

EDINBURGH THIRD SECTOR INTERFACE

MEMORANDUM OF UNDERSTANDING

Amongst:

Volunteer Centre Edinburgh (VCE)

45 Queensferry Street Lane

Edinburgh

EH2 4PF

Charity Number

Company Registration Number: SC202631

And

Edinburgh Voluntary Organisations' Council (EVOC)

14 Ashley Place

Edinburgh

EH6 5PX

Charity Number SC009944

Company Registration Number 173582

And

Edinburgh Social Enterprise Network (ESEN)

c/o Sencot

54 Manor Place

Edinburgh

EH3 7EH

1 INTRODUCTION

1.1 DEFINITIONS

For the purposes of this Memorandum of Understanding, the terms set out below shall have the following meanings:-

“Confidential Information”

means all commercial, financial, technical or other information of a confidential or proprietary nature (including but not limited to trade secrets, formulae, processes, ideas and inventions, specifications, designs, financial or business information, customer details, market research and pricing strategies) relating to or used in the business of the Party in question in tangible or documented form or communicated orally and subsequently presented in tangible or documented form within a period of thirty days whether or not: labelled or otherwise identified as confidential; and/or belonging to the party in question or any third party.

Confidential Information shall also include any knowledge which may be imparted or developed through examination, collation, analysis or working of such information

“Consideration”

means the consideration payable under the grant agreement between Scottish Government and the Edinburgh Third Sector Interface Parties;

“Edinburgh Third Sector Interface”

means the collaboration of VCE, EVOG and ESEN, including any sub contractors, with a view to fulfilling the objectives laid out in this Agreement.

“Interface Work Plan”

means an action plan, as agreed among the Parties, outlining the key aims and objectives, and deliverables of the Interface

“Interface Steering Group”

means the committee established under clause 4.2 which will have responsibility for managing the Edinburgh Third Sector Interface (The Interface), and the individual members of which are detailed in Part 1;

“Parties”

means those bodies which are signatories to this Memorandum of Understanding all of which are comprised in the Interface Steering Group;

“Public Services”

means the services to be delivered by the Interface to the Public Sector Agency (in this agreement being The Scottish Government) under the Contract,

“Staff”

means those employees, contractors and volunteers, of each of the Partners who are directly engaged in the delivery of the Public Services under the Contract

“Third Sector”

means the group of organisations that make up civil society, including those that define themselves as charities, voluntary organisations, social enterprises or community groups;

“Third Sector Infrastructure”

means the services provided to people and to organizations for the purposes of informing, advising, advocating for, training and developing a strong and effective third sector’

“Volunteers”

means those individuals who give their time without pay to organisations operating with a social purpose

“Social Enterprise”

means businesses with primarily social and/or environmental objectives which generate trading income and whose surpluses are reinvested in the business or community to achieve their wider social aims.

2 “BACKGROUND

VCE, ESEN and EVOC both individually and collectively provide a range of core infrastructure and support services to the Third Sector in Edinburgh. Both VCE and EVOC have respectively provided core volunteering and voluntary sector support services for many years under the terms of Scottish Government separate grant programmes to Volunteer Centres and Councils for Voluntary Service. Prior to 2010, the interface function for Social Enterprise was provided by the Edinburgh Social Enterprise Partnership. ESEN has been an active member of this partnership since 2007. In 2010 the ESEP was dissolved and it was agreed by the partnership that ESEN would take over the responsibility for the Interface function for Social Enterprise. ESEN was founded in 2005 and recently constituted as a Community Benefit Society established to support, promote and develop social enterprise within Edinburgh.

From 1 April 2011 Scottish Government established a single grant programme to support joined up Third Sector development in each local authority area. A single funding allocation has been made in each local authority area to ensure delivery of four key areas of work:

- volunteering development
- social enterprise development
- supporting and developing a strong third sector
- building the third sector relationship with community planning

VCE, EVOC and ESEN have entered into a one year grant agreement with Scottish Government to establish the Edinburgh Third Sector Interface to deliver on these four key areas.

