

VARIOUS GOVERNANCE MATTERS

STATUS - for decision

There are a number of governance matters for your attention, as follows:

A. THE CHAIR - SUCCESSION PLANNING

- A1. As reported last month, the election of a new Chairperson can await the first Management Committee meeting after the 2020 AGM, however I think it is very important that Lister has a plan, i.e. ideally find one or more possible candidates for the new Chair. There would be an election, likely to be at the September or October Committee meeting (see AGM issue below).
- A2. I plan to let our SHR contact know that we are extending the 5-year term of the current Chair until this date, as this is permissible due to Covid-19 but does 'break' our rules.

B. NEW SFHA MODEL RULES

- B1. The SFHA has revised its model rules early in 2020. Lister uses the 2013 version. There was a minor revision in 2015 however Lister had only just adopted the 2013 rules in 2014, and the changes were relatively minor. These 2020 Rules have more substantial changes, including various options to consider. I did do an early report on this topic in September 2019 however at that time the Guidance had not been finalised and I was awaiting this before doing any more work on the topic.
- B2. There needs to be a Special General Meeting called for the membership to consider a rule change, and normally these are held immediately after the normal AGM, so as to 'capture' the same attendees for both.
- B3. I am recommending strongly that Lister defers calling a SGM until the 2021 AGM. There are three main reasons for this:
 - a. The Committee has not had a chance to discuss them and consider the various options. This is also harder to do remotely in that we wish a genuine dialogue - it is not a simple issue of 'vote for everything available'.
 - b. We similarly would wish to have a consultation period with the membership. Last time there was a rule change, we held a special consultation evening and also encouraged written comments. This was very useful in ensuring that at the SGM, more people came along pre-prepared on the topic and issues.
 - c. If we hold the 2020 AGM electronically (see D below) then technically, all participants have no legal right to speak. They can only cast a vote. Similar rules would apply to a SGM held before 30 Sept 2020. This is hardly the best of bases for having a debate with the membership about whether or not to adopt new rules. There is also a higher requirement for votes to pass a rule change.

The SFHA and SHR have stated that RSLs do not need to adopt these new rules in 2020, though the SHR especially is urging organisations to adopt them as soon as they can. I have expressed my personal views to the SFHA that I think it is not democratic to urge its members to pass these new rules in 2020 when the membership has no legal right to speak at a SGM.

- d. If we do wish to consider becoming a charity (see C below) then we should decide on this before we decide about our Model Rules, as we would need slightly different Rules as a charity.

B4. If the Committee agrees with this recommendation then I shall advise the SHR that we do not plan to consider these rules until the 2020 AGM & SGM.

C. EXPLORING THE OPTION OF BECOMING A CHARITY (AS WELL AS STAYING A CO-OP)

C1. Our auditors, Chiene + Tait suggested that Lister explores the options of becoming a Charity - a SCIO (Scottish Charitable Incorporated Organisation) as this could save us most or all of the corporation tax we pay on our non-housing activities. We have been paying around £5-6,000 in tax, however this year we need to pay over £8,000.

C2. C&T got this 'idea' from West Whitlawburn Housing Co-op who have achieved this aim - of being a Co-op and a Charity - a first for Scottish housing. C&T have taken over the external audit at WWHC and are now suggesting this possibility of becoming a charity to Lister.

C3. It is important that if we wish to do this, we consider it carefully as there may be cons, as well as pros, and in the grand scale of things £8,000 is not a lot of money if being a charity hampers Lister in other ways. Again, there would need to be research and evaluation before any decision in principle is made. Then there will be procedural hoops to jump through. I shall progress this evaluation in the coming months, I plan to ask the SHR if they have any advice or comments at this stage.

D. PLANNING AN AGM

Background & holding a 'virtual' AGM

D1. We need to hold an AGM by 30 September according to our rules. As you know large public gatherings are banned at present in Scotland and will not be possible until Phase 4 of the Covid-19 route-map. The Scottish Government may place restrictions and/or guidance on such gatherings as part of approving Phase 4 to start.

D2. The Corporate Insolvency & Governance Act 2020 gives organisation the power to hold an electronic (i.e. virtual) AGM up to 30 September 2020. It thus over-rides any rules that require the AGM to be held physically in one venue that members actually attend, and allows votes to be cast electronically. It removes the rights of members to attend in person; to participate in the meeting in any way apart from by voting; and removes the right to vote by a particular means. For any AGM, virtual or real, the Chair's report and the Annual accounts do not need to be voted on - only the election of Committee members, and appointing the auditor.

D3. This is broadly good news, as it allows organisation to plan and hold an AGM, provided it is done on or before 30 September 2020. The downside is that legally members have no right to speak or debate. People could still do this however it is not a 'right', it is at the discretion of the Chair. Members would also need to register an interest in attending virtually, so we could send them a link to the website on the AGM day itself.

D4. The other usual aspects an AGM still apply, including the need to achieve the quorum of 10% of your membership. The SFHA has issued guidance that people attending & voting by proxy count towards the quorum. This could, as the SFHA describes, mean at Lister we could have a legally quorate AGM if three members attend (electronically), each of whom holds 10 proxy votes.

