

MEMORANDUM OF UNDERSTANDING

between

HOMES ENGLAND

And

THE REGULATOR OF SOCIAL HOUSING

INTRODUCTION

The Legislative Reform (Regulator of Social Housing) (England) Order 2018 ('the Order') amended the Housing and Regeneration Act 2008 to establish a standalone Regulator of Social Housing (RSH). The functions of the RSH had previously been delivered by the Regulation Committee of the Homes and Communities Agency (HCA).

The non-regulatory objects of the HCA (in relation to housing supply and quality, regeneration and development and contributing to sustainable development and good design) are unchanged. In January 2018, the HCA adopted the trading name Homes England.

Homes England and the RSH are statutorily required to co-operate and consult on matters of mutual interest.

PURPOSE

This Memorandum of Understanding (MoU) has been agreed by Homes England and RSH to help ensure that each organisation is able to carry out its respective functions and responsibilities as efficiently and effectively as possible.

This MoU does not alter or enhance the existing statutory duties of Homes England or RSH to co-operate and consult. Rather it sets out the over-arching principles for how these duties will be undertaken and how these will underpin the relationship between Homes England and RSH.

While this MoU is not a legal or binding agreement, both Homes England and the RSH are committed to working to it.

SCOPE

This MoU applies to all matters where there are issues of mutual interest to Homes England and RSH which are relevant to their respective roles and functions. It does not cover:

- the Service Level Agreement that determines the corporate services provided by Homes England to RSH, or
- exchanges or communication which could lead to a conflict of interest between regulation and investment activities.

ROLES

The key roles of both organisations are set out below.

Homes England

Homes England is the trading name of the HCA, an executive non-departmental public body of the Ministry of Housing Communities and Local Government (MHCLG).

Homes England brings together land, money, expertise, and planning and compulsory purchase powers, with a clear remit to facilitate delivery of sufficient new homes, where they are most needed, to deliver sustained improvement in affordability.

It is responsible for the investment of housing and regeneration resources in England, not including Greater London.

Homes England's statutory objects, as defined by the Housing and Regeneration Act 2008, are to:

- improve the supply and quality of housing in England
- secure the regeneration or development of land or infrastructure in England
- support in other ways the creation, regeneration or development of communities in England or their continued well being
- contribute to the achievement of sustainable development and good design in England, with a view to meeting the needs of people living in England.

Homes England's mission is to intervene in the market to ensure more homes are built in areas of greatest need, to improve affordability. Homes England will make this sustainable by creating a more resilient and diverse housing market. The mission will be achieved through delivery of six strategic objectives, including:

- Unlocking public and private land where the market will not, to get more homes built where they are needed
- Ensuring a range of investment products are available to support housebuilding and infrastructure, including more affordable housing and homes for rent, where the market is not acting
- Improving construction productivity
- Creating a more resilient and competitive market by supporting smaller builders & new entrants, and promoting better design and higher quality homes
- Offering expert support for priority locations, helping to create and deliver more ambitious plans to get more homes built, and
- Effectively deliver home ownership products, providing an industry standard service to consumers

The RSH

The Legislative Reform (Regulator of Social Housing) (England) Order 2018 established the Regulator of Social Housing as a body corporate. The RSH is a non-departmental arm's length body sponsored by the MHCLG.

The fundamental objectives of the RSH are set out in the Housing and Regeneration Act 2008. These objectives relate to economic regulation and consumer regulation.

The economic regulation objective is:

- to ensure that registered providers of social housing are financially viable and properly managed, and perform their functions efficiently and economically,
- to support the provision of social housing sufficient to meet reasonable demands (including by encouraging and promoting private investment in social housing),
- to ensure that value for money is obtained from public investment in social housing,
- to ensure that an unreasonable burden is not imposed (directly or indirectly) on public funds, and
- to guard against the misuse of public funds.

The consumer regulation objective is:

- to support the provision of social housing that is well-managed and of appropriate quality,
- to ensure that actual or potential tenants of social housing have an appropriate degree of choice and protection,
- to ensure that tenants of social housing have the opportunity to be involved in its management and to hold their landlords to account, and
- to encourage registered providers of social housing to contribute to the environmental, social and economic well-being of the areas in which the housing is situated.

RESPECTING EACH OTHER'S ROLES

Following the implementation of the Order both organisations will be separate.

Homes England

Homes England will co-operate with the RSH on matters of joint interest and consult with the RSH on issues considered likely to interest the RSH in the exercise of its social housing functions.

RSH

In the exercise of its social housing functions the RSH undertakes to co-operate and consult with Homes England on matters likely to interest it in the exercise of its housing and regeneration functions.

WORKING TOGETHER

In addition to their respective statutory duties to co-operate and work together, the RSH and Homes England recognise that a range of issues relating to investment and the regulation of social housing are of mutual interest. Rather than seeking to identify all the occasions on which the two organisations will need or want to co-operate, Homes England and RSH have agreed to abide by the following principles when addressing issues of mutual interest:

- Open exchange of information that is not given in confidence or commercially sensitive

Both commit to communicating and working with one another in a consistent, open and well co-ordinated manner.

