

 <p>Northwards Housing North Manchester's Council Homes</p>		Report to: Northwards Housing Board 11 November 2014		Item No: <h1>11c</h1>	
Title:		Northwards and Yes Intra-Group Agreement			
Date:		29 October 2014			
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Confidential:		No			
For: (Please tick action required)		NOTING	DISCUSSION	APPROVAL ✓	
PURPOSE OF REPORT					
To seek approval for the Intra-Group Agreement between Northwards Housing and yes . The agreement sets out the responsibilities of Northwards as the group parent, and yes as subsidiary.					
RECOMMENDATION					
It is recommended that the Board approve the Intra-Group Agreement.					
IMPLICATIONS					
Risk Management		The Intra-Group Agreement clarifies roles and responsibilities of the group members to minimise any risk to either organisation.			
Regulatory & legal compliance		None directly			

Consultation/Consideration:

	Yes, No or N/A:	Name:	Date:
Sub-Committee:	N/A		
Area Panel:	N/A		
Task Groups:	N/A		
Ward Councillors:	N/A		

Northwards and Yes Intra-Group Agreement

1.0 Purpose of the report

- 1.1 The purpose of the report is to seek approval for the Intra-Group Agreement between Northwards Housing and **yes**.

- 1.2 The agreement sets out the responsibilities of Northwards as the group parent, and **yes** as subsidiary (see appendix).
- 1.3 Northwards and **yes** have both sought independent legal advice on the agreement, and recommendations have been included.
- 1.4 The **yes** board approved the agreement on 27 March 2014

2.0 Recommendation

- 2.1 It is recommended that the Board approve the Intra-Group Agreement.

Intra-group Agreement

**Northwards Housing
Limited**

And

**Your Employment Service
(CIC)**

Date

Group Members

Northwards Housing Limited

Is a company limited by guarantee number 05435061 and the registered office is 6th Floor Hexagon Tower, Crumpsall Vale, Manchester M9 8GQ **(the Parent)**

Your Employment Service (CIC)

Is a Community Interest Company number 8467469 and the registered office is 115 Briscoe Lane, Newton Heath, Manchester M40 2TP **(the Subsidiary)**

Introduction

The Group Members have agreed to express their common objectives and disciplines on the terms set out in this Agreement.

Parent Responsibilities

The Parent agrees with the Subsidiary the terms set out in Appendix 1.

Subsidiary Responsibilities

The Subsidiary agrees with the Parent the terms set out in Appendix 2.

Responsibilities of Group Members

Each Group Members' Board has the right to manage their respective businesses in accordance with its Constitution. It will act in accordance with:

- Applicable legal requirements
- Regulatory Standards
- Group Policies
- This Agreement
- Business Plan
- Agreed Group Strategy

The Group Members agrees the terms set out in Appendix 3

Right of appointment to the Subsidiary Board

Under the Constitution of the Subsidiary the Parent has the power to remove and appoint all Board Members from the Boards of the Subsidiary. It will also agree

the composition of the Board. The Parent agrees that it intends only to exercise them in circumstances where the intervention powers are invoked. See Appendix 4.

Financial responsibility and assistance

The Parent agrees as a matter of record of its intention to:

Expressly not to create any formal or legal obligation between the Parent and the Subsidiary financially or otherwise. This clause will be binding in honour only.

Northwards Housing will provide Financial Services to yes.

Yes will maintain its own bank account and will have responsibility for all financial decisions.

Northwards Housing will give responsibility to a suitably trained member of Northwards staff to deliver financial services to yes, including producing yes accounts.

In the event that the Subsidiary is in financial difficulties the Parent may provide support and assistance, financial or otherwise as is reasonably possible. It will be in the absolute discretion of the Parent whether or not to provide support or assistance.

Group Policies

The Parent shall designate as Group Policies all policies, standing orders and financial regulations and standards as apply to the Subsidiary.

The Parent has the power to adopt Group Policies as appropriate.

In adopting Group Policies the Parent will ensure compliance with reasonable standards of financial and business probity and good practice in governance and risk assessment.

It will also ensure that the policies comply with the Constitution of the Subsidiary.

It is the intention of Group Members that Group Policies shall set the framework within which Group Members operate and that Group Policies will apply consistently to all Group Members.

VAT will be treated in accordance with all applicable legislation and regulations in respect of indirect taxation.

Group Business Plan

The Parent will provide details of the Group's business plan parameters and assumptions to be used by the Subsidiary in preparing its business plan and budget for the following year by 31 December.

The Subsidiary will provide the Parent with its updated Budget by 31 January and updated business plan by 31 March in the form approved by the Parent Board.

