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| **Governance and Financial Viability Standard** | **Governance and Financial Viability Standard code of practice (which “amplifies” the requirements in the Standard) (n.b. the numbering below refers to paragraphs as numbered in the Code)**  | **Fully, Partially, or Non- compliant rating (F, P, N)**  | **Explanation if any possible Gaps in assuring Compliance**  | **Sources of Evidence of Compliance (Internal and External)**  | **Level of Assurance:****High, Medium, Limited, or None (H,M,L,N)**  |
| **1 Required outcomes** | **Required outcomes** |  |  |  |  |
| **1.1 Governance** | Paragraph 1.1: governance required outcome |  |  |  |  |
| Registered providers shall ensure effective governance arrangements that deliver their aims, objectives and intended outcomes for tenants and potential tenants in an effective, transparent and accountable manner. Governance arrangements shall ensure registered providers: (a) adhere to all relevant law (b) comply with their governing documents and all regulatory requirements (c) are accountable to tenants, the regulator and relevant stakeholders (d) safeguard taxpayers’ interests and the reputation of the sector (e) have an effective risk management and internal controls assurance framework (f) protect social housing assets | 6 The required outcome for governance ensures the delivery of a registered provider’s objectives, including being responsible holders and stewards of social housing assets. The regulator considers the reference to compliance with ‘all relevant law’ in the first bullet point encompasses legislation (including secondary legislation), and common law. In ensuring compliance registered providers should have regard to relevant statutory guidance. To meet the required outcome on adherence to all relevant law boards should take reasonable measures to assure themselves of their compliance. 7 The fourth bullet point concerns reputation. Reputation is key in maintaining confidence in the sector. The social housing sector has benefited from being part of a regulated sector with low lending rates combined with the availability of public investment. Registered providers should ensure that they manage their businesses and their risks in such a way that they do not negatively impact on the reputation of the sector. |  |  |  |  |
| **1.2 Financial viability** | Paragraph 1.2: financial viability required outcome  |  |  |  |  |
| Registered providers shall manage their resources effectively to ensure their viability is maintained while ensuring that social housing assets are not put at undue risk | 8 Registered providers should take all such steps as are reasonably necessary to ensure that any activities they undertake do not place social housing assets, activities relating to the provision of social housing or their own financial viability at undue risk. The regulator recognises that registered providers should have the flexibility to consider risks in light of their individual circumstances. Boards of registered providers have the responsibility to satisfy themselves and provide assurance to the regulator that: • they have considered the requirement appropriately in relation to their own external and internal operating environment • they are satisfied they will comply with regulatory requirements now and in the foreseeable future 9 Examples of what the regulator considers to be unacceptable outcomes resulting from social housing assets being put at undue risk are outlined below. These examples are not intended to be exhaustive but rather to give context to registered providers in considering the risks within their business: • loss of social housing assets and/or tenants losing their home or the benefits of being within a regulated sector due to lenders or others enforcing their security or insolvency • loss of social housing assets where the sale of those assets is the result of poor business planning and decisions or where the reason for the sale is to make good an unplanned cash shortfall 10 The regulator recognises every business decision will carry risk and sometimes those risks will crystallise. There is, however, a difference between managed risk and uncontrolled loss. The regulator expects boards to manage the business to promote the former and avoid the latter. In addition, the regulator does not intend that all social housing assets should remain in the sector for ever. However, the value in the assets should not be lost to the sector. Under the Value for Money Standard, registered providers are expected to consider how to make best use of their assets. |  |  |  |  |
| **2 Specific expectations applicable to all registered providers** | 11 The specific expectations set out in the Standard are obligations with which registered providers must comply. Registered providers must demonstrate compliance with both the required outcomes and the specific expectations in the Standard. This section of the Code will help registered providers understand what the regulator is looking for when considering compliance with the Standard. |  |  |  |  |
