

Using the Community Interest Company model in the housing sector

A marriage in the making?

Robert Coffey, Judith Smyth and Max Hogg

This report explores how the Community Interest Company (CIC) model might be used in the housing sector.

The CIC is a new legal form created for establishing companies that are owned by and tied to the community.

Housing associations and registered social landlords currently use a range of company forms. The authors of this report:

- analyse whether existing housing bodies should convert to the CIC model
- consider whether new housing bodies should be created using this form
- describe the main features of a CIC and compare this model to the other organisational forms available to housing associations
- discuss the advantages and disadvantages of the CIC as a legal form for housing associations, keeping in mind the main issues facing such bodies.

Lastly they make conclusions about the usefulness of the form for new housing bodies, for existing housing bodies or for specific purposes as part of a group of companies working in the community.



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1 Introduction

In 2005, the 2004 version of the Companies Act came into force and brought with it the community interest company (CIC). This creates a purpose-built legal form for the establishment of community ownership and enterprise. The Government refers to it as a 'brand'¹ for social enterprise.

CICs were not specifically designed with housing associations (HAs)/registered social landlords (RSLs)² in mind. Housing associations are established with a range of different constitutions that often reflect the time when they were set up as much as decisions about ownership and purpose. However, there is considerable interest in the ownership and control of housing associations, and at the same time the iN³ business agenda is encouraging associations to work with local communities and to consider expanding the use of their assets and expertise to develop community facilities, including schools and clinics.

The aim of this paper, written for the Special Partnership for Action, Research and Cooperation (SPARC), is to examine what, if any, potential the CIC model has for use within the housing sector. Would this be a viable form for a new HA? Would it be worth an existing HA reincorporating under this form? Could the CIC be used to address wider issues in the community that relate to the housing sector? Does it have a role to play within the group structures now present in many larger HAs? The analysis involves a comparison with the other organisational forms that are available to housing associations including:

- industrial and provident societies (I&PSs) with charitable and/or community benefit objectives
- companies limited by guarantee with and without charitable objectives
- unincorporated charities.

In line with the question posed by SPARC, this paper will limit its focus to the usefulness of the CIC form to HAs, rather than evaluating the form more generally.

While the company limited by guarantee and the unincorporated charity are well-known organisational forms, the features of the I&PS are perhaps less clearly understood. An I&PS is an organisation conducting an industry, business or trade, either as a co-operative or for the benefit of the community, and is registered under the Industrial and Provident Societies Act 1965. Housing co-operatives are distinguished from other forms of organisation by their mutuality. Their members

are the users of the housing provided by the association and are democratically involved in the running of the organisation. Any surplus made by the co-operative is usually ploughed back into the organisation to provide better services and facilities to members. I&PSs that are not co-operatives but exist for the benefit of the community are required to provide special reasons to explain why they should not be registered as companies.

The paper focuses on issues rather than forms. In order to answer the question put by SPARC in this paper, we set out the details of the community interest company model in Chapter 2, before discussing its advantages and disadvantages in Chapter 3. We analyse the issues facing the housing sector in general, and housing associations in particular, in Chapter 4, before concluding in Chapter 5 with our response to the question posed and further suggestions for the use of the CIC form in the housing sector. In addition to desk research we have consulted with a range of organisations and individuals, which we have listed in the Appendix.

2 The community interest company model

The community interest company model was created in 2004 by the Companies (Audit, Investigations and Community Enterprise) Act¹ and operates under the Community Interest Company Regulations 2005.² CICs are governed by the Community Interest Company Regulator (hereafter 'the Regulator').³ Companies established under this form must carry the label 'community interest company' or 'community interest public limited company'.

The CIC is based on a conventional company model, either limited by shares or by guarantee, with two additional features designed to ensure that its activities are undertaken for the benefit of the community. First, a CIC must submit to the Regulator on its formation a community interest statement that sets out the company's benefit to the community. This must be included within the articles of incorporation as its purposes and must be supplemented by a yearly report to the Regulator, which contains the following elements:⁴

- how the company's activities have benefited the community
- what steps the company has taken to consult stakeholders ('persons affected by the company's activities')
- any transfers of assets other than for full consideration (including those not made to an asset-locked body)
- any dividends paid and performance-related loans made
- directors' remuneration.

