



Regulator of  
Social Housing

# Guidance for private registered providers on notifications and successor body registrations

March 2024



# Contents

1.	Introduction.....	5
2.	Regulatory information requirements .....	8
	In advance.....	8
	After the event.....	9
3.	Statutory notification requirements: additional guidance .....	11
	How to submit the statutory notification to the regulator .....	11
	More than one PRP .....	12
	Non-PRP bodies.....	12
	Calculating timing .....	12
	Notifications that must be made to the regulator before resolutions are submitted/ applications are made to other registrars .....	13
	Additional guidance in respect of particular notifications .....	14
4.	Summary flow charts .....	17
	Flow chart summary of the notifications for changes to name, address, board membership, subsidiary status, change to constitution, company and LLP arrangements and reconstructions and registered society dissolution .....	17
	Flow chart summary of the notifications for restructures and conversions.....	18
5.	Registration decisions for some successor bodies .....	19
6.	Meeting the criteria for registration .....	20
	Eligibility criteria.....	20
	Intending providers of social housing.....	20
	Non-asset holding PRPs (including non-asset holding parents).....	20
	Registration criteria.....	21
7.	Registration criteria for a successor body wishing to be designated as non-profit on the register .....	22
	Definition of non-profit in section 115 .....	22
	Constitutional criteria for registration as a non-profit body.....	22
8.	Registration process for successor bodies .....	24
	Equalities.....	24
	Informal view on meeting the constitutional registration criteria .....	24
	The regulator's decision .....	25

	Updating the register .....	26
	Fees .....	26
	Decision to not register .....	26
9.	De-registration of pre-restructure bodies .....	28
10.	Glossary .....	29

## Version control

What updates have been done and when?

Version number / name	Date issued	Summary of changes from previous version
Version 1	March 2017	
Version 2	March 2024 <b>Effective from 1 April 2024</b>	Updated to reflect changes made to the Housing and Regeneration Act 2008 and the introduction of the Statutory Instrument 'The Charitable Incorporated Organisations (Notification Requirements: Social Housing) Regulations 2023

# 1. Introduction

- 1.1 This guidance covers the requirements (**effective from 1 April 2024**) for profit making and non-profit private registered providers (PRPs) to notify the Regulator of Social Housing (the regulator) when they restructure or make other significant changes. It also covers the circumstances in which the regulator will be required to make a registration decision following a restructure.

## Notification requirements

- 1.2 There are two types of notification requirements placed on PRPs:
- Statutory notification requirements: These are notification requirements which are set out in law; and
  - Regulatory notification requirements: These are notification requirements which the regulator expects PRPs to comply with for the purposes of transparency, and in accordance with the co-regulatory approach between PRPs and the regulator.

## Statutory notification requirements

- 1.3 The Housing and Regeneration Act 2008 (HRA 2008) and Statutory Instrument ‘The Charitable Incorporated Organisations (Notification Requirements: Social Housing) Regulations 2023 (CIO SI) place requirements on PRPs to notify the regulator when they enter into certain arrangements, at certain stages of their restructure process, and following certain changes to their constitutions, board membership and subsidiary status.
- 1.4 The regulator has the power to issue directions as to the information that must be submitted to the regulator in order to satisfy these statutory notification requirements, and the timescales within which the notification must be provided. The regulator also has the power to direct that certain statutory notification requirements are dispensed with. It is important that PRPs are familiar with and comply with these directions when making notifications. The most recent directions come into force on 1 April 2024 and are available on the regulator’s website<sup>1</sup>.
- 1.5 Section 3 of this document provides guidance for PRPs to help them meet the statutory notification requirements and comply with the directions. This is intended to be a helpful addition to the directions. In the event of any contradiction between this and the directions, the directions take precedence.

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<sup>1</sup> <https://www.gov.uk/government/publications/restructures-and-constitutional-changes>

## Regulatory Notification Requirements

- 1.6 In addition to the statutory notification requirements, PRPs are expected to act in a transparent manner and update the regulator when they are planning to, or have completed, certain restructures and other significant changes. Section 2 of this document provides guidance on the regulator's expectations with regards to the provision of such information.
- 1.7 Section 4 provides a flowchart of the statutory and regulatory notifications that will be required throughout the restructure/change process.

## Registration of successor bodies

- 1.8 Following certain restructures, i.e.:
- amalgamations,
  - transfer of engagements where the receiving body is NOT a PRP, and
  - Charitable Incorporated Organisation (CIO) transfers of undertaking where the receiving body is NOT a PRP.

**the regulator must make a registration decision.** The regulator must decide whether the body that results from the amalgamation, or the body that receives the transfer is eligible to be registered as a PRP. Pending the regulator's decision on this, any such body will be treated as though it were registered and designated as a non-profit PRP.

- 1.9 In line with the legislation, this guidance calls these bodies 'successor bodies' and helps PRPs understand how the regulator will reach a registration decision for them; including the decision about whether that body is to be registered with a non-profit or profit-making designation.
- 1.10 Please note that where a body, which is not a 'successor body', is applying to become a PRP, i.e. where the registration does not arise from one of the restructures outlined above, the applicant should refer to the guidance for new entrants on applying for registration as a provider of social housing which can be found on the regulator's website<sup>2</sup>.

## Further information

- 1.11 Queries about this guidance should be directed to the Referrals and Regulatory

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<sup>2</sup> <https://www.gov.uk/government/publications/register-and-de-register-as-a-provider-of-social-housing>

Enquiries team on 0300 124 5225 or [enquiries@rsh.gov.uk](mailto:enquiries@rsh.gov.uk).

