



Protocol for Managing an Alleged/Suspected Breach of Code of Conduct

Model Protocol Adopted: 26/03/25

1. Introduction

- 1.1 This protocol will be used by Rosehill Housing Association (Rosehill) to deal with any alleged breaches of our Code of Conduct for Governing Body Members. It is based on the Model Protocol provided by SFHA.

2. Who is Responsible?

- 2.1 The Chair has delegated authority to deal with all potential breaches of the Code, unless the allegation relates to him/her. In that event, the Vice Chair should take on the responsibilities that the protocol allocates to the Chair. It may be necessary to ask other members of the Committee to take on responsibilities should the allegation relate to both the Chair and Vice Chair. In exceptional circumstances (for example particularly complex or sensitive issues) it may be helpful for the Chair to be supported by the RSL's solicitor or another trusted external adviser. In such circumstances, the solicitor/adviser may by agreement fulfil duties otherwise undertaken by the Chair, but will always be accountable to the Chair and governing body. The references to "Chair" throughout this protocol, as they relate to the investigation and management of complaints, should be interpreted as applying to whoever is charged with carrying out / overseeing the specific responsibilities.
- 2.2 The Chair should consult with other office-bearers (or members of the Committee) to instruct, progress and conclude internal and external investigations carried out in accordance with this protocol.
- 2.3 The Scheme of Delegation identifies who has primary responsibility for overseeing the management of alleged breaches of the Code of Conduct. It is important to ensure that anyone who may be called upon to exercise these responsibilities is provided with appropriate training and/or support.

Rosehill Scheme of Delegation

Area	Reserved to Management Committee	Delegated to Director	Delegated to Management Team
Dealing with potential breaches of the Code of Conduct for Committee Members	Delegated to the Chair, Vice Chair and at least one nominated Committee	To provide support through the process.	If the Director is involved in the issue, the Corporate Services & HR Manager will provide the

	Member		required support.
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2.4 No one who is directly involved in a matter that gives rise to a concern that there may have been a breach of the Code of Conduct should be involved in reviewing or managing/conducting an investigation of the matter. Consequently, it may be necessary to ask other members of the Committee to take on the responsibilities that the Protocol allocates to the Chair and other office bearers.

2.5 The Chair may seek advice from our solicitors and/ or obtain other external support that may be needed in exercising any or all of the responsibilities associated with this protocol.

3. What Constitutes a Breach?

3.1 A breach of the Code of Conduct is a potentially serious matter and so any allegation of a breach must be handled and managed carefully. This Protocol is a process that will apply to managing and/or responding to alleged breaches of the Code of Conduct. Breaches can include (but are not limited to):

- Conduct by a Committee Member during a meeting (which might involve a member being obstructive, offensive or disregarding the authority of the Chair or failing to observe Standing Orders)
- Complaints that the conduct of a Committee Member has failed to meet the requirements of the Code of Conduct; is contrary to Rosehill's Values, Rules or policies; threatens the reputation of Rosehill; risks bringing the organisation into disrepute or undermines Rosehill and/or its people
- Inappropriate behaviour towards colleagues, staff, customers or partners

3.2 Some complaints and/or concerns may relate to relatively minor matters, whilst others may involve more significant issues. Consequently, it is important to distinguish between issues that might, at least initially, be relatively minor and/or be described as 'performance-related' (e.g. irregular attendance at meetings, regularly disrupting meetings because of mobile phone, failing to prepare for meetings) from unacceptable conduct (such as bullying, offensive or discriminatory behaviour, seeking personal gain / benefit). For these kinds of situations, different approaches are likely to be appropriate, depending on the details of individual circumstances and recognising that it may not always be appropriate to undertake a formal investigation in response to an isolated and/or relatively minor issue (see 4.4 below). Whilst a failure to participate effectively in the RSL's governance is, ultimately, likely to constitute a

breach of the Code, it will not be appropriate to resort to that allegation and launch an investigation without, first, engaging with the GBM and seeking to address the issue e.g. by offering additional support.

