

These are the Rules

of

Sanctuary Scotland Housing Association Limited  
(2508RS)

Based upon  
SFHA Charitable Model Rules (Scotland) 2020

Registered under the  
Co-operative and Community Benefit Societies Act 2014  
and the Housing (Scotland) Act 2010

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## **Further guidance**

### **Further Advice**

A separate document is also available from the SFHA Rules Service, which gives guidance on the use of these rules and the options. Advice is also available from staff at The Scottish Housing Regulator.

Advice on the procedural aspects of making a Rule registration application or Rule Amendment application is also available from the SFHA Rules Service.

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## INTRODUCTION

### Name

- 1 The name of the Society shall be Sanctuary Scotland Housing Association Limited (hereinafter referred to as "the Association").

### Objects

- 2 The objects of the Association are:
  - 2.1 to provide for the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage through the provision, construction, improvement and management of land and accommodation and the provision of care; and
  - 2.2 any other purpose or object permitted under Section 24 of the Housing (Scotland) Act 2010 which is charitable both for the purposes of Section 7 of the Charities and Trustee Investment (Scotland) Act 2005 and also in relation to the application of the Taxes Acts.
- 3 The permitted activities and powers of the Association will include anything which is necessary or expedient to help the Association achieve these objects.
  - 4.1 The Association shall not trade for profit and any profits shall only be applied for the purpose of furthering the Association's objects and/or in accordance with these Rules.
  - 4.2 Nothing shall be paid or transferred by way of profit to Members.
- 5 The registered office of the Association is at: Sanctuary House, 7 Freeland Drive, Priesthill, Glasgow, G53 6PG.

## MEMBERSHIP

- 6.1 The Members of the Association shall be the Parent Association and those persons or organisations who hold a share in the Association and whose names are entered in the Register of Members.
- 6.2 The Parent Association and the Association, together with all other organisations in the Group will document, formally and in terms that are transparent and understandable, their constitutional and financial relationships through one or more intra-group agreements or similar documents. The role of the Association and its relationship with other organisations in the Group must be undertaken in a manner consistent with the Charities and Trustee Investment (Scotland) Act 2005.

### Applying for Membership

- 7.1 Subject to the prior approval of the Parent Association, the Board shall set, review and publish its membership policy for admitting new Members. Subject to the provisions of Rule 7.2 the following shall be eligible to become Members:-
  - 7.1.1 tenants of the Association;

- 7.1.2 service users of the Association;
- 7.1.3 other persons who support the objects of the Association;
- 7.1.4 organisations sympathetic to the objects of the Association.
- 7.2 Completed and signed application forms for membership, along with the sum of one pound (which will be returned to the applicant if the application is not approved) should be sent to the Association's registered office. Whilst it is the Association's intention to encourage membership, the Board (without prejudice to Rule 7.3) has absolute discretion in deciding on applications for membership and the following shall (without limitation) constitute grounds for refusal of an application for membership:-
  - 7.2.1 where membership would be contrary to the Association's Rules or policies;
  - 7.2.2 where a conflict of interest may exist which, even allowing for the disclosure of such an interest, may adversely affect the work of the Association; or
  - 7.2.3 where the Board considers that accepting the application would not be in the best interests of the Association.
- 7.3 Each application for membership shall be considered by the Board as soon as reasonably practicable after its receipt by the Association. Each application for membership shall be subject to approval by the Parent Association. An application for membership will not be considered by the Board within the period of fourteen days before the date of a general meeting. The Parent Association has the power in its absolute discretion to accept or reject the application.
- 7.4 If both the Board and the Parent Association approve an application, the applicant will immediately become a Member and the Member's name and other necessary particulars will be included in the Register of Members within seven working days. The Member will then be issued one share in the Association.
- 8 Applications for membership of the Association can be made by individuals from the age of 16.
- 9 No Member can hold more than one share in the Association.
- 10 If a Member changes address, that Member must let the Association know either by (i) writing to the Secretary at the registered office; or (ii) informing the Secretary by electronic means, at such electronic address as may have been notified to the Members by the Association for that purpose within three months. This requirement does not apply if the Member is a tenant of the Association and has moved home by transferring their tenancy to another property owned and managed by the Association.

## **ENDING MEMBERSHIP**

- 11.1 A person's membership of the Association will end and the Board will cancel their share and record the ending of their membership in the Register of Members if:-
  - 11.1.1 They resign their membership giving seven days' notice in writing to the Secretary at the registered office;

- 11.1.2 Except in the case of membership by the Parent Association, the Board reasonably believes that they have failed to tell the Association of a change of address as required by Rule 10;
- 11.1.3 Other than in the case of the Parent Association, they have failed to participate submit apologies, exercise a postal vote or appoint a representative to participate and vote on their behalf by proxy, for any general meetings of the Association for a period of two years and / or failed to respond within three months of a notice dispatched to them at their last known address;
- 11.1.4 Their membership is ended by the Parent Association at any time by written notice to them and the Secretary of the Association to that effect, in which case their membership will end as from the date on which the notice is issued by the Parent Association. Where more than one membership is being brought to an end at or around the same time, the requirement for written notice to the Secretary of the Association will be deemed to be satisfied if a list of such memberships, along with a sample of the written notice being issued to those members, is sent to the Secretary;
- 11.1.5 The Association receives a complaint about their behaviour and two-thirds of the Members voting at a special general meeting agree to end their membership but the membership of the Parent Association may not be so ended. The following conditions apply to this procedure:
  - 11.1.5.1 the complaint must be in writing and must relate to behaviour which could harm the interests of the Association;
  - 11.1.5.2 the Secretary must notify the Member of the complaint in writing not less than one calendar month before the meeting takes place;
  - 11.1.5.3 the notice for the special general meeting will give details of the business for which the meeting is being called;
  - 11.1.5.4 the Member subject to the complaint will be called to answer the complaint at the meeting. The Members present (within the meaning of Rule 20.2), will consider the evidence supporting the complaint and any evidence the Member decides to introduce;
  - 11.1.5.5 the Members can vote (including through a representative by proxy) by such means as is determined by the chairperson, as more particularly described at Rule 20;
  - 11.1.5.6 if the Member receives proper notice but does not go to the meeting, the meeting will go ahead without them and the Members will be entitled to vote to end their membership.
- 11.2 If a person's membership is ended in accordance with Rule 11.1.5, they will immediately cease to be a Member from the date that the resolution to end their membership was passed and any further application for membership by them will need to be approved by two-thirds of the Members voting at a general meeting (in addition to any other approvals required under these Rules).

## **REPRESENTING AN ORGANISATION**

- 12.1 An organisation which is a Member is free to appoint any person it considers suitable as its representative to the Association. That person will represent all of the organisation's rights and powers at general meetings; and if that person is present at a general meeting (within the meaning of Rule 20.2), the organisation shall be deemed to be present at the meeting.
- 12.2 To confirm the identity of a representative, the organisation must send the Association a copy of the appointment of an individual as a representative. This should be signed by a Director, Secretary or Authorised Signatory of the organisation which signature must be witnessed, or in the case of a local authority, by the Chief Executive, or properly authorised Officer of the local authority.
- 12.3 An organisation can change the identity of the person appointed to represent that organisation at any time by confirming the identity of the new representative in terms of Rule 12.2 and withdrawing the appointment of the original representative.
- 12.4 If a person is a representative in terms of Rule 12.1 of an organisation which is a Member, that person cannot also be a Member as an individual. If they are already a Member as an individual when they start to represent an organisation which is a Member, the Association will suspend that person's membership as an individual, until such time as they are no longer a representative of an organisation which is a Member.