## 2. Regulatory information requirements

- 2.1 PRPs are expected, as part of the Governance and Viability Standard, to communicate with the regulator in an accurate and timely manner. Transparency on the part of PRPs is essential to co-regulation. Failure to meet the regulator's expectations in this area may affect the regulator's judgement of a PRP's compliance.
- 2.2 Many of the statutory requirements to notify the regulator of a restructure or other significant change only apply part way through that change process (for example, when the resolution to restructure is passed). However, where PRPs are planning significant business restructures or other significant changes, it is important the regulator knows about that at an early stage. At a practical level, the regulator may be planning to undertake an inspection at the point a restructure or other significant change is planned or is happening, and it may be beneficial for that inspection to be rescheduled.
- 2.3 It is also important that the regulator knows when a particular restructure or other significant change has taken effect. Such changes might affect a PRP's strategy or risk exposures, which are important to the regulator in determining its regulatory approach to any PRP and the regulatory judgements it publishes on the bodies that result from a restructure. Those judgements must also accurately reflect the corporate form and structure of a PRP at the time of publication.

### In advance

- 2.4 The regulator therefore expects PRPs to inform it when planning/ entering into the following significant changes. Plans should be reasonably advanced (for example when heads of terms or similar are drawn up) and about the following:
- a. seeking a redesignation decision from the regulator;
  - b. any kind of corporate restructure, including
    - transfer of engagements/undertaking or amalgamation
    - converting into another corporate form
    - establishing a CIO in which to transfer the current charity activity
    - merger by way of business transfer
    - becoming, or to ceasing to become, a subsidiary;
  - c. any of the company or Limited Liability Partnership (LLP) arrangements or reconstructions of a type set out in section 160 of HRA 2008
  - d. the dissolution of a registered society consistent with section 165 of HRA 2008



- e. CIO voluntary arrangements under Part 1 of the Insolvency Act 1986, or
- f. any other significant business change, including any plans to cease to operate.

2.5 When planning changes such as those described in the paragraph above, PRPs should give the regulator information about:

- a. the kind of restructure, arrangement, reconstruction, dissolution or other significant change they are planning/intend to progress,
- b. the proposed timescales for the change to take effect, and
- c. the identity of any other bodies that are involved.

2.6 There is no prescribed format for submission of this information. PRPs should contact their named regulatory contact or, where they do not have one, contact the Referrals and Regulatory Enquiries team by calling 0300 124 5225 or emailing [enquiries@rsh.gov.uk](mailto:enquiries@rsh.gov.uk).

2.7 Where two or more previously unrelated PRPs are involved in a transaction (e.g. an amalgamation) the regulator expects each of those bodies to provide information in the way described above. This expectation differs from the statutory notification process described elsewhere in this guidance (where a lead PRP may be identified to submit information on behalf of all PRPs involved).

2.8 The regulator will consider any information received and may engage further with a PRP depending on the level of risk, complexity or uncertainty arising from the planned change. This will be assessed on a case-by-case basis and will depend on a range of factors including the regulator's risk-based approach. More information on the regulator's approach can be found in the 'Regulating the standards' section of the regulator's website<sup>3</sup>.

## After the event

2.9 The regulator also requires PRPs to inform it when the following restructures have taken effect:

- a conversion of a registered society to company and vice versa,
- a conversion of a Community Interest Company (CIC) or a charitable company into a CIO,
- a transfer of engagements where the receiving body is an existing PRP, and
- CIO transfers of undertaking where the receiving body is an existing PRP.

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<sup>3</sup> <https://www.gov.uk/government/publications/regulating-the-standards>

- 2.10 This will be when the resolution to restructure has been registered or confirmed by the relevant registrar (ie. the Charity Commission, Companies House<sup>4</sup> or the Financial Conduct Authority (FCA) as applicable), or in the case of a conversion into a CIO, when the charitable company or CIC's registration with Companies House is cancelled.
- 2.11 The above restructures do not result in the regulator being required to make a registration decision. An email confirming that the restructure has taken effect should be sent within 10 working days to [RNTeam@rsh.gov.uk](mailto:RNTeam@rsh.gov.uk). The PRP should also provide the details of any new registration number created as a result of the restructure (i.e. with the Charity Commission, Companies House or the FCA).
- 2.12 More information on the restructures that do result in the regulator being required to make a registration decision can be found in Section 5.
- 2.13 Additionally, where a change in PRP's charitable status means it is becoming an exempt charity, the regulator will expect to see a copy of the letter from HMRC which confirms the recognition of the PRP as a charity for tax purposes, once it is available.

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<sup>4</sup> References to Companies House in this guidance are to the registrar of companies.

### 3. Statutory notification requirements: additional guidance

- 3.1 PRPs are required by law to notify the regulator when they enter into certain arrangements, at certain stages of their restructure and following certain changes to their constitution or changes in control. These notification requirements are set out in sections 160 – 165 and 169A – CD of the HRA 2008 and the CIO SI. The regulator has the power to direct PRPs about the period within which the notification must be given, the content of such notifications, and a power to dispense with any requirements for notification.
- 3.2 The most recent directions have effect from 1 April 2024 and are available on the regulator’s website<sup>5</sup>. For each statutory notification requirement, there is a corresponding table which sets out the regulator’s direction in respect of that requirement. The tables, named A to Z, set out the time period within which the notification must be provided, the required content of the notification and any dispensation. The directions are divided by reference to the form of the PRP (i.e. company, registered society, charity, and LLP) so that a PRP may look at just the part that is relevant to it. Information required is largely consistent across all forms, so this guidance is not divided in the same way.
- 3.3 PRPs must be familiar with their statutory obligations to notify the regulator. The guidance in this section is to help PRPs meet the statutory notification requirements and is supplemental to and must be read in conjunction with the directions.
- 3.4 Section 4 also provides flow charts which summarise the statutory notifications and regulatory information requirements (considered in the previous section) at a high level.

