

Procedure Note – De-registration

Version Control Log

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SHR	Regulation Group		

Procedure Note – De-registration

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1. INTRODUCTION

We are required to keep a public record of social landlords on our website which gives accurate information about all of the RSLs that are registered with us. There are two ways that an RSL can be removed from this register: by voluntary de-registration or compulsory de-registration.

A voluntary de-registration will happen when a landlord asks us to be removed from the register. This is usually after the RSL merges with or transfers its engagements to another RSL.

A compulsory de-registration will happen when we consider an RSL:

- no longer meets (or has never met) registration criteria;
- has ceased to carry out activities; or
- has ceased to exist.

This procedure note details the different processes to follow for a voluntary and compulsory de-registration.

2. VOLUNTARY DE-REGISTRATION

In most cases a voluntary de-registration will follow on from a merger or transfer of engagements, so it is likely that we will already be engaging with the RSL and will have a range of information, including a business case and financial assessment, which will help us assess if the RSL meets the de-registration criteria. We should start the de-registration process once the merger or transfer has taken place.

Where the voluntary de-registration does not follow a merger or transfer, we will need to ask the RSL to provide us with a range of information that demonstrates that

they meet the de-registration criteria set out in our [Regulatory Framework](#). The de-registration process cannot begin until we are satisfied that they meet this criteria.

Information requirements

Financial Information requirements

The financial information required is the same for either a voluntary or compulsory de-registration. In most cases de-registration will result from a merger or the transfer of an RSL's activities to another RSL.

RSL's needs to submit a range of financial information; however the expected date of de-registration will determine whether it should be submitted before de-registration and whether it should be returns for individual RSLs, or the newly merged organisation:

- The annual returns for the Annual Financial Statement (AFS) and the Loan Portfolio (LP)
- Five year financial projections (FYFP)
- Copies of the financial statements and any management letters produced by the auditor (these should always be received before de-registration).

Separate FYFP's for each part of a merger will need to be submitted until the estimated date for de-registration is known with a reasonable degree of certainty. This is likely to be after the first ballot, rather than after the initial decision by the Governing Body to pursue a merger/transfer. In the case of a compulsory merger, the advice of the Financial Regulation Manager should be sought.

Where a transfer or merger has taken place, the receiving RSL will also have to submit:

- an in-year LP return, to reflect the difference in debt and loan balances at each of the RSLs involved.

In the case of a transfer or merger, this should be discussed with the Finance lead to agree if we need combined returns, which includes information on the transferring and the receiving RSL, or if we need an individual return for each RSL. In some cases it may not be possible to require a return to be completed, for example in the case of a compulsory de-registration.

In most cases, we will already have been engaging with the RSL and so there should already be contacts within each team involved with the process. However, if there is not, it is important to identify a named contact for financial returns in order that the RSL can direct any queries they have about each submission to the correct team.

When this has been done, the RSL (in the case of a transfer, the RSL who received the transferring RSL) should be contacted to set out what information they need to submit before the de-registration can take place, the timescales for each submission, and the named contact to direct queries for each return.

The de-registering RSL will, in most cases, also have to submit a final ARC return. In the case of a transfer or merger, this should be discussed with the Assistant Director to agree if we need a single return, which includes information on the transferred and the receiving RSL, or if we need an individual return for each RSL. In some cases it may not be possible to require an ARC return to be completed, for example in the case of a compulsory de-registration.

In most cases, we will have been engaging with the RSL and so there should already be contacts within each team involved with the process. However, if there is not, it is important to identify a named contact for:

- financial returns;
- annual return on the charter; and
- the SHR portal

in order that the RSL can direct any queries they have about each submission to the correct team.

When this has been done, the RSL (in the case of a transfer, the RSL who received the transferring RSL) should be contacted to set out what information they need to submit before the de-registration can take place, the timescales for each submission, and the named contact to direct queries for each return.

Portal access

In order to submit this information to us, the RSL will need to have access to the portal and have at least one appropriate user set up who can amend records and send information. In most cases, the RSLs admin user should be able to do this. The RSL should confirm that they have an appropriate user set up on the portal, and in cases where they do not, we should speak to the BI team to set this up for them.

In the case of a transfer or merger, someone at the receiving RSL will need to have access to the transferred RSLs portal records, so that financial returns can be submitted. The receiving RSL should tell us who will need access to the account. The BI team should then be asked to set up a Single User Multi Landlord (SUML) account for these users. This means that all accounts can be accessed via the receiving RSLs portal account.

De-registration

Once all of the relevant returns have been made and reviewed, and it has been agreed that we are now satisfied that the RSLs meets the de-registration criteria, we should, for an RSL that has merged or transferred, seek approval from the Chief Executive to have the RSL removed from our register. For any other voluntary de-registration, a report should be put to the Board, which sets out how the RSL meets

the de-registration criteria and seeks their approval to remove the RSL from our register. A template for this report is included at Appendix 1.

