

CS038 - Notifiable Events Policy

MONITORING FORM	
Department	Corporate Services
Department Director	Human Resources Director
This policy is applicable to	Everyone
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1. INTRODUCTION

- 1.1 The Scottish Housing Regulator (SHR) issued updated guidance in February 2019 on the subject of Notifiable Events. The guidance details the circumstances in which registered social landlords (RSLs) should notify them about events that present a significant risk and this policy reflects the recent guidance changes.
- 1.2 The guidance on Notifiable Events is statutory guidance for Weslo Housing Management (Weslo) to meet in relation to the requirements of Chapter 3 of the Regulatory Framework and obligations under the Housing (Scotland) Act 2010.
- 1.3 The Regulator is interested in events which put at risk:
 - a. the interests or safety of tenants and other service users;
 - b. the financial health of the RSL, public investment or the confidence of private lenders; and
 - c. the good governance and reputation of an individual RSL.
- 1.4 The Housing (Scotland) Act 2010 also requires that we notify the Regulator about certain disposals of land and assets, and constitutional and organisational changes.
- 1.5 The SHR aims to apply a risk-based and proportionate approach to the way they regulate Registered Social Landlords (RSLs). They will only gather information that they need to regulate effectively.
- 1.6 Weslo is responsible for alerting the SHR to important events that pose a significant risk.
- 1.7 Regulatory Standard 2.5 states '*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 SHR about any significant events such as a major issue, event or change as set out and required in notifiable events guidance.*' This therefore requires us to alert the SHR to certain events as quickly as possible after they happen, or before they happen if this can be anticipated.
- 1.8 The purpose of this policy is to detail to the Board and staff, Weslo's policy in relation to informing the SHR about significant events (Notifiable Events) in compliance with the SHR's guidance.

2. SCOPE

- 2.1 For the purposes of this policy it is deemed to include the following: Weslo Housing Management and its subsidiary, Weslo Property Management, Board members, all employees (permanent, temporary or contracted), tenants and any other stakeholder if relevant to the Policy.
- 2.2 Weslo is referred to generally as "we" or "us" throughout this document.

3. WHAT ARE NOTIFIABLE EVENTS?

- 3.1 Weslo should tell the SHR about any material, significant or exceptional issue, event, or change within our company and how we intend to deal with it, or where appropriate provide the SHR with a reasonably detailed explanation as to why a significant change has been implemented.
- 3.2 As a general guideline, Notifiable Events are those that may:
- Seriously affect the interest and safety of tenant, people who are homeless or other services 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 Weslo into disrepute or raise public or stakeholder concern about Weslo or the social rented sector.
- 3.3 What is 'material', 'significant' or 'exceptional' will depend on the nature of the event. Whether an event is 'material' or 'significant' may depend on factors which are unique to Weslo including our size or complexity. We need to consider the risk and potential impact on Weslo when deciding whether an issue is a Notifiable Event. If it is unclear whether an event is a Notifiable Event, we will take further guidance directly from the SHR. If in doubt, the Regulator recommends that we notify them.
- 3.4 Appendix 1 of the SHR Notifiable Events Guidance sets out examples of the type of events we need to alert the Regulator about <https://www.scottishhousingregulator.gov.uk/for-landlords/statutory-guidance/notifiable-events#section-9>
- 3.5 We will consider the impact of the issue or event on our compliance with the 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 assurances or supplementary information reported in our Annual Assurance Statement.
- 3.6 We are also required to notify the SHR about the outcome of tenant consultation, of a ballot or written agreement, certain disposals of land, assets or leases, constitutional and organisational changes. These and the relevant timescales for notification as set out in the SHR's Notifiable Event guidance at Appendix 2.

4. WHO SHOULD NOTIFY THE SHR

- 4.1 Our senior officer, the Chief Executive, should tell the SHR about a Notifiable Event which relates to performance and service delivery issues or financial and funding issues.
- 4.2 The Chair of the Weslo Housing Management Board should tell the SHR when the Notifiable Event relates to a governance or organisational issue,

for instance if the Chief Executive has left or if there are concerns about our Chief Executive or our Board.

- 4.3 The Chair must tell the SHR about any changes relating to the Annual Assurance Statement.
- 4.4 Any staff member who is authorised by the Weslo to do so can notify the SHR in relation to the disposals and changes set out in the guidance. <https://www.scottishhousingregulator.gov.uk/for-landlords/statutory-guidance/notifiable-events#section-10>. This will be set out in our scheme of delegation.
- 4.5 Our Board is accountable and responsible for the effective management of Weslo and should be aware of all Notifiable Events, even those which the Chief Executive is responsible for reporting to the SHR. In some cases, we may need to notify other organisations of a Notifiable Event, for instance our lenders, if it is a financial issue or where a loan agreement specifies that certain events require to be notified to a lender.
- 4.6 Where the issue affects Weslo Property Management, Weslo Housing Management must notify the SHR and tell them what we are doing to resolve the situation.