## **SHARE CAPITAL**

### **Shares**

- 13 The share capital of the Association will be raised by issuing one-pound shares to Members. Shares cannot be held jointly. Joint tenants of the Association may each become individual Members.
- 14 There is no interest, dividend or bonus payable on shares.

### **Transferring Shares**

- 15 A Member shall not be entitled to any property of the Association in his/her/its capacity as a Member and any Member's share is not withdrawable or transferable save in the circumstances set out in Rules 16 and 17.
- 16 Members cannot sell their share but they can transfer it if both the Board and the Parent Association agree. If a Member holds more than one share in the Association, shares may not be sold or transferred but may be cancelled on the written request of the Member (and without prejudice to the continuing membership of the Member providing that the Member continues to hold one share) and the value of the share will then belong to the Association.

- 17.1 If a Member dies or ends their membership or has their membership ended, or they are a representative of an organisation which no longer exists, the Board will cancel their share (except in those circumstances outlined in Rules 17.2 and 17.3) and the value of the share will then belong to the Association.
- 17.2 Members can nominate the person to whom the Association must transfer their share in the Association when they die, as long as the person that they nominate is eligible for membership under these Rules and has been approved for membership by the Parent Association. On being notified of a Member's death, the Board shall transfer or (at its option) pay the nominal value of that Member's share to the person that has been identified. The nomination must be in the terms required by the Co-operative and Community Benefit Societies Act 2014.
- 17.3 If a Member dies or becomes bankrupt and their personal representative or trustee in bankruptcy seeks to claim their share, the Board (to the extent that the Member's personal representative or trustee in bankruptcy has right) will transfer or pay the value of the Member's share in terms of their representative's or trustee's instructions.

## **BORROWING POWERS**

- 18.1 The Association can borrow money as long as the total borrowing at any time is not more than £450million (four hundred and fifty million pounds sterling) and the Parent Association has consented to the borrowing in writing.
- 18.2 In respect of any proposed borrowing for the purposes of Rule 18.1, the amount remaining undischarged of any index-linked loan previously borrowed by the Association or any deep discounted security shall be deemed to be the amount needed to repay such borrowing in full if the pre-existing borrowing became repayable in full at the time of the proposed borrowing.
- 18.3 For the purposes of Rule 18.1 in respect of any proposed borrowing intended to be index-linked or on any deep discounted security the amount of borrowings shall be deemed to be the proceeds of such proposed borrowings that would be receivable by the Association at the time of the proposed borrowing.
- 18.4 The Association will not pay more than the market rate of interest as determined by the Board, having obtained and considered proper advice on the question of determining the market rate of interest, having regard to the terms of the loan on any money borrowed, including any money borrowed from the Parent Association.
- 18.5 The Association will not accept money on deposit.
- 18.6 The Association may borrow money from such lawful sources as is permitted by its Treasury Management Policy subject always to the requirement that the Association will comply with the Regulatory Framework and Regulatory Guidance issued by The Scottish Housing Regulator from time to time.
- 18.7 The Association shall have the power to enter into and perform a Rate Cap Transaction, or a series of Rate Cap Transactions, or to enter into a Collar Transaction or series of Collar Transactions or an Interest Rate Swap Transaction (each a "Transaction") where in relation to any such Transaction the following conditions are satisfied, namely that:-
- 18.7.1 the prior approval of the Parent Association has been obtained;



- 18.7.2 the relevant instruments relate solely to amounts denominated in Sterling;
- 18.7.3 the relevant Transaction provides (in the case of an Interest Rate Swap Transaction) for the Association to undertake to pay a specified fixed rate on an applicable notional sum denominated in Sterling, but not otherwise;
- 18.7.4 the relevant Transaction provides (in the case of a Collar Transaction) for the simultaneous buying of an instrument relating to a rate cap and the selling of an instrument providing for a floor at a lower strike price to such cap;
- 18.7.5 any counterparty to the Transaction is a financial institution authorised and regulated by the Financial Conduct Authority to conduct business in the United Kingdom;
- 18.7.6 the Board or a duly authorised sub-committee established under the Rules considers the entry by the Association into such Transaction(s) to be in the best interests of the Association,

PROVIDED that at the time of entry into any such Transaction(s) the sum of the Calculation Amount of any such Transaction(s) previously entered into and remaining in effect and the Calculation Amount of the proposed Transaction(s) shall not exceed either (a) the aggregate amount of the Association's Variable Rate Borrowings at the Effective Date plus the amount of any existing contractually committed loan facilities not yet drawn down in respect of amounts which the Association intends at the Effective Date when drawn down will become Variable Rate Borrowings or (b) having regard at the Effective Date to the Association's obligations to repay Variable Rate Borrowings, the amount of Variable Rate Borrowings which will be outstanding at any time on or prior to the proposed Termination Date.

- 18.8 Before exercising its power under Rule 18.7 the Association shall obtain and consider proper advice on the question whether the relevant Transaction is satisfactory having regard to:-
  - 18.8.1 the possible fluctuations in the rate of interest payable by the Association on its Variable Rate Borrowings during the term of the relevant Transaction;
  - 18.8.2 the Association's ability to meet its payment obligations under such Borrowings during the term of the relevant Transaction if such Transaction was or were not entered into;
  - 18.8.3 the payment obligations under the relevant Transaction; and
  - 18.8.4 the Association's actual and projected annual income and expenditure position.
- 18.9 For the purposes of Rules 18 and 19 proper advice shall mean the advice of a person who is reasonably believed by the Board to be suitably qualified in financial matters and such transactions. Such advice may be given by a person notwithstanding that he/she gives it in the course of his/her employment as an officer.

