



**Cheltenham Borough Homes Limited**

**Articles of Association**

**(September 2014)**

**Company no 4587658**

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**trowers & hamlins**

Company no 4587658

Company limited by guarantee and not having a share capital

Articles of Association

of

Cheltenham Borough Homes Limited

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## 1 Definitions and Interpretation

1.1 In these Articles unless the context otherwise requires:

**the 1989 Act** shall mean the Local Government and Housing Act 1989 as amended or re-enacted from time to time.

**the Act** means the Companies Act 2006 including any statutory modification or re-enactment thereof for the time being in force.

**the Articles** means these Articles of Association as originally adopted or as altered from time to time.

**Board** means the Board of Directors of the Organisation from time to time.

**Board Members** means the directors for the time being of the Organisation.

**Chair** means the Chair of the Organisation appointed pursuant to Article 34.1 or in his/her absence any vice or deputy chair appointed pursuant to Article 32.3.

**clear days** in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.

**Council Board Member** means a Board Member appointed by Cheltenham Borough Council pursuant to Article 15.

**Cheltenham Borough Council** means Cheltenham Borough Council or any successor body thereto.

**Executed** means in relation to any contract, agreement or other document consent thereto and includes any mode of execution.

**Independent Board Member** means a Board Member who is not a Tenant, or Local Authority Person and who is appointed pursuant to Article 16.

**Leaseholder** means a tenant of Cheltenham Borough Council under a lease of an individual residential property with an initial term in excess of 90 years.

**Local Authority Person** means any person:

- (a) who is a member of Cheltenham Borough Council; or
- (b) who is an officer of Cheltenham Borough Council (which for these purposes shall not include employees with non-managerial posts apart from housing employees).

**Office** means the registered office of the Organisation.

**Order** shall mean the Local Authorities (Companies) Order 1995 as amended or re-enacted from time to time.

**the Organisation** means Cheltenham Borough Homes Limited.

**the seal** means the common seal of the Organisation.

**Secretary** means the secretary of the Organisation or any other person appointed to perform the duties of the secretary of the Organisation, including a joint, assistant or deputy secretary.

**Tenant** means an individual who holds a secure or assured (as the case may be) tenancy of a residential property from and occupies a property belonging to the Organisation or Cheltenham Borough Council, or a Leaseholder.

**Tenant Board Member** means a Board Member who is a Tenant.

**the United Kingdom** means Great Britain and Northern Ireland.

1.2 Unless the context otherwise requires, words or expressions contained in these regulations bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these regulations become binding on the Organisation.

1.3 In these Articles words importing individuals shall, unless the context otherwise require, include corporations and words importing the singular number shall include the plural, and vice versa and words relating the masculine gender shall include the feminine gender.

## 2 **General**

### **Name**

2.1 The name of the company is Cheltenham Borough Homes Limited (the **Organisation**).

### **Registered Office**

2.2 The Organisation's registered office is to be located in England.

### **Objects**

2.3 The objects of the Organisation shall be to:

2.3.1 provide social housing and to manage, maintain, improve, demolish or convert