#### How to submit the statutory notification to the regulator

##### Next day notifications

- 3.5 The regulator must be contacted by the next working day in relation to the following:
- company or LLP arrangements or reconstructions of a type set out in section 160 of HRA 2008,
  - the dissolution of a registered society consistent with section 165 of HRA 2008, and
  - CIO voluntary arrangements under Part 1 of the Insolvency Act 1986.
- 3.6 These notifications must be made by email and by phone. The notification information and associated documents should be sent to the PRP’s named contact at the regulator

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<sup>5</sup> <https://www.gov.uk/government/publications/restructures-and-constitutional-changes>

and to the Registry and Notification team at: [RNTeam@rsh.gov.uk](mailto:RNTeam@rsh.gov.uk). The notifying PRP should also telephone its named contact at the regulator to confirm electronic submission of these notifications. Where the PRP does not already have a named contact, please call the Referrals and Regulatory Enquiries team on 0300 124 5225.

### Other notifications

- 3.7 There is a notification form '*Form for statutory notifications*' available to download from the regulator's website. This form should be used for all other notifications. All relevant parts must be completed, and the form, together with any supporting documents must be sent to the Registry and Notification team at: [RNTeam@rsh.gov.uk](mailto:RNTeam@rsh.gov.uk). If completed correctly and provided that any requested supporting documents are also submitted, this will satisfy the statutory notification requirements.
- 3.8 The regulator's aim is to acknowledge all notifications within three working days of receipt. All information will be reviewed, and the regulator will usually raise any queries (if necessary) within 10 working days of receipt of the notification by the Registry and Notification team.

### More than one PRP

- 3.9 Where there is more than one PRP involved in a transaction (for example an amalgamation of at least two PRPs) a lead PRP may submit one form containing all the information and relevant documents on behalf of all the PRPs involved. The lead PRP must have authorisation (from any other PRP) to do so.

### Non-PRP bodies

- 3.10 Where non-PRP bodies are involved in a restructure, the PRP making the notification must provide information about those non-PRP bodies in addition to the information it supplies about itself. Copies of resolutions passed by non-PRP bodies are not required. Following any registration decision, the regulator may seek further information which may lead to further regulatory engagement so that the regulator can assess the impact of the change on the existing PRP(s) activity and its provision of social housing.

### Calculating timing

- 3.11 The timing for each of the statutory notifications should be calculated using the next working day as Day 1.
- 3.12 Where the directions refer to a "resolution" to restructure, this is a reference to the resolution which has been validly passed in compliance with any necessary legal requirements for that particular restructure to take place. Certain restructures require two meetings to take place in order for a resolution to restructure to be validly passed

(for example, restructures involving registered societies under the Co-operative and Community Benefit Societies Act 2014, (CCBSA)). In this instance, the regulator would only need to be notified following the second meeting. The deadline for sending the notification to the regulator should therefore be calculated from the date of the second meeting.

- 3.13 Where the directions refer to a change “taking effect” this will be the date at which the change has been validly made in law. For example, certain changes may need to be registered with the relevant registrar in order to take effect. It is for the PRP to determine that the necessary requirements for the change to take effect have been complied with.

### **Notifications that must be made to the regulator before resolutions are submitted/ applications are made to other registrars**

- 3.14 Where a PRP is required to notify the regulator that a resolution to restructure has been passed, this must be made before restructure can be approved by the relevant registrar, as explained further below.
- 3.15 **Conversion of a company to a registered society** – Table B in the directions and Table 1 in the form: Notification to the regulator must be made BEFORE Companies House has registered the resolution. Companies House may only register the resolution if the PRP has confirmed to it (Companies House) that the regulator has been notified.
- 3.16 **Conversion of a company or CIC to a CIO** – Table C in the directions and Table 1 in the form: Notification to the regulator must be made BEFORE the application for conversion is approved by the Charity Commission. The Charity Commission must refuse such an application unless the PRP has provided a statement to it (the Charity Commission) that the regulator has been notified.
- 3.17 **Receipt of transfers from a body that is not a PRP** – Tables F, J and U in the directions and Table 4 in the form:
- In relation to registered societies, notification to the regulator must be made BEFORE the FCA registers the resolution. The FCA may only register the resolution if the registered society that has passed the resolution confirms to it (the FCA) that the regulator has been notified.
  - In relation to CIOs, notification to the regulator must be BEFORE the Charity Commission confirms the resolution. The Charity Commission must refuse to confirm the resolution unless the CIO that has passed the resolution provides it (the Charity Commission) with a statement that the regulator has been notified.

- 3.18 **Registered society restructuring – transfer of engagements, amalgamations and conversion to a company** – Table I in the directions and Tables 1 and 7 in the form: Notification to the regulator must be made BEFORE the FCA has registered the resolution. The FCA may only register the resolution if the PRP who has passed the resolution has confirmed to it (the FCA) that the regulator has been notified.
- 3.19 **CIO restructuring (amalgamations and transfers of undertaking)** – Tables S, T and U in the directions and Table 7 in the form: Notification to the regulator must be made BEFORE the Charity Commission approves the application to amalgamate or confirms the resolution to transfer its undertaking. The Charity Commission may only approve the application to amalgamate or confirm the transfer if the PRP has provided a statement to it (the Charity Commission) that the regulator has been notified.

