



Board Terms of Reference and Standing Orders

TERMS OF REFERENCE

1 Fundamental objectives

- 1.1 The fundamental objectives of the Regulator of Social Housing (**the Regulator**) are prescribed in the Housing and Regeneration Act 2008 (as amended) (**HRA**).
- 1.2 The Regulator must perform its functions with a view to achieving, so far as is possible, the fundamental objectives (economic and consumer) set out in section 92K, HRA).
- 1.3 The Regulator is also obliged by statute to exercise its regulation functions (in relation to registered providers) in a way that minimises interference, and (so far as is possible) is proportionate, consistent, transparent and accountable (section 92K(5), HRA).

2. Constitution

- 2.1 The Regulator is established as a non-Crown body corporate by section 80A, HRA, as inserted by The Legislative Reform (Regulator of Social Housing)(England) Order 2018 (**LRO**).
- 2.2 The Board of the Regulator is established by section 80B of the HRA and transitional provisions within the LRO¹, and comprises:
 - a) the Chair appointed by the Secretary of State; and
 - b) between six and ten other Board members appointed by the Secretary of State after consultation with the Chair; and

¹ The first Chair, board members and Chief Executive of the Regulator were appointed under transitional provisions set out in The Legislative Reform (Regulator of Social Housing)(England) Order 2018.

c) the Chief Executive appointed by the Board (with the approval of the Secretary of State).

2.3 The Chair and the other Board members referred to in paragraph (b) above are collectively referred to in the legislation as appointed members. The Chief Executive does not fall into the category of appointed members. The appointed members hold and vacate office in accordance with the HRA and their terms of appointment.

3. Conduct

3.1 Members of the Board and any committees of the Regulator shall observe and act in accordance with these Terms of Reference and:

- the principles of good governance set out in the HM Treasury and Cabinet Office publication *Corporate governance in central government departments: code of good practice*;²
- the Regulator’s Code of Conduct and Practice for Board Members and Committee and Sub-Committee Members “The Board Code” ; and
- applicable policies set by the Regulator from time to time, including policies on expenses, hospitality, and declarations of interest.

4 Board role and responsibilities

The role of the Board

4.1 The role of the Board is to act within the legislative framework applicable to the Regulator, including the Regulator’s fundamental objectives and powers, and in doing so to:

- a) provide strategic leadership;

² Published April 2017 and available here: <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017>

- b) In line with *Managing Public Money*³, and other guidance, support and challenge the Accounting Officer (AO), in particular by providing governance oversight;
- c) guide and support the senior executive team in directing the business of the Regulator with a view to delivering the fundamental objectives of the Regulator over the short and long term;
- d) provide a strategic governance function (as distinct from an executive management function) and
- e) help ensure that the Regulator acts in a way that is efficient, effective and economic;

4.2 In particular, and in line with the Cabinet Office publication *Corporate governance in central government departments: code of good practice*, the Board's role is to advise and supervise in the following areas:

a) **Strategic clarity**

At a strategic level:

- helping to ensure that the Regulator's activities contribute to the achievement of its statutory fundamental objectives;
- helping to ensure that the Regulator has long-term capacity and capability and undertakes on-going horizon-scanning;
- ensuring strategic decisions are based on a collective understanding of policy issues;
- bringing an informed external perspective to challenge and support on delivery of outcomes.

³ <https://www.gov.uk/government/publications/managing-public-money>

b) Commercial sense

At a strategic level:

- informing and agreeing distribution of responsibilities between Board, committees, and executive;
- ensuring sound financial management;
- scrutinising the allocation of financial/human resources to the achievement of the corporate plan;
- ensuring organisational design supports the attainment of strategic objectives;
- setting risk appetite and ensuring appropriate controls are in place to manage risk;
- evaluating the performance of the Board and Board members;
- planning for Board member succession (within statutory constraints).

c) Talented people

Ensuring the Regulator's overall capacity and capability to deliver its statutory objectives.

d) Results focus

At a strategic level:

- shaping the Regulator's corporate plan and business plans;
- monitoring the Regulator's performance against plans;
- agreeing and supporting the Regulator's corporate standards, culture and values.

e) **Management information**

Ensuring that clear performance information is used to provide assurance of delivery of statutory objectives within agreed risk appetite, and that budgets are achieved.