- (a) the housing stock owned or managed by Cheltenham Borough Council from time to time and
  - (b) any other social housing or other housing stock
- together with any other amenities or facilities for the benefit of residents of such housing stock either exclusively or together with persons who are not residents of such housing stock;
- 2.3.2 provide amenities and services of any description for residents of housing stock owned or managed by Cheltenham Borough Council or by the Organisation from time to time either exclusively or together with persons who are not residents of such housing stock;
  - 2.3.3 provide advice and assistance to all tenants, leaseholders, and licensees, of Cheltenham Borough Council or of the Organisation and applicants for housing and applicants for housing advice in respect of Cheltenham Borough Council housing;
  - 2.3.4 carry out any activity which contributes to regeneration or development including but not limited to:
    - (a) securing that land and buildings are brought into effective use;
    - (b) contributing to or encouraging economic development;
    - (c) creating an attractive and safe environment;
    - (d) preventing crime or reducing the fear of crime;
    - (e) providing or improving housing or social and recreational facilities for the purpose of encouraging people to live or work in the said area or for the purpose of benefiting people who live there;
    - (f) providing employment for local people;
    - (g) providing or improving training, educational facilities or health services for local people;
    - (h) assisting local people to make use of opportunities for education, training or employment;
    - (i) meeting the special needs of local people which arise because of disability or because of their sex or the racial group to which they belong.
  - 2.3.5 provide, construct, improve or manage housing for sale (including for sale on shared equity or shared ownership or other similar basis) or to be kept available for letting or hostels;
  - 2.3.6 provide, manage, maintain or improve accommodation required from time to time for the benefit of persons who require temporary accommodation;
  - 2.3.7 provide services of any description for Cheltenham Borough Council, registered providers of social housing or other social housing providers;
  - 2.3.8 assess applicants for housing assistance;

- 2.3.9 assess applications by residents of housing stock owned or managed by Cheltenham Borough Council to exercise the right to buy under Part V of the Housing Act 1985;
- 2.3.10 enabling or assisting any residents of the housing stock owned or managed by either Cheltenham Borough Council or the Organisation to acquire, or to acquire and enter into occupation of, houses;
- 2.3.11 provide amenities and services of any description for owners and/or residents of private sector housing stock.

#### **Powers**

- 2.4 Subject to Article 2.6 the Organisation shall have power to do any thing that a natural or corporate person can lawfully do, which is necessary or expedient in furtherance of its objects unless prohibited by these Articles.
- 2.5 Subject to Article 2.6 and without limiting the powers described in Article 2.4 the Organisation shall have power to:
  - 2.5.1 construct, alter, improve, maintain, equip, furnish and/or demolish any land, buildings or other property;
  - 2.5.2 purchase, lease, exchange, hire or otherwise acquire any real or personal property rights or privileges (including shared or contingent interests);
  - 2.5.3 sell, lease, license, exchange, dispose of or otherwise deal with property;
  - 2.5.4 contract with Cheltenham Borough Council or any other person or organisations in furtherance of its objects;
  - 2.5.5 subject to the prior written consent of Cheltenham Borough Council and to such consents as may be required by law to borrow money, issue loan stock or raise money in such manner as the Organisation shall think fit and to secure the repayment of any money borrowed raised or owing by such security as the Organisation shall see fit (including by way of floating charge) upon the whole or any part of the Organisation's property or assets (whether present or future) and also by giving similar security to secure and guarantee the performance by the Organisation of any obligation or liability it may undertake or which may become binding on it;
  - 2.5.6 insure and arrange insurance cover for the Organisation from and against all such risks as the Board may think fit and to pay any premium in respect of such insurance;
  - 2.5.7 insure and arrange insurance cover for and to indemnify its employees and voluntary workers and Cheltenham Borough Council from and against all such risks incurred in the proper performance of their duties as it shall consider appropriate and to pay any premium in relation to indemnity insurance in respect of liabilities of its Board Members or any of them which would otherwise attach to them in respect of any negligence, default, breach of duty or breach of trust of which they may be guilty in respect of the Organisation provided that such insurance shall not extend to any liability in respect of an act or omission which such Board Member or Board Members knew or ought reasonably to have known was a breach of duty or trust or which was committed by such Board Member or Board Members recklessly without due regard as to whether such act or omission might be a breach of duty or trust;
  - 2.5.8 invest any monies of the Organisation not immediately required for the furtherance of its objects as it determines and as permitted by law;

- 2.5.9 subject to such consents as may be required by law and compliance with all formal guidance issued by the Organisation's regulators (if any) to purchase or otherwise acquire or to encourage or promote and in any way support or aid the establishment and development of any subsidiary, or any other body established for the purposes of carrying on any trade or business either for the purpose of raising funds for the Organisation or for the furtherance of the objects of the Organisation;
- 2.5.10 make donations, grants or loans to such persons and Organisations and on such terms as the Organisation shall think fit to further the objects of the Organisation;
- 2.5.11 to provide services or assistance to such persons and organisations as permitted by the objects and on such terms as the Board shall think fit to further the objects of the Organisation.

