



Department for  
Communities and  
Local Government

# Right to Manage Guidance

Modular Management Agreement for Tenant Management  
Organisations: Guidance on the Schedules

Part 3

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December 2013

ISBN: 978-1-4098-4052-7

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# Introduction

This guidance deals with the Schedules to the Modular Management Agreement for Tenant Management Organisations that has been approved by the Secretary of State December 2013. The Schedules are to be agreed between the local housing authority (“the Council”) and the Tenant Management Organisation and must be in accordance with the statutory guidance given by the Secretary of State under regulation 18 of the Housing (Right to Manage) Regulations 2012

The guidance sets out the statutory guidance, which is highlighted to distinguish it, and, in addition, non-statutory guidance which forms the remaining text. The purpose of the non-statutory guidance is simply to assist Councils and Tenant Management Organisations to draft the Schedules to their particular agreement in accordance with the statutory guidance but it should not be treated as binding.

# Chapter 1:

## Schedules

### **Schedule 1:**

#### **Property included in the management agreement clause 2**

##### **1 List of dwellings included in this agreement, by postal address and tenure**

##### **2 Site Plan**

This must include all of the dwellings included in this agreement.

It may also include walls, fences or other boundaries, drains, estate lighting, estate roads, play areas, trees and green areas and any other features relevant to the Agreement. The Plan should be clear, accurate and updated as necessary.

##### **3 List of equipment and other items owned by the Council which the Tenant Management Organisation may use under this Agreement**

### **Schedule 2:**

#### **Equalities and diversity policy and procedures clause 10**

##### **1 Aims**

The aims must reflect the Tenant Management Organisations responsibilities as a service provider, an employer and as a democratic organisation.

Aims may include: deliver a service to all residents which takes into account any special needs they may have; fair treatment of employees; a management board which reflects the composition of the estate's population; the encouragement of active participation from all individuals and sections of the community.

##### **2 Procedures**

The procedures must demonstrate how the Tenant Management Organisation will achieve its aims in terms of equalities and as a service provider, an employer and a democratic organisation. The procedures should also enable the Council to fulfil its statutory duties under the Equality Act 2010

#### **The Tenant Management Organisation as a Service Provider**

Reference may be made to other Schedules in the Agreement in relation to the particular service being provided. This should cover the Tenant Management Organisations actions in respect of hiring and managing contractors or other agencies.

## **The Tenant Management Organisation as an Employer**

Reference may be made to the Schedules to Chapter 7. These include the Tenant Management Organisation's recruitment policy and employment practices for both directly employed and seconded staff, disciplinary procedure and standard terms and conditions

## **The Tenant Management Organisation as a Democratic Organisation**

Reference may be made to the Tenant Management Organisations Constitution or Articles of Association [Annex A], the Code of Governance and Code of Confidentiality the Tenant Management Organisations required to publish [See Chapter 1 Clause 9.4, 16.3] and the Training Plan [Chapter 1 Clause 11.4]. The Tenant Management Organisation will need to develop its Code of Conduct for members. This will define the duties of members and how breaches are to be dealt with. This should link to the Code of Confidentiality.

The procedures should ensure that all residents are informed about the Tenant Management Organisation and consulted about its activities.

### **3 Breaches of procedures**

This must describe how breaches will be investigated and dealt with. Reference should be made to the procedures for dealing with disputes and complaints [Chapter 7 Schedule 4]

### **4 Equal opportunities policies and procedures**

The Tenant Management Organisation should have regard to its duties under the current Equalities and Diversity Policy.

## **Schedule 3:**

### **Supervision notice policy and procedure clause 19**

#### **1 Definition of serious failing**

This paragraph must set out the circumstances and criteria in which a Supervision Notice may be served by the Council on the Tenant Management Organisation. A Notice must not be served unless the Council is satisfied that there are serious failings in the financial performance, management or organisation of the Tenant Management Organisation and there is no realistic prospect of remedying the situation by taking action under any other provision of the management agreement.

This should describe the range of circumstances and at what point problems in the Tenant Management Organisation are sufficiently serious for a Supervision Notice to be served by the Council. The council should first seek to agree an Improvement Plan [Chapter 1 Clause 19] and use the Supervision Notice Procedure only as a last resort.

This should set out what steps the Council must reasonably take to satisfy itself and to formally demonstrate that the situation and circumstances warrant this course of action. The circumstances which may trigger service of a Notice should be agreed by the Tenant Management Organisation and the Council.

The information obtained in a review should inform the content of the proposed Supervision Notice. Serious failings may fall within one of more of the following categories:

- Where the Tenant Management Organisation committee has ceased to operate in a lawful or meaningful way and has no immediate plans to remedy the situation quickly;

Where the Tenant Management Organisation has mismanaged its housing management functions so that even most basic services are not being provided to tenants,

- Where the Tenant Management Organisation is taking decisions that are outside its powers;
- Where the Tenant Management Organisation has consistently and over a long period of time failed to remedy problems which have been identified and agreed as needing action and as a result the service to tenants is being materially affected;
- An adverse annual external audit, an adverse internal audit report by the council or Tenant Management Organisations failure to produce audited accounts within the specified timeframe in the Tenant Management Organisation's constitution;
- Serious performance failures identified as a result of the regular monitoring visits or meetings and through performance indicator information provided by the Tenant Management Organisation to the council;
- Consistent, continuing Tenant Management Organisation's failure to provide agreed monitoring information, provide agenda sets or allow council representatives to attend committee meetings; and
- Failure to allow the council to carry out a review under the management agreement [Chapter 8 Clause 6].

### **Service of Supervision Notice procedure**

2. This paragraph must set out the procedure for the Council to propose serving a Notice and for the service of Notice. This must set out the procedure for the Tenant Management Organisation to require the Council to appoint an independent person to advise on the reasonableness of its proposed actions and make recommendations on the content of the proposed Notice.

The Tenant Management Organisation's consent must be obtained to the person proposed by the Council to provide advice.

This must set out a procedure and timetable. It must state which Council Officer will be responsible for serving a Supervision Notice and the Tenant Management Organisation Officer on whom the Notice will be served.

This must set out the procedure for appointing the independent person. **It must** set out the role of the independent person and the procedure to be followed by that person.

The independent person should be able to provide external scrutiny and act as an external monitor when the Supervision Notice Procedure is being used. The independent person should advise on the reasonableness of the Council's action and make recommendations



on the content of the proposed Notice. The recommendations should be clear, realistic and achievable within a reasonable time-scale, having regard to the circumstances of the case and financial and any other relevant constraints.

Suitable persons may be identified locally from a list of people with relevant knowledge and experience, drawn from another council or a Tenant Management Organisation; or a voluntary panel of council or Tenant Management Organisation officers, tenants or other individuals, identified through locally-agreed arrangements. Alternatively arrangements could be based on existing council-tenant scrutiny panels or formal council complaints procedures.

The advice should be made available to the Council and the Tenant Management Organisation and both parties should be prepared to accept the recommendation made by the independent person.

### **3 Content of the Supervision Notice**

The Supervision Notice must include the following:

- A description of the serious problem or failing;
- The date on which the Notice is to come into effect, specifying the period of the operation of the Notice (the initial period must not exceed 6 months but may be extended for an additional period not exceeding 3 months. When that period expires it may be extended by a further additional period not exceeding 3 months);
- A description of action already taken by the Council or the Tenant Management Organisation to remedy the problem or failing;
- Specific action, by the Council or the Tenant Management Organisation, which is reasonably required to resolve the problem or remedy the failure;
- The timetable for implementing the proposed action;
- How progress will be monitored and reviewed; and
- How decisions on termination or extension of the Notice are to be determined and implemented.

The effect of the Supervision Notice should be to allow a time-limited intervention by the Council to provide extra support to the Tenant Management Organisation to remedy serious problems. During the period of the Notice the Tenant Management Organisation should normally be able to continue its management functions under the management agreement under the direction of the Council.

Actions which may be specified in the Supervision Notice to remedy serious failings include (but are not limited to) the following:

- Providing additional information, advice, training and help to the Tenant Management Organisation ;
- Strengthening the Tenant Management Organisations monitoring arrangements;

- Reviewing and strengthening the Tenant Management Organisation’s financial and reporting systems and procedures;
- Providing time-limited additional management support to the Tenant Management Organisation ; and
- Strengthening the Tenant Management Organisation Board.

#### **4. Reviewing progress and terminating the Supervision**

##### **Notice**

This paragraph must set out how progress on implementing action specified in the Supervision Notice will be monitored, reviewed and reported and who in the Council and the Tenant Management Organisation is responsible for taking action at each stage of the procedure.

It must describe how decisions will be taken on whether the Supervision Notice will be terminated by service of a Supervision Termination Notice or extended; or whether other action will be taken by either the Tenant Management Organisation or the Council under other provisions of the management agreement, including ending the agreement [Chapter 1 Clause 20].

If it is decided to end the agreement in accordance with Clause 20.2.6, the Council must give the Tenant Management MO at least 3 months notice in writing that a Supervision Termination Notice is not to be served at the end of the initial period of the Notice, or the first additional period.

It must set out how decisions are to be communicated and reported.

Monitoring arrangements should include regular (monthly) review meetings to monitor progress. Pre-arranged standards at the outset should set targets for what is required to be achieved in order to terminate the Supervision Notice. Progress against these targets should determine whether the Supervision Notice is to be extended or terminated.

Arrangements should be agreed for giving formal notice of a decision on the Notice.

#### **Chapter 1 clause 7 Insurance**

##### **Guidance on insurance risks**

Under Clause 7 the Council and the Tenant Management Organisation should draw up a list of the insurance risks against which each party will insure.

The risks against which the Council may consider it appropriate to insure include the following:

- Damage to the structure of the Property (buildings insurance);
- Claims by third parties arising out of risks in or on the Property (public liability insurance);
- Claims by employees of the council working in or on the Property (employer’s liability insurance);

- The loss through fire or theft of property belonging to the council in or on the Property (contents insurance); and
- Such other risks as the council may from time to time determine.

The risks against which the Tenant Management Organisation may insure, arising out of its responsibilities under the Agreement, may include:

- Claims by third parties (public liability insurance);
- Claims by the Tenant Management Organisation's staff (employer's liability insurance);
- The dishonesty of the Tenant Management Organisation's staff or the Tenant Management Organisations officers (fidelity guarantee insurance);
- Directors and Officers Liability insurance;
- The loss through fire or theft of property belonging to the council in or on the Property which the Tenant Management Organisation has` custody of because of its obligations under the agreement; and
- Such other risks in respect of the Tenant Management Organisation's obligations under the Agreement which from time to time may be reasonable required.

