

CLYDESDALE HOUSING ASSOCIATION LIMITED

Policy: Execution of Important Documents and Seal

Date: 12 June 2019

Lead Officer: Chief Executive

Review Date: June 2022

Regulatory Standard: **Standard 1**
The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.

Regulatory Guidance:

1.3 The governing body ensures the RSL complies with its constitution and its legal obligations. Its constitution adheres to [The Standards of Governance and Financial Management for RSLs] and the constitutional requirements [required by the Scottish Housing Regulator].

Clydesdale Housing Association will provide this policy on request at no cost, in large print, in Braille, in audio or other non-written format, and in a variety of languages.



1 POLICY STATEMENT

- 1.1 Clydesdale Housing Association (CHA) is committed to meeting all of its legal obligations and to complying with our own Rules. Part of meeting this commitment relates to how CHA executes important documents¹ and its use of the common seal.²
- 1.2 This Policy will be implemented in accordance with the Scheme of Delegated Authority and the Authorised Signatories as stipulated in the Association's Standing Orders.
- 1.3 The signing and witnessing of formal and legal documents on behalf of CHA will be undertaken in accordance with the relevant provisions of the Requirements of Writing (Scotland) Act 1995 (the Act).
- 1.4 The use of CHA's common seal will comply with the Association's Rules.

2 PROCEDURE

- 2.1 The appropriate Senior Staff Member, will ensure that the necessary arrangements are made when a document requires to be signed (and witnessed), except in the case of Tenancy Agreements for which the signing and witnessing arrangements will be made by Housing Management staff.
- 2.2 Before signing an important document, signatories must ensure that the Scheme of Delegated Authority and Authorised Signatories has been complied with – if the outcome of that check shows that either of these would be breached by signing the document, the document should not be signed and the matter should be referred to the Chief Executive.
- 2.3 Documents, which are classed as VALIDLY SIGNED in the terms of the Act, will require one authorised signature only.
- 2.2. The Act provides that formal writing is required only in the following instances:
 - i) the creation, transfer, variation or extinction of an interest in land, otherwise than by operation of a court decree, enactment or rule of law and a contract or unilateral obligation relating to such an interest in land;
 - ii) the creation of a gratuitous unilateral obligation except an obligation undertaken in the course of business (not a major feature of commercial dealings, but they do sometimes arise in a business context. Examples: promise to keep an offer open for a certain period of time; promise to renegotiate the terms of a contract.

¹ Examples of important documents: legal documents; contracts; annual returns; grant funding applications & claims, etc.

² The common seal is a tool used to emboss important documents in order to show the document is certified by, and agreed upon by, the Management Committee. The common seal contains CHA's name.

- 2.3. Although these are the only relevant situations in which formal writing is mandatory, CHA will follow the formal writing rules when executing any legal document. CHA will seek professional advice on this as is necessary.
- 2.4 Documents, which are classed as VALIDLY SIGNED and Formal in the terms of the Act, will require one authorised signature and one witness - a “witness” will be any Committee Member or member of staff present at the time a document is signed. When a document requires to be witnessed, the witness will sign then print below their name, the word “witness” and their address, which will be the address of CHA’s registered offices.
- 2.5 CHA’s common seal will continue to be used in accordance with the Association’s Rules and as such, when the Management Committee decides it should be used.
- 2.6 One exception to 2.5 is that the common seal will always be used on the issue of share certificates to new CHA Members.
- 2.7 Registers: the relevant Senior Staff Member responsible for co-ordinating the execution of important documents will record the event in a relevant register. A list of such registers is provided below:
 - Undertakings - schedule of all contracts entered into by the association; purpose; value; duration;
 - Disposals - schedule of all asset disposals; authorisation to dispose (including from SHR); value; direction of disposal and application of proceeds;
 - Use of the Common Seal - schedule of all occasions when Seal is used; purpose of use and names of those signing.
- 2.8 Tenancy Agreements will not be recorded in any register and will instead be recorded in CHA’s relevant tenant database.
- 2.4. A report will be presented annually to Management Committee regarding these registers.

3 MONITORING AND REVIEW

- 3.1 The Chief Executive is responsible overall for ensuring that this policy is implemented each time a relevant document requires to be signed (and witnessed). The day-to-day responsibility for implementation is delegated to each Senior Staff Member. The Chief Executive will ensure the Registers are kept in a secure location.
- 3.2 The Chief Executive will arrange for this policy to be reviewed by the Management Committee every 3 years or at lesser frequency if required by any change in legislation.