The report must be made public, and is designed to ensure that the CIC's actions are benefiting the community in a transparent and accountable manner.

The second notable feature of the model is its asset lock. A CIC's memorandum/articles of association must state that 'the company shall not transfer any of its assets other than for full consideration',⁵ except in cases where the assets are transferred to another asset-locked body such as another CIC or a charity, or the transfer is made 'for the benefit of the community other than by way of a transfer of assets to an asset-locked body'.⁶ However, the regulations do make provision for the payment of capped dividends in the case of a CIC limited by shares.

The Regulator envisages a 'light-touch' regime of regulation. While it is keen to protect the CIC 'brand', it says it will not engage in proactive scrutiny of CICs. Nevertheless, if and when it does intervene, its powers are considerably greater than those available to regulate normal companies and include: appointing a manager; appointing or removing directors; transferring the company's property or shares in it; and taking action in the name of the company.⁷

In creating the CIC model, the Government is aiming to address a number of issues that currently face social enterprise. These are as follows:⁸

- lack of protection of assets
- weak brand and poor recognition
- difficulties in raising finance
- expense of registration.

Beyond this the form itself is not restrictive. Much of what it will come to mean is yet to be determined by precedent and practice. For example, the Regulator's interpretation of what it means to act in the community interest, what the Regulator determines to be a community in relation to a housing body and what actions it deems acceptable will all play a major role in determining the nature of this form.

As with other limited companies the articles can be changed by a 75 per cent vote of an extraordinary meeting. This includes its community and objectives, though any changes have to be agreed by the Regulator.

3 The advantages and disadvantages of CICs for HAs

The CIC model is a flexible legal form that allows for the incorporation of a company that operates in the interest of the community. The distinction between this and a standard company form is that it must have a defined community, a purpose for which it is operating that serves the defined community (or acts in its benefit) and an asset lock. In reality the operation of these elements and their efficacy depends almost entirely on the Regulator, the way in which it chooses to define those issues and what it chooses to allow organisations to do. Thus far it has indicated a very broad definition and a very light approach.¹

What are the benefits of this for HAs vis-à-vis the other models commonly in use?

The CIC form, when established, was intended to provide a means for a limited company (which was not charitable) to tie its assets to a community purpose.² The asset lock and the community interest test are designed to ensure that the company operates in such a way as to serve that interest. The efficacy of this depends on the stringency of company members and the CIC Regulator, and the effectiveness of the accountability processes, which ensure that the community interest (as it changes over time) is served.

The Regulator states that the regulation process will be proportional and light touch. Core requirements are the:

- community interest test
- annual report of actions
- powers of the Regulator to intervene to ensure those interests are served.

Essentially the mechanisms rely heavily on the commitment and activity of those involved. A CIC can be an excellent model for serving the community interest if the members are eager and the community engaged. But, in those circumstances, established forms such as the company limited by guarantee with charitable status are equally as effective and have tax benefits over the CIC.

Otherwise, the form itself does not necessarily guarantee anything. Though there is a community interest test, the definition of the community or what is in its interest is unclear. The Regulator has indicated a very broad approach to these definitions

and it appears the test for community can apply to global interest groups as well as tiny organisations owning a small community hall. The annual report is supposed to provide evidence of information for members of the community; however, such reports are often read only by community activists and cannot be a substitute for real community involvement. The Regulator will intervene only in serious situations and then can only do so where complaints or apparent failings allow for it.

The CIC form does, it appears, allow greater flexibility for the objects of the organisation. While an interim planning statement (IPS) or non-charitable company registered as a HA is limited to the objects set out in the Housing Act 1996 and subsequent statutory instruments, charitable companies – and it would appear CICs – can have much broader objects. This would allow them to include housing-related functions like regeneration as an object. However, at the present time, they are not eligible to be registered as social landlords, though the Housing Corporation has agreed a memorandum of co-operation with the CIC Regulator. Like other organisations, CICs can apply for Social Housing Grant (SHG), but this brings with it significant restrictions.

It is fair to say, however, that the CIC form could be useful in cases where the tests for charitable status are difficult to navigate or where the purposes are perhaps less certain. It is difficult to change the constitution of a charity; it is not so difficult to change the constitution of a CIC. So the flexibility of the form is apparently an advantage.

