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**Guidance Title:** Handling Complaints about staff or governing body members

**Business Function:** All Functions across Sanctuary Scotland

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## Handling complaints about staff or governing body members

Complaints about staff and senior staff can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When serious complaints are raised against senior staff or committee members, it is particularly important that the investigation is conducted by an individual who is independent of the situation. We must ensure we have strong governance arrangements in place that set out clear procedures for handling such complaints.

The SHR specifies that a serious complaint against senior staff or the governing body of an RSL is a 'notifiable event', and as such the regulator must be informed immediately. It has also drawn up 'regulatory expectations' for the handling of serious complaints against the Chief Executive. These can be found on the SHR website [www.scottishhousingregulator.gov.uk](http://www.scottishhousingregulator.gov.uk).

### 1. Immediate action following notification of a complaint

- 1.1 The action to be taken will depend on whether a person has been named on a complaint, or is a person complained about.
- 1.2 Where a person has been named in a complaint, but the complaint is not about their actions or inactions, then the person(s) administering the complaint will tell them (as soon as practically possible) that a complaint which mentioned their name has been received. This is for information only as it is unlikely that they will need to be involved in the complaint process.
- 1.3 Where a person is complained about (not necessarily named, but identifiable), this person should be told that a complaint about them has been received as soon as practically possible after the receipt of the complaint.
- 1.4 The person complained about will be provided with as much information as possible about the complaint and any supporting information. They will be told how and when they will be given the opportunity to respond to the issues raised.
- 1.5 If other staff members have been, or need to be notified about the complaint, the person complained about should be informed.
- 1.6 Wherever possible, appropriate and where this complaints process permits, the staff member complained about will be involved in the discussions relating to the resolution of a complaint. This is also dependent on the staff member being willing to assist the resolution through discussion. This can take the form of a direct discussion with the complainant, the facilitation of a discussion with an impartial third person conveying all parties. Or an impartial third person which is acceptable to all parties helping those involved to talk to each other and find a solution.

## **2. Complaint investigation and decision**

- 2.1 As part of any complaint investigation related to a staff member, the complaints handler should arrange for the person complained about to provide their response to the issues raised in the complaint.
- 2.2 Wherever possible, the person complained about will be given the opportunity to comment on the information provided by the complainant and to offer any additional information to support their response.
- 2.3 The person complained about will receive a copy of any decision outcome sent to complainant and this will be provided (wherever possible) at the same time that the complainant is contacted with this outcome. The staff member should also be informed at the same time of any next steps and what this might mean for them such as an internal or external review process.
- 2.4 The person complained about should be involved in any learning or actions which result from the complaint outcome decision. The person should also be offered the opportunity to discuss their experience with an appropriate person as to how the complaint has been dealt with and the impact on them.
- 2.5 Where a complainant does not accept the decision reached, the person complained about should be:
  - kept informed of all the following stages of escalation;
  - given the opportunity to see and comment on review documents;
  - updated with any changes or outcomes as soon as practically possible;
  - supported throughout the process by the named contact;
  - told straight away about any implications relating to an outcome; and
  - included in any learning action which result from the review. The staff member should be given feedback in order to understand the decision and any recommendations made. The person complained about should have the opportunity to help identify any shortfalls and contributory factors and in the development of solutions to effectively address or reduce the likelihood of recurrence.

## **3. Complaints about senior staff or governing body members**

- 3.1 Complaints about senior staff or governing body members can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When serious complaints are raised against senior staff or governing body members, it is particularly important that the investigation is conducted by an individual who is independent of the situation. The SHR specifies that a serious complaint against senior staff or the governing body of a Registered Social Landlord is a 'notifiable event', and as such the regulator must be informed immediately. It has also drawn up 'regulatory expectations' for the handling of serious complaints against the Director of Sanctuary Scotland. This specifies that Sanctuary must seek independent, professional advice to support us in handling, and in some cases investigating, the complaint.

- 3.2 The SHR's expectations also specify that strong governance arrangements must be in place that set out clear procedures for handling such complaints, including the governing body's role in such cases. Sanctuary's processes specify the measures in place to ensure this is achieved, and the types of complaints it considers 'serious'.
- 3.3 When a serious complaint has been made against the Director of Sanctuary Scotland, a member of Sanctuary Group with the position of Group Director or more senior will investigate the complaint. Where possible, investigations will be completed within 20 working days.
- 3.4 All governing body members will be informed of any decision to carry out an investigation regarding a serious complaint about the Director of Sanctuary Scotland. The governing body will not be told about any detail, until the outcome of the investigation is communicated.
- 3.5 Following investigation, the person carrying out the investigation will make a decision regarding any further action. Where disciplinary action against the Director is recommended, the [Disciplinary - Group Procedure](#) will be followed.
- 3.6 The person carrying out the investigation is responsible for responding to the complainant.
- 3.7 The SHR's Regulatory Expectations on serious complaints against the Director can be found on the SHR website.
- 3.8 We also have arrangements for handling minor complaints against the Director and for complaints against other senior staff and the governing body. These arrangements take account of the need to ensure that the final decision is fair, objective and impartial.
- 3.9 When a minor complaint has been made against the Director, a member of Sanctuary Group of position Group Director or more senior will investigate, or nominate someone to investigate, the complaint in accordance with the complaints handling procedure.
- 3.10 Serious Complaints against governing body members will be investigated by the Director and/or the Chairperson of the relevant governing body. All governing body members will be informed of any decision to carry out an investigation regarding a serious complaint against a governing body member. The governing body will not be told about any detail, which must remain confidential until the outcome of the investigation is communicated.
- 3.11 Following investigation, the person(s) carrying out the investigation will make a decision regarding any further action. Where action against a governing body member is considered necessary, the appropriate provisions of the relevant constitution/rules will be followed.
- 3.12 When a minor complaint has been made against a governing body member, the Director will investigate the complaint in accordance with the complaints handling procedure. The relevant Chairperson will be advised and kept advised of the progress, and outcome of the investigation.

#### 4. Complaints and disciplinary or whistleblowing processes

- 4.1 If the issues raised in a complaint overlap with issues raised under a disciplinary or whistleblowing process, we still need to respond to the complaint.
- 4.2 Our response must be careful not to share confidential information (such as anything about the whistleblowing or disciplinary procedures, or outcomes for individual staff members). It should focus on whether *[the organisation]* failed to meet our *[service standards, where relevant, or expected standards]* and what we have done to improve things, in general terms.
- 4.3 Staff investigating such complaints will need to take extra care to ensure that:
- we comply with all requirements of the CHP in relation to the complaint (as well as meeting the requirements of the other processes);
  - all complaint issues are addressed (sometimes issues can get missed if they are not also relevant to the overlapping process); and
  - we keep records of the investigation that can be made available to the SPSO if required. This can be problematic when the other process is confidential, because SPSO will normally require documentation of any correspondence and interviews to show how conclusions were reached. We will need to bear this in mind when planning any elements of the investigation that might overlap (for example, if staff are interviewed for the purposes of both the complaint and a disciplinary procedure, they should not be assured that any evidence given will be confidential, as it may be made available to the SPSO).

The SPSO's report [Making complaints work for everyone](#) has more information on supporting staff who are the subject of complaints.