

RBH Mutual Rules Review

RBH's Mutual Rules came into effect in June 2013, as RBH became a mutual housing organisation. Since then, the rules have been referred to on a daily basis and helped greatly with the effective running of the Society. Over the years, however it has become apparent that a number of rules in practice are no longer fit for purpose. This breaks down into three distinct reasons:

Transitional – following the transfer from Rochdale Council, a number of transitional arrangements were put in place at the request of the Council. These arrangements were to last for a period of five years following transfer. Therefore, as at March 2017 these provisions were no longer required and therefore it is proposed to remove them from the rules.

Legal and Statutory – at transfer in March 2012, RBH was registered as an Industrial and Provident Society. Following the enactment of the Co-operative and Community Benefit Societies Act in 2014, RBH is now registered as a Community Benefit Society. Therefore, some changes are proposed to the rules to ensure that they are compliant with legislation. In addition, the rules have been reviewed by external solicitors to ensure that they are compliant with other relevant law and legislation; such as the Housing and Regeneration Act 2008.

Procedural – whilst they have been in use, it has become clear that a number of the rules do not work effectively in practice. This is primarily in relation to the procedures to be followed for the election of Members to the Representative Body.

The Schedule below details the proposed amendments to the Rules, and the reasons for change. This document should be read in conjunction with the proposed Rules.

<u>Rule</u>	<u>Existing</u>	<u>Proposed Change</u>	<u>Reason for change</u>
*Covering Page	* Registered under the Cooperative and Community Benefit Societies Act 2014	* A Registered Society under the Cooperative and Community Benefit Societies Act 2014	Statutory
1.3.2 (b) Purpose and Objects	any other charitable object that can be carried out from time to time by an Industrial and Provident Society registered as a non-profit private registered provider of social housing with the Housing Regulator.	Remove <i>“an Industrial and Provident Society registered as a non-profit private registered provider of social housing with the Housing Regulator”</i> Replace with <i>“a registered society registered</i>	Legal and Statutory

* - not a rule

		<i>as a provider of Social Housing with the Regulator Housing Regulator”</i>	
1.4 Corporate Status	n/a – new rule	Insert <i>The Society is not a subsidiary of another organisation and shall not become a subsidiary of another organisation without first amending these rules to state the name of the new parent entity and without first having notified the Regulator to such a rule change.</i>	Legal and Statutory
1.5 Commitments	Was rule 1.4. Moved due to addition of rule 1.4	1.5	n/a
1.6 Governing Documents	Was rule 1.5. Moved due to addition of rule 1.4	1.6	n/a
2.3.2 (i)	To appoint the auditor	Remove <i>appoint</i> Replace with <i>recommend to the Members' Meeting [after consulting with the Board] the appointment of</i>	Legal and Statutory
5.1.1 (c)	three Tenant Management Organisation Representatives, being in each case a Tenant Member appointed by the relevant Tenant Management Organisation	Replace with <i>In relation to any Tenant Management Organisation, a Tenant Management Representative, being in each case a Tenant Member appointed by the relevant Tenant Management Organisation</i>	Procedural
5.1.1 (d)	two Council Representatives appointed by Rochdale Metropolitan Borough Council, plus a further two Council Representatives appointed by Rochdale Metropolitan Borough Council with effect from 26th March 2017, and continuing after that; and	Replace with <i>Four Council Representatives appointed by Rochdale Borough Council</i>	Transitional
5.4.2	n/a- new rule	Insert <i>For the avoidance of doubt, a Tenant Member or an Employee Member, who has served two consecutive three year terms of</i>	Procedural

		<i>office, or is ineligible for re-election under the provisions of clause 5.4.1, becomes eligible for election again at the next Annual Members Meeting one year after their previous term of office ended.</i>	
5.4.3	Was rule 5.4.2. Moved due to the addition of rule 5.4.2.	5.4.3	n/a
5.7.1	Save for a Representative appointed by Rochdale Metropolitan Borough Council, a Representative may be removed from the Representative Body by a resolution approved by not less than two-thirds of the remaining Representatives present and voting at a meeting on the grounds that in the opinion of the Representative Body or the Board of Directors:	Remove Metropolitan	Legal and Statutory
5.7.2	Any Representative or the Board of Directors may complain in writing to the Secretary that a Representative has committed a serious breach of the Code of Conduct, or acted in a way detrimental to the interests of the Society. If the complaint relates to a Representative appointed by Rochdale Metropolitan Borough Council the Secretary and the Chair of the Representative Body may forward the complaint to the Council and make such representations as appropriate to the Council. The Council shall take into account the complaint and representations in considering whether to remove the Representative by terminating their appointment pursuant to rule 5.6.1(c).	Remove Metropolitan	Legal and Statutory
5.7.7	Unless the Representative is appointed by Rochdale Metropolitan Borough Council, a	Remove Metropolitan	Legal and Statutory

