

# **ROCHDALE BOROUGHWIDE HOUSING**

## **Constitutional Commission**

### **Framework Document for the constitution of RBH Mutual**

#### **This document**

This document comprises the output of the Constitutional Commission, which met on 1<sup>st</sup>, 4<sup>th</sup>, 10<sup>th</sup>, 16<sup>th</sup> and 25<sup>th</sup> November, and 21<sup>st</sup> December 2011. It sets out their consensus view of the provisions to be included in the constitution of RBH when it is converted into a mutual in July 2013.

This document is now being published for wider discussion and for information.

## Headings for Rules for RBH Mutual

<b>1</b>	<b>Introducing the Society and the rules</b>	
1.1	Name	Rochdale Boroughwide Housing Limited
1.2	Registration	As a community benefit society at the FSA
1.3	Why the Society exists (purpose)	To carry on business for the benefit of the community as a charity
1.4	Commitments	<ul style="list-style-type: none"> <li>• To carry on business for the benefit of the community</li> <li>• To treat people fairly and with respect</li> <li>• To show proper concern for the natural environment</li> </ul>
1.5	Governing documents	These rules, any codes of conduct, standing orders or other procedures issued under the rules
<b>2</b>	<b>Governance</b>	
2.1	Overview	Members, Representative Body, and Board of Directors
2.2	Members	<p>The basic membership rights of voice, information and representation, as follows:</p> <ul style="list-style-type: none"> <li>• Elect their representatives onto and stand for election to the Representative Body</li> <li>• Entitled to annual report and accounts and other relevant information</li> <li>• Right to attend, speak and vote at membership meetings</li> </ul>

	<ul style="list-style-type: none"> <li>• Members electing representatives in constituencies; one member one vote. Voting in general meetings as one membership, except e.g. on a resolution to amend the constitution affecting the rights of tenants or employees, where a vote in favour by the constituency affected would also be needed</li> <li>• Associates have no rights to vote at meetings, or take part in the election of tenant representatives, but they would be able to attend and speak at meetings.</li> </ul>
<p>2.3 Representative Body and functions</p>	<p>Main role is to set the policy framework within which the Board of Directors implements policy. To be professionally supported by the organisation, independently of the chief executive and board. Needs appropriate funding to fulfil its role, including to access independent advice and training as it considers appropriate. Includes receiving annual report and accounts</p> <p>Appoints and removes non-executive directors, and fixes terms and conditions incl. remuneration</p> <p>Feeds into planning future services, standards, performance levels and strategy, and approves them</p> <p>Monitoring performance</p> <p>To be responsible for approving, updating and monitoring progress of Membership strategy</p>
<p>2.4 Board of Directors and functions</p>	<p>Standard board of directors powers, to exercise all the powers of the corporate entity subject to the constitution, including operating within the framework set by the representative body.</p> <p>The board will develop the policy framework and strategy with the RB (which the RB will approve) and will be accountable to it for RBH's performance.</p>
<p>2.5 Secretary</p>	<p>The role of the secretary includes being secretary to the society and the board, as well as secretary and professional support to the Representative</p>

		Body. Although the secretary may have other responsibilities, she/he must be sufficiently independent of the chief executive. The Representative Body is to have a role in recruitment, appointment and removal, including in designing the job description and approving the appointment.
<b>3</b>	<b>Members</b>	
3.1	Types of Members	2 types of members: tenant members and employee members Also associate membership, but not full members
3.2	Membership strategy	There will be a membership strategy. Its broad aim is to build active membership, and for it to be representative of those entitled to membership.
3.3	Criteria for membership	
3.3.1	Tenant Members	Tenants – registered tenants of RBH or any related body (to be defined), their spouses/partners and family members over 18 living in the property; “family members” means those people living in the property with the registered tenant as a family unit. In the event of any doubt, the Representative Body (which can delegate the matter to the Secretary) will make a final decision.
3.3.2	Employee Members	Employees – full and part-time employees of RBH and any related body <sup>1</sup> of RBH. This includes probationary employees, apprentices, trainees and graduate trainees. Individuals legally employed by another body not entitled to become employee members. Employees of TMOs may become associate members if their TMO agrees.
3.3.3	Other	<ul style="list-style-type: none"> <li>• minimum age of 18<sup>2</sup></li> </ul>

<sup>1</sup> Safeguard Security Solutions Limited is jointly owned (50/50).