Board responsibilities

The particular responsibilities of the Board in carrying out this role are set out in the following paragraphs:

- 4.3 Complying with the Framework Document agreed with the Department for Levelling Up, Housing and Communities (DLUHC) (the Framework Document), and performing the responsibilities of the Board as set out in that document.
- 4.4 Adopting and reviewing appropriate schemes of delegation, while continuing to scrutinise significant decision making.
- 4.5 With senior executive officers, maintaining appropriate relationships with DLUHC and other key stakeholders.
- 4.6 Within the parameters of the Regulator's statutory objectives and any directions from DLUHC, ensuring maintenance of an up to date framework of regulation, including regulatory standards and an effective system of assurance to underpin regulatory judgements.
- 4.7 (a) Supporting the Accounting Officer in the development of draft corporate plans for the Regulator, which shall meet requirements specified in the Framework Document, including appropriate performance objectives, for submission to DLUHC for approval.

- (b) As required by Managing Public Money and the Framework Document, monitoring and ensuring delivery of agreed corporate plans
- 4.8 Supporting the development of an annual budget for the Regulator, consistent with the corporate plan, for approval by DLUHC (in relation to grant in aid) and for periodic consultation with fee payers, and ensuring compliance with any financial requirements imposed by DLUHC on the Regulator.
- 4.9 Supporting the Accounting Officer in his/her personal obligations in relation to the Regulator's annual report and accounts, including the annual governance statement, in particular by providing oversight, advice and challenge, in conjunction with the Audit and Risk Assurance Committee, prior to submission of these documents to the Secretary of State and the Comptroller and Auditor General.
- 4.10 Approving overall governance arrangements for the Regulator, including:
- a) committee structures and terms of reference;
 - b) an appropriate Board Code (and ensuring compliance with the same);
 - c) principles and standards to ensure that the Regulator's affairs are conducted with probity and value for money, and that high standards of corporate governance are observed at all times.
- 4.11 Appointing and dismissing the Chief Executive, subject to Secretary of State approval.
- 4.12 Receiving reports from Board committees and (if any) advisory groups, and considering any key issues that they raise.
- 4.13 Ensuring that the Board receives what it considers to be an appropriate level of assurance from its executive officers on issues affecting the Regulator as

a corporate entity (such as litigation and compliance with health and safety requirements).

- 4.14 Ensuring that appropriate legal, financial and administrative arrangements are in place in relation to the Regulator's pension schemes benefits and contributions, including safeguarding and management of the pension fund(s) assets.
- 4.15 With senior executive officers, ensuring an effective internal and external dialogue around sector-wide risks that informs the Regulator's approach to regulation and its communications with the sector as a whole.
- 4.16 Ensuring that the Regulator meets its reporting obligations effectively and efficiently.
- 4.17 Receiving and reviewing periodic performance information, assessing progress against objectives, and providing direction to executive officers regarding any required performance improvements.
- 4.18 Agreeing a risk appetite for the Regulator, and – with support from the audit and risk assurance committee – ensuring that:
- a) there is a proper framework of prudent and effective controls, so that corporate, strategic risks can be assessed, managed and taken prudently,
 - b) there is clear accountability for managing risks.
- 4.19 With support from the audit and risk assurance committee, maintaining a regular discipline of reappraising the opportunities and risks facing the organisation, including an assessment of:
- the risk register,
 - reputational risks,
 - the dangers of maintaining the status quo,

- plans for disaster recovery,
- appraisal of end to end risks in critical processes and significant activities.

STANDING ORDERS

5 Chair and Deputy Chair

5.1 The Chair is appointed by the Secretary of State (see Terms of Reference above).

5.2 A Deputy Chair may be appointed by resolution of the Board.

5.3 At meetings of the Regulator's Board, the Chair shall preside. If the Chair is absent the Deputy Chair, or, where a Deputy Chair has not been appointed or is absent, the Chair's nominee (if one has been appointed), shall preside. If the Chair, Deputy Chair (if one has been appointed) and the Chair's nominee (if one has been appointed) are absent, the Board members in attendance shall choose one of their number to preside.

