



Nationwide House Energy Rating Scheme®

New Homes Compliance and Enforcement Framework

19 April 2024

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Introduction

About NatHERS

The Nationwide House Energy Rating Scheme (NatHERS) accredits tools that measure and rate a home's energy efficiency. These tools provide a 'measuring tape' for rating the energy performance of Australian homes.

State and territory governments use NatHERS for regulatory purposes, to support the building industry to demonstrate compliance with the National Construction Code (NCC).

NatHERS is also used by the finance sector to underpin green loans.

Audience

The primary audiences for the framework are:

- Energy Efficiency Assessors
- Assessor Accrediting Organisations
- providers of NatHERS accredited software tools
- NatHERS staff

Framework Objectives

The key objectives of the framework are to support the achievement of NatHERS strategic objectives by:

- Establishing how rules are made to manage risks to NatHERS objectives
- Establishing roles and responsibilities for compliance and enforcement
- Establishing how decisions are made with respect to managing compliance
- Describing the tools to prevent, monitor or respond to non-compliance issues.
- Describing the current obligations of participants and the potential consequences of non-compliance with those obligations.

Key risks managed through compliance and enforcement

The framework focuses on risks that arise through the delivery of NatHERS energy ratings, and in particular, risks to the following strategic objectives:

Reliable and consistent energy ratings and information are delivered by independent accredited assessors

NatHERS ratings are consistent, comparable, accessible and fit for purpose

NatHERS tools and data are accurate, transparent, validated and easy to use

For the purposes of NatHERS compliance, risks are defined as:

Circumstances, conduct or events, that if they occur, result in harms.

The key risks NatHERS compliance and enforcement activity seeks to manage are:

- 1. Accredited Software**
 - has deficiencies or defects that impact security, reliability or accuracy
 - is misused
 - is unexpectedly removed from the market
- 2. Assessments**
 - contain incorrect or inadequate inputs
- 3. Ratings**
 - are materially incorrect, misleading or false
- 4. Certificates**
 - are fraudulently produced or used
- 5. Conduct**
 - misleads consumers or stakeholders
 - endangers a person's safety
 - threatens public confidence in the integrity of NatHERS

Harms are characterised as:

Unintended, negative impacts on stated NatHERS objectives, people, property, or the environment.

The harms that NatHERS compliance and enforcement are intended to prevent or minimise are:

- 1. Community harms**

Poorly performing dwellings leading to:

 - unsustainable levels of demand for energy that compromise the reliability of the system
 - failure to reduce emissions to net zero and mitigate risks of climate change
- 2. Financial harm**
 - to householders resulting from actions taken, or not taken, based on misleading or incorrect ratings information.
 - to NatHERS participants or other industry stakeholders resulting from:
 - the conduct or performance of a NatHERS delivery partner
 - unreliable or inaccurate accredited tools and/or technical information
 - reputational damage to the NatHERS brand
 - to the Australian Government resulting from compensation claims against the NatHERS Administrator.
- 3. Personal harms**
 - to householders associated with poor thermal comfort levels in a changing Australian climate.

Compliance and Enforcement Principles

The NatHERS Administrator applies five principles to compliance and enforcement planning and decision-making. These principles support the prioritisation of what is required and how tools and resources can be applied for maximum compliance benefit and effectiveness.

1. Outcomes-Based

Compliance obligations, activities and decisions must:

- optimise the capability of people to be aware of and understand their obligations and the consequences of non-compliance
- balance the compliance burden on participants with what can reasonably be expected
- represent the course that is most likely to realise the desired compliance outcome in the most efficient way
- be aligned with other scheme objectives and support the achievement of common goals.

2. Risk-Based

Compliance obligations, activities and decisions must:

- be agile and responsive to emerging issues
- prioritise the greatest risk of harm to the integrity of the scheme and consumer confidence
- be proportional to the seriousness of a risk or issue, and not extend beyond achieving stated compliance objectives or responding to a specific issue.
- be effective at managing the risk within identified tolerances.

3. Transparent

Information that promotes and improves compliance and accountability should be communicated to stakeholders and the community in a timely and accessible way.

4. Impartial

Compliance decision-making applies the principles of natural justice and procedural fairness. Decisions must be fully informed, evidence-based, and without prejudice.

5. Collaborative

Stakeholders should be actively engaged in the continuous improvement of compliance practice.

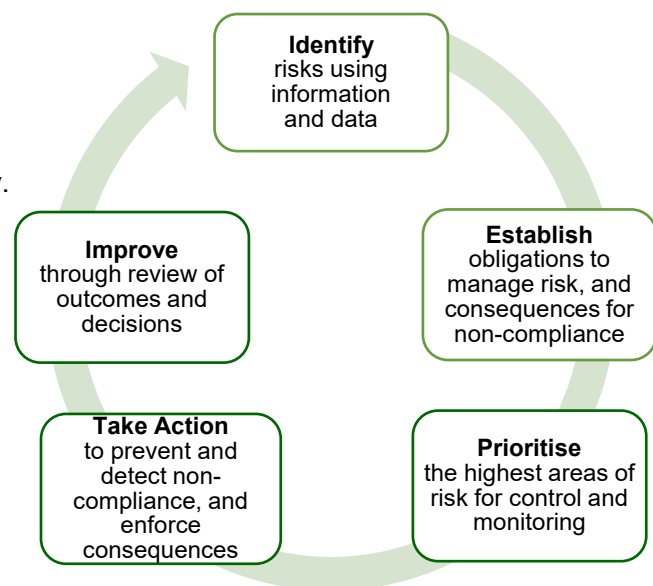


Figure 1. Translation of compliance principles into practice.

Assumptions

In developing this framework, the NatHERS Administrator relies on the following assumptions for its effective implementation and performance:

- Compliance and enforcement activity is appropriately resourced to manage risks within tolerable limits.
- There is engagement and cooperation from industry, and state and territory regulators, to continually improve compliance outcomes and practice in energy performance assessments.

Framework Scope

The framework describes the principles and approach that are applied to establishing, monitoring and enforcing all obligations owed by all NatHERS participants.