	Representative may be removed from office if a majority or two-thirds of the other Representatives present at the meeting resolve that the Representative complained of has committed a serious breach of the Code of Conduct, or acted in a way detrimental to the interests of the Society, and that it is in the best interests of the Society that they should be removed from office.		
5.7.10	Unless the Representative is appointed by Rochdale Metropolitan Borough Council, a Representative removed from office may appeal against that decision to the Non-executive Directors, and if successful shall be re-instated.	Remove Metropolitan	Legal and Statutory
5.7.11	Save for a Representative appointed by Rochdale Metropolitan Borough Council, no person who has been removed from office as a Representative and not re-instated on appeal may be elected or appointed as a Representative unless a resolution to permit this has been approved by the votes of two-thirds of the Representatives present and voting at a meeting.	Remove Metropolitan	Legal and Statutory
5.8.2	The seat will be offered to the next highest polling candidate for that seat at the most recent election (if it was contested), who is willing to take office, until the next annual elections at which an election will be held to fill the seat for the remainder of the term of office.	Insert <i>and who will, as a result, be entitled to fill the seat for the remainder of the term of office.</i>	Procedural
5.8.3	If there is no such willing candidate, an election will be held to fill the seat for the remainder of the term of office, unless the vacancy arose less than six months before the results of the next annual elections were due to be announced.	Remove <i>to fill the seat for the remainder of the term of office, unless the vacancy arose less than six months before the results of the next annual elections were due to be announced</i> Replace with <i>before the next Annual Members</i>	Procedural

		<i>Meetings to fill the seat for the remainder of the term of office.</i>	
was 5.8.4	If the vacancy arose less than six months before the results of the next annual elections were due to be announced, the seat will remain vacant until the next annual elections.	Remove entire clause	Procedural
was 6.1.2 (b)	two Non-executive Directors nominated by Rochdale Metropolitan Borough Council and appointed by the Representative Body;	Remove	Transitional
6.1.2 (b)	was 6.1.2 (c) - Moved due to removal of 6.1.2 (b)	n/a	n/a
was 6.1.3	On 26th March 2017 the two Non-executive Directors nominated by Rochdale Metropolitan Borough Council will resign and Rochdale Metropolitan Borough Council will have no further right to nominate Non-executive Directors.	Remove	Transitional
6.1.3	Was 6.1.4. Moved due to removal of 6.1.3	n/a	n/a
6.1.4	Was 6.1.5. Moved due to removal of 6.1.3	n/a	n/a
6.1.5	Was 6.1.6. Moved due to removal of 6.1.3	n/a	n/a
6.2.5	Save for Non-executive Directors nominated by Rochdale Metropolitan Borough Council, Non-executive Directors are to be appointed by the Representative Body using the following procedure:	Remove Save for Non-executive Directors nominated by Rochdale Metropolitan Borough Council	Transitional
6.3.2	Save for the Directors nominated by Rochdale Metropolitan Borough Council, the Representative Body may remove the Chair of the Board of Directors or other Non-executive Directors in accordance with these rules.	Remove Save for the Directors nominated by Rochdale Metropolitan Borough Council	Transitional
6.3.3	The removal of the Chair of the Board of Directors or another Non-executive Director (who is not a Director nominated by Rochdale Metropolitan	Remove (who is not a Director nominated by Rochdale Metropolitan Borough Council)	Transitional