# Chapter 2:

## Schedules

### Schedule 1:

#### **Functions and performance standards of the Tenant Management Organisation and the Council in respect of repairs clauses 1 & 2**

##### **1 Responsive and Planned Maintenance repairs**

This must describe how responsibility is divided between the Tenant Management organisation and the Council for all responsive and planned maintenance repairs. It must also describe the division of responsibility for the range of tenure types (tenant leasehold, freehold) of dwellings included in the agreement. The Tenant Management Organisation's responsibilities for specific classes of responsive and planned maintenance repairs must be listed in Annex A of this schedule

The council's responsibilities for specific classes of responsive and planned maintenance repairs must be listed in Annex B to this schedule

The Tenant Management Organisation will normally carry out the classes of repairs for which an allowance has been provided. Any cost ceiling on repairs carried out by the Tenant Management Organisation should be set out clearly.

A description should be given of any repair function exercised by the Council, on the grounds that it would not be practicable for the Tenant Management Organisation to exercise that function, even though the Tenant Management Organisation wishes to do so.

Clear reference should be made to repair functions retained by the Council because of cost or other considerations.

Annexes A and B should include a list detailing specific repair responsibilities to avoid any future confusion or disputes as to which party is responsible

##### **2 Management of repairs**

The Tenant Management Organisation and the Council must describe arrangements in respect of the following:

- Reporting repairs;
- The priorities, timescales and standards for completing each category of repair;
- Planned maintenance;
- Reservicing of void properties;
- Upkeep of communal areas;
- A code of conduct for repair staff and contractors;

- Compliance with health and safety requirements;
- Compensation;
- Arrangements for monitoring the quality of the repair service;

The Tenant Management Organisation and council should agree arrangements to ensure compliance with health and safety requirements, including training for the Tenant Management Organisation, staff and contractors, risk assessment audits and handling of incidents.

The Tenant Management Organisation and the Council should agree the arrangements for reporting responsive repairs, whether they are the responsibility of the Tenant Management Organisation or the Council. This is especially important in respect of emergencies reported out of office hours. Time scales should reflect the urgency of the repair to be carried out. There will be circumstances in which additional priority should be given to vulnerable groups such as the elderly. Repairs arising from harassment, domestic violence or offensive graffiti may also be prioritised.

This should set out the arrangements for identifying and dealing with repairs outstanding when the Tenant Management Organisation takes on its management function. This may involve a survey of the property. This should also set out how the life expectancy of new components is to be determined at installation stage.

The procedure for dealing with Insurance Repairs is set out in Schedule 5.

The arrangements for identifying and undertaking planned maintenance programmes should be set out. These should set out how tenants and residents will be informed and consulted.

The procedure for referring works to the Council (e.g. repairs that will exceed any agreed cost limit or repairs that will need to be programmed as part of a major works scheme) should be set out clearly including timescales for a response.

The Tenant Management Organisation and the Council should agree the respective responsibilities in respect of void properties where there is substantial disrepair. As with repairs, it may be appropriate to fix a cost ceiling for the Tenant Management Organisation.

Agreement should also be reached concerning the number of voids the Tenant Management Organisation will be expected to re-service without an increase in Allowance.

The Tenant Management Organisation and Council should agree a Code of Conduct for all those undertaking repairs.

The circumstances should be set out in which tenants can apply for compensation where their personal belongings have been damaged as a result of a defect in the repair. The compensation arrangements should describe criteria for qualification together with the timetable for dealing with claims, the basis for calculating claims, the arbitration/appeal procedures and the information on entitlement to compensation provided to tenants.

The Tenant Management Organisation and the Council should agree the arrangements for monitoring the repair service provided by both parties and reporting this to the Tenant Management Committee and residents. This might include quarterly or 6 monthly reports of work in progress, pre and post inspection of work, reports on tenant satisfaction, response times and the quality of work achieved.

## **Schedule 2: Procedure for consultation on major works clause 6**

This schedule must set out the arrangements for the Council to consult the Tenant Management Organisation during the following stages, where it intends to undertake Major Works:

1) Programming of the works

2) Development and implementation of the scheme

The Tenant Management Organisation should be fully consulted and involved at all stages, from the preplanning stage through to the final hand-over of the completed works. This includes the Tenant Management Organisation being involved in agreeing the design of the scheme, resident consultation arrangements, the specification and selection of contractors and monitoring of work in progress and handover arrangements.

## **Schedule 3:**

### **Procedures and performance standards for entering into and supervising major works clause 6 options B, C and D**

This Schedule applies where the Council enters into Major Works but the Tenant Management Organisation agrees to supervise them (Option B) or where the Tenant Management Organisation, with the Council's agreement, enters into Major Works contracts and supervises them (Option C) or where the Tenant Management Organisation and the Council agree that a mixture of all options will apply Option D

#### **1 Appointment of appropriate consultants**

The Council or the Tenant Management Organisation Manager should provide a brief of the work to be undertaken and an outline budget, together with a description of consultation arrangements with residents, the requirements for Council and Tenant Management Organisation approval and for appointing an external consultant to supervise any work. Appropriate officers of the Council and the Tenant Management Organisation should be invited to advise on the consultant's brief and serve on the selection panel.

#### **2 Liaison with Council**

The Council should be closely involved in the development and implementation of the scheme. The Schedule should set out the circumstances in which Council and Tenant Management Organisations approval is required. Approval cannot be withheld by either party without good reason.

### **3 Arrangements for tendering and selection of contractors**

The consultant will advise on the arrangements for tendering, including drawing up the tender list, the tendering process and assessment. These will comply with the Code of Procedure contained in the appropriate Joint Contracts Tribunal (JCT) Standard Form of Building Contract or a suitable alternative approved by the Council..

In selecting a suitable contractor the Tenant Management Organisation must also comply with Clause 4 Chapter 7 of the Agreement (Employment of Contractors) and with the Tenant Management Organisation's procurement procedure which must have the Council's approval.

### **4 Contract management**

The main terms will be included in the Joint Contracts Tribunal contract or a suitable alternative approved by the Council. These include:

- definitions
- contract formation
- general obligations
- Information to residents about the works and dealing with complaints
- variations
- contract price and payment
- insurance and liability
- duration, handover and defects liability
- termination
- disputes
- materials
- a general clause detailing notices, assignment, subcontracting, the scope of the agreement, amendment, representation, severance and waiver.

### **5 Procedures for handover and subsequent maintenance and repair**

This should include procedures for checking works prior to handover by the contractor, including authorisation, handling outstanding defects or defects arising after handover, and future maintenance requirements

### **Schedule 4: The Tenant Management Organisation's major works functions clause 6 option C**

This must specify the Major Works the Tenant Management Organisation is responsible for. The Allowances must contain a budget for the works specified.

Major works may include planned maintenance. The schedule should therefore be consistent with Schedule 1.

## **Schedule 5: Procedure for repairs from events covered by the Council's Building insurance clause 9**

This Schedule must include a summary of the Council's Insurance Policy and a summary of any additional risks for which it remains liable. This Schedule must also include the procedure for making Insurance Repair claims, a description of the division of responsibilities between the Tenant Management Organisation and the Council for Insurance Repairs and, where appropriate any emergency repair which needs to be carried out, and a procedure for resolving disputes between them.

### **1 The procedure for making insurance repair claims**

This must include a quick procedure for agreeing that a particular repair should be dealt with as an Insurance Repair.

The Schedule should also include a summary of the process of making an Insurance claim, including the time scales described in the policy, for pursuing claims, dealing with disputes and settling any invoices for Insurance Repairs carried out.

### **2 Repair Responsibilities**

If Option C is chosen, this must describe any authorisations needed from the Council to enable the Tenant Management Organisation to make an insurance claim

It should include any timescales for carrying out repairs which may be different from those set out in schedule 1.

## **Schedule 6: Functions and performance standards of the Tenant Management Organisation and the Council in respect of estate services, clause 10**

The schedule must include the following information:

### **1 Estate Services**

This must describe how responsibility is divided between the Tenant Management Organisation and the Council for all Estate Services including any differences relating to the range of tenure types of dwellings included in the agreement. The Tenant Management Organisation's responsibilities for estate services must be listed in Annex A to this Schedule. The Council's responsibilities for estate services must be listed in Annex B to this Schedule.

Where appropriate the division of responsibility for different areas should be shown on the Plan of the Property.

The main services would normally include estate inspections, cleaning the common internal and external parts of the property, removing rubbish, management of garages and parking spaces and maintenance of grassed areas, flower beds, trees and shrubs and possibly estate service contracts.

### **2 Management of Estate Services**

The Tenant Management Organisation and Council must describe arrangements for the following:

- The Performance Standards for each Service; and



- The arrangements for monitoring the quality of the services undertaken

### **Schedule 7: improvements policy and procedure clause 12**

This must state whether the Council or the Tenant Management Organisation is responsible for receiving Improvement Notices and deciding on requests to make improvements, and set out the procedure and criteria for making a final decision and for informing residents on how to exercise their statutory rights.

There should be clear criteria for consent to be granted with or without conditions. These should be consistent with the terms of the tenancy agreement or lease, and where applicable, the provisions of the Housing Act 1985.

### **Schedule 8: Right to repair policy and procedure clause 13**

This must state whether the Council or the Tenant Management Organisation is responsible for administering the Right to Repair and set out the procedures for receiving Right to Repair Claims and deciding such claims, and for informing tenants on how to exercise their statutory rights.

# Chapter 3:

## Schedules

### Schedule 1:

#### **Rent collection and arrears control procedure clause 2,3,4,5 and 6**

*Note: Any exchange of information must be in accordance with the Data protection act 1998*

##### **1. Rent collection, administration and housing benefit clause 2 and 6**

This paragraph must describe how tenants will pay rent. It must also define the period for which the Tenant Management Organisation or the Council will provide a statement of rent due and rent collected. This paragraph must describe the arrangements for the maintenance of rent accounts.

This paragraph should describe the acceptable methods of paying rent, and the information which will be provided to tenants on rent balances, changes in rent, and on arrangements for handling enquiries from tenants.

**Note:** Housing benefit for working age claimants will be replaced by Universal credit gradually in the period to 2017. Universal credit will be paid directly to the claimant in most circumstances. Non-working age households where claimants have reached the qualifying age for Pension Credit will continue to receive Housing benefit from their council

The arrangements for handling Housing Benefit or the housing element of Universal Credit (clause 6, Chapter 3) should describe the liaison arrangements with the Housing Benefit section (or under Universal credit, with the Department for Work and Pensions) and relevant agencies, and how any errors in statements or entitlement calculations will be prevented or dealt with.

Maintenance of rent accounts will include amendments to reflect new lettings, mutual exchanges, successions, assignments and voids. It should also include the Information Technology and other supporting systems the Tenant Management Organisation will be using if it is collecting rent from tenants.