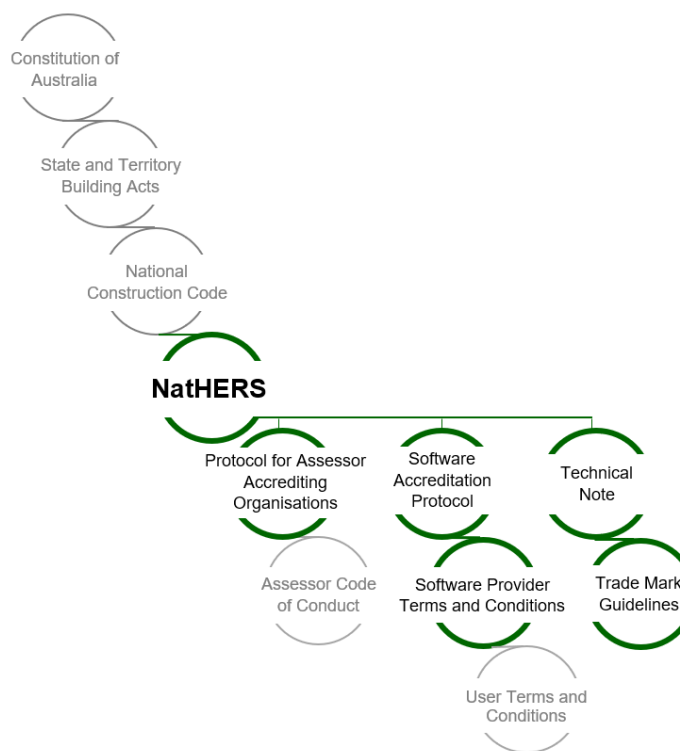
The framework includes obligations owed under the:

- Protocol for Assessor Accrediting Organisations
- Accredited Assessor Code of Practice
- Software Accreditation Terms and Conditions
- Software Accreditation Protocols – Thermal and Whole of Home
- NatHERS Technical Note
- NatHERS Trade Mark Guidelines.

Not in scope

The framework does not apply to circumstances where activity or conduct falls within the regulatory scope of another Australian Government, state or territory regulator. In instances where a matter is identified that may constitute a breach of laws or regulations, the NatHERS Administrator refers such matters to the relevant regulatory authority for investigation.

Figure 2. NatHERS Compliance and Enforcement Regulatory context



Responsibilities for Compliance

All participants in the delivery of NatHERS energy performance ratings and certificates have a responsibility to be aware of, understand, and comply with their obligations.

To enable the NatHERS Administrator to manage compliance in an effective and efficient manner, the NatHERS Administrator relies on delivery partners who support compliance monitoring and enforcement activity.

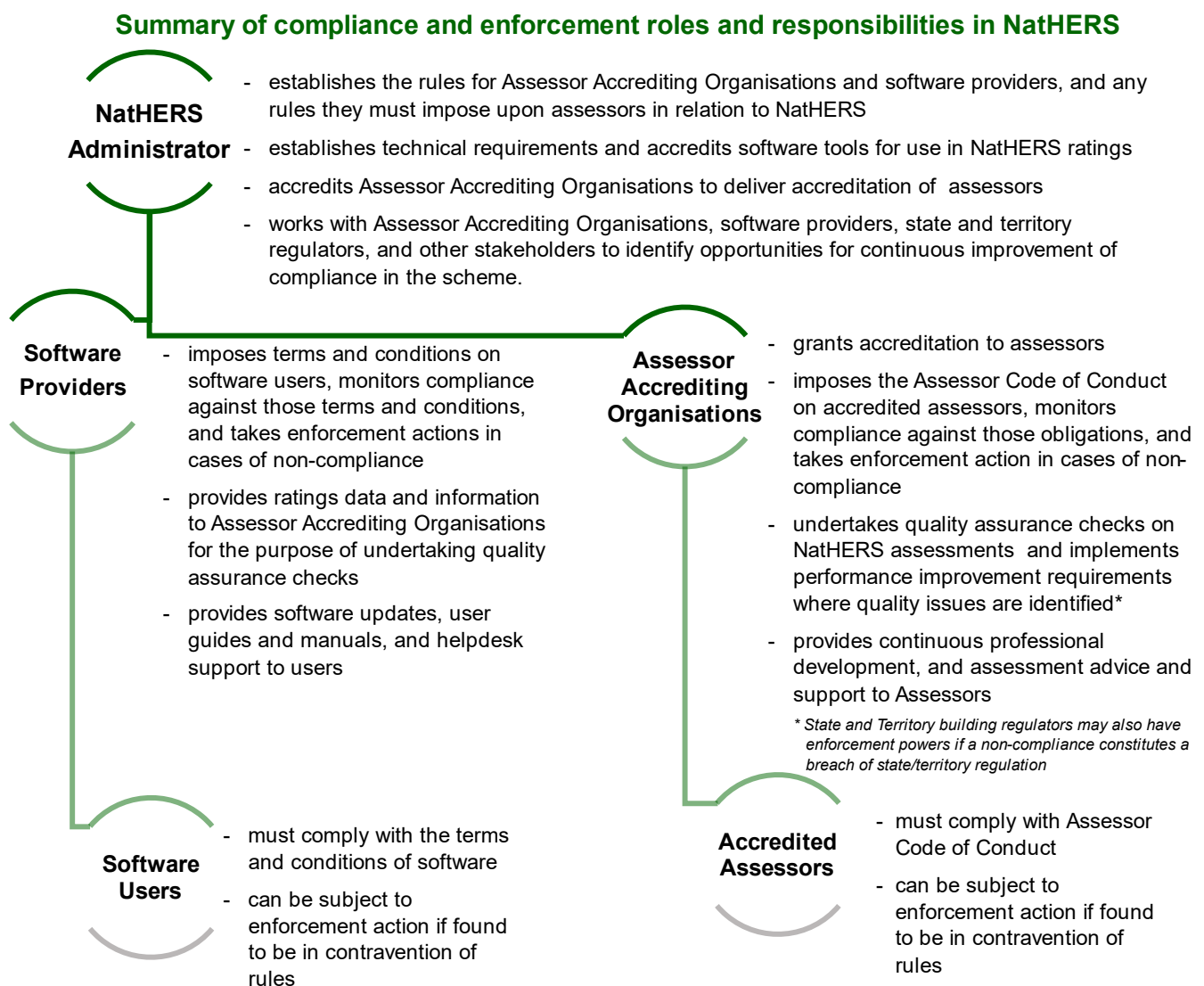
- **Software providers** supply and maintain the accredited tools that can be used to complete a NatHERS rating and generate a certificate. They have compliance and enforcement responsibilities with respect to use of that software for NatHERS assessments.
- **Accredited Assessor Organisations** accredit assessors for NatHERS and monitor the quality of assessments being undertaken by accredited assessors. They have compliance and enforcement responsibilities with respect to the accreditation of assessors and quality of assessments.