**provided that** in case the Organisation shall take or hold any property which may be subject to any trusts, the Organisation shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts.

- 2.6 The Organisation shall not do any act or thing which causes or might cause the Council to be in breach of the CIPFA Prudential Code for Capital Finance in Local Authorities.

#### **Application of Income and Property**

- 2.7 The income and property of the Organisation shall be applied solely towards the promotion of its objects as set forth in these Articles and no portion thereof shall be paid or transferred, directly or indirectly, save as provided below by way of dividend, bonus or otherwise howsoever by way of profit, to Cheltenham Borough Council and no Board Member shall be appointed to any office of the Organisation paid by salary or fees or receive any remuneration or other benefit or money or money's worth from the Organisation provided that nothing herein shall prevent any payment in good faith by the Organisation:
- 2.7.1 of reasonable and proper remuneration (including pensions, contributory pension payments, payment of premiums to pension policies and terminal grants and gratuities) to any officer or employee of the Organisation (not being a Board Member) in return for any services rendered to the Organisation;
- 2.7.2 of fees, remuneration or other benefit in money or money's worth to a company of which a Board Member may be a member holding not more than 2% of the share capital of the company;
- 2.7.3 to any Board Member of reasonable out-of pocket expenses and such other remuneration as may be determined by the Board provided that no sum shall be paid to a Board Member in excess of that which would be permitted to be paid to a board member pursuant to any guidance issued from time to time by Communities and Local Government or such other of Her Majesty's Government Departments relating to the payments of board members of Arms Length Management Organisations and provided further that no sum shall be paid to a Board Member who is an elected member of Cheltenham Borough Council in excess of that permitted by the Order;
- 2.7.4 of reasonable and proper remuneration to Cheltenham Borough Council or employees thereof (not being Board Members) in return for any services rendered to the Organisation;
- 2.7.5 of reasonable and proper rent for premises demised or let by Cheltenham Borough Council;

2.7.6 of reasonable and proper interest on money lent by Cheltenham Borough Council

**provided further that** nothing shall prevent the Organisation from managing a property in accordance with its objects (including the full range of activities it may undertake) notwithstanding the fact that the tenant, lessee or licensee (or prospective tenant, lessee or licensee) of such property may be a Board Member subject to the proviso that any Board Member who is a beneficiary of the Organisation shall not be entitled to speak in any debate or cast his/her vote in respect of any matter relating solely to the property of which he/she is lessee, tenant or licensee and shall absent himself/herself from such proceedings but such Board Member shall be entitled to speak and vote in respect of matters which relate not only to such property but also to other properties managed by the Organisation.

### **Equal Opportunities**

2.8 The Organisation shall at all times take into consideration the principles of equality of opportunity irrespective of age, gender, race, nationality, ethnic origin, religion, sexual orientation or disability.

### **Limited Liability**

2.9 The liability of Cheltenham Borough Council is limited.

### **Member's Guarantee**

2.10 Cheltenham Borough Council undertakes to contribute to the assets of the Organisation, in the event of the same being wound up while they are a member of the Organisation, or within one year after they cease to be a member of the Organisation, for payment of the debts and liabilities of the Organisation contracted before they cease to be a member of the Organisation, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one pound.

### **Winding Up**

2.11 If, upon the winding up or dissolution of the Organisation, there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall be paid or transferred to the Housing Revenue Account (as defined in the 1989 Act) of Cheltenham Borough Council.

