

Number: WG23001



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Welsh Government

Consultation Document

Guidance on Notifiable Events for Registered Social Landlords

Date of issue: **19 August 2014**

Action required: Responses by **13 October 2014**

Overview

The Welsh Ministers (“We”) are consulting on draft guidance (“guidance”) in respect of notifiable events for Registered Social Landlords (RSL).

This guidance sets out the events that RSLs should tell the Welsh Government (“us”) about. We explain why we have a regulatory interest in RSLs, what we expect an RSL to notify us about, and what we will do with the information RSLs give us.

How to respond

Please submit your comments by Monday 13 October 2014 in any of the following ways:

Email: darshan.matharoo@wales.gsi.gov.uk

Post: Darshan Singh Matharoo, Head of Regulation, Housing Directorate, Welsh Government, Merthyr Tydfil offices, Rhydycar, Merthyr Tydfil, CF48 1UZ.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information please contact:

Darshan Singh Matharoo
Head of Regulation
Housing Directorate
Welsh Government
Merthyr Tydfil offices
Rhydycar, Merthyr Tydfil
CF48 1UZ

Email: darshan.matharoo@wales.gsi.gov.uk
Telephone: 0300 062 8164 (direct line)

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone’s name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Contents	Page
Background	2
Reason for consulting	2
Consultation process and deadline	2/3
How to respond to this consultation?	3
Whom are we consulting?	3
Guidance on notifiable events for Registered Social Landlords	4

Background

Over the last few years, a number of Registered Social Landlords (“RSLs”) have been proactive in informing the Welsh Ministers about events which put at risk:

- The interests or safety of tenants and other service users;
- The financial health of the RSL, public investment or the confidence of lenders; or
- The good governance and reputation of an individual RSL or the sector.

We would like to ensure that this practice is adopted by all RSLs as part of the Government’s co-regulatory, risk-based and proportionate approach to regulation. It is important that each RSL takes a proactive approach to informing the Welsh Ministers about events as this will allow issues and problems to be tackled at an early stage and prevent things getting worse.

The overall aim is to avoid gathering information routinely on a “just in case” basis. This guidance sets out events that we would like RSLs to notify us to as quickly as possible after they happen, or before they happen if they can be anticipated (“notifiable events”).

This guidance on notifiable events has been developed by the Welsh Government by working together as part of a co-regulatory approach with members of the Regulatory Board for Wales and its sub-groups, the Tenant Advisory Panel, Regulatory Advisory Group and Finance Advisory Group.

You are invited to comment on the guidance by Monday 13 October 2014.

Reasons for consulting

Under section 33B of the Housing Act 1996, the Welsh Ministers may issue guidance that (a) relates to a matter addressed by a standard, and (b) amplifies the standard. Before issuing, revising or withdrawing guidance under section 33B of the Housing Act 1996, consultation with those bodies under paragraphs (a)-(c) of section 33C is required. Those bodies are:

- (a) One or more bodies appearing to them to represent the interests of registered social landlords,
- (b) One or more bodies appearing to them to represent the interests of tenants, and
- (c) One or more bodies appearing to them to represent the interests of local housing authorities.

Consultation process

You are asked to comment on the draft guidance on notifiable events for Registered Social Landlords.

Consultation deadline

The period for this consultation is 8 weeks. The deadline for responses to this consultation is therefore Monday 13 October 2014.

How to respond to this consultation?

The Welsh Government welcomes your views on the guidance on notifiable events for Registered Social Landlords set out in this consultation document.

Please let us have your comments by Monday 13 October 2014 at the latest, sending them:

either in writing to: Darshan Singh Matharoo Head of Regulation Housing Directorate Welsh Government Merthyr Tydfil offices Rhydycar Merthyr Tydfil CF48 1UZ	or electronically to: darshan.matharoo@wales.gsi.gov.uk If you have any queries on the consultation please contact Darshan Singh Matharoo by: Telephone: 0300 062 8164 (direct line) e-mail: darshan.matharoo@wales.gsi.gov.uk
---	---

Who are we consulting?

The Welsh Government is consulting with the organisations listed below, in order to comply with the statutory requirement to consult under section 33 B of the Housing Act 1996. However, responses are welcome from any individuals, groups or organisations that wish to comment on the proposal:

- Registered Social Landlords
- Community Housing Cymru
- Council of Mortgage Lenders
- Tenants Participation Advisory Service Cymru
- Welsh Tenants
- Welsh Local Government Association
- Regulatory Board for Wales
- Tenant Advisory Panel
- Chartered Institute of Housing Cymru
- Shelter Cymru



Llywodraeth Cymru
Welsh Government

Draft

Guidance on

Notifiable Events for

Registered Social Landlords

xx Month 2014

Notifiable Events for Registered Social Landlords

Summary

This guidance sets out the events that we would advise that registered social landlords (RSLs) notify us about and other matters that need to be discussed with us during regulatory meetings. We also explain what we will do with the information RSLs give us.

