



Cheltenham Borough Homes Limited

**Board Members' Code of Governance
(terms of reference)**

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Code of Governance

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Code of Governance

1. Introduction

Governance is about how an organisation makes sure it is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, cultures and values by which it is controlled, regulated and held to account.

Governance affects every level of the organisation. The Board, Executive Team, staff and stakeholders all have a duty to uphold excellent standards of governance which will provide a framework for strong and effective leadership and the management of risk.

This Code of Governance for Board Members is aimed to show how you will meet your obligations and attain the highest standards in your position as a CBH Board member. It takes into account accepted guidance and best practice for the housing and public sectors and the legislative requirements of the Companies Act of 2006.

Throughout this Code of Governance you will see references **in bold** to documents which give more detailed information. All of these documents can be found in the **Board Members' Handbook** which can be accessed via Modern.Gov.

Purpose of the Code

The Code covers the primary areas of responsibility and activity for a Board and how it will conduct its business. All members are required to observe it.

Rules of Membership to the Board

Membership and appointment to the Board is clearly defined within the Company's Articles of Association.

Board members can serve up to three, 3 year terms of office (9 years maximum). If a Board member wishes to return to the Board after completing 9 years' service, they must wait a full term (3 years) before being considered for membership.

2. The Role of the Board

Collectively the Board must act in the best interests of CBH at all times and must accept responsibility for decisions made. Its main functions are:

- To determine and support the vision, values and objectives of the Company;
- To constructively challenge and contribute towards the development of company strategy;
- To scrutinise the performance of management in meeting objectives and monitor the reporting of performance;
- To satisfy itself that financial information is accurate and that financial controls and systems of risk management are robust;
- To ensure there is a balance of skills and experience on the Board with effective succession planning in place;
- To ensure there is a mechanism for regular performance reviews of the Board;
- To declare any relevant interests and ensure personal interests do not come into conflict with the general responsibilities of Board members.

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In addition it will:

- Ensure that the Company:
 - operates within the law
 - operates according to its rules and procedures
 - meets the standards laid down by regulatory bodies
- Establish business and financial objectives;
- Positively represent the Company externally and promote its success;
- Protect the assets of the Company;
- Recognise its duty to tenants, staff and other service users;
- Approve each year's budget, exercising financial management and managing responsibility for both financial and non-financial risks;
- Oversee and exercise control over the Company's work and services whilst delegating day to day management to its executive officers;
- Where appropriate, delegate authority to, and monitor the work of, its sub-committees;
- Be responsible for employing executive staff to carry out the work of the Company and set their terms and conditions.

The Role of Board Members

Each Board member is provided with a **Role Profile** and **Service Agreement** which outlines their responsibilities and obligations. The Service Agreement also defines the support the member will receive from the senior leadership team to help them fulfil their role.

In addition to the Board's collective responsibilities, a Board member has a duty to:

- Uphold CBH's core policies including those for health and safety, equality and diversity;
- Contribute to, and share responsibility for, the Board's decisions;
- Attend and participate in reviews linked to individual and collective performance and commit to fulfilling agreed Personal Development Plans;
- Respect confidentiality of information relating to CBH's business or the Board's decisions;
- Comply with the CBH's Code of Conduct (enshrined within this Code of Governance);
- Comply with the Companies Act 2006 particularly with regard to directors' duties;
- Make a commitment to:
 - attend scheduled Board meetings and meetings of committees or other working groups of which they are a member;
 - attend a tailored induction programme;
 - attend Board training events and Away Days;
 - set aside time to prepare for meetings.

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3. Key Roles: Chair of the Board, Chief Executive Officer, Company Secretary

The relationship between the Chair and Chief Executive is central to the Company's success. Clarity in these respective roles is essential. Each role has separate and specific responsibilities which are defined within their individual **Role Profiles**.

The Chair leads the Board and the Chief Executive leads the management teams and is responsible for the management of the business.

Chair of the Board

The Chair is elected by the Board at its first meeting following each annual general meeting to hold office until the next annual general meeting and no person can serve as Chair for a period greater than six years. The Chair must have at least one year's service with the current Board. When electing the Chair, Board members should bear in mind the particular skills that the role requires.

The role of the Chair has three main elements:

- to provide the Board with leadership;
- to provide the Company with leadership;
- to establish a constructive working relationship with the Chief Executive.