### **Admission of Members**

3 No person other than Cheltenham Borough Council shall be admitted to membership of the Organisation.

4 Cheltenham Borough Council shall nominate a person to act as its representative in the manner provided in Section 323 of the Act. This person shall have the right on behalf of Cheltenham Borough Council to attend general meetings of the Organisation and vote at those meetings, and generally exercise all rights of membership on behalf of Cheltenham Borough Council. Cheltenham Borough Council may from time to time revoke the nomination of such representative, and nominate another representative in his or her place. All such nominations and revocations shall be in writing. Cheltenham Borough Council shall notify the Secretary of the Organisation of the identity of that person.

- 5 The rights of Cheltenham Borough Council shall be personal and shall not be transferable.

### **Age Limits for Directors**

- 6 There shall be a minimum age limit of 16. There shall be no maximum age limit.

### **General Meetings and Resolutions**

- 7 All general meetings other than annual general meetings shall be called extraordinary general meetings.

- 8 The Board Members may call general meetings and, on the requisition of Cheltenham Borough Council pursuant to the provisions of the Act, shall forthwith proceed to convene an extraordinary general meeting in accordance with the Act. If there are not within the United Kingdom sufficient Board Members to call a general meeting, any Board Member or Cheltenham Borough Council may call a general meeting.

- 9.1 An Annual General Meeting and an Extraordinary General Meeting not called on the requisition of Cheltenham Borough Council pursuant to Article 8 shall be called by at least twenty-one clear days' notice (or by shorter notice if it is so agreed by Cheltenham Borough Council.)

- 9.2 The notice shall specify the time and place of the Meeting and, in the case of an Annual General Meeting, shall specify the Meeting as such.

- 9.3 The notice shall be given to Cheltenham Borough Council and to the Board Members and auditors.

- 10 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

- 11 No business shall be transacted at any general meeting unless a quorum is present. The presence of the duly authorised representative of Cheltenham Borough Council shall be a quorum.

- 12 If Cheltenham Borough Council makes a decision which is required to be taken in a general meeting or by means of a written resolution, that decision shall be valid and effectual as if agreed by the Organisation in general meeting. Any decision taken by Cheltenham Borough Council pursuant to this Article 12 shall be recorded in writing and delivered by Cheltenham Borough Council to the Organisation for entry in the Organisation's minute book.

- 13 An entry stating that a resolution has been carried or lost in the minutes of any meeting shall be conclusive evidence of the fact.

### **Number of Board Members**

There shall be 10 Board Members, of which:

- 14.1 2 Board Members shall be Council Board Members.

- 14.2 A minimum of 3 Board Members shall be Tenant Board Members of whom 1 may be a Leaseholder.



- 14.3 The remaining Board members shall be either Tenant or Independent Board members.
- 14.4 In the event that the number or composition of Board Members shall at any time not be as specified in this Article 14 the remaining Board Members shall use reasonable endeavours to appoint further Board Members so to comply with this Article 14 and may act notwithstanding this Article.
- 14.5 Board Members (excluding the Council Board Members who shall be appointed in accordance with Article 15) shall be appointed as provided in these Articles and in accordance with a policy adopted by the Board from time to time. Such policy is to include provisions which require Board Member appointment panels to comprise the Chief Executive of the Organisation and up to four current Board Members, one of which must be the Chair, and that the remaining members of such panel must include:
- (a) At least one Council Board Member
  - (b) At least one Tenant Board Member
  - (c) At least one Independent Board Member
- 14.6 The Board can co-opt to the Board anyone with suitable skills. Co-optees shall serve as co-optees on the Board until removed by the Board. Co-optees can take part in the Board's discussions but cannot vote at Board meetings and shall not be directors within the meaning of either these Articles or the Act. No more than 2 persons can be co-opted to the Board at any one time.

#### **Appointment and Removal of Council Board Members by Cheltenham Borough Council**

- 15.1 Subject to Article 15.4 Cheltenham Borough Council shall from time to time appoint 2 persons as Council Board Members and shall have the power to remove from office any such Board Member.
- 15.2 Appointment or removal pursuant to Article 15.1 shall be effected by an instrument in writing signed by Cheltenham Borough Council's representative and shall take effect upon lodgement at the registered office of the Organisation or such date later than such lodgement as may be specified in the instrument.
- 15.3 Notwithstanding any other provisions in these Articles Cheltenham Borough Council shall have power at any time by notice in writing to the Secretary to appoint and remove any Board Member.
- 15.4 Council Board Members shall be restricted to serving a maximum of nine years on the Board.

