

# Guidance for landlords on the development of Tenant Management Organisations (TMOs)



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## Foreword

I am delighted to welcome this new Guide to Developing Tenant Management Organisations (TMOs) for Local Authorities.

Tenant management is a relatively little known concept within housing despite over 200 TMOs currently delivering services to over 80,000 homes.

In Southwark we have, for many years, championed the ability of residents to use the Right to Manage regulations to develop TMOs to deliver high quality housing services tailored to their own priorities. I firmly believe that TMOs have an increasing role to play in managing social housing in today's society and our experience in Southwark shows that residents are more satisfied with the services delivered by TMOs.

I see this Guide as a valuable addition to the information and advice provided by Government for residents and will enable local authority officers to respond quickly, informatively and with clarity to enquiries from residents about the Right to Manage.

**Councillor Ian Wingfield**  
Cabinet Member for Housing and Deputy Leader  
London Borough of Southwark



## What is a TMO?

A TMO is a resident owned and run company that provides housing services on behalf of the landlord, in accordance with provisions in the 1985 Housing Act.

TMOs are developed under the Right to Manage Regulations, which were first introduced in 1994 and revised in 2008 and 2012. Currently, there are over 230 TMOs nationally managing over 80,000 homes.

The Right to Manage is only a statutory 'Right' for tenants of local authority homes. No equivalent right exists for tenants in the housing association sector, although there is a voluntary route to tenant management that has been little used.

This Guidance is intended to provide a brief overview of the responsibilities of a landlord if they are approached by a residents group wishing to exercise the Right to Manage.

## The Landlord's Role

In accordance with the Regulations, the role of the local authority is to facilitate the exercise of the Right to Manage by their tenants. This includes contributing 25% of development costs, as well as providing information and support for the residents group. A local authority needs to have the knowledge and capacity to fulfil this role. When approached by a residents group considering tenant management, the landlord should ensure a Lead Officer is identified with the seniority to deliver the landlord's obligations, oversee and support the project. Some landlords have established a project board of relevant officers to facilitate internal coordination so that the landlord discharges its obligations effectively.

Advice and assistance for landlords is available from the Local Authority Co-operative Officers Group ([www.lacog.org.uk](http://www.lacog.org.uk)).



## Joining the Tenant Empowerment Programme (TEP)

The Right to Manage is supported by the Tenant Empowerment Programme, which is administered by the Department for Communities and Local Government (DCLG). The Programme administers the Tenant Empowerment Grant (TEG) to enable residents groups to explore and develop options for greater resident control of housing services.

To get on to the TEP, a residents group needs to submit to DCLG a Pre-Application Questionnaire (PAQ). The landlord should advise the residents group about the process and help it complete the PAQ. Once the group has been accepted onto the TEP, the landlord should help it appoint a Lead Advisor. A list of Lead Advisors which are able to receive TEG is maintained by the National Federation of Tenant Management Organisations ([www.nftmo.com](http://www.nftmo.com)). It is good practice for the residents group to invite applications from several potential Lead Advisors. The landlord should help the residents group with the recruitment process and ensure that interviews are conducted appropriately. This may involve providing training to the group in good recruitment practice.

## Exploring the Options

Before a residents group can begin the development process leading to the establishment of a TMO, DCLG will expect the group to undertake a short programme known as Exploring the Options (ETOI). ETOI enables the group to work with a Lead Advisor to examine the range of options available to increase the level of tenant empowerment. ETOI is fully funded through the TEP, covers a prescribed package of work and should result in an action plan agreed by the residents group and the landlord. During ETOI, the landlord will be expected to provide information about the estate(s) represented by the residents group, service providers and costs.

Should the chosen outcome be a wish to establish a TMO to take over some or all of the housing services, grant funding is available for an Exploring the Options II (ETOII) project, the outcome of which should be the residents group serving a Right to Manage Proposal Notice on the local authority.

## The Right to Manage Proposal Notice (RTMPN)

The RTMPN is a Statutory Notice served on a local authority by a constituted group of residents to declare their intention to form a TMO for the purposes of taking over the provision of housing services in their area. The drafting of and consultation on the Notice should be the outcome of the Exploring the Options II (ETOII) process.

The content and criteria for accepting the Proposal Notice are prescribed by sections 9-11 of the Right to Manage Regulations. The landlord's Lead Officer should be familiar with the Regulations and is responsible for ensuring that the Notice has been served properly. If any of the criteria are not met, the Notice should not be accepted by the local authority. During the ETOII stage, the landlord should ensure that the TMO is aware of the process required for the serving of the Proposal Notice. This should include (where relevant) agreement on how the Test of Opinion will be carried out. The landlord must respond to the Notice within 28 days.