The asset lock, which would enable the tying of assets to community purposes, was intended as one of the key innovations within the CIC form. However, the asset lock within the CIC is not unique. The latest regulations for co-operatives and community benefit societies enable these organisations to apply an asset lock.³ While RSLs are exempted from the regulation, and therefore cannot apply for an asset lock as a community benefit society, at present they cannot be registered as a CIC in order to lock their assets either. This means it is likely that a community benefit society can achieve the same outcomes as a CIC in this respect.

The CIC is intended to become a recognisable and modern brand for community companies and as such may bring with it a perception advantage.⁴ Being a CIC would then signal to the public and perhaps local authorities that the organisation was both community owned and up to the minute. People who feel that charities and organisations with charitable status are old fashioned and perhaps patronising may favour CICs. On the other hand, others feel that charitable status is well established and understood by the public at large, and that the CIC form is untested and may be risky. In addition the notion of the CIC as a well-supported brand for social enterprise

has already been weakened by the Government's failure to promote the idea. For example, the recent Local Government White Paper⁵ did not mention the CIC form, despite discussing issues of community empowerment and improvements in service delivery.

The need for a CIC to serve the community does not mean that the community must be represented in the management or governance. Though the owners are responsible through their objects to the community, the only action required on their part to maintain this is their report of their activities in the community interest.

Perhaps the major limitation of the CIC form in this context is that an organisation cannot be both a CIC and a charity. Unlike the limited company or the I&PS, a CIC cannot hold charitable status, which denies it the financial advantages of charities. This is a major problem for many housing bodies that rely on charitable status and its accompanying tax benefits. It may be that a CIC would find it impossible to get funding from charitable trusts whose objects prevent them from donating to non-charities, thus cutting off an important potential source of future funding.

On the other hand, CICs do not face the limitations on activities and financial actions that come with being a charity and, if the tax and other advantages of charitable status did not apply, the CIC form would work, although there may still not be clear benefits over other forms.

The comparison with other companies is also interesting. CICs can issue preference and dividend shares, although the returns on them are capped by law. This may limit their attraction for investors and restrict investment in CICs. In addition the CIC form places a limit on assets, which may not suit individual investors and which may be disallowed by the rules and regulations of some potential investors. However, the CIC Regulator has indicated that this would not prevent the disposal of assets to charities or to the Housing Corporation.

Therefore, while there some advantages for CICs, it is not yet at all clear that these outweigh the disadvantages.

In considering the form further it is useful to examine the question of legal form in the light of the specific issues facing social housing and housing bodies.

4 Issues facing housing associations when considering their legal form

The purpose of a legal form must be to best facilitate the conduct of an organisation's activities. To this end legal forms can be constituted so as to either enable or restrict actions. Enabling actions is a logical issue; a form is no good unless it allows the organisation to carry out the necessary range of activities for the pursuit of its goals. Using a legal form to place restrictions on a body may seem counter-intuitive. However, it is an important consideration when designing an organisation. What do you wish to tie the organisation to? What would you like to make inalienable?

For the purposes of this paper we have selected two important issues facing housing bodies that are significantly and directly influenced through the legal form of the organisation. They are:

- ownership, governance and tenant involvement
- the raising of finance and the disposal of assets.

We will consider each in turn and discuss whether or not the CIC form is an effective means of addressing them.

Ownership, governance and tenant involvement

Issues of ownership and governance in housing are strongly linked to those of tenant involvement. A key role of governance is to ensure that the organisation always operates for the benefit of those for whom it was established. Legal forms are a common means of ensuring that future members and owners of the company cannot choose to operate in a way that is contrary to the original goals of establishment. The organisational form can determine the extent of tenant involvement in board-level decision making and the role of tenants in scrutiny and quality assurance. It also determines the potential influence of other stakeholders, including the local authority.

The CIC model offers a means of achieving tenant and community control. The rules governing such organisations mean that the operations of the company are tied to the purpose and the community for which it was established. Indeed, unlike other company forms, it establishes an external mechanism to monitor and regulate this. A traditional company form ties the members of the organisation internally to

the articles of incorporation; if they choose to change this they can. The CIC form requires not only the agreement of members to alter the articles but also agreement from the Regulator that the altered purposes still pass the community interest test. This limits and controls the actions of CIC owners. In its way the Regulator offers a governance safeguard for the community. Community members have a clear right to appeal to the Regulator – a safeguard that does not exist for other forms.