| 2.1 Registered providers shall adopt and comply with an appropriate code of governance. Governance arrangements should establish and maintain clear roles, responsibilities and accountabilities for the board, chair and chief executive and ensure appropriate probity arrangements are in place. Areas of non-compliance with their chosen code of governance should be explained. Registered providers should assess the effectiveness of their governance arrangements at least once a year. | Paragraph 2.1: expectations on the effectiveness of governance arrangements 12 Registered providers should demonstrate their actions are consistent with both the principles and relevant provisions of their code of governance and overall contribute to sound governance. 13 The regulator anticipates that an assessment of the effectiveness of governance arrangements may vary in terms of depth and scope in line with the internal and external environment within which the registered provider operates. Some parts of a governance review may be carried out to a different timescale than an annual review where this helps ensure the quality and effectiveness of the review. Where this is the case, the annual assessment of the effectiveness of governance arrangements should give assurance on the timescale and progress of work on these areas. |  |  |  |  |
| 2.2 Registered providers shall ensure that they manage their affairs with an appropriate degree of skill, independence, diligence, effectiveness, prudence and foresight. | Paragraph 2.2: expectations on the management of registered providers’ affairs 14 Paragraph 2.2 of the Standard complements the board’s responsibilities to act lawfully and responsibly. Compliance will include both behavioural aspects, such as ensuring that the board and executive foster a culture of constructive challenge and debate, and good governance practices. 15 To ensure that registered providers have the requisite skills and capability to perform their functions, the regulator would expect them to: • have an appropriate skills strategy to address the needs of the business • regularly assess whether boards and management have the right competencies, experience, and technical knowledge appropriate to the size, scale and risk profile of the organisation. This should include the business it is currently involved in or is going to become involved in the future as well as the external operating environment. • ensure that all material decisions are made with appropriate internal/external expertise or advice and should satisfy themselves of the impartiality of any support or advice • have plans to address any skills gaps identified (including through bringing in external skills), and such plans should be monitored to ensure that they are followed through 16 In order to determine the appropriate level of independence, registered providers should have regard to their adopted code of governance, relevant legal requirements, e.g. charity law and to their business model. In some businesses, influence is inherent in the corporate structure of the registered provider (for example a profit making registered provider which is a subsidiary of a group). In other cases, influence may not be inherent in the corporate structure but result from close associations the registered provider has with other organisations or individuals. 17 In managing their affairs with an appropriate degree of independence, board members should exercise independence of judgement and act at all times in the best interests of the registered provider. There should also be appropriate mechanisms in place to manage any conflicts of interest to demonstrate probity and value for money. 18 Registered providers should not be subject to undue influence from third parties that could reasonably be expected to lead to non-compliance with regulatory standards. |  |  |  |  |
| 2.3 Registered providers shall communicate in a timely manner with the regulator on material issues that relate to non-compliance or potential non-compliance with the standards. | Paragraph 2.3: communication with the regulator 19 The regulator requires registered providers to tell it at the earliest opportunity about any material issues that indicate there has been or may be a breach of the standards. This might include, for example, material frauds, liquidity issues, breaches of lenders covenants or failures of governance. This transparency is a fundamental pillar of the coregulatory approach. 20 In deciding what is material, registered providers should be mindful of the regulator’s role in the consumer standards. The regulator may only intervene where there has been a breach of the standard which has, or may cause, serious detriment. In relation to the consumer standards registered providers are only obliged to disclose those matters which have or may relate to such a breach. |  |  |  |  |
| 2.4 Registered providers shall ensure that they have an appropriate, robust and prudent business planning, risk and control framework.2.4.1 The framework shall ensure: (a) there is access to sufficient liquidity at all times (b) financial forecasts are based on appropriate and reasonable assumptions (c) effective systems are in place to monitor and accurately report delivery of the registered provider's plans (d) the financial and other implications of risks to the delivery of plans are considered (e) registered providers monitor, report on and comply with their funders' covenants.2.4.2 The framework shall be approved by the registered provider's board and its effectiveness in achieving the required outcomes shall be reviewed at least once a year. | Paragraph 2.4: expectations about business planning, risk and control frameworks 21 Registered providers need to ensure their business planning, risk management and control framework is effective. It should cover all areas of the registered provider's business. This should demonstrate the registered provider fully understands and has considered its operating environment, so it can deliver its business plan and organisational objectives. It does not need to be captured in a single document. 