At a residential planning session in November 2010 VCE, EVOC and ESEN developed the 'Edinburgh Third Sector Interface Delivery Framework' which outlines the areas of work to be delivered under the Scottish Government grant agreement. That Delivery Framework and subsequent work plans as agreed by the Interface Steering Group should be taken to be part of this Joint Working Agreement.

Within Edinburgh, VCE and EVOC have a long tradition of partnership working and have for the past 5 years been key partners in the Edinburgh Compact Partnership, the Third Sector's strategic partnership within Edinburgh's Community Planning structures. ESEN joined the Compact Partnership as a key partner in 2010.

The Compact Partnership has specific responsibility within Community Planning structures for delivering on Scottish Government objectives of reducing inequalities and building resilient sustainable communities.

The overarching mission for the collective work of the Edinburgh Interface parties agreed as part of the Delivery Framework reflects these Compact responsibilities.

2.1 EDINBURGH INTERFACE MISSION AND PURPOSE

Mission:

- To build and enable resilient, sustainable and inclusive communities in Edinburgh, working with people, civil society and organisations to build social capital.

Strategic Objectives:

- To work together effectively to maximize resources that will help deliver thriving, sustainable and inclusive communities in Edinburgh through voluntary/social action, volunteering and social enterprise
- To ensure Third Sector is a key partner in Community Planning

2.2 VOLUNTEER CENTRE EDINBURGH MISSION AND STRATEGIC OBJECTIVES

Mission:

- To inspire more people to volunteer to enhance their lives, the lives of others, and to build resilient communities

Strategic Objectives:

- We inspire all people to volunteer
- Our expert knowledge informs, educates and inspires local and national volunteering strategy
- We work to ensure that every volunteer involving organisation offers an excellent volunteering experience
- We inspire the development of volunteering opportunities in voluntary organisations, in the public sector and at grass roots in communities

2.3 EDINBURGH VOLUNTARY ORGANISATIONS' COUNCIL MISSION AND STRATEGIC OBJECTIVES

Mission:

- To support the voluntary sector to build and enable resilient, sustainable and inclusive communities.

Strategic Objectives:

- Support the Voluntary Sector
- Bring together organisations for common action
- Present and promote the common policies and concerns of the Voluntary Sector
- Pioneer new forms of voluntary action and areas of activity both within the Voluntary Sector and with the public and community sectors.

2.4 EDINBURGH SOCIAL ENTERPRISE NETWORK'S MISSION AND STRATEGIC OBJECTIVES

The mission of ESEN is to promote, support and develop a strong, vibrant social enterprise sector in Edinburgh that delivers across a range of key policy objectives:

- Improving business start-up, particularly in disadvantaged communities
- Increasing employability amongst disadvantaged groups in the labour market
- Enabling communities to work towards regenerating their local neighbourhoods
- Improving the quality of public service delivery.

2.5 PURPOSES

There are two key purposes to this agreement:

- Working together
 - To define and agree the way in which the three infrastructure bodies for the Third Sector in Edinburgh will work together to maximize positive outcomes for the Third Sector and Volunteers
- Delivering the Interface Grant Agreement
 - To agree the respective rights and obligations of each party in delivering on the outcomes specified in the Scottish Government Interface grant agreement.

2.6 BENEFITS OF COLLABORATION

Effective joint work across organizational boundaries is expected to deliver collaborative gain through better services to their stakeholders and greater efficiencies in each organisation.

Benefits are anticipated in all four areas of work to be delivered;

- volunteering development
- social enterprise development
- supporting and developing a strong third sector
- building the third sector relationship with community planning

Expected Benefits and efficiencies will include:

- shared information, intelligence and expertise;
- greater cross referral and joined up working
- more seamless services for clients
- more effective representation of the Third Sector
- greater opportunities to effectively influence social policy
- more efficient use of resources through development of shared services
- increased opportunities to attract new contracts and funding
- shared learning
- a single interface for statutory partners with the Third Sector

3 WORKING TOGETHER

3.1 ETHOS

This agreement is made on the basis that any collaborative gains from working together will only accrue in an environment of trust. Parties agree to treat each other with mutual respect and to conduct business with equal respect, openly, honestly and transparently. Parties agree to value each others' knowledge, expertise and skills.