##### **2 Rent Arrears Control Procedures clause 3**

This paragraph must describe the arrangements for preventing, managing and collecting arrears and clearly demarcate responsibility between the Council and the Tenant Management Organisation. It must describe the actions which will be taken to minimise rent arrears and to deal with various levels of arrears, and set out financial incentives and penalties where the Tenant Management Organisation manages arrears control. Specifically, this paragraph must set out the procedures to be followed prior to issuing a Notice Seeking Possession, applying to the court for a Possession Order, and prior to eviction.

In agreeing the rent arrears control procedures to be followed, the Council and the Tenant Management organisation should draw upon good practice designed to prevent, minimise, and collect rent arrears. In Particular, recognising that it is in the interest of both landlords and tenants to resolve difficulties quickly and, wherever possible without court proceedings, the Council and the Tenant Management Organisation should take account of the Ministry of Justice's 'Pre-Action Protocol for Possession Claims'. Additionally, Government is committed to strengthening protections for vulnerable debtors by supporting industry standards and providing more protection against aggressive bailiffs.

It should set out the arrangements for giving tenants in arrears information and advice about welfare rights, entitlement to benefits, and income and debt management and collection.

It should describe the procedures to be followed when a tenant first goes into arrears and the levels of arrears when specific action must be taken. If the Tenant Management Organisation is responsible for Arrears Control, this paragraph should describe at what point a case becomes a serious arrears case, and how the Council will be involved in any action to seek possession, obtain a Possession Order or carry out an Eviction. It should set out the circumstances in which the Council may withhold consent to the Tenant Management Organisation to take legal proceedings or enforce a court order for possession to recover arrears.

If the Tenant Management Organisation has opted to hand back serious arrears cases to the Council (Option 3C) it must set out clearly at what stage cases will be referred to the Council and the procedure for doing so and at what stage the rent account will be returned to the Tenant Management Organisation.

This paragraph should set out the incentives for the Tenant Management Organisation to collect arrears and the penalties for failing to meet agreed targets.

### **3 Arrears due at the Starting Date clause 4**

The Council must include the information required for the Tenant Management Organisation to undertake its responsibilities under options B and C of Clause 4, subject to any data protection requirements. This must include arrangements for the repayment to the Council of a proportion of Arrears due at the Starting Date.

### **4 Former Tenants' Arrears, clause 5**

This must include the procedure for recovering the arrears of former tenants. . If the Tenant Management Organisation has 'bought' former tenants' debts (Clause 5 Option D), this paragraph must state the sum the Tenant Management Organisation has agreed to pay the Council in lieu of any other liability for those arrears.

### **5. Bad Debts and Write-offs clause 11**

This paragraph must set out the how the Tenant Management Organisation will apply for write-off of debt for existing and former tenants.

This paragraph should set out the procedure for dealing with bad debts and write-offs, This should state the level of debt which triggers the process, the tasks involved in administering and investigating such cases, and for applying for write-off including obtaining approval from the Tenant Management Committee and the Council where appropriate

## **6 Arrears Review Arrangements**

This paragraph must describe the arrangements and information requirements to enable the monitoring of arrears and recovery action taken.

This should include reviewing the effectiveness of procedures, and actions taken to prevent, manage and collect rent arrears. It should also include how frequently reports will be made to the Tenant Management Organisation committee and the Council and the content of such reports.

### **Schedule 2:**

#### **Tenant service charge procedure clause 7**

This schedule should set out the services for which tenants will be charged service charges and the method used to calculate each element of the tenant service charges. (I.e. estate, area, borough based).

Where councils have depooled their tenant service charges so that the service charge (or elements of it) is equal to the actual cost of the service delivered locally, the schedule should set out the procedure for the Tenant Management Organisation to request the council to vary the service charges. This may apply where changes are proposed to the Tenant Management Organisation services which would impact upon the Tenant Service Charge and must include the consultation arrangements with tenants to establish support for the proposed changes.

This should set out the factors which the Tenant Management Organisation and the council will take into account in considering changes to services which will impact upon the tenant service charge and the effect of such changes (including the impact on any benefit payments) and should set out the consultation requirements and the grounds for conditional consent or for refusal by the council.

# Chapter 4:

## Schedule

### **The schedule: service charge procedure**

#### **1 Calculation of Charges clause 3**

This paragraph must set out the services provided to leasehold and freehold dwellings and show how charges are calculated in accordance with provisions of the lease or transfer. This paragraph must also describe the procedures to ensure that the Tenant Management Organisation and the Council have proper records and audit trails for all invoices and credit notes relating to the services provided. The Tenant Management Organisation will maintain its accounts in such a way as to enable the Council to compile service charge bills if necessary. The timetable for the Tenant Management Organisation's provision of information to the Council, calculating the charges and providing a schedule of all charges and calculations must be shown.

#### **2 Billing and Collection Arrangements clause 3**

This paragraph must set out the timetable for sending out service charge demands, the dates when service charges are due, the range of acceptable methods for paying charges, and the information to be provided to tenants on service charges and service charge balances. The above arrangements must be consistent with the terms of the lease.

Where the Council is responsible for compiling service charge bills, it should also set out how the Tenant Management Organisation will maintain its accounts to enable the Council to compile the service charge bills to reflect the Tenant Management Organisation's costs including the deadline for submitting information. .

#### **3 Arrears procedures clause 4, 8**

This paragraph must describe the arrangements for preventing, managing, collecting and monitoring arrears. It must describe the actions which will be taken to minimise arrears and to deal with various levels of arrears. Specifically, this paragraph must set out the procedures to be followed prior to taking court action. Action involving the courts should only be pursued once all other reasonable steps to recover debt have been taken.

#### **4. Consultation Requirements clause 5 and 6:**

This paragraph should set out the arrangements for complying with Section 20 consultation including the provision of information to/from the Council or the Tenant Management Organisation. This paragraph should set out the process and responsibility for making a S20ZA applications (for dispensation of consultation requirements).

#### **5. Regular statements of account under section 21 of the Landlord and Tenant Act 1985 as amended clause 7**

This should set out who is responsible for providing regular statements of account within the required time limits.

This should set out the arrangements for giving leaseholders information and advice about welfare rights, entitlement to benefits, and income and debt management and collection.

It should describe the procedures to be followed when a leaseholder first goes into arrears and the levels of arrears when specific action must be taken.

If the Tenant Management Organisation is responsible for managing arrears, this paragraph should describe at what point arrears become serious and how the Council will be involved in any action to recover arrears including forfeiture proceedings. . It should set out the circumstances in which the Council may withhold consent to the Tenant Management Organisation to take recovery action and to the issue of forfeiture proceedings. This paragraph should list the monitoring information required by the Council throughout the arrears procedure and how the effectiveness of Service Charge Procedures, including action taken to prevent, manage and collect arrears, are.

#### **6. Payment to the Council of service charges and/or arrears collected**

This paragraph must set out the method and the frequency for the Tenant Management Organisation to pay the service charges and/or arrears collected to the Council.

#### **7. Financial Incentives and Penalties clause 9**

This must set out the incentives for the Tenant Management Organisation to collect arrears and the penalties for failing to meet agreed targets.

# Chapter 5

## Schedule 1:

### Calculation and payment of allowances clause 1

#### Self Financing for Tenant Management Organisations Clause 2D

1 Where the council and the Tenant Management Organisation have agreed that the Tenant Management Organisation will be self financing, the Tenant Management Organisation and the council will negotiate and agree an arrangement where the Tenant Management Organisation will retain the rental and leaseholder service charge income and will finance its proportion of the council's capital debt. The Tenant Management Organisation will make provision to purchase or pay for services provided by the council such as buildings insurance, IT costs, council one stop shop, council media and communications, mediation etc. The details of this arrangement should be set out in this schedule including how and when the arrangement including debt costs will be reviewed. The schedule should also set out if and how the Tenant Management Organisation can reduce its proportion of the capital debt.

#### 2 Calculation of Allowances clause 1

This paragraph must demonstrate that the Allowances are calculated in accordance with the Statutory Guidance set out in *Calculating Allowances for Tenant Management Organisations*. The Council should fully complete the worksheets contained in *Calculating Allowances for Tenant Management Organisations* including the relevant apportionments of the allowances under each heading set out. This should be signed by the Chief Finance Officer and attached as Annex A to this schedule. The totals should be transferred to the summary below:

This Paragraph should provide a summary of the principal elements of the Allowances.

	<b>Element or Activity</b>	<b>Allowance</b>
Chapter 1	Insurance	
Chapter 2	Repairs, Maintenance and Estate Services	
Chapter 3	Rent collection and arrears control	
Chapter 4	Leaseholder and freeholder service charges	
Chapter 5	Financial management	
Chapter 6	Tenancy Management	
Chapter 7	Staffing and relationship with council	
Chapter 8	Performance, monitoring reviewing of standards	
Worksheet A	Office costs	
Worksheet B	Fixtures and fittings	
Worksheet C	Office cleaning,	
Worksheet D	Supplies and services	
Worksheet E	Security	
Worksheet F	Transport	

Worksheet G	Information and technology	
Worksheet H	Tenant Management Organisation Committee and Communications	
Total		

There should be a summary of the property and facilities used in calculating apportionments and the source or reference from which the information was obtained.

Stock	Tenancies	Leases	Total	Source and Date

The Annex A (Calculating Allowances worksheets) must be attached to this Schedule.

Key considerations for the Council and the Tenant Management Organisation are

- Compliance with the statutory requirements of Calculating Allowances for Tenant Management Organisations and completion of the worksheets contained in that guidance.
- Inclusion of the costs of non-strategic services provided by council staff, however indirectly, which will be undertaken by the Tenant Management Organisations ;
- The separation of costs, where applicable, between tenants and lessees;
- Ensuring that the estimate for Responsive and Planned Maintenance Repairs is reasonable and that the Agreement takes account of unexpectedly high expenditure due to unforeseen repair costs or an above average numbers of voids requiring reservicing;
- Ensuring that the Tenant Management Organisation has sufficient to cover overheads such as office accommodation; and
- The inclusion of the full range of relevant corporate support services. This could include Building (Office) administration, Environmental Health, Finance, Legal Services, Personnel and IT.

### **Leaseholder allowance**

This paragraph should set out how the Leaseholder element of the allowance will be calculated based on the Tenant Management Organisation's budget (or the Council actual costs in the first year) and adjusted annually to reflect the Tenant Management Organisation's actual expenditure on leasehold services.

If the Tenant Management Organisation is calculating, billing and collecting service charges (option 3B chapter 4), it will do so in accordance with the leaseholders' lease agreements. If any of the charges collected relate to services provided by the Council, the



arrangements for payment to the Council should be set out in this paragraph. It should also set out arrangements for paying an advance to the Tenant Management Organisation to cover leaseholder costs in the first year of operation or until such time as the Tenant Management Organisation can bill and collect the relevant charges. It should set out how this advance will be paid back to the Council over an agreed period

### **3 Adjustments to Allowances**

#### **Annual Adjustment**

This paragraph must describe how the allowance will be adjusted annually in as set out in the guidance *Calculating Allowances for Tenant Management Organisations*. The Council must give the Tenant Management Organisation at least three months notice of any change in the amount of the allowance for the following financial year to enable a sufficient period for negotiation and to agree a procedure and timetable with the Tenant Management Organisation for implementing any change. Changes in excess of 5% of the overall allowance should be phased in over a 3 year period or such shorter period as may be agreed by the Tenant Management Organisation and the Council.