<sup>2</sup> Mike to check whether there could be an age discrimination issue.

		<ul style="list-style-type: none"> <li>• Employees who are tenants can be in employee constituency only; the reasons for this will be carefully explained. A tenant who is also entitled be an associate may be a tenant member as well.</li> <li>• Opt in for both tenants and employees</li> <li>• There should be reference to the Young People’s Forum, and provision for this to feed into the Representative Body</li> <li>• Arrangements to be worked out to enable Leaseholders Forum to communicate with Representative Body</li> </ul>
3.3.4	Associate members	<p>Associate membership to be available to those tenants or employees under 18, leaseholders and long-term lodgers in tenanted properties, who have been notified to RBH for at least 12 months.</p> <p>Staff seconded to RBH by another organisation for a period of 6 months or more shall be entitled to become associate members.</p>
3.4	Constituencies	
3.4.1	Tenants	<p>Tenants will not be divided into geographical constituencies – one single tenant constituency. Tenant representatives to represent all tenants. Although there are some concerns about this based on a historical difficulty in securing candidates for election, it is still the preference.</p>
3.4.2	Employees	<p>Employees will not be divided into constituencies. This will be reviewed in three years’ time to consider whether it needs to be changed on the basis that it is resulting in parts of the work-force not being appropriately represented.</p>
3.5	Obligations of Members	<p>By becoming a member a person agrees to abide by the rules of the organisation, and to support its purpose.</p>
3.6	Cessation of Membership	<p>Membership ceases on death, resignation, cessation of entitlement, and</p>

	expulsion under the rules below.
3.7 Expulsion from Membership	Provisions to be included setting out proper process to expel from membership any person seeking to damage the interests of the organisation. Breach of tenancy agreement will not be grounds, nor will commencement of disciplinary proceedings against employees. Usual procedures to apply in such cases, and membership only ceases if a person is no longer eligible to be a tenant or employee member.
<b>4 Members Meetings</b>	
4.1 Members Meetings	Ordinary and special meetings
4.2 Ordinary Members Meetings	The annual meeting covering standard business
4.3 Special Members Meetings	Any other meeting called at any other time or for any other business
4.4 Notice of Members Meetings	14 day notice period required; notices to be sent to all members
4.5 Procedure at Members Meetings	Standard provisions for chairing, standing orders etc.
4.6 Voting at Members Meetings	One member one vote, by show of hands or a poll if appropriate
4.7 Proxies	Provision for postal (or electronic) voting rather than by proxy
4.8 Quorum for Members Meetings	Sensible low number requiring some tenant members and some staff members
<b>5 Representative Body</b>	We will continue to refer to it as the “Representative Body”, and people serving on it as “Representatives”.
5.1 Composition of Representative Body	The composition should be kept under review by the Representative Body, to ensure that it continues to be representative of appropriate interests. <ul style="list-style-type: none"> <li>• 15 Tenants and 8 employees</li> </ul>

	<ul style="list-style-type: none"> <li>• TMOs – one tenant for each of 3 TMOs;</li> <li>• 2 from Rochdale MBC for first 5 years after transfer, then goes up to 4; 3 from external stakeholder organisations. There will be a separate forum for young people, which will feed into the representative body</li> <li>• 31 in all for first 5 years after transfer, then up to 33</li> </ul> <p>There should also be the power for the Representative Body to co-opt, on an annual basis, up to 3 additional persons as voting members of the RB. It was not assumed that this power would necessarily be used, but there should be the flexibility.</p>
<p>5.2 Elected Representatives and election process</p>	<p>The process to be used for elections is to be determined by the Representative Body, but should strive to ensure equality of representation and access by tenants and employees.</p>
<p>5.3 Appointed Representatives and appointment process</p>	<p>Identity of appointing organisation to be decided by Representative Body, and may vary from time to time. The RB will endeavour to ensure that the places are always filled.</p> <p>There is to be an agreed process between RBH and the appointing organisations to ensure that individuals are appropriately and validly appointed, upon which the Secretary will seek advice from the RB.</p> <p>[There was a desire amongst both tenants and employees to start thinking about who the appointing organisations might be, and for such organisations to be approached. One of them might be the Co-operative.]</p>
<p>5.4 Terms of office, tenure, limitations on consecutive terms</p>	<p>For elected Representatives, 3 year terms of office. Maximum of 2 consecutive terms, before an individual must have a break of at least 1 year. Can then be re-elected for further 2 terms. No absolute maximum.</p> <p>Start-up arrangements to be included so that each year, 1/3 stands for re-</p>

