

# **TENANT MANAGEMENT ORGANISATION LIMITED**

**Modular Management Agreement for  
Tenant Management Organisations**

**VOLUME 2: The Schedules**

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## **SCHEDULE 1**

### **Property included in the Management Agreement**

**A list of the dwellings and description of other land and property (by postal number and address) which are covered by the terms of this Agreement are contained on the attached CD Rom**

**Location Map**

**List of equipment and items owned by the Council which the BWTMO may use**

**Other land and buildings**

## SCHEDULE 1A

Description of functions carried out by the BWTMO on behalf of the EMB to discharge the EMB's obligations to the Council under the EMB MMA and description of functions carried out by the BWTMO on behalf of the Council to discharge the Council's obligations under the EMB MMA.

KEY: responsibility = ●

		Responsibility			
Clause in EMB MMA	Function			BWTMO	
<b>Chapter 1</b>	<b>General Provisions</b>				
Ch1, c9	Confidentiality			•	
Ch1, c10	Equal Opportunities			•	
Ch1, c11	Training			•	
Ch1, c12	Information			•	
Ch1, c14	Right to Represent			•	
<b>Chapter 2</b>	<b>Repairs &amp; Maintenance</b>				
Ch2, c1,2,3	Repairs and Planned Maintenance			•	
Ch2, c4,5	Initiation of Major Works			•	
Ch2, c6	Undertaking of Major Works			•	
Ch2, c8	Replacement Responsibilities			•	
Ch2, c9	Insurance Repairs			•	
Ch2, c10	Provision of Estate Services			•	
Ch2, c11	Right to Improve			•	
Ch2, c12	Right to Repair			•	
<b>Chapter 3</b>	<b>Rent &amp; Service Charges</b>				
Ch3, c1	Confidentiality and Procedures			•	
Ch3, c2	Rent Collection			•	
Ch3, c3	Rent Arrears Control			•	
Ch3, c5	Former Tenant Arrears			•	
Ch3, c8	Notification of Rent Changes		•		
Ch3, c9	Payment of Rents			•	
Ch3, c11	Bad Debts/Write-offs			•	

**Volume 2 Chapter 1**  
General Provisions of the Agreement

<b>Chapter 4</b>	Leaseholder and Freeholder Service Charges			•	
Ch4, c1	Confidentiality and Procedures			•	
Ch4, c2	Information			•	
Ch4, c3	Calculation and Sending Demands			•	
Ch4, c4,5	Ground Rents and arrears, Service charge arrears.			•	
Ch4 c6 ,7,8	Consultation on service charges, billing collection and arrears			•	
<b>Chapter 5</b>	<b>Financial Management</b>				
Ch5, c4	Banking Arrangements			•	
Ch5, c5	Financial Control and Accounting Standards			•	
Ch5, c8	Reserve Funds			•	
Ch5, c9	Major Works Account			•	
Ch5, c10	Financial Reports			•	
Ch5, c15	Contracts			•	
<b>Chapter 6</b>	<b>Tenancy Management</b>				
Ch6, c3	Selection of Tenants			•	
Ch6, c4	Transfers			•	
Ch6, c5	Introductory Tenancy			•	
Ch6, c7	Breaches of Tenancy			•	
Ch6, c8	Anti-Social Behaviour			•	
Ch6 c9	Residents Disputes			•	
Ch6, c10	Unlawful Occupation			•	
Ch6, c11	Void Dwellings			•	
Ch6, c12	Right to Exchange			•	
Ch6 , c13	Right to Assign			•	
Ch6, c 14	Apps to Sublet			•	
Ch6, c15	Right to Succession			•	
Ch6 c16	Giving Consents			•	
Ch6 c18	Right to Buy (pre-contract enquiries)			•	
<b>Chapter 7</b>	<b>Staffing and Management of Relationship</b>				
Ch7, c2	Employment of Staff			•	
Ch7, c4	Employment of Contractors			•	
Ch7, c15,16	Statutory/Non Statutory Consultation			•	
Ch7, c17	Complaints			•	

Chapter 8	Performance, Monitoring and Reviewing of Standards				
Ch8, c4	EMB Performance Report			•	

## **SCHEDULE 1(B)**

### **EMB SLAs**



## SCHEDULE 2

### Equal Opportunities Policy and Procedures

**A copy of the BWTMOs current equal opportunities policy is published on the BWTMOs website at [www.kctmo.org.uk](http://www.kctmo.org.uk).**

The Royal Borough of Kensington and Chelsea's BWTMO is committed to equal opportunities in the provision of services, as an employer and tenant managed organisation. Its policy statement set out in its Constitution as a Company reads as follows:

***The affairs of the Organisation shall at all times be carried out so as to avoid discrimination against any person on the grounds of racial origin, gender, sexuality, marital status, age, disability, religion.***

The BWTMO serves a rich and diverse community within which varied housing service needs exist. Equality of opportunity for all sections of the community and workforce is a core value of the BWTMO and underpins all our work.

This means it is necessary to recognise where inequalities exist and take appropriate action to reduce them. Everyone in the organisation, whether BWTMO member or staff has a role to play in ensuring fairness towards tenants, clients, leaseholders, service users, colleagues.

Tackling discrimination and disadvantage is an immense task. The work of the BWTMO in this area will evolve. The initial focus of the BWTMO will be implementing its constitutional commitment to equal opportunities, and target groups will be selected to reflect these priorities. Other groups may be added in the future to ensure that the BWTMO upholds the principle of equal opportunities for all sectors of society.

## **AIMS**

The Royal Borough of Kensington and Chelsea's BWTMO aims to ensure that:

- a fair, appropriate and high quality service is provided by the BWTMO to all sectors of the client community
- the BWTMO is representative, democratic and accountable
- it promotes and encourages active membership by all individuals and sections of the community
- positive steps are taken to tackle, stop and avoid any discrimination
- it creates and maintains the BWTMO's reputation for being a good equal opportunities organisation, service provider and employer

In three activity areas, TENANT LED ORGANISATION, DELIVERING SERVICES, EMPLOYING STAFF the BWTMO will set policy objectives, and establish policy statements as set out below:

## **THE BWTMO AS A TENANT LED ORGANISATION**

### **Policy Objectives**

- to ensure information is provided in accordance with equal opportunities policies
- to recognise and endeavour to respond to the different specific needs of the target groups when planning and promoting membership activities
- to remove all barriers to effective consultation and provide opportunities to full participation

- to provide tenants and leaseholders equal access to training to promote full participation
- to ensure all tenants and leaseholders recognise the vital part they have to play in building an environment free from unfair discrimination, harassment or victimisation
- to liaise with outside agencies to help the BWTMO meet its equal opportunities commitments
- to monitor and review equal opportunities practices regularly

### **Policies**

- **The BWTMO will adopt and promote procedures to ensure it is representative, democratic and accountable.**

The details of eligibility of membership, what decisions should be taken by the AGM and what will be delegated to the board are contained in the Constitution.

The Constitution will be publicised and made available to Members. It will be available for inspection at libraries and local Estate Offices. A summary has been produced for all BWTMO residents.

Details will be included with the information pack given to new tenants. (To ensure new tenants are given adequate information to enable full access to the BWTMO and its operations).

- **Procedures to promote and encourage active membership of the BWTMO from all individuals and sections of the community.**

All new Tenants' Associations' Representatives will be invited to attend an induction course. Other training - including Chairing meetings, Treasurer's responsibilities etc. will be offered (as is the current practice) to tenant committee members to assist them.

All members will be expected to abide by the BWTMO's rules and regulations contained within the Constitution.

Meetings will be publicised at Local Estate Offices, in BWTMO newsletters and other mailshots, and at local libraries. All members will be eligible to attend - unless the Agenda includes confidential items, for example on a staffing issue.

- **Obligations to provide information about the BWTMO and its activities.**

The BWTMO will provide information to its members and residents on a quarterly basis - within its Newsletter. It will also publish an annual report and will make minutes, agendas, etc. available for inspection at local offices. The Annual Report will normally be available in the major different languages, Braille and tapes on request.

- **Commitments to Consultation and Participation**

The TCC's Code of Practice will be adopted and the residents will be consulted on all relevant issues.

The BWTMO will use its monitoring data to ensure that all residents and members are able to exercise their right to attend meetings.

Meetings will be conducted in accordance with the BWTMO's constitution.

- **Management Committee composition and Equal Opportunities Obligations**

The AGM will be run in accordance with the Constitution. However, the BWTMO will ensure that no one is unreasonably precluded because of language difficulties or any other special need.

Training provision will be made for the Management Committee members. Particular attention will be given to the induction of new Management Committee members.

The Constitution provides guidance on the appropriate Code of Conduct for Committee Members which requires the Equal Opportunities Policy to be upheld. The BWTMO Equalities Committee will hold the responsibility for examining, advising and progressing BWTMO work in the area of equal opportunities.

The BWTMO will liaise with outside agencies working on behalf of the target groups identified by the BWTMO Equal Opportunities Policy, as necessary.

- **How Breaches of Policy and Procedures will be Handled**

The BWTMO will monitor its Complaints Procedures. There is also guidance within the Constitution on how to deal with any breaches.

## THE BWTMO AS A SERVICE DELIVERER

## Policy Objectives

- to ensure all policies and practices incorporate equal opportunities considerations including complaints, harassment, rent collection and arrears and RTB applications. (A review of allocations and the recruitment of contractors has been completed. Please refer to policies).
- to ensure effective consultation with and participation by tenants/leaseholders from all sections of the community.
- to recognise and endeavour to respond to the different specific needs of the target groups.

- to monitor the access to and quality of services provided by the BWTMO.
- to review the BWTMO's performance against the Institute of Housing's Standards on Equal Opportunities and the Audit Commissions' Equality Performance Indicators.
- to liaise and consult with relevant organisations working on behalf of the target groups.

### **THE ALLOCATION SERVICE**

The BWTMO will use a formal points system for allocations that is sensitive to the needs of applicants.

The BWTMO will ensure full access to the service for people who are disabled and for those whose first language is not English.

The BWTMO will work with other agencies to meet housing need and to provide easily accessible information regarding such agencies.

The BWTMO will maintain confidentiality at all times to ensure that applicants have the right to all information regarding their housing (subject to legislative restrictions).

The BWTMO will undertake regular monitoring and review of the service.

### **THE CONTRACTING PROCESS**

The BWTMO will ensure the widest variety of contractors are given the opportunity to apply for BWTMO contracts and that the best one is selected on the basis of fair competition.

The BWTMO will encourage contractors to incorporate equal opportunities principles in all areas of its work in the future.

## **THE BWTMO AS AN EMPLOYER OF STAFF**

### **Policy Objectives**

- To employ a workforce solely on the basis of merit, recognising and valuing the contributions of all people irrespective of racial origin, gender, sexuality, marital status, disability, religion or responsibility for dependents.
- To provide all employees with equal access to training and development opportunities.
- To ensure that all terms of employment, benefits and facilities are afforded equally to all employees in the same or similar circumstances
- To ensure all employees recognise the vital part they have to play in building an environment free from unfair discrimination, harassment or victimisation.
- To ensure that breaches of this policy are fully investigated and where necessary dealt with under the BWTMO's disciplinary procedure.
- If an existing employee becomes disabled, to make every effort to retain them within the workforce, wherever reasonable and practical.
- To develop, monitor and review appropriate employment practices which help to avoid direct and indirect discrimination.

### **Policies**

A number of measures will be adopted in several key areas in order to ensure that a positive equal opportunities climate exists and is strengthened over time.

## Advertising

The Tenant Management Organisation is committed to developing the skills of its workforce. As part of this commitment, all advertisements will appear in the internal careers bulletin which will be circulated to all staff. Where it is felt that the internal applicant pool may not provide a sufficiently wide field of applicants, advertisements may additionally be placed in one external publication. Job opportunities will be advertised widely and details of vacancies circulated to many local job clubs, charities and community associations.

Publications will be selected for their coverage of the appropriate professional or technical market, ensuring they reach a broad range of suitable potential applicants.

All advertisements will carry the text:

*The BWTMO is an equal opportunity employer*

## Recruitment and Selection

Care will be taken to ensure all recruitment and selection processes are objective and as free from bias and subjectivity as possible. At least one member of every recruitment panel will have received formal training in good practice of recruitment and selection including equal opportunities.

All selection processes will be designed to measure candidates against predetermined objective criteria. These criteria will be made available to candidates along with the opportunity to receive feedback at the end of the recruitment process.

## Training and Development

Line managers will be responsible for ensuring that all staff receive adequate and appropriate training and development opportunities to enable them to provide a quality service to the Organisation's clients. These opportunities



can take many forms, including on-the-job coaching and guidance; formal courses and seminars; and professional development activities such as project work or secondment.

Effective staff development is fundamental to ensure that everyone in the organisation is able to realise their potential.

Staff will have opportunities to attend a wide range of formal training courses from basic skills events to intensive management development programmes. Consideration will be given to equal opportunities on all courses, both in terms of the content of the course and access to it.

Training and development opportunities will be offered to all staff regardless of their ethnic origin or sex or any other irrelevant factor.

## Job Profiles and Person Specifications

Job profiles and person specifications form the cornerstone of the recruitment and selection process. Care will be taken to ensure that job profiles accurately reflect the principal elements of a job, and that person specifications contain criteria which are job-related, ability based, and measurable or observable. Checks will be made to ensure there are no unnecessary conditions or standards, nor use of words which might imply unjustifiable bias of any kind.

## Employment Practices

A wide range of employment policies and practices will be implemented, aimed at avoiding discrimination and creating an environment which respects the individual. Examples of these practices include offering interviews to all suitably qualified candidates with disabilities, and adopting a supportive and practical strategy for dealing with sexual harassment.

