

# Excerpt from the Rules on Committee of Management

## THE COMMITTEE OF MANAGEMENT

### Composition of the Committee

- 37.1 The Association shall have a Committee of Management which shall have a minimum of 7 and a maximum (including co-optees) of 15 persons. The Association shall keep up to date a register of the names of the Committee Members which shall be made available to any person at no cost. The names of Committee Members will also be published by the Association on its website, and in its annual reports and other similar documentation.
- 37.2 The first Committee Members will be the Members who have signed the application to register the Association. The first Members and all subsequent Members who are eligible shall be Committee Members until there are more than seven Members. Once there are more than seven Members of the Association, at the end of the next annual general meeting, all of the Committee Members shall retire.
- 37.3 A person must be aged 18 or over and a Member to become a Committee Member (including any person appointed to fill a casual vacancy) other than a person appointed as a co-optee or appointed by The Scottish Housing Regulator who must be aged 18 or over but need not be a Member.
- 37.4 An employee of the Association, or a Close Relative of an employee, may not be a Committee Member.
- 37.5 No Committee Member may take office until they have agreed to and signed the Association's code of conduct for Committee Members.
- 37.6 The Committee shall assess annually the skills, knowledge, diversity and objectivity that it needs for its decision making and what is contributed by the Committee Members by way of annual performance reviews. The Committee must satisfy itself that any Committee Member seeking re-election to the Committee after service as a Committee Member for a continuous period in excess of 9 years can demonstrate his/her continued effectiveness as a Committee Member.
- 37.7 Each of the Committee Members shall, in exercising his/her role as a Committee Member, act in the best interests of the Association, its tenants and service users and will not place any personal or other interests ahead of his/her primary duty to the Association; and, in particular, must:-
- 37.7.1 seek, in good faith, to ensure that the Association acts in a manner which is in accordance with its objects.
  - 37.7.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person.
  - 37.7.3 in circumstances giving rise to the possibility of a conflict of interest between the Association and any other party:-
    - 37.7.3.1 put the interests of the Association before that of the other party, in taking decisions as a Committee Member;

- 37.7.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the Association and refrain from participating in any discussions or decisions involving the other Committee Members with regard to the matter in question
- 37.7.4 ensure that the Association complies with any direction, requirement, notice or duty imposed on it by the Charities and Trustee Investment (Scotland) Act 2005.

## **Interests**

- 38.1 The Committee shall set and periodically review its policy on payments and benefits. If a person is a Member, employee of the Association or serves on the Committee or any sub-committee he/she must not receive any payment or benefit unless it is permitted by the policy. In making any payment or conferring any benefit the Association shall act at all times with transparency, honesty and propriety.
- 38.2 If a person serves on the Committee or any sub-committee he/she must declare any personal or other external interests on an annual basis in accordance with the Association's Code of Conduct for Committee Members. If while serving on the Committee that person has any conflict of interest in any contract or other matter about to be discussed at a meeting, he/she must tell the Committee. He/she will be required to leave the meeting while the matter is discussed and will not be allowed to vote on the matter or to stay in the meeting while any vote on the matter is being held. If that person is inadvertently allowed to stay in the meeting and vote on the matter, his/her vote will not be counted.
- 38.3 If a person serves on the Committee or any sub-committee he/she must not receive any payment or benefit unless it is permitted by the Charities and Trustee Investment (Scotland) Act 2005 and as set out in the Association's policy referred to in Rule 38.1. He/she shall also comply with the requirements of the Charities and Trustee Investment (Scotland) Act 2005 in respect of any conflict of interest that might arise.