#### **Selection and Retirement of Tenant Board Members and Independent Board Members**

- 16.1 Prior to every annual general meeting, processes shall be held to identify suitable persons to fill any vacancies for Tenant Board Members and for Independent Board Members to be appointed thereat. The mode and manner of such selection processes shall be in accordance with a policy adopted by the Board from time to time subject at all times to compliance with Article 14 and provided always that it shall be part of such policy that immediately prior to the annual general meeting at which Tenant Board Members or Independent Board Members will retire in accordance with Article 16.3 the Board shall resolve the identity of any new Tenant Board Members

- and Independent Board Members to be appointed with effect from that annual general meeting.
- 16.2 The Secretary shall announce the results of the selection processes referred to in Article 16.1 at each relevant annual general meeting and each person so selected shall be duly appointed as a Tenant Board Member or an Independent Board Member for a fixed term expiring at the close of the third annual general meeting following his or her appointment.
- 16.3 If a Tenant Board Member or Independent Board Member has not already done so he/she shall retire from office at the annual general meeting held three years after his/her appointment and may be reappointed in accordance with the policy referred to in Article 16.1, subject to Article 16.4.
- 16.4 Tenant Board Members and Independent Board Members shall be restricted to serving a maximum term of office expiring at the ninth annual general meeting after their appointment to the Board.

### **Casual Vacancies**

- 17 Subject to Article 14 and Article 15.1 the Board may appoint a person who is willing to act to be a Board Member to fill a vacancy. A Board Member appointed under this Article 17 shall be appointed in accordance with, and for a term determined by, the policies adopted by the Board under Article 16.1. Any vacancies arising from the Council Board Members shall be fixed by Cheltenham Borough Council pursuant to Article 15.

### **Disqualification and Removal of Board Members**

- 18 A person shall be ineligible for appointment to the Board and if already appointed shall immediately cease to be a Board Member if the relevant individual:
- 18.1 ceases to be a Board Member by virtue of any provision of the Act or becomes prohibited by law from being a company director; or
- 18.2 is or becomes a person disqualified from elected membership of a local authority; or
- 18.3 becomes bankrupt or makes any composition or arrangement with his/her creditors generally; or
- 18.4 is the subject of a written opinion given to the Organisation by a registered medical practitioner who is treating that person stating that that person has become physically or mentally incapable of acting as a board member and may remain so for more than three months and the board resolve that his/her office be vacated as a result; or
- 18.5 resigns his/her office by notice to the Organisation; or
- 18.6 is removed from office by a resolution (or written notice signed by) at least three quarters of all the other Board Members from time to time; or
- 18.7 shall for more than six consecutive months have been absent without permission of the Board from meetings of the Board held during that period and the Board resolves that his/her office be vacated; or

- 18.8 in any period of 12 months, he/she shall have been absent (without the permission of the Board Members) from at least 60% of the meetings of Board Members held during that period and the Board Members resolve that his/her office be vacated; or
- 18.9 in the case of a Tenant Board Member he/she ceases to be a Tenant **provided that** this Article 18.9 shall not apply in respect of a Tenant Board Member temporarily ceasing to be a Tenant as a result of the demolition of or works carried out to that Board Member's home; or
- 18.10 is a Tenant and is (in the reasonable opinion of a majority of Board Members) in serious breach of his/her obligations as a Tenant; or
- 18.11 is a Tenant Board Member and is or becomes a Local Authority Person; or
- 18.12 is an Independent Board Member and is or becomes a Local Authority Person; or
- 18.13 is removed by resolution of Cheltenham Borough Council pursuant to Article 15.2.
- 18.14 is or becomes an employee of Cheltenham Borough Homes