All individuals will be made aware of their personal responsibility and the consequences of inappropriate behaviour. This will happen through publicising and distributing policies and guidance notes, ongoing training and

management support. Managers also have a responsibility to ensure that none of the employees for whom they are responsible are subject to harassment of any form.

### **Conditions of Service**

As a responsible employer the BWTMO recognises that flexible approaches to working arrangements are important and will put in place a range of measures to help staff combine work with personal commitments in a positive way. Such measures include job sharing and career break schemes, plus a flexible working hours scheme which aims to find a suitable balance between the needs of the organisation and needs of individual employees.

### **Disciplinary Procedures**

Through publicising and distributing guidelines and procedures, and by ensuring that all managers are encouraged to attend training on the disciplinary process, steps are taken to ensure that all managers and employees are aware of their personal responsibility for preventing acts of discrimination, including victimisation and harassment. Disciplinary action will be taken where there is a reasonable belief that a member of staff has deliberately breached this policy.

### **Grievances**

Any complaints from employees of unfair discrimination should be pursued through the Organisation's grievance procedure. People outside of the organisation with comments about the operation of this policy should address them to the Chief Executive of the BWTMO.

## **MONITORING ARRANGEMENTS**

The Tenant Management Organisation will undertake monitoring in key areas to evaluate the effectiveness of its equal opportunities policy objectives and to highlight areas for improvement. Monitoring will take place as part of the BWTMO's performance monitoring process on a six-monthly basis.

Key areas of monitoring will be:

## Organisational Practices

- BWTMO membership - to check whether procedures to ensure that all sections of the resident community are getting a fair chance of becoming members of the BWTMO are actually working
- BWTMO committees - to see if members of the BWTMO are getting equal access to active participation within the BWTMO and measure how representative committees are of the tenant/leaseholder population

## Practices in Service Delivery

- Allocations - to see which groups are being rehoused by the BWTMO and which groups are applying and securing housing through the transfer process, by size, type and area
- Tenancy Management - particularly to highlight what types of complaints (including those involving harassment) are being made, by whom and their outcomes
- Participation & Consultation - to ensure that all groups are being consulted and given the opportunity to participate fully in the BWTMO
- Hiring of Contractors & Other Agents - to check whether each group is being given equal opportunity to apply for contract work

## Employment Practices

- Recruitment (including promotion and transfers) - to see if one group is fairing better in the recruitment and selection process
- Training - to check that similar basic training is provided for all in comparable jobs

- Terms and conditions of employment - to examine whether there are conditions of employment which might limit the numbers of applications from particular groups of employees

As well as those mentioned above, other specific areas will also be monitored (e.g. use of Community Alarm Service, repairs, etc) and kept under review.

The monitoring process is largely based on data from an equal opportunities form. There are also to be periodic studies and sampled surveys on the operation of specific practices to augment this monitoring and review process. It is stressed that this information will be used solely for monitoring purposes and stored securely.

BWTMO monitoring data will be compared and contrasted with local population statistics (e.g. on employment patterns, deprivation, housing need, etc). This will enable more accurate measures of how the BWTMO is meeting local needs.

Equality monitoring papers, with the necessary recommendations for action, will be reported to relevant BWTMO committees (including the BWTMO Equalities Committee) every six months for consideration and decision. An annual action plan (identifying issues needing to be addressed and strategies for addressing them) will be produced, also for decision by the relevant BWTMO sub-committees. Any policy changes proposed as a result of Equal Opportunities monitoring will be passed to the full BWTMO Board for their approval.

Monitoring reports will also be publicised to tenants/leaseholders, staff and relevant outside organisations.

## SCHEDULE 3

## Supervision Notice Policy and Procedure

1.
  - 1.1 This paragraph sets out the circumstances and criteria in which a Supervision Notice may be served by the Council on the BWTMO. 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 BWTMO and there is no realistic prospect of remedying the situation by taking action under any other provision of the management agreement.
  - 1.2 The Council will first seek to agree an Improvement Plan Chapter 1 clause 19 and will only use the Supervision Notice Procedure only as a last resort.
  - 1.3 The Council must be reasonably satisfied that the situation and circumstances warrant this course of action.
  - 1.4 The circumstances which may trigger service of a Notice include the following:
    - An adverse Annual Review Chapter 8 clause 4;
    - An adverse Five Year Review Chapter 8 clause 7; or
    - An adverse Special Review Chapter 8 clause 7.

The information obtained in a review will inform the content of the proposed Supervision Notice.

Serious failings may fall within one of more of the following categories:

- Where the BWTMO committee has ceased to operate in a lawful or meaningful way and has no immediate plans to remedy the situation quickly;
- Where the BWTMO has mismanaged its housing management functions so that even most basic services are not being provided to tenants, and it has no immediate plans to remedy the situation (for example; where there is a significant increase in the level of complaints from tenants about services provide by the BWTMO);
- Where the BWTMO is taking decisions that are outside its powers and/or unlawful, and/or appears to be trading whilst insolvent;
- Where the BWTMO 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 BWTMO failure to produce audited accounts within the specified timeframe in the BWTMO's constitution;
- Serious performance failures identified as a result of the regular monitoring visits or meetings and through performance indicator information provided by the BWTMO to the council;
- Consistent, continuing BWTMO 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 7.

2. Service of Supervision Notice procedure

This paragraph 2 sets out the procedure for the council to propose serving a Supervision Notice and for the service of Supervision Notice:

The Council shall notify the BWTMO in writing that it proposes to serve a Supervision Notice on the BWTMO. The notification shall include the following:

- the reason for such action;
- the date it wishes to commence such action;
- the time period which it believes will be necessary for such action; and
- to the extent practicable, the effect on the BWTMO and its obligation to carry out management functions under this Agreement, any other relevant recommendations on the content of the proposed Supervision Notice;
- the name of the Council Officer responsible for serving the Supervision Notice;
- the name of the BWTMO Officer responsible for receiving the Supervision Notice
- the person from the Approved Panel which shall consist of not less than four persons two drawn from another Council and two from another TMO who have been approved by the parties as having the relevant knowledge and experience; (and who shall be independent of the parties and act impartially in the provision of all advice and assistance to the parties) who it proposes shall advise the parties on the reasonableness of the proposed action and make

recommendations on the content of the proposed  
Supervision Notice.

The BWTMO's consent must be obtained to the person proposed by the Council to provide advice under this paragraph 2.

#### The Independent Person

The Independent Person shall provide external scrutiny and act as an external monitor when the Supervision Notice Procedure is being used.

The recommendations of the Independent Person shall be clear, realistic and achievable within a reasonable timescale, having regard to the circumstances of the case and financial and any other relevant constraints.

The advice of the Independent Person shall be made available to the Council and the BWTMO and both parties are required 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 BWTMO to remedy the problem or failing;
- Specific action, by the Council or the BWTMO, 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 including targets to be achieved in order for the Supervision Notice to be terminated; 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 BWTMO to remedy serious problems. During the period of the Notice the BWTMO 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 BWTMO;
- Strengthening the BWTMO's monitoring arrangements;
- Reviewing and strengthening the BWTMO's financial and reporting systems and procedures;
- Providing time-limited additional management support to the BWTMO; and
- Strengthening the BWTMO Board.

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

This paragraph sets out how progress on implementing action specified in the Supervision Notice will be monitored, reviewed and reported. The Council and BWTMO representative named in the Supervision Notice are responsible for taking action at each stage of this procedure.

The Council (behaving in a reasonable manner and taking advice from the Independent Person as appropriate) may end the Supervision by service of a Supervision Termination Notice or extend it; or exercise any other rights under the 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 BW TMO 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 shall include regular (monthly) review meetings to monitor progress. The Supervision Notice must 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.

## **ANNEX A**

### **Summary of the Constitution of the BWTMO**

(the full version may be found on [www.kctmo.org.uk](http://www.kctmo.org.uk))

#### **1 The Company**

The Tenant Management Organisation is a company limited by guarantee. This means that it does not have shareholders. When you become a member of the company, you undertake to contribute up to £1 to the assets of the BWTMO if it is wound up and owes money. You do not have to pay anything when you join the company and your liability as a member can never be more than £1.

#### **2 Objects**

A company must state in its constitution what it has been set up to do. The objects of the BWTMO include managing and maintaining the council housing stock of the Royal Borough of Kensington and Chelsea and providing management services to other organisations. In addition, the organisation has wide ranging powers to promote tenant participation and management within the Borough and generally, also to enter into contracts for the benefit of the organisation.

#### **3 Non-Discrimination**

The objects include a statement that the BWTMO will not discriminate on the basis of racial origin, gender, sexuality, disability, age, religion, marital status or responsibility for dependants.

#### **4 Membership**

Membership is open to any tenant or leaseholder over 18 years old who occupies premises which are managed by the BWTMO. Any

person over 18 years old who is occupying a dwelling for which the company is responsible with the consent of a tenant or leaseholder may join the BWTMO if he or she is registered as an occupant of the property. The Register is maintained by the BWTMO itself. You will automatically cease to be a member if you cease to be a tenant, resident leaseholder or cease to be registered as an occupant, and also if you are expelled from membership.

## **5 Management of the BWTMO**

Ultimate responsibility for management rests with the BWTMO Board which consists of up to 21 members. These will be eleven elected tenant or leaseholder members, five members appointed by the Royal Borough of Kensington and Chelsea and five additional 'independent' members.

## **6 Board Members**

All Board Members serve for a three year term. Any person who has been a tenant, resident leaseholder or registered occupant for at least two years may stand for election. These are elected as borough-wide members or as area members and in each case, a member must be nominated for election by at least five members. The elections are carried out annually over three years on a one-member, one-vote basis. These Board Members must stand for re-election every three years.

## **7 Board Member Training and Development**

Elected Board Members shall undertake continued training and development to develop the skills necessary to perform their responsibilities. An annual programme of training will be arranged. Board Members will also be involved in self-appraisal and whole Board appraisal.

## **8 Meetings of Members of the BWTMO**

As a limited company, the BWTMO is required to hold an Annual General Meeting every year and for this notices will be sent to all members. If you wish to put forward a resolution for consideration at the AGM, this must be on company business and supported by at least five other members and submitted in writing six weeks in advance of the meeting.

In addition to the AGM, the Board can call an extraordinary members meeting at any time and a member's meeting can also be called by either 10% or the members or a total of 50 members (whichever is least) requesting in writing that a meeting be called.

The constitution provides that matters at members meetings will be decided on a show of hands unless a paper vote is demanded by the chair or by at least one half of the members present.

## **9 Expulsion of Members**

It is necessary for the BWTMO Board to have power to expel a member in extreme circumstances. The Board can delegate two or more Board Members power to suspend a member of the BWTMO. If this step is taken, the Board must meet within three months to consider the matter and receive representation from the member. The member is also entitled to be accompanied by a friend or advisor. If the Board decides on the member's expulsion, the member is entitled to ensure that the matter is placed upon the agenda for the next AGM or members meeting.

## **10 Private Interest**

All members and Board Members are required to declare whether they have any connection with a matter which is being discussed at a meeting and Board Members are required to enter details in a Register

of Interests. This will safeguard the BWTMO from any suggestions that self-interest is influencing decisions made by Board Members. In addition to the provisions in the constitutions, conduct of the Board will at all times be governed by financial regulations and standing orders.

## **11 Copies of Constitution**

Copies of the constitution can be obtained from the Company Secretary of the Royal Borough of Kensington and Chelsea Tenant Management Organisation Limited at the BWTMO's registered office

*Revised March 2005*

## SCHEDULE 1

## Functions of the BWTMO in Respect of Repairs Planned Maintenance and Major Works and Performance Standards

- The BWTMO is responsible for all repair planned maintenance and Major Works functions for dwellings let on periodic secure tenancies or fixed term secure tenancies and flats or houses sold on long leases and freehold houses (except where the responsibility for repair and maintenance is that of a leaseholder or freeholder under his/her lease or deed of freehold transfer) are delegated to the BWTMO.
- All repair responsibilities for dwellings let on furnished tenancies

## PERFORMANCE STANDARDS

**The arrangements for managing repairs in respect of:**

- **Reporting repairs**
- **The priorities, timescales, and standards for completing each category of repair**
- **Planned maintenance**
- **Re-servicing of void properties**
- **Upkeep of communal areas**
- **Code of Conduct for repair staff and contractors**
- **Compliance with health and safety requirements**
- **Compensation**
- **Arrangements for monitoring the quality of the repair service**

**And for Major Works are as per the current Tenants Handbook and Leaseholders Handbook published on the BWTMO website.**

**Principals for the management of Major Works schemes are contained in Schedule 3**

## SCHEDULE 2

## Management of the Major Works Programme

The Capital Programme including Major Works will be prepared in accordance with: the planning framework described in the Agreement, the consultation protocol for Major Works and Estate Renewal below and the agreed financial protocols entitled 'Improving HRA Financial Management'

## Protocol for Consultation on Major Works and Estate Renewal

This protocol is to ensure appropriate co-ordination of the Council's strategic approach to renewing and regenerating its housing stock and the strategic investment and asset management role of the BWTMO.

The Council has delegated Major Works function in relation to its stock to the BWTMO and so it is important that the development of programmes to undertake work to, or for, redevelopment of, the stock is managed between the two parties. A clear protocol is, therefore, required defining responsibilities and structures for this co-ordinating process.

## Proposed process

- 1 In accordance with the agreed financial protocol set out in this Schedule 2, the BWTMO prepare an annual submission for RBKC Capital resources. This is prepared at a scheme-by-scheme level, identifying the type and cost of the proposed works and a date for likely start on site of the works. The bid is submitted to the Head of Resource Management, Housing, Health and Adult Social Care (HHASC) Finance.
- 2 The programme submitted is reviewed jointly by the Head of Resource Management and the Chief Housing Officer and compared to proposals in development for the Council's Estate Renewal Programme.