The Group Members may vary these dates as agreed jointly.

The Parent will inform the Subsidiary if there are issues of concern with the business plan and budget as soon as possible.

The Subsidiary will make amendments as the Parent Board may reasonably require.

The Group Members will work together to agree a revised business plan and budget for the approval by the Parent Board.

Group Services

Where Services are provided the Group Members will enter into a separate Agreement recording the agreed Services to be provided, the time period and any relevant performance standards.

Staffing

Staff shall be employed in accordance with all relevant Group Policies.

The Subsidiary may employ staff anticipated by its approved business plan. The Parent's prior consent will be required for the employment of staff outside the approved business plan.

Variations

It is agreed that Group Members will formally review this Agreement every 3 years and report this to their Boards.

Group Members may propose that a variation be made to this Agreement and the Group Members will negotiate in good faith with a view to reaching agreement on the proposed variation.

In the event of failure to reach agreement the dispute will be considered in the procedure below "Resolution of disputes".

All agreed variations will be recorded in writing and signed on behalf of both Group Members.

Termination of the Agreement

Appendix 5

Resolution of disputes

It is intended that Group Members will resolve all disagreements by negotiation and discussion.

It is agreed that relevant officers from each Group Members shall meet to resolve issues of concern.

If agreement is not resolved by officers, each Group Member agrees that it's Chair and another Board Member will hold a further meeting with a view to resolve the issues of concern.

If agreement is not resolved by the Chairs the matter will be referred to the Parent Board whose decision is reached by majority vote shall be final and binding upon Group Members. It is agreed by Group Members this will only be used as a matter of last resort.

Notices

Any notice to be served on the Parent under the terms of this Agreement shall be in writing and addressed to the Parent Chief Executive at the address shown on the front of this Agreement or to another address as the Parent may supply.

Any notice to be served on the Subsidiary under the terms of this Agreement shall be in writing and addressed to the chair of the Subsidiary at the address shown on the front of this Agreement or to another address as the Subsidiary may supply.

The notices from either party will be deemed to be duly served:

- On delivery, if delivered by hand and receipted for by the recipient
- 48 hours after dispatch by recorded delivery
- If emailed one hour after transmission of the email provided that no transmission notification of non-delivery or error has been received by the person transmitting the communication and the transmission is to the usual email address of the persons mentioned above.

A change of address shall be duly notified in writing to the other Group Member.

Jurisdiction

This Agreement will be governed by English law and the Courts of England that have exclusive jurisdiction to determine any dispute between Group Members.

Third Parties

A person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

This Agreement has been executed and takes effect on the date stated on the front of the Agreement.

Appendix 1

Parent Responsibilities

- 1. Provide high level professional and other advice and support as required by the Subsidiary relating to significant policy matters generally, including performance expectations, monitoring and good professional standards.**
- 2. Implement and comply with any relevant Group Policies.**
- 3. Advise and assist the Subsidiary with the selection and appointment of bankers, solicitors and other consultants**
- 4. Implement all its adopted strategic policies**
- 5. Provide advice to the Subsidiary in preparation of its business plan, financial plans, statements, financial reports and cash flows**
- 6. Respect confidentiality of all material and negotiations**
- 7. Operate in accordance with its own standing orders and financial regulations**
- 8. Ensure that Group accounts are maintained in accordance with any statement of recommended practice.**
- 9. Promote all external entry level and apprentice jobs through the Subsidiary**

Appendix 2

Subsidiary Responsibilities

- 1.** Policies for the admission of members will be agreed with the Parent.
- 2.** The Board will satisfy governance requirements as agreed with the Parent.
- 3.** It will only recruit and appoint independent board members as agreed with the Parent.
- 4.** Changes to the Constitution will only be made following consultation and approval by the Parent.
- 5.** The Subsidiary will have the right to establish committees of the yes Board
- 6.** Comply with the requirements and any request of any Competent Authority as directed by either the Competent Authority or the Parent.
- 7.** Comply with reasonable advice from the Parent in relation to probity, standards of competence, management and fidelity and customer services.
- 8.** Implement and comply with Group Policies
- 9.** Carry out its business and only enter into financial commitments in accordance with its business plan
- 10.** Provide information requested by the Parent regarding performance of the Subsidiary in relation to strategic policy and financial matters.
- 11.** Report to the Parent against key performance matters as agreed annually.
- 12.** Provide the Parent with board reports and minutes of meetings at the time of circulation to board members.
- 13.** Provide information as reasonably requested by the Parent and co-operate fully with the Parent.
- 14.** Appoint the Group's external auditor as its auditors.
- 15.** Respect confidentiality of all material and negotiations and only disclosing confidential information of the Group with the prior agreement of the Parent (except where required to do so by any law or regulation).
- 16.** Only contract itself and not attempt to commit the Parent, or any other subsidiary of the Parent as an agent or otherwise in any contractual arrangement.
- 17.** As required, to acknowledge that the Subsidiary is part of the Group.
- 18.** Comply with reasonable requests of the Parent to contribute to specific areas of the Group business at particular times.
- 19.** Adopt the same financial year end date as the Parent.

