

# Regulator Performance Report 2019-20

Regulatory Services

Department of Housing and Public Works

## Registrar's Foreword

The description that best captures our shared experience of 2020 is “a year like no other”. The world over, we have stopped some activities to keep people and communities safe, and we have directed resources both human and financial to assisting providers and the vulnerable members of our community.

Regulatory Services has played a major role in working with the services we regulate and the residents, tenants or home owners who benefit from them to ensure that quality services were maintained while Chief Health Officer directions were initially imposed and the progressively eased or wound back.

Our contribution has been in the main in three endeavours, first, we have deferred regulatory compliance activities to ensure providers were able to focus on safety and wellbeing of their staff and those they serve. Second, we ensured that both providers and residents/homeowners/tenants knew about the CHO directions and understood how they should be applied in their settings through providing clarification interpretation or further guidance. Thirdly, we communicated, communicated, communicated. As a result of the COVID-19 pandemic we have developed much more active relationships with groups across all four of our regulated industries. These relationships have been vital to keeping a finger on the pulse of emerging issues and concerns and have enabled us to co-design solutions where required.

On behalf of all staff in Regulatory Services I would like to thank industry, and residents/home owner/tenant representatives for working closely with us for what have been better outcomes. The opportunity we are now taking is to work from these collaborative relationships into business as usual.

As can be anticipated, our planned activities for the 2020 part of this reporting period were halted. We had for example, planned to commence the development of performance indicators for our efforts under the model practices – this work has not proceeded and will now become a task for 2020-21.

In closing I hope you find this second report on our performance useful and if you have any feedback or comments please make contact with us on:

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## Summary of Regulatory Purposes

The Registrar and Executive Director, Mr Mark Francis, oversees four critical industry regulatory systems for:

- Community Housing provision in Queensland – *Housing Act 2003*
- Residential Service providers – *Residential Services (Accreditation) Act 2002*
- Manufactured Homes (Residential Parks) – *Manufactured Homes (Residential Parks) Act 2003*
- Retirement Villages – *Retirement Villages Act 1999*

As at 30 June 2020 these regulated entities collectively deliver close to 69,000 accommodation units to Queenslanders.

The purpose of good regulation is to support a well-functioning industry that achieves community and government policy objectives. There is a balance between an obligation to protect the public interest, avoid unnecessary costs to industry (and the broader community) and to ensure good outcomes for Queenslanders. To that end, Regulatory Services aims for best practices of:

- reducing regulatory burden where appropriate
- using a risk-based methodology to target compliance activities
- being accountable for, and transparent in, good decision-making
- monitoring our own regulatory performance and achievement of regulatory outcomes.

The legislative obligations on our regulated entities continue to change, including through the passage of the *Housing Legislation (Building Better Futures) Amendment Act 2017*, necessitating that our approach to regulating these sectors similarly continues to evolve.

There is no one-size-fits-all approach. Regulatory Services consults providers, peak bodies, interested parties and Queenslanders to review and improve regulatory activities and will continue to do so.

## Our regulatory reporting approach

Queensland is committed to red tape reduction and promoting small business opportunities. Reporting from Regulatory Services includes initiatives supporting the government's approach to adopting an enhanced regulatory reporting framework.

This Regulator Performance Report for the Department of Communities, Housing and Digital Economy, Regulatory Services presents information that 'tells the story' about Regulatory Services, the marketplace issues we see as critical for our work, and the outcomes of our actions.

Through this annual Report we provide greater transparency about the performance of the department and complements publicly available information available through the department's Service Delivery Statements, Strategic and Operational Plans and Annual Report.

We are committed to improving our regulatory approach to meet the requirements of Queensland's Regulatory best practice model and being transparent and accountable about our progress. Our 2019-20 ambition to develop a range of key performance indicators for each of the Model Practices in consultation with our departmental colleagues, industry and consumer partners has not been possible due to the impact of the COVID-19 pandemic. This work will therefore become part of the 2020-21 program and progress on this be outlined in our next report.

### Queensland Regulatory best practice model

- Model practice 1: Ensure Regulatory Activity is Proportionate to Risk and Minimises Unnecessary Burden
- Model practice 2: Consult and Engage Meaningfully with Stakeholders
- Model practice 3: Provide Appropriate Information and Support to Assist Compliance
- Model practice 4: Commit to Continuous Improvement
- Model practice 5: Be Transparent and Accountable in Actions

## Our regulated sectors

### Retirement Villages

- 327 registered retirement villages
- 30,511 units
- 8 new registered retirement villages
- 2 cancelled/deregistered retirement villages

### Manufactured Homes and Residential Parks

- 202 parks
- 19,944 individual sites
- 6 new parks (908 sites) recorded and 1 park exited

- Further legislative changes to better inform and protect consumers entering into agreements, and requiring emergency plans commenced on 1 September 2019

## Residential Services

- 274 Residential Services with a total of 7944 residents
- 13 services received initial accreditation
- 10 residential services cancelled with a total of 183 residents relocated

## Community Housing

- 84 NRSCH and 13 QRSCH providers
- 12,167 properties owned or managed
- More than \$703 million net assets (30 June 2019)

### Community housing providers

Community housing is a form of social housing assistance, delivered by community organisations and local governments and funded by the Queensland Government under the *Housing Act 2003* (the Housing Act). Where an entity provides housing services using government funding for social housing assistance, the entity must be registered with Regulatory Services.

The National Regulatory System for Community Housing (NRSCH) and Queensland State Regulatory System for Community Housing (QRSCH) were established in Queensland through the Housing Act and amended on 1 January 2014. The Housing Act mirrors the National Law for NRSCH enacted in NSW. The Housing Act requires providers funded for community housing to become registered and continue to comply with conditions of registration.

This regulatory system ensures there are protections for tenants and assets by establishing the Registrar for Community Housing in Queensland with powers to intervene and protect.

The National Regulatory Code (NRC) under the National Law sets out the performance outcomes that must be demonstrated by all registered providers. The tier of registration is determined by an entity's level of risk arising from the scale and scope of its community housing activities, which in turn determines the intensity of regulatory engagement and oversight.

The NRC requires registered providers to be well-governed, financially viable and to perform in compliance with standards to deliver quality housing services.

The Registrar is responsible for both promoting a culture of compliance and detecting and addressing non-compliance at the earliest opportunity in order to protect the integrity of the community housing sector.

As outline in Model Practice 1 (above) community housing compliance in Queensland is shifting to a risk-based model which will see regulatory engagement based on yearly assessments for all CHPs from late 2021.

### Tier 1 providers

Involved in activities that mean they manage a higher level of risk based on operating large scale, and on-going development activities at scale - they face the highest level of performance requirements and regulatory engagement.