5. WHAT INFORMATION DOES THE SHR NEED AND HOW IS IT SUBMITTED

- 5.1 We will submit a Notifiable Event to the SHR through the Landlord Portal ("the portal"). The Portal include a template for us to complete which sets out the type of information the SHR needs about each events. This includes:
 - What the significant event, disposal or change is;
 - When it happened or is going to happen;
 - Who is involved and/or affected;
 - Whether there are equalities or human rights implications and how Weslo is ensuring we meet our legal duties in these areas
 - What we are planning to do or what action we have already taken; and
 - When the governing body was informed/will be informed.
- 5.2 For notification of tenant consultation, we will refer to the SHR's statutory guidance on Tenant consultation and approval which explains the SHR's information requirements.
- 5.3 For notifiable events about disposals, and constitutional or organisational changes, we will comply with Regulatory Standard 7 for details of the change.
- 5.4 When the SHR receives a Notifiable Event notification through the portal the SHR aims to respond within eight working days.

5.5 In the event that we are unsure whether an event should be reported under the Notifiable Events Guidance if it relates to an issue already noted in our Engagement Plan, we will seek further advice from the SHR.

5.6 We will ensure that our Information Commissioner Office registration appropriately covers our obligation to provide data to the SHR for regulatory purposes.

6. HANDLING A SERIOUS COMPLAINT AGAINST THE CHIEF EXECUTIVE

6.1 The SHR requires us to inform them when there is a serious complaint, investigation or disciplinary action relating to the Chief Executive. Due to their nature, sensitivity and potential impact on leadership arrangements, these matters have the potential to seriously damage Weslo and will therefore be treated sensitively by the Board.

6.2 When dealing with a serious complaint or grievance against the Chief Executive, the SHR expects us to:

- Tell them about it, in accordance with its guidance on Notifiable Events;
- Take prompt, independent and professional advice as appropriate to the individual complaint or grievance.

6.3 The Chair of the WHM Board should notify the SHR if there is a formal serious complaint against the Chief Executive, for example serious allegations from an individual employee of bullying or harassment by the Chief Executive. The Chair should also tell the SHR how the Board intends to handle the complaint. If we give the SHR information in confidence the SHR will respect confidentiality, provided it does not compromise their ability to safeguard the overall interests of Weslo or the sector, or breach a legal obligation to disclose that information.

6.4 Weslo has effective governance systems that set out clear procedures for dealing with serious complaints or grievances about the Chief Executive and Board. Weslo will be open and transparent about their decision-making process. We will apply the investigatory, disciplinary and grievance procedures for handling these matters.

6.5 The SHR does not expect to be notified of minor issues and would expect the Board to resolve these matters at a local level.

6.6 The SHR does not become involved in employment matters. Employment issues are for the Board as an employer to resolve with the individual employee.

6.7 The SHR needs to be assured that Weslo is seeking independent and professional advice to support it in handling the complaint. In normal circumstances it is the Chief Executive who provides advice to the Board. But where the Chief Executive 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 cases like this the Board should obtain appropriate advice and support to manage the complaint.

- 6.9 The Board needs to act quickly when a staff member raises a serious grievance about the Chief Executive. Given the likely sensitive nature of the grievance it should be handled carefully with independent, expert support and advice. Weslo may need to get an employment/HR specialist to assist or a consultant with expertise in investigating such matters. We must ensure that its investigation of the complaint, and any subsequent action, complies with its legal duties, including those in relation to equalities and human rights.
- 6.10 Where a serious complaint has been made against the Chief Executive by a Board 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 Chief Executive takes no part in any investigation other than co-operating with the investigator.
- 6.11 In the case of a serious complaint against the Chief Executive a Subcommittee Chair (or working group) will be informed, rather than the Chairperson dealing with the complaint alone. The Chairs (or working group) will hear and decide 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 working group. Where there is an investigation then the working group must oversee the investigation and record all decisions to ensure transparency.
- 6.12 Where the decision is taken to investigate a serious complaint, then the full Board should be informed. However it should not be told any of the details. This is to ensure:
- The Board retains control over Weslo's affairs
 - The details of the grievance remain confidential (the individuals at the centre of the allegations have the right to confidentiality)
 - The full Board knows the grievance is being dealt with, for example, by the RNC
 - If Weslo need to bring in outside help, then the full Board is aware of the situation from the outset and can authorise associated costs
 - The Board can monitor if a pattern of grievances emerges and decide what action to take
- 6.13 By keeping the substance of the grievance confidential then there is a clear route for any appeal to be heard by other members if the Board who are untainted by detailed knowledge about the issue
- 6.14 At the end of the process, the full Board, should be told about the outcome of the grievance.