## Landlord checklist for processing a Right to Manage Proposal Notice

### Does the Notice comply with the Regulations?

- Check that the properties covered by the Notice conform to the criteria set down in the Regulations
- Check that the Notice was delivered to every address in the 'area of benefit'.
- Check that the Notice contains the statements of fact and intention required by the Regulations

### Is the residents group representative?

- Check the constitution to ensure that it is inclusive and democratic and that the proposed area of benefit is covered by the constitution
- Check the group's membership list and cross check addresses to ensure properties are within the specified area of benefit
- Establish the total number of tenants (tenants + leaseholders) and the total number of secure tenants in the defined area to test whether the group has a membership which includes at least 20% of all tenants (secure tenants + leaseholders) and 20% of all secure tenants

### Have residents been consulted?

- Check that all those voting in a ballot, poll or on a resolution to serve the RTMPN are members of the organisation i.e. that non-members did not contribute to the decision
- Check the attendance register of the meeting to ensure that those attending were members and that the meeting was in quorum
- Check the constitution to ensure that the meeting was called in line with the constitution and that the proposal was properly presented at the meeting
- Check a copy of the minutes of the meeting and confirm voting results
- Record the tenure of members voting at the meeting to work out the number of tenants voting and also the number of secure tenants voting.

The acceptance of the Right to Manage Proposal Notice represents the formal start of the Right to Manage process and the commencement of the Development stage

## The Development Stage

The Development stage is the longest and most important of the TMO development process. It begins when the landlord formally accepts the Right to Manage Proposal Notice and runs through to the completion of the ballot of all tenants and leaseholders on the tenant management Offer.

The Right to Manage Regulations prescribe a maximum 15 month period between acceptance of the RTPMN and the completion of the Approved Assessor's final assessment report on the TMO's competency. This time limit can be extended by agreement between the TMO and the landlord. This is likely to be required on larger projects, but it is in the interests of both parties to maintain the momentum of the project and to try and complete the Development stage within the timescale.

The Regulations also state that within 15 months of the acceptance date the TMO and the landlord should prepare the Offer for residents. However, the Offer can only be completed following the finalisation of the Assessor's report.

For landlords, the key elements of the Development stage are:

- The Tripartite Agreement
- Competency Assessments
- The Work Programme
- Grant application and payments
- Provision of landlord information
- The Management Agreement
- Training
- The Offer
- The Ballot





## The Tripartite Agreement

At the start of the Development stage, an agreement should be drafted and signed between the landlord, the Lead Advisor and the residents group setting out how they will work together on the project. An example of a tripartite agreement can be found in Appendix 4 of the non-statutory guidance document Residents' Choice, available from the DCLG website.

## Assessment of Competency

TMOs developing under the Right to Manage must pass an independent assessment of competency, based on the Common Assessment Model (CAM) and carried out by an Approved Assessor. The assessment process enables both residents and the landlord to have confidence that the TMO is ready to take on the management of housing services. It is crucial that the Lead Officer is familiar not only with the Common Assessment Model itself, but also the accompanying guidance (Guide to the Common Assessment Model).

Within 3 months of the landlord accepting the Right to Manage Proposal Notice, the TMO must apply to the Assessor service for an Approved Assessor to be appointed. Normally, there will be three assessments over the course of the Development stage, but the Assessor service may vary this for an individual project depending on local circumstances. The first assessment (Stage 1) should take place once the work programme has been agreed and second (Stage 2) or interim assessment usually takes place after 6-9 months to make sure that the project is proceeding in accordance with the work programme.

The CAM includes a Landlord Questionnaire, which should be completed by the Lead Officer prior to each assessment. The assessment process also allows for the Assessor to speak with a representative from the landlord. Landlords should take this opportunity to express an informed, evidence based opinion about the TMO and the work programme. After each assessment, a draft report is sent to both the TMO and the landlord. Landlords should examine these reports and provide comments regarding factual accuracy.

The final (Stage 3) assessment determines whether the TMO is competent to take over the management of services. The Regulations require that it is the Landlord who arranges for the Assessor to produce this report. Assessors are independent of landlords and TMOs. In reaching judgements, the Assessor takes account of a wide range of factors, including the views of the landlord where these are supported by robust evidence.

