

MODEL RULES REVIEW 2019

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What are your rules?

- Your constitution
- The key “contract” with the outside world
- The key “directives” for the internal governance of the association
- The basis for registration by Financial Conduct Authority

SHR is interested in your rules...

- Constitutional requirements
- Guidance on Regulatory Standard 1
 - Decision making complies with RSLs constitution
- Annual Assurance Statement
- No SHR consent for rule changes required...BUT...

SHR rule changes

- ...Notifiable Event guidance for Constitutional Changes
 - Notify within 28 days
 - Signed copy of new rules
 - Copy of report and minute of GB meeting agreeing to adopt
 - Confirmation complies with SFHA model

SFHA Model

- Since the beginning of time (almost!) SFHA have published model rules seeking to meet all the requirements of the regulators and registration authorities
- Current model was first published in 2013 (with revisals in 2015)
- New model under consultation now

The Changes

- Updated Regulatory Framework 2019
- Changes to Constitutional Requirements
- Housing (Amendment) (Scotland) Act 2018
 - Partial roll-back of SHR statutory powers
- Input from sector based on real life experience
- Correcting typos!

Proxies

- The chairperson not entitled to act as a representative for any other Member.

Leave of Absence from the Committee

- A committee member under investigation for potential breach of the code of conduct will be required to take leave of absence and will not receive committee papers while on leave.

Committee Ineligibility due to bankruptcy

- Wording of provision updated

Committee responsible for ensuring can demonstrate governance and financial arrangements

- **Requirement of SHR in terms of constitutional requirements**

Office Bearers

- Clarification that casual vacancies can be office bearers
- Clarification that all office bearers appointed on an annual basis.

Registers

- Requirement to have a public register of names of members now removed.

Roll-Back of SHR Consents

- No SHR consent required to change the rules...but notify within 28 days (OSCR consent still required for change of objects)
- Notify SHR within 28 days of change of name (OSCR and FCA consent still required)
- Notify SHR within 28 days of change of registered office.

Model Versions

- **Principal Model is charitable**
- **Community Based – no material change**
- **Fully Mutual – no material change**
- **Non-charitable – to be removed**
- **Model Co-op – to be removed**
- **Subsidiary – to be removed**

Optional Amendments (1)

- **Executive Committee Members**
 - new provision that ECMs must not receive additional payment as committee member

Optional Amendments (2)

- **Payment to non-executive Committee Members**
 - Association must demonstrate value for money
 - Include in policy any payments to subsidiary board members
 - Comply with charity regulations if paid members are charity trustees

Optional Amendments (3)

- Prohibit related governing body members – no change

Optional Amendments (4) - New

- Provision allowing committee comprising both committee members elected at AGM in usual way AND appointed direct by committee
- Specified term of office for appointed members
- “Elected” committee members must be in majority at all times
- “Elected” committee members must be in majority at each meeting for quorum

Optional Amendments (5) - New

- **Management Committee can reject nomination for committee where:-**
 - **Contrary to rules/policies**
 - **Conflict of interest**
 - **Clear evidence not in the best interests of the Association**
- **Notifiable event and will be subject to SHR scrutiny**
- **Expected to be “exceptional” action**

Permitted variations – SHR consent guidance

- Removal of postal voting?
- Use of term board of management?
- Removal of Area Committee provision?
- Removal of reference to seal?

What is not changing?

Membership

- **Require to publish a membership policy**
- **Issue of £1 shares**
- **Process is important**
 - **completed and signed application**
 - **accompanied by £1**
- **Grounds for refusal of membership application.**

Representing an Organisation

- Is the organisation a member on its own account?
- Has someone been properly authorised to represent the organisation?
- A person cannot act as a member in their own right and as a representative

General Meetings (1)

- AGM within 6 months of end of financial year
- Check your notice periods – postal voting/no postal voting
- Proxies count towards quorum

General Meetings (2)

- AGM business includes chairs report, presentation of accounts, committee election, appointment of auditor...other business included in the notice
- AOCB?

Management Committee (1)

- Minimum and maximum number of committee members is important
- Status of councillors/other appointees
- Register of committee members' names on website
- Elected members/casual vacancies must be shareholders and 18 or over

Management Committee (2)

- Committee members do not take office until signed Code of Conduct
- Employees, or their close relatives, cannot serve on the committee

9 Year Rule

- Annual Performance Reviews
- Committee agreement required to stand for re-election where continuous service of 9 or more years
- Committee to decide on view of continued effectiveness
- Need to schedule committee decision in time to allow member to stand again

Committee Elections

- Postal voting?
- Retirals – co-optees and casual vacancies first...then one third (nearest whole number)
- If retiring at AGM no need for nomination
- Nomination in specified form...include signed statement from member that willing and eligible to be elected

Co-optees & Casual Vacancies (1)

- Casual vacancies must be filled by a member
- Co-optees do not need to be members
- One third rule for co-optees
- Co-optees cannot be office bearers, vote on rules, membership, appointment of office bearers

Co-optees & Casual Vacancies (2)

- Co-optees do not count towards quorum
- Both must be appointed by minuted decision of committee