



Memorandum of Understanding
Between
The Regulator of Community Interest Companies
And
The Charity Commission for Northern Ireland

MEMORANDUM OF UNDERSTANDING

The purpose of the memorandum of understanding is to set out the agreement reached between the Regulator of Community Interest Companies and the Charity Commission for Northern Ireland, and the framework for co-operation and collaboration.

1. INTRODUCTION

- 1.1 The memorandum of understanding has been drawn up by the Regulator of Community Interest Companies and the Charity Commission for Northern Ireland.
- 1.2 The purpose of the memorandum is to set out the agreement reached between the Regulator of Community Interest Companies and the Charity Commission for Northern Ireland and the framework for co-operation and collaboration.
- 1.3 The memorandum sets out the mutual principles and benefits of strategic co-operation and support between the Regulator of Community Interest Companies and the Charity Commission for Northern Ireland.
- 1.4 The memorandum also provides a transparent statement of commitments on both sides.

2. LEGISLATIVE BACKGROUND AND STATUS

- 2.1 The Government established the community interest company form for use by social enterprises who wish to operate as limited companies.
- 2.2 The Companies (Audit, Investigations and Community Enterprise) Act 2004 and the Community Interest Company Regulations 2005 provide the legislative framework for the community interest company form.
- 2.3 The Companies (Audit, Investigations and Community Enterprise) Act 2004 established the Office of the Regulator for Community Interest Companies and sets out the Regulator's responsibilities for ensuring that community interest companies comply with the requirements of the Act and the Regulations.
- 2.4 The Charity Commission for Northern Ireland ("the Commission") is established under the Charities Act (Northern Ireland) 2008 and is the regulator of charities in Northern Ireland. The Commission is responsible for the operation of an effective regulatory framework in Northern Ireland including the granting of charitable status, maintenance of a public register of charities, the investigations of the apparent misconduct and facilitation and monitoring of compliance with the Charities Act (Northern Ireland) 2008, as amended.

3. OBJECTIVE OF THE MEMORANDUM

3.1 The primary objective of the memorandum is to establish arrangements between the Regulator of Community Interest Companies and the Charity Commission for Northern Ireland and to:

- (i) ensure appropriate collaboration and liaison between the Regulator of Community Interest Companies and the Charity Commission for Northern Ireland;
- (ii) set out the circumstances in which the Regulator of Community Interest Companies and the Charity Commission for Northern Ireland will support one another, share information and collaborate.

4. THE FRAMEWORK FOR JOINT WORKING

4.1 The Regulator of Community Interest Companies undertakes to:

- (i) promote and publicise this MOU with an agreed form of wording
- (ii) support the principles of the Charity Commission for Northern Ireland in its development;
- (iii) consult with the Charity Commission for Northern Ireland on issues affecting both parties;
- (iv) exchange information and provide feedback to the Charity Commission for Northern Ireland on relevant issues relating to the Charity Commission for Northern Ireland;
- (v) support the work of the Charity Commission for Northern Ireland as it develops ideas, systems processes and guidance e.g. by providing a link as a partner on its website.
- (vi) support the work of the Charity Commission for those Community Interest Companies wishing to adopt charitable status

4.2 The Charity Commission for Northern Ireland undertakes to:

- (i) promote and publicise this MOU with an agreed form of wording
- (ii) support the principles of the Office of the Regulator of Community Interest Companies in its regulation of social enterprise;
- (iii) consult with the Office of the Regulator of Community Interest Companies on issues affecting both parties;
- (iv) exchange information and provide feedback to the Regulator of Community Interest Companies on relevant issues relating to the Regulator of Community Interest Companies;
- (v) support the work of the Office of the Regulator of Community Interest Companies for those organisations wishing to adopt community interest company status and provide a link as a partner on its website.

5. LEGAL AUTHORITY FOR THE DISCLOSURE OF INFORMATION

- 5.1 Under section 24 of the Charities Act (Northern Ireland) 2008 the Commission may disclose any information to any public body or office-holder (in Northern Ireland, in any other part of the United Kingdom or in a country or territory outside the United Kingdom) for any purpose connected with the exercise of the Commission's functions or for the purpose of enabling or assisting the public body or office-holder to exercise any functions.
- 5.2 Section 59 of The Companies (Audit, Investigations and Community Enterprise) Act 2004 permits the disclosure of information between the CIC Regulator and any public authority where the disclosure is made in connection with the functions of either the CIC Regulator or Public Authority.
- 5.3 Both the Commission and the CIC Regulator will encourage the disclosure and exchange of information between them where appropriate, in order to maximise the efficiency of their respective functions. They will ensure that information is disclosed in a manner that is efficient, proportionate and fully compliant with the Human Rights Act 1998 and the Data Protection Act 1998