4. Initial Review to Determine if Further Investigation Required

- 4.1 When a complaint is received or a concern is raised, consideration should be given as to which is the most appropriate course of action: just because the Code of Conduct may be referred to does not automatically require a formal investigation. An initial review of the complaint or allegations should enable a decision to be reached on the most appropriate response: those making the decision must be able to explain the reasons for their conclusion. The review should be carried out by those members of the Committee appointed in accordance with 2.2 and 2.3 of this Protocol, with support from the Director if required.
- 4.2 It may be that such a review concludes that there is no substance to the concern or allegation. Depending on the circumstances, it may be appropriate to report the outcome of such a review to the Committee. This might be the case, for example, if an anonymous complaint is received which cannot be investigated because of a lack of information.
- 4.3 Anonymous complaints or allegations can be difficult to resolve but, in the event that anonymous information is received or made known, an initial review should be undertaken to establish whether there is the potential for any substance to the concern. If so, an investigation should be undertaken, although it is recognised that it may not be possible to conclude any such investigation satisfactorily.
- 4.4 Minor issues, actions or conduct at an internal meeting or event are unlikely to constitute a breach of the Code of Conduct that warrant investigation. The Chair (and other office bearers) should exercise their judgement in determining which of the courses of action set out in this Protocol is more appropriate.
- 4.5 Issues or complaints which are dealt with as described above (3.2 – 4.4) do not constitute Notifiable Events to the SHR.
- 4.6 Where an initial review concludes that further investigation is required, one of the two routes described in this Protocol: [Route A and Route B] will be selected by those responsible for dealing with the complaint. The reason(s) for the selected course of action should be recorded as part of the case file, which should be maintained throughout the investigation to ensure there is an audit trail of how the complaint was addressed.
- 4.7 SHR requires that alleged breaches of the Code which are to be investigated under either Route A or Route B must be regarded as Notifiable Events, in accordance with the terms of the SHR's Statutory Guidance. The Chair is

responsible for ensuring that the necessary notifications are made to the Scottish Housing Regulator, and that the SHR's requirements (as set out in the relevant guidance¹) in terms of reporting the outcome of the investigation are met.

5. Route A

- 5.1 Route A is an internal and informal process to address potential minor breaches. This is intended to be a relatively informal process, used to address e.g. one-off discourtesy at an internal meeting, isolated or uncharacteristic failure to follow policy. If repeated, any action under Route A would be material to the decision about how to respond to subsequent complaints, which would most likely require investigation under Route B (see 5.3 below).
- 5.2 Alleged breaches that occur during the course of a meeting or other internal event (and which have not happened before) will, unless the Chair believes it to be serious (e.g. offensive language or behaviour), be dealt with by the Chair of the meeting, either during the meeting/event and/or within 24 hours of the meeting. In these circumstances, the Chair (or sub-committee convenor) may ask the member to leave the meeting or a vote may be taken to exclude the member from the rest of the meeting. For the avoidance of doubt, any complaint relating to the Chair or Vice-Chair should be investigated in accordance with Route B (see 6.4).
- 5.3 After the meeting, the Chair or sub-committee Convenor will discuss such behaviour with the member and may require the member to apologise or take such other action as may be appropriate (Route A). Where the Chair regards such behaviour as being serious, it should be investigated in accordance with Route B, as will repeated incidents of a similar nature.
- 5.4 It may be appropriate for the Chair to record the terms of the discussion in a letter to the Committee Member e.g. to confirm the provision of training or support or to record a commitment to uphold a specific policy or to record an apology.
- 5.5 It is possible that a concern that it is initially agreed can be addressed via route A ends up being the subject of a formal investigation (Route B), if more significant issues emerge, or actions are repeated.

6. Route B

- 6.1 Route B will involve formal investigation of repeated breaches or an alleged significant/major breach. Investigations may be conducted internally or independently, according to the circumstances and people involved.