### Tier 2 providers

Have an intermediate level of performance requirements as they are deemed to be operating on a moderate scale with small scale development activity that may impact on viability of the provider.

### Tier 3 providers

Face the lowest level of performance requirements, reflecting the fact that they have small numbers of community housing stock and any development they undertake (if at all) is of a very small/one-off nature.

## Manufactured homes and residential parks

Residential or lifestyle parks are also known as manufactured home parks and are often marketed as 'Over 50s lifestyle resorts' or mixed-use caravan and tourist parks. Previously, manufactured home parks were called mobile home parks.

Residential parks are often targeted towards seniors and retirees. Once a purely affordable housing option, residential parks now cater to a broader section of the housing market. Home owners own their 'manufactured home', that is the building itself, but not the land on which it sits. Therefore, they must pay a regular site rent to the park owner.

Manufactured homes are regulated under the *Manufactured Homes (Residential Parks) Act 2003* (the MHRP Act). The objects of the MHRP Act are to regulate and promote fair trading practices in residential parks, encourage the continued growth and viability of the industry in the state and provide a clear regulatory framework and certainty for future industry expansion.

Regulatory Services administers the MHRP Act, including investigating complaints and alleged breaches not otherwise subject to the residential park dispute resolution mechanisms.

The MHRP Act sets obligations and behavioural standards for both home owners and park owners. These obligations are primarily enforceable through defined dispute resolution procedures set out in the MHRP Act, involving a progression from negotiation, to mediation, through to resolution by the Queensland Civil and Administrative Tribunal.

We cannot intervene in disputes between home owners and park owners but can provide advice regarding the framework for resolution of disputes between them.

## Residential services

Residential services are an integral part of Queensland's housing sector with a long history of assisting Queenslanders. A residential service provides accommodation for four or more people who live in one or more rooms and individually pay rent.

Residents living in residential services are often disadvantaged groups and face issues including low incomes, intellectual or physical impairments, disabilities, drug and alcohol problems, are elderly or are experiencing social isolation.

Typically, each resident has the right to occupy one or more rooms but not the whole premises and share facilities with other residents. Facilities can include kitchens, bathrooms or living/common areas. A residential service is also known as a boarding house, aged rental scheme or supported accommodation. Accredited residential service providers are located across Queensland, though primarily in major population centres.

Residential services are registered and accredited under the *Residential Services (Accreditation) Act 2002* (the RSA Act). The object of the RSA Act is to regulate the conduct of residential services to protect the health, safety and basic freedoms of residents, encourage service providers to continually improve the way they conduct residential services and support fair trading in the residential service industry.

Exemptions apply to certain accommodation models that would otherwise be captured by the RSA Act's definition of a residential service. These include accommodation provided mainly to students, tourists, travellers and holidaymakers. Further exemptions apply to certain services conducted by government departments or if funding is provided by a government department under certain Acts.

Residential service providers are required to apply for Level 1 accreditation. Service providers that provide food as part of the service offering must obtain Level 2 accreditation, while the provision of personal care services require Level 3 accreditation. If the Level 2 or Level 3 component of an accreditation application is refused, then a provider can no longer provide that type of service.

We are responsible for registration, accreditation and the cancellation of residential services in Queensland. In addition to inspections linked to service accreditation, we carry out regular random inspections of services to ensure they are complying with the RSA Act.

The *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* and its inquiry into the experience of people with a disability living in group homes is expected to have an impact, directly or indirectly, on the residential services sector and along with the implementation of the National Disability Insurance Scheme (NDIS) in Queensland will be monitored by Regulatory Services so that we can adjust our regulatory approach.

### Accommodation service - Level 1

Level 1 relates to:

- privacy and confidentiality
- agreement for residency
- prevention of abuse and neglect
- grievance mechanism
- residents with complex or difficult behaviour managed effectively and respectfully
- access to external service providers
- resident's entitlement to independence and freedom of choice
- living environment
- appropriate security and emergency measures
- appropriate business management
- human resource management.



## Food service - Level 2

Level 2 relates to:

- food and nutrition
- safe and hygienic delivery of food, storage, preparation and service
- kitchens that meet minimum requirements.

Level 2 accreditation also requires that the local council must confirm that obligations under the food hygiene legislation are being met.

## Personal care service - Level 3

Level 3 relates to:

- human resource management including staff qualifications for personal care provision
- access to externally provided support services
- accountable financial and clerical support
- assistance with medication and health care
- help with clothing and hygiene management
- preservation of social networks
- choice and decision making.

## Retirement villages

Retirement villages are premises where a community of seniors live in independent living units or serviced apartments and share common facilities and amenities. They cater for retirees and older members of the community who can live independently. In some villages, personal care and support services can be purchased for a fee. Retirement villages do not receive government funding.

Buying into a retirement village is a lifestyle decision and is not the same as owning your own home or renting. In most cases, residents do not purchase the property title to the unit, instead they purchase a right to live in a retirement village unit and the right to benefit from the facilities the village offers. Generally, the cost of providing the unit and lifestyle exceeds the amount residents pay when they move into a retirement village. The scheme operator recovers the balance through an exit fee payable when residents leave a village.

Retirement villages are registered under the *Retirement Villages Act 1999* (the RV Act). The main objects of the RV Act are:

- to promote consumer protection and fair-trading practices in operating retirement villages
- supplying services to residents by declaring particular rights and obligations of residents and scheme operators
- facilitating the disclosure of information to prospective residents to ensure the rights and obligations of the residents and scheme operators may easily be understood.

Pre-contractual disclosure in retirement villages was strengthened in recent changes to the RV Act through the introduction of the Village Comparison Document and the Prospective Costs Document. The Village Comparison Document gives general information about retirement village accommodation, facilities and services, including the general costs of moving into, living in and leaving the retirement village. This document makes it easier to compare retirement villages.

The Prospective Costs Document (PCD) gives information about a specific unit within a retirement village. The PCD contains details about the costs of entering the retirement village and provides an understanding about the financial commitment involved in entering, living in and explain the costs residents pay when they leave the village.

We are responsible for registration and termination of registration of retirement villages in Queensland. We carry out regular random inspections of retirement villages to ensure they are complying with the RV Act.

Retirement villages have over a number of years been increasingly catering for older people requiring aged care and community support services, resulting in a growing number of villages being built which are integrated with residential aged care or built with serviced apartments and assisted living units which can accommodate aged care support delivery. As a result, the outcomes and future responses to issues arising through the Royal Commission into Aged Care Quality and Safety are expected to impact, directly or indirectly, a number of Queensland villages over the coming years.