## **ELECTING COMMITTEE MEMBERS**

- 39.1 At the end of the first annual general meeting after the total membership of the Association has risen to seven or more, all Committee Members must retire. From then on at the end of every annual general meeting, at least one-third of the Committee Members or the nearest whole number thereto, must retire. Anybody appointed as a co-optee under Rule 42.1 or to fill a casual vacancy under Rule 41 and who retires for that reason, shall not count towards the one third provision. The retiring Committee Members should be selected in accordance with Rule 39.2.
- 39.2 The retiring Committee Members should be those who have served the longest on the Committee since the date of their last election. If two or more Committee Members have served equally long and cannot agree who should retire, they must draw lots.
- 39.3 Committee Members must also retire if they have been co-opted onto the Committee under Rule 42.1 or have filled casual vacancies under Rule 41.
- 39.4 If a Committee Member retires from the Committee in terms of Rule 39 before or on the date of the next annual general meeting, that Committee Member can stand for re-election without being nominated.

- 40.1 If, at the annual general meeting the number of Members standing for election is less than or equal to the number of vacant places, the Chairperson will declare them elected without a vote. If there are more Members standing for election than there are vacant places, those present at the general meeting will elect Members onto the Committee, in accordance with Rule 29.2. Each Member present or who has appointed a representative will have one vote for each place to be filled on the Committee. A Member must not give more than one vote to any one candidate.
- 40.2 Nominations for election to the Committee must be in writing and in the form specified by the Association and must give the full name, address and occupation of the Member being nominated. A Member cannot nominate himself/herself for election to the Committee. Nominations must be signed by and include a signed statement from the Member being nominated to show that they are eligible to join the Committee in accordance with Rules 37.4 and 43, and that they are willing to be elected. Nomination forms can be obtained from the Association and must be completed fully and returned by hand or by post to the Association's registered office at least 7 days before the general meeting.
- 41 If an elected Committee Member leaves the Committee between the annual general meetings, this creates a casual vacancy and the Committee can appoint a Member to take their place on the Committee until the next annual general meeting.

## **Co-optees**

- 42.1 The Committee can co-opt to the Committee anyone the Committee consider is suitable to become a Committee Member. Co-optees do not need to be Members, but they can only serve as co-optees on the Committee until the next annual general meeting or until removed by the Committee. A person co-opted to the Committee can also serve on any sub-committees.
- 42.2 A person appointed as a co-optee shall undertake the role of Committee Member and accordingly will be subject to the duties and responsibilities of a Committee Member. Co-optees can take part in discussions at the Committee or any sub-committees and vote at Committee and sub-committee meetings on all matters except those which directly affect the Rules, the membership of the Association or the election of the Association's Office Bearers. Co-optees may not stand for election, nor be elected as one of the Office Bearers of the Committee.
- 42.3 Committee Members co-opted in this way must not make up more than one-third of the total number of the Committee or sub-committee members at any one time. The presence of co-optees at Committee Meetings will not be counted when establishing whether the minimum number of Committee Members are present to allow the meeting to take place as required by Rule 48 and the presence of co-optees will not count towards the quorum for sub-committee meetings.

## **Eligibility for the Committee**

- 43 A person will not be eligible to be a Committee Member and cannot be appointed or elected as such if:-
- 43.1 he/she has been adjudged bankrupt, has granted a trust deed for or entered into an arrangement with creditors or his/her estate has been sequestrated and has not been discharged; or

- 43.2 he/she has been convicted of an offence involving dishonesty which is not spent by virtue of the Rehabilitation of Offenders Act 1974 or an offence under the Charities and Trustee Investment (Scotland) Act 2005; or
- 43.3 he/she is a party to any legal proceedings in any Court of Law by or against the Association; or
- 43.4 he/she is or will be unable to attend the Committee Meetings for a period of 12 months; or
- 43.5 he/she has been removed from the Committee of another registered social landlord within the previous five years; or
- 43.6 he/she has resigned from the Committee in the previous five years in circumstances where the resignation was submitted after the date of his/her receipt of notice of a special committee meeting convened to consider a resolution for his/her removal from the Committee in terms of Rule 44.5; or
- 43.7 he/she has been removed from the Committee in terms of Rules 44.4 or 44.5 within the previous five years; or
- 43.8 he/she has been removed or suspended from a position of management or control of a charity under the provisions of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 or the Charities and Trustee Investment (Scotland) Act 2005; or
- 43.9 he/she has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners for England and Wales or by Her Majesty's High Court of Justice in England on the grounds of any misconduct in the administration of the charity for which he/she were responsible or to which he/she were privy, or which his/her conduct contributed to or facilitated; or
- 43.10 a disqualification order or disqualification undertaking has been made against that person under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (which relate to the power of a Court to prevent someone from being a director, liquidator or administrator of a company or a receiver or manager of company property or being involved in the promotion, formation or management of a company); or
- 43.11 at an annual general meeting, he/she has served as a Committee Member for a continuous period in excess of nine years and the Committee has not resolved to permit him/her to stand again or otherwise be nominated for re-election.

