State of Victoria

Dated 23 July 2005

CANDY BROAD MLC  
Minister for Housing

**INTERVENTION GUIDELINES FOR REGISTRAR OF HOUSING AGENCIES**

These guidelines are established by the Minister for Housing pursuant to subsection 3 of section 130 of the **Housing Act 1983** ('the Act') as amended by the **Housing (Housing Agencies) Act 2004** ('the amending Act'). They relate to the exercise of powers by the Registrar ('Registrar') under Division 8 of Part VIII of the Act.

The guidelines should be read in conjunction with the Act and with performance standards determined by the Minister under section 93 of the Act.

**Introduction**

The focus of the amending Act is to provide a regulatory framework for non-profit rental housing agencies providing low-cost rental housing for low income tenants. Besides these guidelines, other key components of the framework are:

- A registration system for those rental housing agencies; and
- Performance standards determined by the Minister for Housing relating to, among other things, an agency's governance, management, probity, financial viability, tenancy management, housing management and maintenance, allocations policy, rent setting policy and risk management.

**Intervention philosophy**

The Government's objective is to facilitate the growth in the provision of affordable housing by non-profit rental housing agencies within the community housing sector, to enable that sector to maintain viability, and in the case of Registered Housing Associations, to be self-sustaining.

While public housing will continue to provide the mainstay for low cost rental housing for low income Victorians, the Government acknowledges that the community housing sector provides low income tenants with an alternative choice to public housing.

The merit in supporting alternative service provision lies in the sector's capacity to respond to housing needs in a flexible and cohesive way, through its close links with other community services, and its particular ability to work successfully with its members and the tenants it represents. To preserve and build on its achievements, the sector should operate autonomously within broad regulatory parameters, to develop its own strategies for meeting housing needs.

In addition, the Government has broader responsibilities that require it to ensure that the rights of tenants and prospective tenants are duly recognised, and that public funds disbursed within the sector are responsibly spent and properly accounted for. It also has a responsibility to provide a measure of confidence to institutional investors and philanthropic organisations committing funds to affordable housing strategies.

With those competing considerations in mind, the primary focus of the regulatory framework is to establish registration criteria and performance standards reflecting the benchmarks against which successful performance can be assessed, and to provide the mechanism by which the Registrar of Housing Agencies can ensure that registered agencies continue to meet the standards set.

Compliance with performance standards in the first instance is a matter of agency self-assessment. The role of the Registrar of Housing Agencies is to review assessments and to monitor the performance of each agency and the sector as a whole.

Formal intervention powers are provided to ensure that performance standards are maintained at an effective level. Achievement of this purpose also helps to ensure that the viability of the affordable housing market is maintained; the reputation of the sector is protected; and publicly funded assets are preserved for the purpose for which they are acquired.

The formal powers of intervention are considered to be powers of last resort, to be used where the registered agency's ability or willingness to deliver on performance standards or other matters of compliance with the Act is compromised significantly. This minimal approach to intervention relies heavily on trust, co-operation and dealings in good faith between the Director of Housing, the Registrar and registered agencies.

#### **Use of intervention powers**

The ability of the Registrar to intervene in the affairs of a registered agency is strictly limited.

#### **Intervention trigger**

First, the Registrar must be satisfied that there is an 'intervention trigger'. The following grounds for intervention set out in subsection 130 (1) of the Act are the only permissible intervention triggers. They are:

- a) a failure to meet the registration criteria or performance standards;
- b) a failure to comply with a requirement or direction under any of sections 91, 100, 104, 106, 108 or 109;
- c) an adverse effect (or potential adverse effect) on an agency's capacity to comply with registration criteria or performance standards, or its capacity to provide affordable housing, arising from either a change to the agency's governing instrument or business activities; or
- d) a failure to comply with a recommendation of the Registrar concerning an appointment or appointments to the agency's governing body.

#### **Appropriate action**

Further, subsection 130(2) provides that the Registrar must not exercise a power under Division 8 of Part VIII of the Act unless the Registrar is satisfied that such exercise is appropriate in the circumstances and accords with these guidelines.

#### **Exercise of the intervention powers**

For the avoidance of doubt, the Registrar will not exercise the power under Section 131 unless an intervention trigger listed at (a)–(c) above exists, and may exercise one or more of the powers under Section 132 if any of the triggers listed at (a)–(d) exist. The exercise of a power under either section will be subject to the intervention being reasonable and in compliance with these guidelines.

