

Policy on:

Notifiable Events Policy

**Compliant with Charter
Outcomes and Standards:**

Yes

**Compliant with Tenant
Participation Strategy:**

Yes

Compliant with Equalities:

Yes

Compliant with Business Plan:

Yes

Compliant with Risk

Risk assessment undertaken and included in matrix - Risk 2. Governance.

Date Approved by Board:

28 September 2022

Date for Review:

September 2027

Responsible Officers:

Director



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1. Introduction

The Scottish Housing Regulator issued updated guidance in February 2019 on the subject of Notifiable Events. The guidance details the circumstances in which landlords should notify them about events that present a significant risk and this policy reflects the recent guidance changes.

The guidance on Notifiable Events is statutory guidance for the Association to meet in relation to the requirements of Chapter 3 of the Regulatory Framework and obligations under the Housing (Scotland) Act 2010.

The Regulator is interested in events which put at risk:

- the interests or safety of tenants and other service users;
- the financial health of the housing association, public investment or the confidence of private lenders; and
- the good governance and reputation of an individual housing association or the housing association sector.

The Housing (Scotland) Act 2010 also requires that the Association notify the Regulator about certain disposals of land and assets, and constitutional and organisational changes.

The Regulator aims to apply a risk-based and proportionate approach to the way they regulate Registered Social Landlords (RSLs). They will only gather information that they need to regulate effectively. The Association is responsible for alerting the Scottish Housing Regulator to important events that pose a significant risk.

Regulatory Standard 2.5 requires RSLs to alert the Regulator to certain events as quickly as possible after they happen, or before they happen if they can be anticipated. The purpose of this policy is to detail to the Management Board and staff, Shire Housing Association's policy in relation to informing the Regulator about significant events (Notifiable Events) in compliance with the Regulator's guidance.

2. What Are Notifiable Events?

Shire Housing Association (the Association) should tell the Regulator about any material, significant or exceptional issue, event, or change within our organisation and how we intend to deal with it, or where appropriate provide them with a reasonably detailed explanation as to why a significant change has been implemented.

Appendix 1 provides examples of the type of Notifiable Event the Association should immediately contact the Regulator about. They are illustrative rather than exhaustive. As a general guideline, Notifiable Events are those that may:



- Seriously affect the interest and safety of tenant, people who are homeless or other services users;
- Threaten the stability, efficient running or viability of service delivery arrangements;
- Put at risk the good governance and financial health of the organisation
- Bring the Association into disrepute or raise public or stakeholder concern about the Association or the social rented sector.

What is 'material', 'significant' or 'exceptional' will depend on the nature of the event. Whether an event is 'material' or 'significant' may depend on factors which are unique to the Association including the size or complexity of the organisation. We need to consider the risk and potential impact on our organisation when deciding whether an issue is a Notifiable Event. If it is unclear whether an event is a Notifiable Event, we will take further guidance directly from the Regulator. If in doubt, the Regulator recommends that we notify them.

Appendix 1 sets out examples of the type of events we need to alert the Regulator about:

- Governance and organisational issues;
- Performance and service delivery issues;
- Financial and funding issues; and
- Additional events that the Regulator requires systemically important RSLs to notify them about.

The Association will consider the impact of the issue or event on our compliance with the Standards of Governance and Financial Management and other regulatory requirements including compliance with our legal obligations. We will notify the Regulator of any material changes to the assurances or supplementary information reported in our Annual Assurance Statement.

We are also required to notify the Regulator about the outcome of tenant consultation, of a ballot or written agreement, certain disposals of land, assets or leases, constitutional and organisational changes. These and the relevant timescales for notification as set out in the SHR's notifiable event guidance at Appendix 2.

3. Who Should Notify the Regulator?

Our senior officer, the Director, should tell the Regulator about a Notifiable Event which relates to performance and service delivery issues or financial and funding issues. The Chair of the Management Board should tell the Regulator when the Notifiable Event relates to a governance or organisational issue, for instance if the Director has left or if there are concerns about our Director or our Management Board. The Chair must tell the Regulator about any changes relating to the Annual Assurance Statement. Any staff member who is authorised by the Association to do



so our senior management team can notify the Regulator in relation to the disposals and changes set out in Appendix 2. This will be set out in our scheme of delegation.

Our Management Board is accountable and responsible for the effective management of the Association and should be aware of all Notifiable Events, even those which the Director is responsible for reporting to the Regulator. In some cases, we may need to notify other organisations of a Notifiable Event, for instance our lenders, if it is a financial issue or where a loan agreement specifies that certain events require to be notified to a lender.