- 18.10 A person entering into a relevant Transaction as a Floating Rate Payer with the Association who has received a written certificate signed by the Secretary confirming the Association's compliance with Rules 18.7 and 18.8 shall not be concerned to enquire further whether or not the Association has complied with the provision of Rules 18.7 and 18.8 and such Transaction shall be valid at the date it is entered into and throughout its term in favour of such person (or any assignee or successor in title) whether or not the provision of Rules 18.7 and 18.8 have been complied with.
- 18.11 For the purposes of this Rule:-
- “Calculation Amount”, “Effective Date”, “Floating Rate Payer”, “Term” and “Termination Date” have the respective meanings given in the 2014 ISDA (international Swap Dealers Association) Definitions as amended from time to time;
- “Variable Rate Borrowings” means any borrowing by the Association pursuant to Rule 18.10 in respect of which the rate of interest has not been fixed for a term in excess of twelve months and the terms “fixed” shall exclude any borrowing where the rate of interest is indexed in accordance with a retail price index or other published index;
- “Rate Cap Transaction”, “Collar Transaction” and “Interest Rate Swap Transaction” mean respectively any transaction so designated within the meaning of the category “Swap Transaction” as defined in the 2014 ISDA Definitions as amended from time to time.
- 19.1 The Association shall not lend money to Members other than the Parent Association.
- 19.2 The Association can lend money to the Parent Association or to an organisation which is a subsidiary of the Association within the meaning of the Companies Act 2006 or the Co-operative and Community Benefit Societies Act 2014 at the market rate of interest as determined by the Board, having obtained and considered proper advice on the question of determining the market rate of interest, having regard to the terms of the loan. Where the Association is using a loan facility to on lend it must comply with the Regulatory Framework and Regulatory Guidance issued by the Scottish Housing Regulator from time to time.
- 19.2.1 The holder of loan stock may transfer all or any part thereof by instrument in writing in such form as the Board may approve.
- 19.2.2 The instrument of transfer shall be executed by or on behalf of the transferor and the transferee and properly stamped, and upon delivery thereof at the registered office together with the sum of five pence, the certificate of the loan stock and such evidence of identity or title as the Board may reasonably require, the transfer shall be registered.
- 19.2.3 A transfer of loan stock shall not be valid until registered.
- 19.3 The Association shall have the power to enter into funding arrangements with the Parent Association which provide that the Association shall grant heritable securities and others or any of them (including guarantees in respect of borrowings and obligations of the Parent Association or any subsidiary of the same) in accordance with the provisions of Rule 47.3.

- 19.4 Subject to the foregoing provisions the Board can determine and change the conditions under which the Association borrows or lends money.

## **GENERAL MEETINGS**

### **Annual General Meeting**

- 20 Notwithstanding any other provisions of the Rules (which shall be subject to the terms of this Rule 20) a Member cannot insist on attending a general meeting of the Members, or voting at the meeting, by any particular means. Further, the following provisions shall apply to the conduct of general meetings when so determined by the Board:-
- 20.1 A general meeting need not be held in any particular place and the meeting may be held without any number of those participating in the meeting being together at the same place;
  - 20.2 A general meeting may be held by any means which permits the Members attending to hear and comment on the proceedings during the meeting. Members attending the meeting by such means shall be present at the meeting for the purposes of Rule 24.1; and
  - 20.3 A Member is able to exercise the right to vote at a meeting (including if a poll is required) by such means as is determined by the Chairperson and which permits the Member's vote to be taken into account in determining whether or not a resolution is passed.
21. The Association will hold a general meeting known as the annual general meeting within six months of the end of each financial year of the Association. The functions of the annual general meeting are to:
- 21.1 present the Chairperson's report on the Association's activities for the previous year;
  - 21.2 present the accounts, balance sheet and auditor's report;
  - 21.3 [Not used]
  - 21.4 appoint the auditor for the following year; and
  - 21.5 consider any other general business included in the notice calling the meeting.

### **Special General Meeting**

- 22.1 All general meetings other than annual general meetings are known as special general meetings. The Secretary will call a special general meeting if:
- 22.1.1 the Board or the Parent Association requests one; or
  - 22.1.2 at least four Members request one in writing. If there are more than 40 Members, at least one tenth of all the Members must ask for the meeting.
- 22.2 Whoever asks for the meeting must give the Secretary details of the business to be discussed at the meeting.

- 22.3 If a special general meeting is requested, the Secretary must within 10 days of having received the request give all Members notice calling the meeting. The meeting must take place within 28 days of the Secretary receiving the Members' request. The Secretary should decide on a time and date for the meeting, as well as the means by which the Members attending will be able to hear, comment and vote on the proceedings in accordance with Rule 20.2, in consultation with the Board or the Chairperson, but if such consultation is not practicable the Secretary can on their own decide these matters.
- 22.4 If the Secretary fails to call the meeting within 10 days, the Board or the Members who requested the meeting can arrange the meeting themselves.
- 22.5 A special general meeting must not discuss any business other than the business mentioned in the notice calling the meeting.

## **Notice for Meetings**

- 23.1 The Secretary will call all general meetings by written notice to every Member, including the Parent Association, at the address, or email address given in the Register of Members at least 14 days before the date of the meeting. This notice will give details of:
- 23.1.1 the time and date of the meeting and the means by which the Members attending will be able to hear, comment and vote on the proceedings in accordance with Rule 20.2;
  - 23.1.2 whether the meeting is an annual or special general meeting;
  - 23.1.3 the business for which the meeting is being called.
- 23.2 The Board may ask the Secretary to include with the notice to Members (either in hard copy, electronic form, or in the form of links from the Association's website) any relevant papers or accounts. If a Member, other than the Parent Association, does not receive notice of a meeting or papers relating to the meeting, this will not stop the meeting going ahead as planned. If the Parent Association does not receive notice of a meeting or papers relating to the meeting, the meeting cannot go ahead as planned. Each communication sent to a Member by post, addressed to his or her registered address, shall be deemed to have arrived forty eight hours after being posted. Each communication sent to a Member by electronic form shall be deemed to have arrived on the day it is sent.
- 23.3 The proceedings of a meeting shall not be invalidated by the inadvertent failure of the Association to send a notice calling the meeting to any Member, other than the Parent Association. Failure of the Association to send notice calling the meeting to the Parent Association will invalidate the proceedings at that meeting.

## **Procedure at General Meetings**

- 24.1 For a meeting to take place the Parent Association and at least seven other Members must either be present (in terms of Rule 20.2) or represented by a representative appointed in terms of Rule 27.1. If there are more than 70 Members, at least one-tenth (including the Parent Association) must either be present (in terms of Rule 20.2) or represented by a representative in terms of Rule 27.1.

- 24.2 If the Parent Association is not present in terms of Rule 24.3 or by representative (pursuant to Rule 27.1) and/or if not enough other Members are present (in terms of Rule 20.2) or by representative within half an hour of the time the meeting was scheduled to start, the meeting shall be rescheduled to the same day the following week at the same time and means by which members attending will be able to hear, comment and vote on proceedings in accordance with Rule 20.2, as may be fixed by the chairperson of the meeting and announced at the meeting. There is no need to give notice to Members of the rescheduled meeting. If at that meeting there are not enough Members present (in terms of Rule 20.2) or by representative at the scheduled starting time the meeting can still go ahead, unless the Parent Association is not present (pursuant to Rule 24.3) or by representative (pursuant to Rule 27.1).
- 24.3 The Parent Association shall be deemed to be present at any general meeting if it is represented by an individual (who need not be a Member) who is appointed to act as such in writing signed by or on behalf of the Parent Association in terms of Rule 12.2 and is present in terms of Rule 20.2.
- 25.1 If a majority of Members present agree, the chairperson of a meeting can adjourn the meeting. No business can be discussed at the adjourned meeting other than the business not reached or left unfinished at the original meeting. There is no need to give notice to Members of the adjourned meeting.
- 25.2 Every adjourned meeting shall be deemed a continuation of the original meeting and any resolution passed at the adjourned meeting shall for all purposes be treated as having been passed on the date on which it was in fact passed and shall not be deemed to have been passed on any earlier date.
- 26.1 The Chairperson of the Board will be chairperson at all general meetings of the Association. If there is no Chairperson or he/she is not present or willing to act, the Vice Chairperson, if one has been elected/appointed will act in his/her place, whom failing the Members present must elect a Member of the Board to be chairperson of the meeting. If no Board Members are present, the Members present must elect a Member to be chairperson of the meeting.
- 26.2 If the Chairperson arrives later, after the meeting has commenced, he/she will take over as chairperson of the meeting as soon as the current agenda item is concluded.