44 A Committee Member will cease to be a Committee Member if:

- 44.1 he/she resigns his/her position as a Committee Member in writing; or
- 44.2 he/she ceases to be a Member unless he/she is a co-optee in terms of Rule 42.1 or an appointee of The Scottish Housing Regulator; or
- 44.3 he/she misses four Management Committee meetings in a row without special leave of absence previously being granted by the Committee either at his/her request or by exercise of the Committee's discretion; or
- 44.4 the majority of Members voting at a general meeting decide this. (The Members at the meeting may then elect someone to take his/her place. If a replacement is not elected at the meeting, the Committee may appoint a Committee Member in terms of Rule 41); or.
- 44.5 the majority of those remaining Committee Members present and voting at a special meeting of the Committee convened for the purpose decide to remove him/her as a Committee Member. The resolution to remove him/her as a Committee Member must relate to one of the following issues:

- 44.5.1 failure to perform to the published standards laid down by the Scottish Federation of Housing Associations and/or The Scottish Housing Regulator adopted and operated by the Association;
- 44.5.2 failure to sign or failure to comply with the Association's Code of Conduct for Committee Members; or
- 44.5.3 a breach of the Association's Rules, standing orders or other policy requirements;
- 44.6 he/she becomes ineligible as a Committee Member in terms of Rule 43; or
- 44.7 he/she is a co-optee whose period of office is ended in accordance with Rules 39.1 or 42.2; or
- 44.8 he/she is a Committee Member retiring in accordance with Rule 39.1.

## **POWERS OF THE COMMITTEE OF MANAGEMENT**

- 45 The Committee is responsible for directing the affairs of the Association and its business and may do anything lawful which is necessary or expedient to achieve the objects of the Association. The Committee is not permitted to exercise any powers which are reserved to the Association in general meetings either by these Rules or by statute. The Committee is responsible for the leadership, strategic direction and control of the Association with the aim of achieving good outcomes for its tenants and other service users in accordance with Regulatory Standards and Guidance issued by The Scottish Housing Regulator from time to time.
- 46 The Committee acts in the name of the Association in everything it does. A third party acting in good faith and without prior notice does not need to check if the powers of the Committee have been restricted, unless they are already aware that such a restriction may exist.
- 47 Amongst its most important powers, the Committee can:-
  - 47.1 buy, sell, build upon, lease or exchange any land and accept responsibility for any related contracts and expenses.
  - 47.2 agree the terms of engagement and remuneration of anyone employed in connection with the business of the Association and act as employer for anyone employed by the Association.
  - 47.3 grant heritable securities over land owned by the Association and floating charges over all or any part of property and assets both present and in future owned by the Association. This includes accepting responsibility for any related expenses.
  - 47.4 decide, monitor and vary the terms and conditions under which property owned by the Association is to be let, managed, used or disposed of.
  - 47.5 appoint and remove solicitors, surveyors, consultants, managing agents and employees, as required by the Association's business.
  - 47.6 refund any necessary expenses as are wholly necessary incurred by Committee Members and sub committee members in connection with their duties.
  - 47.7 compromise, settle, conduct, enforce or resist either in a Court of Law or by arbitration any suit, debt, liability or claim by or against the Association.
  - 47.8 accept donations in support of the activities of the Association.