In order to fulfil the role successfully the Chair needs:

- a commitment to the aims and values of CBH which is strong enough to enable him/her to commit significant levels of time and energy to the work;
- the ability to think strategically and demonstrate sound judgement;
- leadership skills, including the ability to motivate others;
- the ability to conduct meetings in a way that enables the business to be expedited and encourages participation in discussions from all Board members.

(The Vice-Chair will stand in to the role if the Chair is absent or by agreement. The Vice Chair is also elected each year at the first Board meeting following the annual general meeting to hold office until the next annual general meeting).

Chief Executive Officer

The Board is responsible for the appointment of the Chief Executive Officer and will provide him/her with a Role Profile outlining duties and responsibilities, and a Contract of Employment which meets legislative requirements.

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The core responsibilities of the Chief Executive Officer are:

- to help the Board determine policies and strategies including the Business Plan;
- to ensure the Board receives advice on matters concerned with its governance arrangements and any other information necessary to perform its duties;
- to draw to the Board's attention matters that it should consider and decide;
- to help the Chair ensure that the business of the Board is properly conducted;
- to manage the affairs of the Company in accordance with the vision, values and objectives, general strategies, policies and specific decisions of the Board;
- to direct and manage all services, budgets and people to ensure CBH meets its statutory obligations, performance and financial targets;
- to develop a leadership style and culture which reflects the core values of CBH;
- to work with the Board to establish and maintain effective partnerships with residents, the Council, partners and other agencies;
- to represent CBH as appropriate.

Company Secretary

The Secretary is appointed by the Board. Although the Companies Act of 2006 removed the legal requirement for private companies to appoint a Company Secretary, the Board of CBH recognises that the position is key to the efficiency and effectiveness of the Board and to the smooth running of the Company. To fulfil the role, the Secretary must not only keep up to date with relevant legal, statutory and regulatory requirements but also be able to give impartial advice and support to Board members.

The core responsibilities of the Secretary include:

- facilitating the smooth operation of the Company's decision making and reporting process;
- organising Board and the Board's committee meetings. Circulating the relevant papers for these meetings, ensuring that all meetings are minuted and that the minute books are properly maintained and that all committees are properly constituted and provided with clear terms of reference;
- formulating meeting agendas and workplans with the Chair and Chief Executive;
- ensuring that the annual general meeting of the Company is held in accordance with the requirements of its Articles of Association and the Companies Act;
- filing statutory returns to the Registrar of Companies and other regulatory bodies;
- co-ordinating the publication and distribution of the Company's annual directors' report, accounts and interim statements in consultation with the Company's internal and external auditors;
- keeping the Register of Members, the Company's Seal and accounts;
- ensuring that the Organisation acts legally and constitutionally within its Memorandum and Articles of Association and adheres to the Management Agreement with Cheltenham Borough Council;
- continually reviewing developments in corporate governance.

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If the Secretary is a member of staff, s/he must not take part in Board decisions and his/her role must remain advisory.

Other Significant Roles

These include:

- The Vice Chair
- Chairs of Board Committees
- Board Champions
- Co-opted Board Members

Each one has a specific **Role Profile** which describes the purpose of the role and its primary responsibilities.

4. The Code of Conduct

The Board has a duty to:

- The Company
- Cheltenham Borough Council (as shareholder)
- Its tenants
- The wider community
- Its staff

Effective conduct of the Board's business is vital to good governance. Without suitably clear and incisive documents, no Board can hope to make informed and appropriate decisions. It is also a principle of good governance that all Board members should contribute to making decisions, which may involve the Company in significant financial or other risks or which raise material issues of principle.

New and prospective (co-opted) Board members are given an induction programme so they can learn the workings, policies and procedures of CBH. They also receive clear information on what is expected of them and agree to abide by the obligations laid out in the Board Members' Role Profile, Service Agreement, the Company's IT Acceptable Use Policy, and the Company's Code of Governance.

The duties and responsibilities of Board members are summarised at **(2)** in this document.

Conduct at Meetings

To maintain optimum effectiveness, openness and transparency, the following will apply:

- Board decisions should, wherever possible, be based on full agendas and documents circulated to members well in advance of meetings;

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- Points for decision should be clearly identified in those documents;
- Board reports should be presented as clearly as possible to provide sufficient information to enable informed decision making;
- Decisions should be recorded in the minutes;
- Board members should address the meeting through the Chair;
- Board members should treat colleagues with respect at all times;
- Board members must make every effort to give at least three working days notice of absence from a meeting to the Company Secretary, or their appointed nominee, so that the potential for an inquorate meeting is minimised;
- Urgent decisions should be taken in accordance with pre-determined arrangements as set out in the Company's Articles of Association. These arrangements place on the Chair the responsibility, in the case of key decisions, to ensure that all the Board members are consulted whenever possible by telephone, email or fax etc. The fact that Board members were consulted and the views expressed should be formally recorded.