22 Registered providers should have a clear understanding of their risk tolerances and ensure that they are appropriate to the scale and nature of the activities they are undertaking and their role as a registered provider. Registered providers should be able to identify the capital at risk from any investment activities, and ensure that investment is priced at such a level with a rate of return which is commensurate to the level of risk presented. Where a registered provider is a charity they should consider this alongside their objects and duties under charity law. Registered providers should consider the potential aggregated impact of risks, as well as their impact at an individual level. 23 Registered providers should ensure that they have access to sufficient committed and available liquidity at all times. They should understand the timing of cash flows and any conditions for a drawdown so they can manage cash flow risk. This means registered providers should understand the receipts and outgoings of the business, for example, rental income, investment in existing stock, the costs of development, receipts from sales and other business, financing costs (loan capital and interest payments) and build sufficient prudence into their plans to cope with changes. In particular, boards should assure themselves that they put funding lines in place in sufficient time to cope with major cash outflows. Boards should ensure that they effectively identify and manage any risks of re-financing whether planned or in reaction to changes in the operating environment. 24 Registered providers should also look at the relationship between operational and capital cash flows. Non-discretionary expenses, including all major repairs (whether capitalised or not) and interest costs, should be met from operating income. When using capital income (for example, receipts from disposals) to meet operating expenses, boards should ensure there is a plan that ensures operating cash flows fully cover operating expenses in the future. While this is not the case, registered providers need a plan to ensure that exposures are managed. 25 Registered providers need to build their business on robust and prudent assumptions. Registered providers should assure themselves the assumptions used are reasonable. For example these may be based on: • past performance • market conditions • deliverability and forecasts of possible future conditions 26 The regulator expects these assumptions will be kept under review and updated in the light of changing circumstances. It is important that registered providers ensure their plan enables them to meet lenders' covenants. Registered providers need to ensure sufficient headroom to allow them to take remedial action if assumptions within the plan significantly change or (potentially) if they are not delivering against the plan. 27 The regulator expects registered providers to identify the impact of significant business decisions (for example, major changes in development appetite, a new major scheme, moving into a new business stream or taking on new sources of funding) on viability (including continued covenant compliance). It also expects registered providers to report these to the board and take remedial action where necessary. Registered providers should think about their covenants in the broadest sense (financial and non-financial), set target measures of financial performance which provide headroom over covenants, and ensure they monitor all covenants. 28 The boards of registered providers should also be aware of the risks posed where separate companies are in effect controlled by others (through common or shadow directorships) and liabilities may be attributed to the registered provider putting social housing assets at risk. These risks should also be identified and mitigated. |  |  |  |  |
| 2.5 In addition to the above registered providers shall assess, manage and where appropriate address risks to ensure the long term viability of the registered provider, including ensuring that social housing assets are protected. Registered providers shall do so by: (a) maintaining a thorough, accurate and up to date record of their assets and liabilities and particularly those liabilities that may have recourse to social housing assets (b) carrying out detailed and robust stress testing against identified risks and combinations of risks across a range of scenarios and putting appropriate mitigation strategies in place as a result (c) before taking on new liabilities, ensuring that they understand and manage the likely impact on current and future business and regulatory compliance | Paragraph 2.5: expectations about risk management 29 Boards are the custodians of social housing assets and the financial viability of the registered providers that hold those assets. The responsibility for managing risks, and specifically risks to social housing assets, lies with boards. As social housing is a long term asset, normally funded by long-term debt, it follows that boards need to maintain a long-term perspective on managing risk. They need to ensure that their decisions do not put short-term gains ahead of the long term sustainability of the business and the security of their social housing assets. Paragraph 2.5.a): expectations about assets and liabilities 30 The primary purpose of this requirement is to ensure that registered providers understand their housing assets and security position and have swift access to this information in decision making and risk management. Such information needs to be readily available in the event of a potential or actual failure of the registered provider. This will enable the regulator to draw up resolution strategies and aid a potential rescuer to value the social housing assets. The asset and liability register should contain sufficient information to enable a potential buyer to accurately price the value of the business and/or the value of the social housing assets in the event of distress. 