Delivery partners work with the NatHERS Administrator to identify and respond to integrity risks in a timely and proportionate way.

Where there is evidence of assessor non-compliance, delivery partners have responsibilities to the NatHERS Administrator to take corrective action. The NatHERS Administrator may direct a delivery partner to take corrective action with respect to non-compliance, as established in its agreements with delivery partners.

Figure 3. summarises the broad roles and responsibilities of the NatHERS Administrator and its delivery partners.

Figure 3. Roles and responsibilities for NatHERS compliance and enforcement.



Compliance and Enforcement Strategy

NatHERS, through the NatHERS Administrator, Assessor Accrediting Organisations and software providers, maintains an ongoing focus on compliance. Compliance management may be either reactive or proactive:

Reactive compliance management

A reactive approach is agile and allows the prioritisation of compliance matters that carry the highest level of risk at any given point in time. Reactive compliance includes investigating complaints or concerns regarding:

- the conduct or competence of an accredited assessor and/or
- the accuracy or reliability of a NatHERS rating or certificate

Where non-compliance is detected, enforcement responses are determined based on the severity of consequences and the likelihood of reoccurrence.

Appropriate and proportionate responses to non-compliance are determined by taking into account all the available information and evidence, including:

- **Enforceability:**
 - whether the delivery partner, the NatHERS Administrator or another agency, has the power to enforce compliance
 - whether action is likely to lead to a satisfactory compliance outcome when balanced against the costs and risks of undertaking action
- **Impact:**
 - who is/was impacted by the non-compliance
 - the scale of people / assessments impacted by the non-compliance
 - the harms that could be / have been experienced as a result and the severity of those harms
- **Intent:**
 - whether the conduct was intentional, accidental or opportunistic
- **Likelihood:**
 - the likelihood, in the absence of taking any action, of it reoccurring

Proactive compliance management

Proactive compliance management allows potential problems to be identified and appropriate actions to be taken before the risk materialises, and allows known risks to be reassessed periodically, to ensure they remain within tolerances. Proactive compliance activity may be initiated in circumstances where:

- there are indicators of a problem, but there is not yet any evidence that can confirm or disprove it, or evaluate its level of threat
- there is a need to test that existing compliance measures are performing as expected and achieving the intended compliance outcomes

Proactive compliance management includes:

- completing periodic quality assurance checks of assessments and certificates
- providing information, advice and support to assessors during periods of significant change e.g. technical changes initiated by amendments to regulatory instruments, including the National Construction Code

What is the NatHERS Administrator role in compliance and enforcement?

The NatHERS Administrator may review and amend the rules of the scheme in response to circumstances that may arise such as:

- changes to regulatory instruments, including the National Construction Code
- new or changed government and private sector programs that use NatHERS

Consideration is given to how compliance changes will impact the scheme and broader government objectives, and prioritises actions and decisions that support:

- the competency, capability and integrity of assessors delivering NatHERS assessments
- the accuracy and integrity of NatHERS ratings and certificates
- the accessibility and reliability of NatHERS accredited tools
- public and industry confidence in NatHERS.

Where systemic non-compliance is detected or suspected, the NatHERS Administrator works to ensure there are appropriate and proportionate arrangements in place to intervene and preserve the integrity of the scheme.

From time to time the NatHERS Administrator may identify specific areas of concern and work with delivery partners to:

- take specific actions to respond to specific types of non-compliance and prevent further breaches
- obtain data and information to inform an evaluation of compliance risk across the scheme

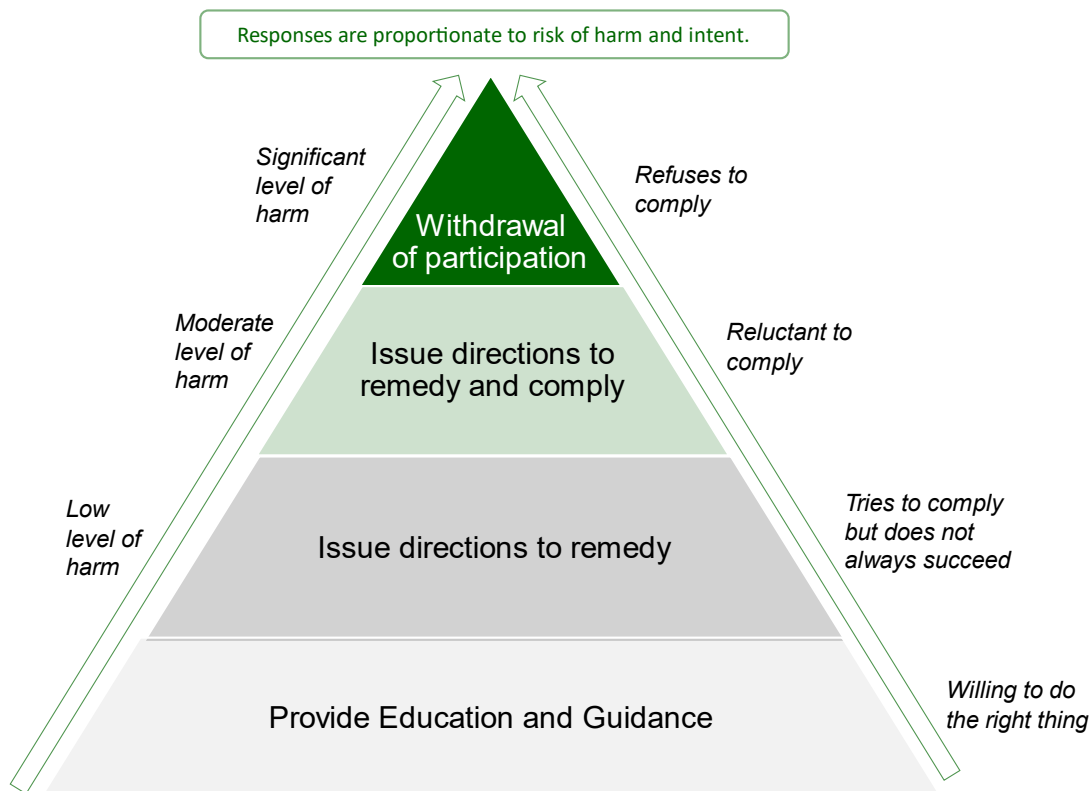
Delivery partners have obligations to the NatHERS Administrator as accredited providers of NatHERS tools or services. The NatHERS Administrator has responsibility for determining enforcement actions where there is an identified breach of delivery provider compliance.