### Additional guidance in respect of particular notifications

#### Constitutional changes, i.e. change of articles, rules, trusts (or purposes, where not within trusts) – Tables D, L and P in the directions and Table 2 in the form

- 3.20 In respect of changes to a PRP’s articles, rules, trusts (or purposes where not within trusts), the PRP is only required to notify the regulator where the change affects the PRP’s charitable status or could affect its designation.
- 3.21 “Trusts”, for these purposes has the same meaning as in section 353 of the Charities Act 2011 (CA 2011) (applicable to registered charities: Table P).
- 3.22 In respect of changes that could affect a PRP’s designation – it is for the regulator (having regard to section 115 of HRA 2008) to determine whether the designation should be changed on the register. If the regulator thinks that what was a profit-making organisation has become a non-profit organisation or vice versa, it must change the PRP’s designation accordingly. Where a PRP believes that its current designation is no longer appropriate, it may inform the regulator of such.
- 3.23 The fact that a body is prohibited by its constitution from trading for profit does not, of itself, mean that it is a body which is non-profit for this purpose. Therefore, the regulator will look more widely for assurance. The regulator will look at the operational reality of a PRP to ensure it is operating as a non-profit body in substance.
- 3.24 For a body to be designated as non-profit, it must also be able to demonstrate that it meets the relevant conditions for that, which are (in summary):
- a. Condition 1: it does not trade for profit AND
  - b. Condition 2: a purpose of the body is the provision or management of housing.
- 3.25 Bodies that are NOT a registered or non-registrable charity must also meet:

- c. Condition 3: any other purposes of the body are connected with or incidental to the provision of housing.

3.26 Further guidance on redesignation and an associated form are available on request by emailing [RNTeam@rsh.gov.uk](mailto:RNTeam@rsh.gov.uk).

**Change in directors, committee members, trustees or LLP members** – Tables G, N, Q and Y in the directions and Table 5 in the form

3.27 PRPs are required to notify the regulator following certain changes to their board membership. Board membership is defined in the following way for each of the forms of PRP:

- companies: company directors within the meaning given by section 250 of the Companies Act 2006,
- registered societies: the members of a registered society's committee within the meaning given by section 149 of the CCBSA,
- registered charities: a charity's trustees within the meaning given by section 177 of the CA 2011, and
- LLPs: LLP members

3.28 The requirement to notify the regulator is triggered when the change in board membership results in:

- i. Board membership increasing by 50% since the beginning of the relevant period;
- ii. Board membership decreasing by 50% since the beginning of the relevant period; and/or
- iii. More than 50% of the board members being persons who were not board members at the beginning of the relevant period.

3.29 The 'relevant period' is:

- the period of 12 months ending with the day on which the change in board membership takes effect. Following a change in board membership, PRPs should therefore look back over the preceding 12-month period to determine whether the change has resulted in one or more of the effects described above and so should be notified to the regulator, or
- if the PRP was not registered with the regulator throughout the previous 12-

month period, the period – ending with the day on which the change in board membership takes effect and beginning with the day on which it became a PRP. In this scenario, the PRP should look back over the period since it became registered to determine whether the change has resulted in one or more of the effects described above and so should be notified to the regulator.

- 3.30 When notifying the regulator, PRPs are required to provide an explanation of why it is considered that a change in board membership has resulted in one or more of the above effects (in paragraph 3.28). An example of such an explanation would be ‘a director is appointed which has the effect that 5 of a total of 7 of the PRP’s directors were replaced over the previous year’, or ‘the number of committee members has increased from 5 to 12’.

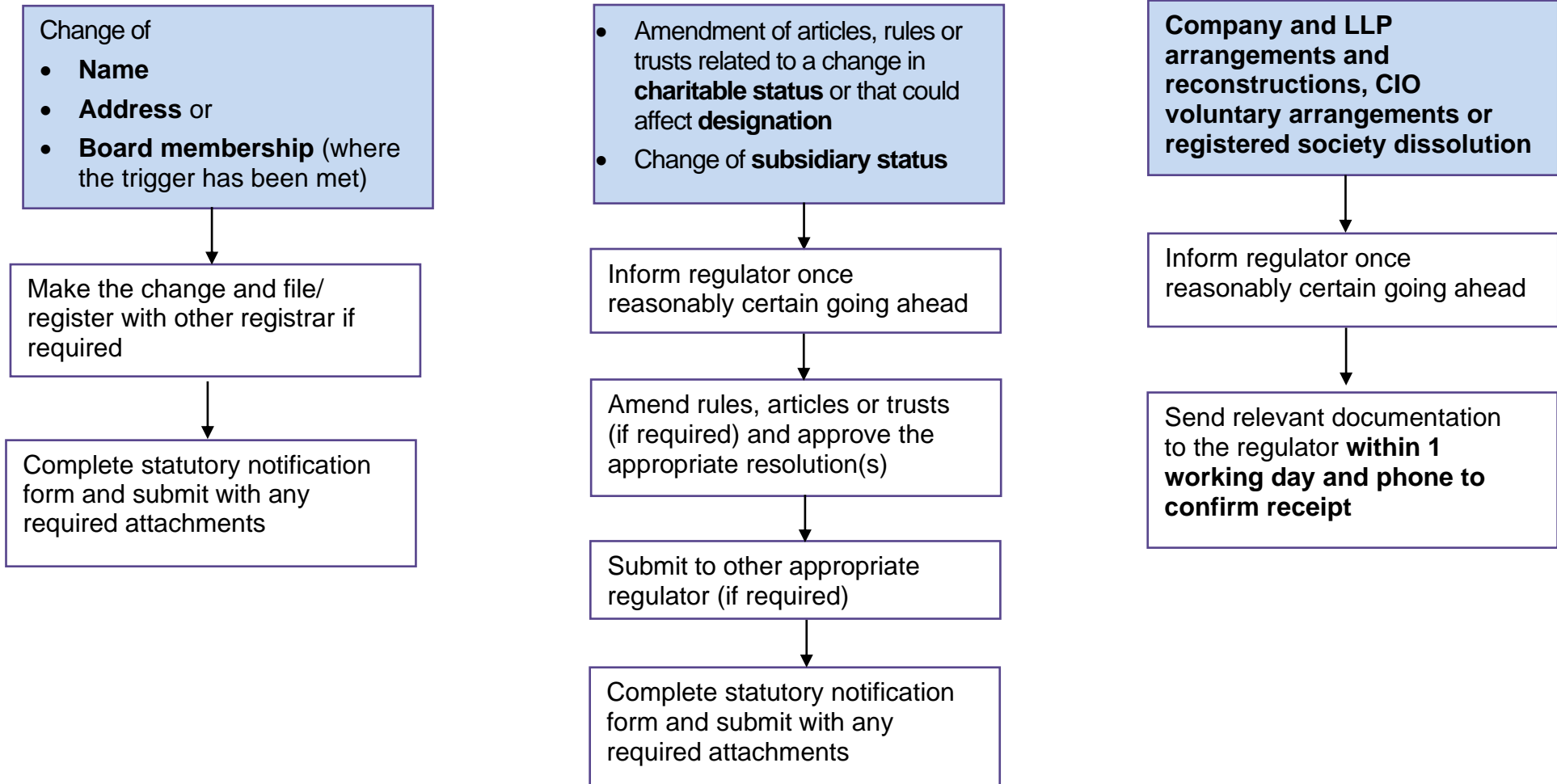
**Change in subsidiary status** – Tables H, O, R and Z in the directions and Table 6 in the form