However, the restrictions placed on CICs are not as extensive as those placed on charities and the Regulator does not intend to take as active a role as the Charity Commission does. There is, therefore, a balance to be struck in terms of limiting the actions of the company and its members. On the one hand, the CIC form is not as restrictive but is more flexible and involves less onerous regulation. On the other hand, charitable status offers significant tax advantages and a more restrictive means of controlling the future actions of the company. Either will ensure governance and the operation of the organisation in favour of the purposes for which it was established. Neither absolutely ties the hands of the owners or trustees.

Can the CIC model help to improve tenant involvement in a HA? Can it ensure housing bodies operate for the benefit of their residents?

One of the most often discussed and important issues of governance within social housing is the involvement of tenants in the management of the housing stock and decisions that relate to their residence. Tenants have, naturally, sought significant involvement within the governance, if not the operation, of HAs see note 2, Chapter 1. Indeed, all HAs seek to involve tenants in some manner, most within the board or governance structure. This is supported by, for example, the Housing Corporation, which requires HAs to evidence effective tenant involvement.

Tenant involvement is not easy. Many HAs are committed to significant tenant involvement and real community empowerment. Others are more sceptical and there are suspicions that they are paying only lip service to these ideals. Tenant involvement becomes increasingly difficult as HAs merge into group structures, the size and geographical scope of organisations increases and the number of commercial firms involved proliferates.

Nevertheless, many organisations have incorporated tenant involvement into their governance structure and their articles of incorporation. Typically, tenants are offered association membership; they have one-third of voting rights and can take one-third of the places on the board. However, this is a guarantee for only so long as the body itself chooses to keep it. Should the members or owners of the organisation so

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choose, the structure can be changed and tenant involvement can be reduced, as follows.

- An I&PS would have to pass a special resolution of its members, much as a company would. In this case they are often mutual societies and so the community in question would have a say in the decision. Agreement must then be sought from the Financial Services Authority (FSA), which would have to be convinced that the I&PS continued to serve a community of interest and also remained qualified to be an I&PS.
- If it was a company limited by guarantee, it would require a majority or, dependent on the articles of incorporation, a 75 per cent vote of its members at an extraordinary general meeting (EGM). In most cases, the tenant interest in the company is not sufficient to prevent this.
- If it was an unincorporated charity, the trustees would have to vote to change the articles. However, this would then have to be agreed by the Charity Commission and could be challenged by any beneficiary of the trust as being against their interests.

It seems that, where the principle of tenant involvement is accepted, there is considerable place for a legal form that guarantees a meaningful degree of involvement. Binding the assets and those who manage them in perpetuity to the tenants would appear to be an appealing solution to residents and future residents, and the CIC model may therefore be attractive to RSLs. However, it is not a panacea. It provides only marginally better conditions than other company forms. The articles of a CIC can be changed in the same way as other company forms and so their restrictions on actions can be overcome in the same way. The main comfort is the Regulator and its role in safeguarding the community interest. Whether this really helps to ensure tenant involvement is an open question. Would the Regulator see tenant involvement as necessary? Would it accept the removal of tenants from the governance of the organisation? Indeed it would seem that an organisation would only have to present a convincing case for the change being in the community interest or not being to its detriment for the Regulator to allow the change. Can it really be unequivocally shown that the involvement of tenants is necessary to serve a community with housing? It seems unlikely, particularly when the area that an organisation serves grows.

More importantly, the restrictions placed on charities are far more onerous and make it much more difficult to alter the way in which the organisation operates, although it must be noted that there are problems for tenants, as beneficiaries of the charity,

being represented on its board. While a CIC is bound to serve its community, the mechanisms for enforcement are relatively weak and the standard for preventing actions is likely to be relatively high. Organisations with charitable status are subject to a more onerous regulation system and tied to a very strict set of legislation. Breaching this can lead to significant action and there are very well established mechanisms of monitoring and response. These are likely to bind organisations more than the CIC form.

The I&PS form, particularly where it is a mutual society, is a much more powerful means of ensuring involvement of the community. The CIC form does not require that all members of the community be eligible as members of the company in the same way as a mutual society does. In this way the level of involvement assured is significantly lower.