¹ Scottish Housing Regulator (2024) [Notifiable Events guidance](#)

- 6.2 An investigation under Route B will usually be overseen by the Chair and another office-bearer or Committee Member.
- 6.3 The Chair or office-bearer, in consultation with the other office-bearers, will decide whether to instruct an independent investigation or carry out an internal investigation.
- 6.4 In the event that the Chair or other office-bearer is the subject of a complaint, an independent investigation should be conducted, overseen by the Vice-Chair and another Committee Member.
- 6.5 If the Chair is likely to be involved in an investigation (e.g. as a witness), it will be necessary for the office bearers to consider who should be involved in overseeing the investigation as no one who may be party to the investigation can be responsible for its oversight.
- 6.6 The Director can support the implementation of the Protocol, including providing advice to the Chair (unless involved in the issue, in which case the role should be assigned to another senior member of staff or to the organisation's solicitor or other specialist adviser).
- 6.7 Our scheme of delegation identifies who has primary responsibility for overseeing the management of alleged breaches of the Code of Conduct (see section 2.3)
- 6.8 Allegations of a potential breach should normally be made to the Chair or, where the complaint relates to the Chair, to another office-bearer. Where a complaint is made to the Director, the matter should immediately be notified to the Chair or to another office bearer, if the Chair is involved.
- 6.9 Alleged breaches may be the subject of written complaints or allegations; they may also be witnessed by someone. However the alleged breach is identified, the Chair and Secretary should ensure that there is always a written statement of the complaint or allegation that is used as the basis for the investigation. If no written complaint is made, the statement of the matter should be prepared by someone unconnected to the event/situation (e.g. a verbal complaint made by a Committee Member should be recorded by someone who was not present when the issue arose – this could be a member of staff).
- 6.10 The Committee Member(s) who is/are the subject of the complaint/allegation that is to be investigated will be notified in writing of the alleged breach within seven working days, either of occurring or of receipt of the complaint. A Committee Member who is subject to an investigation should take leave of absence until the matter is resolved. Rule 37.8 of the 2020 Model Rules contain the provisions to secure this. The letter will inform the Committee Member of the nature of the potential breach(making reference to the

specific part(s) of the Code that the complaint relates to), the arrangements for the investigation and will advise that leave of absence will be in place for the duration of the investigation. Committee Members are expected to co-operate with such investigations².

- 6.11 Leave of absence is recommended when a complaint is being investigated, and is especially important in cases where the complaint raises serious issues. Where a complaint is being investigated that relates to a number of GBMs, there may be practical issues to consider - for example forming and maintaining a quorum. However, if this is a consideration, there are likely to be significant governance issues that require to be managed and seeking legal advice and/or specialist help is recommended in these circumstances. The Committee must record any decision to grant any leave of absence or not grant a leave of absence.
- 6.12 An alleged breach of the Code of Conduct which is being dealt with via Route B will be notified to the Committee, normally by the Chair or Secretary, within seven working days, either of occurring or of receipt of the complaint. The notice (which should be confidential) will not describe the detail of the complaint and will set out the proposed arrangements for investigation, including who will conduct the investigation (if known) and which members of the Committee are responsible for its oversight.
- 6.13 The appointment of an external Investigator (when it is decided to be the appropriate response) should be approved by the Committee Members responsible for overseeing the investigation.
- 6.14 An internal investigation (when it is decided to be the appropriate response) will be carried out by at least two and not more than three Members of the Committee, who are not responsible for overseeing the investigation. In selecting the Committee Members, we will seek to ensure that the investigators represent the profile of the Committee.
- 6.15 Existing and former members of the GB may be identified as being able to contribute relevant information to an investigation: the Code of Conduct requires current and former GBMs to contribute to an investigation and a failure to co-operate (by either the subject of a complaint or a GBM asked to contribute) would, itself, constitute a breach of the Code. Former members of the GB who left more than a year before the complaint is made should not, usually, be approached.