- 3.31 Expected supporting evidence could be something such as, for
- Companies and LLPs: the register of members, register of members/ shareholders and/or register of people with significant control;
  - registered societies: register of members and officers;
  - CIOs: the register of members and register of trustees; and
  - other registered charities: equivalent record of trustees and/or members.
- 3.32 If a PRP has ceased to be a subsidiary of one body and becomes a subsidiary of another at the same time, there is no need to send two notification forms – one form may be used to cover both changes.



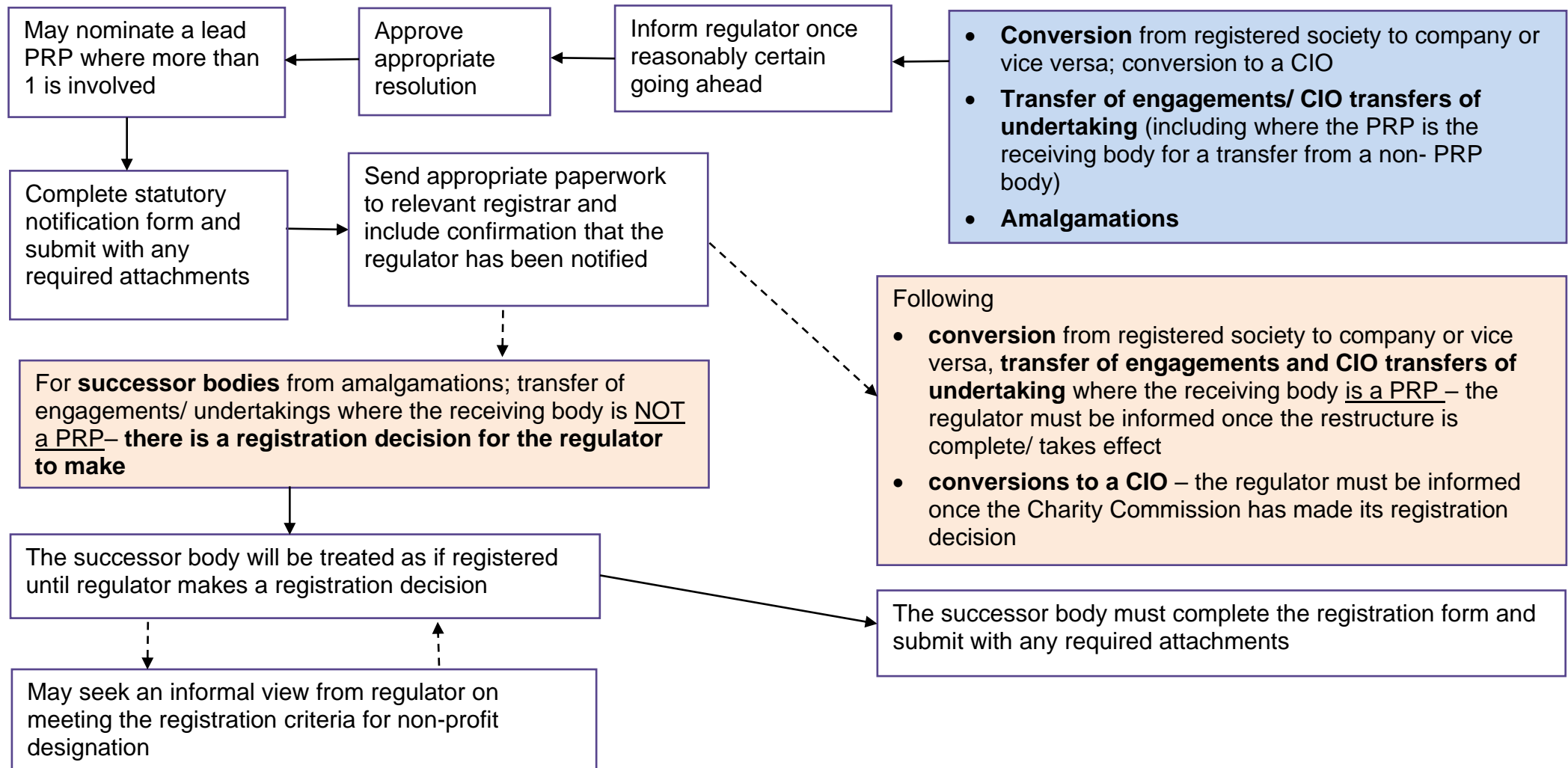
## 4. Summary flow charts

Flow chart summary of the notifications for changes to name, address, board membership, subsidiary status, change to constitution, company and LLP arrangements and reconstructions and registered society dissolution<sup>6</sup>



<sup>6</sup> This chart is intended to be a helpful overview. In the event of any contradiction between this, the guidance, or the directions, the directions take precedence.