## The Work Programme

The work programme is developed by the Lead Advisor in consultation with the TMO and must be agreed by the landlord. The work programme must be good enough to ensure that the TMO is able to pass the final (Stage 3) competency assessment. It should identify the tasks of the Lead Advisor, the landlord and the TMO, and must be costed to ensure that it can be delivered within the terms of the Tenant Empowerment Grant.

As the experience of Lead Advisors varies, the landlord has a crucial role in ensuring that the work programme is fit for purpose. In order to fulfil this role, the landlord has to have a sound understanding of the requirements of the Common Assessment Model and its guidance.

The work programme needs to be a detailed document that clearly identifies what tasks will be carried out by whom and when. The work programme should cover Governance, Training, Capacity Building, Consultation, Risk Assessment and Business Planning. During the Development stage, the TMO has responsibility for leading on some aspects of the work programme such as monitoring the delivery of the work programme against budget, for which the landlord can provide advice and support.

The work programme should be presented in a format that complies with the requirement of the Tenant Empowerment Grant with clear milestones to be met during the course of the project. The work programme is the guiding document of the Development stage and the project will be jeopardised if it is inadequate. The landlord should not sign off a work programme until it is satisfied that it is of sufficient quality. The work programme should include regular meetings between the landlord and Lead Advisor to assess progress. It is good practice to populate a calendar with specific dates for each meeting and training session for the whole period of work programme.



## Grant

During the Development stage the landlord is required to contribute 25% of the development cost. The remainder is met by Government's Tenant Empowerment Grant. It may be possible that some of this contribution can be paid 'in kind'. This may include, for example, service delivery training that only the landlord can provide. This should be agreed in advance with the Tenant Empowerment Programme team in DCLG, the residents group and its Lead Advisor.

Grant payments are made in instalments following the achievement of milestones. The amount of a grant payment is determined by DCLG. The landlord should only pay its share once it has received an invoice from either the Lead Advisor or the TMO (whichever receives the grant). The landlord should ensure that the invoice conforms to the Conditions for Grant letter from DCLG. The landlord does not have the authority to withhold its share of the grant payment if grant has been approved by the Tenant Empowerment Programme team and payment should be made in a timely manner to enable the smooth progress of the project. The landlord does not sign grant claims (which is the responsibility of the TMO and the Lead Advisor) or statements of grant usage. However, the landlord may want to use such statements to account for its own milestone payments and it is recommended that the landlord signs off any progress report required to complete a project milestone.

## Landlord Information

The landlord has to provide certain information to the TMO and the Lead Advisor, which should be done in a timely fashion in order to avoid delays in the delivery of the work programme. The timetable for providing information should be set out in the Tripartite Agreement. This information includes:

- Indicative allowances
- Outline of how services are currently delivered, including estate specific data and performance standards
- The TUPE implications of the transfer of services
- Feedback on the business plan
- Monitoring arrangements

Details of the allowances the TMO may receive should be provided early in the Development stage to help the TMO decide what responsibilities it wishes to take on, and updated when decisions are made. The landlord should be able to explain to the TMO how allowances are calculated. Without good information about allowances, a TMO cannot make meaningful decisions about what it wants to take on, how it should deliver those services or develop a budget or business plan and may cause delay in completion of the project and increase costs.

On request, the landlord should provide the TMO and Lead Advisor with information about particular services e.g. rent collection and arrears levels, the number, type and cost of responsive repairs on the estate for a period of at least one year. The landlord should ensure that personal or commercially sensitive information is treated in accordance with its confidentiality policy.

The landlord is responsible for identifying any TUPE implications of the TMO taking over the management of services. This includes both council staff and those of contractors. If TUPE applies to council staff, the landlord must provide the TMO and the Lead Advisor with all relevant information, such as pay rates, terms and conditions etc. The landlord should provide relevant information to any of its staff that may be transferred to the TMO.

The landlord also needs to tell the TMO how its performance will be monitored once it has become operational. A monitoring procedure should be agreed before a ballot is held. The landlord should also ensure that the TMO clearly understands how it can request and receive advice from the council.

The Business Plan is an important document for demonstrating to residents, the landlord and the Assessor that the proposed TMO can operate effectively and be sustainable. Though the Business Plan is produced by the Lead Advisor and the residents group, the landlord should support the process by providing detailed and timely feedback, including identifying perceived shortcomings in the Plan.

Some of the landlord information should have been available to the TMO during the Exploring the Options phase. It can be difficult for officers overseeing a TMO development project to obtain this landlord information from within their authority, including the nature of 'break clauses' in existing contracts. Therefore, it is advisable to start discussions with colleagues as soon as possible and make them aware that the council has a duty to support the Right to Manage process.

