



## A Comparison of the Roles and Responsibilities of a CLT when developing publicly subsidised rented housing:

1. As a Registered Provider<sup>1</sup> or
2. In partnership with a Registered Provider.

This note compares a CLT's roles and responsibilities when developing and managing affordable rented housing as a Registered Provider with its roles and responsibilities when doing so *in partnership with an RP*.

It is a simple checklist with no value judgement about whether one route is better than the other and, for those thinking seriously about the alternatives, serves as a starting point to more detailed discussions.

'Partnership' in this context means a relationship where the CLT acquires the freehold of a site or property and its RP partner takes a long-term lease from the CLT using the model developed by Middlemarch<sup>2</sup> in our work with Wessex Community Assets in Somerset, Devon and Dorset.<sup>3</sup>

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<sup>1</sup> Registered Provider or RP is the term used for bodies registered with the Regulator or Social Housing (RSH). Most are what are more familiarly known as Housing Associations. RPs are eligible to apply for capital grant to develop affordable housing and, as condition of such allocations, are then regulated by the RSH.

<sup>2</sup><https://middlemarchassociates.co.uk/>

<sup>3</sup> This form of partnership will be set out more fully in Community Led Homes' forthcoming guide to partnerships between community housing groups and RPs.

Comparison of roles and responsibilities – development, funding and law		CLT as RP	CLT in partnership with an RP
Company Law	Employment Law	✓	✓
	Contract Law	✓	✓
	Data protection	✓	✓
	Equalities Act	✓	✓
	Health & Safety	✓	✓
	Human Rights	✓	✓
	Financial Reporting Standards	✓	✓
	Tax	✓	✓
	Ownership	✓	✓
Project Leadership	Choice of site and agreement of terms with owner	✓	✓
	Number, type and tenure of homes	✓	✓
	Layout, design and planning consent <sup>4</sup>	✓	✓
	Allocation criteria defining local connection	✓	✓
	Rent regime – social or affordable	✓	✓
	Protection from the vRtB <sup>5</sup>	✓	✓
Compliance with Homes England's Capital Funding Guide <sup>6</sup>	Schemework Audit of development files (Annex A)	✓	All RP Partner  In terms of finance, the CLT has a guaranteed index-linked ground rent
Project Finance	Registration as an RP <sup>7</sup>	✓	
	Capital funding – loans & grants	✓	
	Build contract	✓	
	Viability	✓	
	Management costs	✓	
	Maintenance costs	✓	
	Operating surplus/deficit	✓	
Housing Law	Tenancy Law	✓	
	Housing Acts	✓	
	Crime and Disorder	✓	
	Safeguarding and Abuse	✓	
	Repairs Legislation	✓	
	Planning, Listing and By-laws	✓	
	Building Regulations	✓	
	European Regulations and Immigration Status	✓	

<sup>4</sup> Architecture, engineering, planning etc funded by revenue grants

<sup>5</sup> The voluntary Right to Buy for RP tenants

<sup>6</sup><https://www.gov.uk/guidance/capital-funding-guide>

<sup>7</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/685417/Guidance - Registration for new entrants Jan 2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685417/Guidance_-_Registration_for_new_entrants_Jan_2018.pdf)

Comparison of roles and responsibilities – regulation and operation		CLT as RP	CLT in partnership with an RP
Company policies and procedures	Member/resident involvement	✓	✓
	Governing body election/selection	✓	✓
	Conflict of interest	✓	✓
	Financial standing orders	✓	✓
	Expenses	✓	✓
	Equality and diversity	✓	✓
	Health and safety	✓	✓
	Staffing if any	✓	✓
	Complaints	✓	✓
Landlord documents and records	Deed, loan & grant agreements	✓	All RP Partner  Except a key document for CLT is the lease with its RP partner
	Records of lettings & allocations	✓	
	Tenancies, leases	✓	
	Lease agreements (with others)	✓	
	Property files (dev & manage)	✓	
	Service level agreements	✓	
	VFM self-assessments	✓	
	Contractor record/documentation	✓	
	Stock condition surveys	✓	
	Asbestos register	✓	
	Repairs certs (inc gas & electric)	✓	
	Complaints records	✓	
	Resident surveys	✓	
Landlord policies and procedures	Abandoned vehicles	✓	
	Allocations and lettings	✓	
	Anti-social behaviour	✓	
	Breach of tenancy or lease	✓	
	Compensation	✓	
	Empty homes	✓	
	Lodgers and subletting	✓	
	Mutual exchanges & transfers	✓	
	Procurement	✓	
	Recharges	✓	
	Rent arrears	✓	
	Rent setting	✓	
	Repairs and maintenance	✓	
Squatting and illegal occupation	✓		
Regulation by the Regulator of Social Housing (See Annex B)	The Governance Standard	✓	
	The Viability Standard	✓	
	The Value for Money Standard	✓	
	The Rent Standard	✓	
	The Tenant Involvement & Empowerment Standard	✓	
	The Home Standard	✓	
	The Tenancy Standard	✓	

## Homes England Schemework Audit

Checklist of documents to be audited in the RP's development files. More details can be found on Homes England's website.<sup>8</sup>