## **Proxies/Representatives/Postal Votes**

- 27.1 Each Member will be entitled to vote at general meetings either by attending the meeting or by appointing a representative to vote on his/her behalf by proxy. To appoint a representative to vote on behalf of a Member by proxy, Members must let the Association have a properly completed document in the form shown in Appendix 1. A representative does not need to be a Member. The document must be: (i) deposited at the registered office of the Association; or (ii) sent by electronic means to the Association, at such electronic address as may have been notified to the Members by the Association for that purpose, at least clear two days before the meeting at which a Member is to be represented.
- 27.2 If there is any doubt about whether the representative has authority to vote, the Chairperson will decide and his/her decision will be final.
- 27.3 The maximum number of proxy votes that may be cast by any one person is 10.

- 27.4 To reverse the appointment of a representative, a properly completed document in the form shown in Appendix 2 must be: (i) deposited at the registered office of the Association; or (ii) sent by electronic means to the Association, at such electronic address as may have been notified to the Members by the Association for that purpose, at least one clear day before the meeting at which the Member who no longer wants to be represented convenes. Alternatively, if a Member declares himself / herself present (in terms of Rule 20.2) before the meeting convenes, the appointment of a representative to vote on that Member's behalf will automatically fall.
- 27.5 Only those forms shown in the Appendix, which are properly completed will be valid. The chairperson of the meeting will report to the meeting the details of any documents seeking to appoint a representative received but which are not valid.

## Voting

- 28 If a decision of a meeting is put to the vote, (subject to Rules 88.1 and 88.4) the outcome will be determined by the majority of those Members voting. Voting will be by such means as is determined by the Chairperson and which permits the Member's vote to be taken into account in determining whether or not a resolution is passed. Votes cannot be taken on resolutions which conflict with any provisions of these Rules or the law.
- 29.1 Where a vote is by a show of hands every Member present (in terms of Rule 20.2), including the Parent Association (in terms of Rule 24.3), has one vote. Where a vote is by a poll every Member, including the Parent Association, present (in terms of Rule 20.2) or who has appointed a representative in terms of Rule 12.1 or proxy in terms of Rule 27.1 has one vote. Where an appointed representative or proxy is present, and he/she advises the chairperson of the meeting, the chairperson shall direct that the vote is by a poll or by such other means which permits the Member's vote to be taken into account.
- 29.2 [Not used]
- 30 If there is an equal number of votes for and against a resolution, the Chairperson will have a second or deciding vote. The Chairperson's announcement of the decision of a vote will be final and conclusive. The decision is then recorded in the minutes of the meeting. There is no need to record the number of votes for or against the decision.
- 31.1 A poll can be required before or immediately after a vote by a show of hands, if the Parent Association's representative in terms of Rule 12.1 or proxy through a representative in accordance with Rule 27.1 or at least one-tenth of the Members present at the meeting (in terms of Rule 20.2, by appointed representative in terms of Rule 12.1, or by proxy through a representative appointed in accordance with Rule 27.1) request this.
- 31.2 A poll must take place as soon as the Chairperson has agreed to it, in line with the Chairperson's instructions. The result of the poll will stand as the decision of the meeting.

## **Proceedings at General Meetings**

- 32 All speakers must direct their words to the Chairperson. All Members must remain quiet and orderly while this is happening.
- 33 Speakers will not be allowed to speak more than once on any individual matter unless it is to explain something or ask for an explanation until every other Member has had the chance to speak. They will then have the opportunity to speak a second time on a matter but only if the Chairperson agrees. Where the Chairperson raised the matter for discussion initially, she/he shall be permitted to make a final reply on the matter.
- 34 The Chairperson will decide how long each speaker is allowed to speak, allowing equal time to each speaker.
- 35 If any point arises which is not covered in these Rules, the Chairperson will give his/her ruling. If the Chairperson's ruling is challenged by more than one person, the Chairperson will step down and those present will decide the point raised on a majority vote. If the vote is tied, the Chairperson's original ruling is carried.
- 36 Meetings must not last longer than two hours unless at least two-thirds of the Members present agree after the end of that time to continue the meeting.

## **THE BOARD OF MANAGEMENT**

### **Composition of the Board**

- 37.1 The Association shall have a Board of Management which shall have a minimum of 7 and a maximum of 12 persons. The Association shall keep up to date a register of the names of the Board Members which shall be made available to any person at no cost. The names of Board Members will also be published by the Association on its website, and in its annual reports and other similar documentation.
- 37.2 All Board Members shall be appointed and may be removed by the Parent Association. Appointment and removal shall be effected by notice signed by or on behalf of the Parent Association and shall take effect upon: (i) lodgement at the registered office of the Association, or (ii) submission by electronic means to the Association, at such electronic address as may have been notified by the Association for that purpose, or at such time later than such lodgement or electronic submission as may be specified in the notice. When making an appointment, the Parent Association may (but shall not be obliged to) specify in the notice a term for the appointment at the expiry of which the appointee will retire from office (but without prejudice to the right of the Parent Association to remove them sooner). For the avoidance of doubt, Ordinary Members shall have no rights to elect, appoint or remove Board Members.
- 37.3 The Scottish Housing Regulator may from time to time appoint additional Board Members for such period and on such terms as the Scottish Housing Regulator may specify. Such Board Members shall be entitled to take part in the deliberations of the Board and vote at any meetings thereof on all matters and from the date of such appointment shall be included in the expressions "Board Member" or "member of the Board".
- 37.4 A Board Member need not be a Member. Board Members must be aged 18 or over.

- 37.5 An employee of the Association, or a Close Relative of an employee, may not be a Board Member.
- 37.6 No Board Member may take office until they have agreed to and signed the Association's code of conduct for Board Members.
- 37.7 The Board shall assess annually the skills, knowledge, diversity and objectivity that it needs for its decision making and what is contributed by the Board Members by way of annual performance reviews. The Board must be assured that any Board Member who has continuous service on the Board of nine years or more and who is seeking re-appointment to the Board is able to demonstrate his/her continued effectiveness as a Board Member before he/she may be re-appointed.