6 Board meetings

6.1 The Chair, or any other Board member with the agreement of the Chair, may convene, or request the Board Secretary to convene, meetings of the Board; and in the ordinary course of events, meetings may be convened by the Chair periodically agreeing with the Board Secretary a forward planner of meeting dates.

6.2 The Board shall meet regularly and at least once in each quarter of every financial year, and may meet more frequently.

6.3 At least five days before a meeting, a notice of the meeting shall be given to each Board member as per clause 6.5 below. The notice of the meeting may be given by the Board Secretary or by any Board member, but must as a minimum include an agenda listing the principal items of business proposed

to be transacted at that meeting. Supporting papers should usually be sent with the notice of the meeting, but it shall not invalidate any proceedings if supporting papers are sent after that date or tabled at the meeting.

6.4 The accidental failure to give notice to, or the non-receipt of a duly despatched notice by a Board member, shall not invalidate the proceedings at a meeting.

6.5 All notices to be given to a Board member for the purposes of these Standing Orders may be given:

- by email to such email address as may from time to time be notified by the Board member to the Board Secretary for such purposes, or
- having paid the appropriate postage, by post addressed to the Board member at such business or residential address as may from time to time be notified by the member to the Board Secretary for such purposes, or
- by leaving it at such business or residential address as may from time to time be notified by the member to the Board Secretary for such purposes, or
- by handing it to a Board member personally.

6.6 Any notice or other document given to a Board member in accordance with paragraph 6.5 above shall be deemed to have been served or delivered:

- if sent by email, on the day after it was sent, or
- if sent by post, on the day following the day on which it was put in the post (or, where second class post is employed, on the second day after the day when it was put in the post), or
- if personally delivered, upon such delivery.

- 6.7 Any Board member who does not receive a notice of a meeting in accordance with these Standing Orders but who nevertheless attends the meeting to which the notice relates shall, unless he or she shall otherwise state at the relevant meeting, be deemed to have received due notice of such meeting.
- 6.8 Without prejudice to the aforesaid, any Board member may waive the requirements, either prospectively or retrospectively, that notice in accordance with these Standing Orders be given to him or her of any meeting.
- 6.9 Items of business may be transacted at any meeting notwithstanding that the item has not been specified in the meeting notice, provided that, in the opinion of the Chair of the meeting, either:
- the item in question is of a routine and substantially uncontroversial nature, or
 - the item requires urgent consideration and it was not reasonably practicable to specify it in the meeting notice.

7 Special and emergency meetings

- 7.1 The Chair or, in his or her absence, the Deputy Chair (if appointed) may call a special meeting of the Board at any time. In the absence of both the Chair and the Deputy Chair, any two Board members may instruct the Board Secretary to call a special meeting.
- 7.2 Where reasonably practicable, a notice specifying the business proposed to be transacted shall be given to every Board member of the Regulator by one of the methods allowed by these Standing Orders at least five days before any such special meeting.

7.3 The Chair or, in his or her absence, the Deputy Chair (if appointed) or the member who is the Chief Executive, may call an emergency meeting of the Board at any time.

7.4 Reasonable notice of such emergency meeting of the Board shall be given by one of the methods allowed by these Standing Orders. It shall not be necessary to give notice of such a meeting to a Board member who is absent from the United Kingdom.

8 Quorum

8.1 No business shall be transacted at a Board meeting unless at least three Board members are present, two of whom must be non-executive members.

8.2 A duly convened meeting at which a quorum is present shall be competent to exercise all or any of the powers, authorities and discretions for the time being vested in or exercisable by the Regulator.

9 Voting

9.1 All decisions (except a resolution to vary or revoke these Standing Orders, in relation to which this Standing Order 9.1 shall not apply) shall be carried by a majority of votes of the Board members present at a meeting.

9.2 In the case of an equality of votes, the chair of the meeting shall have a second or casting vote (except on a resolution to vary or revoke these Standing Orders, in relation to which this Standing Order 9.2 shall not apply).