### **Powers of the Board**

- 19 Subject to the provisions of the Act, directions of Cheltenham Borough Council in general meeting and the Articles, the business of the Organisation shall be managed by the Board who may exercise all the powers of the Organisation. No alteration of the Articles or directions of Cheltenham Borough Council shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or those directions had not been given. The powers given by this Article shall not be limited by any special power given to the Board by the Articles and a meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.
- 20 The Board may, by power of attorney or otherwise, appoint any person to be the agent of the Organisation for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

### **Borrowing Powers**

- 21 Subject to Article 2.6 the Board may exercise all the powers of the Organisation to borrow money without limit as to amount and upon such terms and in such manner as they think fit, and to grant any mortgage, charge or other security over its undertaking and property, or any part thereof, and to issue any debenture, whether outright or as security for any debt, liability or obligation of the Organisation or of any third party.

### **Delegation of Board Members' Powers**

- 22 The Board may delegate any of their powers to any committee consisting of three or more Board Members together with such other persons as the Board sees fit (with each such person having voting rights in relation to the committee's business but so that Board Members shall constitute a majority). They may also delegate to the Chair or any vice or deputy chair or to any executive officer such of their powers as they consider desirable to be exercised by him/her. Any such delegation may be made subject to any conditions the Board may impose and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with three or more members shall be governed by the Articles regulating the proceedings of the Board so far as they are capable of applying.

### **Alternate Board Members**

- 23 No Board Member shall be entitled to appoint any person as an alternate Board Member.

### **Board Members' Expenses**

- 24 The Board Members may be paid all travelling, hotel, and other expenses reasonably and properly incurred by them in connection with their attendance at meetings of the Board or committees of the Board or general meetings or otherwise in connection with the discharge of their duties and such other remuneration as may be determined by the Board provided that no sum shall be paid to a Board Member in excess of that which would be permitted to be paid to a board member pursuant to any guidance issued from time to time by Communities and Local Government or such other of Her Majesty's Government Departments or agencies relating to the payment of Board Members of Arms Length Management Organisations and provided further that no sum shall be paid to a Board Member who is an elected member of Cheltenham Borough Council in excess of that permitted by the Order.

### **Board Members' Appointments and Interests**

- 25 A Board Member may not have any financial interest personally or as a member of a firm or as a director or senior employee (being an employee with managerial status) in any contract or other transaction of the Organisation unless it is permitted by these Articles and is not prohibited by Article 2.6.
- 26 Each Board Member shall ensure that the Secretary has at all times an up to date list of:
- 26.1 all bodies trading in which he or she has an interest as:
- (a) a director or senior employee;
  - (b) a member of a firm;
  - (c) the owner or controller of more than 2% of the issued share capital in a company;
- 26.2 all his or her interests as an official or elected member of any statutory body;
- 26.3 all his or her interests as the occupier of any property owned or managed by the Organisation;
- 26.4 any other significant or material interest.

### **Proceedings of Board Meetings**

- 27.1 Subject to any regulations established from time to time by the Organisation in general meeting and compliance with Section 10 (1) of the Order the Board may regulate their proceedings as they think fit and the quorum for the transaction of the business of the Board at the time when the meeting proceeds to business shall be five provided that as part of the quorum there is present at least 1 Council Board Member, or 1 Tenant Board Member
- 27.2 33 1/3 (thirty three and a third) percent of the total number of Board Members (or such whole number of Board Members nearest to 33 1/3 percent) may call a meeting of the

- Board. It shall not be necessary to give notice of a meeting to a Board Member who is absent from the United Kingdom.
- 27.3 If a quorum is not present within half an hour from the time appointed for a Board Meeting the Board Meeting shall, if requested by a majority of those Board Members present, be adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Board Members present may determine.
- 27.4 If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting then notwithstanding Article 27.1 the Board Members present shall constitute a quorum.
- 27.5 Meetings of the Board can take place in any manner which permits those attending to hear and comment on the proceedings.
- 28 Resolutions of the Board shall be decided by a majority of votes and each Board Member present in person shall be entitled to one vote. In the case of an equality of votes, the Chair shall have a second or casting vote.