#### **Broad principles of intervention.**

In deciding whether formal intervention is appropriate, the Registrar must have regard to the Government's intervention philosophy above.

Further, in deciding whether to exercise an intervention power, the Registrar must have regard to:

- the overall circumstances of the agency;
- the nature of the circumstances forming the intervention trigger;
- any action the agency has taken to mitigate or resolve the intervention trigger, and the success of such action;
- alternative approaches which would enable the agency to successfully manage and mitigate the specific circumstances of the intervention trigger;
- sources of assistance or support which may be available to the agency;
- the likelihood of the intervention trigger being swiftly and appropriately remedied;

- the degree to which the agency has kept the Registrar informed of the circumstances forming the intervention trigger, and the level of co-operation it displays towards the Registrar; and
- the overall compliance history of the agency.

**Where:**

- the agency appears to be functioning effectively; and
- the intervention trigger appears to be capable of being appropriately remedied in an acceptable period; and
- the agency demonstrates co-operation; and
- the agency has a good compliance history;

the Registrar may simply request the agency to remedy the intervention trigger. Any request must be recorded.

Where the Registrar is not satisfied about one or more of these matters, or if the registered agency does not comply with the informal request made, the Registrar may exercise an appropriate power under Division 8 of Part VIII.

**Types of formal intervention****Section 131 – Recommendations for appointments to the governing body**

The Registrar may recommend the appointment of one or more appropriately qualified persons to the governing board of the agency under section 131 of the Act. The Registrar must first consult with the governing body of the agency about a proposed recommendation, and must consider any nominations put forward by the governing body.

**When may the Registrar consult with an agency and recommend an appointment?**

An ‘intervention trigger’ under section 130(1)(a)–(c) must exist.

The Registrar should consider the use of power under section 131 in circumstances where:

- the agency’s ability to comply with registration criteria, performance standards or otherwise comply with the requirements of the Act is adversely affected by the decision making processes operating within the governing body; and
- it seems likely that the appointment of one or more members to the governing body would result in more effective decision making; and
- it seems likely that the altered composition of the governing body will enable the agency to achieve compliance with registration criteria, performance standards and the requirements of the Act; and
- the agency’s viability will not be compromised by such an approach.

**Specific Guidelines:**

1. In exercising this power, the Registrar must consider the interests of the agency and its tenants and other stakeholders.
2. Provided it will not result in undue delay in resolving the intervention trigger, the governing body of the agency should be given the opportunity to consult its members about a proposed recommendation via the democratic processes provided by its governing instrument.

It is to be noted that any decision of the Registrar is reviewable to VCAT within 28 days. The Registrar should endeavour to accommodate further requests for consultation with the governing body of the agency made within the 28-day period after it has consulted its membership.

3. All other things being equal in terms of candidates’ skills, experience and ability to achieve the desired outcome of intervention, the Registrar may agree to recommend any nomination for appointment made by the agency.

4. The Registrar must be satisfied that any nominee (of the agency or of the Registrar) is available for appointment within an appropriate time frame and has given informed acceptance of the appointment.
5. The Registrar must also consider whether to recommend to the Minister that an indemnity be offered to the proposed appointee. No representations may be made to any party that an indemnity will or may be provided until both the Minister and the Treasurer have provided their written approval.

### **Section 132 – Instructions to a registered agency**

The Registrar may issue one or more instructions under section 132 of the Act, and the agency must carry out those instructions in accordance with the legislation under which it is incorporated. To the extent that implementation of the instruction is inconsistent with the provisions of Chapters 2B and 5, and the provisions listed in section 141 of the **Corporations Act 2001**, the latter is displaced. (See section 129 of the Act.)

There are two limitations on the instructions power: the Registrar must take all reasonable steps to consult with the ‘relevant regulatory body’ before issuing an instruction; and in issuing an instruction or approval, the Registrar must have regard to the interests of tenants of the agency. The Registrar may also consult with the agency’s creditors prior to issuing an instruction. The relevant regulatory body is the body under which the agency is incorporated.