9.3 Voting shall be by such means as may be agreed by the Board members present at a meeting provided that:

- the Chair or any Board member may request a vote to be taken by a show of hands on any resolution or business, and

- the provisions of Standing Order 19 shall apply in relation to any resolution to vary or revoke these Standing Orders.

10 Remote and virtual participation

- 10.1 Any Board member may validly participate in a meeting virtually through the medium of conference telephone, video conferencing or similar form of communication equipment, provided that all persons participating in the meeting are able to hear and speak to each other throughout such meeting, or relevant part thereof. A Board member so participating shall be deemed to be present in person at the meeting, and shall accordingly be counted in a quorum and entitled to vote.
- 10.2 A meeting shall be deemed to take place where the largest group of those Board members participating is assembled or, if there is no group which is larger than any other group, where the chair of the meeting is.

11 Resolution in writing

- 11.1 Save as provided in Standing Order 19.3, a resolution in writing signed by each eligible Board member (whether or not each signs the same document) or to which each eligible member has otherwise indicated agreement in writing (identifying the resolution to which such agreement relates) shall be as valid and effectual as if it had been passed at a meeting duly convened and held.
- 11.2 For the purposes of this Standing Order 11:
a resolution in writing may be signed by an eligible member by:
- (i) the eligible member applying their handwritten signature to the document;
 - (ii) the eligible member applying their electronic signature to an electronic copy of the document; or

- (iii) the Board Secretary applying the eligible member's electronic signature to an electronic copy of the document on their behalf and with their prior and specific written authorisation;

"eligible member" means a member who is not prohibited by these Standing Orders from voting on the resolution; and

"in writing" or "written" includes email.

12 Minutes

12.1 The names of the Board members present at a meeting shall be recorded in the minutes.

12.2 Minutes of the proceedings of meetings shall be prepared by the Board Secretary, entered in a record to be kept for that purpose and submitted for approval as to their accuracy to the next meeting. The minutes, as approved, shall be signed by the chair of the meeting to which they are submitted, and, if so signed, shall be taken as conclusive evidence of the facts therein stated.

12.3 The approved minutes of Board meetings shall be published on the Regulator's website in full, except for summarisation or redaction where information remains confidential due to a current commercial sensitivity, or where information is exempt from publication, for example due to the requirements of the Data Protection Act 1998, UK General Data Protection Regulations or the Freedom of Information Act 2000.

13 Delegation

13.1 Pursuant to section 92O, HRA, (and subject to contrary provision in the legislation governing the Regulator from time to time), the Regulator may from time to time delegate any of its functions to:

- a committee,

- a sub-committee,
- a Board member, or
- a member of staff.

13.2 A committee may further delegate to:

- a sub-committee,
- a Board member, or
- a member of staff.

13.3 Any delegation may be for such time, and on such terms, and subject to such conditions as the Regulator's Board thinks fit, and the Regulator's Board may vary or revoke any such delegation at any time.

13.4 Any specific delegation (outside those delegations recorded in the Scheme of Delegated Authority) must be recorded in the minutes of the meeting.

14 Board committees and sub-committees

14.1 Pursuant to section 92L, HRA, the Regulator may, by resolution of the Board, establish and/or dissolve committees and sub-committees.

14.2 Section 92L, HRA provides that committees and sub-committees of the Board may include non-members, provided that they include at least one Board member. Subject to that, the membership of committees and sub-committees shall be determined by the Regulator's Board and may include non-members where the Board considers that it is appropriate and clearly beneficial to do so. The Regulator's Board shall appoint a person to chair the committee or sub-committee.

14.3 The Regulator's Board may from time to time remove any person, whether or not a Board member, from any committee or sub-committee.

- 14.4 Any committee or sub-committee established pursuant to Standing Order 14.1 shall, in the exercise of its functions, comply with any regulations made or directions given by the Regulator's Board at any time.
- 14.5 The terms of reference for any committee or sub-committee shall be approved by the Board.
- 14.6 Unless otherwise directed by the Board, and set out within the terms of reference of the body concerned, the quorum for a committee or sub-committee shall be two non-executives.

