



# Cloch Housing Association

## Notifiable Events

<b>Policy Name</b>	Notifiable Events
<b>Policy Category</b>	Governance
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<b>Approved by</b>	Board
<b>Responsibility of</b>	Chief Executive Officer
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<b>Consultation</b>	No
<b>Regulatory Standards</b>	Standards 1, 2, 5, 6, 7

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## 1. INTRODUCTION

- 1.1 Cloch Housing Association (CHA) will inform the Scottish Housing Regulator (SHR) about any material, significant or exceptional issue, event, or change within its organisation and how we intend to deal with it, or why we have implemented a significant change.
- 1.2 Our Notifiable Events Policy sets out the issues, events, or organisational changes that we will notify the SHR about and the process we will use. We will review this Policy each year to ensure it's updated, and understood by all members, and to report on any Notifiable Events during the preceding 12-month period.

## 2. DEFINITION

- 2.1 The SHR's Notifiable Event Statutory Guidance (2019), states that as a general guideline, notifiable events are those events that may:
  - *Seriously affect the interest 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 the Registered Social Landlord (RSL) into disrepute or raise public or stakeholder concern about the RSL or the social housing sector.*
- 2.2 What is material, significant or exceptional will depend on the nature of the event and the particular RSL. Each RSL should therefore consider the risk and the potential impact on its organisation when deciding whether an issue is a notifiable event.
- 2.3 The SHR's Statutory Guidance sets out examples of the type of events RSLs must advise the SHR of, which include:
  - *Governance and organisational issues.*
  - *Performance and service delivery issues.*
  - *Financial and funding issues.*
  - *Additional events that the SHR requires systematically important RSLs to notify them of.*

2.4 CHA will consider the impact of the issue or event on its compliance with the SHR's Standards of Governance and Financial Management and other regulatory requirements, including compliance with our legal obligations. We will notify the SHR of any material changes to the assurance or supplementary information reported in our Annual Assurance Statement.

## 2.5 **Governance and Organisational Issues**

CHA will notify the SHR of the following type of issues:

- Any material change to the assurances and supplementary information contained in our Annual Assurance Statement.
- The membership calls a Special General Meeting.
- Removal of any governing body member by CHA.
- 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 Cloch Code of Conduct by governing body members.
- Resignation or dismissal of the Cloch Chief Executive Officer.
- Severance payment to and/or settlement agreement with a staff member.
- Serious complaint, allegation, investigation, or disciplinary action about the Chief Executive Officer.
- The Chief Executive 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 CHA, 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 CHA which may have significant consequences for CHA 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 CHA.
- Breaches of charitable obligations or no longer meeting the charity test.
- Whistleblowing allegations.

## 2.6 Performance and Service Delivery Issues

CHA will notify the SHR of the following type of 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 advised CHA of concerns, for example the Fire Brigade, etc.
- Serious accidental injury to, or the death of a tenant in their home or communal areas:
  - where there has been a service failure by CHA; or
  - where there has been a failure, or perceived failure, in how CHA has assessed and managed risk; or
  - which could potentially affect other tenants' confidence in CHA or our reputation.
- Major failure of key service delivery arrangements (for example, repairs cannot be carried out because a contractor goes into liquidation; impact of pandemics/epidemics/Government guidance on service delivery).
- Breaches of ballot commitment to tenants or of any stock transfer contractual agreement.
- Adverse reports by statutory agencies, regulators, inspectorates (or similar) about CHA (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 CHA's normal business.
- Serious or significant adverse media reports or social media interaction, which could potentially affect a tenants' confidence in the RSL or that is damaging to the reputation of CHA.

## 2.7 Financial and funding Issues

CHA will notify the SHR of the following type of 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 CHA 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.

## 2.8 **Additional issues that systemically important RSLs have to provide notification of**

CHA is not currently regarded as a systemically important RSL, but for those organisations they must provide notification of -

- Any change in senior staff.
- Any material variation in the business plan or strategic direction of CHA.
- Any problems in relationships with key stakeholders for example, local authority or funders.

## 3. **COMPLIANCE & LEGAL REQUIREMENTS**

3.1 This Policy fully complies with the SHR's Regulatory Standards of Governance and Financial Management (2019) and all statutory guidance issued by the SHR, specifically Tenant Consultation & Approvals; Whistleblowing; Section 72, Group Structures & Constitutional Partnerships and Annual Assurance Statement.

3.2 In terms of legislative obligations our Policy is compliant with our legal obligations particularly relating to data protection; equalities; whistleblowing and Section 72 of the Housing (Scotland) Act 2010.

## 4. **NOTIFYING THE SCOTTISH HOUSING REGULATOR & OTHERS**

### 4.1 **Who should notify the SHR?**

The SHR's statutory guidance contains clear expectations relating to the way in which notifications are made to the SHR. The SHR's Notifiable Events statutory guidance must be read in conjunction with this Policy. A copy of this guidance can be downloaded direct from the SHR's website and is also in your Board Portal.

