

MEMORANDUM OF UNDERSTANDING

**For co-operation between the Regulator of Community Interest Companies and
Communities Scotland**

PURPOSE OF THE MEMORANDUM OF UNDERSTANDING

The purpose of this memorandum of understanding (MOU) is to set out the powers and responsibilities of the Regulator of Community Interest Companies and Communities Scotland and the arrangements for exercising these powers with organisations which are subject to the requirements of both regulators.

CONTEXT

- 1 The Regulator of Community Interest Companies (the CIC Regulator) is responsible for the regulation of Community Interest Companies (CICs).
- 2 Communities Scotland is responsible for the regulation and inspection of Registered Social Landlords (RSLs) in Scotland.
- 3 This agreement applies to the regulation of parent and subsidiary organisations, where a parent organisation (either an RSL or CIC) is registered with one regulatory authority and a subsidiary organisation is registered with the other regulatory authority. These parent and subsidiary organisations will be referred to as “linked organisations”.
- 4 This Memorandum of Understanding aims to support joint working arrangements between the CIC Regulator and Communities Scotland which satisfy the statutory responsibilities of each body. Nothing in this agreement restricts the exercise of these responsibilities by either organisation. It is not a contract and is not subject to any payment for services delivered.
- 5 The agreement sets out the framework that the partner organisations have agreed for co-operation and collaboration.

OBJECTIVES OF THE MEMORANDUM

- 6 The primary objectives of the Memorandum are to:
 - a) Provide a seamless and co-ordinated approach to the regulation of linked organisations to avoid over-regulation and duplication of effort;
 - b) Ensure that the CIC Regulator and Communities Scotland can fulfil their statutory duties in the most effective way possible;
 - c) Develop joint working arrangements that ensure service users and other stakeholder interests are protected and any concerns are dealt with appropriately;
 - d) Enable best use to be made of regulation resources in ensuring regulatory requirements are achieved.

The Memorandum covers areas where the CIC Regulator and Communities Scotland consider collaborative working would achieve these objectives.

THE FRAMEWORK FOR JOINT WORKING

- 7 The CIC Regulator and Communities Scotland have agreed the following areas for collaboration and co-operation. We will:
 - Register and regulate linked organisations in a way that supports our respective regulatory responsibilities;

- Exchange relevant information to support ongoing regulation of linked organisations;
- Co-operate and share information regarding mutual concerns and complaints from service users and other stakeholders about linked organisations;
- Ensure our respective intervention strategies take account of our different powers and duties, and liaise when statutory intervention is proposed for a linked organisation;
- Maintain effective consultation and liaison between the CIC Regulator and Communities Scotland;
- Review this Memorandum to ensure its continuing relevance three years from it being agreed.

JOINT WORKING

Linked Organisations

- 8 The CIC Regulator may register subsidiaries of a parent RSL registered with Communities Scotland provided that the subsidiary meets the relevant registration criteria. In this situation, Communities Scotland will have the powers and responsibility for the regulation of the parent RSL and the CIC Regulator for the subsidiary.
- 9 Parent RSLs will be expected by Communities Scotland to use their powers over their subsidiary CICs to ensure that they meet the standards set by, and comply with any guidance issued by, the CIC Regulator.
- 10 Organisations proposing to be part of a group so that they will become linked organisations will be advised of the arrangements set out in this Memorandum. Any such linked organisations will be subject to any requirements arising out of this agreement and will be provided with a copy of the Memorandum and required to confirm co-operation with each regulator.

Exchange of Information

- 11 The CIC Regulator and Communities Scotland will provide information to each other about the performance of linked organisations if requested by the other regulator. This may include performance reports of any kind, regulatory returns, financial viability reviews and assessments, inspection and intervention reports, or whatever other information is agreed between the relevant regulators.
- 12 If one regulator finds it necessary for the proper exercise of its regulatory powers to examine documentation relating to a linked organisation, the other will use its powers, if it determines they are justified, to obtain the necessary documentation and will supply it to the first regulator.
- 13 Underpinning any exchange of information, Communities Scotland and the CIC Regulator will fully adhere to the Data Protection Principles, as set out in the Data Protection Act 1998. Both parties agree to share information only where this is in line with the Data Protection Principles.

- 14 The CIC Regulator and Communities Scotland will review at least once per year the respective information requirements which they impose on linked organisations in order to ensure that they identify and remove, as far as possible, any duplicative or overlapping requirements.