3.2 PRINCIPLES

3.2.1 BEST VALUE

This agreement expects parties at all times to achieve best value for the public pound. This will include avoiding duplication of work and proactively identifying areas of joint working both within and beyond the work purchased directly by the Scottish Government Core Grant.

3.2.2 ADDED VALUE

Scottish Government core grant to Third Sector Interfaces is intended as an enabling resource as well as a direct delivery resource. Within this agreement VCE, EVOC and ESEN each undertakes to maximize the impact of the core Scottish Government funding by securing additional investment and services to the Third Sector in Edinburgh.

3.2.3 CORE ROLES AND RESPONSIBILITIES

VCE, EVOC and ESEN have distinct and complementary roles. Together they have a collective responsibility to provide a core infrastructure for the Third Sector in Edinburgh. This includes responsibilities to provide some level of universal services, advice and resources to volunteers and the Third Sector in Edinburgh; and the collective responsibility to advance Third Sector interests within Community Planning.

3.2.4 INDEPENDENCE

Each party to this agreement is an independent constituted organisation accountable in the first instance to its own governing body. This agreement to collaborative working will not compromise that independence.

3.2.5 SHARING INTELLIGENCE AND OPPORTUNITY

Each party agrees to share knowledge and intelligence that may be of benefit to the Third Sector Interface.

3.2.6 SIGNPOSTING

Each party has both current and potential stakeholders in common. These may include Third Sector organisations, volunteers, and public and business sector. Each party agrees to be proactive in signposting customers to the services of each other.

3.2.7 COLLABORATIVE DELIVERY

Each party agrees to deliver work collaboratively wherever possible and to be proactive in developing new areas of work in collaboration with partners.

3.2.8 COMPETITIVE DELIVERY

There will some areas of work, and opportunities for contracts, where more than one party may have equal expertise and interest. Part should undertake to make the other parties aware of the competitive situation and acknowledge each other's legitimate business interests.

4 DELIVERING THE SCOTTISH GOVERNMENT GRANT AGREEMENT

4.1 COMMENCEMENT AND DURATION

This Agreement shall commence on 1 April 2011 and terminate on 31 March 2012.

It may be renewed and extended beyond 31 March 2012 with the express agreement of all parties.

The termination of this Agreement, howsoever arising, is without prejudice to the rights, duties and liabilities of the partners accrued prior to termination. The provisions in this Agreement which expressly or implicitly have effect after termination shall continue to be enforceable notwithstanding termination.

4.2 EDINBURGH THIRD SECTOR INTERFACE STEERING GROUP

The Edinburgh Third Sector Interface shall establish a joint steering group consisting of the CEOs and a Delegated Board Member of each of VCE and EVOC and the Network Coordinator and a member of the Management group of the ESEN.

The steering group will elect a Chair for the period of the agreement. The expectation is set that if the agreement is renewed the Chair would rotate on an annual basis unless otherwise agreed. The steering group will meet a minimum of four times per year and more frequently to progress specific areas of work as required.

The Steering Group will:

- Provide overall leadership for and strategic direction to the Third Sector Interface over the period of the grant agreement
- Be responsible for coordinating and managing the overall performance of the Third Sector Interface, which will include ensuring that the objectives of the Third Sector Interface are achieved;
- Agree strategic priorities and allocate resources against these
- Act on behalf of the independent organizations to agree the division of resources from the Scottish Government grant,

- Resolve any differences, conflicts or disagreements with respect to the principles and practices of the Third Sector Interface and this Joint Working Agreement. Where all Parties cannot agree independent arbitration will be used to reach a fair and reasonable agreement.

