



THE SCOTTISH
HOUSING
REGULATOR

GUIDANCE NOTE

To: All Registered Social Landlords (RSLs)
Subject: Notifiable events
Issued by: The Scottish Housing Regulator
Ref no: SHR 25
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Summary

This guidance sets out the events that we expect a registered social landlord to notify us about. We also explain what we will do with the information RSLs give us.

This guidance applies to all RSLs. It updates existing guidance first issued in March 2007 and takes effect from the date of publication. RSLs need to be aware of this guidance on notifiable events and what they need to do when a significant event happens.

If you have any questions about this guidance, you should direct them to:

The Scottish Housing Regulator
Highlander House
58 Waterloo Street
GLASGOW
G2 7DA
Tel: 0141 271 3810
Email: shr@scottishhousingregulator.gsi.gov.uk

1. Introduction and purpose

- 1.1 This guidance note sets out the events that we consider RSLs need to tell us about. We explain why we have a regulatory interest in them, what we expect an RSL to notify us about, and what we will do with the information you give us. We are interested in events which put at risk:
- the interests or safety of tenants and other service users;
 - the financial health of the RSL, public investment or the confidence of lenders; or
 - the reputation of an individual RSL or the RSL sector.
- 1.2 We apply a risk-based and proportionate approach to the way we regulate. As part of this we want to avoid gathering information routinely on a “just in case” basis. So we need RSLs to alert us to certain exceptional events as quickly as possible after they happen, or before they happen if they can be anticipated.
- 1.3 Most RSLs already tell us about the significant events that happen in their organisations. This guidance sets out formally what we expect to be told about so there is no doubt about the type of events we have an interest in. RSLs already have a good track record of signalling these issues to us. For many RSLs most of the time, there will be no significant events to report. But when they do happen we need to know about them.

2. What are notifiable events?

- 2.1 We expect an RSL to tell us about any significant or exceptional issue, event, or change within its organisation and how it intends to deal with it.
- 2.2 The list below sets out examples of the type of notifiable event an RSL should immediately contact us about. It is illustrative rather than exhaustive. An RSL should consider the materiality of the event. As a general guideline, notifiable events are serious events that may be seen as potentially bringing the RSL into disrepute, that significantly threaten the stability, efficient running or viability of an organisation, or which would raise public concern about the RSL or the social rented sector.

2.3 For example, if a governing body member resigns between annual general meetings as a result of moving out of the area, we do not expect to be informed. If a governing body member resigns for a non-personal reason or makes a complaint about fellow board members or the senior member of staff, then we expect you to notify us and tell us how you intend to deal with the complaint.

2.4 We do need to know if the senior member of staff leaves or intends to leave. This is an important event for the RSL and we need to be reassured that interim management arrangements are being put in place while the governing body reviews its options. We expect the governing body to consider the future of the RSL. It may decide that its tenants' interests are best served by the RSL being part of a group structure or transferring engagements to another RSL and so the chief officer should not be replaced. If the governing body has considered its options and decided to fill the post then we need to be assured that it is seeking expert support to assist it in an open recruitment process.

3. Examples of notifiable events:

3.1 Governance and organisational issues:

- Removal of governing body members
- Resignation of governing body members for non-personal reasons, resignation of governing body office-bearers, audit committee members, and Chairs of sub-committees
- Resignation or dismissal of the RSL chief officer; dismissal of senior staff members; resignation of senior staff members in larger RSLs (over 500 units)
- The membership calls a special general meeting
- Serious complaints, investigations, or disciplinary action relating to the governing body or senior staff
- Employment tribunals

- Breaches of the Code of Governance by governing body members and any proposed investigation of these or action taken in response
- Major organisational change or restructuring
- Potentially serious breach of legislation by the RSL or serious legal action taken against the RSL
- Serious issues regarding a parent, subsidiary or connected organisation
- Breach of charitable obligations or no longer meeting the charity test
- Whistleblowing allegations

3.2 Performance and service delivery issues:

- Any incident involving the Health & Safety Executive or a serious threat to tenant safety
- Major failure of key service delivery arrangements (for example, repairs cannot be carried out)
- Breaches of ballot commitments to tenants or stock-transfer contractual agreements
- Adverse reports by statutory agencies, regulators, inspectorates, etc., about the RSL
- Significant natural disasters e.g. fire, flood, building collapse, etc., that affect the RSL's normal business