The Chief Executive Officer, (CEO), should tell the SHR about a notifiable event which relates to performance and service delivery issues or financial and funding issues. The Chair of the Board should tell the SHR when the notifiable event relates to a governance or organisational issue, for instance if the CEO has left or if there are concerns about the senior officer or the governing body. The Chair must also tell the SHR about any changes relating to the Annual Assurance Statement. Further information on the authority to raise concerns with the SHR can be found in our Whistleblowing Policy.

The Board is accountable and responsible for the effective management of CHA. Therefore, the Board should be aware of all notifiable events, even those which the CEO is responsible for reporting to the SHR. In some cases the SHR may need to notify other organisations of a notifiable event, for instance the Care Inspectorate if the matter relates to sheltered housing or care service, or to lenders, if it is a financial issue or where loan documentation specifies that certain events require to be notified to a lender.

Where the issue affects a subsidiary or a separate entity connected to us, we must notify the SHR and advise what we are doing to ensure that the matter is resolved. The SHR's Group Structures and Constitutional Partnerships guidance provides further information.

#### **4.2 What information does the SHR need & how should it be submitted?**

Notifiable events are submitted on-line to the SHR through the Landlord Portal. The SHR needs need to know:

- What the significant event, disposal or change is.
- When it happened or is likely to happen.
- Who is involved and/or affected.
- Whether there are equalities or human rights implications and how CHA is ensuring it meets its legal duties in these areas.
- What CHA is planning to do or what action it has already taken.
- When the Board was informed/will be informed.

For notifications relating to tenant consultation, reference must be made to the SHR's statutory guidance on Tenant Consultation and Approval.

When notifying the SHR about disposals, and constitutional or organisational changes reference must be made to Appendix 2 within the SHR's Notifiable Events statutory guidance.

If an event relates to an issue already noted in CHA's Engagement Plan, advice should be sought from the SHR as to whether the issue is a notifiable event.

### 4.3 **When should we notify the SHR?**

CHA should alert the SHR to a notifiable event, within 2 working days, or as soon as is reasonably practical. Sometimes this will mean alerting the SHR before an anticipated event happens so that the SHR are aware in advance. There should be no delay, for instance, until after a scheduled Board meeting.

Where a major incident occurs, CHA will alert the SHR within 1 working day, or as soon as is reasonably practical and will not wait until an event is completely concluded before alerting the SHR. In particular if CHA were to consider a disposal or organisational change which requires us to consult tenants under the 2010 Act, we would notify the SHR as soon as possible about our thinking.

If we advise the SHR in our Annual Assurance Statement that we are meeting the Standards of Governance and Financial Management and Requirements and this changes, we will notify the SHR as soon as possible about any significant or material non-compliance issues with the regulatory standards or our legal requirements.

### 4.4 **Notifying the Care Inspectorate**

CHA is not registered with the Care Inspectorate. There is a section in the guidance on notifying the Care Inspectorate who have separate guidance.

## 5.0 **HANDLING A SERIOUS COMPLAINT AGAINST THE CHIEF EXECUTIVE OFFICER OR A GOVERNING BODY MEMBER**

### 5.1 **Serious complaint against the Chief Executive Officer .**

The SHR's statutory guidance on Notifiable Events sets out what the Board should do when dealing with a serious complaint or grievance against the Chief Executive Officer..

The SHR expects the Board's Chair to notify the SHR if there is a formal serious complaint against the Chief Executive Officer and tell the SHR how the Board intends to handle the complaint.

The SHR notes that employment issues are for the Board as employer to resolve with the individual employee, but the SHR has to be assured that the Board will handle a serious complaint or grievance about its Chief Officer in a manner that is compliant with regulatory standards and will get appropriate legal and independent HR advice and support to help it manage these situations and discharge its employment responsibilities fully and properly.



As a full member of Employers in Voluntary Housing (EVH), CHA has adopted EVH's model Disciplinary and Grievance Policies, which should be referred to.

## **5.2 Serious complaint against a governing body member**

The Association's Code of Conduct for Governing Body Members details the procedure to be used in the event of a breach (or suspected breach) of the Code by a Board member. The Code should be read in conjunction with this Policy as the Code sets out the procedure to be used where a member of the Board has either breached or there are allegations of a breach of the Code.

Serious complaints, allegations, investigations, or disciplinary action about a member of the Board are notifiable events to the SHR.

The SHR has to be assured that the Board will handle a serious complaint as noted above about any member of the Board in a manner that is compliant with regulatory standards and will get appropriate legal and independent advice and support to help the Board manage these situations fully and properly.

## **6.0 EQUALITY AND DIVERSITY**

CHA is committed to promoting an environment of respect, understanding, encouraging diversity, and eliminating discrimination by providing equality of opportunity for all. This is reflected in our Equality and Diversity Policy.

## **7.0 COMPLAINTS**

7.1 Although CHA is committed to providing high levels of service, we accept that there may be occasions where a person may not be satisfied with the service they have received from us. We value all complaints and use this information to help us improve our services. CHA's Complaints Policy describes our complaints procedure and how to make a complaint.

## **8.0 GDPR**

8.1 We will treat personal data in line with our obligations under the current data protection regulations and our Data Protection Policy. Information regarding how data will be used and the basis for processing data is provided in our Customer Fair Processing Notice.