6. **LIASON AT OPERATIONAL LEVEL**

- 6.1 In carrying out their respective functions, both the Commission and the CIC Regulator will have regard to the likely impact on the other of their actions. And will render all reasonable assistance to overcome or minimize difficulties.
- 6.2 Charitable Company conversion to CIC.
 - 6.2.1 Section 40A of the The Companies (Audit, Investigations and Community Enterprise) Act 2004 states that Northern Ireland charitable company may not become a CIC. Section 40A(3) does state that regulations can be made to repeal such condition. The Commission and the CIC Regulator will liaise over the consultation of such regulations and when they come into force will amend this memorandum appropriately.
- 6.3 CIC conversion to a Charitable Company.
 - 6.3.1 In order for a CIC to convert to a charity, it must pass a special resolution to change its memorandum and articles of association.
 - 6.3.2 Before conversion can be effected, the CIC should apply to the Commission for charitable status under section 17 of the Charities Act (Northern Ireland) 2008, as amended. The Commission will be able to give a provisional decision confirming, where applicable, that the body can be entered on the Register once the special resolution has been passed. Application to pass the special resolution by the CIC to the CIC Regulator should include confirmation that the CIC application to the Commission for charitable status would be successful. The Commission will only confirm charitable status once the special resolution has been passed and will enter the body on the Register of Charities.
 - 6.3.3 The CIC Regulator will provide the Commission with the details of all CICs which have applied to convert to charitable company status so that the Commission is able to pursue, if appropriate, any subsequent failure by a company to register as a charity.
 - 6.3.4 Where it appears expedient in the interest of achieving effective and proportionate regulation, The Commission and the CIC Regulator may conduct casework jointly. In.

conducting such cases, both CIC Regulator and the Commission will each pursue their respective functions but will share resources and pool information.

6.3.5 The Commission and the CIC Regulator will consult each other prior to issuing or publishing guidance, advice or best practice recommendations relating to the conversion of a CIC to a charitable company or vice versa.

6.3.6 Where it appears likely that regulatory intervention by either the Commission or the CIC Regulator will generate media interest affecting the other party, or, given the profile and substance of the case, that a ministerial briefing ought to be considered, the CIC Regulator and the Chief Executive of The Commission will be consulted.

7. LIAISON AT POLICY LEVEL

7.1 Representatives of the CIC Regular and the Commission will meet once per year. The purpose of these meetings will be to:

- Consider any new legislation affecting the Commission and the CIC Regulator, its practical application and the emergence of any precedent decisions by either regulator.
- Discuss the development of the relevant law and policy, including public benefit and the community interest test.
- Explore possibilities to work collaboratively to promote best practice in community enterprise and good causes.

8. DESIGNATE POINTS OF CONTACT

8.1 In order to ensure that matters are handled at the appropriate levels, and that developing policy considerations are taken fully into account, contact between the Commission and the CIC Regulator should be established between designated points of contact (see Annex 1). Where they consider it appropriate, designated points of contact may delegate ongoing liaison to members of their staff.

9. OTHER ASSISTANCE

9.1 As part of their respective staff training programs, both the Commission and the CIC Regulator will ensure that their staffs are made aware of their differing organisational, operational and legal frameworks relating to CICs and charitable

companies. In order to facilitate this, appropriate staff will be offered familiarization visits to each other's offices.

- 9.2 The Commission and the CIC Regulator will also explore the possibility of mounting joint training and development initiatives and, where practicable, will offer places to each other staff on relevant internal training courses, conferences and seminars.

10. **GENERAL**

- 10.1 Whilst it is intended that the arrangements in this memorandum should apply generally, it is recognised that some circumstances will require special handling. Nothing in this memorandum prevents the making of arrangements to meet special exceptional needs.
- 10.2 Any disagreement arising from the interpretation of this Memorandum will be referred to the CIC Regulator and the Chief Executive of the Commission who will endeavor to resolve it within the spirit implicit in the co-operation arrangements. The memorandum will be amended if necessary to reflect the agreed outcome of the referral.

11. **STATEMENT OF MUTUAL PRINCIPLES AND BENEFITS**

- 11.1 The memorandum shall be reviewed and amended once Regulations have come into force which allows a Northern Ireland charitable company to become a community interest company.
- 11.2 The memorandum shall operate upon signature by the Regulator of Community Interest Companies and the Chief Executive of the Charity Commission for Northern Ireland and shall remain in effect for a minimum of 3 years from
1st July 2014
- 11.3 There will be a further review in three years time to ensure that the memorandum is achieving its objective.
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Signed by the Regulator of Community Interest Companies



**SARA BURGESS
REGULATOR**

Dated: 19/06/2014

Signed on behalf of the Charity Commission for Northern Ireland



**FRANCES McCANDLESS
CHIEF EXECUTIVE**

Dated: 5.6.14

| Area of responsibility | Lead Officers and Key Contacts | |
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