## An overview of our compliance footprint in 2019-20

### 327 Retirement Villages

- 457 Village Comparison Documents reviewed
- 22 villages visited through a targeted compliance program to educate rural and remote villages
- 9 investigations commenced into non-compliance with new exit entitlements

### 274 Residential Services

- 44 compliance program visits undertaken through the level 2 food audit
- 49 visits to potential unregistered services
- 11 new registrations
- 13 services received initial accreditation
- 52 services received site audits to complete renewal of accreditation
- 66 site visits conducted in response to complaints
- 10 residential services cancelled with a total of 183 residents relocated

### 202 Residential Parks

- 20 Residential Parks visited to investigate or educate following the receipt of a complaint
- 105 complaints received
- 103 compliance tasks created

### 96 registered Community Housing Providers, 83 NRSCH and 13 QRSCH

- 36 NRSCH Community Housing Providers assessed as compliant
- 4 QRSCH Community Housing Providers assessed as compliant
- 2 registrations, 1 for NRSCH and 1 for QRSCH
- Two registration cancellations under NRSCH (1 Tier 1 and 1 Tier 3)
- 6 enforcement actions undertaken on non-compliant providers

## Housing Legislation (Building Better Futures) Amendment Act 2017

On 10 November 2017, the *Housing Legislation (Building Better Futures) Amendment Act 2017* (HLA Act) received Assent. The HLA Act delivered key objectives of the Queensland Housing Strategy 2017-2027 (Housing Strategy).

The Housing Strategy is a 10-year framework driving key reforms and targeted investment across the housing continuum. One aim of the Housing Strategy is to ensure confidence in housing markets, ensure consumers are protected and reform and modernise the housing legislative framework.

The HLA Act delivers key objectives of the Housing Strategy including:

- **Connections** - ensuring that vulnerable community members are supported to sustain tenancies in appropriate and secure housing that facilitates social, economic and cultural participation.
- **Confidence** - supporting a fair and responsive housing system through reforms to legislation and regulations that enhance the safety and dignity of all Queenslanders and promote the provision of a range of housing options that meet the diverse needs of contemporary Queenslanders.

Implementation of the HLA Act has taken place in stages across a number of industries. In 2019-20 the following amendments were enacted:

### **Retirement Villages Act 1999 (RV Act)**

The HLA Act amends the RV Act to improve consumer protections and increase transparency in the relationship between retirement village operators and residents.

The HLA Act received assent on 10 November 2017 and enacted laws for the 18-month payment of exit entitlements and enforceable behaviour standards for operators and residents.

Stage 1 of the RV Act amendments and the new Retirement Villages Regulation 2018 (RV Regulation) commenced on 1 February 2019 with new laws for precontractual disclosure, reinstatement, renovation and valuing of a unit for resale, and access to village operational documents for residents and prospective residents.

### **Stage 2**

All remaining HLA Act amendments to the RV Act automatically commenced on 11 November 2019.

At this time, new requirements for changes in village operations commenced and created a requirement for a clear, orderly and fair process for changes in retirement village operations, in particular:

- Retirement village operators must prepare a proposed plan in an approved form for village closure, transition or redevelopment.
- Retirement village operators must obtain either resident or chief executive approval for the proposed plan and implement the approved plan.

The chief executive can direct a scheme to revise a proposed plan or an approved plan;

New approved forms were required to support the legislative changes relating to change of village operations comprising of closure plans, redevelopment plans and transition plans.

Other legislative changes required retirement village operators to establish and keep a fund for general services and new provisions were introduced to limit how the total general services charge can be increased and improved disclosure of retirement village expenses to the residents committee.

### ***Manufactured Homes (Residential Parks) Act (MHRP Act)***

The HLA Act amends the MHRP Act to improve consumer protections and increase transparency in the relationship between park owners and home owners.

The HLA Act received assent on 10 November 2017 and commenced laws for the 18-month payment of exit entitlements and enforceable behaviour standards for park owners and residents.

Stage 1 MHRP Act amendments commenced on 31 October 2018 with new laws for dispute resolution, site rent increases, utility charging and visitor access.

#### **MHRP Act - Stage 2**

All remaining MHRP Act amendments commenced on 1 September 2019.

The changes introduced new precontractual disclosure and cooling-off period requirements when entering into site agreements as well as assigning site agreements. The changes also allow a prospective home owner to choose to waive their precontractual disclosure rights in limited instances.

New approved forms were required to support the legislative changes relating to the new pre-contractual disclosure requirements.

The changes also introduced new requirements for residential park owners to prepare, maintain and implement an emergency plan for the residential park. The emergency plan must provide for emergency procedures, the testing and frequency of testing of emergency procedures, information, training and instruction to the home owners and other residents of the park about implementing the emergency procedures, and where home owners and other residents of the park must evacuate to in the event of an emergency.

## **Regulatory Services' response to COVID-19**

As with most other workplaces, COVID-19 caused significant disruption to the 'business as usual' operations at Regulatory Services. Ensuring both our staff's safety and wellbeing, while also continuing to provide support to sectors that look after some of Queensland's most vulnerable people, proved a significant challenge- but one that staff, and management were equal to.

In summary, some of the more significant developments relating to Regulatory Service's response to COVID-19 include:

- Greatly accelerated the development and deployment of a decentralised workforce. This required staff and management to rapidly adopt and gain proficiency in new software solutions such as Microsoft Teams and Trello. These were integrated with existing data sources and business intelligence tools to ensure ongoing access to current data and provided the ability to report on our activities in an efficient manner.
- Rapid development and adoption of safe inspection processes (where possible), ensuring staff have access to and are adequately trained in the use of personal protective equipment.
- Substantial expansion in outgoing communications – both mass communication and on an individual provider level. This included:
  - o updating information 16 times through web updates or communiques (web content, posters and fact sheets) directly to providers
  - o the review of 129 web pages to ensure information was up to date, and

- streamlining of communication approval processes to ensure minimum delay in disseminating critical information.

In addition, our Analysts made 958 outbound welfare calls to providers across all sectors and took 120 COVID-19 related inbound phone calls.

- The creation of a Rapid Response Plan (in partnership with Queensland Health and industry stakeholders) in case of serious COVID-19 outbreaks in residential services across Queensland.
- Engagement with external stakeholders (e.g. National Housing Finance Investment Corporation and other NRSCH jurisdictions) to gauge the impact of macroeconomic trends (e.g. unemployment) and COVID-19 related policies (e.g. JobKeeper) on regulated sectors and their tenants / residents.

## Model practices in action – COVID-19 response to inspections

Along with managing the transition to a decentralised workforce during the initial onset of the COVID-19 pandemic, Regulatory Services was also presented with the challenge of maintaining the core of its inspection, regulation and enforcement activities in a highly uncertain environment. This included ensuring any outstanding inspections were carried out in line with emerging contact and distancing protocols.