- 3 The BWTMO's Director of Property Services will be notified if schemes appearing on the BWTMO programme are to be undertaken on estates or blocks likely to be subject to a renewal approach from the Council. The notice will identify any scheme that the Council proposes should be dropped from the programme and request they consider substitution of a non-contentious scheme.
- 4 Within 14 days following receipt by the BWTMO of any such notice, the BWTMO shall respond by notifying the Chief Housing Officer whether or not it agrees that the Council is entitled to take the proposed action under the terms of the Agreement. If the BWTMO does not agree the proposal, it shall provide reasons.
- 5 If the BWTMO responds pursuant to paragraph 4 above that it does not agree with all or any of the proposals, the matter shall be determined in accordance with the dispute procedures contained in the Management Agreement.
- 6 If the BWTMO either does not respond pursuant to paragraph 4 or responds that it does agree with the proposal, the Head of Resource Management submits the bid for capital resources to Corporate Finance in October of each year. As part of this process, the agreed detail for the HRA bid would be appended, including the scheme to be dropped, and a recommendation on this would be included in the submission, including any recommendations for substitute schemes.
- 7 The bid is then subject to a Council officer scrutiny panel, looking at deliverability of the bids (programme scheduling). This panel is chaired by the Executive Director for Finance, Information Systems and Property. The Chief Housing Officer will recommend to the Executive Director for Finance, Information Systems and Property that the Capital programme for HRA stock be funded at a reduced level from the original bid; that is, with the amount of funding identified as applicable to the "dropped" scheme removed from the programme, or at a revised

level, with a substitute scheme identified at an earlier stage being incorporated.

- 8 This will form part of the report on the bid to the relevant Cabinet Members - who sponsor the bid. The detail of the HRA and estates renewal schemes should be presented at this stage. Cabinet Members can challenge to ensure strategic priorities are co-ordinated.
- 9 The Council's Property Strategy Group reviews the deliverability and affordability of the bid. This group is chaired by the Cabinet Member for Finance and Property.
- 10 The bids for capital resources are presented to the Council's Leader's Group in November. Deliverability, affordability and political priorities are brought together in the report presented.
- 11 A report goes back to the Leader's group in December where any adjustments from November's Leader's Group are incorporated.
- 12 The Capital Programme is agreed at Cabinet in February.
- 13 Any changes to the HRA programme from the one originally submitted in October by the BWTMO should be raised and monitored through the HRA capital programme group.
- 14 Any changes to the HRA programme in the year will be reported to the relevant Cabinet Member.

The financial protocols entitled ‘Improving HRA Financial Management’ are available at:

<http://hss/RBKCAREATPLT/default.aspx?CatID=beeaebc6-4d44-45e4-8a0c-ab16fe78bcc8>

## **SCHEDULE 3**

### **Principles for the Management of Major Works Schemes**

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA TENANT  
MANAGEMENT ORGANISATION LIMITED

Capital Programme Team

#### **PROJECT MANAGEMENT PROCEDURES Housing Capital Projects**

#### **CONTENTS**

1. Project Inception
2. Client Review Group
3. The Project Team
4. The Brief
5. Appointment of Consultants
6. Briefing the Consultant
7. Feasibility Stage
8. Design Stage
9. Selection of Contractor
10. Tender Stage
11. Tender Acceptance
12. Pre-Contract Meeting
13. Preparations for the Building Works
14. Contract Protocol
15. Site Meetings
16. Contractual Payments
17. Project Monitoring
18. Variations
19. Handover
20. Post Contract Defects
21. Final Account
22. Post Project Review

This note is intended for guidance purposes only and should be adapted to suit the nature and complexity of the project. The Project Manager should always ensure that current guidelines and financial regulations are adhered to.

VS/July 2005

## **ROLES AND RESPONSIBILITIES**

### **1. Project Manager's role:**

The Project Manager is appointed by the BWTMO and is the contact between the BWTMO and consultant. All client decisions other than those specifically stated as being the remit of the Consultancy Services Manager will be made by the Project Manager. The Project Manager leads the project team.

### **2. Consultancy Services Manager's role:**

1. Participation in the approval and selection of consultants for the project.
2. The agreement of fees and the appointment of the consultant.
3. The agreement of changes to the consultant's appointment resulting from changes to the brief and the consequential effect on consultants fees.

### **3. Neighbourhood Manager's role:**

1. Liaison with Residents Association, Customer Services, Tenancy Management and residents generally to ensure their requirements are met as far as possible.
2. Contact with individual residents where there are special needs or other circumstances arise.
3. To input housing management experience in relation to design issues.

### **4. The Property Services Manager's role:**

1. Investment programme planning and control.
2. Allocation of resources to all projects.
3. Approval to all variations above standing order thresholds.

### **5. Resident Liaison Officer's role**

Is to act as a point of contact between the residents, client and contractor and to assist with access and decanting where required,

## **1. PROJECT INCEPTION**

### **1.1 New capital projects can be identified in a number of ways:**

- Stock condition survey;
- Energy stock profile;
- Surveying knowledge;
- Resident Association request;
- Invitations from the Government to bid for special

allocations.

- |     |  |                          |
|-----|--|--------------------------|
| 1.2 | A project can only be progressed after the Board has approved it. Once a project forms part of the capital programme, the Project Services Manager will nominate a Project Manager for the scheme.   | Project Services Manager |
| 1.3 | The Project Manager will agree a title for the project with the Neighbourhood Manager and will obtain an expenditure code for the scheme from Group Finance. The Project Manager will also carry out a programming risk assessment.                      | Project Manager          |
| 1.4 | The Project Manager will outline the client requirements for the project in writing after consulting fully with the Neighbourhood Manager and Residents' Association.  | Project Manager          |
| 1.5 | The Project Manager will prepare an outline programme for the project. The version found on MS Project can be used as a standard form.   | Project Manager          |
| 1.6 | The Project Manager will work out a budget for the scheme using the guidance contained in the budget procedure note. This budget will be agreed with the Property Services Manager. The scheme will then be inputted onto the project monitoring system. | Project Manager          |

## **2. CLIENT REVIEW GROUP**

- |     |  |                 |
|-----|--|-----------------|
| 2.1 | The Neighbourhood Manager and Project Manager will decide whether to establish a Client Review Group or steering group for the project. This will be chaired by a representative of the Residents Association and will include the Neighbourhood Manager and Project Manager. The role of this group will be to act as client for the project, review progress in implementing the scheme and focus on those issues which directly concern residents. Where it is decided not to establish a Client Review Group, the Residents Association will be asked to nominate a representative to join the Project Team. | Project Manager |
| 2.2 | If there is no Residents Association, the Project Manager should advise the Tenant Participation Group and agree how best to encourage resident involvement.   | Project Manager |

## **3. THE PROJECT TEAM**

- |     |   |
|-----|---|
| 3.1 | A project team will be established for each project. This will normally comprise: |
|-----|---|

- The Project Manager, who will lead the team;
- The Neighbourhood Manager;
- The Consultant, when appointed;
- A Resident's Association representative;
- A Resident Liaison Officer;
- A representative from Technical Services, if appropriate and;
- A Leasehold Services Officer when leasehold properties are included.

A Health and Safety Adviser may be asked to attend the briefing meeting as required.

- |     |   |                 |
|-----|---|-----------------|
| 3.2 | The Project Manager will discuss and agree with the BWTMO Director of Technical Services if technical input is necessary. A technical representative or Maintenance Planning Manager will be nominated, if required.  | Project Manager |
| 3.3 | On occasion, other people will be invited to particular project team meetings for specific topics.  | Project Manager |
| 3.4 | The Consultant will take instructions from the Project Manager. All members of the Project Team and other interested parties must therefore liaise with the Project Manager. The Consultancy Services Manager will also issue instructions as determined by the brief and terms of appointment. |                 |

#### **4. THE BRIEF**

- |     |   |                 |
|-----|---|-----------------|
| 4.1 | The Project Manager will prepare Part 1 of the Brief based on the client's requirements using the standard template, which is found on the shared drive. At this stage the Project Manager should consider whether a maintenance schedule/cash flow should be prepared to assist with leasehold consultation. The extent of consultation should also be detailed at this stage including any special requirements and leasehold considerations. | Project Manager |
| 4.2 | The Project Manager will send a copy of Part 1 of the brief to all members of the project team and the Residents Association. The brief will also be sent to relevant Service Managers and the BWTMO Maintenance Programming Manager for comment by the relevant BWTMO Technical staff. The Project Manager in the prescribed timescale should receive comments. The Consultancy Services Manager will prepare Parts 2 and 3 of the brief.      | Project Manager |
| 4.3 | Once he or she is satisfied that the brief meets the client requirements, the Neighbourhood Manager will  | Neighbourhood   |

return a signed copy of the brief to the Project Manager  
Manager stating that the brief is approved.

- |     |  |                                       |
|-----|--|---------------------------------------|
| 4.4 | At this stage, the Neighbourhood Manager will advise the Project Manager how it is proposed to consult tenants during the project and the Project Manager will prepare a consultation plan. A consultation strategy should also be agreed with Leasehold Services. | Neighbourhood Manager/Project Manager |
|-----|--|---------------------------------------|

## 5. APPOINTMENT OF CONSULTANT(S)

- |     |   |                              |
|-----|---|------------------------------|
| 5.1 | The following procedure will apply to larger complex projects where EU procedures apply. Currently consultants are being selected by tender from a select list.   |                              |
| 5.2 | <p>The Project Manager, Consultancy Services Manager, Neighbourhood Manager and Residents Association representatives will select suitable consultants with relevant experience. The Project Manager will chair the panel. Depending on the size and complexity of the project, consultants may be appointed from a number of disciplines:</p> <ul style="list-style-type: none"> <li>• Architecture</li> <li>• Building surveying</li> <li>• Quantity surveying</li> <li>• Mechanical and electrical engineering</li> <li>• Structural engineering</li> <li>• Landscape architecture</li> <li>• Lift engineering consultant</li> <li>• Planning Supervisor</li> <li>• Party Wall Surveyor</li> </ul> | Consultancy Services Manager |
| 5.3 | Where applicable, separate consultants will be interviewed to carry out the role of Planning Supervisor in accordance with Construction (Design and Management) Regulations 1994.   | Consultancy Services Manager |
| 5.4 | Following the selection of consultants the Consultancy Services Manager will prepare a report for Property Management Committee requesting their appointment where the estimated fee is in excess of £100K. For fees of less than £100k the Chief Executive can approve the appointment.  | Consultancy Services Manager |

## 6. BRIEFING THE CONSULTANT

- 6.1 The Project Manager will arrange and chair the formal Project Manager briefing meeting. Those asked to attend will include:
- The Consultant;



- The Consultancy Services Manager;
- The Neighbourhood Manager;
- Resident Liaison Officer;
- Resident Association representative;
- Leasehold Services Officer and;
- BWTMO Technical Services representative.

- 6.2 The pre-contract programme and budget for the project will be confirmed. Project Manager

## **7. FEASIBILITY STAGE**

- 7.1 The Consultant will prepare a letter of introduction advising the residents that the Consultant will carry out a survey and prepare a feasibility report in accordance with the brief. The letter will also include the Resident Liaison Officer's (RLO) details. At this stage, if necessary, the RLO will seek to establish if there are any residents with special needs. The RLO may contact individual residents to establish any health problems, vulnerability or need for temporary decanting. Consultant
- 7.2 The Neighbourhood Manager will make arrangements for the Consultant to have access to the property and carry appropriate identification. The Neighbourhood Manager will also advise the Consultant and RLO of any tenants who are known to be potentially violent or vulnerable. The RLO can also obtain information from the BWTMO Health and Safety Adviser through the Vireps report. Neighbourhood Manager/RLO
- 7.3 The Project Manager is to ensure that the Contract Administrator completes the Investment Matrix as part of the feasibility study. Project Manager
- 7.4 The Project Manager should advise the Consultant that the feasibility costs need to be broken down by block or estate to facilitate leasehold recharges. The feasibility need to be prepared bearing in mind that if there is a leasehold challenge the Consultant may be required to support his/her recommendation in a LVT hearing. Project Manager
- 7.5 The Project Manager will arrange a meeting, prior to the deadline date for receipt of the report, for the consultant to present the draft for comment. The meeting will confirm the scheme content, cost, potential savings and the programme. Project Manager
- 7.6 The consultant will submit the feasibility report to the Project Manager in accordance with the programme. Consultant



