



Langstane Housing Association

Notifiable Events Policy

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V1	18 January 2021	First issue

1. Introduction

This document provides a policy framework for the operation of Notifiable Events obligations falling to Langstane Housing Association (LHA), as a registered social landlord.

Statutory guidance drafted by the Scottish Housing Regulator (SHR) was last updated on 20 June 2019. This new policy has been drafted consistent with and using this guidance.

The guidance defines Notifiable Events as serious events that

- may seriously 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
- would potentially bring the RSL into disrepute or
- would raise public or stakeholder concern about the association or the social housing sector.

The Scottish Housing Regulator expects an RSL to report any material, significant or exceptional issue, event, or change within its organisation and how it intends to deal with it or, where appropriate provide a reasonably detailed explanation as to why a significant change has been implemented.

It is the view of Langstane Housing Association that its practices in recent years have been consistent with the spirit and letter of Notifiable Events guidance.

However, this written policy helps to strengthen improvements in the Association's governance and compliance systems. The approval of this new policy will address the need to create a full suite of high level governance policies to guide our future practices and ensure our ongoing compliance.

2. Policy Statement

The aim of this policy is to ensure Langstane Housing Association (LHA) is compliant with legislative, regulatory and best practice in relation to its activities relating to Notifiable Events.

Langstane recognises the regulatory role performed by the Scottish Housing Regulator (SHR); and its definition of Notifiable Events as outlined above.

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

Langstane understands and recognises the associated regulatory expectation that the Scottish Housing Regulator should be informed about Notifiable Events.

3. Objectives

Langstane will ensure its practices are fully compliant with SHR's Notifiable Events guidance.

Written business systems will be reviewed and developed as necessary to support the management of our practices.

Langstane's governing body scrutiny responsibilities will be supported through the provision of regularly updated information on Notifiable Events which have been closed by the Scottish Housing Regulator; Notifiable Events which are still active; and business implications arising from the reporting of Notifiable Events, including actions agreed internally or in conjunction with the Scottish Housing Regulator.

Langstane recognise the value of proactive management of Notifiable Events in improving delivery of compliant, good quality services, and will strive to achieve this proactive management.

4. Links to other strategic documents and policies

Langstane appreciates the linkages as outlined in SHR's Notifiable Events guidance, between this policy and other policies, key documents and activities, as follows:

- Whistleblowing Policy
- Scheme of Delegated Authority
- Annual Assurance Statement
- Serious Complaints against the Chief Executive
- External Auditor's reporting of Final Accounts and their communications' obligations with the Scottish Housing Regulator.

Particular attention will be paid to ensuring alignment and consistency of the Notifiable Events policy – and practices and procedures for its implementation – to the above.

5. Policy – Notifiable Events

5.1. Definition of Notifiable Events

Langstane will observe the Scottish Housing Regulator guidance in making decisions on issues to be drawn to its attention. The current guidance on issues considered to be treated as Notifiable Events is contained in Appendix 1 to this report.

5.2. Who should notify the Scottish Housing Regulator of Notifiable Events?

The Chief Executive will tell the Scottish Housing Regulator about a Notifiable Event which relates to performance and service delivery issues or financial and funding issues.

The Chair will tell the Scottish Housing Regulator when the Notifiable Event relates to a governance or business issue, for instance if the senior officer has left; or if there are concerns about the senior officer or the governing body. The Chair must also tell the Scottish Housing Regulator about any changes relating to the Annual Assurance Statement.

Staff members authorised will tell the Scottish Housing Regulator of any disposals and changes set out in Appendix 2. Langstane will ensure these authorisations are detailed in the Scheme of Delegation.

5.3. Governing Body Awareness and Scrutiny

The governing body of the Registered Social Landlord is accountable and responsible for the effective management of the organisation. Its scrutiny responsibilities will be supported by ensuring awareness of all Notifiable Events, including those where staff are authorised to bring such matters to the attention of the Scottish Housing Regulator.

Langstane will also ensure that where external stakeholders need to know of a Notifiable Event, they are informed. This may involve lenders for example, if it is a financial issue or where loan documentation specifies that certain events require to be notified to a lender.

Through its senior staff and Chair, Langstane will proactively manage live Notifiable Events. This will include identifying actions required to resolve issues; ensuring reasonable progress is being made towards resolution; and that the governing body and SHR is kept informed of progress.