This guidance applies to all RSLs from xx/xx/2014. It is advised that RSLs ensure their policies and procedures reflect matters in this guidance and when the Welsh Ministers need to be alerted to a particular event.

We will keep this guidance under review and welcome comments about how to improve it. If you have any questions about this guidance, you should contact us at:

Housing Regulation Team
Welsh Government
Housing Directorate
Merthyr Tydfil Offices,
Merthyr Tydfil
CF48 1UZ

Tel: 0300 062 8164

Email: darshan.matharoo@wales.gsi.gov.uk

1. Introduction and purpose

1.1 This guidance sets out the events that RSLs should tell us about. We explain why we have a regulatory interest in them, what we expect an RSL to notify us about, and what we will do with the information you give us. We are interested in events which put at risk:

- The interests or safety of tenants and other service users;
- The financial health of the RSL, public investment or the confidence of lenders; or
- The good governance and reputation of an individual RSL or the RSL sector.

1.2 We apply a co-regulatory, risk-based and proportionate approach to the way we regulate. A proactive approach allows issues and problems to be tackled at an early stage and prevents things getting worse. As part of this, we want to avoid gathering information routinely on a “just in case” basis. So we need an RSL to alert us to certain events as quickly as possible after they happen, or before they happen if they can be anticipated.

1.3 This guidance explains the type of events and information that should be notified. .

2. What are notifiable events?

2.1 An RSL should tell us in writing about any significant or exceptional issue, event, or change within its organisation and how it intends to deal with it. This should be done as soon as possible independently of any meetings or visits that have been arranged as part of regulatory engagement.

2.2 The Appendices set out examples of notifiable events. . They are examples and are not an exhaustive list. As a general guideline, notifiable events are considered serious events that may be seen as potentially bringing the RSL into disrepute, that significantly threaten the stability, efficient running or viability of an organisation, or which would raise public or stakeholder concern about the RSL or the social rented sector.

3. Examples of notifiable events

3.1 The attached appendices illustrate the type of events we need to know about:

- Governance and organisational issues - Appendix 1
- Performance and service delivery issues - Appendix 2
- Financial and funding issues - Appendix 3

4. What information do we need?

4.1 There is a template at Appendix 4 which sets out the type of information that is needed: about each event.

- What the significant event is;
- When it happened or is going to happen;
- Who is involved and/or affected; and
- What a RSL is planning to do or what action has already taken in respect of the event.

5. When and how a RSL should notify us

5.1 We should be alerted as soon as a notifiable event happens so that we have an early warning. Sometimes, it will be the kind of issue that you can alert us to before it takes place. We expect to be told as soon as is reasonably practicable. There should not be a delay, for instance, until after a scheduled governing body meeting. We prefer to be notified in writing and we have provided a template (Appendix 4) to make this easier. If a RSL needs to tell us something quickly, please phone us in the first instance and then confirm the call in writing. If necessary, we might ask for more details.

6. Who should notify us?

6.1 The Chief Executive Officer should tell us about a notifiable event which relates to performance and service delivery issues or financial and funding issues. The Chair of the governing body of the RSL should tell us when the notifiable event relates to a governance or organisational issue, for instance if the Chief Executive has left the organisation or if there is an issue about the Chief Executive or the governing body. If an RSL is telling us about a notifiable event we expect the governing body to be made aware of it. In some cases an RSL may need to notify others, for instance lenders, if it is a financial issue.

6.2 We have tried to set out as clearly as possible the types of events that an RSL need to alert us to. If it is not clear then let us know.

7. What will we do with the information you give us?

7.1 We need to be confident that RSLs have an effective strategy in place to deal with the event. If we are satisfied it is being handled properly then in most cases that will be sufficient. But we will assess whether we need to assist or intervene to protect the interests of tenants and others, public investment and the reputation of the sector. We may review our regulatory engagement with an RSL and consider whether we need to set that out in the regulatory assessment report.

7.2 RSLs are responsible for managing their own organisations and dealing with the events that occur. Informing us about notifiable events does not transfer responsibility for them to the Welsh Ministers. But we do need to be satisfied that the action that will be taken will protect the interests of the RSL, its tenants and service users. This guidance clarifies what we expect an RSL to do to allay our concerns.