The situation also presented the opportunity to create innovative, efficient and safe practices whilst maintaining the core function of ensuring the safety of some of Queensland's most vulnerable tenants.

One such practice, initially tested with the cooperation of a registered residential service, involved the use of video calls to carry out inspections on properties where Quality Improvement Plans were in place as a result of previous compliance action. Quality Improvement Plans are put in place because, for example, minor repairs, general maintenance or cleaning is required to improve the standard of the residential service.

The first trial, using the video call function on a mobile phone, involved the owner of the property completing a real-time walkthrough of the property under the direction of the inspecting officer, in order to confirm that repairs had been completed and safety signs were on site. The inspecting officer was able to take screenshots for record keeping purposes and to view other evidence – such as receipts – to satisfy themselves that the Quality Improvement Plan had been fully actioned.

Evaluation of the trial outcomes have deemed video inspections suitable for low risk issues in already registered properties. Any direct identification, or suspicion of, moderate or high risks will still be inspected on site using traditional inspection methods.

### Model Practice 1: Regulatory activity is proportionate to risk and minimises unnecessary burden

The past year has seen Regulatory Services make significant inroads into the development of risk-based regulatory approaches across all its regulated sectors. This has involved focusing on three key elements– people, processes and technology - to ensure a wholistic approach to embedding a risk-based framework across the entire unit.

## People

Our Regulatory and Financial Analysts have been at the core of the design activities undertaken to develop risk-based approaches across the industries we regulate. This has included the identification and verification of risk factors, assisting in the development and testing of processes for risk assessments and leading the design and use of new business intelligence tools to help support the risk assessment process.

Analysts have been deliberately placed in the centre of the risk-based framework, with processes and technology designed to assist effective regulatory engagement. This allows factors such as context and nuance to be considered in decision making.

## Processes

The development of a risk-based framework has necessitated the review and development of new and existing processes spanning from the collection, input and quality assurance of data through to regulatory engagement and enforcement. To date, Regulatory Services has commenced the development and documentation of processes and procedures relating to conducting risk assessments, inbound communications (intake) and quality assurance of data. The program of work for 2020-2021 has a heavy emphasis on further developments in this area and includes:

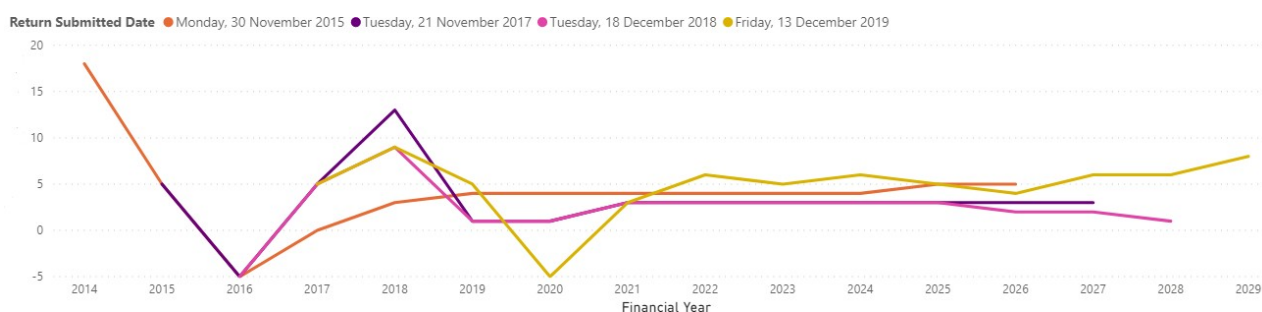
- The finalisation of compliance processes and procedures commensurate with risk, with the aim of minimised regulatory burden for the lowest risk providers
- Processes for testing, reviewing and refining the risk factors and the data we use to assess them
- Developing formalised processes and procedures to evaluate each industry on a macro level, determine the risks and opportunities in each sector, and incorporate those findings into the risk assessment frameworks as part of a continuous improvement cycle
- Refine resource allocation processes to ensure that they are targeted at the areas of greatest need

## Technology

A key focus of technology improvement in Regulatory Services has been the collection, aggregation and analysis of regulatory data. 2019-20 saw significant enhancements in data collection and reporting functionality of the REGGIE system used for Retirement Village, Residential Park and Residential Service data collection and reporting the addition of data capture capabilities of the CHRIS system used with community housing providers and the development of customised analytical tools for each industry.

The core principle behind the development of these enhancements was to develop easy access to data for Regulatory and Financial analysts to reduce administrative burden and enhance analytical capabilities. As an example, we have created dashboards which can aggregate and display information in a variety of ways (see Figure 1 below). Initial testing of these enhancements show potential for significant improvements in productivity in terms of time savings in making assessments and increased efficiency in the deployment and scheduling of resources.

**Figure 1**, This chart shows a selected (redacted) portion of a Financial Analyst’s dashboard. This screenshot shows a CHP’s actual and forecasted financial information (Operating EBITDA margin) over its last four compliance returns. Financial Analysts can use this data, in conjunction with other information submitted (e.g. budgets and strategic plans) to help ascertain the current and ongoing financial viability of a CHP. This data is made available through Power BI, directly from the NRSCH database (CHRIS) and eliminates the time and errors that may otherwise occur through manual extraction and calculation of the data.



Future developments in this space will look at the incorporation of more advanced analytical techniques (segmentation and benchmarking) and the incorporation of data from external sources. This includes open data sources (e.g. Australian Bureau of Statistics) as well as data submitted to other agencies or regulators.

## Community Housing Risk and Data Pilot

Following the publication of the NRSCH Data Review, NRSCH Registrars developed a number of key priorities as part of a medium-term goal to implement a risk-based approach for the assessment of Community Housing Providers (CHPs).

These priorities<sup>1</sup> formed the basis of the creation of the Community Housing Risk and Data Pilot for Queensland CHPs which is focused on three key areas: Risk Assessment, Data Collection and Data Sharing. Scheduled to begin in late 2020, the pilot aims to initially be an opt-in system. The new (or refined) processes and procedures developed during the pilot will be made compulsory from late 2021.

### Risk Assessment

The development and evaluation of factors which lead to non-compliance on the part of CHPs, and the analysis of the underlying causes of those factors has been a critical first step in the design of the risk assessment framework. The second step has been to ensure that the data we seek from providers accurately reflects the risk factors being assessed. The aim is both minimising regulatory burden on CHPs while providing assurance that there are no imminent threats to their compliance status.