Perhaps more importantly, there are other elements that may play a greater role in ensuring housing bodies involve and serve their tenants. The process of stock transfer to create an HA is a good example. A local authority can heavily influence the operation of the body through the conditions of stock transfer. The rules and regulations of the Housing Corporation are also more likely to have this effect than the constitution of an organisation.

So, while the CIC form may be used to ensure the involvement of tenants and the use of assets in their interest, it does not appear to offer any means of doing so that holds a material advantage over other forms. The question is one of choice. It is a viable option but it takes away the potential for charitable status and limits the use and disposal of assets. These issues may outweigh its flexibility and usefulness.

The raising of finance and the disposal of assets

Important activities of any company, but particularly those in an asset-dependent organisation like a housing body, are the ability to raise finance and utilise assets in the most efficient way possible. Government controls on rental prices and rises limit the ability of social housing bodies to increase their income streams. Consequently they must seek to raise finance and income in other ways. The legal form in which the organisation is incorporated can help in enabling them to raise finance and utilise assets.

This is an area in which charitable status is limiting. While it does confer the ability to receive charitable donations and a preferential tax status, there are strict regulations on the methods through which charities can raise finance or obtain income. The

limited company form tends to offer greater access to finance, particularly investment finance. The CIC form retains this access. A CIC can offer preference and investment shares. However, unlike a standard limited company, its ability to do so is limited by a cap on dividend payments to non-asset-locked bodies. The CIC regulations state that dividends will be limited at a certain rate above base rate (the exact rate is yet to be determined), which means the form is less able to raise investment finance than the standard company limited by guarantee. A CIC also does not enjoy the tax benefits of charitable status and is unlikely, though not unable, to obtain the same charitable donations.

Asset-guaranteed borrowing tends to be a common method of raising finance in housing, as is borrowing against income streams. The CIC form does not prevent either of these approaches but nor does it enable them to any greater degree than other forms. Indeed, the asset lock placed on CICs may mean that lenders are less likely to lend money against assets, as they will not be able to seize these in case of default. Indeed the regulations mean that, on dissolution of the organisation, the assets can pass only to another asset-locked body or body approved by the Regulator. That approval requires the assets to be used for broadly the same purposes as they were in the CIC. Clearly they are therefore of no use to a bank, though it may be able to have them sold to another housing body and reclaim its money from the proceeds.

5 Conclusions

At present none of the legal forms available to HAs is purpose built; each is a product of its time and has been adapted from another purpose to fit the particular requirements of the housing sector. Our research has identified particular challenges facing each of the legal forms. There is arguably a need for a legal vehicle and regulatory framework that resolves the challenges facing existing models while at the same time addressing the more general issues facing this sector and providing a platform to make best use of the opportunities available to HAs.

The CIC form is a flexible legal vehicle for the establishment of a company that is intended to serve the interests of a particular community. It is not a restrictive form and, indeed, has been designed to be as flexible as possible. As such it can be used but, given the embryonic stage of development, the exact way in which it will develop is unclear. Presently its use for social housing bodies appears to be limited.

Each of the current legal forms for registered social landlords has disadvantages. However, the CIC model does little to address any of these. It doesn't guarantee stronger involvement for tenants in decision making. It doesn't necessarily resolve the need for better governance or greater accountability. It doesn't provide a meaningful increase in transparency for stakeholders.

While the community interest company may be another form adaptable to the purpose of social housing provision, it is by no means the solution the sector needs. HAs looking to do something innovative may take up the model and a charitable HA might set up a CIC as a subsidiary to take advantage of a new brand for social enterprises, perhaps in response to community pressure at the start of a new development. Beyond this we do not see that the CIC model is any more appropriate than existing legal forms for the provision of social housing by HAs.

It is useful to consider whether the form is beneficial for: new housing bodies; or for existing housing bodies; or for specific purposes or as part of a group structure.

New housing bodies: hypothetically, if a new housing body were to incorporate, it could use the CIC form. This offers certain benefits. The CIC form is intended to add legitimacy to a private company's claims to act in the benefit of a community rather than primarily for private benefit. A community interest company gains legitimacy through its community interest statement and its asset lock, as well as submitting to a degree of regulation from the CIC Regulator. Beyond these aspects the model is no different to a private company.