- 6.15 If the SHR has concerns about the action the Board is proposing to take, or it appears that the Chief Executive is involved in advising the Board or in handling the grievance, then the SHR may act to support the Board to carry out its role in accordance with regulatory standards.

7. WHEN SHOULD WE NOTIFY THE SHR?

- 7.1 We must alert the SHR of a notifiable event as soon as is reasonably practical. Sometime this will mean alerting the SHR before an anticipated event happens so that they are aware in advance. There should be no delay, for instance, until after a scheduled Board meeting. Where a major incident occurs, we should alert the SHR as soon as possible, we should not wait until an event is completely concluded before we alert the SHR. In particular when Weslo is considering a disposal or organisational change which requires it to consult with tenants under the 2010 Act, we should notify the SHR at an early stage in its deliberations.
- 7.2 Where we have told the SHR in our Assurance Statement that we meet Regulatory Standards and they find we do not, and we have not notified them of this, the SHR will engage with us to determine the significance of non-compliance. It is a serious matter if we have failed to tell the SHR about a material or significant event or issue, or we have delayed notifying them of it and the SHR will be treat it as such.
- 7.3 The SHR will engage directly with us to determine any action they may need to take. Where our regulatory status is shown as 'compliant', the SHR may amend this to indicate that it is 'under review'. Chapter 6 and of the Regulatory Framework provides an explanation of how they will respond to serious concerns.
- 7.4 The SHR may look at whether we have notified them in accordance with the Notifiable Events Guidance as part of work to verify its Annual Assurance Statement, if during a visit or other engagement activity.
- 7.5 Further information on timescales for notifications of disposals and constitutional changes are included in appendix 2 of the guidance <https://www.scottishhousingregulator.gov.uk/for-landlords/statutory-guidance/notifiable-events#section-10>.

8. WESLO'S INTERNAL POLICIES AND PROCEDURES

- 8.1 Weslo's internal policies and procedures will reflect the requirement and guidance to alert the SHR of Notifiable Events. The Board, Executive Team and Operational Managers are required to familiarise and assure themselves, and the SHR, that we are complying with this through our Annual Assurance Statement.
- 8.2 If a member of staff, or Board member, is aware of a notifiable event which has not been submitted to the SHR, they should report it through our Whistleblowing Policy and Procedure. If this is not possible, or the attempt to report internally has been unsuccessful, they can report it directly to the SHR.

9. LINKS TO OTHER GUIDANCE

- 9.1 The SHR guidance on Notifiable Events forms part of a suite of information on regulatory compliance.
- a. **Tenant Consultation and Approval** – There is separate regulatory guidance on tenant consultation and approval for proposal to sell or transfer tenanted homes, which require Weslo to consult tenants under the 2010 Housing (Scotland) Act.
 - b. **Whistleblowing** – The SHR has produced separate advisory guidance and a factsheet about how Weslo should deal with Whistleblowing. Weslo has produced a separate policy and procedure to reflect these publications. Whistleblowing is when someone within Weslo believes there has been improper conduct within our company and reports it to someone in authority. If there are instances of whistleblowing within Weslo we will notify the SHR about the allegations and tell them how we are responding to the issues.
 - c. **Section 72 of the Housing (Scotland) Act 2010** – This guidance places a duty on external auditors and reporting accountants to disclose events of material significance to the SHR. If we are aware that an auditor has reported an issue to the SHR under Section 72, we do not need to report this issue as a Notifiable Event. This is because the SHR will ask for any additional information from us should they need it.
 - d. **Group Structures and Constitutional Partnerships** – The SHR has produced separate statutory guidance on Group Structures and Constitutional Partnerships if we are considering creating a group structure.
 - e. **Annual Assurance Statement** – The SHR has issued statutory guidance for the completion of our Annual Assurance Statement. This includes guidance on how to report any material and significant non-compliance with the Standards of Governance and Financial Management and regulatory requirements.

10. EQUALITY & DIVERSITY

- 10.1 This Policy will always be carried out in accordance with Weslo's Policy of Equality & Diversity which aims to promote diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures.

11. PUBLICISING & AVAILABILITY

- 11.1 This policy is available on the WHM website, to Board of Directors and staff members and any other key stakeholders. Copies are available free of charge. A summary of this policy can be made available in other formats and languages on request.

12. MONITORING & REPORTING

- 12.1 This policy will be reviewed regularly to ensure compliance with applicable legislative changes, changes within the organisation and best practice.