	Borough Council) shall be in accordance with the following procedures:		
6.3.6	In making any decision to remove a Non-executive Director (who is not a Director nominated by Rochdale Metropolitan Borough Council), the Representative Body shall;	Remove (who is not a Director nominated by Rochdale Metropolitan Borough Council)	Transitional
6.3.7	The Representative Body may only remove a Non-executive Director (who is not a Director nominated by Rochdale Metropolitan Borough Council) with the approval of a two-thirds majority of those Representatives present and voting at a meeting of the Representative Body, in accordance with these rules.	Remove (who is not a Director nominated by Rochdale Metropolitan Borough Council)	Transitional
6.4.2	Save as provided in rules 11.4.4 and 11.4.5, Non-executive Directors are appointed for a fixed term of office expiring at the conclusion of the third annual general meeting after their appointment becomes effective.	Remove Save as provided in rules 11.4.4 and 11.4.5	Transitional
7.1	The Society shall keep proper books of account detailing its transactions, its assets and its liabilities, as required by the law.	Remove entire clause. Replace with <i>The Society, if required by law to do so, shall appoint an auditor to act in each financial year. They must be qualified as provided by Section 91 of the Act. (Was Clause 7.3)</i>	Legal and Statutory
7.1.2	The Society shall establish and maintain satisfactory systems of control of its books of account, its cash and all its receipts and payments.	Remove entire clause.	Legal and Statutory
7.2	In respect of each year of account, the Board of Directors shall cause Accounts to be prepared comprising: (a) a revenue account or revenue accounts which singly or together deal with the	Remove entire clause. Replace with <i>The following cannot act as auditor: An officer or employee of the Society;</i>	Legal and Statutory

	affairs of the Society as a whole for that year and which give a true and fair view of the income and expenditure of the Society for that year; and (b) a balance sheet giving a true and fair view as at that date of the state of affairs of the Society.	<i>A person employed by or employer of, or the partner of an Officer or employee of the Society.</i>	
7.3	The Society if required by law to do so shall appoint an Auditor to act in each financial year. They must be qualified as provided by the law.	Clause moved to Rule 7.1. Replace with <i>The Society's auditor may be re-appointed by the Representative Body as set out in cl.2.3.2 (i) or appointed by a resolution of Members.</i>	Legal and Statutory
7.4	The Annual Report and Accounts comprises: (a) the Accounts; (b) the Auditor's report (if one is required by law) on the Accounts; (c) the Board of Directors report on the affairs of the Society; and (d) details of remuneration and expenses paid in accordance with these rules to Directors and Representatives. The Board of Directors shall present the Annual Report and Accounts to the Representative Body, and to the Annual Members Meeting.	Remove entire clause. Replace with <i>7.4 Where an auditor is appointed to audit the accounts for the preceding year, they shall be re-appointed to audit the current year's accounts as well unless:</i> <i>7.4.1 an annual or special general meeting has appointed someone else to act or has resolved that the auditor cannot act; or</i> <i>7.4.2 the auditor does not want to act and has told the Society so in writing; or</i> <i>7.4.3 the person is not qualified or falls within Clause 7.2 (above); or</i> <i>7.4.4 the auditor has become incapable of acting; or</i> <i>7.4.5 notice to appoint another auditor has been given.</i>	Legal and Statutory
7.5	Wherever the Society is required by law to file information or make returns, the Secretary shall be responsible for ensuring that it does so. This includes: (a) the requirement to file an annual return with the	Remove entire clause. Replace with <i>7.5.1 No less than twenty-eight days' notice shall be given for a resolution to appoint another person as auditor, or to forbid a retiring auditor being re-appointed.</i>	Legal and Statutory

	Registrar, (b) the requirement to file an annual return with the Housing Regulator.	7.5.2 the Society shall send a copy of the resolution to the retiring auditor and also give notice to the Members, the Representative Body, the Directors and Secretary at the same time and in the same manner, if possible; 7.5.3 if not, the Society shall give notice by advertising in a local newspaper at least 14 days before the proposed meeting. The retiring auditor can make representations to the Society which must be notified to Members under Section 95 of the Act.	
7.6	The Society shall give to all Members on request copies of its last Annual Report and Accounts, free of charge.	Remove entire clause. Replace with 7.6.1 The findings of the auditor shall be reported to the Society, in accordance with Section 87 of the Act. 7.6.2 The Board of Directors shall produce the Comprehensive Statement of Income and Statement of Financial Position audited by the auditor, if required, and the auditor's report, if required, to the Representative Body and to the Annual Members Meeting. The Board of Directors shall also produce its report on the affairs of the Society which shall be signed by the person chairing the meeting which adopts the report.	Legal and Statutory
7.7	The Society must display a copy of its latest Balance Sheet and Auditor's report (if one is required by law) at its registered office.	Remove entire clause. Replace with 7.7.1 The end of the accounting year must be a date allowed by the Registrar. 7.7.2 The society shall keep proper books of	Legal and Statutory