Instructions may be made about any matter relating to the registered agency, and in particular, about:

- entering into arrangements with one or more other registered agencies;
- appointments to the governing body of the agency;
- the appointment of an administrator; and/or
- the winding up of the agency and distribution of its assets.

‘Arrangements’ can include transfers of some or all of an agency’s land in which the Director of Housing has an interest to other agencies or a merger of one or more agencies.

### **When should the Registrar consider issuing instructions?**

An ‘intervention trigger’ under section 130(1) must exist.

The situations in which consideration should be given to issuing instructions of the above nature include:

- where the Registrar has serious concerns about the on-going financial viability of the agency, and about the agency’s ability to resolve those concerns;
- the agency has failed to satisfactorily respond to informal requests by the Registrar that it maintain eligibility for registration and/or comply with one or more performance standards; and/or
- where it appears that the agency’s ability to meet the performance standards and otherwise function effectively may be seriously compromised.

The Registrar’s view on the matters above should be informed by the reports provided by the agency (or by the failure to provide adequate reports) and by the results of any inspection undertaken under Division 7 of Part VIII of the Act. The Registrar should also take into account relevant information provided by tenants, the agency’s relevant regulatory body and creditors of the agency.

The Registrar must brief the relevant regulatory body on the matters giving rise to the intervention trigger, and on the course of intervention action the Registrar proposes to adopt. Any view expressed by the relevant regulatory body must be taken into account before formal intervention commences.

### **Specific Guidelines**

In addition to applying the broad principles of intervention above, the Registrar must apply the following specific guidelines:

**Arrangements with other agencies**

1. The Registrar must consider whether an instruction to enter into an arrangement with another registered agency, when implemented, will minimise the loss of affordable housing stock to the sector, and will minimise any dislocation of tenants.
2. The agency or agencies with which arrangements are to be made must be fully briefed on what is proposed, and must agree with the proposed course of action. The Registrar cannot compel a complying agency to accept a merger proposal.
3. Where a merger or transfer of land is proposed, the Registrar must take into consideration whether adequate provision has been made for the agency's debts, and whether the merged entity will be able to operate viably.
4. The Registrar should also consider whether any financial assistance to an entity will be required for any purpose associated with the exercise of an intervention power. With the prior approval of the Minister, the Registrar may initiate an approach to the Department of Treasury and Finance seeking the Treasurer's approval to an appropriate form of financial accommodation to the entity.

No representations may be made to any party that a financial accommodation will be made to an entity until both the Minister and the Treasurer have provided their written approval.

**Instructions to make appointments to the governing body**

1. The Registrar must not issue an instruction concerning the appointment of one or more persons to the governing body under section 132 unless the agency has failed to comply with a recommendation made under section 131.
2. The guidelines that apply to making a recommendation under section 131 also apply to giving an instruction under subsection 132(2)(b), except that further consultation with the governing body of the agency, is at the discretion of the Registrar.

**Instructions to appoint an administrator to control and direct the registered agency**

In general, where the circumstances allow:

1. If an independent financial audit of the agency has not been undertaken within the preceding 3 months, the agency should be directed to obtain this forthwith.
2. Creditors of the agency should be consulted to ascertain their intentions with respect to enforcement of debts.
3. The Registrar should not direct the agency to appoint an administrator unless
  - (a) creditors support this course of action;
  - (b) the audit report indicates there is a reasonable prospect that the agency will be able to trade out of difficulty within a reasonable period of time; and
  - (c) the Registrar reasonably believes the interests of tenants are best served by this course of action.
4. Nothing in guidelines (1) to (3) precludes the Registrar from issuing an instruction without following these procedures if the Registrar reasonably believes that to do so would cause an undue delay in taking action.

**Instructions to wind up and distribute the assets of the registered agency**

1. In general, the Registrar must not issue an instruction for an agency to commence a winding up and distribution of assets unless:
  - (a) the governing body of the agency agrees, or
  - (b) the Registrar reasonably believes that other courses of action outlined above are undesirable or not cost-effective, having regard to the interests of tenants and creditors of the agency.

2. The Registrar must approve the agency or agencies to which the balance of assets are to be transferred.

**Other matters the Registrar thinks fit**

The Registrar must frame instructions to an agency in a manner most likely to resolve the intervention trigger. This can include other directions than those listed above, provided these would reasonably be expected to produce satisfactory outcomes.

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