It is more flexible than the charity form – and, it would appear from the Regulator’s intention to take a broad approach to definitions, than the I&PS – at least in relation to definitions of purpose and community. The community interest test is deliberately broad and will not tie down a HA to a particular community or geographical area. The asset lock could be relaxed if the Regulator deemed this appropriate.

The disadvantages are: that it cannot be dual registered as a charity (though it can have charitable objects) and so loses those benefits; that some charities may be unwilling to give CICs grants; that the asset lock may in practice limit the actions of the organisation – particularly borrowing – restricting access to finance in comparison to the private company form; and that for the moment CICs are not eligible for registration as a HA.

It does have potential for a new housing body, particularly one that is to serve a specific community. However, it falls between the flexibility of the private company form and the financial benefits of the charitable form. Consequently it appears to be of limited general use.

Existing housing bodies: it is very unlikely an existing housing body would choose to transfer into a community interest company. Its existing governance and borrowing arrangements would be too difficult to unscramble to make this worthwhile. Many are charitable and unlikely to wish to lose that status; or they may be an I&PS in which case there would appear to be no material advantages to the CIC form; or they may be private companies in which case they have more flexibility and are likely to have greater access to finance and investments.

Specific purposes or as part of a group structure: the CIC form may be of particular interest to HAs that are looking to widen their remit to become more of a ‘community anchor’. The current policy drivers, of partnership working and co-ordinated approaches to community development, mean that there is considerable scope for a housing body to establish a cross-cutting remit in its local community, addressing issues such as:

- regeneration: the CIC form has already been used to create community-owned and community-led regeneration partnerships, such as that of the Saltash Gateway area
- development of community facilities, such as community centres, primary health-care premises, public open spaces, schools and children’s centres
- reacting to the environmental crisis by the development of new communal energy

generation, saving and sharing schemes, such as the biomass energy plant in Holsworthy in Devon, shared wind or water power or heat exchange plants

- the creation of an organisational form that can ensure the involvement of a wider community in the development and maintenance of social housing – for example, a rural community that was seeking to build affordable housing in a village and to give local families priority when vacancies arose.

It is not necessary for an HA to take on the CIC form in order to address these issues. However, there are several possible reasons why the housing body and its community might find the CIC form attractive for this purpose.

- They may need community support for involvement in a school or community centre and can guarantee stability of control only through the CIC lock.
- The CIC may be more attractive for some local authorities than other forms if the authority needed to gain approval for asset transfer.
- If the CIC ‘brand’ develops, use of this company form may bring legitimacy and public support to a housing body’s interventions in the community.

Looking beyond these uses of the CIC form is outside the remit of this study. Nevertheless, undertaking this research has highlighted at least two potential wider uses of the CIC form within the housing sector, which we note briefly below.

- Private housing developers may wish to establish a community interest company in order to be seen in a more positive, legitimate light when intervening in a local community. The existence of the asset lock and community interest statement might ameliorate a community’s concern about a developer’s intentions.
- In the case of significant new builds, perhaps on the edge of existing towns or cities (such as the Thames Gateway project), a CIC may well be useful to foster a sense of community in the new settlement, and to give residents an opportunity and a responsibility to take control of the community’s assets and social capital.

In much the same vein as its potential for HAs, the potential for the CIC form in these roles depends greatly on the development of the CIC brand, particularly in relation to public awareness.

We see the Government’s failure either to market this new form or to give a clear indication as to its intended use as a major inhibitor of its value at present, and

would recommend that time be spent on clarifying in which sectors and roles a CIC might add value, and then on marketing the benefits of the CIC form in those specific sectors and roles.

Overall, it is apparent that CICs are a useful addition to the range of organisational forms on offer for social businesses. While they are probably not useful for existing organisations doing well with existing arrangements, they may well become popular for new community-based initiatives where housing associations of all sizes need to give the local community a guarantee of continuing local ownership and control even within a large group structure. As ever, organisational form is only a minor part of the story – it is the strength, vision and hard work of the people who are on governing bodies that make or break them.

Notes

Chapter 1

- 1 Cabinet Office Strategy Unit (2002, p. 9).
- 2 We use the term HA throughout.
- 3 iN business is a programme designed and led by HAs that aims to improve the neighbourhoods in which an association works. More information is available at <http://www.inbiz.org/>.