## **Duties of the Board**

- 37.8 Each of the Board Members shall, in exercising his/her role as a Board Member, act in the best interests of the Association and will not place any personal or other interests ahead of his/her primary duty to the Association; and, in particular, must:-
  - 37.8.1 seek, in good faith, to ensure that the Association acts in a manner which is in accordance with its objects.
  - 37.8.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person.
  - 37.8.3 in circumstances giving rise to the possibility of a conflict of interest between the Association and any person responsible for the appointment of a Board Member:-
    - 37.8.3.1 put the interests of the Association before that of the other party, in taking decisions as a Board Member; or
    - 37.8.3.2 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 Board Members with regard to the matter in question.
  - 37.8.4 ensure that the Association complies with any direction, requirement, notice or duty imposed on it by the Charities and Trustee Investment (Scotland) Act 2005.
  - 37.8.5 The Board can require that a Board Member who is being investigated for a potential breach of the Association's Code of Conduct for Board Members take leave of absence and not attend any meeting in his or her capacity as Board Member until the Board has completed its consideration of the potential breach. When on such leave of absence, the Board Member will not be entitled to receive minutes and/or documents in his or her capacity as a Board Member relating to the business of the Association.



## Interests

- 38.1 The Board 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 Board 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 A person who serves on the Board or any sub-committee must declare any personal or other external interests on an annual basis in accordance with the Association's Code of Conduct for Board Members. If while serving on the Board or any sub-committee any person has any conflict of interest in any contract or other matter about to be discussed at a meeting, he/she must tell the Board (and, as the case may be, the sub-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 For the purposes of Rule 38.2, a person will not be regarded as having an interest that conflicts with the interests of the Association if the interest is as a member, board/committee member, director, officer or employee of the Parent Association or of a subsidiary of the Parent Association.
- 38.4 If a person serves on the Board or any sub-committee, the Association must not make any payment or benefit to him/her or any Close Relative of that person 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. The Association must also comply with the requirements of the Charities and Trustee Investment (Scotland) Act 2005 in respect of any conflict of interest that might arise.
- 39 – 42 [Not used]

## Ineligibility for the Board

- 43.1 A person will be ineligible to be a Board Member and cannot be appointed as such if:-
- 43.1.1 he/she is an undischarged bankrupt, has granted a trust deed which has not been discharged or is in a current Debt Payment Plan under the Debt Arrangement Scheme; or
  - 43.1.2 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
  - 43.1.3 he/she is a party to any legal proceedings in any Court of Law by or against the Association; or
  - 43.1.4 he/she is or will be unable to attend Board Meetings for a period of 6 months; or
  - 43.1.5 he/she has been removed from the Board of another registered social landlord within the previous five years; or

- 43.1.6 [not used]
  - 43.1.7 [not used]
  - 43.1.8 he/she has been removed, disqualified 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
  - 43.1.9 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 was responsible or to which he/she were privy, or which his/her conduct contributed to or facilitated; or
  - 43.1.10 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).
- 43.2 A person cannot be re-appointed as a Board Member if the Board is not satisfied under Rule 37.7 of the individual's continued effectiveness as a Board Member. In these circumstances the Board must notify the Parent Association.
- 44 A Board Member will cease to be a Board Member if:
- 44.1 he/she resigns his/her position as a Board Member in writing; or
  - 44.2 he/she is removed by the Parent Association under Rule 37.2; or
  - 44.3 he/she misses 3 Board meetings in a row without special leave of absence previously being granted by the Board either at his/her request or by exercise of the Board's discretion; or
  - 44.4 he/she retires from office on expiry of the term (if any) for which he/she was appointed under Rule 37.2; or
  - 44.5 he/she becomes ineligible as a Board Member in terms of Rule 43.

## POWERS OF THE BOARD OF MANAGEMENT

- 45 The Board 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 Board is not permitted to exercise any powers which are reserved to the Association in general meetings either by these Rules or by statute. The Board 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. The Board is responsible for ensuring that the Association can demonstrate its governance and financial arrangements are such as to allow The Scottish Housing Regulator to regulate effectively and exercise its full regulatory powers.
- 46 The Board 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 Board have been restricted, unless they are already aware that such a restriction may exist.
- 47 Amongst its most important powers, the Board 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 the property and assets both present and in future owned by the Association and grant guarantees in respect of borrowings by, and obligations of the Parent Association and any subsidiary of the Parent Association provided that any such borrowings shall be made available to a charitable Registered Social Landlord registered in Scotland or a charitable registered provider of social housing in England which (in either case) is an entity within the corporate group of the Parent Association to be used for charitable purposes only. 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 Board 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.

- 47.9 appoint attorneys to exercise certain powers of the Board, including (without limitation) the power to execute any deeds, writs, undertakings or agreements on the Association's behalf and to empower such attorneys to deliver such documents on the Association's behalf to the party or parties to whom/which they fall to be delivered.

## **BOARD PROCEDURE**

- 48 It is up to the Board 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 Board Members present for the meeting to take place.
- 49 The Board will continue to act while it has vacancies for members. However, if at any time the number of Board Members falls below seven, the Board can continue to act only for another two months.
- 50 Board Members must be sent written notice of Board meetings at least seven days before the date of the meeting. The timescales provided at Rule 23.2 for the deemed delivery of communications to Members shall also apply to the delivery of notice to Board Members. The accidental failure to give notice to a Board Member or the failure of a Board Member to receive such notice shall not invalidate the proceedings at the relevant meeting.
- 51 Meetings of the Board and its sub-committees can take place in any manner which permits those attending to hear, comment and vote on the proceedings. Board Members and sub-committee members attending meetings by such means shall be present at the meeting for the purposes of Rule 48 and Rule 58.1.
- 52 All speakers must direct their words to the Chairperson. All Board 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 Board Meeting or sub-committee meeting will be valid even if it is discovered afterwards that a Board Member was not entitled to be on the Board.
- 55 A written resolution signed by not fewer than three quarters of the Board Members or three quarters of the members of a sub-committee will be as valid as if it had been passed at a Board Meeting or sub-committee meeting duly called and constituted.

## Special Board Meetings

- 56.1 The Parent Association, the Chairperson or two Board Members can request a special meeting of the Board by writing to the Secretary with details of the business to be discussed. The Secretary will send a copy of the request to all Board Members and to the Parent Association within three working days of receiving it. The meeting will be convened by any means which permits the Board Members attending to hear, comment and vote on the proceedings during the meeting, at such time and on such a date as is mutually convenient for the majority of Board Members, 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 Board Members who request the meeting can call the meeting. In this case, they must write to all Board Members at least seven days before the date of the meeting.
- 57 If a Board Member does not receive notice of the meeting, this will not prevent the meeting going ahead.

## Sub-committees

- 58.1 The Board can delegate its powers to sub-committees made up of Board Members and/or Office Bearers or to Office Bearers and/or to staff of the Association or the Parent Association. The Board will establish the terms of reference for such delegation which will be set down in writing in standing orders, schemes of delegated authority or other appropriate documentation and communicated to the recipient of the delegated powers. 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 Board 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 must otherwise comply with the relevant terms of reference.
- 58.3 Any decision made by sub-committee must be reported to the next Board Meeting.
- 58.4 The Board can establish and delegate powers to sub-committees designated as "Special Committees" to undertake certain specified activities of the Association. The Board will determine for each designated Special Committee a scheme of delegation setting out its functions, objectives, responsibilities and powers.
- 58.5 Special Committees shall comprise persons considered by the Board to possess such skills, experience, local knowledge or expertise as are required in order to achieve the proper discharge of the responsibilities of the relevant Special Committee and as are appointed to that Special Committee by the Board.