	<p>election.</p> <p>For appointed Representatives, 1 year terms of office, to be renewed annually by appointing organisation. No maximum period.</p>
5.5 Eligibility to be a Representative including disqualifications	<p>Ineligible for a person serving, or whose spouse/partner is serving on the Board of Directors. (Those serving on the Tenants Scrutiny Commission are not excluded.)</p> <p>Otherwise, no exclusions, but Code of Conduct to be agreed and adopted by Representative Body. All Representatives must agree to abide by it, with power for Representative Body to remove Representatives in serious breach (see further below), including where a Representative's conduct brings RBH or the RB into disrepute.</p>
5.6 Training and development	<p>Training and development to be available to tenants and employees who may be interested in standing, to understand what is involved and to facilitate the fulfilment of their role. Core training for those elected or appointed to serve. RB to specify the core training which Representatives are obliged to attend.</p>
5.7 Termination of office and removal	<ul style="list-style-type: none"> <li>• Cease to be eligible</li> <li>• Resign</li> <li>• Removed on grounds of serious misbehaviour under code of conduct, which will include failure to attend on average 80% of meetings (over any 12 month period) without valid reason, refusal to accept Code of Conduct, and refusal to undergo training.</li> </ul> <p>Fair and proper process to be included for removal from office, including resolution by 2/3 of those voting on Representative Body that a person is in serious breach of Code, and it is in the best interests of RBH for them to be removed from office. Right of appeal from any such decision to the</p>

		Non-executive Directors
		Pending disciplinary proceedings for employee, arrears of rent etc for tenants not to be grounds for removal, and the Code of Conduct will spell out that Representatives should not air personal grievances as tenants or employees at RB meetings,
5.8	Vacancies	Next highest polling candidate willing to serve to be offered the position until the next round of elections when the vacancy will be up for election for the unexpired term of office. If no such willing candidate, election to be held to fill unexpired term of office, unless the vacancy arises 6 months or less before the term of office was due to end (or the next round of elections), in which case it is to remain vacant.
5.9	Expenses, incl attendance allowances, arrangements for employees	<p>Basically, serving on the Representative Body is voluntary and unpaid, but subject to the following.</p> <p>Re-imbusement of expenses to be provided to RBH on the current basis, provided valid receipts are made available. This can include costs incurred for childcare or adult care which need to be justified to RBH in advance. Arrangements to be explored to enable flexibility for family or friends to provide care, and to receive modest remuneration.</p> <p>Where attendance at meetings interferes with a person's work: employees to be entitled to attend during work-time without losing pay/holiday entitlement; tenants who can prove loss of income to be entitled to modest attendance allowance. Generally strive to arrange meetings outside normal working hours.</p>
5.10	Meetings	
	5.10.1	Frequency
		As needed, but not less than 4 meetings per year, plus any training.
	5.10.2	Calling
		Normally chair/secretary arranges meetings. 8 Representatives to be able

		to convene a meeting.
5.10.3	Chairing	<p>The Representative Body will appoint its own chair from amongst its own number.</p> <ul style="list-style-type: none"> <li>• Only an elected Representative, or one appointed by a TMO can serve as chair</li> <li>• If there is no appropriate candidate for the chair, the Representative Body may appoint a person from outside the RB as chair, providing that person (a) is a Member of RBH; and (b) is not a non-executive director.</li> <li>• Training in chairing meetings is to be provided.</li> </ul> <p style="text-align: center;">-</p>
5.10.4	Quorum	1/3 or 10, whichever is lower.
5.10.5	Other procedures	<p>The Chief Executive and other executive director are to attend RB meetings when required by the RB to do so. The chair of the board (or alternative in their absence) and at least one other non-executive director will attend every RB meeting.</p> <p>To include provisions for voting, a casting vote, ability to establish working groups, and power to establish sub-committees including members who are not on the Representative Body (e.g. non-executive directors, external experts)</p>
5.11	Declaration or notification of interest	Requirement for disclosure of interests in other organisations (employer, organisation in which any formal role held or ownership of interest, etc.) in order to avoid conflicts of interest. Procedures where conflicts arise.
6	<b>Board of Directors</b>	

