



THE SOCIAL
HOUSING
REGULATOR

Office for Tenants and Social Landlords
The Social Housing Regulator
known as

THE TENANT SERVICES AUTHORITY

DECISION INSTRUMENT

Instrument Number: 7

Title of Instrument: **S27 Housing Act 1985
Revision to the General Approval**

INTRODUCTION

- A. The purpose of this decision instrument is to issue a revised General Approval under s27 Housing Act 1985. This decision is taken with a view to achieving the fundamental objectives of the social housing regulator, and in particular those objectives regarding the need to ensure that tenants of social housing have opportunity to be involved in its management, and to regulate in a manner which minimises interference and is proportionate, consistent, transparent and accountable.
- B. The Deputy Director of Regulatory Operations has been authorised under powers delegated from the Board of the Social Housing Regulator to approve and issue the revised General Approval.
- C. The Social Housing Regulator will carry out its functions in a manner which conforms with the decisions set out below.

DECISION

Date decision made: 15 March 2012

Decision made by: Jonathan Walters, Deputy Director of Regulatory Operations acting with authority delegated from the Board of the Social Housing Regulator.

The TSA makes the decisions set out below.

- 1. Interpretation: In this instrument the Office for Tenants and Social Landlords is referred to as the Social Housing Regulator, and section 27 of the Housing Act 1985 as amended is referred to as s27.

2. Application: This General Approval applies to any local housing authority which is registered with the Social Housing Regulator as a provider of social housing and which wishes to enter into a management agreement with another person in relation to the exercise by that other person of such of the authority's management functions as are specified in the management agreement for:
 - (a) such of the authority's houses as are specified in the agreement, and
 - (b) any other land so specified which is held for a related purpose.
3. The Social Housing Regulator gives general approval under s27 to entry into management agreements which satisfy the requirements and conditions set out in Schedule 1 to this Decision Instrument.
4. This decision comes into force on 15 March 2012.
5. No other Decision Instruments are affected by this decision.

AUTHENTICATION

Name: Jonathan Walters

Position: Deputy Director of Regulatory Operations

Signature:

A handwritten signature in cursive script, appearing to read 'J Walters', written in black ink on a white background.

SECTION 27 OF THE HOUSING ACT 1985

THE GENERAL APPROVAL FOR HOUSING MANAGEMENT AGREEMENTS 2012

Section 27 of the Housing Act 1985 allows local authorities to enter into management agreements in relation to their housing stock, land held for related purposes, and any management functions specified in the agreement.

Local authorities which are Registered Providers of social housing are required under section 27 to seek approval to these agreements from the Regulator of Social Housing.

The Regulator of Social Housing in exercise of the powers conferred by section 27(6), (11) and (12) of the Housing Act 1985 and in all powers enabling it in that behalf, gives the following general approval:

PART 1

Citation, commencement application and interpretation

1. This approval may be cited as the General Approval for Housing Management Agreements 2012 and revokes the General Approval for Housing Management Agreements 2009.
2. This approval comes into force on 15 March 2012.
3. This approval applies to those local housing authorities in England for which the Regulator of Social Housing is the appropriate authority under section 27.
4. In this approval,

“hostel” has the same meaning as in section 622(1) of the Housing Act 1985;

“house” and “houses” shall be interpreted in accordance with section 56 of the Housing Act 1985;

“management agreement” has the same meaning as in section 27(2)(a) of the Housing Act 1985 except that for the purpose of this approval it excludes sub-agreements;

“manager” has the same meaning as in section 27(2)(b) of the Housing Act 1985;

“the authority” means the local housing authority which proposes to enter into a management agreement or which enters into such an agreement; and

“the Public Contracts Regulations” means the Public Contracts Regulations 2006 SI 2006/5 and the Public Contracts (Amendment) Regulations 2009 and includes all relevant amendments, modifications or re-enactments of those Regulations;

PART 2

General

5. A local housing authority in England may enter into a management agreement where the agreement complies with the conditions in paragraph 6 together with the conditions in any of the following:

- (a) Part 3
- (b) Part 4;
- (c) Part 5; or
- (d) Part 6.

