



Notifiable Events Policy

Yorkhill Housing Association

Policy Objectives

- To ensure Yorkhill Housing Association meets its legal obligation to comply with the Scottish Housing Regulator's Statutory Guidance on Notifiable Events
- To provide staff and governing body members with appropriate information which will enable notifiable events to be identified and reported.
- To provide clear information on appropriate procedures to enable staff and/or governing body members to meet reporting requirements.

Links to Regulatory Standards

This policy is directly linked to Regulatory Standard 2.5: *The RSL is open, co-operative, and engages effectively with all its regulators and funders, notifying them of anything that may affect its ability to fulfil its obligations. It informs the Scottish Housing Regulator about any significant events such as a major issue, event or change as set out and required in our notifiable events guidance.*

Definition of a Notifiable Event

The lists in Appendix 1 provide examples of the type of notifiable event an RSL must notify us about. The lists are illustrative rather than exhaustive. As a general guideline, notifiable events are those that may:

- adversely affect the interests and safety of tenants, people who are homeless or other service 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, or risk bringing, the RSL into disrepute, or raise public or stakeholder concern about the RSL or the social housing sector.

In addition, the RSL must notify the Regulator of specific issues relating to the Chief Executive:

- If the Chief Executive is absent for a period of four weeks or more for any reason
- If the Chief Executive is leaving the RSL
- If a serious complaint is made about the Chief Executive

Appendices 1-3 are extracted from the 2019 SHR Guidance Document

Appendix 1 provides examples of notifiable events relating to Governance and Organisational Issues, Performance and Service Delivery Issues, and Financial and Funding Issues

Appendix 2: Tenant Consultation, Disposals, Constitutional Change

Appendix 3: Handling serious complaints against the Chief Executive

Identifying a Notifiable Event

It is the Chief Executive's responsibility to decide on whether an event or issue is notifiable in accordance with regulatory guidance.

Any member of staff may bring an issue to the Chief Executive's attention if there is concern that the circumstances may require notification to the Regulator.

Serious concerns or complaints concerning the conduct of the Chief Executive may be raised by any member of staff. In the first instance, such concerns should be reported to a manager or office bearer. It is the Chairperson who will decide if the matter can be handled internally within the terms and conditions of employment, or if the issue is notifiable.

Reporting a Notifiable Event

Notifiable events concerning the types of events and issues described in Appendices 1 and 2 are submitted by the Chief Executive who has authorised access to the SHR portal. The Regulator's template will be used to record and report the event.

Any event or issue reported to the Regulator must be reported by the Chief Executive to the Governing Body as soon as possible.

The Management Committee will decide whether information on individual Notifiable Events is posted on the Association's website.

Where the issue concerns a serious complaint involving the Chief Executive, the Chairperson will seek immediate external advice from an appropriate source, for example, EVH or solicitors. If appropriate, the Chairperson may wish to progress matters with support from a senior manager. The Chief Executive must not be involved in handling or managing any stage of an investigation concerning the complaint.

The Chair is also responsible for notifying the Regulator of any other notifiable event where there is a conflict of interest for the Chief Executive.

Appendix 1 Examples of Notifiable Events (SHR Guidance extract)

Governance and organisational issues:

- Any material change to the assurances and supplementary information contained in the RSL's Annual Assurance Statement
- 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
- Severance payment to and/or settlement agreement with a staff member
- Serious complaint, allegation, investigation, or disciplinary action about the senior officer (see Appendix 3).
- 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 current RSL or group
- Plans to set up a non-registered subsidiary
- Potentially serious breaches of statutory or common law duties by the RSL, 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 RSL which may have significant consequences for the RSL in the event of success
- Serious failure of governance within an RSL'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 RSL
- Breaches 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 (for example, the Fire Service etc.), or insurance provider, has advised the RSL of concerns
- Serious accidental injury to, or the death of a tenant in their home or communal areas:
 - where there has been a service failure by the RSL; or
 - where there has been a failure, or perceived failure, in how the RSL has assessed and managed risk; or
 - which could potentially affect other tenants' confidence in the RSL or the RSL's 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 of any stock transfer contractual agreement
- Adverse reports 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)

- Any significant natural disaster for example, fire, flood or building collapse which affects the RSL's normal business and puts tenants at risk.
- Serious or significant adverse media reports or social media interaction, which could potentially affect tenants' confidence in the RSL or that is damaging to the reputation of the RSL

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 imminent 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 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
- Change of internal or external auditor

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

Please note: This list is illustrative rather than exhaustive.

Appendix 2 Notification of tenant consultation, disposals, constitutional and organisational change (SHR)

Guidance extract)

The 2010 Act, as amended by the Housing (Amendment) Act 2018, requires RSLs to notify us of the outcome of tenant consultation, certain disposals, constitutional and organisational changes.