4. What Information Does the Regulator Need and How Is It Submitted?

The Association will submit a Notifiable Event to the Regulator through the Landlord Portal ('the portal'). The portal includes a template for us to complete which sets out the type of information the Regulator needs about each event. This includes:

- What the significant event, disposal or change is;
- When it happened or is going to happen;
- Who is involved and/or affected;
- Whether there are equalities or human rights implications and how the Association is ensuring we meet our legal duties in these areas
- What we are planning to do or what action we have already taken; and
- When the governing body was informed/will be informed.

For notification of tenant consultation, we will refer to the Regulator's statutory guidance on Tenant consultation and approval which explains the regulator's information requirements.

For notifiable events about disposals, and constitutional or organisational changes, we will comply with Regulatory Standard 7 for details of the change.

When it receives a Notifiable Event Notification through the portal the Regulator aims to respond within eight working days.

Where we may be unsure whether an event should be reported under Notifiable Events Guidance if it relates to an issue already noted in an Engagement Plan, we will seek further advice from the Regulator. This does not currently affect Shire Housing Association as we do not currently have a Regulation Plan. This is reviewed annually by the Regulator.

We will ensure that our Information Commissioner Office registration appropriately covers our obligation to provide data to the Scottish Housing Regulator for regulatory purposes.



5. Handling A Serious Complaint Against the Director

The Regulator requires the Association to inform them when there is a serious complaint, investigation or disciplinary action relating to the Director. Due to their nature and sensitivity, such issues have the potential to seriously damage the organisation and will be treated sensitively by the Management Board.

The Regulator does not become involved in employment matters. Employment issues are for the Management Board as employer to resolve with the individual employee. The Regulator does need assurance that the Board will handle a serious complaint or grievance about its Director properly and will seek external advice and support to help it manage these situations.

The Association has effective governance systems that set out clear procedures for dealing with serious complaints or grievances about the Director and the governing body. The Housing Association will be open and transparent about their decision-making process.

When dealing with a serious complaint or grievance against the Director, the Regulator will expect the Association to:

- Tell them about it, in accordance with its guidance on Notifiable Events;
- Take prompt, independent and professional advice as appropriate to the individual complaint or grievance

The Association will deal with and resolve minor issues informally, at a local level, and the Regulator does not expect to be notified about minor grievances.

The Chairperson of the Association will notify the Regulator if there is a formal serious complaint against the Director, for example serious allegations from an individual employee of bullying or harassment by the Director. The Chairperson will tell the Regulator how the Board intends to handle it. If the Association gives the Regulator information in confidence, this will be respected, provided it does not compromise the Regulator's ability to safeguard the overall interests of the Association, or the sector, or breach the Regulator's legal obligations.

The Regulator needs to be assured that the Association it is seeking independent professional advice to support it in handling the complaint. The Director cannot provide advice to the Management Board due to the conflict of interest in managing a complaint against them. In such cases, the Board will seek external advice and support to manage the complaint and this advice is likely to be from EVH and/or the Association's solicitor.

The Management Board will act quickly when a staff member raises a serious grievance about the Director. For instance, if the grievance is about bullying or aggressive behaviour then the Management Board will be responsible for taking immediate action. Given the likely sensitive nature of the grievance, the Board will handle the complaint carefully with independent, expert support and advice. The



Association will seek an employment/personnel specialist to assist, or a consultant with expertise in investigating such matters, where this is deemed necessary.

Where a serious complaint has been made against the Director by a Board Member or someone else who is not an employee, the Management Board will ensure that it is taking independent advice about how to handle the complaint and that the Director takes no part in any investigation.

The Association will apply the grievance procedures included within EVH's Statement of Terms and Conditions of Employment and Guidance Manual for handling discipline and grievance issues.

In the case of serious complaint against the Director, the Board will be informed and involved, rather than the Chairperson dealing with the complaint alone. The Board will normally establish a Working Group to be involved in the hearing and deciding on the grievance. In some cases, it may be more appropriate for the Management Board to commission an independent individual/organisation to conduct the investigation and report back to the Working Group. When there is an investigation the Management Board will oversee the investigation and record all decisions to ensure transparency.