Conduct of Board Members

CBH must act to maintain its reputation for high standards of conduct. Board members should be guided by the following principles:

General Obligations

- do nothing that cannot be justified to the Board, tenants, or the public;
- avoid situations that could cause suspicion of improper conduct;
- declare any conflict of interest in accordance with the Company's Articles of Association. If there are frequent conflicts of interest you should consider resigning;
- the Board should comply with the Bribery Act of 2010 and the company's policy on gifts and hospitality (**see page 8**);
- You should ensure that the facilities of the Company are used only as appropriate and in line with your duties as a Board member.

Board members must:

- promote equality and diversity by not discriminating unlawfully against any person;
- treat others with respect;
- support other board members, especially new appointees and co-optees;
- not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Company;
- make a written statement to the Company Secretary as soon as possible if a member becomes aware of any conduct by another member which he/she reasonably believes involves a failure to comply with CBH's Code of Governance or Standing Orders;

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- with due regard to the Company's Code of Governance, agree to sign a Declaration of Acceptance of Office which will be held with the Register of Members.

Board members must not:

- disclose information given to him/her in confidence by anyone, or information acquired which s/he believes is of a confidential nature, without the consent of a person authorised to give it, or unless s/he is required by law to do so; nor
- prevent another person from gaining access to information to which that person is entitled by law;
- in his/her official capacity, or any other circumstance, act in a manner which could reasonably be regarded as bringing his/her office or the Company into disrepute.

The Bribery Act 2010

- Members of the Board, staff and other associated persons acting for or on behalf of CBH are strictly prohibited from making, soliciting or receiving any bribes or unauthorised payments in accordance with the Bribery Act 2010.
- Procedures set out in the Anti-Fraud and Corruption Policy must be adhered to.

Payment of Board Members and Expenses

As set out in the Company's Articles of Association, Board members may be paid all travelling, hotel and other expenses reasonably and properly incurred by them in connection with their attendance at meetings and events, or to enable them to discharge their duties. Any other remuneration approved by the Board must be in line with any guidance issued from time to time from the Government relating to the payment of Board members of an Arms Length Management Organisation. 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 Local Authorities (Companies) Order 1995.

It is permitted that gifts of reasonable value may be purchased by the Board to recognise the service of Board members on their retirement, or in the event of a significant personal circumstance involving a Board member such as illness or death.

Register of Gifts and Hospitality

Members of the Board and members of staff should refuse all material hospitality and gifts offered by an individual or company that does or could provide services to the Company where they are offered as an inducement to secure favour.

Under no circumstances should items of alcohol or of any monetary value (such as tokens or cash) be accepted. It is the Company's policy that Board and staff members should not accept any gifts of significant value (over £15) from residents, contractors or outside bodies but may retain items of low value such as pens, calendars, diaries etc.

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You may find this will put you in a difficult position when being presented with a gift, particularly from a resident. In those circumstances, to avoid giving offence, accept the gift but explain that you will not be using it for personal use and that it will be passed to the Company Secretary to be used as a prize in the next Company wide raffle.

Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Company should be seen to be represented.

Any hospitality or gifts of significant value that are accepted must be recorded in the Register of Gifts and Hospitality. This is maintained by the Company Secretary. An email stating what the item is, an approximate value, and from whom it was received is sufficient.

Board Members' Contact with Staff and Dealing with Staff Issues

It is not expected that Board Members have routine contact with any staff other than the Executive Team but it is important that in any dealings between Board members and staff the parties should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their positions.

Above all when interacting with employees treat them as you would want to be treated and recognise the potential impact of any comments you may make.

Generally, outside of organised visits agreed with the Executive Team, it is unlikely that Board members would meet individual staff, but if you do, in your capacity as a Board member, then specific case issues or views on practices should not be raised.

Board Members Dealing with Tenant / Leaseholder Issues

It is inevitable that Directors will be contacted by tenants and/or leaseholders in order to provide information or progress issues of concern. The **Protocol for Directors Dealing with Tenant/Leaseholder Issues** provides guidelines to establish the appropriate action to be followed in such circumstances.