<sup>1</sup> [https://www.nrsch.gov.au/\\_data/assets/pdf\\_file/0005/766958/Priorities-for-implementation-Outcomes-of-NRSCH-Data-Review.pdf](https://www.nrsch.gov.au/_data/assets/pdf_file/0005/766958/Priorities-for-implementation-Outcomes-of-NRSCH-Data-Review.pdf)

Several key principles guide the development of the Risk Assessment framework:

A risk assessment will influence compliance – The first key principle which guided the development of the risk assessment framework was that once applied, it could provide adequate assurance to the Registrar of a CHP's compliance for a period of 12 months. Each subsequent risk assessment would also take consider the length of time since a CHP had undergone a full compliance assessment based on a full compliance being required once in every three years.

Trust- Registered CHPs who have been found to be compliant at their last assessment are evaluated from a position of trust. Specifically, this means that we begin the risk assessment on the basis that the CHP is compliant as a baseline assumption. This approach is a departure from previous compliance activities which made no assumptions on the CHP's compliance status and allows Analysts to focus on the changes that have occurred to a CHP's circumstances since their last compliance.

Change – Approaching risk assessments from perspective of trust allows Regulatory Services Analysts to consider as a priority the significance of changed performance against a subset of key indicators, or changes in business circumstances. A determination is then made on whether a full compliance should be undertaken. This approach allowed Regulatory Services to minimise the amount of data it requests initially from CHPs, with only those required to undertake a full or targeted compliance expected to provide additional data.

The purpose of the approach to Risk Assessment is to measure change and to determine what questions or unknowns arise from this change. As a result, those CHPs required to undergo a full or targeted compliance assessment are not considered high risk and will not necessarily be subjected to enforcement activities. A full compliance is undertaken when the Analyst has determined that there are sufficient gaps in their understanding of CHP's current position to warrant conducting further enquiries by requesting additional information. These gaps can occur for any number of the following reasons:

- Previous history of poor regulatory engagement
- Inadequate or inaccurate data submitted
- Sufficient change in a CHP's strategic plan which had not previously been forecasted or documented
- Changes in the macroeconomic or policy environment which could impact a CHP's operations
- Questions stemming from intelligence gathering (e.g. investigation of complaints from tenants)
- Length of time between full compliance assessments

In situations where an Analyst has found information gaps in a limited number of performance outcomes, the Registrar may determine that a Targeted Compliance (i.e. an investigation of specific performance outcomes), as opposed to a standard compliance (covering all seven performance outcomes) may be adequate in order provide an adequate level of assurance.

### **Data Collection**

Since the inception of the NRSCH, data from CHPs has been collected only at the time of a scheduled registration or compliance assessment that is for larger providers (registered at Tiers 1 and 2), annually and for the majority of providers who are registered at Tier 3, once every two years on a standard cycle. Tier 3 providers gave feedback as part of the NRSCH Data Review, and we have heard directly from providers that requiring extensive reporting once in every two years causes greater burden than the same reporting annually. This arises as providers effectively had to recreate their last submission when approaching a new compliance and or engage external assistance to manage a task that their business systems were not geared to.



Two year gaps in data collection also present challenges for NRSCH public reporting on the sector as the data on approximately one third of providers was missing in any given reporting period. Given the substantial number of Tier 3 CHPs in Qld (71) we gained the agreement of other states and territories to pilot an annual data collection for all CHPs.

The first step in improving the data collection process was the decoupling of data collection from the compliance schedule. With this link broken, it allowed the concept of collecting all CHP's data at one point in time, every year, without a corresponding need to undertake a full compliance assessment. In conjunction with the risk assessment (outlined above), this resulted in an outcome (for the most part) of less data being requested of providers, but more often. Collecting the entire sector's data at a single point in time will support:

- Segmentation and Benchmarking. Being able to accurately and effectively compare cohorts of CHPs which share similar traits and assess them based on the unique characteristics of those cohorts (customised regulatory engagement)- as well as the provision of customised benchmarking reports to CHPs as part of their yearly compliance assessment process.
- Accurate industry data. Access to 'whole of industry' data can help determine macro trends (environmental scanning), better inform program and policy development, ascertain sectorsentiment (particularly through forecast information), allows for scenario testing ('what if' analysis) and leads to more accurate decision making.
- Greater consistency across jurisdictions. Once rolled out to all NRSCH jurisdictions, datacollection frameworks will be more closely aligned with other jurisdictions (e.g. Victoria), leading to a more harmonised approach to Community Housing regulation.

### **Data Sharing**

The aim of the Data Sharing of the Pilot is the minimisation of regulatory and reporting burden on CHPs for contractual compliance purposes. The first steps in this process are obtaining consent from providers to share their data with the Department of Housing and Public Works for contract and reporting purposes. Regulatory Services has written to all Queensland CHPs to obtain their consent to collect and share data between units within the department and we have been working with the relevant areas to collect and store Community Housing Annual Financial Returns (CHAFRs) on their behalf. These CHAFRs will be collected and stored using the CHRIS system - the same way that all current NRSCH evidentiary documents are collected. In keeping with the data sharing protocols, the relevant information is shared with areas of the department that need it for reporting or contract related purposes. This process has allowed for the streamlined collection and simplification of the CHAFR document.

Subsequent stages of the Data Sharing project will see Regulatory Services engage more widely with government agencies to ensure minimal duplication of data requests - with the ultimate goal of engaging with other regulators, data collection agencies (e.g. AIHW) and researchers to minimise red tape while allowing for enhanced regulatory insight capabilities.

### **Next Steps**

This work is being progressively rolled out as we engage with providers through their planned compliance assessments. Regulatory Services aims to have completed risk assessments for all participating CHPs by March 2021. This will be followed by an evaluation and a report to all NRSCH Registrars in May 2021, with the intent of further refining processes and procedures during that time. It is envisaged that participation in the risk-based framework will be mandatory from September 2021 onwards with a goal of a national roll-out following feedback and input from stakeholders.

## Model Practice 2: Consult and engage meaningfully with stakeholders

### Communication and Engagement

The adoption of a risk-based approach, and the subsequent evaluation of risk in each of our regulated sectors, has presented Regulatory Services with a clearer picture of the prevalence of these risks. This data is being used to prioritise the development of a range of resources to provide guidance and education to the sector which will allow them to identify and eliminate possible causes of non-compliance independent of a compliance or inspection activity. These resources include guidance materials, position papers, publication of environmental scans and education models.

Regulatory Services is using the data from its initial risk assessments as a baseline from which to measure the impact of our communication and education strategies. Additionally, any new or emerging risks identified through environmental scanning activities will be evaluated to determine any possible impacts on compliance or regulatory response, and the most appropriate and effective communications strategy to disseminate any findings.

### Future improvement – Residential Services Reference Group

We established the Residential Services Reference Group to enable ongoing communication with residential service providers, the Supported Accommodation Providers Association and resident advocacy groups. There is representation from each level of accredited providers along-side resident representatives.