4.3 IMPLEMENTATION OF THE SCOTTISH GOVERNMENT GRANT AGREEMENT

Following payment of each installment of the grant under the Scottish Government Grant Agreement with the Edinburgh Third Sector Interface, the Steering Group will thereafter apportion the grant amongst the Parties in accordance with the distribution of work determined by the Interface Steering Group and specified in the Interface Work Plan.

No individual Party shall, without the consent of all Parties involved, enter into any negotiation about the current agreement or an extension to the agreement, agree to any amendment to the Grant Agreement or waive any obligation incumbent upon Scottish Government the grant Agreement.

4.4 RESPONSIBILITIES OF THE PARTNERS

The Scottish Government Grant Agreement is made collectively with each of the three parties to this agreement with no lead party status. As such each Party is jointly responsible for the delivery of the Interface Work Plan.

During the term of this Agreement, each of the Parties shall use all reasonable endeavours to:-

- perform on time, in a diligent manner, its obligations under the Grant Agreement (in accordance with the standards specified therein);
- ensure that its obligations under the Grant Agreement (insofar as relating to the delivery of the Public Services) are performed by appropriately qualified staff (including contractors or volunteer staff) with all reasonable skill and care and that the staff shall at all times act with the utmost good faith towards the Interface;
- diligently adhere to all reasonable directions of the Interface Steering Group in relation to its obligations as regards delivery of the Services under the Grant Agreement.

Each Party warrants that under its contractual relationship with each member of its Staff, any intellectual property rights arising out of or relating to work done by the Staff for the Party will vest in the Party and that the Staff will have no right title or interest, whether legal or beneficial, in any such intellectual property rights; a Party shall, if so required by the Interface Steering Group, produce written evidence to this effect signed by its Staff.

Intellectual property rights to work developed jointly by any or all of the parties to this agreement shall vest in those parties jointly.

In case of co-operation with third parties, including contractors, delegation of part of the activities or of outsourcing, the Party concerned shall remain solely responsible to the Interface concerning compliance with its obligations as set out in this Memorandum of Understanding. The Interface shall be informed by the Party about the subject and party of any contract concluded with a third party and co-operation with third parties including contractors shall be undertaken in accordance with the procedures set out in EU public procurement directives and the Public Contracts (Scotland) Regulations 2006.

Each Party acknowledges that it is and shall remain liable for the consequences of any failure on the part of its Staff to fulfil its responsibilities under the Contract and shall accordingly:-

- procure and maintain its own insurance with insurers of good repute, to cover its own liabilities and those of its Staff;
- keep full and accurate records of all things done by its Staff in relation to its responsibilities under the relevant under the Contract
- take all reasonable steps to comply with all relevant statutes, laws, regulations and codes of practice relating to the Services, in force from time to time;

The Parties shall each have responsibility for the provision of all appropriate equipment, facilities and services which are required for the proper performance of their obligations under the Contract, with each bearing its own costs in this regard.

4.5 REPORTING

4.5.1 REPORTING TO INTERFACE STEERING GROUP

Each Party undertakes to provide updates on progress towards achieving strategic objectives specified in the collective work plan at quarterly scheduled meetings of the Steering Group

4.5.2 REPORTING TO GOVERNMENT

The Scottish Government Grant Agreement requires a single collective outcomes report from the interface at 6 months and at year end on a common template. Parties agree to submit 6 monthly reports to the Interface Steering Group using this common format for aggregation into a single document.

4.5.3 REPORTING TO EDINBURGH PARTNERSHIP

Parties agree that the non financial elements of the six monthly reports to Government also be used as a report to the Edinburgh Compact Partnership and then to the Edinburgh Partnership Board

4.5.4 USE OF MILO (COMMON DATABASE)

MILO is the common data platform being developed by SCVO on behalf of Third Sector Interfaces in Scotland. Use of MILO, when it is completed, is a condition of Scottish Government Grant to Interfaces. As of the date of this agreement, MILO is not operational and it is unclear when or if it will become operational before the term of this Agreement expires.

The parties agree to work in good faith to reach an agreement about use of MILO within their own organisation as a common platform for gathering intelligence on Third Sector organisations in Edinburgh and the sharing and ownership of data that takes into account the requirements of the Government grant and the importance of good information to efficient, effective and joined up services

This agreement will cover local protocols around data ownership and access to information ensuring compliance with data protection legislation.