### The Modular Management Agreement (MMA)

The MMA will form the legal contract between the TMO and the landlord. The MMA is approved by the Secretary of State and should be used for all Right to Manage projects. During the Development stage, the residents group has to select the services it wishes to take on and the level of responsibility it will undertake. This is done through the selection of MMA Options. In order for the residents group to make informed decisions, the landlord needs to ensure that it has accurate information about both the allowances it may receive as well as relevant issues relating to particular services, for example, level of rent arrears, breakdown of repairs and costs.

In addition, before the final Stage 3 assessment, the TMO must adopt a number of MMA Schedules, notably a Code of Governance, an Equal Opportunities Policy and procedures for financial control. However, it is advisable that the landlord helps the group discuss and agree other Schedules (policies and procedures) as part of the training programme to decide how the TMO plans to deliver services. The MMA needs to be completed within 9 months of the Ballot.

### Training

During the Development stage, training must be provided to fill gaps identified in the Training Needs Analysis AND be directed towards achieving the requirements of the CAM. The training programme needs to be agreed by all parties at the start of the project in the work programme. It is advisable that training activities are directly linked to the production of outputs required by the CAM. For example, training on Governance should be linked to the incorporation of the TMO company and the adoption of documents such as the Code of Governance and the Equal Opportunities Policy. Participation in training in itself does not count in terms of evidence for the Stage 3 assessment. However, the Training Plan and Log need to be completed on the CAM and evidence supplied of the TMO's evaluation of the training undertaken.

At a minimum, the work programme should include training on

- Governance
- Financial Control
- Community Engagement & Building Membership
- Service Delivery
- Staffing & Procurement
- Business Planning, Risk Assessment & Performance Management

Though the Lead Advisor is responsible for designing the training programme and for ensuring it is carried out, the Tenant Empowerment Programme encourages residents groups to procure training in a cost effective way from a range of providers who can offer skills and expertise, including other TMOs, voluntary or community groups. However, it is important to ensure that both individuals and the group as whole participate in the necessary training activities. The limited resources available through the Tenant Empowerment Grant mean that landlords have an important role to play in enabling residents to access training available from within the local authority, including training delivered by officers working on the TMO development project.

### The Offer

Following a successful Stage 3 Assessment, residents have to be balloted on whether they want the TMO to take over housing services. In order for this to be an informed decision, it is necessary to produce an Offer document that sets out the proposal for tenant management on the estate.



The Regulations require that the Offer is developed by the landlord and the TMO together within 3 months of the completion of the Approved Assessor's report. The Offer must contain information about:

- The management functions to be taken over by the TMO
- Budget/allowances to be paid to the TMO
- The landlord's and the TMO's financial control processes
- The TMO's management and governance arrangements

The landlord is then responsible for putting together and sending to all the homes in the area of benefit an Offer document, which must include

- The Offer
- The conclusions of the Assessor
- Information from the TMO about the tenant management proposal

The Offer document should be written in plain English and be comprehensible to residents with no experience of participating in the TMO development process. Where a significant number of residents do not have English as their first language, the landlord needs to take all reasonable steps to ensure that all residents have an equal opportunity to understand the Offer.

The Offer needs to be delivered to every household on the estate and the ballot of residents must take place within 3 months at most, though in practice this should be done quicker. This means that the landlord's Lead Officer needs to ensure that internal process for agreeing, printing and distributing the Offer document are factored into the timetable. The Offer should include contact information for the Lead Advisor and the landlord. It should also make it clear that the Offer is being made under the Right to Manage and that residents will be balloted on whether they accept the Offer or not.

## Ballot

The landlord is responsible for arranging the ballot of residents. The most important factor is that residents accept the balloting process and the subsequent result. On small estates, it might be reasonable for the landlord to conduct the ballot itself. However, in most cases, the ballot should be carried out by an independent and professional organisation. This may have significant cost implications for the landlord and will also have an impact on the time it takes to organise the ballot. Even on small estates the landlord should not allow the TMO or the Lead Advisor to conduct the ballot due to the obvious conflict of interest.

To minimise confusion, the ballot question should be a clear Yes or No choice. The question must be clearly linked to the tenant management Offer. The ballot materials should also clearly state the ballot rules i.e. the distinction between the votes of tenants and secure tenants, and how the result will be determined i.e. a majority of tenants and a majority of secure tenants participating in the ballot. It is good practice to offer a variety of methods for voting, including email and text and the landlord should make its best endeavours to ensure that absentee leaseholders are supplied with a copy of both the Offer and the ballot materials.

