

Notifiable Events Policy And Procedures

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Scottish Social Housing Charter Relevant Standards and Outcomes

STANDARD	OUTCOME
<p data-bbox="150 389 644 461">Section: The customer/landlord relationship</p> <p data-bbox="150 501 432 533">2. Communication</p> <p data-bbox="209 573 746 645">Social landlords manage their businesses so that:-</p> <ul data-bbox="209 651 746 864" style="list-style-type: none"><li data-bbox="209 651 746 864">• <i>tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.</i>	<p data-bbox="772 501 1370 1043">This outcome covers all aspects of landlords' communication with tenants and other customers. It is not just about how clearly and effectively a landlord gives information to those who want it. It also covers making it easy for tenants and other customers to make complaints and provide feedback on services, using that information to improve services and performance, and letting people know what they have done in response to complaints and feedback. It does not require landlords to provide legally protected, personal or commercial information.</p>

NOTIFIABLE EVENTS POLICY AND PROCEDURES

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NOTIFIABLE EVENTS POLICY AND PROCEDURES

1. INTRODUCTION AND PURPOSE

- 1.1 This policy has been established to ensure that the Association can meet the requirements of Regulatory Standard 2.4 which requires RSLs to inform the Scottish Housing Regulator about any significant events.
- 1.2 The regulator is interested in events which put at risk:-
 - The interest or safety of tenants and other service users
 - The financial health of the Association, public investment, or the confidence of lenders; or
 - The good governance and reputation of the Association or the RSL sector.

2. NOTIFIABLE EVENTS

- 2.1 The Association is required to advise the regulator about **any** significant or exceptional issue, event or change within the organisation and how it intends to deal with it.
- 2.2 As a general guideline, notifiable events are serious events and the regulator has published a list of examples of notifiable events that the Association should immediately contact them about. The list is attached in full as **Appendix 1**.
- 2.3 The term “serious” or “significant” is difficult to define in a way which applies to all RSLs. The Association will consider carefully the risk and potential impact on the organisation when deciding whether an issue is a notifiable event. The Chief Executive will take the lead in determining this and will seek the advice of the regulator if necessary. The Management Committee will be advised of all notifiable events at the earliest opportunity.
- 2.4 The **Chief Executive**, or in their absence the Depute Chief Executive, is responsible for advising the regulator about a notifiable event which relates to performance and service delivery issues or financial and funding issues.
- 2.5 The **Chairperson** of the Management Committee is responsible for advising the regulator when the notifiable event relates to a governance or organisational issue. This includes, for example, if the Chief Executive has left or if there is an issue about the Chief Executive or the Management Committee.
- 2.6 Where the issue affects a subsidiary, the Association will follow the Group Structures and Constitutional Partnership Guidance.

3. PROVIDING INFORMATION TO THE REGULATOR

- 3.1 The Association will submit notifiable events to the regulator through the Landlord Portal which includes a template for the purpose and sets out the type of information the regulator needs, which includes:-

- What the significant event is;
- When it happened or is going to happen;
- Who is involved and/or affected;
- What the Association is planning to do or what action has already been taken; and
- When the Management Committee was informed/will be informed.

3.2 The regulator will respond within eight working days.

3.3 The Association will alert the regulator to a notifiable event as soon as is reasonably practicable and the regulator does not expect an event to be completely concluded before they are alerted.

3.4 The regulator will need to be satisfied that any action taken by the Association will protect the interests of its tenants and other service users. If the regulator has concerns, they will advise the Association what they expect the Association to do to allay these concerns.

3.5 The regulator may ask the Association to inform another regulator or authority if that is appropriate. They may also ask the Association to seek specialist or impartial advice.

3.6 In the event that the Association has to deal with a serious complaint or grievance against the Chief Executive, the Association will comply with the requirements of **Appendix 2**, which is attached, and which sets out the expectations of the regulator. Reference will also be made to the Association's Complaints Handling Policy and Procedures and Whistleblowing Policy and Procedures.

4. LINKED POLICIES AND GUIDANCE

- Complaints Handling Policy and Procedures
- Entitlements Payments and Benefits Policy
- Fraud and Errors Policy
- Gifts and Hospitality Policy
- Whistleblowing Policy and Procedures
- Section 72 of The Housing (Scotland) Act 2010 – duty on external auditors to report significant events to the regulator
- Group Structures and Constitutional Partnerships Guidance
- Business Continuity and Disaster Recovery Plan

5. BUSINESS PLANNING

5.1 The Association will inform the regulator as soon as it knows that the Chief Executive intends to leave. The regulator expects the Association to put in place appropriate management arrangements while the Management Committee reviews its options.