- 7.7 The Project Manager will circulate copies of the report to all members of the project team, the Residents Association and relevant Managers for their comments. A copy will also be sent to the Maintenance Programming Manager for comment by the appropriate Technical Services staff. Project Manager
- 7.8 Any observations must be submitted in writing to the Project Manager in accordance with the programme.
- 7.9 Residents will be consulted about the scheme proposals. This may take the form of exhibitions, newsletters, questionnaires or public meetings. The extent of consultation will be clearly identified in the brief; this should include a section on leasehold consultation and reference to the options available such as payment plans and items, which may be negotiable. Project Manager
- 7.10 At this stage the Project Manager will make a judgement that the scheme content is as required and that adequate consultation has taken place. The Project Manager will liaise with the Leasehold Services Officer to ensure that the stage 1 consultation letters are sent out. Project Manager/  
Leasehold  
Services Officer
- 7.11 The Project Manager will prepare a report for the Property Management Committee which will provide information on:
- The need for the scheme
  - The feasibility survey
  - The project proposals
  - The project costs
  - Future maintenance implications and costs
  - Residents views
  - Implications for leaseholders
  - Comments from BWTMO Technical Services
  - First stage(s) 20 feedback.
- The report will also seek approval to:
- The scheme proposals
  - Make provision in the Financial Plan for the project
  - Progressing the scheme to invite tenders stage
- The Project Manager will liaise with the Neighbourhood Manager for Lancaster West EMB to establish the reporting of projects affecting that estate.
- 7.12 Following Committee approval, the scheme content and budget will be finalised and the project will

progress to design stage

## 8. DESIGN STAGE

- |      |   |                          |
|------|---|--------------------------|
| 8.1  | There will be regular Project Team meetings throughout the design stage to:   |                          |
|      | <ul style="list-style-type: none"> <li>Review progress</li> <li>Ensure that the scheme continues to meet the brief and remains within the budget provision</li> <li>Ascertain client requirements in a timely and structured way</li> <li>Take corrective action where necessary</li> </ul>   |                          |
| 8.2  | At the first meeting the Project Manager will confirm the budget, the programme and the package of works. Early on in the design process the Project Manager should assess whether it would be beneficial to carry out a value management exercise.   | Project Manager          |
| 8.3  | The Project Manager or consultant will submit a planning application (if necessary).  | Project Manager          |
| 8.4  | During the design stage, the project team will ensure that residents are kept informed about the project and are consulted as appropriate.  | Project Manager          |
| 8.5  | The Council's Resident Liaison Officer will contact individual residents again to establish if there are any changed circumstances, new residents or need for temporary decanting.  | Resident Liaison Officer |
| 8.6  | The Project Manager will ensure the content of the draft specification and drawings complies with the scheme as approved by Board at feasibility stage and clients requirements as recorded in Project Team minutes.  | Project Manager          |
| 8.7  | Once the drawings are completed, the Consultant will submit an application for Building Regulation approval, if necessary.  | Consultant               |
| 8.9  | Following the pre-tender estimate the Project Manager will determine whether a cost saving exercise is necessary or if additional resources are required from the Capital Programme or an alternative revenue budget. The relevant manager will confirm availability and where possible will arrange for the resources to be vired into the budget for the project. | Project Manager          |
| 8.10 | On completion of this stage the design details are finalised. The consultant will produce full working drawings, tender documentation and the health and  | Consultant               |

safety plan. The specification must be compiled in such a way so as to ensure leasehold consultation block costs can be extracted with ease.

## 9. SELECTION OF CONTRACTOR

- |     |   |                 |
|-----|---|-----------------|
| 9.1 | Suitable contractors will be selected from the BWTMO's approved list (currently Constructionline) or selected in accordance with EU directives. The Project Manager in conjunction with the contract administrator will draw up a list of potential tenderers with relevant experience and a good health and safety record. If a contractor has been nominated by the leaseholders then they will be included on the tender list.   | Project Manager |
| 9.2 | The Project Manager will ask the project team of the need for contractor interviews. The consultant will then make enquiries and in agreement with the Project Manager will shortlist up to a maximum of 8 for interview.   | Project Manager |
| 9.3 | Prior to finalising the tender list the project team may interview the contractors. The BWTMO's RLOs are also to be invited to take part. In some cases it may be appropriate to interview the contractor prior to acceptance of tenders so that they can be asked more detailed questions about the scope of works, phasing/programming and method of working. The interview panel should include appropriate resident representation. The number of contractors required to tender is contained within the BWTMO's contract regulations. The Project Manager will draw up a long list of prospective tenderers which the Project Services Manager will select from. | Project Manager |
| 9.4 | The Project Manager will then obtain approval of the final tender list from the Chief Executive of the BWTMO.   | Project Manager |

## 10. TENDER STAGE

- 10.1 The Project Manager will arrange for the project to be tendered. This will include ensuring that either the Chairman of the BWTMO or an appropriate officer is available to open the tenders. The Project Manager will complete the necessary PT forms. Project Manager
- 10.2 The contractors will be invited to tender based on the specification or bill of quantities and working drawings prepared by the Consultant. A copy of the tender documents is to be sent to Leasehold Services so that they can commence preparation of the section 20

notices.

- |       |   |  |
|-------|---|--|
| 10.3  | The tender period will depend on the size of the contract but is usually 4 weeks unless the scheme is subject to EU procurement rules. The Project Manager is to endeavour to receive the tenders the day before the Chairman is expected in the Town Hall.   |  |
| 10.4  | If requested, the Neighbourhood Manager will make arrangements for the tenderers to view the site.  | Neighbourhood Manager                      |
| 10.5  | The Chairman of the BWTMO or an appropriate Chief Officer will open tenders.  |  |
| 10.6  | Once opened, the tender results are passed to the Project Manager who will advise the Project Team and the Consultant.  | Project Manager                            |
| 10.7  | The Project Manager will forward the two lowest tenders to the Consultant unless there are reasons for comparing all the tenders.   | Project Manager                            |
| 10.8  | Following opening the Project Manager will provide copies of the forms of tender and any priced specifications, which have been returned to Leaseholder Services. When the recommended contractor is known, the Project Manager should send a copy of their priced specification, if this has not previously been forwarded, to Leasehold Services. In reality this may be up to 3 weeks after tender opening and analysis.     | Project Manager                            |
| 10.9  | The Consultant will carry out a tender analysis and prepare a tender report. This will contain a recommendation to accept a tender or to re-tender the project.   | Consultant                                 |
| 10.10 | Leaseholder consultation will take place in accordance with Section 20 of the Landlord and Tenant Act 1985 (as amended). Leaseholder Services will require a minimum period of ten working days to prepare the statutory notice. Leaseholders will have a period of 30 days to make comments after the Section 20 notice has been served. Observations will be reported to either BWTMO Board or Property Management Committee. | Leasehold Services Officer/Project Manager |
| 10.11 | During the section 20 consultation period the Project Manager is to obtain insurance information, health and safety information/plan and draft contract documents for checking by Legal Services so that approvals are in place when Committee approval is obtained.  | Project Manager                            |

## **11. TENDER ACCEPTANCE**

- 11.1 The Project Manager will prepare a tender report to either BWTMO Board or Property Management Committee, dependent on value and/or project complexity who will be asked to accept the recommended tender. The report will include: Project Manager

- Information on the tenders received and the cost of the project;
- Consultants' tender analysis;
- Summary of Leaseholders observations;
- Tenant participation;
- Programme;
- Information on health and safety matters and;
- Comments from BWTMO Technical Services.

- 11.2 When BWTMO Board or Committee approval is obtained, the Project Manager will prepare a letter to formally accept the tender, for signature by the Chief Executive. Project Manager

- 11.3 No changes can be made to the contract conditions once the tender has been accepted.

- 11.4 The Project Manager will then arrange for the appropriate tender documentation to be forwarded to the Contractor to enable a contract to be signed and sealed prior to work starting on site. Project Manager

11.5 If the winning tender is not the lowest in value, leasehold services will need to be notified of the reasons so that a third s.20 notice can be served – please note that this notice is not subject to a 30 day observation period.

## **12. PRE-CONTRACT MEETING**

- 12.1 The Project Manager will instruct the Consultant to arrange a pre-contract meeting with the successful contractor, which the Neighbourhood Manager, Resident Representative, BWTMO Technical Services Representative and RLOs will also attend. Consultant

- 12.2 The purpose of the meeting is to reiterate the terms and conditions of the contract and ensure that all specific requirements stated within the contract documents are understood. These will include:

- Lines of communication;
- Insurance;
- Dates for possession and completion;

- Any working restrictions on time or for access and;
- Health and safety issues.

The Contractors' contract programme, method statements and cash flow will also be discussed.

### **13. PREPARATIONS FOR THE BUILDING WORKS**

- |      |   |                          |
|------|---|--------------------------|
| 13.1 | A separate meeting or exhibition will be held to introduce the Contractor's site team to the residents.   | Consultant               |
| 13.2 | The Project Manager will advise the BWTMO Health and Safety Adviser and the Insurance Manager in writing that a start on site is imminent. The Customer Services Centre should also be advised of the works and out of hours/emergency contact numbers for the contractor.  | Project Manager          |
| 13.3 | The Project Manager will issue a set of Contract Review Statements to the Consultant so that expenditure and progress can be monitored on a monthly basis. Usually at each certificate issue.   | Project Manager          |
| 13.4 | The Project Manager in liaison with the Consultancy Services Manager will arrange for a Clerk of Works, if required. The role of the Clerk of Works is to ensure that the building work meets the requirements of the contract both in terms of how it is carried out and in the quality of the finished product. | Project Manager          |
| 13.5 | At this stage the Resident Liaison Officer will make contact with the contractor's site team to agree respective roles and attendance on site.  | Resident Liaison officer |

### **14 CONTRACT PROTOCOL**

- |      |  |
|------|--|
| 14.1 | Under the terms of the contract the Contractor may not take instruction from anyone other than the Consultant.   |
| 14.2 | The Consultant, in turn will take instructions only from the Project Manager. All members of the Project Team and other interested parties must therefore liaise with the Project Manager on all matters relating to the project |

### **15. SITE MEETINGS**

- |      |  |            |
|------|--|------------|
| 15.1 | The Consultant will hold regular site meetings (usually monthly) with the Contractor to discuss progress and contract issues. The Neighbourhood Manager, BWTMO Technical Services Representative and RLOs and Project Manager will be invited to attend. | Consultant |
|------|--|------------|



- |      |  |                       |
|------|--|-----------------------|
| 15.2 | In addition to the information given in the site meetings, the Consultant will advise the Project Manager of any deviations to the programme or costs giving details of causes and implications.   | Consultant            |
| 15.3 | To ensure that tenants' concerns are addressed the Resident Association representative can either attend the site meeting or a meeting can be held with the Residents Association prior to the site meeting. Feedback will be provided to the residents after the site meeting, where necessary. | Neighbourhood Manager |

**16. CONTRACTUAL PAYMENTS**

- |      |   |                 |
|------|---|-----------------|
| 16.1 | The Consultant will issue certificates to the contractor on a monthly basis following a valuation.  | Consultant      |
| 16.2 | The Consultant will send the valuation certificate to the Project Manager with a Contract Review Statement.   | Consultant      |
| 16.3 | Once the Project Manager has received the valuation certificate, payment will be arranged through One World. Ideally the VAT invoice should be received and paid at the same time as the valuation. Typically the valuation payment will be received before the VAT invoice and the payment will be net. Payment of VAT can follow. | Project Manager |

**17. PROJECT MONITORING**

- |      |   |                           |
|------|---|---------------------------|
| 17.1 | Following the receipt of the Contract Review Statement each month, the Project Manager will update the Capital Programme Monitoring System. Where a significant variation in the project programme or expenditure is projected the Property Services Manager will be notified.                    | Project Manager           |
| 17.2 | The Property Services Manager will report project progress to the BWTMO Board and Property Management Committee.  | Property Services Manager |
| 17.3 | If required, the consultant will produce a monthly progress bulletin for the Residents Association, Neighbourhood Manager and other interested parties containing information on the progress of the project, any changes to the programme or costs and any other relevant information or events. | Consultant                |

**18. VARIATIONS**

- |      |  |                 |
|------|--|-----------------|
| 18.1 | Where additional work is unavoidable or essential during the course of the contract, the Project Manager will firstly instruct the Consultant to find compensatory | Project Manager |
|------|--|-----------------|

savings where possible and will consult the Neighbourhood Manager in identifying such savings. The Neighbourhood Manager will discuss potential savings with the Residents Association before any savings are implemented.

- 18.2 In summary, no variation may be made until approved by BWTMO Board if that variation would:
- Extend the contract period by 50% or more than three months whichever is the greater;
  - Add more than 20% to the estimated value of the contract for contracts up to £250,000 or;
  - Add more than 5% to the value of the contract for contracts of £250,000 or more or;
  - Mean that the works, services or goods to be added to or deleted from the contract are substantially different in scope, save that in a case of urgency or unforeseen circumstances any such variations can be approved by the Chief Executive subject to him or her reporting his or her actions to the Board.

It is the Project Manager's responsibility to check the Contract Regulations where other situations may apply.

- 18.3 Where the Consultant issues a variation, this will be costed and confirmed in writing by the Consultant within seven days. The Consultant will then copy the variation and background information to the Project Manager within a further seven days.

## 19. HANDOVER

- 19.1 There is a procedure note for the handover process on the shared drive.

## 20. POST CONTRACT DEFECTS

- 20.1 During the Defects Liability Period, the Contractor is responsible for rectifying any faults or defects with the works, which have been incorporated within the contract. This will start from the date of practical completion.
- 20.2 For all works the Defects Liability Period is 12 months. Refer to Section E of the handover procedure for the new procedures to be followed during the defects liability period.
- 20.3 Response times for dealing with defects are to be contained within the contract. These should generally equate with normal response times for BWTMO



repairs.

