

FORTH HOUSING ASSOCIATION LIMITED

NOTIFIABLE EVENTS PROTOCOL

Code: GOV32

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Next review: By August 2026

Cross reference: GOV20 Risk Management
GOV21 Forth's Rules
GOV24 Whistleblowing
GOV31 Anti-Bribery
FIN01 Financial Regulations
FIN 03 Treasury Management

Regulatory Standards Of Governance and Financial Management Standard 2- 2.5

Scottish Housing Regulator Notifiable Events
Statutory Guidance
February 2019 (Updated June 2019)



This document can be made available in alternative languages or formats (such as large print, audio etc). Please contact staff as required.

Policy Summary

This policy has been developed to ensure that Forth Housing Association protects the interests or safety of tenants, applicants, people who are homeless and other service users as well as the financial health of the organisation, the public investment in us or the confidence of our private lenders. This policy also ensures that we adhere to good governance and maintain our reputation.

Equalities

There is no requirement to do a full Equality Impact Assessment.

Privacy

When managing notifiable events, we may process personal data collected in accordance with our data protection policy. Data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of reporting and monitoring events. There is no requirement to complete a full Privacy Impact Assessment.

Policy Owner

Owner: Director

Date of Next Review: August 2026

FORTH HOUSING ASSOCIATION LIMITED

Protocol for reporting of Notifiable Events to the Scottish Housing Regulator

1. Introduction

The purpose of this policy is to ensure that Forth Housing Association (FHA) complies with the regulatory requirements set out by the Scottish Housing Regulator (SHR) to report events which are significant or exceptional issues. The SHR guidance on Notifiable Events sets out what events we must tell them about and why they are interested in these events and this policy sets out the framework which we are committed to.

2. Principles

The following principles govern the operation of this policy:

- Be clear and understood by all employees, governing body members, agents, partners (e.g. other organisations and contractors), customers and stakeholders
- Reflect statutory requirements and best practice
- Protect the interests and safety of all our people by which we mean tenants, owners, shared owners, applicants, other services users, staff and committee members

3. Aims and Objectives

The aims of this policy is to ensure that Forth report and monitor notifiable events appropriately and compile with the guidance set out by the SHR.

The objectives of this policy are to provide:

- A n understanding of what notifiable events are to allow staff and management committee to identify when to notify any issues
- to provide a clear channel of communication to raise issues that may be considered a notifiable event.
- To support staff through effective guidance who are involved in recording, monitoring, or reporting notifiable events

4. Policy Framework

4.1 What are Notifiable Events?

- 4.1.1 Notifiable events are significant or exceptional issues, events or changes that may be seen as potentially bringing Forth Housing Association (FHA) into disrepute, that significantly threaten the stability, efficient running or viability of the organisation, or which would raise public or stakeholder concern about

FHA or the social rented housing sector as a whole. FHA has a regulatory obligation to report such events to the Scottish Housing Regulator (SHR) as soon as practically possible, and to explain how it intends to deal with the event.

4.1.2 The Regulator expects to hear about events which:

- 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.
- Bring the RSL into disrepute or raise public or stakeholder concern about the RSL or the social housing sector.

The Regulator has issued guidance explaining what events are potentially notifiable, and the process for dealing with this (“Notifiable Events, Statutory Guidance February 2019”). <https://www.housingregulator.gov.scot/for-landlords/statutory-guidance/notifiable-events#>

Appendix 1 to the guidance note, appended to this policy, sets out examples of which events are notifiable, under the following headings:

- Governance and organisational issues
- Performance and service delivery issues
- Financial and funding issues

It is emphasised that the events described in this appendix are illustrative, not exhaustive, and committee and staff members should revert to the definition in paragraph 4.1.1 above to decide whether the event should be notified. If in doubt, FHA’s Regulation Manager at SHR should be contacted for advice.

4.1.3 Some housing associations are designated of “systemic importance”, and these associations have a wider obligation to report additional events. FHA is **not** an association of systemic importance.

4.2 Maintaining awareness of the requirements of Notifiable Events guidance

- FHA’s Director must always be fully conversant with the requirements of the latest guidance from the Scottish Housing Regulator on Notifiable Events and comply with these requirements fully and promptly.
- The Director is responsible for immediately advising the FHA management

committee, and particularly the Chair and Vice-Chair, of any changes to regulatory guidance on this matter, and subsequently the management committee.

- New committee members and management team members will be made aware of the requirements of the regulatory guidance via the induction process, and committee member training on Notifiable Events will be provided periodically, as appropriate.
- Staff will be made aware of the requirements of the regulatory guidance via induction and ongoing training on Notifiable Events which will be provided as appropriate.

4.3 Complying with Notifiable Events guidance

- The Director, the management team, and all committee members of FHA must remain vigilant about identifying actual or potential Notifiable Events, and raising this with the Chair of FHA if they believe there are governance and organisational issues that should be notified, and with the Director if there are performance and service delivery issues, or financial and funding issues that should be treated as notifiable events.
- The Chair (or the Vice-Chair in her/his absence) is responsible for determining whether a governance and organisational Notifiable Event has, or is about to occur, and if so, for ensuring that the Regulator is promptly informed in accordance with the requirements of the guidance. The Director (or any designated deputy in his/her absence) has equivalent responsibilities for performance, service delivery, financial and funding issues.
- Timely notification of such events is essential. The Regulator expects to be informed as soon as is reasonably practical that an event has occurred, and before the event occurs if this can be anticipated.
- The Director is responsible for ensuring that FHA has registered the provision of data to the Scottish Housing Regulator for regulatory purposes with the Information Commissioner's Office under Data Protection Legislation.
- The Director will complete the periodic compliance report to FHA's management committee, certifying that any significant events occurring in the period under review have been properly notified to the Regulator. If FHA should fail to notify the Regulator about a significant event, and this subsequently comes to light, SHR will re-assess FHA's risk profile, and may take regulatory action.