Collaboration with other organisations

Where appropriate, the NatHERS Administrator works with other organisations and government agencies to perform and improve its monitoring and compliance functions, and comply with its own obligations under applicable Australian laws. This includes referring matters to other regulatory authorities where the NatHERS Administrator holds a reasonable belief that a contravention of legislative or regulatory requirements occurred.

The NatHERS Administrator collaborates with other organisations and government agencies to explore new uses of NatHERS ratings and certificates to support improved energy performance of Australian households. In some instances, collaboration may lead to changes to compliance obligations to ensure that stakeholders can confidently rely on NatHERS.

Figure 4. Relationship between enforcement response and level of harm/behavioural intent.



Compliance and Enforcement Tools

Prevention

Tool	Description	How is it used?
Stakeholder Engagement	<p>Proactively engage with industry, state and territory governments, regulatory agencies, delivery partners, and other market stakeholders on compliance matters including:</p> <ul style="list-style-type: none"> risks and issues in the delivery of reliable energy performance ratings impacts of changes to NatHERS scope, design or delivery model 	<p>Identify emerging risks to strategic objectives</p> <p>Test proposed changes or new initiatives</p> <p>Inform the prioritisation and allocation of resources and effort with respect to compliance</p> <p>Build an evidence base to inform continuous improvement</p>
Conditions for participation	<p>Establish and review minimum requirements for entry to participate, and conditions to maintain ongoing participation. May include:</p> <ul style="list-style-type: none"> proof of identity fit and proper persons tests conflict of interest management minimum training, qualifications, skills and/or experience benchmark / competency testing continuing professional development commitments code of conduct commitments professional insurances licenses, permits or registrations with professional or regulatory bodies privacy and confidentiality commitments health and safety commitments business due diligence checks business systems, policies and process minimum requirements reporting commitments 	<p>Ensure participants have the appropriate level of knowledge, skill, and capability to perform the functions of participation</p> <p>Provide mechanisms for monitoring performance and conformance of participants</p>
Technical Specifications	<p>Establish and review prescribed technical and process requirements for accessibility, performance and use of NatHERS accredited tools</p>	<p>Ensure the appropriate level of functionality, accuracy and reliability of tools to enable accurate assessments</p> <p>Provide mechanisms for monitoring performance and conformance of participants</p>
Education and Resources	<p>Provide accurate, timely, accessible information that promotes and supports strong compliance</p>	<p>Educate participants on the rules and obligations that apply to them, and the consequences of non-compliance</p> <p>Provide additional guidance and support to enable participants to comply with rules and obligations</p> <p>Raise awareness of participants and consumers of compliance matters and risks</p>

Monitoring and Detection

Tool	Description	How is it used?
Review	<p>Assessor Accrediting Organisations are required to establish and maintain a program to review assessments by accredited assessors, based on risk.</p> <p>The NatHERS Administrator may review the compliance of delivery partners with the terms of their accreditation, and may choose to review assessments by assessors.</p>	<p>Test the quality of NatHERS assessments and ratings</p> <p>Test that rules are implemented correctly and complied with by delivery partners</p> <p>Build an evidence base to inform continuous improvement</p>
Intelligence and Information Sharing	<p>Establish and maintain effective systems and processes to collect, use and share compliance information from a range of sources including monitoring of compliance trends through:</p> <ul style="list-style-type: none"> • tip-offs and complaints • media • stakeholder engagement 	<p>Enable identification of actual or suspected misconduct or poor professional practice</p> <p>Build an evidence base to establish wrong-doing or non-compliance and inform decisions about enforcement action.</p> <p>Build an evidence base of risks to inform continuous improvement</p>
Investigations	<p>Delivery partners and the NatHERS Administrator can conduct investigations into specific instances of suspected non-compliance or wrong-doing</p>	<p>Build an evidence base to establish wrong-doing or non-compliance and inform decisions about enforcement action</p>
Targeted Campaigns	<p>Delivery partners and the NatHERS Administrator can conduct reviews in relation to a specific area of compliance or a particular concern</p>	<p>Build an evidence base to confirm or dismiss suspected compliance risk and/or non-compliance</p> <p>Build an evidence base to inform continuous improvement</p>
Reporting	<p>Assessor accrediting organisations are required to report annually to the NatHERS Administrator, to demonstrate their performance and conformance.</p>	<p>Enable identification of scheme delivery and/or business continuity risk</p>

Enforcement

Tool	Description	How is it used?
<p>Direction to undertake remedial action</p>	<p>The NatHERS Administrator may issue a notice to remedy a breach of an obligation to:</p> <ul style="list-style-type: none"> • an assessor in breach of the Trade Mark Guidelines • a Registered Training Organisation in breach of the Trade Mark Guidelines • a delivery partner in breach of obligations under: <ul style="list-style-type: none"> ○ the Protocol for Assessor Accrediting Organisations ○ the Trade Mark Guidelines ○ Software Accreditation Terms and Conditions ○ Software Accreditation Protocols <p>Delivery Partners may issue a direction to remedy a non-compliance to accredited assessors in breach of the:</p> <ul style="list-style-type: none"> • Assessor Code of Conduct • Software User Terms and Conditions • NatHERS Technical Note • Trade Mark Guidelines <p>Delivery partners may issue a direction to undertake remedial action to an accredited assessor where an assessment has failed quality assurance.</p>	<p>To correct an identified non-compliance to an extent that removes or limits the adverse impacts of the non-compliance</p> <p>Directions to remedy may be issued:</p> <ul style="list-style-type: none"> • whether the non-compliance was a one-off or repeated • whether the non-compliance was intentional or accidental • for levels of harm ranging from minor to catastrophic
<p>Direction to Comply</p>	<p>The NatHERS Administrator may issue a direction to comply to:</p> <ul style="list-style-type: none"> • an assessor in breach of the Trade Mark Guidelines • a delivery partner in breach of obligations under <ul style="list-style-type: none"> ○ the Protocol for Assessor Accrediting Organisations ○ the Trade Mark Guidelines ○ Software Accreditation Terms and Conditions ○ Software Accreditation Protocols <p>Delivery Partners may issue a direction to comply in circumstances where:</p> <ul style="list-style-type: none"> • accredited assessors are in breach of the <ul style="list-style-type: none"> ○ Assessor Code of Conduct ○ NatHERS Technical Note 	<p>To formally state a demand for compliance with obligations.</p> <p>Directions to comply may be issued:</p> <ul style="list-style-type: none"> • whether the non-compliance was intentional or accidental • for multiple instances of repeated minor consequence non-compliances • for a single instance of moderate to major consequence non-compliance • where the obliged party demonstrates a reluctance to comply

