



THE SCOTTISH
HOUSING
REGULATOR

NOTIFIABLE EVENTS – REGULATORY EXPECTATIONS

The Scottish Housing Regulator’s expectations about handling a serious complaint against the Director/Chief Executive of a registered social landlord

Purpose

1 This supplementary advice sets out what we expect a governing body to do when dealing with a serious complaint or grievance against the Director/Chief Executive of the registered social landlord (RSL).

2 Our guidance on notifiable events (SHR25) requires RSLs 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 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 such matters then it can get into difficulties and the original issue can be made worse by inappropriate handling of the complaint. So this note sets out our regulatory expectations with the aim of helping RSLs prepare to 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 properly and will seek external advice and support to help it manage these situations.

Our expectations

4 When dealing with a serious complaint or grievance about a Director, we expect RSLs to:

- Tell us about it, in accordance with SHR25, our guidance on notifiable events;
- Take prompt, independent and professional advice as appropriate to the individual complaint or grievance; and
- Put in place strong governance systems that set out clear procedures for dealing with serious complaints or grievances about the Director and the role of the governing body. And we expect RSLs to be open and transparent about their decision-making processes.

Notify SHR

5 RSLs should deal with and resolve minor issues informally, at a local level, and we would not expect to be notified about minor grievances. And even serious complaints can be dealt with informally. But some serious complaints cannot be successfully resolved at the informal stage or are raised formally.

6 The Chairperson of the RSL should notify us 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. And tell us how the governing body intends to handle it.

7 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

8 We need to be assured by the governing body that it is seeking independent professional advice to support it in handling the complaint. In normal circumstances it is the Director who provides advice to the governing body. But clearly where it is the Director 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 such cases the governing body should seek external advice and support to manage the complaint.

9 The governing body needs to 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 governing body has a responsibility to 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 seek an employment/personnel specialist to assist, or a consultant with expertise in investigating such matters.

10 Where a serious complaint has been made against the Director by a governing body member or someone else who is not an employee, then we would also in these circumstances expect the governing body to ensure that it is taking independent advice about how to handle the complaint and that the Director takes no part in any investigation.

Have clear procedures

11 RSLs must have clear procedures to set out how they will investigate serious complaints or grievances against the Director. RSLs which are members of EVH can apply the Grievance Procedures included in the Statement of Terms and Conditions of Employment and there is also a Guidance Manual for handling discipline and grievance issues. RSLs which are not EVH members may have other good practice guidelines which they can follow. 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

12 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, 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. 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.

13 Where the decision is taken to investigate a serious complaint, then the full governing body should be told but not about any of the detail, which must be kept confidential. This ensures:

- 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.

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

SHR involvement

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

Conclusion

16 Serious complaints against the senior member of staff will not happen often, if at all, in most RSLs. But when they do occur they need to be handled properly. We expect to be notified if there is a serious grievance or complaint about the Director. We need to be confident that the governing body will discharge its employment responsibilities fully and properly and have access to objective and expert advice about how to handle a serious complaint or grievance against its Director. We expect RSLs to look at our regulatory expectations as we have set out here and ensure these are reflected in the RSL's own governance processes for dealing with such a situation.