<p>6.1 Composition of the Board of Directors</p>	<p>10 directors in total at the date of mutualisation coming down to 8 after 5 years Comprising:</p> <ul style="list-style-type: none"> <li>• 6 non-executives including chair</li> <li>• 2 executives and</li> <li>• For first 5 years, 2 non-executive directors appointed by Rochdale MBC to fit same criteria</li> </ul> <p>Additional executive directors can be appointed if the business strategy requires it, subject to the approval of the Non-executive Directors. At all times there must be more Non-executive Directors than Executive Directors.</p>
<p>6.2 Appointment of Directors</p>	<ul style="list-style-type: none"> <li>• Chief executive, to be appointed and removed by non-executives (subject to Representative Body approval as below). The process for recruitment and interviewing the chief executive by the non-executive directors is also to include two members of the Representative Body</li> <li>• Other executive director to be appointed and removed by committee of non-executive directors and chief executive.</li> <li>• Appointment of chief executive, and remuneration and other terms and conditions of appointment require approval of Representative Body</li> <li>• Appointment of chair and all other non-executive directors by Representative Body, to fulfil criteria for skills and experience agreed by the Representative Body. Criteria to be appropriate for delivering on the strategic priorities and include a range of subject areas (in addition to housing) such as employment, training and social enterprise, as well as financial, legal and commercial skills. These should also include knowledge of the wider social issues affecting the locality. Training and support will be available to tenant members who are interested in being considered for</li> </ul>

	selection as a non-executive director. The RB will appoint those nominated by the Council (who are also required to fulfil the criteria for skills and experience) unless exceptional circumstances apply.
6.3 Terms of Office, tenure, limitations on consecutive terms	3 year terms of office for non-executive directors, renewable for a further term. Subsequent renewal subject to being satisfied they remain independent and objective.
6.4 Eligibility	To be excluded: undischarged bankrupts, disqualified directors or trustees, members of the Representative Body and their spouses or partners, employees (other than those who are executive directors, see 6.1 above) and spouses or partners of employees of RBH or any of its subsidiaries.,
6.5 Termination of office and removal	<ul style="list-style-type: none"> <li>• Cease to be eligible</li> <li>• Resign</li> <li>• Removed by Representative Body (if a non-executive director) or by the non-executive directors (if an executive director) under powers in the rules (formal provisions to be included covering appropriate procedure)</li> <li>• Removed by the board of directors on grounds of serious misbehaviour under code of conduct.</li> </ul> <p>Fair and proper process to be included for removal from office by board of directors, including 2/3 resolution by remaining directors that the person is in serious breach of Code, and that it is in the best interests of RBH for them to be removed from office. Right of appeal from any such decision to the Representative Body.</p>
6.6 Vacancies	To be filled as soon as possible subject to complying with appropriate procedures and process
6.7 Remuneration and expenses and terms of office	Executive directors – to be fixed by non-executive directors, and approved

		by Representative Body; non-executive directors to be fixed by Representative Body
6.8	Board Meetings	
6.8.1	Frequency	As required – possibly specify minimum of 4 times per year
6.8.2	Calling	By chair through secretary, or exceptionally by not less than three directors through the secretary
6.8.3	Chairing	The chair of the organisation, unless there is a conflict of interest in which case the deputy chair will take over
6.8.4	Quorum	Quorum to include at least one executive director and at least one non-executive director; quorum of 5 for first 5 years from transfer, then coming down to 4, but for an extraordinary meeting called by other directors, quorum of 6. Exceptionally (where e.g. an executive director is the subject matter of the meeting) it may be necessary to vary the requirement for an executive director to be present.
6.8.5	Other procedures	Voting by show of hands, chair to have second and casting vote Provision to attend board meetings by phone or other electronic means The chair of the RB and one other Representative shall be entitled to attend every board meeting.
6.9	Chair and Deputy-Chair(s)	The Representative Body appoints the chair. The board appoints a deputy chair from amongst the other 5 non-executive directors selected and appointed by the Representative Body.
6.10	Committees of the Board	Provision to allow board to establish sub-committees, which can include people not on the board (eg from Representative Body, external experts)