6. The conditions referred to in paragraph 5 are that:

- (a) the agreement is for a duration of no more than five years;
- (b) before the agreement is made, the authority has complied with the requirements of section 105 of the Housing Act 1985 (consultation on matters of housing management) and any regulations for the time being made under section 27BA of that Act (consultation with respect to management); and
- (c) in making the agreement, the authority has selected the person with whom the agreement is to be made in a fair and open manner, in accordance with European Union and national law.

PART 3

Agreements subject to a competitive process

General

7. A management agreement complies with this Part where, in relation to the agreement:

- (a) the authority has complied with the tendering conditions set out in

paragraph 8;

(b) the terms of the agreement comply with the provisions of paragraph 9;
and

(c) the authority has complied with all necessary and applicable legal requirements and conditions including the requirements of the Public Contracts Regulations.

Tendering conditions

8. The tendering conditions referred to in paragraph 7(a) are that:

(a) the authority has drawn up a detailed specification of the functions which it proposes to be the subject of the management agreement (“the work”);

(b) the authority has published a notice inviting tenders for the work in:

(i) at least one newspaper circulating in the area in which the houses and any other land to be covered by the agreement are located:

and

(ii) at least one other publication circulating among persons who carry out work of that kind;

(c) the notice referred to in sub-paragraph (b) contains:

(i) a description of the work;

(ii) information about when and where the specification for the work can be inspected or obtained, either freely or at a reasonable charge; and

(iii) a requirement that any person wishing to carry out the work notifies the authority in writing of that wish within a reasonable time specified in the notice published by the authority; and

(d) where the authority receives a notice from one or more persons indicating a wish to carry out the work, the authority offers an invitation to tender:

(i) to at least four of those persons where four or more persons have indicated a wish to carry out the work; or

(ii) to all of those persons where fewer than four persons have indicated a wish to carry out the work.

Terms of the agreement

9.The terms of the management agreement referred to in paragraph 7(b):

(a) must not include a requirement that the manager is required to use any of the authority's assets other than:

(i) information technology; or

(ii) those that are essential to ensure the efficient and effective delivery of the work to the standard specified by the authority; and

(b) must include provision for the authority to charge no more than a market rate for any assets to be used in accordance with subparagraphs 9(a)(i) and (ii).

10. In paragraph 9, the term "asset" does not include the houses or land which are the subject of the management agreement.

PART 4

Agreements dealing with small numbers of houses

11. Subject to paragraphs 12 and 13, a management agreement complies with this Part where the consideration paid for the management agreement is below the applicable threshold identified in the Public Contracts Regulations for agreements entered into by local authorities for property management services and;

(a) it relates to no more than ten houses (not including hostels); or

(b) it relates to a hostel which accommodates no more than twenty persons.

12.In determining whether the current agreement complies with this Part:

(a) the number of houses or hostels to which any previous agreement relates must be added to those to which the current agreement relates; and

(b) the value of any previous agreement must be added to that of the current agreement.

13. Paragraph 12 applies where the authority:

(a) has entered into another management agreement ("the previous agreement") within six months of the agreement in relation to which this Approval is being considered ("the current agreement"); and

(b) the current agreement and the previous agreement are with the same person.

PART 5

Agreements with Tenant Management Organisations

14. A management agreement complies with this Part where it is entered into with a Tenant Management Organisation in accordance with any regulations made and in force under section 27AB of the Housing Act 1985, and is in the form approved by the Secretary of State for those purposes.

PART 6

Local Management Agreements

15. A management agreement complies with this Part where it is a Local Management Agreement in a form approved by the Regulator of Social Housing for those purposes.

16. In paragraph 15, the term 'Local Management Agreement' means an agreement between a local housing authority and its tenants other than provided for elsewhere in this general approval.

17. In paragraph 15, the term 'in a form approved by the Regulator of Social Housing' means an agreement that:

(i) conforms in all particulars to any model form of Local Management Agreement which has been approved by the Regulator of Social Housing; or

(ii) conforms substantially to any model form of Local Management Agreement which has been approved by the Regulator of Social Housing.

JONATHAN WALTERS

DEPUTY DIRECTOR OF REGULATORY OPERATIONS

15 March 2012