Appendix 3

Group Responsibilities

Parent

The Parent will be responsible for carrying out certain functions around the Group and will be responsible for providing certain services to the Subsidiary. These include:

- Strategic Direction
- Overall culture and values
- Business planning and budget guidelines
- Group's overall budgets
- Review of governance arrangements with input from the Subsidiary
- Approval and review of the Group's Policies and standing orders and financial regulations
- Human Resources and recruitment functions
- Information technology
- Financial services
- Setting the borrowing and financial management framework
- New initiatives – where these involve significant use of resources, whether existing or new
- Setting the treasury management policies for the Group
- Encourage, ensure and promote the financial and business viability of the Subsidiary and that all regulatory requirements affecting the Group are complied with and that the Group's overall reputation and good standing is fully protected at all times.
- Setting the health and safety framework for the Group
- Setting the risk management framework for the Group
- Setting policies and procedures in relation to human resources for the Group
- Monitoring key performance indicators
- Managing Group external communications
- Any other function that the Parent may designate as a function of the Parent subject to revision of this Agreement.

Subsidiary

The Subsidiary is responsible for the following functions:

- Ensure that its business is carried out in accordance with its Constitution, Competent Authority or Regulatory body and that its overall business objectives are further in the manner that its Board considers most appropriate subject to the provisions of this Agreement

- Development of budgets which will be approved by the Parent
- Report to the Parent Board as required by the Agreement
- Ensure that its business is operated in accordance with the objectives, goals and values of the Group
- Arranging internal and external audit, and to take action on findings
- Monitoring key performance indicators and reporting to the Parent
- Any other function that the Parent may designate as a function of the Subsidiary subject to revision of this Agreement

Appendix 4

Parent Intervention Powers

The following circumstances are for use of the Parent's interventions powers:

1. Material breach by the Subsidiary of the responsibilities in Appendix 1 which, where capable of remedy, have not been remedied in accordance with a written demand to do so from the Parent.
2. Material non-compliance by the Subsidiary with any registration or regulatory requirement or guidance issued by any Competent Authority.
3. Actual or anticipated breach of any statutory requirement by the Subsidiary which has a material and adverse effect on its ability to conduct its business or meet its business plans and budgets.
4. Material non-compliance with the Subsidiary's Constitution, Group Policies or this Agreement
5. Material default by the Subsidiary in respect of any loans or other financial support provided to or on behalf of the Subsidiary by the Parent or the Group or any other party which (where capable of remedy) is not remedied within an appropriate period.
6. Material adverse external audit reports.
7. Material adverse internal audit reports where the problem is not remedied to the Parents satisfaction within a reasonable time
8. Acts or omissions likely to expose the Subsidiary or the Group or both to a breach of a regulation or failure to comply with the Regulator's regulatory requirements or to behave in such a way that it would bring substantial harm to the reputation of the Subsidiary or to the Group.
9. Such other circumstances as the Parent, acting reasonably, determines to be such as to make the exercise of its powers necessary or prudent.

Appendix 5

Group Protocols

The Parent agrees to deliver the services below to the Subsidiary subject to annual review. The services will be provided to the level and standard agreed in a competent and professional manner to provide a high quality service.

Both parties will give 6months notice to terminate this agreement.

The Subsidiary may procure additional services where the Parent does not have the resources or capacity to deliver such services.

Resolution of disputes and notices will be by provision of the Intra-group Agreement "Resolution of disputes".

Both parties agree to:

- Respect the confidentiality of information concerning any individual or organisation which may become available to them and
- Comply with the provisions of the Data Protection Act 1998.

Group Protocols:

Human Resources, recruitment staffing

Information Technology

Legal

Financial Services

Communications, Corporate Image and Branding

Health & Safety

Group Policies (As appropriately amended to ensure relevance to yes)

Health & Safety

Financial Regulations / Standing Financial Instructions

HR Policies

ICT Policy

Intra-group Agreement – Execution Page

Executed by

Northwards Housing Limited

Name _____

Name _____

Signature _____

Signature _____

Position _____

Position _____

Date _____

Date _____

Your Employment Service (CIC)

Name _____

Name _____

Signature _____

Signature _____

Position _____

Position _____

Date _____

Date _____