

**The Royal Borough of Kensington and
Chelsea**



Key Decision Report dated 6 June 2008

**For Decision by Councillor Fiona Buxton,
Cabinet Member for Housing Services, Adult
Social Care, Public Health and
Environmental Health.**

**Report by the Chief Housing Officer and
Executive Director for Housing, Health and
Adult Social Care**

**TEMPORARY CHANGES TO THE
MANAGEMENT AGREEMENT BETWEEN THE
ROYAL BOROUGH OF KENSINGTON AND
CHELSEA AND THE TENANT MANAGEMENT
ORGANISATION**

1. Introduction

- 1.1 I am writing to seek your approval to temporary changes to the Tenant Management Organisation (TMO) Modular Management Agreement (MMA) with the Council to enable the Council to take a guiding role in service delivery and establish an adjudication service. These changes have been requested by the TMO Board.

2. Background

- 2.1 Over the last six months the TMO has experienced increasing disruption to its governance arrangements stemming from the suspension of two Board members and their eventual expulsion from the Board for disciplinary breaches. A minority of its membership, including these two ex-Board members, has expressed dissatisfaction with the Board and service delivery. An Extraordinary General Meeting was called by this group of members which was held on the 18th of March. Although the motions proposed by the dissatisfied group were heavily defeated and there was a vote that overwhelmingly supported the TMO, the run-up to the meeting had diverted the time and energy of senior staff, and, were it to continue, could disrupt the business and focus on day to day service delivery.
- 2.2 Officers of the TMO and the Board feel that this activity is diverting attention away from maintaining and improving service delivery as senior staff and the Board are focussing a lot of their working time on dealing with this relationship. In the view of the TMO Chief

Executive the TMO requires time in which it can resolve conflict, make necessary changes to the TMO constitution around discipline and other matters and deal effectively with the performance problems which are beginning to manifest themselves. She and the Board feel that a more direct line of accountability to the Council, effectively removing the Board from sole decision making on operational issues for a period of, initially, six months with a potential of the period being extended for a further six months, would assist them with this and have requested our agreement to this approach.

2.3 To this end the Council wishes to appoint a (temporary) Partnership Director to work closely during this timeframe with the TMO Chief Executive and the Executive Team to represent the Council's interests and assist with the improvement process. In addition the Council has proposed that an "Adjudication Service" be set up for a temporary period to consider the outstanding grievances from the residents involved in calling the EGM and report to the Council and the TMO on its findings, which should inform the work to maintain and improve performance, and temporary appointments to a team to deliver this are being made under the guidance of the Borough Solicitor.

Both of these initiatives will contribute to, and ensure delivery of, an improvement plan to be agreed between the Council and the TMO.

3. Need

- 3.1 TMO performance statistics have shown a downturn in recent months, most notably with the repairs service. The TMO are faced with re-tendering this service at this time which could further negatively affect performance if not very actively managed. Additionally Council officers have been concerned over the last year at a series of internal audit reports which indicate limited assurance with the services and functions audited, such as governance, risk management, and major repairs backlog among others. It should be noted that since the excellent inspection result from the Audit Commission in 2006 the TMO has experienced significant change in the Executive Team. We do not believe that any of these areas are in any way irredeemable; we do think that the TMO need some time where they are not distracted by the complexities of governance in order to address them.

5. Options

- 5.1 The options would appear to be as follows.
- 5.2 Maintain the status quo. The TMO may not be able to drive constitutional change and maintain service delivery. Further

disruption to good governance is likely which may divert officer time from maintaining and improving service delivery. It is unlikely that work towards resolving the conflict with the dissatisfied residents would be productive. This is not the approach the TMO would prefer. This option is not recommended.

- 5.3 Under the MMA between the TMO and the Council, the Council can require an improvement plan to be put in place to deal with perceived underperformance. In such a scenario the TMO may be diverted from delivering the constitutional change needed. Significantly increased monitoring is likely to accompany any improvement plan and it is possible the TMO will be unable to meet the Council's requirements. The line of accountability between the Council and the operational activities of the TMO requested by the Board of the TMO would not be delivered through this option. This option does not deliver the adjudication process to resolve long standing grievances which the Council would wish to see. The TMO would also resist such an option.
- 5.4 The TMO and the Council can agree a voluntary variation to the MMA (a deed of variation) which would allow the Council to appoint a Partnership Director to oversee the implementation of an agreed Improvement plan relating specifically to the service delivery functions of the TMO. This would be undertaken jointly with the Chief Executive of the TMO, with a requirement for joint sign off on Board papers and key operational decisions with this Director and the Chief Housing Officer. Under this deed an adjudication service would be set up to report on the grievances of some residents. This would allow the TMO the time and space to deliver constitutional change. It would also allow for data analysis to be undertaken by the Council to support the temporary Partnership Director and also assist with the additional monitoring requirements an improvement plan would create. The TMO are in agreement with this option and it could be delivered in partnership. This is the recommended option.

6. Financial and Legal, Implications

- 6.1 The Director of Law and Administration comments that contract clauses in the Management Agreement between the Council and the TMO allow the Council to provide such assistance to the TMO as it is reasonably able to do subject to such terms and conditions as the Council may reasonable require.
- 6.2 The Head of Resource Management for Housing, Health and Adult Social Care comments that the cost of the post of Partnership Director and Adjudication Service is expected to be £147,000 for six months, rising to £294,000 if extended for a further six months. The cost will require a release from the HRA working balance.

7. Recommendation

- 7.1 I recommend that a voluntary variation to the MMA be agreed with the TMO to allow the appointment of a Partnership Director, and an Adjudication team, and to give the Council an increased role in data analysis for the period specified in the variation

Sue Daniels
Chief Housing Officer

Jean Daintith
Executive Director for Housing, Health and Adult Social Care

FOR COMPLETION BY AUTHOR OF REPORT:

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Background papers: Modular Management Agreement

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FOR COMPLETION BY GOVERNANCE SERVICES:

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