## **COMMITTEE PROCEDURE**

- 48 It is up to the Committee to decide when and where to hold its ordinary meetings, but it must meet at least six times a year. There must be at least four Committee Members present for the meeting to take place.
- 49 The Committee will continue to act while it has vacancies for Members. However, if at any time the number of Committee Members falls below seven, the Committee can continue to act only for another two months. If at the end of that period the Committee has not found new Members to bring the number of Committee Members up to seven, the only power it will have is to act to bring the number of Committee Members up to seven.
- 50 Committee Members must be sent written notice of Committee meetings posted, or delivered, by hand or sent by fax or email to the last such address for such communications given to the Secretary at least seven days before the date of the meeting. The accidental failure to give notice to a Committee Member or the failure of the Committee Member to receive such notice shall not invalidate the proceeding of the relevant meeting.
51. Meetings of the Committee can take place in any manner which permits those attending to hear and comment on the proceedings.
- 52 All speakers must direct their words to the Chairperson. All Committee Members must remain quiet and maintain order while this is happening. The Chairperson will decide who can speak and for how long.
- 53 If any point arises which is not covered in these Rules, the Chairperson will give his/her ruling which will be final.
- 54 All acts done in good faith as a result of a Committee Meeting or sub-committee meeting will be valid even if it is discovered afterwards that a Committee Member was not entitled to be on the Committee.
- 55 A written resolution signed by not fewer than three quarters of the Committee Members or three quarters of the members of a sub-committee will be as valid as if it had been passed at a Committee Meeting or sub-committee meeting duly called and constituted.

### **Special Committee Meetings**

- 56.1 The Chairperson or two Committee Members can request a special meeting of the Committee by writing to the Secretary with details of the business to be discussed. The Secretary will send a copy of the request to all Committee Members within three working days of receiving it. The meeting will take place at a place mutually convenient for the majority of Committee Members, normally the usual place where Committee Meetings are held, between 10 and 14 days after the Secretary receives the request.
- 56.2 No other business may be discussed at the meeting other than the business for which the meeting has been called.

- 56.3 If the Secretary does not call the special meeting as set out above, the Chairperson or the Committee Members who request the meeting can call the meeting. In this case, they must write to all Committee Members at least seven days before the date of the meeting.
- 57 If a Committee Member does not receive notice of the meeting, this will not prevent the meeting going ahead.

## **Sub-committees**

- 58.1 The Committee can delegate its powers to sub-committees or to staff or to Office Bearers. The Committee will establish the terms of reference for such delegation, which will be set down in writing and communicated to the recipient of the delegated powers. Such delegation will be set out down in writing in standing orders, schemes of delegated authority or other appropriate documentation. In the case of a sub-committee such delegation shall include the purposes of the sub-committee, its composition and quorum for meetings. A minimum number of members for a sub-committee shall be three. There must be at least three of the members of a sub-committee present for the meeting to take place. The Committee shall be responsible for the on-going monitoring and evaluation of the use of delegated powers.
- 58.2 The meetings and procedures of sub-committees or otherwise must comply with the relevant terms of reference.
- 58.3 Any decision made by sub-committee must be reported to the next Committee Meeting.
- 58.4 The Committee can establish and delegate powers to sub committees, designated as Area Committees, to take decisions relating to the management and maintenance of properties within a particular geographical area. The Committee will determine the membership and delegated responsibility of an Area Committee in its terms of reference. An Area Committee shall exercise such delegated powers notwithstanding the provisions of Rules 42.1 and 42.3 which provisions shall not apply to Area Committees.