- |      |   |                 |
|------|---|-----------------|
| 20.4 | Towards the end of the Defects Liability Period, the Consultant will arrange and carry out a defects inspection to confirm the contractor has completed any outstanding defects/faults with the work.   | Consultant      |
| 20.5 | The consultant in liaison with the contractor and Resident Liaison Officer will arrange for access to be provided by tenants for the defects inspection to take place.  | Consultant      |
| 20.6 | In accordance with the terms of their appointment the Project Manager is to ensure that the consultant collates information on reported defects using the standard form.  | Consultant      |
| 20.7 | Following satisfactory completion by the contractor the Consultant will issue a Certificate of Making Good Defects and provide the Project Manager with the defects statistics who will pass the details to the programme Officer who will collate the data for Best Value targets reporting. | Consultant      |
| 20.8 | By reference to the procedure note the Project Manager is to arrange for any outstanding properties to be completed during the defects period.  | Project Manager |

## **21. FINAL ACCOUNT**

- |      |  |                 |
|------|--|-----------------|
| 21.1 | Following practical completion the Consultant will prepare the Final Account in accordance with the terms of the contract.   | Consultant      |
| 21.2 | Once this has been agreed with the Contractor the Consultant will submit the two copies of the account to the Project Manager who will forward one copy, after checking, to BWTMO Leasehold Services so they can issue the final invoices. The Project Manager will check the account in accordance with the Final Account procedure note. | Project Manager |

## **22. POST-PROJECT REVIEW**

- |      |  |   |
|------|--|---|
| 22.1 | All schemes will be subject to a post-project review. After completion of the project or on sectional completion, residents will be asked for their views on the way the work was carried out and what they like or dislike about the improvements to their homes. The survey will also seek to collect b.m.e. data. | Project Manager and Resident Liaison Officers |
| 22.2 | The Project Manager will also ensure that the Consultant, Contractor, Clerk of Works and Client  | Project Manager                               |

feedback forms are completed. These can be found on the shared drive.

- 22.3     The survey results and details of the final cost of the project will be reported to Property Management Committee as part of a comprehensive post-project review. The information will be used to improve the brief for future projects and to obtain feedback on consultant and contractor performance.     Project Manager

## SCHEDULE 6

## BWTMO's Services

1) THE BWTMO SHALL BE RESPONSIBLE FOR PROVIDING THE FOLLOWING SERVICES FOR FLATS LET TO TENANTS:

- Cleaning of common parts of the Property including: Staircases and landings (including walls and ceilings) windows (where safely accessible), doors, floors, lifts and light fittings
- Electricity supply for lighting the common parts and the replacement of light bulbs
- Electricity or Gas Supply for the heating of common parts
- General cleaning and upkeep of the common grounds and communal gardens of the Property including:
  - clearing litter from the Estate
  - cutting communal grassed areas and maintaining flower beds, trees and shrubs
  - clearing play areas and play equipment
  - sweeping, snow clearing and gritting of roads, paths, footpaths, courtyards and car parking areas
- Lighting of the grounds, estate roads, footpaths, and car parking areas (including the replacement of the light bulbs)
- Cleaning and removal of graffiti
- The removal of domestic refuse and other waste
- The storage and removal of bulk refuse
- The treating and eradication of insect and rodent infestation

- Caretaking service including out-of-hour emergency service

**2) THE BWTMO SHALL BE RESPONSIBLE FOR PROVIDING THE FOLLOWING SERVICES FOR FLATS SOLD ON LONG LEASES:**

- Cleaning of common parts of the Property including:
  - staircases and landings (including walls and ceilings)
  - windows (where safely accessible), doors, floors, lifts, lights and light fittings
- Electricity supply for lighting the common parts and the replacement of lights bulbs
- Electricity or gas supply for the heating of common parts
- Cleaning and general upkeep of the common grounds and communal gardens of the property including:
  - clearing litter from the Estate
  - cutting communal grassed areas and maintaining flower beds, trees and shrubs
  - clearing play areas and play equipment
  - sweeping, snow clearing and gritting of Estate roads, paths footpaths, courtyards and car parking areas
- Lighting of the grounds, estate roads, footpaths, and car parking areas (including the replacement of light bulbs)
- Cleaning and removal of graffiti
- The removal of domestic refuse and other waste
- The storage and removal of bulk refuse
- The treating and eradication of insect and rodent infestation

- Caretaking service including out-of-hours emergency service

**3) THE BWTMO SHALL BE RESPONSIBLE FOR PROVIDING THE FOLLOWING SERVICES FOR STREET HOUSES, HOUSES SOLD ON LONG LEASES AND FREEHOLD HOUSES (if on an Estate):**

- Cleaning and general upkeep of the common grounds and communal gardens of the property including:
  - clearing litter from the Estate
  - cutting communal grassed areas and maintaining flower beds, trees and shrubs
  - sweeping play areas, Estate roads, paths, footpaths, courtyards and car parking areas (including gritting and snow clearing)
- Lighting of the grounds, courtyards, common paths, Estate roads, footpaths and car parking areas (including the replacement of light bulbs)
- Cleaning and removal of graffiti on common parts of the property
- The treating and eradication of insect and rodent infestation
- Caretaking service including out-of-hours emergency service

**4) PERFORMANCE MONITORING**

The BWTMO will develop performance monitoring where appropriate for each of the above services in consultation with the TCC and the Estates Services Evaluation Group.

## **SCHEDULE 7**

### **Improvements Policy**

The current policy on Improvements is contained in the BWTMO Housing Procedure Manual.

## **SCHEDULE 8**

### **Right to Repair**

The current policy on Improvements is contained in the BWTMO Housing Procedure Manual.

## **SCHEDULE 1**

### **Rent Collection**

Rent collection arrangements are contained in the current edition of the Tenant's Handbook is available at the BWTMO website:  
<http://www.kctmo.org.uk/>

### **Rent Arrears Prevention and Control Protocol**

The protocols for rent arrears prevention and control are under review.



## **SCHEDULE 2**

### **Tenants Service Charge and Procedure for Varying Tenant Service Charge Element of the Total Rent**

Under Development.

## SCHEDULE 3

## Commercial Properties

1. The BWTMO is authorised to negotiate and agree rent reviews for Commercial Property and to make recommendations to the Council regarding rentals for new leases. The BWTMO shall also assess and approve, following annual consultation with the Tenants Consultative Committee, the level of charges for garages, hard-standings and parking spaces.
2. The BWTMO is responsible for collecting contributions from occupiers of Commercial Property towards Major Works and Service Charges where leases permit. It shall also collect amounts due in respect of wayleaves and easements where these relate to the Borough-Wide Residential Property or Commercial Property.
3. The BWTMO shall ensure the prompt demand and collection of all monies owed by any occupier of the properties, and shall monitor the level of rent arrears, taking recovery action to secure arrears as provided in an Arrears Prevention and Control Procedure. The BWTMO shall not enforce a court order for possession without the prior written consent of the Council, which consent shall not be unreasonably withheld or delayed. The BWTMO shall provide the Council with sufficient information to enable it to give consent. The Council shall reply to requests from the BWTMO for consent to enforce an order for possession within 7 days of the request being received. If the Council refuses consent or gives consent subject to conditions the Council shall, also within 7 days, give the BWTMO written reasons for the refusal or for the conditions imposed.
4. If the BWTMO, with the consent of the Council under clause 12.3 above, enforces an order for possession of any dwelling in the Commercial Property the BWTMO shall give to the Council not less

than 48 hours written notice of the date and time at which the eviction is to take place.

5. If having taken appropriate action to recover arrears, as set out in the Rent Arrears Prevention and Control Procedure, the BWTMO concludes that the arrears owed cannot be recovered the BWTMO shall, in writing, request the Council's consent to write off the arrears. The BWTMO shall provide the Council with such information as the Council may reasonably require to show that appropriate action has been taken by the BWTMO to try to recover the arrears. The Council shall not unreasonably withhold or delay consent to a request to write off arrears under the provisions of this clause. The BWTMO is authorised to write off debts not exceeding £250 without the consent of the Council, but shall provide to the Council a schedule on a quarterly basis of all such write-offs. The BWTMO shall also report any negotiated settlements of arrears or disputed rentals to the Council for approval.

## **SCHEDULE**

### **LEASEHOLD SERVICE CHARGE PROCEDURE**

This procedure is currently under review.

## **SCHEDULE 1**

### **Calculation and Payment of Allowances**

These are contained in the agreed financial protocols for improving HRA financial management.

## The Budget Headings

BWTMO & Lancaster West Management Fee  
E-Government

### **Total Management Fee**

### **TCC Managed Budgets**

Planned Maintenance  
Responsive Maintenance  
Contract Cleaning  
Electricity, heating, hot water  
Provision for bad debts - service charges  
Lancaster West EMB Response Repairs  
Area Revenue Works  
Planned Response Repairs  
Refuse Collection  
Pest Control  
Notting Hill Carnival  
Other  
Tenants Incentive Scheme, Disturbance, Mobility Schemes  
Security Alarm  
Car Park Management  
Capitalisation of expenditure  
Leaseholders Service Charges  
Tenants Service Charges  
Miscellaneous Income  
Provision for bad debts – rents  
Insurance Recharge  
Garages Income  
Heating and hot water charges  
Commercial properties income  
Major Works Service Charges  
Rechargeable Works Income  
Rent and hostel Income

### **Total TCC Managed Budgets**

### **Council Managed Budgets**

Capital Charges  
Insurance Costs  
Central Support Service Charges  
Recharges from Housing and Social Services  
Rent rebates  
Consultancy budget and miscellaneous expenses  
Mobility Scheme  
Rent and rates  
Interest income  
Housing Subsidy

### **Total Council Managed Budgets**

Contribution to (-) or from (+) HRA working balance

HRA Balance b/fwd

Contribution to (-) or from (+) HRA working balance

### **TOTAL HRA**

## **SCHEDULE 2**

### **Financial Procedures**

1. The BWTMO shall make arrangements for the proper administration of its financial affairs and shall secure that one of its officers has responsibility for the administration of those affairs.
2. The BWTMO shall make proper arrangements for securing economy, efficiency and effectiveness in the use of resources.
3. The BWTMO shall make contract regulations with respect to making contracts for itself or on its behalf of contracts for the supply of goods and materials or for the execution of works. The contract regulations shall as far as they relate to the Council be approved by the Council's Director of Finance, Information Systems & Property.
4. The contract regulations made by the BWTMO with respect to contracts for the supply of goods and materials or for the execution of works shall include provision for securing competition for such contracts and for regulating the manner in which tenders are invited.
5. The contract regulations may exempt from competition any contracts below a price or when special exemption is justified. The BWTMO shall agree with the Council price thresholds for competition and circumstances when special exemptions are to be allowed.
6. The BWTMO shall make financial regulations. The financial regulations shall as far as they relate to the Council be approved by the Council's Director of Finance, Information Systems and Property. The Council's Director of Finance, Information Systems & Property may request the BWTMO to amend its Financial Regulations in line with changes in the Council's overall regulations or where the Director of Finance, Information Systems & Property recommends that changes in the

BWTMO's regulations are required. The BWTMO shall consider any such request and make amendments where the request is reasonable.

7. The BWTMO shall institute an adequate system of internal controls, including segregation of duties and proper authorization levels and take reasonable steps to limit the possibility of fraud and corruption.
8. The BWTMO shall maintain adequate and effective internal audit arrangements. The appointed internal auditor shall have a right of access at all times to such documents as necessary for the purpose of the audit and shall be entitled to require from any officer such information and explanation as he thinks necessary for the purpose.
9. The BWTMO shall devise a Treasury Management Policy Statement for all investments of surplus funds. The policy shall be notified to the Council's Director of Finance, Information Systems & Property.
10. The Council and the BWTMO shall refer all disputes relating to the content and interpretation of the financial and contract regulations to the Arbitrator.
11. The BWTMO shall provide the Council's internal and external auditors and such other review bodies appointed by the Council the:
  - 1) authority to visit premises or land belonging to the Council;
  - 2) right of access at all times to all records, documents and correspondence relating to the financial or other transactions;
  - 3) the right to require from any BWTMO officer such information and explanation as they think necessary for the purpose of carrying out audit.



## SCHEDULE 3

## Accounts and Audit Standards

## 1. Accounting policies and standards

1.1 The BWTMO's accounts shall be produced in a form that complies with:

- the Companies Acts
- standards set by the Accounting Standards Board such as under the statements of standard accounting practice (SSAPs) and financial reporting standards (FRSs)
- Urgent Issues Task Force (UITF) Abstracts
- EU directives
- any other relevant legislation.

## 2. Accounting analysis

2.1 The BWTMO will analyse its accounts in a form that will allow the BWTMO to:

- prepare its final accounts
- set up management accounting systems to facilitate budgeting and in-year budgetary control
- meet its obligations as delegated to the BWTMO by the Council in this Management Agreement, e.g.:
  - to provide information and recharges for leaseholders as required by the Landlord and Tenant Acts
  - to publish the Tenants Annual Report (as defined by s167 of the Local Government and Housing Act 1989)

2.2 The BWTMO will also analyse its accounts in a form that will allow the Council to:

- meet its legal obligations e.g.:
  - maintenance of the Council's Housing Revenue Account and Capital Account as per the Local Government and Housing Act 1989
  - completion of the Housing Revenue Account Subsidy claim
  - completion of Audit Commission performance indicators
- present its accounts in a form that follows:
  - guidance from the Office of the Deputy Prime Minister (ODPM) or its successor, e.g. the Housing Revenue Manual.
  - guidance from Chartered Institute of Public Finance and Accountancy (CIPFA), e.g. Accounting for Housing and the Code of Practice of Local Authority Accounting in Great Britain.
  - any other guidance the Council is obliged to follow in the preparation of its accounts.

### **3. Format of budgets and annual accounts.**

3.1 The BWTMO's budgets and annual accounts, including the draft final accounts, shall be presented in a form that matches budgets with actual expenditure. The budgets and actual expenditure should be presented in sufficient detail to allow the Council to fulfil its accounting requirements under 2 above.

3.2 Details of income and expenditure relating to the managed TCC budgets provided to the Council by the BWTMO shall be presented in a form that matches budgets with actual expenditure. The budgets and

actual expenditure should be presented in sufficient detail to allow the Council to fulfil its accounting requirements under 2 above.