31 It is for registered providers to ensure such information is accurate and up-to-date. They should be able to produce an overview for the regulator at short notice. The records need to cover the breadth of the registered provider’s activities (including activities carried out in subsidiaries, joint ventures and SPVs) and identify its assets and liabilities. The regulator does not prescribe the format of such records. The approach taken is likely to vary according to the size and complexity of the registered provider. The regulator expects that a registered provider’s board will oversee the maintenance of these records and that they are readily reconcilable and regularly reconciled. 32 Asset records should clearly identify social housing assets and where these assets are encumbered. Such records would normally include, but are not limited to, treasury arrangements, key contracts, title information and any restrictions on that title (for example planning obligations, charitable or other restrictions), valuations, stock condition and lender covenants. 33 Registered providers should consider and record their liabilities in the widest context. The regulator considers the liabilities should include items which relate directly to the social housing assets and those which might have an impact on the business as a whole. This may include, but is not limited to: • loans including borrowing from other group companies or related undertakings • guarantees, indemnities etc. including those provided to subsidiaries and SPVs, whether secured or unsecured • leases, sale/lease and leaseback transactions • mark-to-market exposures on derivative positions • cross default provisions (for example, a provision in a loan agreement which provides that a default on one loan agreement gives rise to a default on another one, including where these potentially cross between entities) • a duty or responsibility that obligates the entity to another, leaving it little or no discretion to avoid settlement • the potential for any impairment particularly in relation to investments in non-core activities 34 Within group structures, boards should ensure they have full understanding of where liabilities exist between all entities (both registered and unregistered). This should include understanding of how a failure in one part of the group may affect other members of the group. Registered providers in a group should ensure they have an appropriate methodology to model and communicate the impacts of risks crystallising in one entity on other entities within the group, in particular where there would be recourse to social housing assets. Paragraph 2.5 b): expectations on stress testing 35 The regulator expects registered providers, as part of their risk management approach, to stress test their plans against different scenarios across the whole group. The scenarios used will vary according to the size, type and structure of the organisation. Registered providers should go beyond simple sensitivity testing and include multivariate analysis which tests against potential serious economic and business risks. Registered providers should explore those conditions which could lead to failure of the business, even if planned mitigations and controls are successfully implemented. They should assure themselves that the scenarios are consistent with what they consider to be acceptable levels of risk and their obligations. Stress testing should employ scenarios that are designed to assess resilience. 36 In designing the stress testing, boards should consider both the long term, cyclical nature of economic factors that impact on the business as well as internal business risks. 37 Two potential examples are offered by way of illustration: a) The board of a developing registered provider with a shared ownership and outright sale programme that is raising external debt will need to think about how key variables in the business plan would move during a housing market slowdown or crash. This would include, for example: • what is happening to sale prices and volumes • how lenders would be operating in that market • the potential for impairment • what might be happening to variable rate debt and the costs of working capital • other costs of holding the asset such as increased security costs and the movements in nominal and real inflation rates b) The board of an organisation with significant supported housing business, but little new development, will need to think about for example: • what might happen to corporate overheads and contract-specific costs if the registered provider lost key contracts • unsustainable price inflation or wage growth that removed margin from the business 38 Managing and addressing risk should involve developing plausible scenarios that test the business plan against adverse movements in the operating environment. Doing so will help underpin boards’ understanding of where the risks lie and inform their consideration and planning for remedial action if the risks crystallise either singly or in combinations. Registered providers should consider the implications of this stress testing for its existing business including how the business may need to respond, whether business streams may need to be altered or stopped, whether it has sufficient headroom, what controls they have in place and how those controls are implemented. 39 As long-term businesses, registered providers need to ensure that they can withstand the long-term cycles in the economy and that short term decisions do not constrain their ability to cope with risk. This does not prevent registered providers from taking on measured risk to deliver their objectives. It means that when taking on risks, boards should fully understand the impact on their business in the round, as well as on their social housing assets. Boards should have appropriate mitigations and controls in place as well as a strategy to protect those assets during the long term |  |  |  |  |