² Code of Conduct F7

7. Investigation Under Route B

- 7.1 The conduct of an investigation should remain confidential, as far as possible, in order to protect those involved (witnesses, complainant(s)) and the Committee Member(s) who are the subject of the complaint.
- 7.2 All investigations will be objective and impartial. Investigations will normally be investigated by an independent person, unless it is decided that an internal investigation is appropriate.
- 7.3 Investigations should not usually take more than six weeks to conclude.
- 7.4 The investigator(s) will be supported by the Director (or other senior member of staff if the Director is involved in the complaint). The Chair and other office-bearer, with any support they feel necessary, will brief the agreed advisor/investigator and then consider their recommendations (i.e. the Investigator's recommendations) at the end of the investigation, before reporting to the Governing Body.
- 7.5 All investigations will be the subject of a written brief which sets out the Committee's requirements and which includes the statement of the alleged breach (scope, timescale, reporting requirements, access to information etc.). The brief may refer to any action previously taken that is relevant.
- 7.6 All investigations will include at least one interview with the Committee Member(s) who is/are the subject of the allegation, who will be invited to provide any relevant information. The interview(s) may be conducted face to face or remotely (by telephone or video call). Committee Members may be accompanied during an interview by a friend (at their request), as a companion to provide support and not to represent. It is not appropriate for another Committee Member to fulfil this role, nor is it appropriate for the RSL to meet any costs (other than reasonable expenses as provided for in the relevant policy) in respect of a companion's attendance.

8. Considering the Outcome of the Investigation

- 8.1 The advisor/investigator will normally present their report to the Committee. Before doing so, the report will be reviewed by those overseeing the investigation to ensure that the Brief has been met and that the report is adequate to support the Committee's consideration and decision making.
- 8.2 The Committee Member(s) whose conduct is being investigated will not be party to any of the discussions relating to the investigation.
- 8.3 The report will be considered at a meeting of the Committee, which may be called specifically for this purpose. It is the responsibility of the Committee to consider the report and findings from the investigation and to determine:

- Whether there has been a breach
- If there has, how serious a breach it is
- What action should be taken and the outcomes to be achieved

8.4 The Committee will report the findings of the investigation and any proposed action to the member concerned, in writing, within seven days of the meeting at which the report of the investigation was considered. The Investigator will be expected to provide written conclusions that can be incorporated into this communication. The Chair should ensure that, in addition to the formal notification, there is personal contact with the GBM(s) whose conduct has been investigated to explain the GB's conclusion, any action and the outcome to be achieved (e.g. training). If the complaint is not upheld, it will be important to make this very clear: it would be appropriate, for example to formally welcome the GBM(s) back from leave of absence at their first meeting.

9. Action to Deal with a Breach

9.1 If, following investigation, a breach of the Code is confirmed, the GB should determine what action will be taken in response. This action will reflect the seriousness of the circumstances and will be informed by the findings and recommendations of the investigation. Action may take the form of some or all of the following:

- A discussion with the member concerned (which may be confirmed in a subsequent letter)
- advice and assistance on how their conduct can be improved
- the offer of training or other form of support
- a formal censure (e.g. in the form of a letter setting out the conclusions, expressing concern and specifying that there must be improvement / no repetition etc)
- a vote to remove the Member from the Director

9.2 Where, it is concluded that a serious breach has occurred, the Committee may require the member to stand down from their position in accordance with the Rules.

9.3 If the Committee proposes to remove a member, following investigation, the member will have the right to address the full Committee before their decision is taken at a special meeting called for that purpose. Any such decision must be approved by a majority of the remaining members of the Committee, in accordance with Rule³ (43.5)

9.4 A record of the outcome of an investigation (whether the complaint is upheld or not) will be retained in the Committee Member's file for 12 months.

³ SFHA Model Rules (2020)

- 9.5 The outcome of any investigation will be notified to the Scottish Housing Regulator, in accordance with the requirements of the Notifiable Events Statutory Guidance.

10. Definitions

- 10.1 Rosehill will regard the following actions as a “serious breach” of the Code of Conduct (this list is not exhaustive):
- Failure to act in our best interests and/or acting in a way that undermines or conflicts with the purposes for which we operate.
 - Support for, or participation in, any initiative, activity or campaign which directly or indirectly undermines or prejudices our interests or those of our service users, or our contractual obligations.
 - Accepting a bribe or inducement from a third party designed to influence the decisions we make.
 - Consistent or serious failure to observe the terms of the Code of Conduct.
 - Serious inappropriate behaviour towards a colleague, member of staff, tenant, customer, partner or stakeholder

11. Approval and Review

- 11.1 This protocol was approved by the Committee of Rosehill Housing Association on 26th March 2025.