#### **4. Audit**

- 4.1 The BWTMO must appoint its external auditors through a competitive tendering process at least every seven years.
- 4.2 Details of the current auditor's name, address and the date their appointment was approved by the BWTMO shall be provided to the Council by the BWTMO each financial year with the BWTMO's draft final accounts.
- 4.3 Within one month of appointing its auditors, the BWTMO must provide details of the auditor's name, address and the date their appointment was approved by the BWTMO to the Council.
- 4.4 The BWTMO is responsible for communication with the auditor and ensuring that the accounts are presented for audit each year in time to meet statutory deadlines and the timescales required by this Management Agreement.
- 4.5 The BWTMO is responsible for ensuring all statutory requirements regarding the audit of its accounts are met.
- 4.6 The BWTMO is responsible for ensuring the requirements of the Council's internal auditors, external auditors and District Audit, as regards the BWTMO's accounts, are met.

#### **5. Summary timetable**

- 5.1 Budgets and budget monitoring
  - 5.1.1 Not less than 6 weeks before the beginning of each financial year the Council shall confirm to the BWTMO the overall budgets set for the coming financial year.

5.1.2 Before the beginning of each financial year in accordance with the consolidated estimates timetable established under the Schedule1 protocol the BWTMO shall provide the Council with a copy of the BWTMO's budget and the budgets for managed TCC budgets for the coming financial year.

5.1.3 After the end of each quarter the BWTMO shall provide the Council with a copy of the BWTMO's quarterly revenue report in accordance with the consolidated monitoring table established in the Schedule 1 protocol.

5.1.4 After the end of each month the BWTMO shall provide the Council with a statement of actual expenditure against budget for the managed TCC budgets in accordance with the consolidated monitoring table

## 5.2 Final accounts

5.2.1 The BWTMO shall present its draft accounts to the Council as soon as is practicably possible after the end of the financial year and no later than the deadline set in the consolidated HRA closing timetable set in the consolidated HRA closing timetable established in Schedule 1 protocol.

5.2.2 The BWTMO shall provide the Council with details of income and expenditure relating to the managed TCC budgets as soon as is practicably possible after the end of the financial year and no later than the deadline set in the consolidated HRA closing timetable in the Schedule 1 protocol.

5.2.3 The BWTMO shall present its audited accounts and balance sheet to the Council within 6 months of the end of each financial year.

- 5.2.4 The BWTMO shall present its auditor's management letter to the Council within one month of receipt.
- 5.2.5 If this agreement ends the BWTMO shall within three months of the end of this Management Agreement provide to the Council an audited account and balance sheet as at the date on which the Management Agreement ended.
- 5.3 Performance monitoring
- 5.4 The BWTMO shall provide the Council with the financial information the Council requires to meet its statutory duties for performance monitoring as soon as is practicably possible after the end of the financial year and no later than the deadline set in the consolidated HRA closing timetable.
- 5.4.1 Housing Revenue Account Subsidy Claims
- 5.5 The BWTMO shall provide the Council with the information the Council requires to complete the Housing Revenue Account Housing Subsidy Claims by the deadline set by the ODPM and in accordance with the timetable established in the Schedule 1 protocol no later than one month before the claim is due to be submitted.
- 5.6 Leaseholder recharges
- Omitted

## **SCHEDULE 1**

**Not Used**

## **SCHEDULE 2**

### **Selection of Tenants Policy and Procedure**

This procedure is currently under review.

## **SCHEDULE 3**

**Not Used**



## **SCHEDULE 4**

### **Tenancy Agreement Changes**

This procedure is currently under review.

## **SCHEDULE 5**

### **Breach of Tenancy Agreement**

This procedure is currently under review.

## **SCHEDULE 6**

### **Anti-Social Behaviour and Harassment Policy and Procedure**

The BWTMO's current Anti-Social Behaviour and Harassment Policy is on the TMO Website at [www.kctmo.org.uk](http://www.kctmo.org.uk).

## **SCHEDULE 7**

### **Tenancy Disputes Policy**

This procedure is contained in the BWTMO Housing Procedure Manual.

## **SCHEDULE 8**

### **Mutual Exchanges Policy**

This procedure is contained in the BWTMO Housing Procedure Manual.

## **SCHEDULE 9**

### **Voluntary Assignments**

This procedure is contained in the BWTMO Housing Procedure Manual and the Tenants Handbook.

## **SCHEDULE 10**

### **Subletting Policy**

This procedure is contained in the BWTMO Housing Procedure Manual.

## **SCHEDULE 11**

### **Giving Consents**

This procedure is contained in the BWTMO Housing Procedure Manual.



## **SCHEDULE 12**

### **Right to Buy Enquiries**

This procedure is contained in the BWTMO Housing Procedure Manual.

## **ANNEX A**

### **Tenancy Agreement**

A copy of the Tenancy Agreement is available on the BWTMO website.

## **ANNEX B**

### **Succession**

This procedure is contained in the BWTMO Housing Procedure Manual.

## **ANNEX C**

### **The Tenants Compact**

A copy of the Tenants Compact is available on the BWTMO website.

## **SCHEDULES 1 and 2**

### **Staff Transferring from the Council to the BWTMO**

Not Used

## **SCHEDULE 3**

### **Liaison between the Council and the BWTMO**

#### **Monitoring the Agreement and Liaison Arrangements**

Under Review

## **SCHEDULE 4**

### **Management Complaints Policy and Procedure**

#### **PROCEDURE**

1. The Director of Policy and Development will receive all correspondence which expresses dissatisfaction with the service provided by the Tenant Management Organisation.

If he considers that the letter is not a complaint it will be passed to the appropriate officer and dealt with as day to day correspondence.

If he considers that the letter is a formal complaint it will be passed to the appropriate officer and dealt with as follows.

2. The officer will fully investigate the complaint and produce a report and a draft reply to the complainant for the Director of Policy and Development within 21 days.

The Director of Policy and Development will reply to the complainant within 28 days of the receipt of the formal complaint. The reply will set out the scope of the investigation and any action to be taken.

3. If the complainant is dissatisfied with the reply he/she can appeal to an appeals sub-committee of the Tenant Management Organisation. The appeal must be received in writing within 21 days of the receipt of the reply from the Company Secretary.

The sub-committee will call a meeting to hear the appeal within 28 days of it being received.

4. If the complainant is dissatisfied with the decision of the BWTMO sub-committee he/she can appeal to the Tenants Panel, which consists of tenant representatives appointed by the Tenants Consultative Committee and up to two Councillors who will act as advisors.

The appeal must be made within 21 days of the receipt of the written decision of the BWTMO sub-committee.

The Tenants Panel will call a meeting to hear the appeal within 28 days of it being received.

5. If the complainant remains dissatisfied with the decision of the tenants panel he/she will be advised of the right to pursue the matter with the Ombudsman.
6. These will be reported to the Board every 3 months giving details of numbers of cases, nature of cases and action taken.



## **SCHEDULE 5**

### **Alternative Dispute Resolution Procedure**

1. If there is a dispute or difference concerning the interpretation or operation of this MMA then either party may notify the other that it wishes the dispute to be referred to a meeting of the respective liaison officers to resolve, negotiating on the basis of good faith.
2. If after 28 Days (or such longer period as both parties may agree) of the date of the notice referred to in clause 8 the dispute has not been resolved then either party may notify the other that it wishes the dispute to be referred to a meeting of their Senior Representatives to resolve, negotiating on the basis of good faith.
3. If after 28 Days (or such longer period as both parties may agree) of the date of the notice referred to in clause 8 the dispute has not been resolved then either party may notify the other that it wishes to attempt to settle the dispute by mediation, in accordance with the Centre for Dispute Resolution ('CEDR') Model Mediation Procedure 8th Edition (October 2002) (the 'Model Procedure') or such later edition as may be in force from time to time.

If the parties cannot agree on the identity of the Mediator then either party may request CEDR to appoint one.

4. The Model Procedure shall be amended so that:
  - either party may make a written statement of its case to the Mediator prior to the commencement of the mediation. This is subject to the proviso that any such statement shall be provided to the Mediator not less than 10 Working Days before the mediation is to commence (or such other period as may be agreed by the Mediator);

- the Mediator shall be instructed to provide either party with a written report of the result of the mediation within 10 Working days of the conclusion of the mediation.
5. Both parties must:
- use their best endeavours to ensure that the mediation starts within 20 Working Days of the appointment of the Mediator; and
  - pay the Mediator's fee in equal shares.
6. Any agreement reached as a result of mediation shall be binding on both parties but if the dispute has not been settled by mediation within 10 Working Days of the mediation starting then either party may commence litigation proceedings (but not before then).
7. Neither party shall be precluded by clause 18 from taking such steps in relation to court proceedings as we or you (as case may be) may deem necessary or desirable to protect our respective positions. This shall normally be limited to issuing or otherwise pursuing proceedings to prevent limitation periods from expiring and applying for interim relief.

## SCHEDULE 6

## Arbitration Procedure

THE CHARTERED INSTITUTE OF ARBITRATORS ARBITRATION SCHEME  
FOR LOCAL HOUSING AUTHORITIES AND TENANT MANAGEMENT  
ORGANISATIONS RULES (2004 EDITION) Clause 18

## 1. Introduction

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

- a) regulation 4 of the Housing (Right to Manage) Regulations 1994;  
or
- b) an agreement entered into pursuant to regulations 1 to 10 or regulation 11 (agreements entered into voluntarily) of those Regulations.

1.2 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 BWTMO under regulation 4 of the Housing (Right to Manage) Regulations 1994 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 Institute 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 Chartered Institute of Arbitrators, The International Arbitration and Mediation Centre, 12 Bloomsbury Square, London, WC1A 2LP. Telephone [REDACTED]; Fax [REDACTED] e-mail: [drs@arbitrators.org](mailto:drs@arbitrators.org).
- 3.2 The Institute 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.
- 3.4 Alternatively, either party can request an oral hearing.
- 3.5 Both parties will submit with the application form a case fee the amount of which is specified on the application form.

#### **4. The arbitration procedure**

- 4.1 In making an application the party making the application (the claimant) will submit its application and full claim with supporting evidence with the application form.
- 4.2 Upon receipt of the application and full claim the Institute will forward a copy to the other party (the respondent) who will be given 21 days by the Institute to set out its defence.
- 4.3 The claimant will be sent a copy of the defence and will be allowed a 14 day period in which to submit comments on the defence.
- 4.4 No extensions of time are allowed under the documents-only arbitration process, except by consent of both parties and the arbitrator (if appointed at that stage).
- 4.5 If it was indicated on the application form that the matter would be dealt with under documents-only arbitration, the arbitrator will make his/her award within 14 days of receipt of all relevant case papers. The Institute will publish the award to the parties.
- 4.6 If it was indicated on the application form that an oral hearing is required, the Institute will forward the complete case file to the arbitrator and arrange an oral hearing with the parties.
- 4.7 The oral hearing will be held at the premises of the Authority or other

mutually agreed location, and is limited to and will not exceed 4 hours in duration. The arbitrator shall determine all matters of procedure and evidence in relation to the hearing.

- 4.8 If the arbitrator requires further information in order to reach an award, he/she may require the provision of any further documents, information or submissions that he/she considers would assist him/her in the decision and will use the most timely and appropriate form of written or verbal communication to seek and obtain such evidence. If the party or parties do not make that additional evidence available within the time prescribed by the arbitrator, he/she may proceed on the basis only of the evidence already before him/her.
- 4.9 The Institute will publish the arbitrator's award, with reasons, after the arbitrator has considered all submissions and evidence, including oral evidence, if any.

## **5. The award**

- 5.1 Any award made under the scheme is legally binding on all parties, and can only be challenged within the statutory time limits on the following grounds
- a) a challenge to the substantive jurisdiction;
  - b) a claim of serious irregularity;
  - c) an appeal on a point of law.

Legal advice should be sought if further information about these grounds and the procedures for challenging an award are desired.

- 5.2 Any payment indicated in the award must be made directly between the parties within 21 days of its publication and not through the arbitrator or the Institute.

**6. Arbitrator's powers**

- 6.1 The arbitrator shall be and remain at all times during the arbitration independent of the parties, and have regard only to the relevant law, statutory guidance given by the Secretary of State and the agreement between the parties.
- 6.2 The arbitrator should also act expeditiously, and in a way that provides a fair award in resolution of the dispute.
- 6.3 The arbitrator may, in his/her absolute discretion, refuse to consider documents or other evidence not submitted within timescales set down by the scheme or given by him/her in direction to the parties.
- 6.4 The arbitrator shall have full jurisdiction to decide his/her jurisdiction in the event of a dispute about jurisdiction arising.
- 6.5 In addition to the arbitrator's powers mentioned in 6.1 to 6.4 above, the arbitrator shall also have the power to:
  - a) allow submission of further evidence and the amendment of the claim or defence;
  - b) order the parties to produce goods, documents or property for inspection;
  - c) conduct such enquiries as may appear to the arbitrator to be desirable;
  - d) receive and take into account any oral or written evidence as the arbitrator shall decide to be relevant;
  - e) at the expense of the Authority, appoint an expert to report on specific issues or take legal advice;
  - f) award interest whether or not claimed;

- g) proceed with the arbitration if either party fails to comply with these rules or with the arbitrator's directions, or if either party fails to attend any meeting or inspection ordered by the arbitrator but only after giving that party written notice;
- h) terminate the arbitration if the arbitrator considers the case to be incapable of resolution under the scheme or if the parties settle their dispute prior to an award. If the case is settled the parties must immediately inform the Institute in writing of the terms of the settlement and the arbitrator shall record them in an agreed award enforceable under the 1996 Arbitration Act; and
- i) determine any question of law arising in the arbitration.