Disciplinary Procedure for Board Members

Board membership entails a particular responsibility to avoid any suggestion of impropriety or misconduct. Matters such as conflicts of interest, or the acceptance of gifts or hospitality, are particularly sensitive and are addressed specifically within this Code of Governance (**see sections (12) and (4)**).

In accordance with the Disciplinary Procedure for Board Members, the Board's Governance Champion, the Chair of the Board and the Company Secretary, will investigate any allegation of misconduct by a Board member. If appropriate, the matter will be referred to a Panel of the Board for consideration, with a report to full Board for a final decision.

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5. Committees and Task and Finish Groups

CBH has committees and Task and Finish Groups to look in depth at particular issues or functions of the Company. In summary, the following principles apply:

- each committee or group should have clear written terms of reference and levels of membership and delegated authority which have been approved by the Board;
- each committee or group must report regularly to the Board;
- committees must meet regularly enough to complement the work of the Board and to carry out the Company's business;
- committees and groups, their terms of reference and levels of authority should be reviewed annually.

6. Matters Reserved for the Board

No matter how effective a Board of directors may be it is not appropriate for the Board members to have hands on involvement in every area of the Company's business. An effective board controls the business but delegates day to day responsibility to the executive management. However, there are a number of matters which are required, or that, in the interests of the Company, should only be decided by the Board as a whole. It is incumbent upon the Board to make it clear what these matters reserved for the Board are. A CBH schedule of **Matters Reserved for the Board** has been approved by the Board.

7. Delegations

Matters which the Board considers suitable for delegation are contained in the terms of reference for its committees and working groups, or in **the Schedule of Delegations**.

8. Openness and Accountability

Openness and accountability are a key part of the ethos of CBH. Providing full information to the public is especially important given that the Company will be in receipt of public funding. Information should be withheld only if there is an issue that requires confidentiality – perhaps because it is sensitive in a personal or commercial way, or where its disclosure is covered by legislation.

Examples of openness and accountability are:

- publishing information
- holding public meetings
- publicising the results of tenant surveys

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Board Members should ensure that the following procedures and practices are followed:

- you should be prepared to account for your decisions and actions in an open manner;
- certain documents and information which are required to be publicly available must be so. These include:
 - the Company's Memorandum and Articles of Association
 - the Register of Members
 - the annual accounts
- CBH will publish and make widely available other information, such as:
 - tenants' and leaseholders' handbooks
 - leaflets on policies, services and specific issues
 - newsletters
 - results of tenants' and leaseholders' surveys
 - details of future plans and targets
 - the compliments, comments and complaints procedure
 - minutes of meetings, where these are not confidential
- Documents will be written in plain English and translated into other languages if necessary;
- Requests for information will be complied with where possible;
- CBH's approach to openness should be regularly reviewed, taking account of good practice;
- Members of the public will be encouraged to attend the non-confidential parts of Board meetings

9. Tenant Involvement

A variety of people use CBH services – tenants, residents and other members of the community. Involving them in our work promotes accountability. Best practice recommends that the Council should ensure services delivered by CBH should increase tenant and resident involvement. The Homes & Communities Agency also requires that tenants are actively involved in influencing the decision making process of housing organisations. In January 2011, a scrutiny panel was set up to perform an independent scrutiny function on behalf of tenants.

Having tenants on the Board is just one way of encouraging participation. There are many others and CBH has developed a strategy on involvement and engagement.

10. Health and Safety

The Board is responsible for approving the annual Health, Wellbeing and Safety Statement and for ensuring there is an action plan for continuous improvement. The Board has responsibility for matters relating to CBH's obligations under the Health and Safety at Work Act 1974 and any relevant statutory provisions affecting its employees,

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members of the public any other persons who may be affected by work activities. Members will ensure they support the Health, Wellbeing and Safety Policy and take account of related health and safety issues in the course of managing CBH's affairs.

11. Equality and Diversity

CBH has adopted and published a Single Equality Scheme covering all areas of its work. Equality of opportunity is a core value of every Board and staff member.

The CBH Single Equality Scheme includes and responds to all legislative changes which may affect CBH and its customers and takes into account best practice guidelines.

12. Audit

The Company is required to have its accounts externally audited. However there is more to audit than just looking at the finances.

Internal Audit

Audit is a key component of good governance and should cover:

- standards of performance;
- procedures;
- service delivery;
- compliance with standards and legislation.

The audit involves closely examining these internal procedures and putting them to the test using an internal auditor, who will then make a report and recommendations to the Board's Audit & Risk Committee.