This paragraph should set out the procedure and timetable for annual adjustment of allowances, including information on which this is to be based and the information and background documents which will be supplied to the Tenant Management Organisation.

#### **4 Periodic Review of Allowances**

This paragraph must describe how and at what intervals the allowances will be reviewed to take account of significant changes in costs. Allowances must be reviewed and varied in accordance with *Calculating Allowances for Tenant Management Organisations*.

This paragraph should set out the procedures and timeframe by which either party may seek a review of allowances, for carrying out the review and implementing any resultant changes in allowances. The Council must give the Tenant Management Organisations at least three months notice of changes to the allowances for the following financial year. The periodic review should not be carried out more frequently than once every 3 years.

#### **5 Payment of Allowances clause 3**

This paragraph must state if the agreed method of payment of allowances including the leaseholder allowance is monthly or quarterly in advance (unless these are retained by the Tenant Management Organisation from collected rent and/or leasehold service charges).

This paragraph should set out how the allowance will be invoiced and the arrangements in respect of VAT.

#### **6 Start-up costs**

This paragraph must demonstrate that provision has been made for starting up the Tenant Management Organisation and for other support and resources for the Tenant Management Organisation in accordance with the Statutory Guidance set out in *Calculating Allowances for Tenant Management Organisations*

Provision should include people and resources to provide support and assistance; fully furnished and equipped premises; and information and information systems in order for the Tenant Management Organisation to function effectively on the due date.

## **Schedule 2:**

### **Financial Procedures clause 5**

#### **1 Principles of Financial Control by the Tenant Management Organisation clause 5**

This paragraph must set out the main objectives of the Financial Procedures, and identify the Tenant Management Organisation committee officer who will have the main responsibility for ensuring high standards of probity and security. This paragraph must set out how any financial procedures will be changed.

The main objective of these procedures will be to ensure that the finances of the Tenant Management Organisation are fully recorded, payments only made within guidelines approved by the committee, and that monies put aside for specific purposes are used for that purpose.

Controls should be developed and applied to minimise the possibility of error, fraud or embezzlement.

Procedures should not be changed without the approval of the Tenant Management Organisation committee. The Council should be informed of any changes.

The Treasurer of the Tenant Management Organisations Committee will have overall responsibility for ensuring that any controls are suitable and applied. This does not absolve the Tenant Management Organisation committee from responsibility for ensuring that proper controls and procedures are used.

#### **2 Banking Arrangements, Borrowing and Investments clause 4**

This paragraph must include full details of the Tenant Management Organisation's bank accounts, the number and designation of cheque signatories and any financial limits. All accounts must be in the name of the Tenant Management Organisation. It must set out the procedure for informing the Council of any changes in the above arrangements. It must set out the procedure for managing the bank accounts to ensure value for money. This paragraph must set out the procedure for any borrowing or investment undertaken by the Tenant Management Organisation. This will include the procedure for obtaining committee authorisation. The council must be informed when a borrowing facility or investment is being negotiated.

#### **3 Budgetary Control clause 5**

This paragraph must set out the procedures for setting the budget, maintaining control and making changes as necessary. Procedures for budgetary control should set out when the budget is to be set and the procedure for agreeing the budget. The annual budget should be approved by the Tenant Management Organisation committee before the start of the financial year. .

Significant changes to the budget should be approved by the Tenant Management Organisation committee and reported to the Tenant Management Organisation membership. Budget Reports should be made to the committee at least quarterly. These

reports should compare expenditure with the budget forecast and indicate any variance or need for adjustment.

#### **4 Members' Expenses clause 3**

This paragraph must set out agreed entitlement and procedures for reimbursing members' costs, including how such payments are to be authorised.

Reimbursements should only be for costs actually incurred for expenses approved in advance by two or more officers of the committee. The type of activity for which expenses may be paid should be described. They can only be for activities which fall within the constitutional aims of the Tenant Management Organisation. Where possible, the amount of expenses for particular activities should be specified and subject to regular review.

A time limit should be specified for submitting claims.

#### **5 Orders and Payments**

This paragraph must set out the procedure for ordering work or materials and making payments. All orders must be in writing and authorised in the manner described in this paragraph

A table should be prepared showing who may place orders, the number of quotations and level of authorisation required for various levels of expenditure with reference to a detailed procurement policy. Authorisation should not be given by someone who obtains a direct benefit from the work or who places the order.

The procedure for making payments should be sufficiently detailed to ensure that payments are not made without adequate documentation showing that the goods were received or that the service provided was to a satisfactory standard.

#### **6 Payroll**

This paragraph must set out the arrangements for paying staff and for ensuring that proper records are kept.

This should include the payment cycle, how timesheets and overtime claims will be certified, the verification of payroll before payment, and the appropriate deductions of tax.

#### **7 Petty Cash**

This paragraph must set out the procedures for authorising and managing petty cash.

This should specify the size of petty cash floats and who should hold the floats or how these decisions will be made, approved and recorded. . Procedures for making and authorising claims should be described.

#### **8 Income**

This paragraph should set out how and when the Tenant Management Organisation will invoice for allowances, and any services it provides and in what circumstances the Tenant Management Organisation will charge tenants for works or services. It should also include when and how the Tenant Management Organisation will write off bad debts.

## **9. Security of Cash**

This paragraph should state that the Tenant Management Organisation will minimise the amount of the Tenant Management Organisation's cash in the Tenant Management Organisation office or in the charge of Tenant Management Organisation staff or members. It should limit the total amount of cash to be held in the office at any time

## **10 VAT**

This paragraph should set out the arrangements for charging and paying VAT including returns to Her Majesty's Revenue and Customs.

## **11. Membership and subscriptions**

When a person becomes a member of the Tenant Management Organisation- they shall pay the membership fee as set out in the Tenant Management Organisation's rules/constitution. Names and details should be entered in the share register and the secretary should ensure a share certificate is issued in accordance with the Rules. Membership should be reviewed annually and the register updated.

## **12. Asset Management Policy and Asset Register**

The Tenant Management Organisation should adopt an asset management policy and maintain an asset register.

The value and location of assets will be recorded in the Asset Register in accordance with the requirements set out in the Asset Management policy. The Tenant Management Organisation will ensure cyclical maintenance of all relevant assets and ensure appropriate insurance is maintained.

## **13. Insurance**

The Tenant Management Organisation should periodically review its insurance arrangements to ensure it has adequate cover and has secured value for money.

## **14. Rent Accounting and Other Income**

This paragraph must set out the procedures for rent and service charge accounting and other income.

This should reflect rent collection arrangements and billing arrangements for Allowances, where appropriate, and authorisation arrangements for bad debts (rents) which need to be written off.

### **Schedule 3:**

#### **Accounts and audit clause 5.2**

##### **1 Annual Accounts**

This paragraph must identify the level of analysis to be maintained to facilitate management accounting and final accounts preparation. It must specify the key elements of the preparation and presentation of Annual Accounts.

Accounting information should be sufficiently detailed to provide the level of analysis required for management accounting, final accounts preparation and for calculating Service Charges.

A key element of the preparation and presentation of Annual Accounts should include the procedure and timetable for drawing up draft accounts which meet the timetable requirements of the Agreement and the Tenant Management Organisation's constitution.

This paragraph should specify in detail the information to be provided in the accounts or the accompanying notes

## **2 Audit**

This paragraph must refer to the procedure for the selection and appointment of auditors, contained in the Tenant Management Organisation's constitution. The Audit Report must be in accordance with the requirements of the Tenant Management Organisation's constitution.

This paragraph should provide details of the current auditor. It should specify who is responsible for communication with the auditor and for ensuring that the accounts are presented for audit each year in time to meet statutory deadlines. The same person should also be responsible for ensuring that all members are sent an abridged version of the accounts and audit opinion.

## **3 Provision of Information**

This paragraph must set out how and when the Tenant Management Organisation and the Council will provide financial information to enable the other party to carry out its responsibilities under the Agreement.

This should include information to enable the Council to assess the Tenant Management Organisation's financial performance, and information on rechargeable costs of services to leaseholders. It may include a timetable.

## **4 Surplus Fund**

This paragraph must set out the procedure for the Tenant Management Organisation to manage and use its Surplus Fund and how this is to be decided and reported.

This should describe how decisions will be made on how the Surplus Fund is to be used. This process should link with the Tenant Management Organisation's forward planning in its Business Plan. The Fund should be used for the benefit of tenants and in accordance with the Tenant Management Organisation's Constitution or Memorandum and Articles.

The Business Plan can help the Tenant Management Organisation with its forward planning and to decide how best to use its Surplus Fund to achieve its aims. The Business Planning process should help the Tenant Management Organisation to analyse its

strengths and weaknesses as an organisation, where the organisation is currently and where it wants to be, and how to get there. It can also be used to co-ordinate existing practices, eg, budget setting, quality improvement, resident involvement and performance review.

The Plan should be regularly reviewed to make sure it is still relevant to the organisation. Business Planning Guidance for Tenant Management Organisations by the National Federation of Tenant Management Organisations is available on the National Federation of Tenant Management Organisations' website: [www.nftmo.com](http://www.nftmo.com)

## **5 Reserve Fund**

This paragraph must set out the procedure for the Tenant Management Organisation to maintain a Reserve Fund and how this is to be decided and reported.

# Chapter 6:

## Schedules

### **Schedule 1:**

#### **Introductory meetings for housing applicants and new tenants clause 1**

This schedule must describe the arrangements in respect of introductory meetings for housing applicants and/or for new tenants.

The arrangements should include the following:

- Responsibility for contacting applicants and arranging meetings and/or accompanied viewings where choice based lettings are in operation;
- Procedure for holding introductory meetings with new tenants often carried out at the point where new tenants sign the tenancy agreement (tenancy sign up);
- Whether the council will be represented at meetings and the council's role at meetings; and
- Exchanging information to facilitate the above.

### **Schedule 2:**

#### **Selection of tenants policy and procedure clause 3**

This Schedule must describe the respective roles and responsibilities of the Council and the Tenant Management Organisation in the selection of tenants for vacant Tenant Management Organisation properties.

#### **1 Principles involved in allocating tenancies**

The allocation of housing accommodation to tenants new to social housing and to existing social tenants in housing must be in accordance with the council's allocation scheme under Part 6 of the Housing Act 1996 and DCLG's code of guidance on the allocation of accommodation issued in June 2012. Existing council and housing association tenants applying to transfer who are not considered to be in housing need must be treated in accordance with the council's transfer policy which may be different to the council's part 6 allocation scheme. This paragraph must describe the principles on which decisions are made about the priority given to new housing applicants and transferring tenants, and the allocation of offers of vacant dwellings. .