Mutual Concerns and Complaints

- 15 Communities Scotland and the CIC Regulator will inform each other of any material issues emerging from investigations into complaints or allegations, inspections, or specific concerns about a linked organisation.
- 16 Each organisation will notify the other on a “for information” basis of information they receive about concerns relevant to their responsibilities where the organisation with the information considers it should notify the other organisation.
- 17 The regulators will share details of their procedures for dealing with complaints and with allegations about the organisations they regulate and guiding principles for initiating an investigation or for enforcement action. We will also, where appropriate, share information about the outcome of complaints.

Intervention

- 18 Where either regulator considers it necessary, a case conference will be arranged of both bodies to discuss possible action or intervention in a linked organisation. These case conferences may be used to agree the exchange of information and to agree the roles and responsibilities for working with the linked organisations to support them in achieving improvements.
- 19 The CIC Regulator will lead on any follow-up action required as a result of its regulatory contact with a linked organisation that is a CIC and will keep Communities Scotland advised of any action or issues arising from this follow-up.
- 20 Communities Scotland will lead on any appropriate follow-up action with the linked organisation that is an RSL. Communities Scotland will keep the CIC Regulator advised of any action or issues arising from this follow-up.
- 21 Either regulator may assist the other by carrying out any investigations required into the linked organisation which it regulates, for the purposes of the other regulator’s statutory action.
- 22 In the case of unsatisfactory performance or issues of concern, we will keep each other informed where intervention may be required to improve or remedy the performance of a linked organisation.
- 23 We will notify each other of any decision to take statutory action in a linked organisation.
- 24 We will inform each other if action has failed to secure the desired improvement or if, for any other reason, further intervention is considered to be necessary or appropriate, and if there is progress.

- 25 If serious and substantial problems, e.g. sufficient to warrant consideration of instituting a statutory inquiry, are found in a parent RSL, Communities Scotland will inform the CIC regulator about the main areas at issue before the inquiry is set up and will keep the other informed throughout the progress of the inquiry, up to and including the outcome and any further action to be taken. The inquirer has a statutory right also to inquire into the affairs of any subsidiaries. If a directed transfer of land is decided following the inquiry, any implications for the subsidiary linked organisation will be the subject of consultation between the regulators with a view to agreeing the best course of action in regard to the subsidiary.

Consultation and Liaison

- 26 Communities Scotland and the CIC Regulator will include each other as consultees as part of any formal consultation exercises on draft policy and guidance documents.
- 27 The regulators will also collaborate on external communications or handling external media interest where there is a matter of mutual interest.
- 28 Each organisation will respect and, as appropriate, take steps to protect the confidential nature of documents and information that the other may provide.
- 29 Each organisation will endeavour to ensure their staff are aware of the content of this Memorandum and the responsibilities it places on staff in each regulatory body.
- 30 Both regulators will nominate a lead officer to take forward the implementation of the Memorandum. A list of lead regulator contacts for linked organisations will be appended to the Memorandum and kept up-to-date by the lead officers.
- 31 Where there is a new linked organisation the appropriate lead officer will provide full details to the other lead officer.

Review Of This Memorandum

- 32 There will be a review in three years' time of this Memorandum of Understanding to ensure that it is achieving its objectives. If necessary there will be an interim review if there are significant policy changes or new legislation which requires elements of the above agreement to be updated.

Signed on behalf of the Regulator of Community Interest Companies

Handwritten signature in black ink, appearing to read "J. Harker".

Date 18 August 2006

Signed on behalf of Communities Scotland

Handwritten signature in black ink, appearing to read "K. Watt".

Date 18 August 2006

ANNEX 1

Area of responsibility	Lead Officers and Key Contacts	
	Communities Scotland	The Regulator of Community Interest Companies
Lead Officer: Memorandum of Understanding	Christine MacLeod Head of Policy & Support Regulation & Inspection Division Highlander House Waterloo Street GLASGOW G2 7DA 0141 305 4179	Phillip Horrell Office Manager Office of the Regulator of Community Interest Companies Room 3.68 Companies House Cardiff CF14 3UZ 02920 346285
Dispute Resolution	Karen Watt Director of Regulation & Inspection Rosebery House 9 Haymarket Terrace EDINBURGH EH12 5YA 0131 479 5768	Phillip Horrell Office Manager Office of the Regulator of Community Interest Companies Room 3.68 Companies House Cardiff CF14 3UZ 02920 346285
Linked Organisation & Lead Regulator	Support Managers (East & West) Regulation & Inspection Division Edinburgh & Glasgow Addresses as above 0131 479 5767	Phillip Horrell Office Manager Office of the Regulator of Community Interest Companies Room 3.68 Companies House Cardiff CF14 3UZ 02920 346285