Internal auditing helps CBH to comply with good governance practices and is good for the Company's health. It is a positive process and the auditors' management letter can highlight control weaknesses, giving CBH a chance to improve procedures.

External Audit

The Board includes a statement in its audited accounts about the Company's system of internal financial control. The statement covers:

- acknowledgement of the Board's responsibility;
- an explanation of the extent of the assurance against financial loss;
- a description of key procedures;
- confirmation that the Board has reviewed the effectiveness of the system;
- information about weaknesses, if any, in financial control that have led to losses.

External auditors are appointed to verify and check these procedures. They must be independent and effective. Auditors are appointed through a proper selection procedure, with the appointment subject to periodic review as detailed within the **Company's Articles of Association and Financial Regulations.**

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Performance Audit

The Board is responsible for ensuring the Company complies with published standards. The Board must ensure that:

- standards of performance are set
- the achievement of performance targets is monitored;
- the information collected is used to amend targets, policies and/or procedures as necessary.

13. The Register of Board Members' Interests

Registration of Financial and Other Interests

Within 28 days of election, nomination or appointment to office (if that is later), a Board member must register their financial interests in the Company's Register, maintained by the Company Secretary, by providing written notification to the Company Secretary of:

- a) any employment or business carried on by them;
- b) the name of their employer if applicable, the name of any firm in which they are a partner, and the name of any company for which they are a remunerated director;
- c) the name of any person, other than a relevant organisation, who has made a payment to them in respect of election or any expenses incurred by them in carrying out their duties;
- d) the name of any corporate body which has a place of business or land in Cheltenham Borough Council's (CBC's) area, and in which the Board Member has a beneficial interest in a class of securities that exceeds the nominal value;
- e) a description of any contract for goods, services or works made between CBH or CBC and themselves or a firm in which they are a partner, a company of which they are a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- f) the address or other description (sufficient to identify the location) of any land in which they have a beneficial interest and which is in the area of CBC;
- g) the address or other description (sufficient to identify the location) of any land where the landlord is CBH or CBC and the tenant is a firm in which they are a partner, a company of which they are a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- h) the address or other description (sufficient to identify the location) of any land in CBC's area in which they have a licence (alone or jointly with others) to occupy for 28 days or longer.

Board members are also expected to declare any position they may hold on:

- a standing committee of Cheltenham Borough Council (CBC);
- an organisation which receives funding from CBH or CBC;
- any community or project groups;

and declare any other qualifying interests as indicated on the registration form.

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Directors' Duty to Avoid Conflicts of Interest

The Companies Act 2006 (section 175) states that '*a director of a company must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company*'.

Guidance for Councillor Board Members

Additional information has been provided for councillor Board members regarding speaking and voting at Council meetings. The document, **Guidance for Councillors** can be found in the Board Handbook via Modern.Gov.

Declaration of Interests

In accordance with the Company's Articles of Association (25 and 26) any Board member who has an interest in any arrangement between the Organisation and another person or body shall disclose the nature and extent of that interest to the meeting in writing using the Declaration of Interest form provided before the matter is discussed by the Board, or any committee or working group of the Board.

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 Memorandum or Articles, the unconflicted Board Members may authorise such a conflict of interests **provided that**:

- 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
- the unconflicted Board Members consider it is in the interests of the Organisation to authorise the conflict of interest in the circumstances applying.

For the purposes of sections 175(3) of the 2006 Act as substituted by section 181(2)(a) of the 2006 Act the duty to avoid conflicts of interest and Article 25 shall not apply to a conflict of interest arising in relation to matters arising because:

- the Board Member is a Tenant so long as the matter in question affects all or a substantial group of Tenants; or
- 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
- 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 26.

A Board Member shall not be treated as having an interest:

- of which the Board Member has no knowledge and of which it is unreasonable to expect him to have knowledge;
- in the establishment of a policy in respect of Board Member expenses payable pursuant to the Articles of Association.

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14. Sources of Information

The following documents and publications were consulted during the production of the CBH Code of Governance:

- The CBH Memorandum and Articles of Association
- The Companies Act 2006
- Housing and Regeneration Act 2008
- “Promoting Board Excellence” – National Housing Federation 2015
- Duties of a Company Secretary – Institute of Chartered Secretaries and Administrators
- Butterworth’s Company Secretarial Procedures and Precedents
- The CBH Board Members’ Handbook
- CBH Financial Regulations and Anti-Fraud & Corruption Policy