The aim of this reference group is to take a strategic view and discuss emerging issues, including challenges and opportunities in regulating the residential services sector and in helping its vulnerable residents. The inaugural meeting was held on 26 November 2020 and feedback from the group has been extremely positive.

The residential services sector plays an under-recognised role in responding to homelessness. At the same time, many people living in residential services are vulnerable to exploitation and abuse. The reference group will assist in maintaining the right balance between resident protection and service viability.

### Information Sharing with other regulators and government agencies

This group was formed as an opportunity for external agencies and other State Government bodies to discuss any emerging or current issues they are experiencing within residential services.

Issues could relate to regulatory matters, complaints, referrals, etc. Membership of the group includes the NDIS Commission, Residential Tenancies Authority, Queensland Fire and Emergency Services, Public Trustee, Office of the Public Guardian and other relevant State Government departments.

The group will formally meet for the first time in December 2020.

### Model practices in action – Engagement with stakeholders

Effective regulation of sectors such as residential services often requires the coordination with, and cooperation of a number of internal and external stakeholders. For Regulatory Services, these stakeholders span from the initial stages of investigation (intelligence gathering) through to enforcement.

One such example began with notification from a departmental Housing Service Centre of a suspected unregistered residential service operating in the Wide Bay-Burnett region of Queensland.

Regulatory Services began an investigation into the operation of an alleged unregistered service. Regulatory Services coordinated a joint inspection of the suspected premises with local council, police and Queensland Fire and Emergency Services. The inspection revealed noncompliance with a number of fire and building standards and uncovered evidence of an additional five unregistered services housing up to 50 residents in the local area.

This discovery led Regulatory Services to deploy further resources to the region to confirm, investigate and, where necessary, escalate enforcement activities. Again, working with local authorities, Regulatory Services was able to execute a search warrant, issue a number of warning notices and initiate a prosecution for giving false and misleading statements under Section 68 of the *Fair Trading Inspectors Act 2014*.

As a result of the investigations in the region, five unregistered services were closed and residents were placed in short term hotel accommodation until long-term solutions were identified with the assistance of the local Housing Service Centre and Community Housing providers. All are currently at varying stages of reopening under new ownership after fixing the issues with fire or building standards or have obtained exemptions under alternative legislation.

Regulatory Services was also successful in its prosecution, having obtained the first known instance of a guilty plea under section 68 of the *Fair Trading Inspectors Act 2014* (Giving inspector false or misleading information), and the Respondent was fined through the Magistrates Court, setting a positive precedent for future enforcement activities.

## Financial compliance standards

A key outcome of the NRSCH Data Review paper was the need to amend of Financial Performance Report (FPR) to incorporate significant changes in both the sector and in accounting standards. Feedback previously obtained from stakeholders indicated that many CHPs had set up internal templates and processes to complete the FPR more efficiently and that the frequency of changes to the FPR itself should be kept to a minimum in order to minimise regulatory burden.

As a result, the FPR had remained relatively unchanged for a number of years until amendments to accounting standards – namely AASB 15, AASB 16 and AASB 1058 required adjustments in some of the data collected in the FPR. These mandatory changes to the FPR were led by Regulatory Services on behalf of all NRSCH jurisdictions and provided the opportunity to review and amend other financial data collected in recognition of emerging or established sector trends, these included:

- A substantial (32%) increase in Total Housing Debt<sup>2</sup> across the sector nationally over 12 months as a result of the introduction of industry specific lending products through the National Housing Finance Investment Corporation. Both the level of debt and its purpose (e.g. mixed-use developments), necessitated the inclusion of additional financial ratios which focused on debt serviceability and the amendment of data collected on developments to allow for greater transparency.
- An increase in enquiries for registration from taxable entities (for-profits). This necessitated the inclusion of functionality to capture data on tax and dividends.

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<sup>2</sup> [https://www.nrsch.gov.au/\\_data/assets/pdf\\_file/0003/794352/NRSCH-Snapshot-Report-Performance-Financial-2019-2020-Updated-2-November-2020-circulated-out-of-session.pdf](https://www.nrsch.gov.au/_data/assets/pdf_file/0003/794352/NRSCH-Snapshot-Report-Performance-Financial-2019-2020-Updated-2-November-2020-circulated-out-of-session.pdf)

As part of its stakeholder engagement, Regulatory Services released early drafts of the proposed FPR for testing by CHPs. This provided CHPs the opportunity to see the proposed changes as soon as possible while offering valuable feedback and testing on the draft template.

The updated FPR will be in use from mid-2020 onwards and will form a key component of the CHP Risk Pilot (see Model Practice 1).

## Model Practice 3: Provide appropriate information and support to help compliance

As an industry regulator, we work to prevent harm through a compliance approach that strongly emphasises prevention and seeks voluntary compliance with requirements. We know that key to achieving our compliance objectives is proactively engaging with businesses to inform them of their responsibilities and help them ensure they know how to comply.

To assist voluntary compliance, support materials have been made available through the department's website ([www.hpw.qld.gov.au](http://www.hpw.qld.gov.au)) and the Business Queensland website ([www.business.qld.gov.au](http://www.business.qld.gov.au)) to help providers understand and comply with their responsibilities. The materials include:

- Information, guidance and forms related to registration and accreditation as a residential service under the *Residential Services (Accreditation) Act 2002*.
- Information for home owners and potential home owners, as well as park managers and owners of manufactured homes in residential parks, regarding rights and responsibilities under the *Manufactured Homes (Residential Parks) Act 2003*.
- Information for residents and potential residents, as well as scheme operators of retirement villages, regarding rights and responsibilities under the *Retirement Villages Act 1999*.

In addition, information to facilitate compliance is also provided directly to regulated entities by Regulatory Services at the point of renewal of accreditation or compliance. Examples of materials of this type include, self-assessment checklists for residential services provided six months before the end-date of a provider's accreditation period.

Providers registered under the NRSCH can access resources at [www.nrsch.gov.au](http://www.nrsch.gov.au) that provide extensive guidance on registration, compliance and enforcement policies and processes.

### Retirement Village Buy Backs

The introduction of requirements under the legislation for providers to create and maintain Village Comparison Documentation provided Regulatory Services with a valuable new source of financial information. This information included the number of vacant units at a village and the length of time to sell those units.

From June 2019, Regulatory Services commenced a compliance program targeting those villages with high vacancy rates to determine the level of compliance with the mandatory payments of exit entitlements after 18 months to former residents. This program was designed to monitor the number of 'buy backs' and ensure the correct process is being followed in determining the pricing used for calculating exit entitlements. This program was also used to identify any areas of concern stakeholders may have in the implementation of the 'buy back' amendments in order to inform the development of educational / guidance material.