- assessors in breach of the Software User Terms and Conditions

The NatHERS Administrator may direct a delivery partner to issue a direction to comply to an assessor where there is a breach of the Assessor Code of Conduct, the NatHERS Technical Note, or Software User Terms and Conditions

Suspension	<p>The NatHERS Administrator may direct a delivery partner to suspend:</p> <ul style="list-style-type: none"> • assessor accreditation • user access to accredited tools where a user is deemed to have engaged in 'Detrimental Use' <p>Delivery Partners may suspend:</p> <ul style="list-style-type: none"> • assessor accreditation • user access to accredited tools where a user has contravened the Software User Terms and Conditions <p>Suspension of accreditation may occur in conjunction with other enforcement actions e.g. a delivery partner may suspend accreditation and require remedial actions on the same matter</p>	<p>To take action to prevent or limit the consequences and/or recurrence of a significant non-compliance risk.</p> <p>A suspension may be imposed:</p> <ul style="list-style-type: none"> • during an investigation into a compliance matter, where there is a significant risk to objectives, stakeholders or consumers of continuing accreditation, or continuing use of a software tool while the investigation is undertaken • in circumstances including: <ul style="list-style-type: none"> ○ repeated non-compliances of moderate to major consequence that are not resolved through a direction to remedy and/or comply ○ a single incident of non-compliance with major or catastrophic consequences ○ where the obliged party demonstrates refusal to comply
Termination	<p>The NatHERS Administrator may terminate accreditation of a delivery partner in circumstances where the delivery partner is in breach of:</p> <ul style="list-style-type: none"> • the Protocol for Assessor Accrediting Organisations • Software Accreditation Terms and Conditions • Software Accreditation Protocols <p>Delivery partners may terminate accreditation of accredited assessors non-compliant with:</p> <ul style="list-style-type: none"> • the Assessor Code of Conduct • NatHERS Technical Note <p>The NatHERS Administrator may direct a delivery partner to terminate the accreditation of</p>	<p>To take action to prevent or limit the consequences and/or recurrence of a significant non-compliance risk.</p> <p>Termination may occur in circumstances including:</p> <ul style="list-style-type: none"> • repeated non-compliances of major to catastrophic consequence that are not resolved through a direction to remedy and/or comply • a single incident of non-compliance with catastrophic consequences • where the obliged party refuses to comply

an assessor who is in breach of an obligation under:

- Assessor Code of Conduct
- NatHERS Technical Note

Delivery partners may terminate user access to accredited tools where such use will or may cause detriment to NatHERS or is a breach of the Software Tool User Terms and Conditions in NatHERS Regulation Mode ('Detrimental Use').

The NatHERS Administrator may direct a delivery partner to terminate user access to accredited tools where there is Detrimental Use of the tool.

Termination of accreditation may occur in conjunction with other enforcement actions e.g. the NatHERS Administrator may terminate accreditation and make a referral to a regulator on the same matter.

Referral to Law Enforcement	The NatHERS Administrator or delivery partners may refer any matter to the police or other enforcement agencies where there are reasonable grounds to believe that criminal activity has occurred. Referral to law enforcement may occur in conjunction with other enforcement actions e.g. the NatHERS Administrator may make a referral to law enforcement and make a referral to a regulator on the same matter.	To minimise risk to NatHERS in circumstances where there is actual or suspected criminal activity.
Referral to a Regulator	The NatHERS Administrator or delivery partners may refer any matter to a relevant state, territory or Commonwealth regulator where there are reasonable grounds to believe there has been a contravention of a regulatory obligation. Regulators may include among others: <ul style="list-style-type: none">• building regulators• consumer protection regulators• privacy regulators• integrity regulators• health and safety regulators• education quality regulators Referral to a regulator may occur in conjunction with other enforcement actions e.g. the NatHERS Administrator may terminate accreditation of a delivery partner, make a referral to a regulator, and pursue legal action on the same matter.	To minimise risk to NatHERS and consumers in circumstances where there is an actual or suspected breach of laws or regulations.

Pursuit of legal action

The NatHERS Administrator may pursue legal action to prevent further non-compliant activity or conduct, and/or to seek compensation for harms caused to NatHERS.

The pursuit of legal action may occur conjunction with other enforcement actions e.g. the Administrator may make a referral to a regulator and pursue legal action on the same matter.

To minimise risk to NatHERS and consumers in circumstances including:

- where other enforcement options have failed to appropriately remedy the non-compliant conduct
 - the matter concerns a non-accredited party (assessor or delivery partner) and NatHERS enforcement tools are not applicable
-

Definitions

Delivery Partners:

Organisations accredited by the Administrator to deliver functions of the scheme in accordance with requirements established by the NatHERS Administrator. This includes:

- Assessor Accrediting Organisations: Organisations approved by the NatHERS Administrator to accredit persons for the purpose of carrying out NatHERS assessments
- Accredited Software Tool Providers: Entities specified in the Accreditation Notice that owns or has the legal right to sell or license the use of a software tool.

Participants:

Any person or business involved in the delivery of NatHERS energy performance ratings and certificates, including:

- Assessor Accrediting Organisations
- Accredited Software Tool Providers
- Accredited Assessors: A person accredited by an Assessor Accrediting Organisation to use accredited software tools for purposes connected with NatHERS

Non-Accredited Assessors:

A person undertaking a rating using NatHERS accredited software but not accredited by an Assessor Accrediting Organisation.

Nationwide House Energy Rating Scheme (NatHERS)

NatHERS is the nationwide scheme in Australia that:

- provides a star rating system for the energy performance of dwellings
- accredits residential building energy performance modelling software tools and
- accredits assessors

NatHERS Administrator

The Commonwealth Department of Climate Change, Energy, the Environment and Water or any subsequent Commonwealth Department with responsibility for administering residential energy efficiency ratings, on behalf of the states and territories.

Review and Approval

The framework is reviewed at least once every two years, or in the event of:

- new or changed scheme activities
- changes to the scheme delivery model
- significant changes in the external operating environment including changes in state or territory regulations or policies
- changes to the NatHERS Administrator's compliance obligations

The framework, and each review, are approved by the NatHERS Administrator.