#### **2 Selection procedure where the council provides a list of eligible persons clause 3 options B**

This paragraph must set out the procedures and criteria for the Tenant Management Organisation to select tenants of vacant Tenant Management Organisation property from a

list of eligible persons for council housing accommodation provided by the Council. This must set out the timescale in which the Council must provide a list to the Tenant Management Organisation and the relevant information about eligible tenants. It must set out the timescale within which the Tenant Management Organisation must make its recommendation to the Council or select a tenant of vacant Tenant Management Organisation property. It must describe the criteria that will inform the Tenant Management Organisation's choice of tenant. It must also describe how the Tenant Management Organisation will ensure that the selection process is consistent with its Equalities Policy and how decisions will be recorded .

The council should provide the Tenant Management Organisation's nominated officer with all information to which its own allocation officers would have access in making a decision about an offer of accommodation. This would include any information in the eligible tenant's tenancy or re-housing file.

This paragraph should list any additional criteria that will be taken into account by the Tenant Management Organisation in deciding between eligible persons of a similar priority. This should include any local lettings priorities, where there is a Local Lettings Policy which applies to the Tenant Management Organisation area as part of the Council's allocation scheme.

Where the Tenant Management Organisation is making a recommendation under Option B this should describe the timetable and procedure for this and for making representations to the council where it considers that none of the persons on the list should be listed.

This paragraph should set out the timetable for considering and assessing who should be selected as a tenant of a vacant Tenant Management Organisation property under option B and arrangements for recording the basis of decisions.

It should set out how persons on the list will be informed of progress and decisions, and identify the administrative tasks the Tenant Management Organisations is authorised to carry out prior to grant of tenancy (i.e. providing information on the property and tenancy agreement, signing up, arranging outstanding repairs etc).

### **3 Exceptional circumstances**

This paragraph must describe the circumstances under which the council may overrule the Tenant Management Organisation selection of tenant procedure.

The council should only overrule the Tenant Management Organisation's selection procedure where it is satisfied that:

- the Tenant Management Organisation has made an incorrect decision on the basis of the agreed criteria; or
- the Tenant Management Organisation has failed to make its selection within the agreed timescale in circumstances which were avoidable; or
- there are exceptional circumstances. These might include the following:



– The vacant property is required for a person with urgent housing needs and there is no suitable alternative accommodation, for example, victims of domestic violence or racial harassment amounting to violence or threats of violence.

– A person has been identified with a particular need for the vacant property, For example, a person with a disability who needs a ground floor flat.

– New information becomes available about the housing circumstances of someone selected for a vacant property which no longer makes it appropriate for them to be allocated that property.

#### **4. Selection of tenants where there is a Local Lettings Policy clause 3 option**

##### **C**

This paragraph must describe the principles on which decisions are made about the selection of tenants in accordance with the council's allocation scheme. This option only operates where there is a Local Lettings Policy which either encompasses the Tenant Management Organisation area or part of it or is specific to the Tenant Management Organisation area or part of it. It must describe the Tenant Management Organisation's role in and procedures for assisting the Council in the allocation process. It must describe how the Tenant Management Organisation will ensure that the process complies with the allocation scheme and its own Equality Policies and Procedures. These procedures must be updated, where necessary, where the council has reviewed and revised its allocation scheme. It must describe the arrangements for the council to authorise Tenant Management Organisation staff to assess applications for eligibility in the same way as a council officer. Under these arrangements, the Council must ensure that, overall, reasonable preference is given to applicants in the Reasonable Preference categories and that it has arrangements in place to monitor these procedures.

Potential tenants may come forward either via the council or direct to the Tenant Management Organisations.

The basis on which applicants are selected must be agreed by the Tenant Management Organisations and the Council. This includes the following:

- the criteria on which decisions are to be made. The principles must conform with the allocation scheme and any policies in relation to transferring tenants and local lettings policies;
- reasonable preference categories and the council's monitoring procedures in relation to these;
- information, help and advice to be provided to applicants;
- how applications will be logged and checked;
- assessment procedures, including arrangements for home visits, interviews, liaising with and informing applicants of progress and investigations to ensure applications are genuine; and
- the council's role in assessment procedures.

#### **5. Transfers**

This paragraph should set out the TMO's involvement in the transfer of tenants. This may relate to a local lettings policy involving on estate transfers, tenants who are downsizing or other agreed arrangements.

## **6 Decisions and rights to a review of a decision**

This paragraph must set out how decisions will be made on applications, and how decisions will be recorded, communicated to applicants and reported to the Tenant Management Organisations and council. This must set out the rights of applicants and how they will be informed of their right to a review of a decision.

This should describe how decisions will be made, who is responsible, and how they will be communicated to applicants. This should include the information to be given to unsuccessful applicants. It should describe the procedure for a review of a decision.

It should also set out what an applicant can do if they are unhappy with the service they have received from the Tenant Management Organisations.

It should also identify the administrative tasks the Tenant Management Organisation is authorised to carry out prior to grant of tenancy.

## **7 Performance**

This paragraph must set out how decisions and procedures for assessing applications will be monitored by the Tenant Management Organisation and the council.

It should describe what data will be collected and recorded relating to decisions and reviews of decisions, and how decisions and procedures will be monitored and reported to the Tenant Management Organisation board to ensure that the Tenant Management Organisation has complied with these and that they are operating effectively. Monitoring may include the following:

- how the reasonable preference requirement has been met;
- cases involving exceptional, urgent cases;
- numbers and types of applications received;
- decisions made;
- numbers of and information about applicants selected for vacant property;
- timescales achieved; and
- equal opportunities data.

The procedures and information should enable the council to:

- inspect assessments of housing need;
- ensure confidentiality of personal details; and

- ensure that all persons in the Tenant Management Organisation authorised to carry out this functions have undertaken initial and continuing training, including training on current legislation policy and good practice in relation to assessment of applications and the allocations process.

## **8 Termination of Clause 3 options B, C or D**

This paragraph must set out the procedure to be used where the council is satisfied, through monitoring, that the Tenant Management Organisation selection of tenants under Clause 3 options B, C and D is not being carried out in a fair and proper way.

Where the council is satisfied that this is happening and can fully demonstrate that the Tenant Management Organisation is not selecting tenants in a fair and proper manner, this paragraph should set out the procedure and timetable for the council to request that it change its procedures and for dealing with continuing default in Tenant Management Organisation performance.

Default should be dealt with by terminating the operation of Clause 3 options B or D, as appropriate, and varying the Agreement under Clause 18 of Chapter 1 to enable reversion to either Clause 3 options A or B.

## **9 Choice-based Lettings**

Where Choice-based Lettings are operated at Council-wide level or locally in the TMO area, this paragraph must describe the respective roles and responsibilities of the Council and the Tenant Management Organisation in administering the system.

This should outline the administrative tasks to be carried out either by the Council, or the TMO in delivering Choice-based Lettings. This should include the following:

- Advertising available property and enabling customers to respond to advertisements;
- Feedback to customers on their responses to advertisements and on lettings outcomes;
- Marketing housing and feedback on successful lettings;
- Nature of information on advertised properties;
- Neighbourhood information;
- Labelling of advertisements and selection criteria;
- Meeting the needs of vulnerable groups, for example, by providing housing advice and support, or linking with health and social care initiatives;
- Quality of communications, including use of paper-based and IT systems; and
- Providing advice and support to customers on using the system, responding to adverts, information on other housing options.

## **10 Tenancy Sign Up and settling in visits**

This paragraph should set out who is responsible for arranging for the new tenant to sign the tenancy agreement, and to receive the appropriate information and advice about the tenancy responsibilities. It should set out a timescale for when this will be carried out.

It should also set out who is responsible for carrying out any settling in visits and the timescales for doing so.

## **11. Tenancy Audits**

This paragraph should set out who is responsible for carrying out audits of existing tenants and the timescales for doing so.

### **Schedule 3:**

#### **Introductory tenancies clause 5 (applicable where the Council operates introductory tenancies)**

This schedule must describe the Council's policies and procedures in respect of Introductory Tenancies in its area. It must set out the arrangements for monitoring Introductory Tenancies in Tenant Management Organisations property, including what information is to be provided and reported.

The policies and procedures should include the following:

##### **1 Information to those with an Introductory Tenancy**

This paragraph must set out how information will be provided to new tenants about Introductory Tenancies.

This information should include the Council's Introductory Tenancy Agreement which will set out the tenant's rights, obligations and the date at which a secure or flexible tenancy will be granted, assuming the period of the introductory tenancy is successfully completed.

The information must include the tenant's right to an internal review of a decision to take possession.

This paragraph should outline any additional action to be taken to ensure that the new tenant is fully aware of their rights and obligations. This might include a home visit by an Officer and an explanatory leaflet.

##### **2 Procedure if there is a breach of conditions of tenancy**

This paragraph must set out the procedure to be used when there is a breach of the Agreement which could result in a decision to seek possession.

This paragraph should set out the following information:

- The circumstances under which action would be commenced to seek possession;
- The steps to be taken prior to serving a Section 128 notice (Housing Act 1996) informing the tenant of their right to request an Internal Review;
- The responsibility for the decision to seek possession and any liaison arrangements between the TMO and the council; and
- Arrangements for an Internal Review.

##### **3 Introductory Tenancies**

This paragraph must set how Introductory Tenancies are to be monitored including the information to be provided and reported to assist monitoring.

## **Schedule 4:**

### **Tenancy agreement changes procedure clause 6**

#### **1 Tenant consultation**

This paragraph must set out the arrangements for initiating changes to the terms and conditions of a Tenancy Agreement and for consulting secure and flexible tenants on the proposed changes prior to, and after, the service of a Preliminary Notice of Variation.

This paragraph should set out the main elements of the consultation. This should cover non-statutory consultation with tenants on proposed changes, and statutory consultation carried out in accordance with section 103 of the Housing Act 1985.

This should include arrangements in respect of the following:

- Proposals and information. This should describe how tenants will be informed about the proposed changes and subsequent amendments, and how they can obtain further information.
- Response from tenants. This should state to whom tenants may make comments or objections and the process for dealing with these. It should describe any proposed formal consultation such as public meetings or surveys.
- Forums and decision making process. This should describe the various stages of the decision-making process at which the proposals will be discussed and finalised and the rights of tenants to attend and speak.

This paragraph does not include statutory consultation carried out with tenants under section 105 of the Housing Act 1985 (Consultation on matters of housing management) which is dealt with under Clause 15 of Chapter 7.

#### **2 Service of notices**

This paragraph must set out the procedure for the service of a Tenancy Variation Notice by either the Tenant Management Organisation or the Council; the service of a Preliminary Notice of Variation and the Notice of Variation on tenants.