**Flow chart summary of the notifications for restructures and conversions<sup>7</sup>**



<sup>7</sup> This chart is intended to be a helpful overview. In the event of any contradiction between this, the guidance, or the directions, the directions take precedence.

## 5. Registration decisions for some successor bodies

- 5.1 Section 163A of HRA 2008 and Part 4 of the CIO SI impose a statutory obligation on the regulator to decide whether the “successor body” following certain restructures is eligible for registration. There is a specific definition of successor body in the HRA 2008 and CIO SI, as set out below. In all cases, the successor body will be treated as registered as non-profit until any registration decision is made by the regulator.
- 5.2 These successor bodies, as defined by HRA 2008 and the CIO SI, are:
- i. the body created by an amalgamation of registered societies (section 109 CCBSA)
  - ii. the body created by the amalgamation of a registered society with a company (section 112(1)(b) CCBSA)
  - iii. the registered society to whom engagements are transferred by another registered society (section 110 CCBSA) and the receiving society is not a PRP
  - iv. the company to whom engagements are transferred by a registered society (section 112(1)(c) CCBSA) and the receiving company is not a PRP
  - v. the body created by an amalgamation of CIOs (section 235 of the CA 2011)
  - vi. the CIO to whom all property, rights and liabilities are transferred by a CIO (i.e. a transfer of undertaking under section 240 of CA 2011) and the receiving CIO is not a PRP
- 5.3 The requirement for the regulator to make a registration decision does not apply to other bodies that may be created by a restructure, i.e. other than those listed above. If such a body wishes to be registered with the regulator, it would need to apply to be registered as a new entrant. For example, there could be a restructure whereby a PRP, that is an unincorporated registered charity, establishes a charitable company, a charitable registered society, or a CIO into which it transfers all its assets. If the body set up for this purpose (i.e. the new charitable company, charitable registered society, or CIO) wishes to benefit from registration, that body would need to apply for registration as a new entrant.
- 5.4 Guidance for all new entrant registration applications can be found on the regulator’s website <sup>8</sup>.

<sup>8</sup> <https://www.gov.uk/government/publications/register-and-de-register-as-a-provider-of-social-housing>

## 6. Meeting the criteria for registration

### Eligibility criteria

- 6.1 Once it has been established that a registration decision is required following a restructure, the regulator will determine the successor body's eligibility to be registered in accordance with this section.
- 6.2 The criteria against which eligibility is considered are those under section 112 of HRA 2008, i.e.:
- the successor body must be an English body, as defined in section 79 of HRA 2008,
  - the successor body must be a provider of social housing, or intending provider of social housing (provider is defined in section 80 of HRA 2008 and social housing in sections 68 to 71 of HRA 2008), and
  - the social housing is, or will be, in England.

### Intending providers of social housing

- 6.3 Most PRPs on the register are existing providers rather than intending providers of social housing and so most successor bodies will be existing providers (due to the social housing stock transferring to the successor body). However, successor bodies resulting from a restructure of PRPs that are not already providers of social housing can be registered as an intending provider. An intending provider is one that intends to provide social housing but does not do so at the point of registration. An intending provider will need to provide evidence that satisfies the regulator that it has firm plans in place that will enable it to provide social housing within a reasonable timescale. The regulator considers no more than 12 months to be a reasonable timescale.
- 6.4 The position of a successor body as an intending provider will be kept under review after registration. If the regulator is not satisfied that there is continued and evidenced intent to provide social housing, the regulator is likely to propose compulsory de-registration under section 118 of HRA 2008. This action would be taken on the basis that the successor body is no longer eligible for registration.

### Non-asset holding PRPs (including non-asset holding parents)

- 6.5 Some PRPs (usually group parents) are non-asset holding and therefore are neither providers nor intending providers of social housing (for historical reasons). However, where any non-asset holding PRP restructures in a way that creates a successor body about which the regulator must make a registration decision, that decision will be based

on the same eligibility criteria as for other successor bodies. If the new body does not meet the criteria – for example, if it is not a provider or intending provider of social housing – it cannot be registered.

## Registration criteria

- 6.6 If the successor body is seeking registration with a non-profit designation, it must also demonstrate that it meets the relevant criteria (as well as the conditions set in section 115 HRA 2008 considered in the section below). These criteria have been set by the regulator pursuant to section 112(3) of HRA 2008. They concern only the successor body's constitution and are referred to in this guidance as the 'registration criteria'.
- 6.7 If the successor body is seeking a profit-making designation, it need only meet the eligibility criteria set out above.
- 6.8 The registration criteria and conditions for non-profit designation are set out in full in the next section.

## **7. Registration criteria for a successor body wishing to be designated as non-profit on the register**

- 7.1 It is for the regulator (having regard to section 115 of HRA 2008) to determine the successor body's designation. In order to be designated as non-profit, a successor body must meet the definition of non-profit in section 115 of the HRA 2008, and any criteria set by the regulator required for registration as a non-profit organisation.