15 Board advisory groups

- 15.1 The Regulator's Board may, from time to time, appoint advisory groups, comprising Board members and/or non-members, which shall report to the Board periodically, and at least annually, on the matters they are established to consider.
- 15.2 Each Board advisory group shall include at least one member of the Regulator's Board together with such other persons as the Board shall decide. The Board shall appoint a person to chair the advisory group.
- 15.3 Board advisory groups shall not have delegated powers.

16 Seal of the Regulator

- 16.1 The seal of the Regulator shall be held in the custody of the Board secretary. If there is a duplicate seal, that shall be held securely at one of the offices of the Regulator.
- 16.2 The application of the seal of the Regulator shall be authenticated in accordance with the agreed list of authorised signatories.

16.3 The Board secretary shall maintain a seal register in which there shall be recorded, on each occasion of the seal's use, relevant details and the identity of the authorised signatory.

17 Register of Board members' interests

17.1 It is a requirement of the HRA that each Board member and all members of committees and sub-committees shall:

- declare any financial or other personal interest relevant to the exercise of a function of the Regulator, at the date of his or her appointment and thereafter at all times during the course of such appointment, and
- withdraw from the performance of that function unless the Regulator's Board, by resolution, consider that this is not necessary because the interest will not influence performance of the function.

17.2 Declarations must be made in accordance with the Board Code, all of the Regulator's relevant policies, and any regulations or guidance applicable to the Board members from time to time issued by or through the Secretary of State for DLUHC.

17.3 Such information, or relevant details thereof, shall be formally recorded in a register of Board members' interests maintained by the Board secretary, and which shall be available for inspection by Board members by application to the Board secretary.

17.4 The register of Board members' interests shall also be published and available for inspection on the Regulator's website.

18 Declaration of interests⁴

- 18.1 It is a requirement of the HRA that each member of the Regulator’s Board who is directly or indirectly interested (financially, personally, or in any other way) in any matter arising at a meeting of the Board must disclose the nature of that interest to the meeting.
- 18.2 Similarly, any member of a committee or sub-committee of the Regulator’s Board who is directly or indirectly interested (financially, personally, or in any other way) in any matter arising at a meeting of the committee or sub-committee must disclose the nature of that interest to the meeting.
- 18.3 Where a Board member has disclosed an interest within paragraphs 18.1 or 18.2, the HRA provides that:
- the Board member must not take part in any deliberation or decision about the matter if it is a contract or agreement of any description, but
 - may otherwise take part in any deliberation or decision about the matter unless at least one-third of the other members at the meeting decide that the interests disclosed might prejudicially affect the Board member’s consideration of the matter.
- 18.4 Members of the Regulator’s Board or any committee or sub-committee must comply with the rules about interests set out in the legislation, the Board Code, all of the Regulator’s relevant policies, and any regulations or guidance applicable to the Board members from time to time issued by or through the Secretary of State for DLUHC. Any rules, policies, regulations or guidance produced by the Regulator or the Secretary of State or DLUHC must comply

⁴ See Housing and Regeneration Act 2008, section 92P “Members’ interests”

with relevant legislative requirements imposed on the Regulator, and to the extent that they conflict, the legislative requirements shall take precedence.

18.5 The Board secretary shall record in the minutes of the relevant meeting any disclosures made under this Standing Order 18.

19 Variation and revocation of Standing Orders

19.1 The notice of a Board meeting at which a resolution to vary or revoke these Standing Orders is to be proposed must set out the full text of the resolution, including the proposed variations of the Standing Orders to be put to the meeting (but the proposed variations may be set out in a separate annex).

19.2 Any resolution varying or revoking these Standing Orders shall only be effective if at least three quarters of the Board members present at the meeting at which the resolution is considered vote in favour of the resolution.

19.3 Voting on such a resolution shall be by show of hands. Thus Standing Order 11 (resolution in writing), shall not apply or be effective in relation to any resolution to amend or revoke these Standing Orders.

Agreed by the Board of the Regulator of Social Housing on: 28 November 2023

Effective date: 28 November 2023.