This paragraph should include the following:

- A description of the Council's procedure and the Tenant Management Organisations procedure prior to serving a Tenancy Variation Notice; and
- Content of notices. This should state the information to be included in each of the notices and, where applicable, must comply with the provisions of section 102 and 103 of the Housing Act 1985. This will include the consultation arrangements described in paragraph 1.

### **Schedules 5: Breach of tenancy agreement, term of a lease or covenant in a freehold transfer clause 7B and C**

If option 7A is selected 'The Council deals with all reports and investigations of breaches of tenancy', the Council's policies and procedures will apply. The Tenant Management Organisation will inform the Council as soon as practicable of a suspected breach of

tenancy and provide the Council with any relevant information and/or potential evidence. The Council will assist the Council in its investigation into the breach as required.

This Schedule must be consistent with the Council's policies and procedures for dealing with breaches of tenancy.

## **1 Definition of Breach**

This paragraph must describe the circumstances in which this procedure will be used.

It should outline what constitutes a breach of tenancy and the various courses of action available to remedy the breach and the procedures for serving any relevant notices.

It is important that appropriate courses of action are available to deal with different types of breach and that all reasonable steps should be taken to remedy the breach, before possession action is pursued. Other courses of action may include providing additional support or help to tenants who are vulnerable or the use of dispute resolution or mediation procedures.

Use of possession action should be minimised and eviction should only be pursued once all other reasonable steps have been taken.

## **2 Investigation of allegations**

This paragraph must describe the timetable and procedure for initiating action against the alleged breach and investigating the allegation, including service of relevant notices.

This paragraph should describe the support that will be provided to help any victims of the Breach or those providing witness statements.

It should identify the officer responsible for ensuring that the allegation is dealt with according to these procedures.

It should set out the method and timetable for investigating the allegation, and making decision, including identifying whether other support is available to help resolve the problem. It should include the procedures for serving a Notice of Tenancy Breach on the Council, and the timescales for a response.

It should set out how and at what stages the Tenant Management Organisation or the Council will inform each other of any actions they have taken to remedy the breach. This includes describing the circumstances in which it is not reasonably practicable to remedy the breach without involving the courts.

It should list the monitoring information required by the Council throughout the procedure to remedy the breach or to take court action.

It should set out how the person on whom the notice is served, and any victim or witness, will be informed of any action the Tenant Management Organisation will initiate.

### **3 Rights of persons where an allegation is made or notice served**

This paragraph must set out the rights of the alleged perpetrator and other parties and how the Tenant Management Organisation will help ensure these rights are respected as far as possible.

Rights include confidentiality, representation, the right to be accompanied during an interview by a friend, witness or advocate and the right to be supported by a translator or interpreter. The alleged perpetrator and any victim of the alleged breach should be informed of their right to appeal against the Tenant Management Organisation or the Council's decision. This paragraph should describe the appeals procedure.

### **4 Role of Council**

This paragraph must include the procedure for informing and involving the Council at different stages of the procedure to remedy the Breach. It must describe at what stages and in what form the Council will authorise, give consent, or instruct that certain actions be taken or not taken or take those actions.

## **Schedule 6:**

### **Anti-social behaviour and harassment policy and procedure clause 9B**

If option 9A is selected, the Council's anti-social behaviour policies and procedures will apply. The Tenant Management Organisation must ensure that it informs the Council of any complaint of anti-social behaviour or harassment as soon as practicable which must be within 3 working days.

This schedule must be compatible with the Council's Statement of Policies and Procedures on Anti-Social Behaviour. It must therefore be updated, where necessary, where the Council has reviewed its Statement of Policies and Procedures.

It is important that the Tenant Management Organisation's Officers are clear about their roles and responsibilities under the Council's Statement of Policies and Procedures.

The schedule should specify the respective roles and responsibilities of the Council and the Tenant Management Organisation in relation to the following paragraphs.

#### **1 Definition of anti-social behaviour**

This paragraph must state a definition of anti-social behaviour. These sections apply to conduct which falls within that definition:

#### **3 Procedure for making a complaint of Anti Social Behaviour**

This must describe the procedure for any lawful resident of the Tenant Management Organisation to make a complaint.

This should identify the person to whom an initial complaint should be made, the help or support which will be given by the Tenant Management Organisation to those needing

help in making a complaint, and should describe when it may be appropriate for a complainant to contact other agencies, for example the police and what will be done to facilitate this.

### **3 Procedure for processing a complaint of Anti Social Behaviour**

This paragraph must describe who will be responsible for processing the complaint, the procedures for handling specific types of complaint, such as racial harassment, the timetable to ensure that the process is prompt, and how the complainant will be kept informed of progress.

This paragraph should set out the information and advice that will be provided to the complainant when they make a complaint and the role of the complainant in the determination of an action plan. It should also set out what the complainant can do if they are unhappy with the service they have received from the Tenant Management Organisation or the Council.

### **4 Support for complainants and witnesses**

This paragraph must describe how the support needs of complainants and witnesses will be assessed, and the arrangements for and types of support available to provide support in particular types of case.

Assessment of support should include assessment of any special needs/translation services etc and a risk assessment of home environment and installation of appropriate witness protection measures.

Support arrangements should include the following:

- Referral arrangements with other partners or agencies to ensure complainants are provided with practical, specialist or emotional support and advice as appropriate;
- Arrangements for regular visits or patrols by officers or other agencies (for example, Community Support Officers or Neighbourhood Wardens); and
- Provision of support to complainants and witnesses preceding, during and following any court proceedings.

### **5 Procedures for addressing cases of Anti Social Behaviour**

This paragraph must set out the various types of legal and non-legal interventions that may be used in addressing cases of Anti social Behaviour and the circumstances in which they might be appropriate. It must describe arrangements for gathering evidence and preparing a case to go to Court and arrangements for representation of the landlord in Court (which may vary by type of intervention).

It should also describe referral arrangements with other partners or agencies where appropriate (such as specialist mediation services).

- Types of intervention may include for example Mediation, Acceptable Behaviour Contracts; and Injunctions.

Some interventions may go wider than the housing management function but the Council and the Tenant Management Organisation may agree that the Tenant Management Organisation has a role in assisting the Council in such cases. The Council and the Tenant



Management Organisation may also agree procedures for the Tenant Management Organisation to monitor the use of different types of intervention, such as the use of demoted tenancies.

## **6 Racial and other harassment policies and procedures If Option 9B is selected**

If option 9A is selected, the Council's racial and other harassment policies and procedures apply. The TMO must ensure that it informs the Council of any complaint of anti-social behaviour or harassment as soon as practicable which must be within 3 working days.

This paragraph must describe specific policies for dealing with racial and other harassment. It must set out how the Tenant Management Organisation will ensure that it has complied with its own procedures and that its actions have been effective in preventing further acts of harassment. This must set out the rights of the parties to the allegation and how the Tenant Management Organisation will help ensure these rights are respected as far as possible. This paragraph must be consistent with the Council's Statement of Policies and Procedures on Anti social behaviour and in accordance with its Race Equality Scheme.

It should also be consistent with the Council's policies for dealing with other forms of harassment, including domestic violence.

This paragraph must set out the actions the Tenant Management Organisation will take to ensure appropriate support, protection and advice for victims and witnesses, including any actions which require the assistance of the Council, police and other agencies. This must set out how allegations of harassment should be made and the procedure and timetable for investigating allegations.

It should describe the support the Tenant Management Organisation will provide to those that need help either in making an allegation or responding to an allegation.

This should identify the Officer responsible for ensuring that the allegation is dealt with in accordance with the procedures, the method and timetable for investigating the allegation, making a decision and informing the victim and perpetrator of the action the Tenant Management Organisation will take.

Both parties must be informed of their right to appeal against the Tenant Management Organisation's decision.

This paragraph should describe the appeals procedure.

This paragraph must describe how the Tenant Management Organisation will keep records relating to the investigation of allegations of harassment and how procedures will be monitored and reported to the Tenant Management Organisation board to ensure that the Tenant Management Organisation has complied with these and its actions have been effective.

The procedures and their effectiveness should be regularly reviewed. Monitoring procedures should describe any joint monitoring arrangements with the council and other agencies.

## **7 Information exchange and data protection**

This paragraph must set out which types of information which are to be shared with other persons or organisations, and the reasons for this.

This should be based on information protocols (and subject to any data protection requirements) which should be in place to ensure effective information exchange between all relevant agencies, and should include arrangements to ensure data protection.

## **8 Provision of support to perpetrators and preventative work**

This paragraph must describe preventative initiatives which are in place and support to be provided to tenants whose anti-social conduct is a consequence of their vulnerability (for example drug use or mental health).

## **9 Review arrangements**

This paragraph must describe how Anti social behaviour is to be monitored and how measures to deal with Anti social behaviour are to be evaluated and reviewed.

Monitoring arrangements should enable an understanding of the nature of anti social behaviour and help identify areas where Anti social behaviour is prevalent. The effectiveness of specific initiatives, for example the use of particular statutory powers, should be reviewed as part of evaluation. These arrangements should include internal and external monitoring of the anti social behaviour service.

## **10 Sharing information with tenants and the wider community**

This paragraph must describe how action taken to tackle Anti social behaviour will be publicised to reassure tenants and the wider community, and to provide tenants with the information they need to report any breaches of injunctive measures which may have been served upon perpetrators

## **Schedule 7: Residents' disputes policy and procedure clause 10B**

If Option 10A (the Council deals with disputes) is selected, the Council's policy and procedure will apply. The TMO will inform the Council as soon as it practicable of any complaint it has received and provide the Council with any relevant information or potential evidence,

### **1 Scope of the policy**

This paragraph must state who is eligible to complain and the type of complaints covered by this policy.

The Tenancy Disputes Procedure is available to any lawful resident of the Tenant Management Organisation who has a complaint about another resident of the Tenant Management Organisation which does not involve allegations of threats of violence, intimidation or abuse, where the Anti social behaviour and harassment policy and procedure may be more appropriate.

It should also refer to the Council's own Disputes Policy and Procedure or alternative dispute resolution procedures such as a local mediation service, which may offer a more appropriate way of dealing with complaint in particular types of case.

## **2 Procedure for making a complaint**

This paragraph must describe how complaints should be made, the support the Tenant Management Organisation will provide to those who need help in either making or responding to a complaint.

This paragraph should describe the support that will be provided to help a resident make their complaint, including what information needs to be provided by the complainant, and where and to whom the complaint should be sent. A similar level of support should be provided to those responding to a complaint. It should identify the officer responsible for ensuring that the complaint is dealt with according to these procedures.

## **3 Procedure for investigating and deciding complaints**

This paragraph must describe who will be responsible for investigating the complaint, the procedure and timetable for investigation, how decisions will be taken, reported and communicated, including any action the Tenant Management Organisation will initiate, and the procedure and timetable in respect of appeals.

