



## **1. THE CRITERIA**

There are five essential elements of a social enterprise.

- 1. A Social Enterprise (SE) is a trading business – selling goods and services – but whose primary objective is to achieve social and/or environmental benefit. SEs are different from those charities and voluntary organisations which do not aspire to financial independence through trading.**
- 2. Regardless of its legal form, the constitution of a SE will include the requirement that profits are reinvested in the business or in the beneficiary community – and not distributed to private owners, shareholders or investors. (see FAQs)**
- 3. The constitution will always require that on dissolution, the assets of the SE are reinvested in another organisation with similar aims and objectives. Taken together Criteria 2 and 3 are referred to as the ‘asset lock’ – the defining characteristic of a SE – which distinguishes it from the private sector.**
- 4. SEs are constituted and managed in an accountable and transparent way – particularly with regard to the community they serve.**
- 5. SEs are distinct from the public sector and cannot be the subsidiary of a public body.**

## FAQs

### Why have a SE Code?

The aim of the code is to set a bench mark – that establishes clear blue water, between SE and, particularly, organisations operating for private profit. This centres on the unequivocal affirmation of the defining characteristic – that SE's don't distribute dividends to private owners, shareholders or investors. Many people prefer to establish enterprises for private profit – while delivering a whole range of social benefits. All these hybrid models (mission-led; profit-for-purpose; B Corps etc) are undoubtedly valuable contributions in a constantly evolving landscape – but they are not social enterprises.

### Is the SE Code a Quality Mark or a Kite Mark?

The SE Code does not set out to infer a level of quality or that an organisation meets a certain standard in its work. It aims to reflect the values and behaviours that guide how a social enterprise operates as an organisation and the manner in which it seeks to deliver its services or products.

In 2002, when the UK Govt published its 'official definition' of SE, no-one could have foreseen its growth in popularity and profile or in the variety of governing structures that would emerge. But this growth, through the creation of new ethical 'for profit' companies or hybrid models (see above), has resulted in a confusion as to what a SE actually is.

In response to this confusion, the SE Code identifies values and behaviours by which SEs recognise each other. A mandatory set of rules runs the risk of inviting dispute and division – and, it is hoped that by making the SE Code explicitly 'voluntary', this can provide the basis for a self-regulating community

### How did the SE Code come about?

The SE Code was initially formed in 2012 by a number of individuals and organisations active in supporting the development of SE in Scotland. Earlier engagement with the SE Mark in England had resulted in a difference in interpretation as to what constitutes a social enterprise. The founding [SE Code Steering Group](#) was made up of representatives of national intermediaries as well as from national social enterprises. The Steering Group meets on an annual basis to review the SE Code and to consider any necessary amendments or additions to the Steering Group. After the initial criteria was agreed in 2012, it was amended again in 2015. The Group has not formally constituted and does not have any immediate plans to do so. The Steering Group most recently met in March 2016 and agreed to further refinements that include the introduction of this FAQs page.

### How can I sign up for the SE Code?

To sign up to the SE Code, you only require to fill in the following link - <http://www.se-code.net/subscribers/>. Depending on your existing legal structure, you may be asked to provide further evidence of your constitution/membership etc

### Can a Community Interest Company (CIC) sign up for the Code?

CICs take two forms – a) Limited by guarantee and b) Limited by shares. In Scotland, there are currently around 400 CICs (280 limited by guarantee, 120 limited by shares). With the SE Census (September 2015) identifying over 5,000 SEs in Scotland, CICs represent approximately 8% of the total number of SEs - although it is expected this number will grow over time.

CICs (Ltd by guarantee) have a statutory asset lock and are eligible to subscribe to the Code as long as they also can demonstrate a minimum of three (unrelated) Directors – to ensure that they are constituted and managed in an accountable and transparent way with regard to the community they serve.

CICs (Ltd by shares) also have a statutory asset lock. However, CICs (Ltd by shares) fall into two categories – those where the shareholding is charitable; and those whose shareholders are individuals or private companies. A CIC limited by shares is able to distribute some of its profits (up to 35%) to its shareholders. If an applicant to the Code has private individuals and/or companies that are not asset locked bodies as shareholders and they intend to distribute profit by way of dividend, then they would not be eligible to subscribe to the code as it is currently written. **Any CIC (Ltd by shares) wishing to subscribe to the SE Code should offer a clear evidence of their charitable shareholders as well as a minimum of three non-related directors.**

## **What do we mean by being ‘constituted in an accountable and transparent way?’**

The ethos of SEs in Scotland and the UK and the social economy in Europe has been heavily influenced by principles inherited from the Co-operative and Mutual movements - of common ownership and democratic governance. This democratic process ensures a level of accountability to workers, members, stakeholders, or the community which they serve. Social enterprises should be able to show that they incorporate their communities of benefit and other stakeholders in their governance. Many co-operatives, credit unions, and community share companies currently operate in an open and democratic way and should be able to readily demonstrate this criteria.

## **Can an Arms Length External Organisations (ALEOs) be a social enterprise?**

An ALEO is an Arm’s Length External Organisation – a body which is formally separate from a local authority but subject to its control and influence. OSCR will consider an application from a ALEOs to register as a charity if it can demonstrate its charitable purposes and undertake activities in furtherance of these purposes. ALEOs , however, are not SEs as they remain subject to the control and influence of a local authority.

## **How can I download and display the SE Code Logo?**

If you are a subscriber or supporter, and wish to display the SE Code Logo on your website, you can download it from this link - <http://www.se-code.net/VoluntaryCodeofPractice.pdf>