4.6 QUALITY STANDARDS

Within the terms of the Scottish Government Grant EVOC and Volunteer Centre Edinburgh agree to adhere to the European Framework for Quality Management 'Committed to Excellence' quality standards. ESEN, as an organisation not employing staff directly, commits to ensuring that all contractors delivering work on behalf of the Interface can meet an equivalent quality standard.

4.7 REMOVAL OR WITHDRAWAL FROM THE INTERFACE

4.7.1 REMOVAL

Without prejudice to any other rights or remedies available to the Interface Steering Group or any individual member of the Interface, the Interface Steering Group may, by majority vote of the full Interface Steering Group in favour, terminate a Party's membership of the Interface by notice in writing, on the basis that the Party:-

- is in material breach of any of the terms of this Agreement, the Contract and, where the breach is capable of remedy, the Party fails to remedy such breach within 30 days of receipt of a written notice specifying the breach and requiring the same to be remedied; or
- the Party, or any of its Staff, commits any act of gross or persistent misconduct and/or neglects or omits to perform its duties or obligations under this Agreement and under the Contract; or
- ceases to carry on its activities, becomes unable to pay its debts when they fall due, becomes insolvent or apparently insolvent, has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of its assets or undertaking, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt, an order is made or resolution passed for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or enters into liquidation whether compulsorily or voluntarily or shall suffer any analogous event; or
- Intentionally provides the Interface Steering Group with any false or misleading information; or
- by its actions or inaction, has brought or might reasonably be expected to bring the other Parties or the Interface into disrepute

4.7.2 WITHDRAWAL

A Party can withdraw from the Interface only with the unanimous consent of the remaining Parties.

4.7.3 CONSEQUENCES OF REMOVAL OR WITHDRAWAL FROM INTERFACE

In the event of removal or withdrawal from the Interface, the Interface will be liable only to pay over such proportion of the Consideration as is owed to the relevant Party up until the point at which that Party ceases to be a member of the Interface. If any consideration has been paid in advance of service delivery, the relevant Party will pay back to the Interface such proportion.

The remaining Parties in the Interface will jointly agree how to deliver the remaining work plan and communicate to the Scottish Government the change in the Edinburgh Third Sector Interface.

4.8 CONFIDENTIALITY

Each Party agrees that it shall keep secret and confidential at all times both during and after the term of this Agreement all Confidential Information of the other Parties which comes into its possession or within its knowledge at any time before, during or after the term of this Agreement.

None of the Parties shall use, copy or disclose to any third party any such Confidential Information unless for the proper purposes of this Agreement or having obtained the prior written consent of the other Parties.

To avoid any doubt, in maintaining confidentiality, the recipient shall take the same or greater care of the Confidential Information of the other Parties as it takes of its own Confidential Information but in any event, not less than a reasonable standard of care.

Disclosure of any Confidential Information by any Party to the other Parties shall not affect the ownership of such Confidential Information or the disclosing Party's rights to it.

The provisions of this clause 4.8 shall not apply to any information which the recipient can demonstrate by documentary evidence to the disclosing Party's reasonable satisfaction: -

- is in or enters the public domain except as a result of a breach of this Agreement, or is properly in its possession or properly within its knowledge and at its free disposal prior to its receiving or becoming aware of the relevant Confidential Information;
- or is or becomes available in good faith to the recipient from a third party which is not subject to any obligation of confidence to the disclosing party;
- or was developed independently of its receiving or becoming aware of the Confidential Information; or the recipient is required by law to disclose to any court or relevant authority, including a request for information under the Freedom of Information (Scotland) Act 2002, provided that the recipient immediately notifies and consults the disclosing Partner of any such compelled disclosure when the recipient first becomes aware of any such legal obligation to disclose.