## **4 Rights of both parties to the complaint**

This paragraph must set out the rights of the parties to the complaint and how the Tenant Management Organisation will help ensure these rights are respected as far as possible.

Both parties to the complaint have rights in respect of confidentiality, representation, the right to be accompanied during an interview by a friend, witness or advocate and the right to be supported by a translator or interpreter. Both parties should be informed of their right to appeal against the Tenant Management Organisation's decision.

Either party should have the right to request independent mediation of the Dispute. Both parties should be informed of this possibility.

## **5 Record keeping requirements**

This paragraph must describe how the Tenant Management Organisation will keep records relating to the investigation of complaints and how procedures will be monitored and reported to the Board to ensure that the Tenant Management Organisation has complied with these and that its actions have been effective in resolving the dispute.

There should be regular reports to the board outlining progress in dealing with Disputes. The procedures and their effectiveness should be regularly reviewed.

## **Schedule 8:**

### **Mutual exchanges policy and procedure clause 13B or 13C**

If Option 13 A (the Council administers the Right to Exchange) is selected, the Council's policies and procedures will apply. The Tenant Management Organisation will provide tenants with information about HomeSwap Direct and refer all enquiries to the relevant Council department,

## **1 Responding to requests for a mutual exchange**

This paragraph must set out the procedure for responding to requests for a mutual exchange.

This Tenant Management Organisation should provide information about the HomeSwap Direct scheme to all tenants interested in mutual exchange.

The Tenant Management Organisation, in acknowledging receipt of applications, should inform applicants of their rights. . This includes their right to a written decision within 42 days, the grounds on which the application might be refused, and the means of appeal to the council.

## **2 Grounds for refusal**

This paragraph must set the grounds for refusal.

The grounds for withholding consent to an exchange include the following:

- Ground 1 - There is a Possession Order on the property.
- Ground 2 - A Notice of Seeking Possession has been served.
- Ground 2a - The tenant or any member of his household has behaved in an anti-social way and action including Possession proceedings, injunctions, anti-social behaviour orders or a demotion orders against them are in place or are been sought.
- Ground 3 - The property is bigger than is needed by the family wishing to move into it.
- Ground 4 - The property is not big enough for the family wishing to move into it.
- Ground 5 - The property is tied accommodation.
- Ground 6 - The landlord is a charity and the proposed new tenants moving into the property would conflict with the objects of the charity.
- Ground 7 - The property has special features that make it suitable for occupation by a physically disabled person who needs it and if the exchange took place there would no longer be such a person living in the property.
- Ground 8 - The landlord is a Housing Association or Housing Trust that lets properties to particularly vulnerable people and if the exchange took place there would no longer be such a person living in the property.
- Ground 9 - The property is supported housing for people with special needs and if the exchange took place there would no longer be such a person living in the property.
- Ground 10 - The property is the subject of a management agreement where the manager is a Housing Association and there are specific arrangements in place that the proposed new tenant is not willing to participate in.
-

### **3 Grounds for conditional consent**

This paragraph must set out the grounds for conditions which may be attached to consent.

Conditions include the discharge of rent arrears or other outstanding breaches of tenancy obligations which are to be remedied.

### **Notification requirements**

This paragraph must set out the procedure for processing applications and notifying the exchanging authority and applicants of the decision within the 42 day period.

## **Schedule 9:**

### **Voluntary assignments policy and procedure clause 14B**

If Option 14A (the Council administers the assignment) is selected, the Council's policy and procedure will apply. The Tenant Management Organisation will inform the Council as soon as it practicable of any application it has received and advise the applicant accordingly.

### **1 Responding to requests for a voluntary assignment**

This paragraph must set out the procedure for responding to applications for voluntary assignments of secure or flexible tenancies.

The Tenant Management Organisation should, in acknowledging receipt of applications, inform applicants of their rights.

### **2 Grounds for refusal**

This paragraph must set out the grounds for refusal.

### **3 Grounds for conditional consent**

This paragraph must set out the grounds for conditions which may be attached to consent.

### **4 Notification requirements**

This paragraph must set out the procedure for processing applications and notifying applicants of the decision.

## **Schedule 10: Subletting policy clause 15B**

If Option 15A (the Council administers applications from tenants to sublet) is selected, the Council's policy and procedure will apply. The Tenant Management Organisation will inform the Council as soon as it practicable of any application it has received and provide the Council with any relevant documentation and advise the tenant that the Council will be dealing with the application.

### **1 Applications to sub-let**

This paragraph must set out the procedure to be followed by tenants who

wish to apply to sub-let part of their dwelling.

The procedure should state how and to whom applications should be made and what information should be submitted in support of any application. This will include the number of people who will be living in the dwelling and the terms of the proposed sub-tenancy where the tenancy agreement permits subletting of part of the property. .

## **2 Dealing with requests to sub-let**

This paragraph must set out the process for dealing with applications.

This paragraph should set out the timetable for replying to applications and in what form this will be done.

It should also set out the grounds on which requests may be refused. Permission can only be refused where it will lead to overcrowding within the meaning of the 1985 Housing Act or where works are planned to the dwelling which would affect the accommodation occupied by the sub tenant.

This paragraph should state what information, if any, should be passed on to the Council.

## **SCHEDULE 11: GIVING CONSENTS clause 17**

### **1 Areas for which consent is required**

This paragraph must set out the areas for which tenants, leaseholders and freeholders must obtain the consent of either the Tenant Management Organisation or the Council.

This paragraph should provide a comprehensive list of the areas for which consent is required. It should state whether the Tenant Management Organisation or the Council is responsible for giving consent. If an area is not listed here, the Council and the Tenant Management Organisation will agree who should give consent and the list will be updated.

### **2 Applications to obtain consent**

This paragraph must set out the process to be followed by those applying for consent.

The procedure should state how and to whom applications should be made and what information should be submitted in support of any application.

### **3 Dealing with applications**

This paragraph must set out the process and timetable for dealing with applications and the form in which a response will be given.

It should also set out the grounds on which requests may be refused.

This paragraph should state what information, if any, should be passed on to the Council or the Tenant Management Organisation.

## **Schedule 12 :**

### **Enquiries before exchange of contracts clause 19A and B**

This schedule must set out the procedure to be followed by the Tenant Management Organisation and the Council in dealing with enquiries prior to the exchange of contracts.

### **1 Making enquiries**

This paragraph must set out the procedure to be followed by those making enquiries.

This should state how and to whom enquiries should be made and what information is required to respond to the enquiries

### **2 Responding to enquiries**

This paragraph must set out the procedure for dealing with enquiries.

This paragraph should set out the timetable for responding to enquiries. It should also set out the information that will be provided by the Council and the Tenant Management Organisation to enable whichever party is responsible to respond to the enquiry.

### **3 Charges**

This must set out the basis on which charges, if any, will be made by the Tenant Management Organisation for the service.

# Chapter 7:

## Schedules

### **Schedule 1:**

#### **Staff transferred under the transfer of undertakings (Protection of Employment) Regulations 2006 (TUPE) clause 1**

This paragraph must list all staff transferred from the Council to the Tenant Management Organisation by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). This paragraph must include a summary of the terms and conditions of transferred staff. This paragraph must include any requirements on the Tenant Management Organisation or the Council in respect of pension arrangements for transferred staff.

Appropriate safeguards should be provided for the pensions of all Tenant Management Organisation staff and specifically for staff transferring to the Tenant Management Organisation under TUPE. The council and the Tenant Management Organisation should agree the position on pension entitlements and ensure that staff are fully informed and consulted on such arrangements.

### **Schedule 2: The secondment arrangements for Council staff clause 3B**

#### **1 Principles of the secondment**

This paragraph must set out the main objectives of secondment for the Tenant Management Organisation and the Council. It is advisable to take legal advice about employee's rights

#### **2 Posts to be filled by seconded staff and period of secondment**

This paragraph must identify the posts that are to be filled by seconded staff and the period of the secondment.

For a fixed period of secondment, the start and end dates should be set out for the relevant posts together with procedures for ending the secondment. However, provision should be made for changing, shortening or extending the secondment arrangement by agreement of both parties.

#### **3 Recruitment and selection of seconded staff**

This paragraph must include a summary of the arrangements for the recruitment and selection of seconded staff, including how decisions will be taken.

This paragraph should also include the following:

- Arrangements for advertising and promoting the secondment opportunities within the council.



- Arrangements for external advertising where internal applicants do not meet the requirements of the person specification.
- Procedures for filling posts that become vacant during the secondment period.

#### **4 Management and supervision of seconded staff**

This paragraph must include a summary of the terms and conditions of seconded staff.

This paragraph should also include arrangements in respect of the following:

- Reviewing terms and conditions of seconded staff;
- Providing cover during periods of extended leave or absence;
- Grievance and disciplinary procedures, including respective roles of the Tenant Management Organisation and the Council;
- Provision for continuing Council support for seconded staff, including personal and professional development;
- Procedures for changing the Tenant Management Organisation's staffing structure; and
- Return of individual staff, including arrangements for seconded staff to apply for vacant Council posts during secondment.

#### **5 Costs of secondment**

This paragraph must set out the agreed costs that will be charged by the Council to the TMO for the provision of seconded staff.

This should include details of any costs the Tenant Management Organisation will be expected to meet over and above the charge made by the Council for those staff.

In preparing this schedule the Tenant Management Organisation and the Council should have regard to relevant current guidance and good practice.

### **Schedule 3: Liaison Officer role and responsibilities clause 6**

#### **1 The role of the Liaison Officer**

This paragraph must set out the role of the Council's Liaison Officer and the functions which the Officer will perform in providing support to the Tenant Management Organisation and acting as a point of contact between the Council and the Organisation.

This should identify the person responsible for providing liaison and support to the Tenant Management Organisation and the type and level of support that will be provided. The Council and the Tenant Management Organisation should agree the Liaison Officer's role as the first point of contact for the organisation, and the Officer's responsibilities in carrying out specific tasks, such as renegotiating the Tenant Management Organisation's allowances or the management agreement.

The Liaison Officer should have sufficient detailed knowledge of the Tenant Management Organisation and the appropriate level of authority within the Council to carry out the tasks agreed by the Council and the Tenant Management Organisation.

This should describe the extent of the Liaison Officer's responsibilities in relation to strategic and policy matters as well as day to day contact and support for the Tenant Management Organisation. Where other parts of the Council are responsible, for example, for dealing with specific problems or monitoring of the agreement, there should be a procedure for the Tenant Management Organisation to contact the relevant person in the Council.

There should be clear reporting lines between the Tenant Management Organisation and the Liaison Officer, and the Tenant Management Organisation and other parts of the Council,

## **2 Council functions under the agreement**

This paragraph must describe the parts of the Council responsible for carrying out specific functions, such as monitoring, under the management agreement and identify the person in the Council with the authority to carry out those functions.