5.2 The Management Committee will refer to the Association's Business Plan and use this to decide its next steps following the departure of the Chief Executive.

5.3 If the Business Plan is not up to date, the regulator expects the Association to carry out a strategic options appraisal.

6. **REVIEW OF POLICY**

This document will be reviewed by the Management Committee or Sub-Committee set up for that purpose in accordance with the requirements of the Association's Register of Policies and Procedures.

Appendix 1

Examples of Notifiable Events

Governance and organisational issues:

- The membership calls a special general meeting
- Removal of any governing body member by the RSL
- Resignation of governing body members for non-personal reasons
- The membership of the governing body falls, or is going to fall, to seven or below
- Serious complaint, allegation, investigation, or disciplinary action about a governing body member
- A breach of the RSL's code of conduct by governing body members
- Resignation or dismissal of the RSL's senior officer
- Serious complaint, allegation, investigation, or disciplinary action about the senior officer – (see Appendix 2).
- The senior officer is absent (or partially absent) for an extended period of time
- First formal notification of an employment tribunal
- Breach of the Regulatory Standards
- Major organisational change or restructuring within the current RSL or group
- Plans to set up a non-registered subsidiary
- Potentially serious breach of legislation by the RSL or serious legal action taken against the RSL
- Serious failure of governance within an RSL's subsidiary
- Serious issue regarding a parent, subsidiary or connected organisation
- A serious dispute with another member of an alliance, consortium or non-constitutional partnership
- Breach of charitable obligations or no longer meeting the charity test
- Whistleblowing allegation

Performance and service delivery issues:

- Any incident involving the Health & Safety Executive or a serious threat to tenant safety; or where a regulatory or statutory authority has notified its concerns for example the Fire Brigade, etc.
- Serious accidental injury or death of a tenant:
 - where there has been a service failure by the RSL; or
 - which could potentially affect other tenants' confidence in the landlord and the landlord's reputation
- Major failure of key service delivery arrangements (for example, repairs cannot be carried out because a contractor goes into liquidation)
- Breach of ballot commitment to tenants or stock transfer contractual agreement
- Adverse report by statutory agencies, regulators, inspectorates (or similar) about the RSL (for example a Care Inspectorate report with a 'weak' or 'unsatisfactory' grade or an upheld Care Inspectorate complaint)
- A significant natural disaster for example, fire, flood or building collapse which affects the RSL's normal business
- Serious or significant adverse media reports or social media interaction, which could potentially affect tenants' confidence in the landlord.

Financial and funding issues:

- Fraud or the investigation of fraud
- Breach or potential breach (including technical breaches) of any banking covenants
- Serious financial loss; actual or potential
- Default or financial difficulties of major suppliers or service providers
- Any material reduction in stock or asset values; actual or potential
- Serious concern raised by lenders or auditors
- Serious and immediate potential cash flow issue
- Proposed assignation or transfer of the existing lender's security to another lender
- Notification of the outcome of an adverse financial assessment of the RSL or its parent/subsidiaries/related companies/connected bodies from Pensions Trustees
- A material change to the asset disposal strategy agreed with the Regulator
- A serious or material reduction in the funding for care and support services for example for RSLs with significant care elements in their business, where a local authority withdraws funding.

Additional issues that we require systemically important RSLs to notify us about:

- Any change in senior staff
- Any material variation in the business plan or strategic direction of the organisation
- Any problems in relationships with key stakeholders for example local authorities or funders
- The RSL changes its auditors.

Please note: This list is illustrative not exhaustive.

Appendix 2

Handling a serious complaint against the Director/Chief Executive of an RSL

Purpose

- 1 This note sets out what we expect a governing body to do when dealing with a serious complaint or grievance against the senior member of staff (Director/Chief Executive) of the registered social landlord (RSL).
- 2 We require an RSL to tell us when there is a **serious** complaint, investigation or disciplinary action relating to senior staff. These serious complaints do not arise often but because of their nature and sensitivity and potential impact on leadership arrangements, they have the potential to seriously damage the organisation. Our experience of these cases has shown us that if the governing body does not have a clear process to deal with matters like this then it can get into difficulties and the original issue can be made worse by the complaint being handled inappropriately. This note sets out our regulatory expectations so that RSLs can deal properly with this type of situation.
- 3 We do not become involved in employment matters. Employment issues are for the governing body as employer to resolve with the individual employee. But we do need to be assured that the governing body will handle a serious complaint or grievance about its Director/Chief Executive properly and will get external advice and support to help it manage these situations and discharge its employment responsibilities fully and properly.