Langstane will keep and maintain a register of Notifiable Events to track progress with live and closed Notifiable Events.

5.4. Scottish Housing Regulator Information requirements and how it will be submitted

Langstane will submit information to the Scottish Housing Regulator through its landlord portal or in any other way agreed with the Scottish Housing Regulator. The Association will observe the detailed information and process requirements outlined in the Scottish Housing Regulator's statutory guidance.

5.5. When the Scottish Housing Regulator will be notified of Notifiable Events

Langstane appreciates that the guidance places an expectation that Notifiable Events will be brought to the attention of SHR as soon as is reasonably practical. This may include before an anticipated event actually occurs. The Association will observe the detailed information on such matters as outlined in the Scottish Housing Regulator's statutory guidance.

Langstane also understand that the most recent Scottish Housing Regulator guidance contains new provisions relating to Registered Social Landlord's declarations of compliance against Regulatory Standards of Governance and Financial Management, as set out in Annual Assurance Statements.

The Association recognises the Scottish Housing Regulator's interventionary powers where the Scottish Housing Regulator differs in its opinion of Langstane's degree of compliance. Langstane will endeavour to report accurately on compliance through Annual Assurance Statements, and notify the Scottish Housing Regulator of any instances of non-compliance as soon as these are apparent.

5.6. The Scottish Housing Regulator management of Langstane's information

Where Langstane has told the Scottish Housing Regulator of a Notifiable Event, the Association will inform the Scottish Housing Regulator of any remedial actions proposed to address the matter reported. The Association will engage positively with

the Scottish Housing Regulator in discussing our approaches to managing issues and achieving desired outcomes.

Langstane will observe, and our proposed actions will be guided by the detailed information on such matters as outlined in the Scottish Housing Regulator's statutory guidance.

5.7. Notification of tenant consultation, disposals, constitutional and business change

Langstane recognises this is a further category of notification requirements to the Scottish Housing Regulator. Langstane will comply with the detailed requirements, which are outlined in Appendix 2.

5.8. Handling a serious complaint against the Chief Executive

Langstane covers these matters as a separate policy in its suite of high level governance policies.

However, Langstane recognises that the Scottish Housing Regulator's Notifiable Events guidance also covers notification requirements to itself. The Association will ensure these are incorporated in procedures on Serious Complaints against the Chief Executive.

Langstane's procedures and practices will be built around the key notification and other requirements of regulatory guidance, as follows:

- The Chair will notify the Scottish Housing Regulator if there is a formal serious complaint against the Director/Chief Executive; and will inform SHR how our governing body intends to handle the complaint
- Confidentiality will be observed within the bounds of any legal obligations placed on Langstane or the Scottish Housing Regulator
- Specialist employment advice will be sought as necessary in handling any such complaint
- Langstane will take any other prompt, independent and professional advice as appropriate to the individual complaint or grievance, including support to the Chair and any other governing body members likely to be involved in the investigation
- An independent investigatory consultant will be engaged as appropriate to deal with the complaint
- The Chief Executive will take no part in any investigation other than co-operating with the investigator
- Whilst the governing body will be informed about a complaint having been lodged, individual members will receive no further details unless and until such point in the process where one or more individual members needs to be involved.
- Langstane understands that the Scottish Housing Regulator reserves the right to intervene in the process to ensure these accords with Regulatory Standards.

5.9. Langstane's Internal Policies and Procedures

Langstane will ensure the alignment and consistency of its other policies with the Notifiable Events policy. Langstane is progressively reviewing its practices and procedures to improve policy implementation. The Association will ensure these actions reflect the need to ensure compliance with this Notifiable Events policy.

6. Monitoring and Review

This policy will be reviewed in three years' time of its date of implementation; or after a change in legislation or regulatory guidance is implemented, and it is deemed appropriate to review the policy sooner.