## THE SECRETARY AND OFFICE BEARERS

- 59.1 The Association must have a Secretary, a Chairperson and any other Office Bearers the Board considers necessary. The Secretary may be an employee. The Board will appoint the Office Bearers except for the Secretary who shall be the Secretary of the Parent Association or such other person as the Board, with the approval of the Parent Association, shall appoint. If the Secretary cannot carry out his/her duties or (as the case may be) there is no Secretary in office at the time, the Board, or in an emergency the Chairperson, can ask another Office Bearer or employee to carry out the Secretary's duties until the Secretary returns or is appointed by the Parent Association.
- 59.2 The Secretary and the other Office Bearers will be controlled, supervised and instructed by the Board.
- 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 attending all meetings of the Association and all the Board Meetings;
  - 59.3.2 keeping the minutes for all meetings of the Association and Board;
  - 59.3.3 sending out letters, notices calling meetings and relevant documents to Members and/or (as applicable) Board 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 Board, or of a general meeting.
- 59.5 A Chairperson will be appointed on an annual basis at the next scheduled Board Meeting held after each annual general meeting.

### Role of the Chair

- 59.6 The Chairperson is responsible for the leadership of the Board and ensuring its effectiveness in all aspects of the Board's role and to ensure that the Board 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 are required to allow the Chairperson to properly discharge the responsibilities of the office. Among the responsibilities of the Chairperson are that:-
- 59.6.1 the Board works effectively with the senior staff;

- 59.6.2 an overview of business of the Association is maintained;
  - 59.6.3 the Agenda for each meeting is set;
  - 59.6.4 meetings are conducted effectively;
  - 59.6.5 minutes are approved and decisions and actions arising from meetings are implemented;
  - 59.6.6 the standing orders, code of conduct for Board Members and other relevant policies and procedures affecting the governance of the Association are complied with;
  - 59.6.7 where necessary, decisions are made under delegated authority for the effective operation of the Association between meetings;
  - 59.6.8 the Board monitors the use of delegated powers;
  - 59.6.9 the Board receives professional advice when it is needed;
  - 59.6.10 the Association is represented at external events appropriately;
  - 59.6.11 appraisal of the performance of Board 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
  - 59.6.12 the training requirements of Board Members, and the recruitment and induction of new Board Members is undertaken.
- 59.7 The Chairperson must be elected from the Board Members and may be a tenant of the Association and must be prepared to act as Chairperson until the end of the next annual general meeting (unless he/she resigns the post). No Board Member may be elected as Chairperson unless his/her election as such has first been approved by the Parent Association. The Chairperson can only be required to resign if a majority of the remaining Board Members present at a special meeting agree to this or if required by the Parent Association.
- 59.8 If the Chairperson is not present at a Board meeting or is not willing to act, the Vice Chairperson if one has been elected/appointed, will act in the place of the Chairperson whom failing the Board Members present will elect another Board Member to be Chairperson for the Board Meeting. If the Chairperson arrives at the meeting late, s/he will take over as Chairperson of the Board meeting as soon as the current agenda item is concluded.
- 59.9 If the votes of the Board Members are divided equally for and against an issue, the chairperson of the meeting will have a second and deciding vote.
- 59.10 The Chairperson can resign his/her office in writing to the Secretary and must resign if he/she leaves the Board or is prevented from standing for, or being elected to the Board under Rule 43. The Board will then elect another Board Member as Chairperson.
- 59.11 The Chairperson can be re-elected but must not hold office continuously for more than five years ("year" being the period between one annual general meeting and the next).

## **FINANCIAL GUARANTEES FOR OFFICERS**

- 60.1 The Board shall take out fidelity guarantee insurance to cover all Office Bearers and employees who receive or are responsible for the Association's money, or, these office bearers and employees must be covered by a bond as set out in Schedule 1 of the Co-operative and Community Benefit Societies Act 2014, or a guarantee under which they promise to account for and repay money due to the Association accurately.
- 60.2 The Board shall have the power to purchase and maintain indemnity insurance for, or for the benefit of, persons who are, or were at any time, Board Members, officers or employees of the Association. The terms of such insurance shall be framed in accordance with section 68A(2) of the Charities and Trustee Investment (Scotland) Act 2005. A Board Member may form part of a quorum and vote at a meeting where such insurance is under consideration notwithstanding the terms of Rules 38.1 and 38.2.
- 61 Board Members and employees will not be responsible for the Association's loss while they are carrying out their duties unless there has been gross negligence or dishonesty. If a Board Member or employee is dishonest, the Association will try to recover any loss that it has suffered and may alert the police or other relevant authority.

## **THE BOARD'S MINUTES, SEAL, REGISTERS AND BOOKS**

### **Minutes**

- 62 Minutes of every general meeting, Board Meeting and sub-committee meeting must be kept. Those minutes must be presented at the next appropriate meeting and if accepted as a true record, signed by the chairperson of the meeting at which they are presented. All minutes signed by the chairperson of the meeting shall be conclusive evidence that the minutes are a true record of the proceedings at the relevant meeting.

### **Execution of Documents and Seal**

- 63 The Association shall execute deeds and documents in accordance with the provisions of the Requirements of Writing (Scotland) Act 1995 and record the execution in the register. The use of a common seal is not required. The Association may have a seal which the Secretary must keep in a secure place unless the Board decides that someone else should look after it. The seal must only be used if the Board decides this. When the seal is used, the deed or document must be signed by the Secretary or a Member of the Board or another person duly authorised to subscribe the deed or document on the Association's behalf and recorded in the register.

### **Registers**

- 64 The Association must keep at its registered office a Register containing:
- 64.1 the names and addresses of the Members and where provided for the purposes of electronic communication, fax numbers and e-mail addresses;
  - 64.2 a statement of the share held by each Member and the amount each Member paid for it;



- 64.3 the date each person was entered in the Register as a Member and the date at which any person ceased to be a Member of the Association;
  - 64.4 a statement of other property in the Association, whether in loans or loan stock held by each Member; and
  - 64.5 the names and addresses of the Office Bearers of the Association, their positions and the dates they took and left office.
- 65.1 The Association must also keep at its registered office:
- 65.1.1 a second copy of the Register showing the same details as above but not the statements of shares and property. This second register must be used to confirm the information recorded in the main Register.
  - 65.1.2 a register of loans and to whom they are made.
  - 65.1.3 a register showing details of all loans and charges on the Association's land.
- 65.2 The inclusion or omission of the name of any person from the original Register of Members shall, in the absence of evidence to the contrary, be conclusive that the person is or is not a Member of the Association.

## **Registered Name**

- 66 The registered name of the Association must be clearly shown on the outside of every office or place where the Association's business is carried out. The name must also be engraved clearly on the Association's seal and printed on all its business letters, notices, adverts, official publications, website and legal and financial documents.

## **Documentation**

- 67 The Association's books of account, registers, securities and other documents must be kept at the registered office or any other place the Board decides is secure.
- 68 At the last Board Meeting before the annual general meeting, the Secretary must confirm in writing to the Board that Rules 62 to 67 have been followed or, if they have not been followed, the reasons for this. The Secretary's confirmation or report must be recorded in the minutes of the Board Meeting.