Our expectations

- 4 RSLs should have effective governance systems that set out clear procedures for dealing with serious complaints or grievances about the Director/Chief Executive and the role of the governing body. And we expect RSLs to be open and transparent about their decision-making processes for handling such matters.
- 5 When dealing with a serious complaint or grievance about a Director/Chief Executive, we expect the RSL to:
 - tell us about it, in accordance our guidance on notifiable events; and
 - take prompt, independent and professional advice as appropriate to the individual complaint or grievance.

Notify SHR

- 6 RSLs should deal with and resolve minor issues informally, at a local level, and we would not expect to be notified about minor grievances. Even serious complaints can be dealt with informally, but some serious complaints cannot be successfully resolved at the informal stage or if they are raised formally.
- 7 The Chair of the RSL should notify us if there is a formal **serious** complaint against the Director/Chief Executive -for example serious allegations from an individual employee of bullying or harassment by the Director/Chief Executive. The Chair should also tell us how the governing body intends to handle the complaint.

- 8 We recognise the highly sensitive nature of such serious complaints. If RSLs give us information in confidence we will respect that confidentiality, provided it does not compromise our ability to safeguard the overall interests of the RSL or the sector, or breach our legal obligations.

Take prompt, independent and professional advice

- 9 We need to be assured by the governing body that it is seeking independent professional advice to support it to handle the complaint. In normal circumstances it is the Director/Chief Executive who provides advice to the governing body. But where it is the Director/Chief Executive who is the subject of the serious complaint or grievance, he/she has a clear conflict of interest and cannot be involved in any way in managing the complaint made against him/her. In cases like this the governing body should obtain external advice and support to manage the complaint.
- 10 The governing body needs to act quickly when a staff member raises a serious grievance about the Director/Chief Executive. For instance, if the grievance is about bullying or aggressive behaviour then the governing body must take immediate action. Given the likely sensitive nature of the grievance it should be handled carefully with independent, expert support and advice. The RSL may need to get an employment/personnel specialist to assist or a consultant with expertise in investigating such matters.
- 11 Where a serious complaint has been made against the Director/Chief Executive by a governing body member or someone else who is not an employee, then we also expect the governing body to ensure that it is taking independent advice about how to handle the complaint and that the Director/Chief Executive takes no part in any investigation other than co-operating with the investigator.

Have clear procedures

- 12 An RSL must have clear procedures setting out how it will investigate serious complaints or grievances against the Director/Chief Executive. We expect RSLs to apply the available good practice in dealing with the grievance and to meet our expectations as set out in this note.

The governing body's role

- 13 Most RSLs have a standing sub-committee, such as a staffing sub-committee, with delegated authority to deal with personnel matters or consider serious staff complaints. In the case of a serious complaint against the Director/Chief Executive, we would always expect the staffing sub-committee to be informed and involved, rather than the Chairperson dealing with the complaint alone. The staffing sub-committee is likely to be involved in hearing and deciding on the grievance. But in some cases, it may be more appropriate to commission an independent party to conduct the investigation and report back to the sub-committee. Where there is an investigation then the sub-committee must oversee the investigation and record all decisions to ensure transparency.
- 14 Where the decision is taken to investigate a serious complaint, then the full governing body should be informed. However it should not be told any of the detail, this **must** be kept confidential. This is to ensure:
- the full governing body retains control over the RSL's affairs;
 - the details of the grievance remain confidential (the individuals at the centre of allegations have the right to confidentiality);
 - the full governing body knows the grievance is being dealt with, for example, by the staffing sub-committee;

- if the RSL needs to bring in outside help, then the full governing body is aware of the situation from the outset and can authorise any associated costs;
- the governing body can monitor if a pattern of grievances emerges and decide what action to take; and
- by keeping the substance of the grievance confidential then there is a clean route for any appeal to be heard by other members of the governing body who are untainted by detailed knowledge about the issue.

15 At the end of the process, the full governing body should be told about the outcome of the grievance.

SHR involvement

16 If we have concerns about the action the governing body is proposing to take, or it appears that the Director/Chief Executive is involved in advising the governing body or in handling the grievance, and then we may need to act to support the governing body to carry out its role effectively and properly.