



Memorandum of Understanding

Between

The Regulator of Community Interest Companies

And

Monitor

**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 Monitor, and the framework for co-operation and collaboration.

## **1. INTRODUCTION**

- 1.1 The memorandum of understanding has been agreed by the Regulator of Community Interest Companies and Monitor (“the parties”), the sector regulator for health services in England.
- 1.2 The purpose of the memorandum is to set out an agreed framework for co-operation and collaboration to help the parties fulfil their respective duties.
- 1.3 The memorandum also provides a transparent statement of commitment by the parties.
- 1.4 This memorandum does not override each organisation’s respective statutory duties and powers. None of the provisions within it are intended to be legally binding.

## **2. LEGISLATIVE BACKGROUND AND STATUS**

### **Office of the Regulator of Community Interest Companies**

- 2.1 The Government established the community interest company (CIC) form for use by social enterprises who wish to operate as limited companies.
- 2.2 The Companies (Audit, Investigations and Community Enterprise) Act 2004 (The Act) and the Community Interest Company Regulations 2005 (The Regulations) provide the legislative framework for the community interest company form.
- 2.3 The Act 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.

### **Monitor**

- 2.4 Monitor is the sector regulator for health services in England and its job is to make the health sector work better for patients. Before April 2013 Monitor’s main task was to authorise and regulate NHS foundation trusts, currently 60% of all public providers of NHS services. However, under the Health and Social Care Act 2012 Monitor was given a wide range of additional responsibilities including expanding its role beyond foundation trusts to the licensing of non-exempt independent providers of NHS services, including certain CICs.

### **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 Monitor and to:
- (i) ensure appropriate collaboration and liaison between the parties;
  - (ii) set out the circumstances in which the parties will support one another, share information and collaborate.

### **4. THE FRAMEWORK FOR JOINT WORKING**

- 4.1 The parties undertake to:
- (i) promote and publicise this MOU with an agreed form of wording
  - (ii) consult with the other party on issues affecting both parties; and
  - (iii) exchange relevant information and provide feedback to the other party on issues relating to those CICs whose activities are of interest to both parties.
- 4.2 To facilitate the co-ordination of activity and information sharing between the parties, Monitor will identify to the Regulator of Community Interest Companies those CICs which fall within Monitor's remit.

### **5. LEGAL AUTHORITY FOR THE DISCLOSURE OF INFORMATION**

- 5.1 Section 59 of The Companies (Audit, Investigations and Community Enterprise) Act 2004 permits the disclosure of information between the Regulator of Community Interest Companies and any public authority where the disclosure is made in connection with the functions of either the Regulator of Community Interest Companies or Public Authority.
- 5.2 Paragraph 15 of Schedule 8 to the Health and Social Care Act 2012 permits Monitor to do anything which appears to be necessary or desirable for the purposes of or in connection with the exercise of its functions.
- 5.3 Both the Regulator of Community Interest Companies and Monitor will disclose and exchange 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.

- 5.4 Where information provided by one party to the other is subject to a request under the Freedom of Information Act (FOIA) the legal position of this act must be respected. Each party will as a courtesy notify and where appropriate consult the other in advance of releasing information following an FOIA request. Responsibility for responding to an FOIA request – including final responsibility for making any decision to withhold information under exemption remains with the party receiving the request.

## **6. GENERAL**

- 6.1 Whilst it is intended that the arrangements in the memorandum should apply generally, nothing in the memorandum prevents the making of arrangements to meet special exceptional needs.

## **7. STATEMENT OF MUTUAL PRINCIPLES AND BENEFITS**

- 7.1 The memorandum shall operate upon signature by the Regulator of Community Interest Companies and Chief Executive of Monitor.
- 7.2 There will be a further review in three years time, or sooner if needed, to ensure that the memorandum is achieving its objective.
- 7.3 In addition to the review, the Regulator of Community Interest Companies and Monitor agree to attend bi-lateral meetings at the request of either party.

## **8. DESIGNATED 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 Regulator of Community Interest Companies and Monitor 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.

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Signed by the Regulator of Community Interest Companies



**SARA BURGESS  
REGULATOR**

**Dated: 10 September 2015**

Signed by Monitor

**DAVID BENNETT  
CHIEF EXECUTIVE**

**Dated: .....2015**

ANNEX 1

Area of responsibility	Lead Officers and Key Contacts	
	Monitor	The Regulator of Community Interest Companies
Lead Officer Memorandum	<p>Richard Peden            Director – Independent Providers            Wellington House            133-155 Waterloo Road            London SE1 8UG            02037470000  <a href="mailto:Richard.peden@monitor.gov.uk">Richard.peden@monitor.gov.uk</a></p>	<p>Phillip Horrell            Room 3.68            Companies House            Cardiff            CF14 3UZ            02920346285  <a href="mailto:phorrell@companieshouse.gov.uk">phorrell@companieshouse.gov.uk</a></p>
Operational Designated point of contact	<p>Sarah McKinnon            Licensing Manager            Wellington House            133-155 Waterloo Road            London SE1 8UG            02037470000  <a href="mailto:sarah.mckinnon@monitor.gov.uk">sarah.mckinnon@monitor.gov.uk</a></p>	<p>Marilyn Liddon            Room 3.68            Companies House            Cardiff            CF14 3UZ            02920346285  <a href="mailto:mliddon@companieshouse.gov.uk">mliddon@companieshouse.gov.uk</a></p>