## **ACCOUNTS**

- 69 The Association must keep proper books of accounts to cover its income, expenditure transactions and its assets, liabilities and reserves in line with Part 7 of the Co-operative and Community Benefit Societies Act 2014. It must also set up and maintain a suitable system for controlling its books of accounts, its cash and its receipts and invoices.

- 70 The Board must send the Association's accounts and balance sheet to the Association's auditor. The auditor must then report to the Association on the accounts it has examined. In doing this, the auditor must follow the conditions set out in Part 7 of the Co-operative and Community Benefit Societies Act 2014 and Part 6 of the Housing (Scotland) Act 2010.
- 71 The Association must provide The Scottish Housing Regulator and the Financial Conduct Authority with a copy of its accounts and the auditor's report within six months of the end of the period to which they relate.

## **THE AUDITOR**

- 72.1 Each year the Association must appoint, at a general meeting of the Association, a qualified auditor to audit the Association's accounts and balance sheet. In this Rule "qualified auditor" means someone who is a qualified auditor under Section 91 of the Co-operative and Community Benefit Societies Act 2014.
- 72.2 None of the following can act as auditor to the Association:-
- 72.2.1 a Board Member or employee of the Association;
  - 72.2.2 a person who is a partner of, or an employee or employer of a Board Member or employee of the Association;
  - 72.2.3 an organisation which is a Member of the Association.
- 73 The Association must appoint an auditor within three months of being registered by the Financial Conduct Authority. The Board will appoint the auditor unless there is a meeting of the Association within that time. The Board may appoint an auditor to fill a casual vacancy occurring between general meetings of the Association. The Board shall take such steps as it considers necessary to ensure the continuing independence of the Association's auditor including the periodic review of the need for audit rotation. The Association must send a copy of its accounts and the auditor's report to The Scottish Housing Regulator within six months of the end of the period to which they relate.
- 74.1 An auditor appointed to act for the Association one year will be re-appointed for the following year unless:-
- 74.1.1 a decision has been made at a general meeting to appoint someone else or specifically not to appoint them again; or
  - 74.1.2 they have given the Association notice in writing (which shall include notice by email) that they do not want to be re-appointed; or
  - 74.1.3 they are not a qualified Auditor or are excluded under Rule 72.2; or
  - 74.1.4 they are no longer capable of acting as Auditor to the Association; or
  - 74.1.5 notice to appoint another Auditor has been given.
- 74.2 To prevent an auditor being re-appointed or to appoint another person as auditor, not less than 28 days' notice must be given to the Association that the matter requires to be discussed at the next meeting of the Association.

- 74.3 The Association shall give notice to the auditor who is to be asked to step down that the matter will be discussed at the next meeting of the Association. If possible the Association will also give proper notice of this matter to the Members but if this is not possible, the Association can give notice by advertising in the local newspaper at least 14 days before the meeting.
- 74.4 The retiring Auditor may make representations to the Association or give notice that he/she intends to make representations at the meeting and the Association must tell the Members of any representations made by the Auditor under Section 95 of the Co-operative and Community Benefit Societies Act 2014.

## **ANNUAL RETURNS AND BALANCE SHEET**

- 75.1 Every year, within the time allowed by the law, the Secretary shall send to the Financial Conduct Authority the annual return in the form required by the Financial Conduct Authority.
- 75.2 The Secretary must also send:
- 75.2.1 a copy of the auditor's report on the Association's accounts for the period covered by the return; and
  - 75.2.2 a copy of each balance sheet made during that period and of the auditor's report on that balance sheet.
- 76 If requested, the Association must provide a free copy of the latest annual return and auditor's reports to Members or people with a financial interest in the Association.
- 77 The Association must always keep a copy of the latest balance sheet and auditor's report publicly displayed at its registered office.
- 78 The Association must comply with the requests of The Scottish Housing Regulator for annual returns.

## **SURPLUSES AND DONATIONS**

- 79.1 The Association must not distribute its surpluses to Members.
- 79.2 The Board shall set and review periodically its policy for the donation of funds to charities, which policy shall be subject to the approval of the Parent Association. Such donations must further the objects of the Association and the Board shall report to the Members on such donations.
- 79.3 In furtherance of its objects the Association shall have power to pay the whole or part of the net profits of the Association to a housing association or other body having rules or objects the same or similar to the Association (and inter alia to enter into a deed or deeds of covenant for such purpose) provided that either:-
- 79.3.1 the Association has effective control over such housing association or other body; or
  - 79.3.2 any sum so paid is held or applied by such housing association(s) or such other body or trust as prescribed by the Association; or

79.3.3 the payment is to the Parent Association.

79.4 Any remaining profits must be carried forward to the next financial year.

79.5 Any payments made under Rule 79.2 or 79.3 shall be utilised in the furtherance of the objectives of a housing association, the Parent Association or other body within Scotland only.

## **INVESTMENTS**

80 The Association's funds may be invested by the Board in such manner as is permitted by its Investment Policy subject always to the requirement that the Association will comply with the Regulatory Framework and Regulatory Guidance issued by The Scottish Housing Regulator from time to time.

## **INSPECTING THE REGISTER**

81 Any Member or person having a financial interest in the Association can inspect their own account. They may also inspect the second copy of the Register of Members which shall be made available to them for inspection within 7 days of the request of a Member or eligible person. The books must be available for inspection at the place they are kept at all reasonable hours. The Board may set conditions for inspecting the books.

## **DISPUTES**

82 Every dispute between the Association or the Board and:-

82.1 a Member; or

82.2 a person aggrieved who has ceased to be a Member within the previous six months; or

82.3 a person claiming under the Rules of the Association

shall be dealt with in accordance with these Rules and any procedures determined by the Board from time to time but without prejudice to all rights which any person may have to raise an action on the matter in any court with competent jurisdiction, including without prejudice, the Sheriff Court in the Sheriffdom in which the Association's registered office is located.

## **STATUTORY APPLICATIONS TO THE FINANCIAL CONDUCT AUTHORITY**

83 Any 10 Members of the Association who have been Members for at least the 12 previous months can apply to the Financial Conduct Authority to appoint an accountant or actuary to inspect and report on the Association's books on payment to the Financial Conduct Authority of the costs required.

84.1 One-tenth of Members can apply to the Financial Conduct Authority to:

- 84.1.1 appoint an inspector to examine and report on the affairs of the Association; or
  - 84.1.2 call a special general meeting of the Association.
- 84.2 If there are more than 1000 Members in the Association, only 100 Members need to apply to the Financial Conduct Authority in terms of Rule 84.1.

## **COPIES OF RULES**

- 85 The Secretary shall, on demand, provide a copy of the Rules of the Association free of charge to any Member who has not previously been given a copy and, upon payment of such fee as the Association may require, not exceeding the amount specified by law, to any other person.