Subject to commercial sensitivity, where specific information requests are made each will provide the other with relevant data in a timely fashion if it is able to do so,

meeting the other's deadline wherever possible, and the body receiving this information will ensure that it is used only for discharging its responsibilities.

The organisation providing the information is responsible for stating what, if any, restrictions there should be upon its usage, and the receiving body will respect any such restrictions. Both organisations understand that some information is confidential and will respect information given in confidence by third parties.

- Consultation on matters of common interest

While respecting restrictions of sensitivity and confidentiality, and any legal prohibitions on the sharing of information, Homes England and RSH will seek to:

- i. alert each other as soon as practicable to relevant significant developments within their areas of responsibility that may impact on the programmes or policies of the other;
- ii. give appropriate consideration to the views of the other.

- Jointly responding to imminent threats and breaking crises

Both organisations are committed to working jointly, wherever possible and appropriate, to understand and manage any identified serious threats and/or crises that could significantly, and at short notice, impact on both organisations' accountabilities.

In these circumstances Homes England and RSH are committed to:

- i. timely sharing of information, recognising that any such exchange must be lawful;
- ii. ensuring appropriate confidentiality;
- iii. co-ordinated communication with key stakeholders;
- iv. speedy, co-ordinated decision making where this is lawful, practical and assessed as likely to be effective.

As each crisis is likely to have its unique features, Homes England and RSH undertake to act flexibly and will consider whether it is appropriate to align their contingency planning, and also reflect on their handling of concluded crises, in order to be able to more quickly and effectively respond to future crises.

IMPLEMENTATION

There will be regular contact between the two organisations to discuss matters of common interest and to reflect upon the relationship between the two organisations.

The organisations will nominate named senior members of staff to "own" this MoU. They will be responsible for promoting and monitoring the implementation of this document and resolving any issues relating to its operation. The annex to this MoU sets out how the principles in this document will be put into practice on a day to day basis.

From time to time Homes England and RSH will consider the need for any additional documents or guidance, such as Practice Notes, to supplement the annex and to give operational guidance to staff of both organisations.

EVALUATION AND REVIEW

This MoU is a statement of intent and common purpose, and is intended to stand the passage of time. Future spending reviews or any change of Government should not of themselves trigger any re-drafting of its principles, but either organisation can ask for a review of its contents at any time.

In addition the RSH and Homes England will undertake a joint annual review with the aim of

- identifying any new areas of work requiring an amendment to the Memorandum or its Annex, or any other amendments or updating required;
- evaluating the practical experience of liaising and working together and review any lessons learnt.

Signed by

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Chief Executive Officer - Homes England

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Chief Executive Officer - RSH

HOMES ENGLAND / RSH MEMORANDUM OF UNDERSTANDING – ANNEX

PURPOSE

The purpose of this annex is to outline how the principles set out in the MoU will operate. Specifically it sets out how the RSH and Homes England will work together on a day to day basis by:

- demonstrating how the RSH and Homes England will work together by co-operating and sharing information on matters of mutual interest and concern;
- demonstrating how the principles of the MoU will apply to areas of joint working;
- highlighting how each organisation will respect and co-operate when undertaking their independent functions.

WORKING TOGETHER

Homes England and RSH recognise the importance of working together as far as practicable taking account of their different governance structures, powers and accountabilities, to achieve their respective objectives. Whenever one organisation's decision is likely to have a significant impact on the work of the other, then they will each abide by the following principles when addressing issues of mutual interest:

- Co-operation

Both organisations commit to 'consult and co-operate' as far as practicable. This is taken to refer to co-operation:

- i. which is timely for the matter being dealt with;
- ii. which seeks to be mutually supportive;
- iii. which is informed by the judgments/decisions of the other; and
- iv. where timing is co-ordinated (including advance, or at least simultaneous, notice of decisions), wherever that is possible and desirable within the respective exercise of powers and duties

- Sharing information and data

Both Homes England and RSH will adhere to their respective corporate procedures and retain discretion over the exercise of their functions. However, the guiding presumption is that the RSH will share with Homes England equivalent information to that which it would share with Greater London Authority (GLA) in its role as capital grant distributing body in London.

A specific and important driver of information exchange is a shared interest in the early and successful identification of a Private Registered Provider's non-compliance with economic regulation standards where this is likely to impact on the delivery of new housing. The timely exchange of such information is important.

Each will make the other aware of the type of information it is collecting, where that information is likely to be relevant to the work of the other. The aims in doing so are to minimise duplication, maximise the efficiency of information collection and avoid unnecessary burdens on Registered Providers.

Where it is reasonable and lawful to do so each will seek to give the other reasonable notice of significant information which it is about to release into the public domain, and to which the other is likely to need or want to respond.

