



Bridgewater Housing Association Policy

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Equalities impact assessment required	n/a
Links to other documents	<ol style="list-style-type: none"> 1. Whistleblowing Policy 2. Codes of Conduct 3. Handling a Serious Complaint or Grievance Against the Chief Executive Policy
Consultation	n/a

1. INTRODUCTION

- 1.1 Bridgewater Housing Association (BHA) 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.

2. REGULATORY FRAMEWORK

- 2.1 The Regulator aims to apply a risk based and proportionate approach to the way they regulate Housing Associations. As part of this approach they will not collect information routinely on a 'just in case' basis. They expect Associations to alert them to certain events as quickly as possible after they happen, or before they happen if they can be anticipated. The purpose of this policy is to detail Bridgewater's policy in relation to informing the Regulator about significant events (Notifiable Events) in compliance with the Regulator's guidance.
- 2.2 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, and Annual Assurance Statement guidance.
- 2.3 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.

3. DEFINITION

- 3.1 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.
- 3.2 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.
- 3.3 The SHR's Statutory Guidance sets out examples of the type of events RSL's 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 RSL's to notify them of.

3.4 BHA 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.

3.5 **Governance and Organisational Issues**

BHA 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 BHA.
- 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 Bridgewater Code of Conduct by governing body members.
- Resignation or dismissal of the Bridgewater CEO (Chief Officer).
- Severance payment to and/or settlement agreement with a staff member.
- Serious complaint, allegation, investigation, or disciplinary action about the CEO (Chief Officer).
- The CEO 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 BHA, 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 BHA which may have significant consequences for BHA 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 BHA.
- Breaches of charitable obligations or no longer meeting the charity test.
- Whistleblowing allegations.

3.6 **Performance and Service Delivery Issues**

BHA 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 BHA 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 BHA; or
- where there has been a failure, or perceived failure, in how BHA has assessed and managed risk; or

- which could potentially affect other tenants' confidence in BHA 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 BHA (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 BHA'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 BHA.

3.7 **Financial and funding Issues**

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

3.8 **Additional issues that systemically important RSL's have to provide notification of**

BHA 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 BHA.
- Any problems in relationships with key stakeholders for example, local authority or funders.

- 3.9 The SHR acknowledges that the term “serious” or “significant” is difficult to define in a way that applies to all RSL’s. It is appreciated that whether an event is serious or significant may depend on factors such as the size or complexity of the organisation. Consequently, the SHR expects each RSL to consider the risk and potential impact on the organisation when deciding whether an issue is a notifiable event or not. If staff are unsure whether an event is notifiable, they will contact the SHR for advice.

4. HANDLING A SERIOUS COMPLAINT AGAINST THE CEO OR A GOVERNING BODY MEMBER

4.1 Serious complaint against the CEO.

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 or Director. Refer to separate policy.

The SHR expects the Board’s Chair to notify the SHR if there is a formal serious complaint against the Director 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), BHA has adopted EVH’s model Disciplinary and Grievance Policies, which should be referred to.

4.2 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.

5. NOTIFYING THE SCOTTISH HOUSING REGULATOR & OTHERS

5.1 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.

The 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 Director 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 BHA. 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.

5.2 **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 BHA is ensuring it meets its legal duties in these areas.
- What BHA 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 BHA's Engagement Plan, advice should be sought from the SHR as to whether the issue is a notifiable event.

5.3 **When should we notify the SHR?**

BHA should alert the SHR to a notifiable event as soon as is practicable, ideally within 2 working days. 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, BHA 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 BHA 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.

5.4 Notifying the Care Inspectorate

BHA is registered with the Care Inspectorate for the provision of sheltered and supported housing. There is a section in the guidance on notifying the Care Inspectorate who have separate guidance and processes. All notifications to the Care Inspectorate will also result in a Notifiable Event with the SHR in most cases.

6. WHAT THE REGULATOR WILL DO WITH THE INFORMATION

- 6.1 The Regulator will need to be confident that the Association has an effective strategy in place to deal with the event. If satisfied that it is being handled properly, then in most cases this will be sufficient. The Regulator will assess whether it needs to assist or intervene to protect the interests of tenants and others, public investment, and the reputation of the housing sector. The Regulator may review the Regulatory Engagement Plan with the Association.
- 6.2 The Association is responsible for managing our own organisation and dealing with the events that occur. Requiring the Association to tell the Regulator about certain events does not transfer that responsibility to the Regulator. The Regulator needs to be satisfied that the actions the Association will take will protect the interests of the organisation. Where appropriate the Regulator will make clear what they expect the Association to do to alleviate concerns.

7. FAILURE TO NOTIFY THE REGULATOR

- 7.1 If the Association fails to notify the Regulator, or delay notifying the Regulator about a significant event affecting the Association and it comes to the Regulator's attention by other means, the Regulator will ask the Association why we have failed to notify them. Following this, if the Regulator has concerns about the event or the explanation, it will reassess the risk profile of the Association and consider if regulatory action is required.

8. EQUALITY AND DIVERSITY

BHA 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 Policies.

9. COMPLAINTS

- 9.1 Although BHA 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. BHA's Complaints Policy describes our complaints procedure and how to make a complaint.

10. GDPR

- 10.1 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.

11. POLICY AVAILABILITY

- 11.1 This document can also be provided in large print, braille, audio, or other non-written format and in a variety of languages, on request.

12. MONITORING AND REVIEW

- 12.1 A report highlighting all open Notifiable Events will be presented by the CEO at each full Board meeting.
- 12.2 This policy will be reviewed every three years, unless amendment is prompted by a change in legislation, operational requirements, or stakeholder feedback.