Appendix A: Related Documents

Obligation Sources

Assessor Accreditation Protocol

Software Accreditation Terms and Conditions

Software Accreditation Protocol – Thermal

Software Accreditation Protocol – Whole of Home

NatHERS Technical Note

NatHERS Trade Mark Guidelines

Related Plans and Frameworks

NatHERS Strategic Plan

NatHERS Risk Management Plan

Department of Climate Change, Energy, the Environment and Water Enterprise Risk Management Framework

Related Policies and Procedures

Department of Climate Change, Energy, the Environment and Water Privacy Policy

NatHERS Information Collection, Storage and Dissemination Policy.

Appendix B: NatHERS Compliance Obligations Register

Key Obligations of Assessors

The following table lists obligations owed by Assessors. Where the obligation applies specifically to accredited or non-accredited assessors only, this is specified in the obligation.

Obligation Source	Summary of the obligation	Compliance requirement	Consequences of non-compliance
NatHERS Technical Note 23 October 2023	All assessors must follow the NatHERS Technical Note when completing NatHERS assessments.	<p>Item 1.2: Assessors must use the NatHERS Technical Note for all NatHERS assessments except where Item 1.5 applies.</p> <p>Item 1.5: Where there is inconsistency between the Technical Note and state/territory requirements, the assessor must comply with the state/territory requirement and report any such regulatory requirements in the 'additional notes' section of the Certificate.</p> <p>Item 1.8: Where the Technical Note does not cover part of a complex modelling situation, assessors should use their professional judgement. Accredited assessors should contact their Assessor Accrediting Organisation support desk for direction and advice before using their own judgement. All assessors must ensure that supporting information that informs a decision is kept with the plans and documentation.</p> <p>Item 4 - 12: The technical specifications in the Technical Note must be used in assessments.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> remedial action disciplinary action suspension or termination of software access withdrawal of accreditation referral to a relevant state or territory regulator
NatHERS Technical Note 23 October 2023	Accredited assessors must adhere to the terms of their accreditation.	<p>Item 1.11: All accredited assessors must adhere to the terms of their accreditation as a NatHERS Accredited Assessor. In the case of an inconsistency with the terms of those agreements, the Technical Note prevails except where state and territory requirements overrule it.</p> <p>Item 1.5: Where there is inconsistency between the Technical Note and state/territory requirements, the assessor must comply with the state/territory requirement and report any such regulatory requirements in the 'additional notes' section of the Certificate.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> remedial action disciplinary action suspension or termination of software access withdrawal of accreditation
NatHERS Technical Note 23 October 2023	All assessors must use the latest version of NatHERS accredited software.	<p>Item 2.1: Assessors must ensure that they use the latest version of accredited software when starting a new assessment, unless alternative state or territory requirements apply.</p> <p>Item 2.2: If necessary to use an older version, the assessor must use the version of accredited software that was in place at the time the building permit was granted. The assessor must obtain written approval from a regulator to use the older version.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> remedial action disciplinary action suspension or termination of software access withdrawal of accreditation referral to a relevant state or territory regulator

Obligation Source	Summary of the obligation	Compliance requirement	Consequences of non-compliance
NatHERS Technical Note 23 October 2023	All assessors must record any actual or potential conflict of interest.	Item 2.3: Conflicts of interest must be declared in the 'additional notes' on the NatHERS Certificate and must provide detail about what the conflict of interest relates to.	Dependant on the circumstances, non-compliance may result in: <ul style="list-style-type: none"> remedial action disciplinary action suspension or termination of software access withdrawal of accreditation
NatHERS Technical Note 23 October 2023	All assessors must advise clients that they will collect personal information.	Item 2.4: Assessors must inform the client that they will collect personal information, and that where required the information, including design documentation, may be disclosed to software providers, Assessor Accrediting Organisations and/or the NatHERS Administrator.	Dependant on the circumstances, non-compliance may result in: <ul style="list-style-type: none"> remedial action disciplinary action suspension or termination of software access
NatHERS Technical Note 23 October 2023	All assessors must meet minimum design documentation requirements when modelling a dwelling.	<p>Item 2.5: Assessors must ensure that they have the specified minimum design documentation when modelling a dwelling.</p> <p>Item 3.3 - 3.6: If the design documentation used for an assessment changes and the rating is impacted, a Certificate is no longer valid. A new assessment must be completed for regulatory approval purposes.</p> <p>If the assessor recommends a change to any element of the design, the design documentation must be updated before the assessor finalises the assessment and issues the NatHERS Certificate.</p> <p>Clarification must be sought from the client where information is ambiguous or inconsistent and the appropriate revisions must be made to the design documentation before issuing a NatHERS Certificate.</p> <p>If the client has not provided the required information as specified in 3.5, requests for clarification and client responses must be kept with the assessment for review purposes.</p> <p>Item 3.8 - 3.9: Where clarification has been sought but not received in accordance with 3.4, the assessor must use the default values in the Technical Note and advise the client that the defaults may adversely affect the rating.</p> <p>Defaults used for the assessment must be detailed in the NatHERS Certificate 'additional notes.'</p>	Dependant on the circumstances, non-compliance may result in: <ul style="list-style-type: none"> remedial action disciplinary action suspension or termination of software access withdrawal of accreditation referral to a relevant state or territory regulator