Examples of Notifiable Events

1. 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 Registered Social Landlord
- 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 Registered Social Landlord's code of conduct by governing body members
- Resignation or dismissal of the Registered Social Landlord'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 Registered Social Landlord or group
- Plans to set up a non-registered subsidiary
- Potentially serious breaches of statutory or common law duties by the Registered Social Landlord, 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 Registered Social Landlord which may have significant consequences for the Registered Social Landlord in the event of success
- Serious failure of governance within an Registered Social Landlord'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 Registered Social Landlord
- Breaches of charitable obligations or no longer meeting the charity test
- Whistleblowing allegations

2. 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 advised the Registered Social Landlord 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 the RSL; 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 Registered Social Landlord (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 Registered Social Landlord's normal business
- Serious or significant adverse media reports or social media interaction, which could potentially affect tenants' confidence in the Registered Social Landlord or that is damaging to the reputation of the Registered Social Landlord

3. 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 Registered Social Landlord 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 Registered Social Landlord 's with significant care elements in their business, where a local authority withdraws funding
- Change of internal or external auditor

Notification of tenant consultation, disposals, constitutional and organisational change

The Housing Scotland Act 2010, as amended by the Housing (Amendment) Act 2018, requires Registered Social Landlords to notify the Scottish Housing Regulator of the outcome of tenant consultation, certain disposals, constitutional and organisational changes.

Tenant Consultation

The 2010 Act requires RSLs to notify SHR of the results of tenant consultation, such as the outcome of a ballot or written agreement. SHR's statutory guidance on tenant consultation and approval sets out its requirements in relation to notification about tenant consultation.

Disposal of Land and Assets

The 2010 Act requires Registered Social Landlords to notify the Scottish Housing Regulator of any disposal of land or other assets to the value of £120,000 and above, as soon as reasonably practicable after the disposal is made. Where a tenant who has an Scottish Secure Tenancy will become the tenant of another landlord as a result of the disposal, the Registered Social Landlord must notify the Scottish Housing Regulator within 28 days.

The 2010 Act provides for the Scottish Housing Regulator to determine when it wants to be notified and when to dispense with this requirement. The following section is the Scottish Housing Regulator's determination. Registered Social Landlords must notify the Scottish Housing Regulator 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 excambion 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 a Registered Social Landlord, 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)
- Disposals by way of lease in accordance with the Financial Regulations
- any other disposals not listed above which could have significant implications for tenants or other service users.

Registered Social Landlords do not need to notify the Scottish Housing Regulator of disposals which do not fall into the categories above.

If LHA is unsure whether notification applies – or if the Association is in doubt – it will contact the Scottish Housing Regulator for further advice and a discussion as appropriate.

As part of any notification about disposals by way of sale or transfer, Langstane will provide the Scottish Housing Regulator 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,
- the value of the property transferred and if the sale or transfer was at market value (if applicable).

For disposals of heritable security Langstane will provide the Scottish Housing Regulator 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

Registered Social Landlords must notify SHR 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 Registered Social Landlord should provide the Scottish Housing Regulator with:

- a signed copy of the new constitution
- the date the constitution was or will be adopted
- 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 Registered Social Landlord should provide the Scottish Housing Regulator 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

Langstane Housing Association Ltd is a registered Scottish Charity No. SC 011754, a registered Property Factor No. PF 000666 and a registered Letting Agent No. LARN2001005



- (including the special resolution passed by members (if applicable)).

Steps towards Insolvency - Registered Social Landlords must notify the Scottish Housing Regulator where a notice of a proposal of a resolution for the winding up of an Registered Social Landlord is given to members of the Registered Social Landlord entitled to vote on it (s73 of the 2010 Act).

A Registered Social Landlord will also be required to notify SHR 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. Registered Social Landlords 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. The Scottish Housing Regulator considers '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 Registered Social Landlord will cease to be a tenant of that Registered Social Landlord) the Scottish Housing Regulator 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 Registered Social Landlord will cease to be a tenant of that Registered Social Landlord) the Scottish Housing Regulator 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 reasonably practicable (except where the Scottish Housing Regulator has determined that notification is not required - see above) Where s107(4) applies (where a tenant of the Registered Social Landlord will cease to be a tenant of that Registered Social Landlord) 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

Notification Process	
1	Registered Social Landlord contacts the Scottish Housing Regulator to discuss proposals
2	Registered Social Landlord consults tenants
3	Registered Social Landlord notifies the Scottish Housing Regulator of the outcome of the consultation exercise
4	If supported by tenants, Registered Social Landlord then implements the proposal
5	Registered Social Landlord notifies the Scottish Housing Regulator