

June 2020 Public Special Board Meeting Pack

Readers may note that some information within this document has been omitted.

This information has been omitted as disclosure may prejudice the commercial interests of Irvine Housing Association.

We recognise that the commercial sensitivity of information may decline over time and the harm arising from disclosure may be outweighed by the public interest in openness and transparency. We commit to review the redaction of any such information from time to time.

Date:	9/6/20
Subject:	Proposed Rule Changes
Author:	Donna Boyle
Sponsor:	Paul Hillard
Appendices:	Appendix 1 – Marked up Rule Changes Appendix 2 – Clean copy of Rules with changes applied
Action:	Decision
Data Class:	Public

EXECUTIVE SUMMARY

Further to previous Board discussions in relation to the potential revision of the Rules to create more flexibility around Tenant Board Membership, the Association's lawyers, Harper MacLeod, were instructed to review the Rules and advise on the changes required in order to achieve the following three outcomes:

- the removal of the requirement for three tenant Board members,
- the alignment of our Rules with the latest Scottish Federation of Housing Association's Model Rules, and
- to make the language in the Rules gender neutral.

The proposed changes are therefore attached for Board to review and consider.

It is therefore recommended that the Board:

- a) approves the proposed changes to the Rules, and
- b) subject to Board's approval of the proposed changes, instructs the Managing Director to seek the written approval of the proposed changes from Group, and
- c) subject to written consent being provided by Group, instructs the Company Secretary to call a Special General Meeting of the Association to allow the Association's membership to consider the proposed Rule Changes when the current Covid-19 restrictions allow this to happen.

1 Background

- 1.1 In recent years, there has been a low level of interest in any Tenant Board Member recruitment exercises which, following the interview process, have resulted in only 1 appropriate Board appointment being made.
- 1.2 As part of the Association's self-assessment of its compliance with the Scottish Housing Regulator's (SHR) Regulatory Framework, it was identified that the Association would require to declare, in its Assurance Statement, that it was in breach of its Rules, if the number of Tenant Board Members dropped below 3 and it was unable to recruit a new Tenant Board Member.
- 1.3 The Board at this time had discussed the possibility of changing the Rules in order to create more flexibility by removing the restrictions on the numbers of Tenant Members on the Association's Board.
- 1.4 At the time of the discussing potential Rule Changes with the Association's lawyers, Harper MacLeod, it was highlighted that the language in the Rules was all in the male

gender and this particular language did not reflect our organisational values and culture. The SFHA had also produced new Model Rules which complied with current law and the SHR's new Regulatory Framework. It was agreed at this point to incorporate these further changes within a new proposed version of the Rules.

- 1.5 The tracked version of the proposed Rule Changes is attached at Appendix 1 for information and a clean copy, incorporating the proposed changes is attached at Appendix 2 for ease of reference.
- 1.6 The proposed change in relation to Tenant Board Membership is to remove Rule 37(c) in its entirety. It has always been intended that the Association will have Tenant representation on the Board and it is proposed that the Association's governance policies will now reflect this intention rather than the Rules.
- 1.7 The key points to highlight in relation to alignment with the Model Rules mean that:
 - 1.7.1 All proxy votes received will count towards determining a quorum at General Meetings moving forward.
 - 1.7.2 The process for nominating new Board Members will now take place earlier than conducted previously, which will allow Board Members to consider the nominations received and decide those appropriate to stand for election at the Annual General Meeting.
- 1.8 It has been recognised through the review of the Rules that a quorum can only be determined from those present in person at General Meetings. The Rules have also been updated to allow for the virtual attendance at such meetings if required.

2 Next Steps

- 2.1 Subject to Board approval of the Rule Changes, in line with the current Rules, written consent will require to be granted from Group as the Parent. This matter will therefore require consideration by Group's Board at its next meeting, currently scheduled for 19 June 2020.
- 2.2 Subject to the receipt of the written consent of Group, it is intended that a Special General Meeting will be called for the membership to consider the proposed Rule Changes when the easing of Covid-19 restrictions allow for this to happen, which is currently envisaged to be in August, all things being equal.
- 2.3 If the proposed Rule Changes are approved by the membership, the Rule Changes will then require to be registered with the Financial Conduct Authority in order for the new Rules to become valid for use.
- 2.4 The Association's Regulator's, the SHR and the Office of the Scottish Charity Regulator (OSCR), will also require to be notified of any approved Rule Changes.

3 Risk

- 3.1 If the Association fails to recruit a new Tenant Board Member prior to the Annual General Meeting, the Association's Tenant Board membership will fall below the current minimum of 3, due to a current Tenant Board Member being due to retire at the AGM. This will mean that the Association will require to declare in its Assurance Statement that it is in breach of its Rules.

- 3.2 In order to mitigate this risk, Rule changes are proposed which allow for more flexibility around Tenant Board membership and the Association's governance policies are revised to reflect that Tenant representation form part of the Board's composition.
- 3.3 If the current restrictions in relation to Covid-19 are not changed during August, the Association will not be able to hold a Special General Meeting prior to the Annual General Meeting.
- 3.4 The Association will closely monitor the government's briefings in relation to the restrictions and also seek appropriate legal advice in relation to compliance with the guidelines.

4 Recommendations

It is recommended that the Board:

- a) approves the proposed changes to the Rules, and
- b) subject to Board's approval of the proposed changes, instructs the Managing Director to seek the written approval of the proposed changes from Group, and
- c) subject to written consent being provided by Group, instructs the Company Secretary to call a Special General Meeting of the Association to allow the Association's membership to consider the proposed Rule Changes when the law allows this to happen.