#### **Authorisation of Board Members' Interests**

- 29.1 If an actual or potential conflict of interest arises for a Board Member other than in relation to a transaction or arrangement with the Organisation and the conflict is not authorised by virtue of any other provision in the Articles, the unconflicted Board Members may authorise such a conflict of interests **provided that:**
- (a) any conflicted Board Member is not to be counted in the quorum of Board Members at the meeting where the conflict is to be authorised; and
  - (b) the unconflicted Board Members consider it is in the interests of the Organisation to authorise the conflict of interest in the circumstances applying.
- 29.2 The Board Members may attach any conditions to an authorisation given under Article 29.1 that they consider to be in the best interests of the Organisation.
- 29.3 The Board should consider whether any actual or potential conflicts should be authorised in accordance with Article 29.1 each time:
- (a) a new Board Member is appointed; or
  - (b) a new situation (not already authorised) arises for an existing Board Member that gives rise to an actual or potential conflict of interests.
- 29.4 In authorising any matter under this Article, the Board may also decide that if a Board Member receives or has received information otherwise than by virtue of his/her position as a Board Member of the Organisation and in respect of which he/she owes a duty of confidentiality to another person, the Board Member is under no obligation to:
- (a) disclose any such information to the Organisation, the Board or any other Board Member or employee of the Organisation; or
  - (b) use or apply any such information in connection with the performance of his duties as a Board Member.

- 30.1 Any Board Member having an interest, direct or indirect, in any transaction or arrangement between the Organisation and another person or body shall disclose the nature and extent of that interest to the meeting before the matter is discussed by the Board or committee of the Board. Unless the interest is of the type specified in Article 30.2 or Article 30.3, the Board Member concerned shall not remain present during the discussion of that item unless requested to do so by the remaining members of the Board or committee of the Board and may not vote on the matter in question, but no decision of the Board or any committee of the Board shall be invalidated by the subsequent discovery of an interest which should have been declared.
- 30.2 For the purposes of sections 175(3) of the Companies Act 2006 as substituted by section 181(2)(a) of the Companies Act 2006 the duty to avoid conflicts of interest and Article 30.1 shall not apply to a conflict of interest arising in relation to matters arising because:
- (a) the Board Member is a Tenant so long as the matter in question affects all or a substantial group of Tenants or Leaseholders; or
  - (b) the Board Member is a director or other officer of a company or body which is a parent, subsidiary or associate of the Organisation; or
  - (c) the Board Member is an official or elected member of any statutory body.
- but where such a conflict of interest does arise, any conflicted Board Member shall comply with Article 30.1.
- 30.3 A Board Member shall not be treated as having an interest:
- (a) of which the Board Member has no knowledge and of which it is unreasonable to expect him/her to have knowledge;
  - (b) in the establishment of a policy in respect of Board Member expenses payable pursuant to Article 24.
- 31 If a question arises at a meeting of the Board or of a committee of the board as to the right of a Board Member to vote, the question may, before the conclusion of the meeting, be referred to the Chair of the meeting and his or her ruling in relation to any Board Member other than himself/herself (in which case the matter shall be considered by the remaining Board members present) shall be final and conclusive.
- 32.1 At the first Board Meeting following each annual general meeting the Board Members shall appoint one of their number to be the Chair of the Board to hold office until the next annual general meeting and may at any time remove him from that office. No person shall serve as Chair for a period of greater than six years.
- 32.2 Unless he/she is unwilling to do so, the Board Member so appointed shall preside at every meeting of the Board at which he/she is present. But if there is no Board Member holding that office, or if the Board Member holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the Board Members present may appoint one of their number to be Chair of the meeting.
- 32.3 The Board may appoint a vice or deputy chair to act in the absence of the Chair on such terms as the Board shall think fit.
- 33 All acts done by a meeting of the Board, or of a committee of the Board or by a person acting as a Board Member shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Board Member or that any of them were

disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Board Member and had been entitled to vote.