- D5. The other matter to be aware of is there always has been a provision in the Rules for a 'second' AGM to be held one week after the first, if the first is not quorate. This second AGM would, if called, be automatically quorate no matter how many attend. This may be of use for us this year as a fall-back scenario if anything happened with the 2020 AGM.
- D6. There is another aspect of our rules which we need to follow carefully, namely that we need to give 28 days' notice of the date of the AGM and invite nominations for the MC at that point. The nominations must be in 3 days before the meeting. We have traditionally done this via the newsletter, but I think to comply clearly with the rules, we should do this by letter from now on. It is important to note that we don't not have to specify in this notification of the venue or 'method' of the AGM, i.e. we needn't decide at this point if it is to be virtual or real.

The possible option of a real AGM

- D7. There is a viable option to hold a real, normal-ish AGM in September. There is a large hall in Lauriston Street - Lauriston Hall, part of the Jesuit Church complex. I have just spoken with the Booking Manager and he says it is suitable due to its size, to allow say 30-50 people and have social distancing. They have 4 toilets, two entrances/exits (to allow for one-way flow) and a self-contained kitchen.
<http://www.lauristonhall.org.uk/bookingcontact.html>
- D8. The Manager says that a Tuesday evening would normally be available in September. There would be a £100 deposit but this would be returnable if the Covid-19 restrictions hadn't eased by the date of our meeting. We could decide about refreshments nearer the time, but it would be nice to be able to offer some, as part of making the evening special for our tenants. It facilitates disabled access too. We could draft, in agreement with the Hall Manager, a set of procedures to enable the event to go ahead as safely as possible.
- D9. The Committee is asked to consider this as a serious possibility, subject to getting Phase 4 'permission' and safety protocols, etc.

Considering dates for the AGM (and September MC)

- D10. If we wish to hold a virtual AGM, then a suggested set of dates is as follows:

By Tuesday 25 August	Issue notification of AGM date, invite nominations
By Tuesday 8 September	Issue 14-day notice invites to AGM
Tuesday 22 September	AGM - held virtually
Tuesday 29 September	Back-up date if meeting is not quorate September MC meet could be held too that evening.

- D11. If we wish to hold a physical AGM then the dates could be same as above.
- D12. This could mean that a final decision on the format of the AGM could be left until, say, first thing on Monday 7 September. The scheduled dates when the First Minister formally reviews the Covid-19 lockdown easings are as follows: Thursday 30 July, Thursday 20 August, Thursday 10 September.
- D13. The alternative is to omit the fall-back 'second' virtual AGM option and go with the following dates

By Tuesday 1 September	Issue notification of AGM date, invite nominations
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By Tuesday 15 September	Issue 14-day notice invites to AGM
Tuesday 22 September	Management Committee
Tuesday 29 September	AGM - either real or virtual

This could work, and there would still be the option of a fall-back second AGM, however it would have to be held in real live (not virtually) format on 6 October.

D14. This alternative would give the benefit of having one more 'Review date' under our belt.

Organising the elections and voting

D15. We would have the usual business of seeking candidates for election to the Management Committee. The nominations would have to be in by the Friday beforehand. Then if there are more candidates than places, an election would take place. We would need to gather, as decided by the Committee already, a statement from every Committee member and nominee about why they wished to stand/re-stand. This would need to be available for the real AGM and sent out to those planning to attend a virtual AGM.

D16. The issue of voting virtually is challenging - in the SFHA Model Rules (but not adopted by us), nominations for Committee had to be submitted 21 days before the AGM and then ballot papers were issued to members and any members voting by post had to submit their votes 5 days beforehand. Members attending the AGM could still vote in person, and these were counted along with any postal ballots returned.

D17. Lister's rules kept our original approach, namely that nominations had to be in by 3 days before the AGM and voting is only done on the night - there is no postal voting.

D18. Lister however uses Proxies, like the Model Rules, i.e. someone could a proxy, i.e. a person, who need not even be a member, to attend and to cast their vote. A person could have up to 10 votes given to them by 10 separate Lister members. The proxies need to be notified to Lister by 5 days before the AGM.

D19. If there were both proxy voters and a Committee election then the proxy voter would need to cast their vote(s) on the night for the candidates. I am presuming there could be some liaison between the person who gave away their proxy and the proxy holder, once the list of candidates is published on the Monday just before the AGM.

D20. If the AGM was held virtually, then gathering the votes virtually from all participants in real time could take a long time and could suffer if there were any temporary loss of service of the internet either with us or with individuals. I think Lister would have to introduce some protocol requiring votes to be cast on paper (or email) between the Monday when the candidates are announced, and the actual AGM. Then the AGM would just announce the outcome.

E. HOLDING REAL MANAGEMENT COMMITTEE MEETINGS

E1. Once Phase 4 has been announced and is in place, then we could hold that gathering we call the Management Committee. The normal room however is not large enough to allow all participants if the 2-metre rule still applied to such gatherings. There seem several options:

- a. Meet in a larger hall - we could see if the Small Hall at Lauriston Hall could be suitable
- b. Have a mix of people attending virtually and those attending in person.

- c. Spread out people in the Lister office across the meeting room and the entrance hall and learn to SHOUT.
- E2. It has been suggested that we look to get a TV-type display screen installed permanently in the meeting room, and associated projector and also perhaps conference call facilities. This could allow those who are shielding or wary of gathering to attend virtually. We would need to try and get a system that was practical, effective and not excessively expensive.
- E3. We could adjust the staff presence and just have one person at a time to present a report. Any other staff members could be in another room awaiting their turn to be called.
- E4. The as-yet-unknown guidance associated with gatherings in Phase 4 would have an impact on our plans. Perhaps it may be best to await more details before finalising these arrangements.
- E5. The date of the September Management Committee meeting will depend on the AGM plans.

Alistair Cant
DIRECTOR
20 July 2020