3.3 Financial and funding issues:

- Fraud or the investigation of fraud
- Breach or potential breach (including, for the avoidance of doubt, 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 concerns raised by lenders or auditors
- Serious and immediate potential cashflow issues
- Proposed assignation or transfer of the existing lender's security to another lender

4. Who should notify us ?

4.1 In most cases it will be the senior member of staff who should tell us about the event and should be in a position to provide more details if we have any questions. In some cases it may be the Chair of the governing body, for instance if the senior member of staff has left or if there is an issue about the senior staff member or perhaps the governing body. If you are telling us about a notifiable event we expect the governing body to be aware of it. In some cases we may expect the RSL to notify others, for instance lenders, if it is a financial issue.

4.2 We have tried to set out as clearly as possible the types of events you need to alert us to. We expect the senior member of staff or the Chair to judge whether an event affecting the RSL is one that you should notify us about. In most cases, you should not need to ask a solicitor or auditor about whether or not something is a significant event. If you are unsure then let us know. You should contact us at 0141 271 3810 or The Scottish Housing Regulator, Highlander House, 58 Waterloo Street, Glasgow G2 7DA.

5. What information do we need ?

5.1 You need to tell us:

- what the significant event is;
- when it happened or is going to happen;
- who is involved and/or affected; and
- what the RSL is planning to do or what action it has already taken.

5.2 We expect all RSLs to ensure they have registered the provision of data to the Scottish Housing Regulator for regulatory purposes under the Data Protection Act.

5.3 We have produced a separate regulatory fact sheet about how RSLs should deal with [whistleblowing](#). Whistleblowing is when someone within the RSL believes there has been improper conduct in the organisation and they should be able to report this to someone within the RSL who is in a position to deal

with it. If there has been whistleblowing within the RSL, the RSL should notify us about the allegations and tell us how it is responding to them.

6. When and how should you notify us?

6.1 You should alert us as soon as an event happens so that we have an early warning. Sometimes it will be the kind of issue that you can alert us to before it takes place. We expect to be told as soon as is reasonably practicable. There should not be a delay, for instance, until after a scheduled governing body meeting. We prefer to be notified in writing. If you need to tell us something quickly, please phone us in the first instance and then confirm the call in writing. If necessary, we might ask for more details.

7. What will we do with the information you give us?

7.1 We need to be confident that the RSL has an effective strategy in place to deal with the event. If we are satisfied it is being handled properly then in most cases that will be sufficient. But we will assess whether we need to assist or intervene to protect the interests of tenants, public investment and the reputation of the sector. We may review our regulatory engagement with the RSL and consider whether we need to set that out in a Regulation Plan.

7.2 RSLs are responsible for managing their own organisations and dealing with the events that occur. Requiring RSLs to tell us about certain events does not transfer that responsibility to the regulator. We may offer some advice but we will not tell an RSL what to do. We do need to be satisfied that the action the RSL will take will protect the interests of the organisation. And we will make clear what we expect the RSL to do to allay our concerns.

7.3 We may inform, or ask the RSL to inform, another regulator or authority if that is appropriate. We may also ask the RSL to get specialist advice, for instance, legal, financial, or employment expertise.

7.4 If you have given 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, for example, under the Data Protection Act.

8. Failure to notify

- 8.1 If you fail to notify us, or delay notifying us, about a significant event affecting your RSL, and it comes to our attention by other means, we will ask you why you failed to notify us. Following this, if we have concerns about the event or the explanation, we will consider if we need to take any regulatory action.

9. Status

- 9.1 Section 79(2)(m) of the Housing (Scotland) Act 2001 gives Scottish Ministers the power to issue guidance about the standards of governance and financial accountability of Registered Social Landlords. This guidance is statutory guidance in terms of section 79(2)(m) issued by Scottish Ministers. Any references to the Scottish Housing Regulator should be read as references to Scottish Ministers.

- 9.2 Our overall purpose is to:

- protect the interests of current and future tenants, and other service users;
- ensure the continuing provision of good quality social housing, in terms of decent homes, good services, value for money, and financial viability; and
- maintain the confidence of funders.

- 9.3 We have issued this guidance to help us to meet this overall purpose. We will keep it under review.