This should identify relevant Council sections such as those dealing with housing finance, personnel, environmental and leisure issues.

This paragraph should set out, where appropriate, any relevant Council functions under the agreement which have been delegated to other organisations such as an Arms Length Management Organisation or contractor, and the procedures for the Tenant Management Organisation to contact and liaise with these in order to carry out its functions under the agreement.

## **3 Reviewing arrangements**

This paragraph must describe how liaison arrangements between the Council and the Tenant Management Organisation will be monitored, reviewed and reported to ensure that these continue to be effective.

## **Schedule 4: Management complaints policy and procedure clause 17**

### **1 Scope of Complaints Policy**

This paragraph must explain who is able to use the Complaints Procedure and the type of complaint covered.

The Complaints Procedure is available to any lawful resident of the Tenant Management Organisation who has a complaint against the organisation or those acting on its behalf and who has been unable to resolve the issue after discussion or correspondence with Tenant Management Organisation staff.

This paragraph should set out the respective responsibilities of the Tenant Management Organisation and the Council for dealing with the complaint. Any resident who has a complaint against the Council or those acting on its behalf should use the Council's own complaints procedure. However, complaints about the Council, which are made to the

Tenant Management Organisation, should be passed to the Council within an agreed period.

This paragraph should provide examples of the circumstances in which the complaints procedure is appropriate. These include complaints about the quality of services provided by the TMO, the behaviour of staff or those acting on behalf of the Tenant Management Organisation and Tenant Management Organisation committee members.

## **2 Procedure for making a complaint**

This paragraph must describe the procedure for making a complaint.

All complaints should be made to the Tenant Management Organisation Manager unless it concerns the Manager in which case the complaint should be made to a delegated officer of the board.

This paragraph should describe the help which will be given to those who require help in writing or formulating their complaint.

## **3 Complainant's Rights**

This paragraph must set out the complainant's rights in respect of confidentiality, representation and support and appeal.

## **4 Procedure for investigating and deciding complaints**

This paragraph must describe who will be responsible for investigating complaints, the timetable to ensure the process is prompt, how decisions will be taken, reported and communicated, and the procedure and timetable in respect of appeals.

This paragraph should identify the postholder within the Tenant Management Organisation responsible for undertaking the investigation of a complaint. This will normally be the Tenant Management Organisation manager unless the complaint relates to that person. Investigation may involve face to face interviews, consideration of relevant Tenant Management Organisation policies, use of other evidence and, where appropriate, referral to other authorities.

The timetable should commit the Tenant Management Organisation to making a decision within the same period as set out in the Council's complaints policy.

The investigating officer's report should state whether or not the complaint has been upheld.

If the complaint has been upheld, the report should state:

- What action will be recommended to the board to rectify the cause of the complaint;
- What compensation, if any, will be recommended to the board;  
If the complaint is not upheld, the report should state:
- The main grounds on which the complaint or claim for compensation has not been upheld;
- The procedure for appealing against the decision or any part of it.

## **5 Record keeping and review**

This paragraph must describe the arrangements for the safekeeping of any documents relating to the investigation of complaints, and how complaints

will be monitored and reported to the Board.

### **Schedule 5: Alternative dispute resolution procedure clause 18**

This schedule must set out the procedure for disputes to be referred to mediation or other forms of dispute resolution (other than arbitration which comes under Schedule 6). It must describe the procedure for the council or the TMO to request that the dispute be settled by mediation or other form of Alternative Dispute Resolution, including how to instigate the procedure. It must describe arrangements, agreed by the parties, for referring disputes under the Agreement to dispute resolution, including mediation, the dispute resolution procedure or service which is to be used to deal with such disputes, and the process by which this will be carried out.

There may already be an existing dispute resolution or mediation service available locally or regionally which could be developed or adapted for this purpose. Alternatively a national cost-controlled procedure for mediation has been specifically developed by the Chartered Institute of Arbitrators for use by Tenant Management Organisations and Councils to deal with disputes under the Agreement. Applications should be made to the Chartered Institute of Arbitrators in accordance with the “Mediation Procedure for Local Housing Authorities and Tenant Management Organisations (2005 Edition)”. Details of the scheme, including guidance notes and application forms, are available from the Chartered Institute of Arbitrators on [www.arbitrators.org](http://www.arbitrators.org). Organisations like the Centre of Effective Dispute Resolution – an independent not for profit organisation – also provide dispute resolution and prevention services. Details of Centre of Effective Dispute Resolution’s services are available on [www.cedrsolve.com](http://www.cedrsolve.com).

### **Schedule 6: Arbitration procedure clause 18**

#### **The centre for effective dispute resolution arbitration scheme for local housing authorities and tenant management organisations rules (2004 Edition)**

#### **1 Introduction**

1.1 This scheme, which was approved by the Office of the Deputy Prime Minister (ODPM), applies to disputes between a Local Housing Authority (Authority) and a Tenant Management Organisation arising under either:

- a) regulation 4 of the Housing (Right to Manage) Regulations 2012; or
- b) an agreement entered into pursuant to regulations 1 to 10 or regulation 11 (agreements entered into voluntarily) of those Regulations.

Arbitrations under these rules may be conducted –

- a) Using written submissions and documentary evidence only without a hearing; or

- b) With both written submissions and an oral hearing.

#### **2 Scope of the scheme**

2.1 The scheme uses arbitration as a method of resolving disputes between an Authority and a Tenant Management Organisation under regulation 4 of the Housing (Right to Manage) Regulations 2012 or an agreement entered into pursuant to

regulations 1 to 10 or regulation 11 (agreements entered into voluntarily) of those Regulations.

- 2.2 Applications for arbitration under the scheme in respect of a dispute do not relieve any party from any obligation it may have to pay the other party or parties any other amounts which are due and are not in dispute.
- 2.3 The scheme is intended to allow the parties to present their case without the need for legal representation, although parties may be represented by a third party of their choosing at their own expense if any, and after notification to the other party or parties to the dispute.
- 2.4 The arbitrator will have the right to call for additional evidence on any relevant matter, from any party, in writing or orally, if he / she deems it necessary to do so in order to reach a resolution of the dispute in accordance with relevant law, the 1996 Arbitration Act and any contract or agreement in existence between the parties.
- 2.5 The Centre for Effective Dispute Resolution (CEDR) administers the scheme independently and the appointment of the arbitrator under the scheme is within the Institute's exclusive and unfettered control. Arbitrators chosen for appointment have been approved by the Secretary of State for the purpose of acting as an arbitrator in connection with the Housing (Right to Manage) Regulations 1994.

### **3 Making an application**

- 3.1 Applications for arbitration must be made on the designated application Form, available from The TMO Arbitration Scheme, Centre for Effective Dispute Resolution, International Dispute resolution Centre, 70 Fleet Street, London, EC4Y 1EU. Telephone 0207-520- 3800; email info@idrs.ltd.uk
- 3.2 CEDR will appoint an arbitrator from its panel of arbitrators specifically created for this scheme, and inform the parties at an appropriate time in the proceedings.
- 3.3 Whilst making the application either party can elect for it to proceed under a documents-only procedure designed to offer quick and cost-effective decisions where the matters are not too complex. Alternatively, either party can request an oral hearing.
- 3.4 The scheme is subject to revision and amendment from time to time. The edition of the scheme in force at the time the dispute arises shall govern any arbitration under the scheme.

# Chapter 8

## **The Schedule: Key Performance Indicators clause 1**

### **1. Setting Key performance Indicators**

The paragraph should set out how the Tenant Management Organisation's key performance indicators and targets will be set and agreed with the Council. It should also set out how the Council's key performance indicators and targets that directly relate to council services provided to the Tenant Management Organisation will be set and agreed with the Tenant Management Organisation. It will include how and when key performance indicators and targets will be reviewed.

### **2. The TMO's Key Performance Indicators and Targets**

The Tenant Management Organisation's Key Performance Indicators and targets will be set out in this paragraph to enable it to measure its performance against the standards it is required to achieve under the Agreement,

### **3. The Council's Key Performance Indicators and Targets**

The Council's Key Performance Indicators and targets, will be set out in this paragraph to enable it to measure its performance against the standards it is required to achieve under the Agreement.

## **Annex Clause 1.4c**

To enable the Tenant Management Organisation to ensure that its key performance indicators and targets broadly reflect those set for the Council or its agents, the comparator area which is under the Council's direct management or its agent should be specified in the Annex to this schedule



**APPLICATION FORM TO USE THE ARBITRATION SCHEME FOR LOCAL HOUSING AUTHORITIES AND TENANT MANAGEMENT ORGANISATIONS (2013 Edition)**

Please read the scheme's rules carefully before you fill in and return this form.

**1 Tenant Management Organisation's contact details**

**Give your details below.** If an email address is given, we will send you information by email only.

Full name of Tenant Management Organisation:	
Address:	
Daytime phone number:	Mobile:
Fax:	E-mail address:

**2 Authority's contact details**

**Give your details below.** If an email address is given, we will send you information by email only.

Full name of Authority:	
Address:	
Daytime phone number:	Mobile:
Fax:	E-mail address:

### 3 Dispute details (to be completed by the party making the application)

In the space below please give us brief particulars of the nature, circumstances and location of the dispute, stating the issues for arbitration and amount in dispute. **The party making the application (the claimant) must also submit to IDRS Ltd two copies of their full claim when the application is submitted.**

(Continue on a separate sheet if necessary.)

### 4 Registration Fees

In the event of the application being for a documents-only arbitration:

- A cheque for the sum of £125 plus VAT is attached **from each party** and made payable to "IDRS Ltd"

In the event of the application being for an oral hearing:



- A cheque for the sum of £200 plus VAT is attached **from each party** and made payable to “IDRS Ltd”

## 5 Declaration

Please read the statements below before signing this form.

- We have read and understood the Arbitration Scheme for Local Housing Authorities and Tenant Management Associations.
- We are applying for you to appoint an independent arbitrator, in accordance with those Rules.
- We wish the arbitration to proceed as follows (delete whichever does not apply):
  - o Documents-only basis
  - o To include an oral hearing
- We have tried to settle this matter between us without success.
- We have not previously referred this dispute to the courts.
- We have the authority to commit to arbitration and we understand that the Arbitrator’s award is final and binding subject to our right of application to the court to appeal under the 1996 Arbitration Act.
- We have attached the relevant registration fees in accordance with section 4 above.

On behalf of the Tenant Management Organisation:	
Authorised person’s signature:	Date:
Name of authorised person:	
Position in company:	

On behalf of the Local Authority:	
Authorised person’s signature:	Date:
Name of authorised person:	
Position in company:	

**Now return this form with payment to:  
The Service Delivery Manager  
IDRS Ltd  
70 Fleet Street  
London  
EC4Y 1EU**