### **Definition of non-profit in section 115**

- 7.2 Section 115 of HRA 2008 sets out conditions a PRP must meet in order to be designated as non-profit. In summary, these are:

Condition 1: it does not trade for profit AND

Condition 2: a purpose of the body is the provision or management of housing.

- 7.3 In providing evidence that these conditions are met, a PRP may want to refer to its governing document, which usually provides the necessary assurance.

- 7.4 Bodies that are NOT a registered or non-registrable charity must also meet:

Condition 3: any other purposes of the body are connected with or incidental to the provision of housing.

- 7.5 In providing evidence that this condition is met, a PRP may want to refer to its governing document, which usually provides the necessary assurance.

- 7.6 Section 115 states that the fact a body is prohibited by its constitution from trading for profit does not, of itself, mean that it is a body which is non-profit for this purpose. That includes registered charities. Therefore, the regulator will look more widely for assurance on designation, particularly where the restructure involves a non-registered PRP body(ies). The regulator may want to understand any change in risk profile and may look at the operational reality of a successor body to ensure it is operating as a non-profit body in substance.

- 7.7 Notwithstanding that conditions 1, 2 and 3 (if applicable) are met, where the successor body involves a range of non-PRPs or profit-making bodies and is seeking designation as non-profit, then the regulator is likely to require greater assurance which may include (amongst other things) an assessment of the successor body's business plan.

### **Constitutional criteria for registration as a non-profit body**

- 7.8 Section 112(3) of HRA 2008 provides the regulator with a power to set criteria that bodies must meet in order to be registered, including criteria as to the body's

constitution. For a successor body to be registered with a non-profit designation, it also must be able to demonstrate that it meets the following constitutional requirements:

- the provision of social housing as an object. For charitable bodies, this can be worded as ‘social housing in the form of almshouse accommodation’ or ‘charitable social housing’, and
- its parent (where it is a subsidiary) and the parental controls clearly identified.

7.9 There are also additional requirements for the following types of a successor body.

a. in respect of a successor body which is not a registered or non-registrable charity – it must also

- embed its non-profit status within its constitution  
and

b. In respect of a CIO – it must also have within its constitution that:

- where it is a subsidiary, changes to provisions identifying the parent and/or its controls, shall be notified to the regulator,
- where steps are taken preliminary to winding up or a voluntary arrangement in relation to the CIO, it shall notify the regulator of the fact, and
- changes to the (above) provisions required by the regulator must be notified to the regulator.

7.10 The regulator intends to consult on a change to/ removal of some of these constitutional registration criteria in 2024. Following such a consultation, the regulator may update its requirements and this document will be amended. But until such a time, these requirements will stand.

## 8. Registration process for successor bodies

- 8.1 To seek a registration decision, the successor body (not the predecessor PRP/s) must complete the ‘*Successor body registration form*’. This is available for download from the regulator’s website<sup>9</sup>.
- 8.2 The regulator expects the application for registration to be made relatively swiftly once the relevant restructure (described at paragraph 5.2 above) has taken effect i.e. once the restructure has been registered or confirmed by the relevant registrar (i.e. Companies House, FCA or Charity Commission) or, in the case of CIO amalgamations, once the new CIO has been registered.
- 8.3 All relevant parts of the form must be completed, and any supporting documents must also be sent including:
- Evidence that any restructure has been registered or confirmed with the relevant registrar.
  - In the case of CIO amalgamations, evidence the new CIO has been registered.
  - For those seeking a non-profit designation, a copy of the successor body’s governing document such as its rules, articles of association, or trusts.
- 8.4 The regulator will check the information provided and if further information is required to inform its decision, then the regulator will liaise with the successor body.

### Equalities

- 8.5 The regulator (as a public body) is subject to the Public Sector Equality Duty. This requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. The ‘*Successor body registration form*’ includes questions about equalities that are similar to those asked of a new entrant seeking registration. If any potential issues about equalities arise, they will be followed up in the course of regulatory engagement with the successor body following registration.

### Informal view on meeting the constitutional registration criteria

- 8.6 Where a non-profit designation is being sought, applicants may contact the regulator to seek a non-binding and informal view on whether the successor body would appear to meet the constitutional registration criteria necessary for a non-profit designation. The regulator will (on request) review the proposed governing document against the

<sup>9</sup> <https://www.gov.uk/government/publications/restructures-and-constitutional-changes>



registration criteria for that designation before the governing document is registered with any other registrar. However, as outlined in the section above, the fact that a body is prohibited by its constitution from trading for profit does not, of itself, mean that it is a body which will be allocated a non-profit designation.

- 8.7 To seek this view, PRPs will need to send a copy of the proposed governing document to the Registry and Notification Team at [RNTeam@rsh.gov.uk](mailto:RNTeam@rsh.gov.uk). This should show changes to any 'model' it is based on (e.g. the NHF model rules) where those changes may impact on meeting the registration criteria. Once provided, the regulator will aim to provide a view within 15 working days.
- 8.8 If changes are made to the governing document following an informal view having been provided, these must be highlighted to the regulator when the successor body submits the registration form and supporting information.

### The regulator's decision

- 8.9 The regulator will make its decision on the successor body's eligibility to be registered and its designation based on the information provided in the application form, supporting information and its existing knowledge of the PRP(s) involved.
- 8.10 The regulator will first use this information to assess whether the PRP meets the eligibility criteria set out at Section 6 of this guidance.
- 8.11 Once eligibility has been determined, the regulator will assess designation before making the final registration decision. As stated above, the successor body will be treated as registered and designated as non-profit in the period pending the registration decision. During its assessment, the regulator may determine that the successor body is profit-making and will designate it as such on the register. The regulator will communicate its registration decision (and designation) to the successor body once it has been made.
- 8.12 In making the registration decision, the regulator will not consider whether the successor body complies with the regulatory standards<sup>10</sup>. However, the regulator expects that the successor body will comply with regulatory standards and requirements during the period prior to the registration decision (when it is being treated as if were registered) and – if the body is registered – immediately upon registration and thereafter. A failure to comply with the regulatory standards following registration could result in enforcement action or deregistration.