7.3 We may inform, or ask an RSL to inform, funders, another regulator or authority if that is appropriate.

7.4 If an RSL has given us information in confidence we will respect that confidentiality, provided it does not compromise our ability to safeguard the overall interests of the RSL or the sector, or breach our legal obligations, for example, under the Data Protection Act 1998.

8. Failure to notify

8.1 If an RSL fail to notify us, or delay notifying us, about a significant event affecting your RSL, and it comes to our attention by other means, we will ask you why you failed to notify us. Following this, if we have concerns about the event or the explanation for failure to notify, we will assess or reassess a RSL's regulatory risk map and consider if we need to take any regulatory action.

NOTIFIABLE EVENTS

Governance and organisational issues:

- Removal of governing body members
- Resignation of governing body members for non-personal reasons, resignation of governing body office-bearers, audit committee members, and Chairs of sub-committees
- The membership of the governing body falls, or is going to fall, below the minimum number set out in your governance rules
- Resignation or dismissal of the RSL Chief Executive Officer; dismissal of senior staff members; resignation of senior staff members in larger RSLs (over 250 units)
- The membership calls a special general meeting
- Serious complaint, allegation, investigation, or disciplinary action relating to the governing body or senior staff
- The Chief Executive Officer; is absent for an extended period of time, and the proposed arrangements for management cover
- Employment tribunals where these relate to senior staff or where there are any allegations raised about Board members
- Breach of the RSL's code of governance (or standard of governance adopted) by governing body members and any proposed investigation of these or action taken in response
- Breach of the RSL's code of conduct by governing body members and any proposed investigation of these or action taken in response
- Potentially serious breach of legislation by the RSL or serious legal action taken against the RSL
- Serious failure of governance within an RSL's subsidiary
- Serious issue regarding a parent, subsidiary or connected organisation
- The RSL plans to set up a registered or non-registered subsidiary
- The RSL has a serious dispute with another member of an alliance, consortium or non-constitutional partnership it is part of
- Breach of charitable obligations or no longer meeting the charity test
- Breaches identified by other regulators e.g. Care and Social Services Inspectorate Wales, Healthcare Inspectorate Wales
- Whistleblowing allegation

APPENDIX 2

NOTIFIABLE EVENTS

Performance and service delivery issues:

- Any incident which is being formally investigated by the Health and Safety Executive or which is a serious threat to tenant safety
- Serious accidental injury or death of a tenant potentially affecting other tenants' confidence in the landlord or its property and the landlord's reputation
- Major failure of key service delivery arrangements (for example, repairs cannot be carried out because a major contractor goes into liquidation)
- Breach of ballot commitment to tenants or stock transfer contractual agreement
- Adverse report by statutory agencies, regulators, inspectorates, the Public Service
- Public Services Ombudsman for Wales etc., about the RSL
- A significant natural disaster e.g. fire, flood, building collapse, etc., that is of a scale to affect the RSL's normal business or where a regulatory or statutory authority has notified its concerns e.g. Health & Safety Executive, Fire Brigade, etc.
- Adverse publicity reported in trade, local or national press
- Service including major building contractor on which a significant part of the RSL's services are dependent going into liquidation or termination of contract due to performance and/or service issues

NOTIFIABLE EVENTS

Financial and funding issues:

- Fraud or the investigation of fraud
- Breach or potential breach (including, for the avoidance of doubt, technical breaches) of any banking covenants
- Serious financial loss; actual or potential
- Default or financial difficulties of major suppliers or service providers or any other parties to significant legal agreements such as joint ventures
- Any material reduction in stock or asset values; actual or potential
- Serious concern raised by lenders or auditors
- Serious and immediate potential cash flow issue
- Proposed assignment or transfer of the existing lender's security to another lender (if known)
- Notification of the outcome of a financial assessment of the RSL or its parent/subsidiaries/related companies/connected bodies from Pensions Trustees
- A material change to the asset disposal strategy
- A potential or actual serious or material reduction in the funding for care and support services e.g. for RSLs with significant care elements in their business where there is a withdrawal of funding from the local authority
- RSL is planning to enter into an innovative finance arrangement
- A potential or actual serious or material reduction in the funding for any major development or new developing service which may expose the RSL to serious financial or reputational risk.

APPENDIX 4

NOTIFIABLE EVENTS RSL:

Contact:

	Information requested
What is the notifiable event?	
When did it happen/when is it expected to happen?	
Who does it involve/affect?	
What action have you taken/what more do you plan to do?	
When was the governing body informed? If not, when will it be informed?	