6.6 In addition to the powers conferred by these rules, the arbitrator shall have the widest discretion permitted by law to resolve the dispute in a fair, just, speedy, economical and final manner in accordance with natural justice.

## **7. Arbitration costs**

- 7.1 The parties will pay the arbitrator's fees to the Institute as determined by the arbitrator in the award.
- 7.2 The Institute's administration fee is the registration fee paid by the parties when an application for arbitration is submitted. Details of the level of registration fee are available on the scheme application form.
- 7.3 The arbitrator's fee is £500 plus VAT for a documents-only arbitration, and £1,000 plus VAT where there is an oral hearing. Where there is an oral hearing the arbitrator will have considered the papers submitted to-date in the arbitration prior to the hearing.
- 7.4 The arbitrator shall have a discretion to order one party to reimburse all or part of the other party's registration fee to that party.



7.5 No legal proceedings may be brought by one party against the other for recovery of costs incurred during the arbitration.

## 8. Confidentiality

8.1 No party involved in any arbitration under the scheme, nor the Institute or the arbitrator shall disclose explicit details of the proceedings, award, and reasons for the award to any third party to the case.

8.2 Notwithstanding 8.1, all parties, in agreeing to the resolution of disputes under the scheme, give permission to the Institute to gather, retain and publish statistical and other information on such disputes whilst preserving the anonymity of parties.

## 9. Reservation of service

9.1 The Institute reserves the right to decline an individual request to appoint an arbitrator.

## 10. Miscellaneous

10.1 With reference to section 57 of the 1996 Arbitration Act, the arbitrator may on his own initiative, or on the request of one of the parties:

- a) correct an award as to remove any clerical mistake or error arising from an accidental slip or omission or clarify or remove any ambiguity in the award; or
- b) make an additional award to deal with any claim (including a claim for interest or costs), which was presented to the arbitrator but was not dealt with in the award.

10.2 Nothing herein shall prevent the parties agreeing to settle the differences or dispute arising out of the agreement without recourse to arbitration.

10.3 Nothing herein shall prevent the parties from appealing the award to

the High Court in terms of the 1996 Arbitration Act, should the need arise.

- 10.4 If necessary the Institute shall appoint a substitute arbitrator and shall notify the parties accordingly.
- 10.5 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.
- 10.6 Neither the Institute nor the arbitrator can enter into any correspondence regarding an award issued under the scheme.
- 10.7 Neither the Institute nor the arbitrator shall be liable to any party for any act or omission in connection with the arbitration conducted under these rules.

**ARBITRATION SCHEME FOR LOCAL HOUSING AUTHORITIES AND  
TENANT MANAGEMENT ORGANISATIONS (2004 EDITION)**

[illegible]



#### **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

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

#### **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 Organisations.

We are applying for you to appoint an independent arbitrator ?, in accordance with the rules of the Arbitration Scheme for Local Housing Authorities and Tenant Management Organisations.

We understand that the independent arbitrator's award is legally binding.

We have attached the relevant registration fees in accordance with section 4 above.

BWTMO's signature:

Date:                    /                    /

Authority's signature:

Date:                    /                    /

**Now return this form to:**  
Dispute Resolution Services  
The Chartered Institute of Arbitrators  
12 Bloomsbury Square  
London WC1A 2LP

## THE ANNEX

The **Recruitment Policy** and **Disciplinary Procedure** for **BWTMO Staff** are set out on the following pages.

The standard **Terms and Conditions** for **BWTMO Staff** commencing employment after the STARTING DATE are set out in the standard contracts (A) to (D) in Appendix 1 to this chapter. *(Note that the employer throughout will read "The Royal Borough of Kensington and Chelsea Tenant Management Organisation" in place of "The Royal Borough of Kensington and Chelsea".)*

### RECRUITMENT POLICY

#### EQUAL OPPORTUNITIES

The Tenant Management Organisation is committed to equal opportunities both in the provision of services and as an employer. The organisation's policy is summarised in the following declaration:

*The affairs of the Organisation shall at all times be carried out so as to avoid discrimination against any person on the grounds of racial origin, gender, sexuality, marital status, age, disability or religion.*

Further details of the BWTMO's Equal Employment Opportunities Policy is contained in a separate document

#### ADVERTISING

The BWTMO is committed to developing its own people so that they are suitably equipped to apply for positions within the company. However, posts will be advertised externally where practicable to ensure that the best candidate for the job is appointed. For more specialist positions it may be appropriate to approach relevant agencies.

Recruitment advertising is expensive, and adverts must strike a balance between providing sufficient information to attract suitable applicants, and keeping costs at a reasonable level.

Advertisements must be written in clear, plain English, and should avoid using terms which might imply preference for applicants for a particular group or gender (unless a genuine occupational qualification applies).

All advertisements will carry the text “*The BWTMO is an Equal Opportunities Employer*”.

## **INFORMATION TO APPLICANTS**

Applicants will be sent an application form - asking for personal and educational details, employment history and further information necessary to consider suitability to shortlist; an equal opportunities monitoring form; a job profile and person specification; and information about the BWTMO.

Job profiles list the key responsibilities of the position being advertised; person specifications outline the key requirements needed to undertake the job. Both will be reviewed prior to advertisement to ensure they continue to meet the Organisation's equal opportunities standards.

## **SHORTLISTING**

Shortlisting will normally be done by members of the interview panel, against the criteria listed in the person specification.

It is important therefore that the person specification does not include criteria not related to the job or which may be open to cultural bias.

As far as practicable, the person specification should be objective and measurable.

## **SELECTION METHODS**

Along with the application form, the interview is the means we predominantly use to make selection decisions. There are, however, a wide variety of other assessment tools available, ranging from aptitude tests to group exercises which enable us to supplement and reinforce the data we obtain about a candidate at interview.

All our selection processes are designed to measure candidates against pre-determined objective criteria. These criteria are made available to candidates along with the opportunity to receive feedback at the end of the recruitment process.

Except for temporary appointments, all interviews will be conducted by two or more officers. At least one member of every recruitment panel will have received formal training in good practice of recruitment and selection including equal opportunities.

All candidates are asked for details of times when they are unavailable for interview (for example because of annual leave or religious holidays), and whether they have any special requirements for us to consider at the interview stage (e.g. wheelchair access).

## **CLEARANCES**

All appointments to the Tenant Management Organisation are subject to receipt of satisfactory references and medical clearance must be obtained before an appointment can be confirmed.

In accordance with guidelines published jointly by the Home Office and the Department of Health, we are required to check the criminal backgrounds of applicants for job involving substantial access to the elderly and vulnerable i.e. community officers. A criminal record will not automatically exclude someone from working in this area, although regard will need to be given to

any such appointment. In particular, the nature and date of the conviction(s) will need to be considered.

## **PROBATIONARY PERIODS**

All appointments to the Tenant Management Organisation are subject to the successful completion of a minimum six-month probationary period during which time staff are required to establish their suitability for the job. The probation period for senior manager entrants on local contracts is twelve months.

Staff transferring or moving on promotion from one post within the BWTMO to another shall not be expected to complete a probationary period.

During the probationary period the onus rests with the employee to establish suitability, but the manager has a duty to provide a working environment (including guidance, training, etc) conducive to the employee's success.

Where, an employee's suitability has not been established, it may be appropriate to extend the probationary period. A maximum extension of three months is allowable.

There are rights of appeal if, during the probationary period, a decision is taken not to confirm the appointment.

## **EMPLOYEE DISCIPLINARY CODE**

### **1. Introduction**

For the sake of everyone concerned with Tenant Management Organisation Services, it is essential for all employees to recognise the need for good conduct at work and satisfactory work performance. The Organisation hopes that this code will only be used on rare occasions but, in instances where it is necessary, it seeks to provide for the fair, consistent and orderly handling of problems.



The main purpose of the code is to encourage improvement in cases where an employee's standard of conduct or work is unsatisfactory. Nevertheless, it should be understood that formal disciplinary action will be initiated where considered necessary and that the Organisation believes this to be in the common interest of all staff. Proper procedures are an aid to good management and should not be viewed primarily as a means of imposing sanctions or as necessarily leading to dismissal.

Each employee should read carefully and retain this document and have a clear understanding of the standards expected. Any difficulties or questions should be referred to supervisors, managers, Human Resources officers or staff representatives for guidance and clarification.

The Code is set out under the following headings:

- **Disciplinary Rules and Offences**
  - **Gross Misconduct**
  - **Other Misconduct**
  - **Departmental Rules**
- **Disciplinary Procedure**
  - **Suspension**
  - **Criminal Activity**
- **Appeal Rights**
- **Standards of Performance**
- **Absence from Work**

## **2. Disciplinary Rules and Offences**

The Organisation expects of its employees, diligent service and a high standard of integrity at all times. The following lists provide examples of behaviour that can be regarded as misconduct:

### **2.1 Gross Misconduct**

The significance of gross misconduct is that such acts are regarded as so serious that the penalty of dismissal may be justified for a first instance. Obviously, the circumstances and seriousness of the examples listed below can vary considerably from one incident to another. Only directors are authorised to dismiss an employee on the grounds of gross misconduct, taking into account all the facts and circumstances following the disciplinary procedure.

Employees must be quite clear that by committing an act of gross misconduct, such as any of those listed below, they run the risk of dismissal from the Organisation's service:

- Assault. Violent or dangerous behaviour, including fighting at work. Serious physical or verbal abuse towards fellow employees, clients or members of the public, including maltreatment.
- Stealing, fraud, misappropriation or failure to account for the Organisation's or its clients' property, assets or funds. Corrupt practices, including asking for or accepting bribes or unauthorised gratuities.
- Falsification of documents, records, claims or accounts or providing false information in support of an application for employment or continued employment.

- Serious negligence in the performance of duty or in the safeguarding of Organisations property. Failure to observe the Organisation's standing orders, financial regulations or departmental operational instructions or to properly account for money or property belonging to the Organisation or its clients.
- Serious breaches of safety precautions, including the neglect of safety equipment, which may potentially endanger other people.
- Breaches of confidentiality seriously prejudicial to the interests of the Organisation, its employees, clients or members of the public. Misuse of Tenant Management Organisation information for any purpose.
- Engaging in unauthorised employment during hours when contracted to work for the Tenant Management Organisation or during periods of sick leave.
- Conviction for a criminal offence which prevents an employee from continuing to do the job or seriously questions his or her suitability to continue in the Organisation's employment.

## **2.2 Other Misconduct**

Prior to the taking of formal action, it is normal practice for managers or supervisors to deal with problems on an informal basis initially. However, where it is apparent that an employee's misconduct is sufficiently serious to warrant formal disciplinary action, the relevant manager or supervisor is empowered to take action and may issue formal verbal or written warnings as appropriate.

An employee will not be dismissed for a first instance of misconduct (other than 'gross misconduct'), although the job may be at risk should there be further misconduct. Depending on the circumstances, penalties may include reprimands, warnings, removal of privileged

conditions of service such as flexitime, compulsory transfer, withholding of increments or demotion with the attendant loss of status or pay.

A final warning may be a consequence of misconduct if a previous warning has been issued but there may be occasions when the initial misconduct is of sufficient severity to warrant one warning which is in effect both first and final.

The Tenant Management Organisation considers the following to be examples of misconduct:

- Refusal or failure to obey legitimate instructions. Insubordination by word, act or manner or abuse of authority invested in the employee.
- Prolonged or persistent absence from duty without permission, persistent lateness, excessively bad timekeeping or failure to comply with absence reporting procedures.
- Sleeping on duty or being under the influence of alcohol or drugs, other than those medically prescribed.
- Offensive misbehaviour.
- Failure to notify the employing department of gifts, benefits, hospitality or advantages offered.
- Disregard of Organisation policies or careless loss of Organisation property. Breaches of rules or procedures involving a negligent failure to take required precautions.
- Wilful or careless neglect of health impairing fitness for work. Committing an act delaying return to duty, whilst on sick leave.
- Being an accessory to an offence may in itself lead to disciplinary action.

## **2.3 Departmental Rules**

Departments may have additional and different rules relating to the specialised nature of services provided. Such rules should be laid down in writing and managers are responsible for making these clear to employees.

## **3. Disciplinary Procedure**

This procedure applies to all Tenant Management Organisation employees, except directors, or employees on probation or initial trial periods.

Normally no disciplinary action should be taken against a shop steward or accredited staff representative until a full-time official of the trade union concerned has been notified of the circumstances of the case.

In exceptional circumstances, the Organisation reserves the right to authorise directors to instantly dismiss any employee whose act of gross misconduct is so self evident as to justify such an extreme course of action. This would not normally be appropriate and this procedure provides for the proper investigation of any alleged offence prior to the instigation of any disciplinary action.

Nothing in this code is intended to prevent discussion between a manager and an employee concerning allegations of misconduct. In cases of less serious misconduct, informal discussion should be the normal practice. Having established the facts of a particular case, the manager may well consider that there is no need to resort to the formal procedure and that it is sufficient to talk the matter over with the employee. It is a manager's right to admonish and warn as appropriate although such informal action should not be confirmed in writing or placed on the employee's file, although the manager may take a note for record purposes. The intention is that, hopefully, such informal action will resolve the matter.

In any disciplinary situation, the employee's explanation should be sought and considered prior to the instigation of disciplinary action.

Before convening a formal disciplinary interview, it is essential to establish that the employee's alleged misconduct or inefficient performance of duties or behaviour contrary to the Organisation's interests is sufficiently serious so as to fall within the purview of this procedure.

Where matters are insufficiently clear from the manager's point of view, it may be necessary to institute a preliminary enquiry prior to the convening of a disciplinary hearing. The employee should be advised of the right to be accompanied by a trade union representative or another member of staff, as a friend, at any such hearing. The employee will be informed of the result of the enquiry and advised whether or not it is intended to proceed with a disciplinary hearing.

