

## NOTIFIABLE EVENTS - PROCEDURE

### 1.0 INTRODUCTION

- 1.1 This procedure describes our arrangements for ensuring that we identify those events that require to be notified to the Scottish Housing Regulator (“the Regulator”), and how these will be notified, in accordance with the Regulator’s Guidance Note on Notifiable Events issued in August 2015.
- 1.2 The Scottish Housing Regulator requires us to notify them of events which put at risk:
- ARK’s good governance and reputation, or the reputation of the whole RSL sector;
  - the interests or safety of tenants and other service users;
  - our financial health, public investment in ARK, or the confidence of lenders (where appropriate).
- 1.3 This procedure supports our Risk Management policy and complies with Regulatory Standard 5 which requires Registered Social Landlords to conduct their affairs with honesty and integrity.

### 2.0 EXAMPLES OF NOTIFIABLE EVENTS

- 2.1 As a general guideline, events which should be notified to the Regulator will be serious events that may be seen as potentially bringing ARK into disrepute, that significantly threaten the stability, efficient running or viability of ARK, or which would raise public or stakeholder concern about ARK or the social rented sector. The list below gives the main types of events that should be notified immediately to the Regulator. It is illustrative rather than exhaustive.
- 2.2 Examples of governance and organisational issues to be notified:
- Removal of Board of Management members.
  - Resignation of Board members for non-personal reasons.
  - Resignation of Office Bearers, Audit Sub-Committee members and Chairs/Convenors of Sub-Committees.
  - Breaches of the Code of Governance or Code of Conduct by Board members and any proposed investigation or action taken in response.
  - Resignation or dismissal of the Chief Executive or Directors.
  - A special general meeting is called by the membership.
  - Serious complaints, investigations or disciplinary action relating to one or more Board members or any of the senior leadership team.
  - The Chief Executive is absent for an extended period of time, and the proposed arrangements for management cover.
  - Employment tribunals.
  - Breach of the Regulatory Standards.
  - Major organisational change or restructuring.

- A potentially serious breach of legislation by ARK, or serious legal action taken against ARK.
- Any failure of governance or serious issue regarding a subsidiary or connected organisation.
- A breach of charitable obligations, or no longer meeting the charity test.
- Whistleblowing allegations.

### 2.3 Examples of performance and service delivery issues to be notified:

- Any incident involving the Health & Safety Executive or a serious threat to tenant safety.
- Serious accidental injury or death of a tenant potentially affecting other tenants' confidence in ARK or its property and ARK's reputation.
- Major failure of key service delivery arrangements (for example, no repairs can be carried out because the only contractor has ceased operating suddenly).
- Breaches of contractual agreements.
- Adverse reports by other statutory agencies, regulators, inspectorates etc. about ARK, for example from the Care Inspectorate, the Office of the Scottish Charities Regulator, or the Health & Safety Executive.
- Significant natural disasters such as fire, flood, building collapse etc. that are of a scale to affect ARK's normal business, e.g. that require full or partial implementation of the Business Continuity Plan, or where a regulatory or statutory authority has notified its concerns (e.g. HSE, Fire Brigade).

### 2.4 Examples of financial and funding issues to be notified:

- Fraud, or the investigation of fraud.
- Breach or potential breach (including technical breaches) 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 concerns raised by lenders or auditors.
- Serious and immediate potential cash flow issues.
- Proposed assignation or transfer of the existing lender's security to another lender.
- Notification of the outcome of a financial assessment of the RSL or its connected companies from the Pensions Trustees.
- A material change to the asset disposal strategy agreed with the regulator.
- A serious or material reduction in the funding for care and support services where there is e.g. a withdrawal of funding from the local authority.

## 3.0 NOTIFYING AN EVENT

3.1 Events will normally be notified by the Head of Quality and Compliance, on behalf of the Chief Executive, failing which the Chief Executive. Where the event involves or affects the Chief Executive, the Chairperson will contact the Regulator.

3.2 Members of ARK's Senior Leadership Team or Executive Team who become aware of an event occurring within their department or within ARK which they consider to be a notifiable event should make the Head of Quality and Compliance (or in their absence the Chief Executive) aware of the issue immediately, in order that they can, if necessary, deal with

notification.

3.3 Notification will be made using the Scottish Housing Regulator's online portal.

3.4 The information to be provided should include:

- details or a description of the event;
- when it happened, or is expected to happen;
- who is involved and/or affected;
- what ARK is planning to do, or what action has already been taken, to deal with the problem.

3.5 Notification should be made as soon as an event happens so that the Regulator has an early warning. In some cases this will be before an event takes place. The Regulator expects to be told as soon as is reasonably practicable. Notification will not be delayed, for example until after a scheduled Board or Sub-Committee meeting. However, as well as notifying the Regulator of a notifiable event, Board members must be notified of the situation.

3.6 Following notification, further communication to/from the Regulator will depend on the type and seriousness of the event and the degree of additional information required. In most cases if the Regulator is satisfied that the event is being handled properly by ARK this will be sufficient. However, 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 sector. In some cases the Regulator may review its regulatory engagement with ARK and consider whether it needs to set that out in a Regulation Plan.

3.7 Information given in confidence will be respected, so long as this does not compromise the Regulator's ability to safeguard ARK's overall interests or those of the RSL sector, or breach the Regulator's legal obligations.

#### **4.0 IMPLEMENTATION AND REVIEW**

4.1 The Chief Executive is responsible for ensuring that this procedure is implemented when required.

4.2 The Chief Executive will ensure that this procedure is reviewed at least every three years.

**Approved by the Senior Leadership Team: April 2017**

**Next review due by: April 2020**