4.4 Process for notification

- All notifications should be submitted through the SHR Landlord Portal using the template provided. Governance events will be submitted under the supervision of the Chair, who may ask the Director to prepare a draft version prior to submission and make the submission on the Chair's behalf. Service or financial related issues will be submitted by the Director, having in all cases first cleared a draft version with the Chair (or the Vice-Chair in her/his absence) prior to submission.
- The Chair or Director (whoever has lead responsibility) will decide whether the matter is sufficiently urgent to telephone or email the Regulator in the first instance, followed by confirmation via the SHR Landlord Portal.
- Copies of all notifications will be provided to the next following meeting of the FHA management committee, together with any recommendations for action to deal with the issue reported.

4.5 Follow-up action

- It remains the responsibility of the management committee to deal with the event that resulted in the notification of a Notifiable Event – this notification does not transfer responsibility for ongoing action to the Regulator.
- The Regulator will need to be satisfied that FHA has an effective strategy in place to deal with the event and protect the interests of the organisation. It may ask FHA to obtain specialist advice, or to make clear what it expects FHA to do to allay any concerns. The Director will report to every FHA management committee meeting on action being taken in this respect, until the matter has been fully dealt with.

4.6 Matters affecting the Chief Officer

- As soon as the Director intends to leave the association, it is the responsibility of the Chair to inform the Regulation Manager immediately, following which an options appraisal may be required to be conducted. The management committee should refer to the business plan to decide its next steps following the departure of the Director.
- If there is a serious grievance or complaint made against the Director, FHA must follow the regulatory guidance set out in Appendix 3 of the Notifiable Events guidance in dealing with such a situation, and the Chair must notify SHR accordingly.
- If the Director is absent for any extended period, SHR should be advised,

including such appropriate management arrangements that are proposed to be put in place to cover the period of absence.

5.0 Monitoring of the Policy

- 5.1 The Management Committee will review this policy at least every 3 years and staff are responsible for ensuring that it meets legal and good practice requirements.
- 5.2 The Management Committee will monitor and the application of this policy through Notifiable Events Reports presented to each Management Committee meeting by the Director.

6.0 Complaints and Appeals

- 6.1 Forth Housing Association welcomes complaints and positive feedback, both of which provide information which helps us to improve our services. We use a complaints procedure developed by the Scottish Public Services Ombudsman (SPSO) and the Scottish Housing Regulator.

The complaints procedure allows for most complaints to be resolved by front line staff within a five day limit (first stage), or if the complaint is complex, a detailed investigation will be made by a manager within a 20 day limit (second stage). At the end of the second stage our response will be made by a director. If the customer remains dissatisfied, he/ she may then refer the matter to the SPSO.

At each stage we will advise the customer how the complaint should be taken forward and advise which agency would be most appropriate to consider the case.

7.0 Equalities

- 7.1 Equality and diversity underpin all our activities and services. When delivering our services, we never discriminate on the basis of sex or marital status, race, disability, age, sexual orientation, language, social origin, or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions. Full details of our Equalities Policy can be found on our website www.forthha.org.uk or can be obtained from our office.

8.0 Data Protection - Privacy

- 8.1 We recognise the importance of data protection legislation, including the General Data Protection Regulation, in protecting the rights of individuals in relation to personal information that we may handle, use and disclose about them, whether on computer or in paper format. We will ensure that our practices in the handling, use and disclosure of personal information as part of the processes and procedures outlined in this policy comply fully with data

protection legislation. More information is available from our Data Protection Officer

9.0 Availability

9.1 This policy is available on our website and can be made available in a number of other languages and other formats on request.

10.0 Review

10.1 This policy will be reviewed at least every 3 years by the Management Committee and staff are responsible for ensuring that it meets legal, regulatory and good practice requirements.

Examples of Notifiable Events

Governance and organisational issues:

- Any material changes to the assurances and supplementary information contained in the Annual Assurance Statement
- The membership calls a special general meeting
- Removal of any governing body member by the Association
- 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 Association's code of conduct by governing body members
- Resignation or dismissal of the Association'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
- 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 changes 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, or insurance provider, has advised the RSL 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; 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
- 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, or 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 Pension Trustees
- A serious or material reduction in the funding for care and support services for example for RSL's with significant care elements in their business, where a local authority withdraws funding
- Change of internal or external auditor

Additional issues the SHR requires systemically important RSLs to notify them 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

Tenant consultation:

The Housing (Scotland) Act 2010 requires RSLs to notify the SHR if the results

of tenant consultation, such as the outcome of a ballot or written agreements.

Disposal of land and assets:

- Disposals by way of sale of tenanted social housing dwellings (and ensure that RSLs 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 (including non-residential) assets over £120,000
- Disposals by way of sale or excambion of untenanted social and non-social housing
- Disposals by way of lease of social housing dwelling
- Disposals by way 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

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)

This list is illustrative not exhaustive.