In most straightforward cases, it will not be necessary to institute a managerial enquiry. A formal disciplinary interview will take place, at which the employee should be advised of the right to be accompanied by a trade union representative or another member of staff, as a friend. Otherwise there is no right of representation by another person, not employed by the Organisation, at this interview. The immediate supervisor or relevant manager may issue formal verbal and written warnings as appropriate.

Alternatively, it may be considered necessary to convene a disciplinary panel to investigate matters. Such panels, which may be the result of a managerial enquiry, will be covered by and comprise only principal officers or above status, in consultation with the Human Resources service. Written notice should be provided to an employee at least five working days in advance of such a hearing, setting out the basis of the matters to be investigated and detailing the allegations. Where necessary, the hearing may be adjourned until a later date.

Employees should be advised of the right to be represented at such a hearing by any person of their choice and may call witnesses as appropriate. Employees are required to inform their department in advance of the hearing of their choice of representative and of the names of any witnesses whom they intend to call. Similarly, employees will be informed of the names of any witnesses whom management intend to call and of the composition of the panel. Should the employee fail to attend without a sound explanation, the hearing may be held in his or her absence. The employee will be told the result and consequences of a disciplinary hearing as soon as is practicable, normally at the end of the panel's deliberations. The result and consequences will then be confirmed in writing by the panel chairman.

If as a result of a disciplinary hearing the employee is found blameless, the finding of exoneration will be confirmed in writing and no record will be placed on the employee's file.

With the exceptions of reprimands or verbal warnings, any formal disciplinary action taken will be recorded on an employee's file and confirmed to the employee in writing. The main differences between formal and informal action relate to the seriousness or repetition of offences, the rights to representation and appeal and the recording of action taken on the employee's file.

Any written warning should give a clear indication of when the situation is to be reviewed. Disciplinary action for 'misconduct' will be disregarded after twelve months' satisfactory service; warnings relating to 'gross misconduct' will be reviewed within two years by the relevant director. The employee may seek confirmation of the review at the end of the appropriate period or may request an earlier review.



### **3.1 Suspension**

Supervisors may send employees home from work during the course of a working day, but further suspension may only be authorised by directors, in conjunction with the Human Resources service. The leader of the staff side, or secretary of the employees' side, as appropriate, will be advised of the suspension of any employee. The decision to suspend will only be taken if it is felt to be detrimental to allow the employee to remain at work pending the enquiry or disciplinary hearing.

In exceptional cases and where it is evident to the director that apparent gross misconduct is likely to render an employee liable for dismissal, the suspension should be without pay, pending the outcome of the disciplinary hearing. Otherwise, where the matter needs to be investigated further by management prior to any hearing, the employee will receive normal pay whilst suspended. Suspension will be confirmed in writing by the director. In the event of a disciplinary panel deciding that the employee is exonerated, any pay withheld will be restored.

Where an employee has been suspended without pay, the disciplinary hearing may be arranged, with the agreement of the employee, to take place at notice of less than five working days. Clearly, an early hearing may often be in the interests of all concerned, but reasonable notice is still to be given to allow the employee an adequate preparation period. The employee should of course, be advised of the right to representation at such a hearing.

### **3.2 Criminal Activity**

The Organisation reserves the right under the disciplinary procedure to take action against employees who have been in breach of their employment contract, notwithstanding pending criminal investigations.



However, employees will not be dismissed or otherwise disciplined merely because they have been charged or convicted of a criminal offence. The question to be addressed in such cases is whether the employee's conduct warrants action because of its employment implications. Where it is considered that disciplinary action is warranted, the facts will be investigated, as far as practicable, in order to come to a view about them prior to the taking of fair and reasonable action.

#### **4. Appeal Rights**

Employees have appeal rights against any formal disciplinary action taken against them and these will be confirmed in writing. If the appeal right is to be exercised, this must be confirmed in writing within ten working days of receipt of written confirmation of disciplinary action. The letter must set out briefly the grounds of appeal and should be addressed to the employee's director.

The appeal will be heard by the Chief Executive together with an officer from the Human Resources service within one month of the receipt of formal notification, except where the disciplinary action has been taken by the director in person, or where a final warning has been given, or where the result was dismissal or demotion or disciplinary transfer.

For the excepted instances mentioned in the previous paragraph the appeals committee of the Organisation will be convened to hear the employee's appeal within three months of the date of written notification. However, in the case of appeal hearings by the director, their decision is final and there is no further level of appeal.

#### **5. Standards of Performance**

The following procedures set out practical guidance, aiming to prevent the need to resort to the disciplinary procedure, although such formal action may sometimes be necessary.

In dealing with sub-standard work, negligence should be distinguished from incompetence. Negligence normally involves a measure of personal blame, for which some form of action under the disciplinary procedure may be appropriate. In such cases, the employee's ability will normally have been proven but the work may subsequently be found to be inadequate, due to lack of motivation or attention. Incompetence on the other hand, is due to a lack of ability, skill or experience.

Unsatisfactory performance may be apparent in employees whose skills, while relevant at the outset of employment have been overtaken by reorganisations or changing patterns/methods of work. In such circumstances, consideration will be given as to how the situation could be improved by training or transfer to alternative work if this is practicable. Special care and consideration needs to be given where the difficulty has arisen through illness, accident or advancing age, and where the employee has a previous good record of competence.

If an employee's work falls below the required standards, the following procedures should be observed:

- The concern or inadequacy should be brought to the employee's attention and there should be discussion to examine the nature of the problem, possible causes and suggested remedies. The employee's explanation should be sought and considered.
- It is the supervisor's responsibility to ensure that the employee is clear about the standard of work expected.
- Having clarified the standard required, a reasonable period should be given in which to attain it. It is constructive for both parties if the supervisor records in writing both what is expected or required, and what the timescale is for improvement.

- Wherever practicable, training and coaching should be provided to help the employee to reach an acceptable level of performance, particularly if the employee is struggling following a recent promotion.
- The supervisor should review progress in accordance with timescales set and, if necessary, revised timescales should be set, recorded and monitored. Progress and achievement should also be recorded.

In very serious cases, where the inadequacy of an employee's performance is extreme, or where the actual or potential consequences of an error are of an extremely serious nature, warnings will not normally be appropriate. The disciplinary code should be utilised which may lead to dismissal in such cases.

Apart from these exceptional circumstances, an employee will not be dismissed because of sub-standard work unless previously warned and a chance to improve has been given.

## **6. Absence From Work**

Unjustified absence and absenteeism are regarded as very serious matters and include the following:

- Failure to report absence when required.
- Reporting absence for a false reason.
- Prolonging a genuine absence unjustifiably.
- Unauthorised absence from the work place or from a college which the employee is attending on a day release basis.

It is stressed that the onus is on employees to contact their department as soon as is practicable, if circumstances prevent them from attending

or returning to work. Failure to do so will mean a loss of pay and an absent employee from whom nothing is heard does face dismissal. It is a basic requirement that employees keep in regular contact with their supervisors during periods of sickness absence.

In cases of long-term absence due to sickness, the Organisation will be as sympathetic as it can although operational factors have to be considered and take priority. The Organisation will draw on guidance from its occupational health advisers and employees will be asked to cooperate by granting consent to the Organisation's occupational health service to approach their own general practitioner and by attending examinations by the occupational health service as appropriate.

In cases of genuine long-term absence or a high level of sickness, it is quite inappropriate to treat the incapability as a disciplinary matter. Nevertheless, service priorities have to be weighed and it may not be possible to hold jobs open or to maintain employment indefinitely. Employees should be formally advised if their job is at risk because of a high level of absence. Supervisors are encouraged to keep in close contact and may make home visits to employees who are unable to get out.

Frequent and persistent short-term absence is a different situation and may result from a health problem or may be an indication of malingering. The following considerations would normally apply:

- The absences should be investigated promptly in order to be fair to the employee and to minimise any repercussions for other employees.
- The employee should be invited to give an explanation for the absences, indicating any reasons and should be advised of the

right to be represented at any discussions on attendance matters.

- Where, as a result of self-certified absences, the employee has not seen a doctor, the employee should be asked to do so and may be required to produce doctor's certificates for future absences.
- Further investigation by the occupational health service may be necessary.
- If there is malingering, the Organisation's disciplinary procedure will be invoked and sick pay will be suspended.
- In most instances, the Organisation's service demands are such that employees must attend regularly and an employee whose attendance record is poor may eventually face dismissal. Employees should be formally advised of the possibility of termination of service if there is no improvement in attendance.

### **Questions**

Any questions relating to this procedure should be directed to your supervisor or manager in the first instance. Human Resources staff is available for clarification and guidance on disciplinary problems.

## **SCHEDULES**

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

#### **Clause 1**

The BWTMO's Key Performance Indicators, to enable it to measure its performance against the standards it is required to achieve under the Agreement, must be listed in Annex A to this Schedule. This must also describe the basis on which the Indicators have been set.

The Council's Key Performance Indicators, to enable it to measure its performance against the standards it is required to achieve under the Agreement, must be listed in Annex B to this Schedule. This must also describe the basis on which the Indicators have been set.

## **ANNEX A**

### **BWTMO Performance Indicators**

#### **REVIEW PROCESSES AGREED ANNUALLY AS PART OF THE HRA PERFORMANCE PLAN**

##### **Indicator/Achievement**

##### **Annual Review**

##### **KLOE "compliance"**

Prospects for Improvement (Generic KLOE used for all inspections)

Stock Investment/Asset Management (inc Repairs and Maintenance)

Housing Income Management

Resident Involvement (incorporating some of User Focus)

Tenancy and Estate Management

Leasehold Management, Shared Ownership and Right to Buy

Financial Protocols

Monthly meeting of finance managers

Estimates and Rent Setting - revised and forward budget & summary of changes

Closing of accounts - TCC Budgets & Statements, TMO Management Fee Statement,  
Lancaster West Statement and Control Accounts

Monthly Financial Monitoring - Revenue - budget, spend to date, projected outturn,  
variance, explanations for variance

Monthly Control Reports - summary of bank reconciliation's, cash postings, trial balances

Monthly Financial Monitoring - Capital - budget, spend to date, projected outturn, variance,  
explanations for variance, and recovery action.

##### **Review of ICT and Systems Service**

##### **Review of SLAs**

Council providing services

TMO Services to the Council

##### **Corporate Equalities Plan**

##### **Other Agreements**

Environmental Health

Housing Needs Resettlement - tenancy support service

Housing Needs - Nominations Performance

## PERFORMANCE INDICATORS

Indicator/Achievement	Target
<b>05/6 BVPIs</b>	
63 - Average SAP rating % (CPA PI)	66
66a - Proportion of rent collected % (CPA PI)	96.4
66b - More than 7 weeks arrears % of tenants	16
66c - Notice of Seeking Possession - % of tenants	
66d - Possession action - % of tenants	
74 - Satisfaction of tenants with overall service % (CPA PI)	
75 - Satisfaction of tenants with opportunities for participation % (CPA PI)	
164 - Follow CRE Code of Practice in rent housing	Yes
184 - Non decent homes % (CPA PI)	23
211 - Housing repairs and maintenance	
212 - Average re-let time (days) (CPA PI)	21
<b>05/06 Local PIs - Leaseholder</b>	
Service Charges collected %	105
Major Works charges collected %	80
<b>04/05 Retained BVPIs</b>	
185 - Percentage repairs for which an appointment was both made and kept % (CPA PI)	96
69 - Void rent loss %	0.5
72 - Urgent repairs completion % (CPA PI)	95
73 - Average time taken to complete non-urgent repairs (days) (CPA PI)	14
<b>Wider BVPIs</b>	
157 - e-government for ALMOs working with the tenants (%)	100
156 - disability access for buildings the ALMO provides a service from (%)	20
2a - Equality standard	4
2b - Score against equality access (%)	84
174 - no of racial incidents reported to the LA (TMO only)	12
175 - % of racial incidents reported to the LA with further follow up (TMO)	100
215a - number of days to repair street lighting fault	No target set as no baseline data
<b>ASB</b>	
Case type by area	
Case type borough wide	
<b>Possible Future ASB PIs</b>	
Time to respond to a report of a non-urgent incident	10
Time to respond to threats of violence, racial harassment or serious ASB	1



Time to respond to serious but not urgent ASB	5
<b>Decent Homes</b>	
Number of homes to be made decent 05/06	964
Decent homes programme spend targets - quarterly and annually	12,032,000
Cost per unit target	
<b>Management Costs per unit</b>	
<b>Staffing</b>	
Staff turnover %	
Staff training	
<b>Complaints</b>	
TMO	
Member's Enquiry	5
Resident's Assoc	10
Director's Review	10
Chief Executive's Review	28
<b>Section Pls</b>	
<b>Allocations</b>	
Number of NOSP's	
Number of Evictions	
<b>Supporting People</b>	
<b>Hostels</b>	
Availability (SP1)	90-100%
Utilisation (housing) (SP2a)	80-100%
Utilisation (support only) (SP2b)	80-100%
Staff input (support hours) (SP3)	95%+
Throughput (SP 4)	
Planned departures short term (KP2)	
Maintaining independent living (long term/permanent) (KP1)	
<b>Sheltered Accommodation</b>	
Availability (SP1)	90-100%
Utilisation (housing) (SP2a)	80-100%
Utilisation (support only) (SP2b)	80-100%
Staff input (support hours) (SP3)	95%+
Throughput (SP 4)	
Planned departures short term (KP2)	
Maintaining independent living (long term/permanent) (KP1)	
<b>NHHT training scheme - number of trainees</b>	