When the de-registration has been approved by the Chief Executive or Board, the BI team should be contacted to confirm this and to arrange to have the portal and our website updated. The date of de-registration should be the date that we received the final submission from the RSL. In most cases, this will be the RSLs final annual financial statement.

Once the portal has been updated, the RSLs record will no longer appear on our register. However, in line with our records management policy, all of the information that we hold on the RSL has to be retained for 5 years, so their record will still appear internally on the portal, under inactive landlords. The RSL will no longer have access to this account.

Where the de-registration has followed a transfer or merger, we should write to the chief executive of the RSL that received the RSL and confirm that the de-registration has now taken place. We should also confirm that they no longer have access to the portal account for this RSL. For all other voluntary de-registrations, a letter should be sent to the former chair.

We should also write to other regulators to let them know that the RSL has now been de-registered.

- Where the RSL is a registered society, we must notify the Financial Conduct Authority (FCA)
- Where it is a registered company, we must notify the registrar of companies; and
- Where it is a charity, we must notify the Office of the Scottish Charity Regulator (OSCR)

3. COMPULSORY DE-REGISTRATION

We can compulsorily remove an RSL from our register where we believe it no longer meets the registration criteria set out in our Regulatory Framework; it has ceased to carry out activities; or it has ceased to exist.

Where we believe this may be the case, we should call a case conference to consider whether to de-register the RSL. If the case conference agrees, we should write to the RSL setting out why we believe it no longer meets the registration criteria/it has ceased to carry out activities/it has ceased to exist, and ask them to provide us with any evidence they believe demonstrates that they still meet our registration criteria or are still functioning as an RSL. The RSL should be contacted at their registered address. The RSL must be given at least 14 days to provide us with this information.

If the RSL provides us with evidence, this should then be discussed at a case conference to agree if it offers us enough assurance to allow the RSL to remain on

the register. Where it does, we should write to the RSL to confirm that they will not be de-registered.

Where the RSL has not been able to provide us with evidence, or where it has been agreed that the evidence they have provided is insufficient to demonstrate that they still meet registration criteria/are still carrying out landlord activities, a report should be put to the Board, setting out what actions have been taken in establishing that the RSL should be de-registered and seeking their approval to remove them from our register.

If the board gives their approval, we should then write to the RSL and tell them that we have decided to de-register them, and set out clearly what evidence this decision has been made on. The letter should also make clear that the RSL has the right to appeal our decision, either through our appeals process or to the Court of Session, as set out under Section 29 of the Housing (Scotland) Act 2010. We should advise the RSL that it has 15 working days to submit an appeal. During this appeal period it is important that we continue to take into account the views expressed by the RSL about the de-registration.

Appeals

If we receive notice that the RSL is going to appeal the decision to have them removed from the register, we should not take any further action until the appeal has been finally determined or withdrawn.

If the appeal has been made through SHR's appeals process, we should follow the process set out in our [guidance](#). Once the appeal panel has made a decision, we should write to the RSL to confirm this, and explain clearly why this decision has been made. Where the appeal panel upholds the decision to de-register the RSL, we should continue with the de-registration process.

If the appeal has been made to the Court of Session, the outcome will either be to confirm our decision, quash it, or remit the case back to us for reconsideration. Where the case is remitted, a report should be put to the Board, setting out the court's decision and asking the Board to reconsider the de-registration of the RSL. Once the Board has made a decision, we should write to the RSL to confirm this.

In all cases, we must give other regulators notice of the outcome of the appeal, as soon as we can.

- Where the RSL is a registered society, we must notify the FCA
- Where it is a registered company, we must notify the registrar of companies
- Where it is a charity, we must notify OSCR.

De-registration

Where we do not receive an appeal or any further evidence from the RSL or where the outcome of an appeal is that the RSL should be de-registered, we should ask the BI team to update the portal and our website to show that the RSL has been de-

registered. The date of de-registration should be the date that the board approved the de-registration or the date that the appeal decision was made.

In line with our records management policy, the RSLs record must be retained for 5 years, so their account will continue to appear internally on the portal, under inactive landlords. The RSL will no longer have access to their account.

Where possible, we should contact someone at the RSL, e.g. in the case of an insolvency, we should contact the RSLs accountant, to let them know that the RSL has now been de-registered. We should also ask for financial statements and managements letters to be sent to us, where they are available.

Once the RSL has been de-registered, the relevant regulators (as detailed above) must be notified as soon as possible.

APPENDIX 1 - Template for report to SHR Board

The Board of the Scottish Housing Regulator

Subject: De-registration of
Purpose: For decision
Agenda item: XX/XX AG X
By:
Contact telephone number:
Meeting date: DD MMM YYYY

1. Introduction

1.1

2. Recommendations

2.1

3. Background

3.1

4. Our assessment

4.1 Our Regulatory Framework sets out the criteria we have said we will use in considering the de-registration of social landlords.