Chapter 2

- 1 Office of Public Sector Information (2004).
- 2 Office of Public Sector Information (2005).
- 3 <http://www.cicregulator.gov.uk/welcome.shtml>.
- 4 CIC Regulator (2005).
- 5 CIC Regulator (2005).
- 6 CIC Regulator (2005).
- 7 It should be noted that these measures can also be taken against a failing housing association by the Housing Corporation as regulator.
- 8 Adapted from Cabinet Office Strategy Unit (2002, p. 52).

Chapter 3

- 1 As can be seen from the breadth of Regulation 5 in Office of Public Sector Information (2005). This intention of breadth in the test was confirmed in discussion with the office of the CIC Regulator.

- 2 Cabinet Office Strategy Unit (2002, pp. 52–3).
- 3 Cooperatives and Community Benefit Societies Act 2003, section 1 (SI [2006]264).
- 4 Cabinet Office Strategy Unit (2002, p. 9).
- 5 Department for Communities and Local Government (2006).

References

Booth, C. (2005) 'What are they good for?', *Community Interest*, Vol. 1, September, p. 4

Cabinet Office Strategy Unit (2002) *Private Action, Public Benefit*. London: Cabinet Strategy Unit

Carroll, N. (2006) 'Minority report', *Regeneration and Renewal*, 20 October

CIC Regulator (2005) *Guidance Notes on the Community Interest Company Model*. London: CIC Regulator (available at <http://www.cicregulator.gov.uk/guidance.shtml>)

CIC Regulator (2006) *Memorandum of Understanding: For Co-operation between the Regulator of Community Interest Companies and the Housing Corporation*. London: CIC Regulator

Department for Communities and Local Government (2006) *Strong and Prosperous Communities*. London: Department for Communities and Local Government

Department for Communities and Local Government (publication date unknown) *Housing Corporation and Registered Social Landlords: Factsheet*. London: Department for Communities and Local Government

Department for Trade and Industry (2003) *Enterprise for Communities: Proposal for a Community Interest Company*. London: Department for Trade and Industry

Department for Trade and Industry (2005) *Community Interest Company Factsheet*. London: Department for Trade and Industry

Garlick, R. and Carpenter, J. (2006) 'Wary progress on local asset agenda', *Regeneration and Renewal*, 29 September

Hact (2006) *An Opportunity Waiting to Happen: Housing Associations as 'Community Anchors' Summary*. London: Hact/NHF

Lloyd, S. (2005) 'CICs off and running', *Community Interest*, Vol. 1, September, p. 2

Lynch, M. (2004) 'For and against the community interest company', *Investment Matters*, Vol. 28, January, pp. 1–4

McMorrow, J. (2006) 'Acts of charity pose taxing questions', *Inside Housing*, 6 October

Office of Public Sector Information (2004) *Companies (Audit, Investigations and Community Enterprise) Act 2004*. London: Office of Public Sector Information (available at <http://www.opsi.gov.uk/acts/acts2004/40027-g.htm>)

Office of Public Sector Information (2005) *The Community Interest Company Regulations 2005*. London: Office of Public Sector Information (available at <http://www.opsi.gov.uk/si/si2005/20051788.htm>)

Ravenscroft, S. (2005) 'Registering an interest', *Community Interest*, Vol. 1, September, p. 5

Trowers and Hamlins Solicitors (2005) *Rules of South Lincolnshire Homes Ltd*. London: Trowers and Hamlins Solicitors

Appendix: Basis of research

While the analysis in this paper is entirely our own, in order to inform our research we have discussed the issues around this topic with the following organisations and individuals:

- Clare Miller, Housing Corporation
- Arvinder Gohal, National Housing Federation
- Zenna Atkins, Places for People
- Bob Patterson, Devon Land Trusts private consultant
- Lynne Murray, Lewis Silkin
- Office of the CIC Regulator
- Devon and Cornwall Affordable Housing CIC
- Financial Services Authority
- Charities Commission.

In addition, we have made use of the articles and resources listed in the References section of this paper and the following websites:

- CIC Regulator: <http://www.cicregulator.gov.uk>
- Housing Corporation: <http://www.housingcorp.gov.uk>.