Without prejudice to this clause 4.8 each Party undertakes to restrict access to the Confidential Information of the other Parties to only those of its Staff who have a need to know the same for the proper purposes of this Agreement and shall ensure that such members of the Staff are aware of and comply with the obligations in this clause 4.8.

This clause 4.8 shall survive the expiry or termination of this Agreement for whatever reason.

4.9 DISPUTE RESOLUTION

Save as otherwise provided in this Agreement, in the event that any disputes or questions of any nature arise among the Parties or any of the Parties in relation to this Agreement or any other matter relating to the affairs of the Interface or the rights, duties or liabilities of any of the Parties, under this Agreement, or under the Contract:-

- the parties to such dispute or question shall attempt to resolve the dispute by negotiation

- if such dispute or question is not resolved within 14 days, or an extended period agreed by all parties, the Parties involved in the dispute shall refer the dispute to the Interface Steering Group who will attempt to resolve the dispute;
- if such dispute or question is not resolved within 14 days of its having been referred to the Interface Steering Group, the Parties involved in the dispute shall thereafter attempt to resolve the dispute by such dispute resolution procedure conducted in such manner and with the assistance of such independent person as shall be agreed between them or failing agreement as recommended by the Centre for Effective Dispute Resolution (at the instance of the first person applying to such body);
- if the dispute is not resolved in a 28 day period (or extended period agreed by Parties involved in the dispute) from referral to the dispute resolution procedure, or if one or more of the Parties is unwilling to participate in any form of dispute resolution procedure, the dispute shall be submitted to the exclusive jurisdiction of the Scottish courts

4.10 NO PARTNERSHIP OR AGENCY; LIMIT OF LIABILITY

Nothing in this Agreement is intended to create a partnership of any kind among the parties, or to authorise any party to act as agent for any other. Save to the extent expressly permitted by this Agreement, no member of the Third Sector Interface will have the authority to act in the name or on behalf of or otherwise to bind any other Party.

The liability of the independent parties to this Agreement extends only to the proportion of the Scottish Government Grant allocated to each Party and the level of activity agreed in the Third Sector Interface work plan. In the event of the removal or withdrawal of one of the Parties or in the event of non-performance by one of the Parties, that Party shall be and remain liable for any money paid or services provided up to the date of removal or notice of non-performance.

4.11 CONFLICT OF INTEREST

Because of the nature of the independence of the Parties to this agreement and the potential for collaborative and competitive opportunities to arise, the Parties recognize there may be situations where the interests of the independent organizations may be in conflict with the interests of the Third Sector Interface. In such situations, the Parties agree to disclose their interests as soon as such a conflict is known. Further, the Parties agree to not exploit their professional or official capacity as a member of the Third Sector Interface in any way for their personal or organizational benefit.

4.12 ASSIGNATION

No Party shall be entitled to assign any of its rights or obligations under this Agreement without the prior consent of the other Parties.

4.13 VARIATION

This Agreement may be amended at any time by written agreement of all of the Parties. No variation to this Agreement shall be effective unless in writing, signed by a duly authorised officer of each of the Parties. Any amendment would form the subject of an additional clause to this agreement.

4.14 ENTIRE AGREEMENT

This Agreement, including the Edinburgh Third Sector Interface Delivery Framework, and subsequently the Interface Work Plan and Agreed Resource Allocation constitutes the entire agreement and understanding among the Parties in respect of the matters dealt with within it and supersedes any previous agreement among the Parties or any of them relating to such matters.

Each of the Parties acknowledges and agrees that in entering into this Agreement, it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.

4.15 COSTS

Each Party shall be responsible for its own costs and expenses in relation to the negotiation, preparation, execution and carrying into effect of this Agreement.

4.16 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with Scots law and each Party agrees to submit to the exclusive jurisdiction of the Scottish courts any claim or matter arising under or in connection with this Agreement, the Contracts or any other legal relationships established by this Agreement.

Volunteer Centre Edinburgh

Name

Designation

Signature

Date

Edinburgh Voluntary Organisations' Council

Name

Designation

Signature

Date

Edinburgh Social Enterprise Network

Name

Designation

Signature

Date