Tenant consultation

The 2010 Act requires RSLs to notify us of the results of tenant consultation, such as the outcome of a ballot or written agreement. Our statutory guidance Tenant consultation and approval sets out our requirements in relation to notification about tenant consultation.

Disposal of land and assets

The 2010 Act requires RSLs to notify us of any disposal of land or other assets as soon as reasonably practicable after the disposal is made. Where a tenant who has an SST will become the tenant of another landlord as a result of the disposal, the RSL must notify us within 28 days.

The 2010 Act provides for us to determine when we want to be notified and when to dispense with this requirement. The following section is our determination.

RSLs must notify us of:

- disposals by way of sale of tenanted social housing dwellings (and ensure that they comply with their legal obligations to consult tenants under sections 115, 115A and 115B of the 2010 Act)
- disposals by way of granting security over social and non-social housing dwellings land or other assets
- disposals by way of sale or exchange of untenanted social and non-social housing dwellings, land or other (including non-residential) assets over £120,000
- disposals by way of lease of social housing dwelling;
- disposals by way of lease of roof space of residential, tenanted properties for renewable energy sources (for example solar panels) or telecommunications (for example aerials) (and ensure that they comply with their legal obligations to consult tenants under s110 of the 2010 Act)
- disposals by way of lease of residential property to an RSL, group subsidiary or any other body for Market or Mid-Market Rent or other non-social housing purposes (except where property is leased to a local authority for temporary accommodation for people who are homeless)
- any other disposals not listed above which could have significant implications for tenants or other service users.

RSLs do not need to notify us of disposals which do not fall into the categories above. If you are unsure whether notification applies, please contact us for further advice. If in doubt, we recommend that you notify us.

As part of its notification about disposals by way of sale or transfer the RSL should provide us with:

- a copy of the report to the governing body and minute of the meeting which agreed to the disposal
- details of the property which has been sold or transferred (property addresses)
- if the disposal was by way of a lease, a copy of the lease agreement, and
- the value of the property transferred and if the sale or transfer was at market value (if applicable).

For disposals of heritable security the RSL should provide us with:

- a copy of the report(s) to the governing body and minute(s) of the meeting(s) where the disposal was agreed.

Constitutional and organisational changes

RSLs must notify us in relation to the following constitutional and organisational changes:

- change of name, office or constitution (s92)
- restructuring a society (s97) or company (s101)
- voluntary winding up or dissolution of a society (s98-99)
- converting a company into a registered society (s102)
- entering into a company voluntary arrangement (s103)
- voluntary winding up of a company (s104)
- becoming a subsidiary of another body (s104A).

For constitutional changes the RSL should provide us with:

- the date the constitution was or will be adopted
- a signed copy of the new constitution a copy of the report and minute of the governing body meeting which agreed to adopt the new constitution, and
- confirmation if the new constitution complies with the Scottish Federation of Housing Associations model rules.

For organisational changes the RSL should provide us with:

- a copy of the report and minute of the governing body meeting which agreed to the organisational change
- the date the change was or will be made, and
- for registered societies, a copy of the submission made to the Financial Conduct Authority including a copy of the special resolution passed by members (if applicable), or
- for companies, a copy of the submission made to the registrar of companies (including the special resolution passed by members (if applicable)).

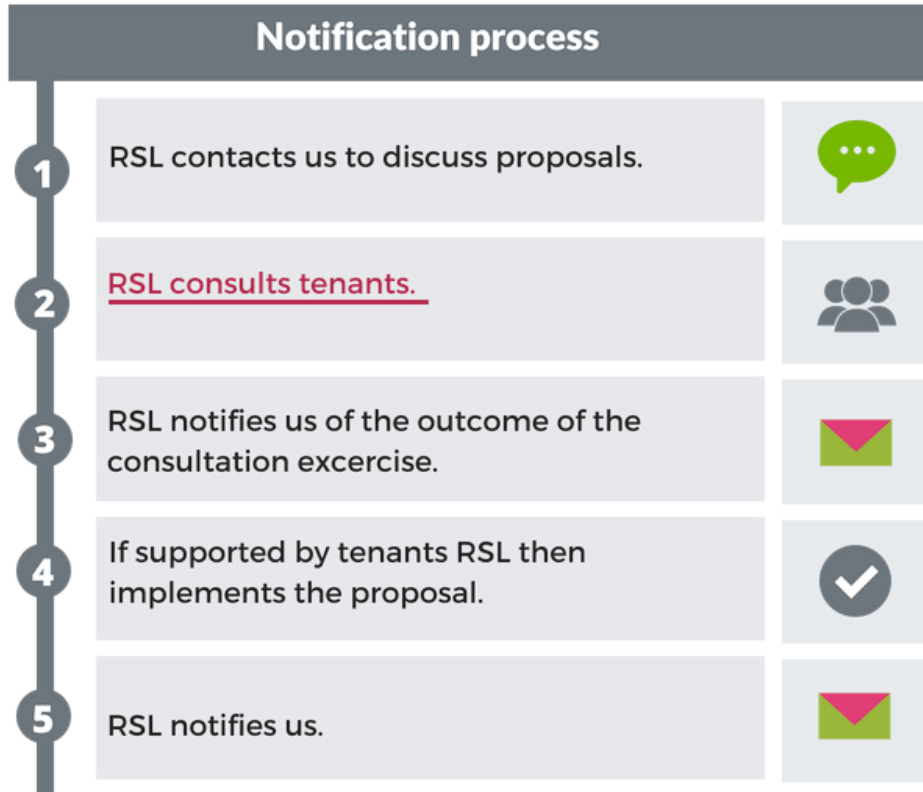
Steps towards Insolvency - RSLs must notify us where a notice of a proposal of a resolution for the winding up of an RSL is given to members of the RSL entitled to vote on it (s73 of the 2010 Act).