Obligation Source	Summary of the obligation	Compliance requirement	Consequences of non-compliance
NatHERS Technical Note 23 October 2023	All Assessors must retain records to enable Assessor Accrediting Organisation and NatHERS assurance activities.	<p>Item 3.10 All Assessors must retain all design, assessment and supporting information for a period of not less than seven years, and longer where required by state/territory requirements.</p> <p>Item 2.4 Assessors must disclose that they will collect personal information, including design documentation, and that where required the information may be disclosed to software providers, Assessor Accrediting Organisations and/or the NatHERS Administrator</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> remedial action disciplinary action suspension or termination of software access withdrawal of accreditation
NatHERS Technical Note 23 October 2023	All Assessors must ensure assessment documentation is appropriately stamped.	<p>Item 13.1 Before stamping and issuing a Certificate, assessors must ensure the assessment conforms with the Technical Note and design documentation.</p> <p>Item 13.2 Assessors must add the NatHERS QR code stamp electronically to all design documentation relevant to the assessment, and must not obscure any information on the design documentation or the mark of another practitioner.</p> <p>Item 13.3 Accredited assessors must include their Assessor Accrediting Organisation stamp, which should be smaller than the NatHERS stamp and placed below it.</p> <p>Item 13.4 Assessors must ensure Class 2 dwellings include the Class 2 summary QR code on each page of the documentation.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> remedial action disciplinary action suspension or termination of software access withdrawal of accreditation referral to a relevant state or territory regulator
NatHERS Technical Note 23 October 2023	All Assessors must provide the client with the NatHERS Certificate	<p>Item 13.5 The assessor must provide the client with a certificate and the stamped design documentation.</p> <p>Item 13.6 Specific requirements must be applied when issuing Certificates for Class 2 dwellings.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> remedial action disciplinary action withdrawal of accreditation
Trade Mark Guidelines Version 3	Assessors must only use NatHERS trade marks for limited purposes and in limited circumstances.	<p>Item 2.4 Accredited assessors are permitted to use NatHERS trademarks where approved to do so by their Assessor Accrediting Organisation, and only on promotional materials. Rights to use the trade mark cease with the cessation of accreditation.</p> <p>Item 2.5 Assessors who do not hold NatHERS accreditation are permitted to use certain NatHERS trademarks where a request has been approved by the NatHERS Administrator. Use is restricted to names and acronyms only. Use of the logo or rating image is not permitted for any purpose.</p> <p>Item 3.1 The application records for trade mark use obtained by an Assessor Accrediting Organisation may be provided to the NatHERS Administrator.</p> <p>Item 4.1 - 4.7 Assessors must represent the trade marks in compliance with the prescribed style guidelines.</p> <p>Item 6.1 - 6.2 Accredited Assessors must represent the trade marks in compliance with the prescribed style guidelines Unaccredited assessors must use the trade mark in accordance with the specified and approved purposes in their request and in compliance with the Trade Mark Guidelines</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> suspension or removal of rights of trade mark use suspension or termination of software access remedial action (accredited assessors) disciplinary action (accredited assessors) withdrawal of accreditation legal action (accredited assessors)

Key Obligations of Assessor Accrediting Organisations

Obligation Source	Summary of the obligation	Compliance requirement	Consequences of non-compliance
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must ensure assessors meet minimum requirements for accreditation.	<p>Item 3.1 – 3.4 Assessor Accrediting Organisations must ensure assessors hold relevant qualifications and have completed prescribed training.</p> <p>Assessor Accrediting Organisations must ensure assessors meet all requirements listed under 3.2 and are only accredited in more than one software tool if they have a Certificate IV listed in 3.1, and have completed a training course for the additional software tool that meet requirements listed in Appendix C.</p> <p>Assessor Accrediting Organisations must notify an Assessor of their accreditation in writing, provide an accreditation number and provide a copy of the Code of Practice and NatHERS Technical Note. The Assessor Accrediting Organisation must notify the other Assessor Accrediting Organisations of newly accredited assessors within seven days.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to comply • withdrawal of accreditation
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must have a quality assurance system.	<p>Item 4.1 and 4.6 Assessor Accrediting Organisations must have a quality assurance system to ensure Assessors assessments are satisfactory, that has been approved by the NatHERS Administrator.</p> <p>The quality assurance system must include items listed in 4.1(2).</p> <p>Assessor Accrediting Organisations must undertake quality assurance processes to ensure the quality of Assessor assessments including items listed in 4.6(2).</p> <p>The quality assurance procedure must be lodged with the NatHERS Administrator. Changes to the quality assurance system must be approved by the NatHERS Administrator.</p> <p>Assessor Accrediting Organisations must provide support and professional development to Assessors.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must implement changes in their quality assurance systems.	<p>Item 4.2 Assessor Accrediting Organisations must implement new or amended Technical Notes in their quality assurance systems within three months, and notify Assessors of the changes.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to comply • withdrawal of accreditation
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must have an Assessor Code of Practice.	<p>Item 4.3 Assessor Accrediting Organisations must have an Assessor Code of Practice that covers the requirements referred to in this Protocol and Appendix A.</p> <p>Assessor Accrediting Organisations must ensure Assessors adhere to the Code of Practice.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation

Obligation Source	Summary of the obligation	Compliance requirement	Consequences of non-compliance
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must provide support to Accredited Assessors.	<p>Item 4.4 Assessor Accrediting Organisations must provide ongoing support to their Accredited Assessors on topics listed in Item 4.4.</p> <p>Assessor Accrediting Organisations must ensure assessors have access to support via phone and email and receive a response within two business days.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must provide professional development opportunities.	<p>Item 4.5 Assessor Accrediting Organisations must provide continuing professional development (CPD) activities to their accredited assessors, and provide a mechanism for Assessors to record their CPD.</p> <p>Assessor Accrediting Organisations must:</p> <ul style="list-style-type: none"> • ensure Assessors complete 12 CPD points each year. At least 6 of these points must be in technical training. • implement mechanisms to assess learning outcomes. • share information with other Assessor Accrediting Organisations about any Assessor with outstanding CPD requirements who have had their accreditation suspended, terminated or cancelled. • ensure assessors complete the CPD requirements before they are re-accredited. • ensure assessors who have not worked in the industry for more than 12 months pass a benchmarking exercise and undertake training in any areas required. 	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must conduct quality assurance reviews.	<p>Item 4.7 Assessor Accrediting Organisations must complete a quality assurance review of at least 20% of Assessors each year, and provide feedback to Assessors reviewed.</p> <p>Assessor Accrediting Organisations must notify Assessors of concerns about the outcome of quality assurance reviews, and provide concerns in writing within 10 days of notification of the outcome.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must have policies and procedures for remedial action.	<p>Item 4.9 Assessor Accrediting Organisations must have NatHERS Administrator approved policies and procedures for taking remedial action against underperforming Assessors.</p> <p>Assessor Accrediting Organisation policies and procedures must include an Assessor appeals process.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation

Obligation Source	Summary of the obligation	Compliance requirement	Consequences of non-compliance
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must have policies and procedures for disciplinary action.	<p>Item 4.10 Assessor Accrediting Organisations must have NatHERS Administrator approved policies and procedures for taking disciplinary action against underperforming Assessors.</p> <p>Assessor Accrediting Organisations must:</p> <ul style="list-style-type: none"> • suspend accreditation, pending an investigation, if an Assessor refused to participate in the quality assurance processes, failed the quality assurance review and subsequent remedial action, produced non-compliant assessments and/or failed to comply with the NatHERS or AAO's branding, guidelines, technical notes or Assessor Code of Practice • notify the NatHERS Administrator and relevant software providers of cancelled or withdrawn Assessor accreditation within 5 business days, and remove them from the list of accredited assessors. • ensure disciplinary policies and procedures must include an Assessor appeals process. • notify other Assessor Accrediting Organisations, relevant software providers and relevant jurisdiction authorities where an assessor fails remedial or disciplinary action. 	<p>Dependant on the circumstances, the seriousness and the impact of non-compliance, the matter may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must have policies and procedures for handling complaints.	<p>Item 4.11 Assessor Accrediting Organisations must have policies and procedures to receive, manage and respond to complaints in a timely manner.</p> <p>Assessor Accrediting Organisations must notify the NatHERS Administrator within 5 business days of any complaints that could impact scheme integrity.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must ensure terms and conditions of accreditation include minimum requirements.	<p>Appendix A: Items 1 – 2 Terms and conditions of accreditation imposed under 4.3 must include prescribed requirements and must be signed and dated by the assessor at the time of accreditation.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to comply • withdrawal of accreditation
Protocol for Assessor Accrediting Organisations Version 2.1	Assessor Accrediting Organisations must ensure minimum qualifications and training requirements are met.	<p>Appendix C: Assessor Accrediting Organisations must ensure</p> <ul style="list-style-type: none"> • assessors seeking accreditation in more than one software tool have completed required training • software training courses, including assessments and training certificates, meet minimum content requirements and are delivered by suitability qualified or experienced people 	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation

Key Obligations of Software Tool Providers

Obligation Source	Summary of the obligation	Compliance requirement	Consequences of non-compliance
Software Accreditation Terms and Conditions	Software Tool Providers must promptly advise users of changes.	Item 6.1 Following accreditation of a new Major version of the tool, software providers must promptly inform all users of which software versions are accredited and retired versions, and inform users of the terms of use of retired versions.	Dependant on the circumstances, non-compliance may result in: <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Software Accreditation Terms and Conditions	Software Tool Providers must keep and maintain all versions of the software tool.	Item 6.4 If ceasing to offer the software tool, Software Tool Providers must allow existing users continued use for six months.	Dependant on the circumstances, non-compliance may result in: <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Software Accreditation Terms and Conditions	Software Tool Providers must implement and enforce user terms and conditions	<p>Item 9.1 Software Tools that are used to comply with the National Construction Code Deemed-to-Satisfy NatHERS or BASIX pathways must require users to adhere to terms and conditions of use.</p> <p>Software Providers must take all reasonable steps to ensure that users comply with the terms and conditions of use.</p> <p>Item 9.3 Software Providers must notify the NatHERS Administrator within seven days of becoming aware of a user breach of terms and conditions. Software Providers must take all reasonable steps to enforce the terms and conditions of use.</p> <p>Item 9.6 The Software Provider must provide to the NatHERS Administrator, information and documentation requested in relation to Detrimental Use by a user, within 14 business days of the request date.</p> <p>Item 9.8 Software Tool Providers must comply with a direction from the NatHERS Administrator to issue a warning notice, issue a letter of suspension or suspend or terminate the users account in response to Detrimental Use.</p>	Dependant on the circumstances, non-compliance may result in: <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Software Accreditation Terms and Conditions	Software Tool Providers must provide support and guidance to users.	Item 13.1 The Software Tool Provider must provide a help desk, publish and maintain a free electronic user manual, provide an operational version of the Software Tool to Registered Training Organisations, and provide licensing support to all users.	Dependant on the circumstances, non-compliance may result in: <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation

Obligation Source	Summary of the obligation	Compliance requirement	Consequences of non-compliance
Software Accreditation Terms and Conditions	Software Tool Providers must ensure the integrity of NatHERS Certificates, Rating Reports and Stamps.	<p>Item 14.1 - 14.3 The Software Tool Provider must ensure NatHERS Certificates, Rating Reports and Stamps can only be generated in Regulation Mode.</p> <p>The Software Tool Provider must ensure only Accredited Assessors can generate NatHERS Certificates.</p> <p>The Software Tool Provider must ensure mandatory fields are all populated and the Assessor/Rater name and accreditation number is entered before generating a NatHERS Certificate.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Software Accreditation Terms and Conditions	Software Tool Providers must provide access to files, data and software tools for audits.	<p>Item 15.1 The Software Tool Provider must provide an Assessor Accrediting Organisation and any authorised person, organisation or government agency with access to files, information and versions of the Software Tool for assessor audit purposes within seven days of a request.</p> <p>Item 15.3 The Software Tool Provider must remove/suspend an accredited assessor's accounts if directed by an Assessor Accrediting Organisation within seven days of a request.</p> <p>Item 15.4 The Software Tool Provider must ensure User Terms and Conditions provide consent to comply with obligations under Items 15.1 and 15.3.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Software Accreditation Terms and Conditions	Software Tool Providers must provide the NatHERS Administrator access to files, data and Software Tools for audits and must remove/suspend account access if directed.	<p>Item 16.1 - 16.5 The Software Tool Provider must provide the NatHERS Administrator and any authorised person, organisation or government agency with access to files, information and versions of the Software Tool for quality assurance, audit and investigation purposes within seven days of a request.</p> <p>The Software Tool Provider must provide assistance to complete quality assurance processes.</p> <p>The Software Tool Provider must remove/suspend relevant accounts if directed by the NatHERS Administrator within seven days of a request.</p> <p>The Software Tool Provider must immediately notify the NatHERS Administrator if they become aware of incompetent, fraudulent or dishonest activities.</p> <p>The Software Tool Provider must ensure User Terms and Conditions provide consent to comply with obligations under clause 16.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation
Software Accreditation Terms and Conditions	Software Tool Providers must ensure personal information is managed in accordance with Privacy Laws.	<p>Item 25.1- 25.3 When managing personal information, the Software Tool Provider must only use or disclose personal information for the purpose of the agreement between the NatHERS Administrator and Software Tool Provider, the production of certificates, and administration of the NatHERS scheme, in accordance with Privacy Laws.</p> <p>The Software Tool Provider must provide notice if they become aware of any unauthorised access, modification or disclosure of personal information within 14 business days.</p> <p>The Software Tool Provider must ensure that both users, and clients of users, provide consent to the disclosure and use of their personal information. User consent must be recorded in the Software Tool or Certificate Portal prior to generating a Certificate.</p>	<p>Dependant on the circumstances, non-compliance may result in:</p> <ul style="list-style-type: none"> • direction to remedy • direction to comply • withdrawal of accreditation