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<sup>10</sup> <https://www.gov.uk/guidance/regulatory-standards>

## Updating the register

8.13 If the regulator decides to register the successor body, it will (upon registration) give the successor body a new registration number, issue a new registration certificate and complete the register with the following information:

- name of the PRP
- registration number
- designation (profit-making, non-profit)
- date of registration
- certificate of registration with the regulator

8.14 The regulator is required to notify the following other registrars of a registration where relevant:

- in the case of a successor body that is a registered charity (including a CIO), the Charity Commission,
- in the case of a successor body that is a registered society, the FCA, and
- in the case of a successor body that is a registered company (whether or not also a registered charity), Companies House.

8.15 The regulator will also notify the Housing Ombudsman of all registrations, as PRPs are required to register with the Housing Ombudsman Service.

## Fees

8.16 The regulator's policy for charging fees is set out on its website<sup>11</sup>. Whilst there is an initial registration fee for new entrants, no fees are charged for the registration of successor bodies.

8.17 There are however annual regulation fees for all bodies on the register – including for the year a PRP registers or de-registers. Following these restructures, the regulator will determine the appropriate body to pay this annual fee to avoid double charging.

## Decision to not register

8.18 If the regulator decides to not register the successor body, it will notify the successor body of that decision. The regulator's aim is that its decision-making is transparent so it

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<sup>11</sup> <https://www.gov.uk/government/publications/fees-for-social-housing-regulation>

will follow the process set out below:

- a. a draft paper containing the recommendation to not register will be copied to the successor body
- b. the successor body will be given no less than 28 (calendar) days in which to make representations about the recommendation to not register. The representations should include any comments about factual inaccuracies and/or additional evidence demonstrating that the successor body meets the eligibility requirements and/or registration criteria
- c. the draft paper will be revised to take account of the successor body's representations
- d. the revised paper will be submitted for consideration by the officer with delegated authority (the Decision Maker), and will be copied to the successor body
- e. if the recommendation remains to not register the successor body and the Decision Maker agrees with that, the regulator will advise the successor body that it is not eligible for registration. In doing so, it will set out the reasons that have led the regulator to take this view
- f. if the Decision Maker disagrees with the recommendation, this may mean the Decision Maker has decided either to register the applicant or the Decision Maker has decided to seek clarification to enable the application to be considered further. If the former applies, the regulator will notify the successor body that its registration has been approved and of its registration details (including designation). If the latter is the case, the successor body will be given a further period to produce the clarification sought by the Decision Maker following which the above process will be repeated
- g. the regulator may publish a statement about a decision to refuse to register an applicant

8.19 If an applicant wishes to appeal the regulator's decision (including designation), it may do so to the High Court in line with section 121 of HRA 2008.

## 9. De-registration of pre-restructure bodies

- 9.1 Once the registration of the successor body is complete, the 'pre-restructure' PRP body(ies) will not be automatically de-registered. Under HRA 2008, there are two de-registration routes – compulsory and voluntary.
- 9.2 If a pre-restructure body has its registration with the other registrar cancelled as a result of a restructure, the regulator may consider compulsory de-registration. The regulator may do so if it thinks the body:
- a. is no longer eligible for registration,
  - b. has failed to meet a regulatory standard,
  - c. has ceased to carry out activities, or
  - d. has ceased to exist.
- 9.3 Otherwise, and prior to that, the pre-restructure body may apply for voluntary de-registration, the guidance and form for which can be found on the regulator's website<sup>12</sup>.

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<sup>12</sup> <https://www.gov.uk/government/publications/register-and-de-register-as-a-provider-of-social-housing>

## 10. Glossary

Abbreviation	
CCBSA	Co-operative and Community Benefit Societies Act 2014
CA 2011	Charities Act 2011
CIO	Charitable Incorporated Organisation
CIO SI	Statutory Instrument 'The Charitable Incorporated Organisations (Notification Requirements: Private Registered Providers of Social Housing) Regulations 2023
FCA	Financial Conduct Authority
HRA 2008	Housing and Regeneration Act 2008, as amended
LLP	Limited Liability Partnership
PRP	private registered provider of social housing
Regulator	Regulator of Social Housing
Successor body	As defined by HRA 2008 and the CIO SI, includes: <ul style="list-style-type: none"> <li>i) the body created by an amalgamation of registered societies (section 109 CCBSA)</li> <li>ii) the registered society to whom engagements are transferred by another registered society (section 110 CCBSA) and the receiving society is not a PRP</li> <li>iii) the body created by the amalgamation of a registered society with a company (section 112(b) CCBSA)</li> <li>iv) the company to whom engagements are transferred by a registered society (section 112(c) CCBSA) and the receiving company is not a PRP</li> <li>v) the body created by an amalgamation of CIOs (section 235 of the CA 2011)</li> <li>vi) the CIO to whom all property, rights and liabilities are transferred by a CIO (section 240 of CA 2011) and receiving CIO is not a PRP</li> </ul>
The register	register of providers of social housing



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**The Regulator of Social Housing regulates registered providers of social housing to promote a viable, efficient and well-governed social housing sector able to deliver and maintain homes of appropriate quality that meet a range of needs.**