Fifteen scheme operators (large and small) were visited during this program, with each operator engaging positively with Regulatory Analysts in providing their buy back information, despite the sensitive nature of the data (see table below). This engagement also allowed our Regulatory Analysts to provide guidance and education on the processes and systems required by retirement villages to meet their new buy back obligations.

Total Buybacks completed by 23/05/2019	\$35,111,421.81	163 units
Estimated buybacks to 31/12/2019	\$42,163,819.89	134 units
Total estimated cost to industry to 31/12/2019	\$77,275,241.70	297 units

## Residential Parks compliance program

In September 2019, Regulatory Services undertook a targeted compliance and education program to ensure that park owners had an emergency plan in place. At these visits, Regulatory Analysts reviewed the park’s emergency plan and their implementation arrangements and provided advice and education to assist comply with the requirements to have and display their plans. Changes to the *Manufactured Homes (Residential Parks) Act 2003* introduced these requirements.

A range of residential parks were selected to participate in the program. The target pool comprised of a range of large and small parks, both mixed use and purpose built.

### Outcomes

2 parks were identified as not operating as residential parks;

4 parks were found to be compliant with the Act and Regulation;

7 parks required further follow-up to update their park or park owner details.

Learnings from this pilot program will be used to inform future compliance and educational activities in the sector.

## Model Practice 4: Commit to continuous improvement

As noted under Model Practice 1, Regulatory Services is at the beginning of a journey to ensure that we are adopting a risk-based approach to our regulatory decision-making. In 2019-20, Regulatory Services will be reviewing the way we approach our regulatory activities across all of our sectors and how we can better use the data that we have to achieve better regulatory outcomes.

### Improving our intelligence: intake and assessment

One of the key foundations of Regulatory Services’ approach to continuous improvement is in the area of data and intelligence gathering. These activities allow us to keep abreast of industry trends and be more proactive in responding to potential risks.

An essential component of our intelligence gathering capability is our intake (inbound communications) function. In the majority of cases, any inbound communications (phone calls, emails and Executive Correspondence) are channelled through our intake area and dealt with accordingly. The first stage of the process typically involves a triage / assessment of the nature of the contact with clear processes in place on the actions to follow depending on the category of the initial contact – after which an appropriate action is taken. Triage typically involves gaining rapid and accurate understanding of the situation before deciding on the urgency of reply needed (e.g. issues relating to safety and wellbeing of tenants are prioritised).

In recognition of the critical role the intake function plays within Regulatory Services, several important changes / enhancements have been made in order to ensure that we are better placed to respond to inbound communications and that we're able to capture, analyse and learn from the data gathered in our efforts to continually improve. These enhancements include:

- The designation of a full-time position within Regulatory Services as an Intake Officer with substantial support from members of the Leadership Team.
- The development of new, and enhancement of, existing processes to ensure more accurate triage and allocation of tasks.
- The design and testing of new data capture methods
- The development of business intelligence tools to provide on demand analysis of trends

In addition to enhancing our understanding of key trends in the sectors we regulate, statistics gathered through the intake function also inform priorities for the development of educational resources.

In 2020-21 Regulatory Services will be making further enhancements to this function in the form of technologies (e.g. Customer Relationship Management software) and further refinement of processes and procedures.

Intake Statistics	As at 30 June 2020
Telephone calls	630
Emails	525
Executive Correspondence (includes Ministerial correspondence)	698

### Developing a professional regulatory team

Due to impacts relating to COVID-19, which included the availability of training opportunities, the Regulatory Services team were severely restricted in their capacity to attend and complete formal training.

**Certificate IV in Government Investigations** is a nationally recognised qualification accredited under the Australian Qualifications Framework and is prescribed by the Australian Government Investigation Standards as the recommended minimum qualification for people working as a government investigator. Two staff members were able to complete this accreditation using online resourcing. All Regulatory Analysts have now completed, or are in advanced stages of completion, of this qualification.

## Cross Skilling of Analysts

We are making endeavours to cross skill Analysts to become a more fluid and responsive regulators and to allow us to direct our limited resources to the areas of greatest regulatory risk within our sectors.

In recognition of the substantial number of our staff who are subject matter experts on a wide range of topics, Regulatory Services has begun exploring the possibilities of cross skilling our teams through the development of internal training modules.

This initiative has presented Regulatory Services' Financial Analyst team with an opportunity to develop and deliver an internal training program to help identify key risk indicators in the Retirement Village sector. The goal of which is to improve the ability of Regulatory Analysts to identify high risk traits and behaviour to better target investigative resources and to facilitate better collaboration.

The program addresses both financial and non-financial indicators - including factors impacting financial transparency and the potential impacts of those risks on residents. Using both theoretical examples and case studies of previous enforcement actions, the course also provides an overview of the processes and resources required to undertake an in-depth financial analysis of a Retirement Village.

The Financial Analyst team has also benefitted from this process as it gained a greater understanding of key risk indicators in the Retirement Village sector. Following this exercise, the team conducting further work into the development of a more advanced predictive model to identify traits which may lead to adverse financial outcomes in the Retirement Village sector. This will inform future training modules and risk assessment frameworks.

## Model Practice 5: Be transparent and accountable with actions

Regulatory Services continues to commit that all decisions and subsequent actions are taken in a timely manner, clearly articulating expectations and the underlying reasons for decisions. This is currently demonstrated by:

- the publication of NRSCH and QRSCH evidence and compliance guidelines
- the Registrar providing CHPs with a draft compliance assessment for review before completion, including providing an opportunity for providers to provide additional information for consideration and respond to any recommendations.

As indicated in the Our Regulatory Reporting Approach section, in 2019-20 Regulatory Services will investigate opportunities for improving the transparency of our actions for the benefit of our regulated entities, affected tenants and residents, and the broader community. This will include:

- Improving communication about our regulatory frameworks and our timeframes for making regulatory decisions
- The development of new ways of explaining the outcomes of our activities by assessing the impact on the beneficiaries of our regulatory efforts
- The development of new methods for obtaining a view of our providers' perceptions of our regulatory efforts.

## Improving NRSCH transparency

Commencing on 1 July 2019, an overview commentary on each CHP’s performance is now being published on the public NRSCH Register to provide further context and transparency of areas of positive practice and improvement opportunities. This follows the publication of compliance actions on the Register from 1 July 2019.

The NRSCH Registrars have publicly recognised the need to better support “accessible and transparent data and intelligence to promote confidence in registered providers and the NRSCH” to allow stakeholders to make better informed decisions through the 2018–2023 Strategic Plan.

NRSCH Registrars have been progressively improving the publication of Registrar and CHP performance data through sector snapshots published in 2015-16 and 2016-17, and most recently through the 2017-18 NRSCH Annual Report available at [www.nrsch.gov.au](http://www.nrsch.gov.au).