An RSL will also be required to notify us under s73 of the 2010 Act if it takes certain other steps towards insolvency. Those steps are:

- presenting a petition for the winding up of a registered social landlord
- applying for an administrative order in respect of a registered social landlord which is a registered company
- appointing an administrator in respect of a registered social landlord which is a registered company.

The timescales for notification are set out in the 2010 Act and summarised below. RSLs must ensure that they comply with these requirements.

Type of disposal/ change (and section of the 2010 Act)	Timescale for notification
The outcome of tenant consultation (s115, s98, s99, s102)	As soon as reasonably practicable. We consider 'as soon as reasonably practicable' to be within 10 working days.
Change of name, office or constitution (s92)	Within 28 days of when the amendment is made.
Special resolution passed by a society for restructuring (s97)	As soon as reasonably practicable after sending a copy of the special resolution to the Financial Conduct Authority. Where s96A applies (where a tenant of the RSL will cease to be a tenant of that RSL) SHR must be notified within 28 days of the special resolution being sent to the Financial Conduct Authority.
Voluntary winding up of society (s98)	As soon as reasonably practicable after sending a copy of the resolution to the Financial Conduct Authority.
Dissolution of society (s99)	As soon as reasonably practicable after sending the instrument of dissolution to the Financial Conduct Authority.
Restructuring of a company (s101)	As soon as reasonably practicable after the court order is made. Where s100A applies (where a tenant of the RSL will cease to be a tenant of that RSL) SHR must be notified within 28 days of the court order being made.
Conversion of a company into a registered society (s102)	As soon as reasonably practicable after sending the resolution to the registrar of companies.
Company voluntary arrangement under Part 1 of the Insolvency Act 1986 (s103)	As soon as reasonably practicable after the voluntary arrangement takes effect.
Voluntary winding up of a company under the Insolvency Act 1986 (s104)	As soon as reasonably practicable after sending the copy resolution to the registrar of companies.
Becoming a subsidiary of another body (s104A)	As soon as reasonably practicable after the arrangement takes effect, and no later than 28 days after it takes effect.
Disposals of land and assets (s109)	As soon as reasonable practicable (except where SHR has determined that notification is not required - see above) Where s107(4) applies (where a tenant of the RSL will cease to be a tenant of that RSL) SHR must be notified within 28 days of the disposal.
Notification of steps towards insolvency (s73)	Before taking the step and as soon as reasonably practicable after such step is taken.



Appendix 3 Handling a serious complaint against the Director/Chief Executive of an RSL (SHR Guidance extract)

Purpose

- 1 This note sets out what a governing body should 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 what RSLs should do to ensure they comply with regulatory standards in dealing with this type of situation.

Notify SHR

- 3 RSLs should deal with and resolve minor issues at a local level, and we do not expect to be notified about those.
- 4 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.
- 5 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 a legal obligation to disclose that information.
- 6 Employment issues are for the governing body as an 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 in a manner that is compliant with regulatory standards and will get appropriate advice and support to help it manage these situations and discharge its employment responsibilities fully and properly.
- 7 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 in those procedures. RSLs should be open and transparent about their decision-making processes for handling such matters.
- 8 When dealing with a serious complaint or grievance about a Director/Chief Executive, the RSL should:

- tell us about it, in accordance with our guidance on notifiable events; and
- take prompt, independent and professional advice as appropriate to the individual complaint or grievance.

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, they have a clear conflict of interest and cannot be involved in any way in managing the complaint made against them. In cases like this the governing body should obtain appropriate 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. The RSL must ensure that its investigation of the complaint, and any subsequent action, complies with its legal duties, including in those in relation to equalities and human rights.
- 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 the governing body should 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 should have clear procedures setting out how it will investigate serious complaints or grievances against the Director/Chief Executive. RSLs should apply good practice in dealing with the grievance and to meet our requirements 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 human resources matters or consider serious staff complaints. In the case of a serious complaint against the Director/Chief Executive, the staffing sub-committee should 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 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
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- 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
 - 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, then we may need to act to support the governing body to carry out its role in accordance with regulatory standards.