## **CLOSING DOWN THE ASSOCIATION**

- 86.1 The Association may be closed down in either of the following ways:
- 86.1.1 by an order or resolution to wind up the Association as set out in the Insolvency Act 1986; or
  - 86.1.2 In accordance with Section 119 of the Co-operative and Community Benefit Societies Act 2014, by an instrument of dissolution to which not less than three-fourths of the Members have given their consent testified by their signatures to the instrument.
- 86.2 The prior approval of the Office of the Scottish Charity Regulator is required before the Association can be dissolved. The Association must submit its application for approval to the Office of the Scottish Charity Regulator not less than 42 days before the date on which the Association intends to dissolve.
- 87 If any property remains after the Association has paid its debts, this property will be transferred to such other charitable registered social landlord as determined by The Scottish Housing Regulator.

## **CHANGING THE RULES**

- 88.1 Any changes to these Rules shall require prior written consent signed by the Parent Association and, subject to such consent, these Rules can be changed or deleted and new Rules can be introduced if three-quarters of the votes at a special general meeting are in favour of the change(s).
- 88.2 Where an amendment of these Rules affects the purposes of the Association the prior approval of the Office of the Scottish Charity Regulator is required. The Association must submit its application for approval to the Office of the Scottish Charity Regulator not less than 42 days before the date on which the Association intends to amend its purposes. Any other amendment to these Rules requires to be notified to them within three months of the change having been made.

- 88.3 The Association must apply to the Financial Conduct Authority to register every rule change as set out in treasury regulations. Each Member must receive a copy of the change. No change is valid until it has been registered by the Financial Conduct Authority. The Association must notify The Scottish Housing Regulator within 28 days of the change being made.
- 88.4 The Association can (subject to prior written consent signed by the Parent Association) change its name if:
- 88.4.1 three-quarters of the votes at a special general meeting are in favour of the change;
  - 88.4.2 the Financial Conduct Authority approves the change in writing; and
  - 88.4.3 the Office of the Scottish Charity Regulator has given its prior approval. The Association must submit its application for approval to the Office of the Scottish Charity Regulator not less than 42 days before the date on which the Association intends to change its name.
- 88.5 If the Association changes its name in terms of Rule 88.4 it must notify The Scottish Housing Regulator in writing within 28 days of the change being made.
- 88.6 The Association can (subject to prior written consent signed by the Parent Association) change its registered or principal office but must:
- 88.6.1 notify The Scottish Housing Regulator of the change in registered office within 28 days of the change having been made; and the Financial Conduct Authority as soon as possible after the change in registered office has been made.
  - 88.6.2 notify the Office of the Scottish Charity Regulator within three months of the change having been made.

## **INTERPRETING THESE RULES**

- 89.1 In these Rules, the following words and phrases have the meanings given below:
- 89.1.1 “A person claiming through a Member”:- includes an heir executor assignee or nominee. This expression would be used in connection with disputes about the transfer of a Member’s share after his/her death. It would also cover executors of a former Member.
  - 89.1.2 “Association” means the registered social landlord referred to in Rule 1 whose Rules these are.
  - 89.1.3 “Board” means the Board of Management referred to in Rule 37.1.
  - 89.1.4 “Board Meeting” means a meeting of the Board.
  - 89.1.5 “Board Member” means a member of the Board.

- 89.1.6 “Chairperson” means the Chairperson (or such other term that is used by the Association to denote the holder of this office) of the Association referred to in Rule 59.1.
- 89.1.7 “Close Relative” means someone who is the spouse or civil partner of a person, or (being either of the same or different sex) who cohabits with that person, or is that person’s parent, grandparent, child, stepchild, grandchild, brother or sister.
- 89.1.8 “Financial Conduct Authority” means the registering authority for societies registered under the Co-operative and Community Benefit Societies Act 2014 and the Credit Unions Act 1979 set up in terms of the Financial Services Act 2012 or its successor body.
- 89.1.9 “Group” means the Association and any organisation which is its parent, its subsidiary or is a subsidiary of its parent.
- 89.1.10 “Meeting” means a general meeting of the Association, whether special, general or annual referred to in Rules 20-23.
- 89.1.11 “Member” means a member of the Association whose name is entered in the Register of Members.
- 89.1.11A “notice in writing” or (as the case may be) “written notice” shall mean:  
 (a) in hard copy form; or  
 (b) (where the individual to whom notice is given has notified the Association of an address to be used for the purpose of electronic communication) in electronic form.
- 89.1.12 “Office Bearer” means the Chairperson, Secretary, and such other Officer Bearer appointed under Rule 59.1.
- 89.1.13 “Office of the Scottish Charity Regulator” means the body set up under the Charities and Trustee Investment (Scotland) Act 2005 to regulate charities in Scotland.
- 89.1.14 “Ordinary Member” means a Member other than the Parent Association.
- 89.1.15 “organisation” means a legal body which exists separately and distinctly from its members and includes companies, building societies, registered societies, local authorities and so on and also for the purposes of these Rules includes unincorporated organisations such as social clubs, branches of political parties or trade unions and other voluntary bodies.
- 89.1.16 “Parent Association” means Sanctuary Housing Association registered under the Co-operative and Community Benefit Societies Act 2014 (register number 19059 R).
- 89.1.17 “property” includes everything which can be passed on by inheritance (including loans, certificates, books and papers).
- 89.1.18 “Register of Members” means the register of members referred to in Rule 64.
- 89.1.19 “Rules” means the registered Rules of the Association.

- 89.1.20 “Taxes Acts” means Part 11 of the Corporation Tax Act 2010 as read with Schedule 6 of the Finance Act 2010 and any statute or statutory provision which amends, extends, consolidates or replaces the same.
- 89.1.21 “The Scottish Housing Regulator” means The Scottish Housing Regulator as established pursuant to Section 1 of the Housing (Scotland) Act 2010.
- 89.1.22 “Secretary” means the Office Bearer appointed by the Board to be the Secretary of the Association or anyone authorised by the Board to stand in for the Secretary.
- 89.1.23 Words in the singular also include the plural. Words in the plural also include the singular.
- 89.1.24 A reference to law or statute is a reference to that law or statute as re-enacted, amended or replaced.



# APPENDIX 1

## PROXY FORM

You must use the wording shown below to appoint a representative to vote at a meeting for you. Please see Rule 27.2 for more details.

I (insert name) am a member of (insert name) \_\_\_\_\_ Limited.

My address is: (please insert).

I hereby appoint (insert name) who lives at (insert address) to be my representative and vote for me at the Association's meeting on (insert date) and any other dates that meeting continues on.

Your name \_\_\_\_\_  
Your signature \_\_\_\_\_  
Date \_\_\_\_\_

## APPENDIX 2

### CANCELLATION OF PROXY

You must use the wording shown below to reverse your application to send a representative to vote at a meeting for you. Please see Rule 27.5 for more details.

I (insert name) am a member of (insert name) \_\_\_\_\_ Limited.

My address is: (please insert).

I hereby revoke the appointment of (insert name) as my representative to vote for me at the Association's meeting on (insert date) made by me on the (insert date).

I no longer authorise the person referred to above to represent me at the meeting referred to above.

Your name \_\_\_\_\_

Your signature \_\_\_\_\_