Future efforts by NRSCH Registrars to increase the transparency of community housing sector performance are the subject of consultation through the NRSCH Data Review, a paper released in July 2019.

## Evaluation of service to community housing providers

The Registrar evaluates the quality of regulatory services by surveying all community housing providers after assessment activity.

On the whole, the quality of Regulatory Services activities in undertaking provider compliance assessments continues to be well regarded, as indicated in the graphics below.

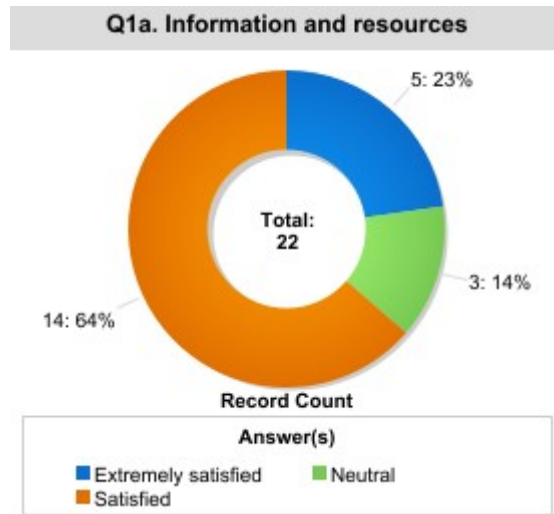
### Professionalism



91% of CHPs agreed that the Registrar’s staff displayed a good or better level of professionalism during their compliance process



## Information and Resources



87% of CHPs agreed that the information and resources provided to them at compliance was satisfactory or better

## Consistency



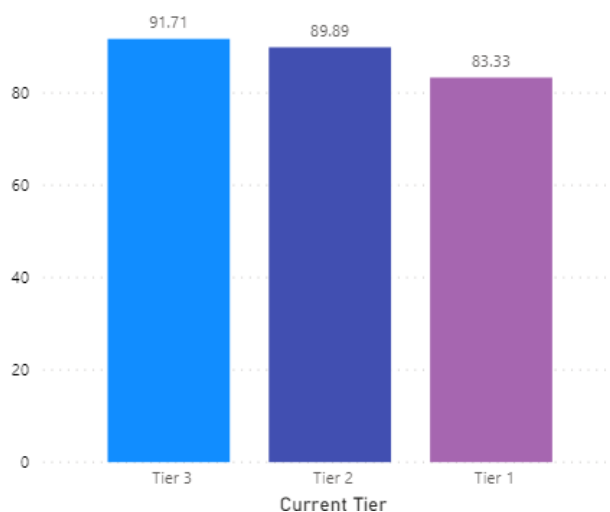
91% of CHPs agreed that the Registrar's staff adopted a consistent approach to their compliance activities.

## Community housing provider performance

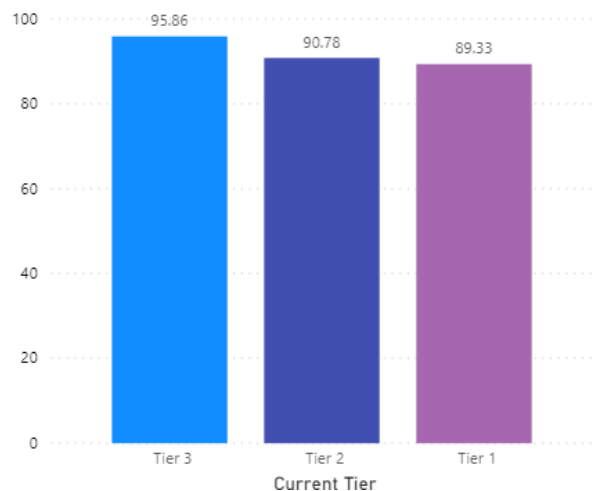
One way that Regulatory Services demonstrates transparency about our performance is through the publication of data regarding satisfaction levels of tenants, residents or homeowners with the services provided. This is currently only possible in relation to the community housing sector where providers are required to survey their tenants under the NRSCH.

Generally, community housing providers in Queensland deliver a very good level of service, evidenced by tenant satisfaction with provider maintenance and property satisfaction. While all providers rated well, Tier 3 providers achieved the highest level of satisfaction across both metrics.

Tenant Satisfaction (maintenance) by Tier



Tenant Satisfaction (property condition) by Tier



## Feedback

Regulatory Services invites feedback, questions and suggestions on content contained in this report. Contact can be made by any of the following methods:

**Email:** [QLDHousingRegistrar@hpw.qld.gov.au](mailto:QLDHousingRegistrar@hpw.qld.gov.au)

**Phone:** 07 3008 3450

**Phone:** 13 QGOV (13 74 68)

**Postal address:** Regulatory Services, National Regulatory System for Community Housing, PO Box 690, Brisbane, Queensland 4001.

## The Queensland regulatory best practice model

### Model practice 1: Ensure regulatory activity is proportionate to risk and minimises unnecessary burden

Supporting principles:

- a proportionate approach is applied to compliance activities, engagement and regulatory enforcement actions
- regulators do not unnecessarily impose on regulated entities
- regulatory approaches are updated and informed by intelligence gathering so that effort is focused towards risk.

### Model practice 2: Consult and engage meaningfully with stakeholders

Supporting principles:

- formal and informal consultation and engagement mechanisms are in place to allow for the full range of stakeholder input and Government decision making circumstances

- engagement is undertaken in ways that helps regulators develop a genuine understanding of the operating environment of regulated entities
- cooperative and collaborative relationships are established with stakeholders, including other regulators, to promote trust and improve the efficiency and effectiveness of the regulatory framework.

### Model practice 3: Provide appropriate information and support to assist compliance

#### Supporting principles:

- clear and timely guidance and support is accessible to stakeholders and tailored to meet the needs of the target audience
- advice is consistent and, where appropriate, decisions are communicated in a manner that clearly articulates what is required to achieve compliance
- where appropriate, regulatory approaches are tailored to ensure compliance activities do not disproportionately burden particular stakeholders (e.g. small business) or require specialist advice.

### Model practice 4: Commit to continuous improvement

#### Supporting principles:

- regular review of the approach to regulatory activities, collaboration with stakeholders and other regulators to ensure it is appropriately risk based, leverages technological innovation and remains the best approach to achieving policy outcomes
- to the extent possible, reform of regulatory activities is prioritised on the basis of impact on stakeholders and the community
- staff have the necessary training and support to effectively, efficiently and consistently perform their duties.

### Model practice 5: Be transparent and accountable in actions

#### Supporting principles:

- where appropriate, regulatory frameworks and timeframes for making regulatory decisions are published to provide certainty to stakeholders
- decisions are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions
- indicators of regulator performance are publicly available.