| 2.6 Registered providers shall ensure that any arrangements they enter into do not inappropriately advance the interests of third parties, or are arrangements which the regulator could reasonably assume were for such purposes. | Paragraph 2.6: expectations relating to arrangements with third parties 40 Registered providers should act in good faith appropriately advancing their own interests and those of their tenants. The focus here is on transactions which, for example, overprice services received so the contractor receives an inflated price or, where services are given without a suitable charge being levied. 41 For the avoidance of doubt, the regulator does not intend that transactions undertaken to promote charitable or social objectives, nor appropriate dividend payments by profit making registered providers will be caught by this expectation. 42 Where there are conflicts or perceived conflicts of interest, registered providers should clearly set out how they effectively manage these. They should ensure that, for example, parent companies, other entities or individuals who have control or influence (or whom the regulator reasonably believes has such control or influence) cannot or do not exert influence which would have a damaging effect on the registered provider or its compliance with standards. This could be, for example, charging unfavourable prices for the provision of services. 43 Third parties are any person or body which is not the registered provider. This includes, for example, directors and board members and may also include individuals or organisations that have close links to the registered provider. |  |  |  |  |
| 2.7 Registered providers shall communicate with the regulator in an accurate and timely manner. This includes returns to the regulator, including an annual report on any losses from fraudulent activity, in a form determined by the regulator. | Paragraph 2.7: returns to the regulator 44 The regulator requires registered providers to communicate with them in an accurate and timely manner. This includes provision of information, for example data returns. The regulator will clearly articulate its requirements for regulatory returns to the sector and, where appropriate, will consult on these. It is the responsibility of registered providers to ensure that they submit required data returns in a timely manner and the information provided is of a good quality. This includes for example ensuring that returns such as the Financial Forecast Return are fully complete with no missing information, that the data is accurate and submitted by the deadline required. It is not the regulator’s role to correct or fill in incorrect or missing data and we will view such returns as evidence of a weak control environment. |  |  |  |  |
| 2.8 Registered providers shall assess their compliance with the Governance and Financial Viability Standard at least once a year. Registered providers' boards shall certify in their annual accounts their compliance with this Governance and Financial Viability Standard. | Paragraph 2.8: expectations on reporting requirements 45 In addition to assuring themselves of compliance with standards on a yearly basis, boards need to assure themselves of their continuing compliance when taking on significant new risks. This could be, for example, when undertaking a new development or entering a major contract. Registered providers’ boards shall certify their compliance in the narrative report which accompanies their financial statements. When certifying compliance with the Standard, registered providers shall ensure that they consider compliance with regulatory standards in the round as set out in the required outcomes of the Standard. |  |  |  |  |
| **3 Specific expectations applicable to specific categories of registered provider** | 46 This section applies only to specified classes of registered provider where the regulator considers additional controls to protect social housing assets are needed. |  |  |  |  |
| **Registered group parents** |  |  |  |  |  |
| 3.1 Registered providers which are parent companies shall, as appropriate, support or assist those of their subsidiaries that are registered providers with a view to ensuring compliance with regulatory requirements. | Paragraphs 3.1 and 3.3: assistance 48 Paragraphs 3.1 and 3.3 seek to ensure that where a registered provider is part of a group, it can look to other entities within that group for assistance with achieving compliance with regulatory requirements. If a registered provider is part of a corporate group, the regulator expects the registered provider will ensure that other entities within the group are aware of the regulatory requirements placed on the registered provider and understand the implications of them. 49 Pursuant to paragraph 3.1, in groups where the parent is a registered provider, the parent is required to provide support or assistance to ensure the group’s compliance with regulatory standards. This includes, where appropriate, ensuring the ongoing viability of the group, and may require assistance to one registered provider from other registered providers to ensure continued compliance with regulatory standards. |  |  |  |  |
| N.B There are four further items in the Standard but as they only apply to Registered providers with unregistered parents and to Profit making registered providers, (i.e. not Hexagon) they are not included here.  | N/A |  |  |  |  |