## **THE SECRETARY AND OFFICE BEARERS**

- 59.1 The Association must have a Secretary, a Chairperson and any other Office Bearers the Committee considers necessary. The Office Bearers, except for the Secretary, must be elected Committee Members and cannot be co-optees. An employee may hold the office of Secretary although not be a Committee Member. The Committee will appoint these Office Bearers. If the Secretary cannot carry out his/her duties, the Committee, or in an emergency the Chairperson, can ask another Office Bearer or employee to carry out the Secretary's duties until the Secretary returns.
- 59.2 The Secretary and the other Office Bearers will be controlled, supervised and instructed by the Committee.
- 59.3 The Secretary's duties include the following (these duties can be delegated to an appropriate employee with the Secretary assuming responsibility for ensuring that they are carried out in an effective manner):
- 59.3.1 calling and going to all meetings of the Association and all the Committee Meetings;

- 59.3.2 keeping the minutes for all meetings of the Association and Committee;
  - 59.3.3 sending out letters, notices calling meetings and relevant documents to Members before a meeting;
  - 59.3.4 preparing and sending all the necessary reports to the Financial Conduct Authority and The Scottish Housing Regulator;
  - 59.3.5 ensuring compliance with these Rules;
  - 59.3.6 keeping the Register of Members and other registers required under these Rules; and
  - 59.3.7 supervision of the Association's seal.
- 59.4 The Secretary must produce or give up all the Association's books, registers, documents and property whenever requested by a resolution of the Committee, or of a general meeting.
- 59.5 At its first meeting after registration of the Association, the Committee will elect the Chairperson of the Association. Thereafter a Chairperson will be appointed on an annual basis at the next scheduled Committee Meeting held after each annual general meeting.

### **Role of the Chair**

The Chairperson is responsible for the leadership of the Committee and ensuring its effectiveness in all aspects of the Committee's role and to ensure that the Committee properly discharges its responsibilities as required by law, the Rules and the standing orders of the Association. The Chairperson will be delegated such powers as is required to allow the Chairperson to properly discharge the responsibilities of the office. Among the responsibilities of the Chairperson are that:-

- 59.5.1 the Committee works effectively with the senior staff;
- 59.5.2 an overview of business of the Association is maintained;
- 59.5.3 the Agenda for each meeting is set;
- 59.5.4 meetings are conducted effectively;
- 59.5.5 minutes are approved and decisions and actions arising from meetings are implemented;
- 59.5.6 the standing orders, code of conduct for Committee Members and other relevant policies and procedures affecting the governance of the Association are complied with;
- 59.5.7 where necessary, decisions are made under delegated authority for the effective operation of the Association between meetings;
- 59.5.8 the Committee monitors the use of delegated powers;
- 59.5.9 the Committee receives professional advice when it is needed;
- 59.5.10 the Association is represented at external events appropriately;



- 59.5.11 appraisal of the performance of Committee Members is undertaken, and that the senior staff officer's appraisal is carried out in accordance with the agreed policies and procedures of the Association; and
- 59.5.12 the training requirements of Committee Members, and the recruitment and induction of new Committee Members is undertaken.
- 59.6 The Chairperson must be elected from the Committee Members (excluding co-optees) and must be prepared to act as Chairperson until the end of the next annual general meeting (unless s/he resigns the post). The Chairperson can only be required to resign if a majority of the remaining Committee Members present at a special meeting agree to this.
- 59.7 If the Chairperson is not present at a Committee meeting or is not willing to act, the Committee Members present will elect another Committee Member to be Chairperson for the Committee Meeting. If the Chairperson arrives at the meeting late, s/he will take over as Chairperson of the Committee meeting as soon as the current agenda item is concluded.
- 59.8 If the votes of the Committee Members are divided equally for and against an issue, the Chairperson will have a second and deciding vote.
- 59.9 The Chairperson can resign his/her office in writing to the Secretary and must resign if s/he leaves the Committee or is prevented from standing for, or being elected to the Committee under Rule 43. The Committee will then elect another Committee Member as Chairperson.
- 59.10 The Chairperson can be re-elected but must not hold office continuously for more than five years.