		<p><i>account detailing its transactions, its assets and its liabilities, in accordance with sections 75 and 76 of the Act.</i></p> <p><i>7.7.3 The Society shall establish and maintain satisfactory systems of control of its books of accounts, its cash and all its receipts and payments.</i></p>	
7.8	<p>The Representative Body shall present to each Annual Members Meeting:</p> <p>(a) a report of its activities for the last year;</p> <p>(b) a report on the Membership Strategy which shall include the following:</p> <p>i the steps which the Society has taken to secure that taken as a whole the actual membership of the Society is representative of those eligible for membership; and</p> <p>ii progress in implementing the Membership Strategy; and</p> <p>iii any changes to the Membership Strategy.</p>	<p>Move entire clause to 7.10.</p>	<p>Legal and Statutory</p>
7.8	<p>n/a – new rule</p>	<p>Insert <i>Every year, within the time period specified by legislation, the Secretary shall send the Society's annual return to the Registrar. The return shall be prepared in accordance with the period specified in the Act, or such other date allowed by the Registrar and shall be lodged within the period required by law. The annual return shall be accompanied by the auditor's report, if required, for the period of the return and accounts and CSFP to which it refers.</i></p>	<p>Legal and Statutory</p>

7.9	n/a- new rule	<p>Insert 7.9.1 <i>The Society shall give to all Members on request copies of its last Annual Report and Accounts, free of charge.</i></p> <p>7.9.2 <i>The Society must display a copy of its latest CSFP and Auditor's report (if one is required by law) at its registered office.</i></p>	Legal and Statutory
8.1.4	Rules 1.3, 1.4.2(a), 5.12, 6.12, 8.1, 8.3, 9.1.1, 10.1 can only be amended or rescinded by way of a resolution approved by three fourths of the votes cast at a Members Meeting. Any other rule can be rescinded or amended by two-thirds of the votes cast at a Members Meeting.	<p>Remove 1.4.2 (a)</p> <p>Replace with 1.5.2 (a)</p>	Legal and Statutory
9.1.5	n/a – new rule	<p>Insert <i>Under the provisions of these rules, no Member is entitled to property of the Society in that capacity, and in the event of death, as person shall cease to be a Member and their share shall be cancelled and the amount paid up on that share shall become the property of the Society. The following make provisions for representatives and nominees taking into account the provisions of these rules:</i></p> <p><i>(a) the Act provides that a Member may nominate a person or persons to whom property in the Society at the time of his/her death shall be transferred. As any such share will have been cancelled, no person so nominated under the Act shall be entitled to any property of that Member on their death;</i></p> <p><i>(b) no property shall be capable of transfer to any personal representative of a deceased Member;</i></p>	Legal and Statutory

		<i>(c) upon a claim being made by a trustee in bankruptcy of a bankrupt Member to the share held by that Member, the Society shall transfer such share to which the trustee in bankruptcy is entitled and as the trustee in bankruptcy may direct them.</i>	
10.2.4	n/a - new rule	Insert <i>The funds or monies borrowed by the Society may be invested by the Board of Directors in such manner as it determines.</i>	Legal and Statutory
10.5.1 (g)	n/a - new rule	Insert <i>a register of the names and addresses of the Officers, their offices and the dates on which they assumed those offices as well as a duplicate.</i>	Legal and Statutory
10.8.1	The Secretary shall keep the seal (if any). It shall not be used except under the authority of the Board of Directors. It must be affixed by one Director signing and the Secretary countersigning or in such other way as the Board of Directors resolves. The Board of Directors may in the alternative authorise the execution of deeds in any other way permitted.	Replace with <i>The Secretary shall keep the seal (if any). It shall not be used except under the authority of the Board of Directors. It must be affixed by one Director signing and a second Director or the Secretary countersigning or in such other way as the Board of Directors resolves. The Board of Directors may in the alternative authorise the execution of deeds in any other way permitted by law.</i>	Legal and Statutory
11.1.1	The rules set out in 1 – 10 above shall apply subject to these Transition Provisions.	Remove clause. Replace with <i>The Chief Executive and the most senior executive responsible for finance holding office immediately before these rules took effect are the first Executive Directors and shall be treated as if they had been appointed under these rules on their terms and conditions</i>	Transitional

		<i>applying at the time.</i>	
11.2	First Members	Remove clause.	Transitional
11.3	First Representatives	Remove clause.	Transitional
11.4	First Board of Directors	Remove clause.	Transitional
11.5	First Secretary	Remove clause.	Transitional
Appendix *			
		*Insert <i>Officer Shall include the Chair and Secretary of the Society and any Director for the time being.</i>	Procedural