Criterion 1: It does not own or manage any houses which are or will be used for the purposes of social renting

4.2

Criterion 2: The RSLs de-registration does not materially affect the interests of its tenants

4.3

Criterion 3: It has repaid all borrowing or obtained the consent of its lenders to de-register

4.4

Criterion 4: It has repaid any public funding or has the agreement of the funder that no payment is required.

4.5

Criterion 5: The applicant has consulted the relevant local authority in their capacity as strategic housing authority.

4.6

5. Risks and implications

5.1 **Financial**

5.2 **Legal**

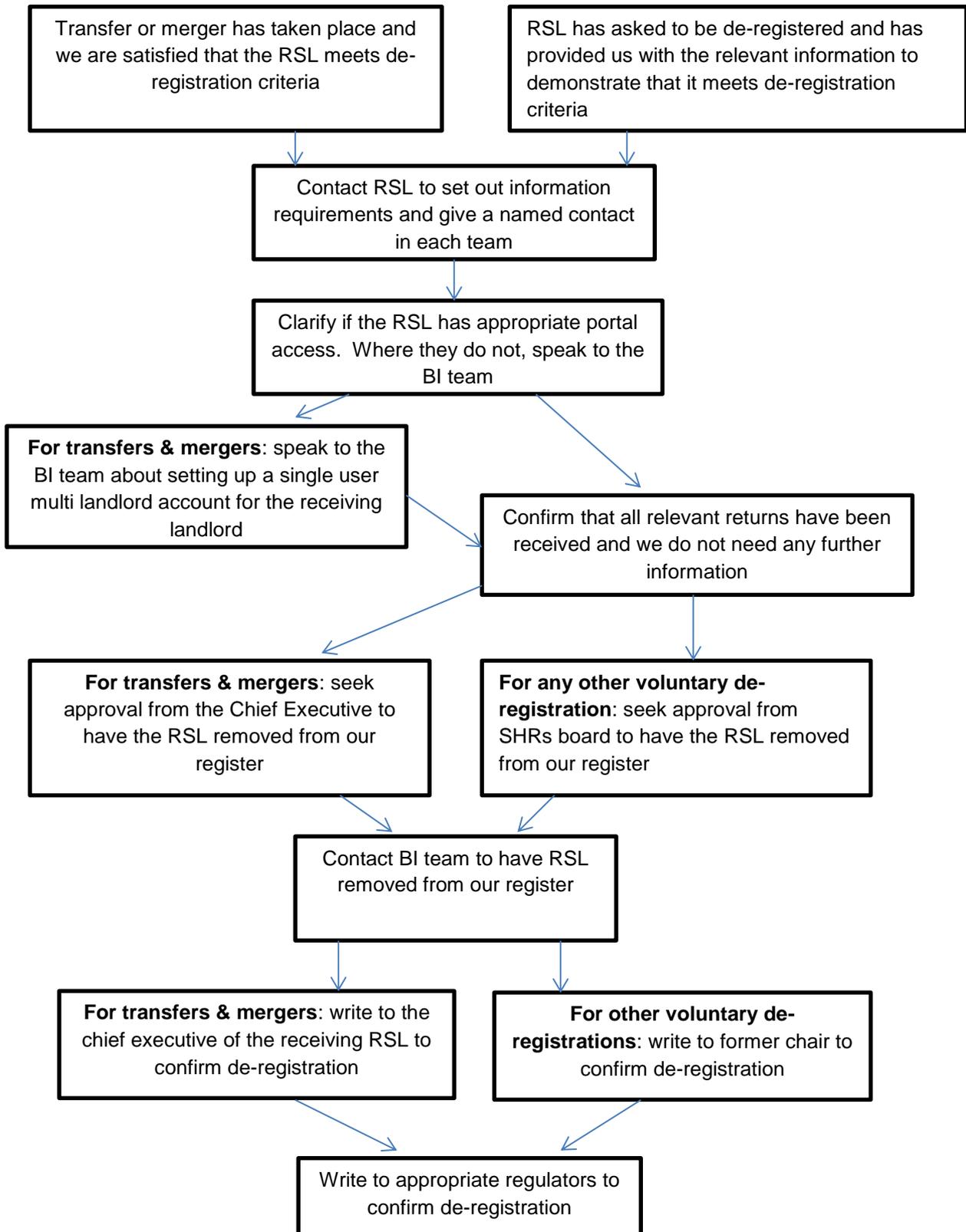
5.3 **Environmental**

5.4 **Equalities & Diversity**

5.5 **Communications & Media**

5.6 **Reputation**

APPENDIX 2 – Voluntary de-registrations



Appendix 3 – compulsory de-registrations