Where the decision is taken to investigate a serious complaint the Working Group Members will review the facts and recommend a course of action to the full Board. This ensures:

- The Management Board retains full control over the Association's affairs;
- The details of the grievance remain confidential (the individuals involved have the right to confidentiality);
- The full Board knows the grievance is being dealt with by the Working Group;
- If external help is required, then the full Management Board is aware of the situation from the outset and can authorise any associated costs;
- The Management Board 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.

At the end of the process, the full governing body will be told about the outcome of the grievance and can approve any associated action.

If the Regulator has concerns about the action the Management Board is proposing to take, or it appears that the Director is involved in advising the Board or in handling the grievance, then the Regulator may act to support the Management Board to carry out its role effectively and properly.



6. When Should We Notify the Regulator?

The Association will alert the Regulator to a Notifiable Event as soon as is reasonably practical. Sometimes this will mean alerting them before an anticipated event happens so that they are aware in advance. There should be no delay, for example, until after a scheduled Management Board Meeting. Where a major incident occurs, we will alert the Regulator as soon as possible. The Regulator does not expect an event to be completely concluded before the alert is made to them. In particular when we are considering a disposal or organisational change which requires us to consult tenants under the 2010 Act, we will notify the Regulator at an early stage of deliberations.

Where we have told the Regulator in our Assurance Statement that we meet Regulatory Standards and they find we are not, and we have not notified them of this, the Regulator will engage with us to determine the significance of the non-compliance. It is a serious matter if we have failed to tell the Regulator about a material or significant event or issue, or we have delayed notifying them of it and it will be treated as such.

The Regulator will engage directly with us to determine any action they may need to take. Where our regulatory status is shown as 'compliant', the Regulator may amend this to indicate that it is 'under review'. Chapter 6 and 7 of the Regulatory Framework provides an explanation of how they will respond to serious concerns.

The Regulator may look at whether we have notified them in accordance with this guidance as part of work to verify its Annual Assurance Statement, or during a visit or other engagement activity.

Further information on timescales for notifications of disposals and constitutional changes are in Appendix 2.

7. What Will the Regulator Do with The Information We Give Them?

The Association is responsible for managing our own organisation and for dealing with the events that occur. Requiring us to tell the Regulator about certain events, does not transfer that responsibility to the Regulator. The Association is expected to have an effective strategy in place to deal with the event and need to satisfy the Regulator that the action we take will protect the interests of our tenants and other service users.

If the Regulator needs more assurance about how we propose to deal with an event, they will engage with us.

The Regulator may inform, or ask us to inform, another regulator or authority if that is appropriate. They may also ask us to get professional or impartial advice, for instance, legal, financial, or employment advice. Depending on the nature of the event, we will consider whether there are any matters that we need to report to the police. The Regulator will also report matters to the police if we suspect that an offence may have been committed.

If we give the Regulator information in confidence, they will respect that confidentiality, provided it does not



compromise their ability to safeguard the interests of our tenants or the sector, or breach any legal obligations, for example, under the Data Protection Act and General Data Protection Regulation (GDPR), or where they are concerned that an offence may have been committed.

8. Shire Housing Associations' Internal Policies and Procedures

The Association's internal policies and procedures will reflect the requirement and guidance to alert the Scottish Housing Regulator of Notifiable Events. It is essential senior staff and Board Members should understand Notifiable Events' requirements and assure themselves, and the Regulator, that we are complying with this through our Annual Assurance Statement.

If a staff member, or Board Member is aware of a Notifiable Event which has not been submitted to the Regulator, they should report it through our Whistleblowing Policy. If this is not possible, or the attempt to report internally has been unsuccessful, they can report it directly to the Regulator.

Links to other guidance

The Regulator's Guidance on Notifiable Events forms part of a suite of information on regulatory compliance.

Tenant Consultation and Approval: There is separate regulatory guidance on tenant consultation and approval for proposals to sell or transfer tenanted homes, which require us to consult tenants under the 2010 Housing (Scotland) Act.

Whistleblowing: The Regulator has produced a separate advisory guidance and a fact sheet about how we should deal with Whistleblowing. Whistleblowing is when someone within the Association believes that there has been improper conduct in our organisation and reports this to someone within the Association who is in a position to deal with it, for example the Director or a Senior Officer. If there has been whistleblowing within our Association, we will notify the Regulator about the allegations and tell them about how we are responding to the issues.

Section 72 of The Housing (Scotland) Act 2010: This guidance places a duty on external auditors and reporting accountants to disclose events of material significance to the Scottish Housing Regulator. If we are aware that an auditor has reported an issue to the Regulator under Section 72, we do not need to report this issue as a notifiable event. This is because the Regulator will ask for any additional information from us should they need it.

