

Memorandum of Understanding between the Homes and Communities Agency (trading as Homes England) (Homes England) and The Regulator of Social Housing (RSH)

This Memorandum of Understanding is dated on 16 December 2024

Both hereinafter referred to as the “Parties” collectively or “Party” individually.

Purpose

The purpose of this Memorandum of Understanding (MoU) is to set out:

- how the Parties intend to work together to carry out their respective functions and responsibilities with the aim of achieving a collaborative, efficient and effective working relationship; and
- the principles for how these duties will be delivered and how they will underpin the relationship between Homes England and RSH.

Homes England and RSH are statutorily required to co-operate and consult each other particularly on matters related to social housing¹. This MoU applies to matters where there are issues of mutual interest in relation to the social housing sector.

While this MoU is not a legal or binding agreement, and no legal obligations or legal rights shall arise between the Parties from this MoU, both Homes England and RSH are committed to it.

In agreeing this MoU, the Parties wish to exchange information and communications (where possible, lawful and appropriate) as part of a collaborative working relationship. This MoU does not apply (and accordingly the operative provisions relating to the exchange of information and cooperation do not apply) where such provisions may constitute a breach of any legal obligations and/or duties. For example, where the information may include market sensitive, commercially sensitive data, or information held under a legal duty of confidence, applicable to either Party or which could lead to a conflict of interest of each Party’s respective activities and functions.

Roles

The key roles and responsibilities of each Party are set out below.

Homes England

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

Homes England is the government’s housing and regeneration agency with the role to support the sector to tackle the housing and regeneration challenges faced by communities around the country to enable the delivery of new homes and housing

¹sections 36A and 100F of the Housing and Regeneration Act 2008, set reciprocal duties of co-operation on the Parties. Under sections 112 and 196 of the Housing and Regeneration Act 2008 the RSH is required to consult Homes England before: (i) setting eligibility criteria for voluntary registration and (ii) setting standards, or issuing, revising or withdrawing a code of practice. RSH also has a power to direct Homes England not to give financial assistance to a specified provider, in accordance with section 100G of the Housing and Regeneration Act 2008.

led, mixed use regeneration. Homes England brings together land, funding, statutory powers and significant expertise to support partners to deliver their plans.

Homes England's mission is to drive regeneration and housing delivery to create high quality homes and thriving places. This will support greater social justice, the levelling up of communities across England and the creation of places people are proud to call home. The mission will be achieved through delivery of its strategic objectives.

RSH

RSH is an executive non-departmental public body, sponsored by the MHCLG. It regulates for a viable, efficient, and well governed social housing sector able to deliver quality homes and services for current and future tenants.

Under the Housing and Regeneration Act 2008 (the 2008 Act) RSH has statutory objectives which drive its approach to regulating registered providers of social housing.

RSH sets economic and consumer standards which state the outcomes that landlords must deliver against. It also maintains a register of providers of social housing, registering new landlords and de-registering landlords according to the relevant criteria. Those on the register include local authorities and other organisations such as non-profit housing associations, co-operatives and for-profit organisations. RSH has a different role for regulating local authorities than for other landlords. This is because it has a narrower role for local authorities and the Governance and Financial Viability Standard, and Value for Money Standard do not apply.

RSH takes a proactive approach to regulating its standards. It has a risk-based inspection programme, which judges the extent to which large registered providers are delivering the outcomes of its standards. RSH also receives a variety of information to help understand how well a registered provider is delivering against the outcomes of its standards.

RSH publishes regulatory judgements and where registered providers are not delivering against the standards, RSH will hold them to account. It has a range of regulatory and enforcement powers to use as necessary.

Working Together

Homes England and RSH recognise the importance of working together to achieve their respective objectives, taking account of their different governance structures, powers and accountabilities. Both Parties have an interest in the economic viability and quality of a growing social housing sector and in protecting public funds, which can be better ensured by the Parties working together effectively. Areas Homes England and RSH may seek to work together include (but is not limited to):

- exploring issues around the affordable housing market;
- understanding the impact that funding allocations for the new supply of homes may have on a landlord's overall financial position and the delivery of regulatory outcomes;

- responding to cases where public funds are at risk; and
- ensuring accurate awareness of the regulatory status of landlords.

In consideration of the Parties' respective statutory duties to co-operate, Homes England and RSH have agreed that they will (where possible, lawful and appropriate to do):

- Communicate and share information in a consistent, co-ordinated and timely manner.
- Have an agreed approach to understanding and managing imminent threats and emerging crises.
- Co-ordinate activity which leads to consistent outcomes of independent decision making, paying regard to the other Party's governance structures, powers and accountabilities.
- Meet and communicate regularly to discuss matters of mutual interest.
- Recognise each other's respective roles when engaging with stakeholders, sharing intelligence on matters of mutual interest.
- Provide information and training on their respective role and functions.

These principles should be applied insofar as is practicable, where they support the Parties to discharge their respective responsibilities and legal obligations, and in accordance with what is set out under the 'Information Sharing' section of this MOU.

Information Sharing

Under section 109 of the 2008 Act, RSH may disclose information to a public authority if it thinks that information is necessary either for purposes connected with its own functions or for purposes connected with the public authority's functions. Consistent, co-ordinated and timely exchange of such information is important to both parties.

Both Homes England and RSH will adhere to their respective corporate procedures and retain discretion over the exercise of their functions. 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.

Where it is reasonable and lawful to do so, each Party will seek to give the other reasonable notice of significant information (of mutual interest and related to the social housing sector) which it is about to release into the public domain, and to which the other is likely to need or want to respond.

Data Protection

The Parties do not expect to routinely share personal data or exchange sufficient quantities or sensitivity of personal data to necessitate entering into a separate data sharing agreement. Where any personal data is disclosed in accordance with arrangements under this MoU each Party will ensure that they fully comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (GDPR) and provide any reasonably requested assurance by the other Party. For more details about how personal data is processed and protected by each Party please see the privacy notices for RSH and Homes England which are accessible online.

Requests for Information

Both Parties are subject to information disclosure requirements under the Freedom of Information Act 2000 (FOIA), Environment Information Regulations 2004 (EIR) and Data Protection Act 2018 (DPA) and GDPR.

Where a request for information is received for information within the scope of this MoU by either Party under the DPA, GDPR, FOIA, or EIR, the recipient of the request will seek the views of the other Party and consider such representations of the other party as described in the FOIA section 45 Code of Practice, where the information being sought under the request includes information obtained from, or shared by, or otherwise related to the other Party. However, the decision to disclose or withhold the information remains with the Party in receipt of the request.

No partnership

This MoU shall not create the relationship of partnership joint venture and/or agent relationships between the Parties, nor authorise the Parties to make or enter into any commitments for or on behalf of another party.

Operation of MoU

This MoU does not:

- imply any allocation of financial resources of any kind from either of the Parties to develop the above mentioned activities;
- interfere with or prejudice the statutory or other rights and obligations and approval processes and delegation frameworks of the Parties;
- alter or enhance the existing statutory duties of Homes England or RSH to co-operate and consult; or
- relate to, affect or extend any service level agreements between the Parties.

The management of finance, risk and exposure will be the responsibility of each Party, to satisfy the standards and requirements set out under each Party's corporate governance framework.

Review

Nominated representatives from RSH and Homes England will be responsible for overseeing the ongoing implementation of this document. They will review this MoU on an annual basis, or after a significant change in legislation, policy or practice in either Party.