6.11	Declaration or notification of interest	Requirement for disclosure of interests in other organisations (employer, organisation in which any formal role held or ownership of interest, etc.) in order to avoid conflicts of interest. Procedures where conflicts arise.
<b>7</b>	<b>Reporting to Members</b>	
7.1	Preparation of Accounts	Required by statute
7.2	Auditors and Accounts	Required by statute
7.3	Presentation of Accounts	To be presented to Representative Body and to Annual Members Meeting
7.4	Publication of Accounts and Balance Sheets	Required by statute
7.5	Copy of Balance Sheet to be displayed	Required by statute
7.6	Annual Return to be sent to Registration Authority	Required by statute
7.7	Remuneration	Remuneration and expenses paid to all directors and Representatives to be disclosed.
<b>8</b>	<b>Change</b>	
8.1	Alterations to Rules	Resolution of members meeting required. Majority vote (of those attending meeting) needed in most cases. For some special rules, a higher threshold required (2/3 majority).
8.2	Transfer of Engagements	Covered by legislation.
8.3	Transfers under the Mutual Transfers Act	Covered by legislation, probably not relevant at this stage.
8.4	Dissolution	Provisions to be included concerning what happens to assets on dissolution.

8.5	Asset lock	Not necessary, covered by statute
9	<b>Share Capital</b>	
9.1	Shares	Each shareholder to pay £1 for their share, but ONLY in the (extremely unlikely) event of RBH being insolvent
10	<b>Administrative</b>	
10.1	Purpose, objects and powers	To comply with industrial & provident society (IPS), charity and housing law
10.2	Borrowing and financial management	To comply with IPS law – limit of authorised borrowing and treasury management arrangements
10.3	Investments	To comply with Trustee Act – limits (prudentially) how RBH's cash and reserves may be invested pending it being required for business purposes
10.4	Accounting requirements	To comply with IPS law
10.5	Auditor	To comply with IPS law
10.6	Auditor's duties	To comply with IPS law
10.7	Annual Returns and Balance Sheets	To comply with IPS law
10.8	Borrowing	To comply with IPS law
10.9	Financial Year End	To comply with IPS law
10.10	Settlement of Disputes	To comply with IPS law
10.11	Statutory applications to Registrar	To comply with IPS law

10.12 The Secretary	To comply with IPS law
10.13 Register of Members	To comply with IPS law
10.14 Minutes and Books	To comply with IPS law
10.15 The Seal	To comply with IPS law
10.16 Copies of Rules and Regulations	To comply with IPS law
10.17 Directors' and Officers' Indemnity	To comply with IPS law
10.18 Registered Office	To comply with IPS law
<b>11 Transition Provisions</b>	<p>In establishing the mutual it may be necessary to work out pragmatic transition arrangements, over a defined period of time, to take account of</p> <ul style="list-style-type: none"> <li>• Requirements of regulator/registration</li> <li>• Time needed to establish membership and Representative Body, hold elections etc</li> <li>• Having staggered arrangements for 1/3 to be re-elected replaced each year</li> </ul>
11.1 First Members	The first members of the mutual will be those people who were members of RBH immediately before it converts into a mutual 15 months after the stock transfer. Membership recruitment for these purposes can commence at any time after a positive ballot result, subject to RBH management and a sufficiently developed constitution.
11.2 First Representatives	The first Representatives (the members of the Representative Body) will be elected/appointed in shadow form at some point in the latter half or 2012 or early 2013. This cannot take place until there are sufficient members to provide candidates and an electorate. However sufficient time

	<p>is needed for the shadow Representative Body to undergo induction, training and undertake any necessary tasks before mutualisation. On the date of mutualisation, they will cease to be a shadow Representative Body, and their terms of office will formally commence.</p> <p>A mechanism will be needed (possibly drawing lots, or based on results of votes) to determine whether serving for 1, 2 or 3 years.</p>
<p>11.3 First Board of Directors</p>	<p>It will be necessary to minimise the changes on the board at the point of mutualisation in order to maintain the stability of the organisation.</p> <p>The current board (subject to normal retirement and replacement) will continue up to mutualisation. At that point, the tenant board members and Council board members will resign, and the chief executive and finance director will become directors. Pragmatic arrangements to be developed/put forward covering the following:</p> <ul style="list-style-type: none"> <li>• Minimising disruption/changes to the board at mutualisation for the benefit of the business</li> <li>• Based on expiry of current terms of office of independent board members prior to mutualisation, appointing individuals appropriate as non-executive directors on mutualisation</li> <li>• Working with shadow representative body or equivalent to develop criteria for non-executive directors</li> </ul>
<p>11.4 First Secretary</p>	<p>Shadow RB to be involved in process of recruitment and appointment as per 2.5 above.</p>