Group Structures and Constitutional Partnerships: The Regulator has produced separate statutory guidance on Group Structures and Constitutional Partnerships. If we are considering creating a group structure.



Annual Assurance Statement: The Regulator has issued statutory guidance for the completion of our Annual assurance Statement. This includes guidance on how to report any material and significant non-compliance with the Standards of Governance and Financial Management and regulatory requirements.

9. Equalities

We will ensure this policy complies with our Equality and Diversity Policy. For example, it can be made available on request in different formats.

10. Policy Review

This policy will be reviewed every five years or at such times as new guidance is available.



Appendix 1

Examples of Notifiable Events

Governance and organisational issues:

- Any material changes to the assurances and supplementary information contained in the Annual Assurance Statement
- The membership calls a special general meeting
- Removal of any governing body member by the Association
- 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 Association's code of conduct by governing body members
- Resignation or dismissal of the Association's senior officer
- Severance payment to and/or settlement agreement with a staff member
- Serious complaint, allegation, investigation, or disciplinary action about the senior officer
- The senior officer is absent (or partially absent) for an extended period of time
- Receipt of intimation that a claim has been submitted to an employment tribunal
- Major change or restructuring within the Association or group
- Plans to set up a non-registered subsidiary
- Potentially serious breach of statutory or common law duties by the Association including equalities and human rights duties, whether or not these have resulted in the submission of a claim or a legal challenge
- Any legal proceedings taken against the Association which may have significant consequences for the Association in the event of success
- Serious failure of governance within the Association's subsidiary
- Serious issue regarding a parent, subsidiary or connected organisation
- A dispute with another member of an alliance, consortium or non-constitutional partnership which may have significant consequences for the Association
- Breach of charitable obligations or no longer meeting the charity test
- Whistleblowing allegations



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 or insurance provider, has notified its concerns for example the Fire Brigade, etc.
- Serious accidental injury or death of a tenant in their home or communal areas:
 - where there has been a service failure by the Association;
 - Where there has been a failure, or perceived failure, in how the Association has assessed and managed risk; or
 - which could potentially affect other tenants' confidence in us as the landlord and our reputation
- Major failure of key service delivery arrangements (for example, repairs cannot be carried out because a contractor goes into liquidation)
- Breaches of ballot commitment to tenants or stock transfer contractual agreement
- Adverse report by statutory agencies, regulators, inspectorates (or similar) about the Association (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 Association's normal business
- Serious or significant adverse media reports, or social media interaction, which could potentially affect tenants' confidence in the Association or that is damaging to the reputation of the Association.

Financial and funding issues:

- Fraud or the investigation of fraud either internally, by the Police or by an external agency or organisation
- Breach or potential breach 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 Association or its



parent/subsidiaries/related companies/connected bodies from
Pensions Trustees

- A serious or material reduction in the funding for care and support services, for example, for Associations with significant care elements in their business, where a local authority withdraws funding.
- Change of internal or external auditor.

Additional issues that the Regulator requires systemically important Associations to notify them 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

Please note: This list is illustrative not exhaustive.



Appendix 2

Notification of Tenant Consultation, Disposals, Constitutional and Organisational Change – see SHR full Guidance Note:

<https://www.scottishhousingregulator.gov.uk/sites/default/files/publications/Tenant%20Consultation%20and%20Approval%20-%20Final%20-%20February%202019.pdf>

In summary, this relates to:

Tenant consultation – outcome of a ballot or written agreement.

Disposal of land and assets – (notify as soon as possible or within 28 days for SST transfers).

Disposals relate to:

- Sale of tenanted social housing dwellings
- Granting security over social and non-social housing dwellings land or other assets
- Sale or excambion of untenanted social and non-social housing dwellings, land or other assets over £120,000
- Lease of social housing dwellings
- Lease of roof space of residential, tenants' properties for renewable energy sources
(e.g. solar panels or telecommunications including aerials)
- Lease of residential property to an RSL, group subsidiary or any other body for market or mid-market rent or other non-social housing purpose (except leased to local authority for temporary accommodation for people who are homeless)
- Any other disposal which could have significant implications for tenants or other service users

Constitutional and organisational changes including:

- Change of name, office or constitution
- Restructuring of society or company
- Voluntary winding up or dissolution of a society
- Converting a company into a registered society
- Entering into a company voluntary arrangement
- Voluntary winding up of a company
- Becoming a subsidiary of another body