Homes England undertakes to:

- i. only use the information obtained from the Regulator to inform investment decisions as far as it is appropriate and legal to do so; and
- ii. not to use any information provided by the Regulator for any other purposes without the prior approval of the Regulator.

The RSH undertakes to:

- i. ensure that Homes England receives a comparable level of analysis and information to that provided to the investment function of GLA;
- ii. provide Homes England with useful, timely information on Registered Providers' compliance with economic regulation standards, to support investment decisions;
- iii. keep Homes England advised of emerging serious regulatory issues, recognising the restrictions, including due to sensitivity and confidentiality, which may be placed on certain data; and
- iv. provide information on the performance of Registered Providers with investment programmes inside London in respect of their compliance with regulatory standards where this may have implications for Homes England.

Consultation

Homes England and RSH agreed to consult each other on matters of "common interest" adopting the principle that 'if in doubt, consult'.

Matters of "common interest" and the lead organisation for each include:

- i. Registered Providers' Regulatory Standards (RSH);
- ii. Registration criteria for Registered Providers (RSH);
- iii. Design & quality standards (Homes England);
- iv. Funding programmes/priorities including RCGF (Homes England) and DPF (RSH); and
- v. Other matters which comprise elements of the Regulatory Framework in respect of Registered Providers including matters in relation to guidance on use of powers (RSH).

- Co-ordinate decision making where appropriate

Where one organisation's decision is likely to have a significant impact on the work of the other, then each will endeavour to co-ordinate their decision making as far as practicable, and pay regard to the other's governance structures, powers and accountabilities.

- Protection of public funds

Homes England and RSH will work together to achieve their shared responsibility and duty to ensure that public funds are adequately protected and to track potential misuse.

The RSH will notify Homes England, wherever possible, of situations where significant concerns have been identified in respect of a Registered Provider

operating outside London and where it is considering use of its monitoring or enforcement powers.

As a general rule, Homes England will not make investments in Registered Providers where the RSH has significant concerns. Where the RSH is considering or intending to issue a direction to Homes England prohibiting it from giving financial assistance to a Registered Provider then the RSH will discuss this in advance with Homes England.

- Jointly responding to imminent threats and breaking crises

AREAS OF JOINT INTEREST

Homes England and the RSH have identified a number of areas of joint interest where it will be important to jointly plan and co-ordinate their work. These areas include, but are not limited to:

- Exploring issues around the affordable housing market, including analysis of specific market issues and the development of future investment and development programmes that may have an impact for Registered Providers' likely compliance with the regulatory framework.
- Maximising the supply of affordable homes

Where, as a result of contract discussions any proposed changes to a Registered Provider's agreed programme or project are significant in terms of increasing the provider's contribution, borrowing or delivery of new supply; Homes England will consult RSH in respect of the impact of this on the Registered Provider's ability to remain in compliance with economic regulation standards. Homes England will consider any comments or analysis received.

RSH will alert Homes England if any changes to a business plan of a Registered Provider with investment programme agreements with Homes England will have a material impact upon its continuing compliance with economic regulation standards.

- Relationships with Registered Providers

When appropriate, Homes England and RSH will look to work collaboratively with Registered Providers to maintain effective working relationships with them, and also seek to reduce the administrative burden on them.

In matters where the organisations both have an interest, e.g. the capability of Registered Providers to manage new investment programmes, the organisations will ensure that they communicate the scope and nature of their interest and where practicable agree arrangements for cooperation or joint working which meet their respective requirements.

- Relationships with local authorities

Both Homes England and RSH have specific responsibilities with and roles with local authorities, which for RSH will principally be where those local authorities are Registered Providers, and each undertakes to involve the other in discussions on areas of common interest where it is appropriate to do so.

- Disposals Proceeds Fund

RSH will ensure that all funds held in a Registered Providers' Disposals Proceeds Fund which were generated from disposals outside London, or the notional interest applied to these proceeds, will only be used outside the capital, within an agreed time period.

RSH will direct a Registered Provider to return Disposals Proceeds Funds generated outside London and not invested within this timescale to be returned to Homes England.

IMPLEMENTATION

The senior members of staff responsible for matters set out in this Annex (and the MoU as it relates to this Annex) are

- RSH: Chief Executive Officer
- Homes England: Chief Executive Officer

They will achieve this, among other things, through arranging for regular liaison meetings which will:

- Provide for the attendance of other officers as necessary
- Enable a regular review of current relevant activities and market developments relevant to the matters in this annex
- Identify timetables for future programmed activity on areas of joint interest
- Identify and assess the significance of any emerging issues in relation to the activities of Registered Providers where this is consistent with information sharing provisions in this annex
- Have the objective of ensuring that proper and effective arrangements are in place to co-ordinate specific activities provided for in this annex, and that these are being carried out in accordance with the respective organisations' duties and objectives.