- Valuation report for the site/property acquired.
- Where the vendor is a local authority - a letter from the local authority endorsing valuation
- Confirmation from RP's solicitors of the dates of exchange of purchase contracts and of completion, the purchase price paid and a comprehensive report on title
- Documentary evidence to indicate that the procurement arrangements used agree with arrangements and procedures approved by the RP's governing body
- Where providers are receiving any other subsidy they must maintain a funding profile on file showing that grant is not being received in respect of costs subsidised by any other body
- Where capital contributions to the scheme from other sources, including other public sources, are involved, confirmation of the amounts on offer and the sources of funding should be retained, including any correspondence with the third party (parties)
- Surveys, drawings, specifications, specialist and other consultants' reports
- Terms of appointment of consultants
- Evidence of the basis of selection of consultants and building contractor
- Copies of the building contract document and final account documentation
- Planning permissions, building regulations approval and any other statutory consents
- Details of the insurance of the property during construction and following completion
- Sale valuations (sale schemes only)
- Details of prospective rents documented on the RP's development files

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<sup>8</sup> <https://www.gov.uk/government/collections/compliance-audit-documents-and-checklist>

## The Regulatory Standards

This is a summary of the reporting requirements and Standards set for RPs by the Regulator of Social Housing. The full Regulatory Standards are available on the regulator's website<sup>9</sup>.

### Reporting:

- An annual statistical return (short form) – details of key officers, stock owned and/or managed by type.<sup>10</sup>
- Compliance with the Decent Homes Standard, average weekly rent and service charge and details of units void at the end of the financial year.
- Submission of the annual audited financial statements, auditor's management letter and audit findings report.
- Annual Value for Money performance information
- Early information on restructures
- Relevant statutory notifications in relation to constitutional changes and disposals
- As appropriate, other information may be assessed e.g. if developing new homes, the regulator normally seeks and considers financial forecast information
- Regulatory notices will be issued where the regulator has evidence that provider is in breach of an economic standard or for serious detriment finding

The **Governance and Viability Standard** requires:

- effective governance, including compliance with a code of governance. The Confederation of Cooperative Housing has produced a code of governance for community-led housing organisations in partnership with the National Housing Federation.
- compliance with the law, governing documents and regulatory standards
- accountable to tenants and other service users and to the regulator
- taxpayer interests to be safeguarded
- the reputation of the sector to be protected
- effective management of risk and appropriate internal controls
- social housing assets to be protected so that the public investment remains supporting social housing assets
- resources to be managed in ways that will ensure ongoing viability – ie. having a long term finance plan that balances

The **Value for Money Standard** requires:

- a comprehensive and strategic approach to achieving value for money in meeting objectives
- a 'robust' assessment of the performance of all assets and resources - ie. what outcomes are being delivered as a result of the assets and resources of the community-led housing organisation. This could include, for example, financial, social and environmental returns, but it also includes ensuring that community-led housing organisations are maximising their potential for developing new homes with their assets.
- taking into account the interests of stakeholders - transparently and accessibly. Stakeholders could include existing and prospective tenants, residents, and other service users; national and local Government; the taxpayer; and others.

<sup>9</sup> <https://www.gov.uk/guidance/regulatory-standards-procedures-and-guidance> and [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/790533/Regulating the Standards - March 2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790533/Regulating_the_Standards_-_March_2019.pdf)

<sup>10</sup> <https://nroshplus.regulatorofsocialhousing.org.uk/>

- managing resources economically, efficiently and effectively to provide quality services and homes.

The **Rents Standard** requires:

- compliance with Government directives on how social housing rents and affordable rents should be set. However, the Rents Standard doesn't apply if a tenant earns £60K or more, meaning that in such circumstances, the Registered Provider can charge a market rent.
- a clear explanation to tenants and other service users of how rents and service charges are set.

The **Tenant Involvement & Empowerment Standard** requires that:

- appropriate information and communication take place with tenants and service users and that appropriate choices about services are available
- there is a clear, fair and easily accessible complaints policy
- a wide range of opportunities are available for tenants and other service users to influence and be involved in:
  - a) the housing related policies and strategies that affect them
  - b) decision making about their housing services
  - c) scrutiny of landlord performance
  - d) the management of their homes and the repairs service
  - e) offers for how services are delivered locally
- all tenants are treated fairly and with respect
- the diverse needs of tenants and other service users are understood and appropriately catered to.

The **Home Standard** requires that:

- the Decent Homes Standard is met (when homes first developed and in the future)
- quality and design standards are met at time the homes were built
- there is a cost-effective repairs service that meets tenants needs and that meets statutory and other health and safety requirements.

The **Tenancy Standard** requires that:

- there are fair, transparent allocations systems
- allocations systems take into account housing needs and aspirations
- allocations systems contribute to local authority strategies
- there are clear application, decision-making and appeals processes
- tenants are able to change their homes through internet based mutual exchange systems
- tenures are provided that are appropriate to the properties and that the landlord complies with their terms.

The **Neighbourhood and Community Standard** requires that:

- neighbourhoods and communal areas are kept clean and safe, and that the landlord works with tenants, local authorities and other statutory authorities to ensure that this is the case
- landlords co-operate with partners, such as the local authority, other landlords or other local organisations, to promote social, environmental and economic wellbeing
- landlords prevent and tackle anti-social behaviour and work with partners to do so where anti-social behaviour may be affecting the wider area.