### **Written Resolution**

- 34 A resolution in writing signed or otherwise confirmed (which may include authorisation by electronic means) by:
- 34.1 three quarters of all the Board Members entitled to receive notice of a meeting of the Board or of a committee of the Board; and
- 34.2 the Chair of the Board or of the relevant committee; and
- 34.3 which satisfies the quorum requirements of Article 27 shall be as valid and effectual as if it had been passed at a meeting of the Board or a committee of the Board (as the case may be) duly convened and held and may consist of several documents in the like form each signed or confirmed by one or more Board Members.

### **Secretary**

- 35 The Organisation may have a Secretary and any deputy or alternate Secretary who shall be appointed by the Board for such term, at such remuneration and upon such conditions as the Board thinks fit and any Secretary so appointed may be removed by the Board.

### **Minutes**

- 36 The Board shall cause minutes to be made in books kept for the purpose:
- 36.1 of all appointments of officers made by the Board Members; and
- 36.2 of all proceedings at meetings of the Organisation and of the Board, and of committees of the Board and of Cheltenham Borough Council in its capacity as the sole member of the Organisation, including the names of the Board Members present at each such meeting.

### **Records Accounts and Returns**

- 37 The Organisation shall comply with the provisions of the Act in respect of:
- 37.1 the keeping and auditing of accounting records;
- 37.2 the provision of accounts and annual reports of the directors; and
- 37.3 in making an annual return.

### **The Seal**

- 38.1 If the Organisation has a seal it shall only be used with the specific or general authority of the Board or of a committee of the Board. The Board may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Board Member and by the Secretary or a second Board Member.

38.2 The Organisation may exercise the powers conferred by the Act (as and when in force) with regard to having an official seal for use abroad, and such powers shall be vested in the Board Members.

38.3 The Organisation may, in addition to using its seal under Article 38.1, execute a document in accordance with the provisions of Section 44 of the Companies Act 2006.

### **Notices**

39.1 Any notice or document to be sent or supplied to a Board Member may be sent or supplied and shall be deemed to have been received in accordance with the Act unless otherwise agreed by that Board Member.

39.2 A Board Member may agree with the Organisation that notices or documents sent to that Board Member in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

39.3 Anything sent to Cheltenham Borough Council under these Articles shall be sent to Cheltenham Borough Council's address as registered in the register of Members, unless:

(a) Cheltenham Borough Council and the Organisation have agreed that another means of communication is to be used, and

(b) Cheltenham Borough Council has supplied the Organisation with the information it needs in order to be able to use that other means of communication.

39.4 Any notice or document sent to a Board Member shall be sent to that Board Member's address as registered in the register of Board Member, unless:

(a) the Board Member and the Organisation have agreed that another means of communication is to be used, and

(b) the Board Member has supplied the Organisation with the information it needs in order to be able to use that other means of communication; and

(c) a notice calling a meeting of the Board need not be in writing.

39.5 A Member present in person at any meeting of the Organisation shall be deemed to have received notice of the meeting and, where necessary, of the purposes for which it was called.

### **Indemnity**

41.1 Every Board Member or other officer of the Organisation shall be indemnified out of the assets of the Organisation against all losses or liabilities which they may sustain or incur in or about the execution of the duties of his/her office or otherwise in relation thereto, including any liability incurred by him/her in defending any proceedings, whether civil or criminal, in which judgement is given in his/her favour or in which they are acquitted or in connection with any application under Section 1157 of the Act in which relief is granted to him/her and no Board Member or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Organisation in the execution of the duties of his/her office or in relation thereto provided that this Article shall only have effect in so far as its provisions are not avoided by Section 232 of the Act.



40.2 The Board shall have power to purchase and maintain for any Board Member or officer of the Organisation insurance against any such liability as is referred to in Section 232 of the Act.