It is important for the landlord to stay neutral during the ballot and not to recommend either a Yes or No vote. However, the landlord should have an agreed system in place for responding to residents' queries about the ballot. It should also have a procedure for addressing problems that may arise on an estate during a ballot campaign. Though it is up to the TMO and its Lead Advisor to 'win the argument' with residents, the landlord has a role in responding to clear examples of misinformation by any party if it is felt that this may undermine the objective of residents registering an informed opinion. There is no turnout threshold for a TMO ballot and the landlord cannot prescribe one. The landlord should actively promote participation in the ballot and aim for as high a turnout as possible.

The local authority is responsible for arranging for the ballot and for the notification of the results. It is advisable to inform the TMO of the ballot result before it is made public. The landlord must inform all tenants and leaseholders by letter of the outcome of the ballot along with the implication of the result on the project. The ballot result can also be publicised on estate noticeboards and the TMO should be encouraged to produce a newsletter for residents.



## Preparing to go live/Implementation

### Office feasibility and costs

Following a successful ballot the local authority is required to provide fully furnished and equipped premises for the TMO. This can be very challenging in terms of costs and the availability of resources. It is important for the landlord to commission the office feasibility study early on in the Development stage, so that the information can be fed through the budget setting and planning processes.

### TMO-TRA relationship

In most cases the RTMPN is served by a Tenants & Residents Association (TRA). However, over time, the project is led by a TMO steering committee which then becomes the Board/Management Committee of the incorporated body. The Incorporated status gives the organisation a legal identity, the prerequisite for entering into a Management Agreement with the local authority for managing the delivery of housing services on the estate.

A decision has to be made by the members of the TRA and the TMO on whether to merge or to remain as two separate entities. Where there is a merger, (TRA becomes a subcommittee of the TMO or the TMO extends its core function to include those of the TRA), the local authority should ensure that all funding available to the TRA is passed on to the TMO and that the TMO assumes all the responsibility accorded to the TRA, including fulfilling the tenant participation function.

Where two bodies exist, the TMO will always be the higher resident body on the estate. The local authority will have to appraise its relationship with the TRA in terms of issues to do with the delivery of housing services including matters of consultation. With this model, the TRA will continue to be the main body on the estate for social activities and resident involvement.

### Appointing the TMO Manager

Where the TMO will be employing directly, the landlord should provide resources for the TMO to advertise for staff. The cost of this should be in line with the landlord's own recruitment policies. The landlord should provide the TMO with any necessary personnel advice and assistance in the process of recruitment and selection. This includes the development of recruitment materials, helping to assess candidates and being present at interviews.

## Grant

Tenant Empowerment Grant is available post-ballot to cover some of the costs leading up to the TMO becoming operational. The landlord and the TMO need to agree a costed action plan, including any 'in kind' contributions of the landlord. The grant will cover a proportion of the action plan's costs, mainly to allow the TMO to use the Lead Advisor to complete the Management Agreement and to cover the salary of the TMO office manager for up to 3 months before 'going live', and for communicating with residents about the changeover to tenant management. Tenant Empowerment Grant does not cover the costs of building and fitting out an office for the TMO or supplies for the TMO, which should be provided by the landlord; see Statutory Guidance Number 4 "Guidance on start-up costs for Tenant Management Organisations".

## Completing the Modular Management Agreement (MMA)

Prior to the Stage 3 Assessment and the ballot, only the MMA options and some MMA Schedules have to have been agreed by the TMO. However, before becoming operational, the full MMA needs to be signed off. The landlord should ensure that all Schedules are fit for purpose and have been through internal consultation. It is advisable that as well as input from the Lead Advisor, the MMA Schedules and other policies and procedures are produced in consultation with the TMO Manager, who will be responsible for implementing them.

The full MMA needs to be adopted at a quorate General Meeting of the TMO. The Lead Officer needs to arrange for the local authority's sign-off of the MMA. Regulations require the landlord to enter into an agreement with the TMO i.e. the Management Agreement, within 9 months of the completion of a successful ballot. The 2012 Regulations abolished the requirement for the landlord to send a copy of the MMA to the Secretary of State.

It is a good idea to organise a public event for the signing of the MMA to publicise the achievement and to underline the landlord's commitment to the TMO.

## Landlord Systems

Once a date has been agreed from when the TMO will become operational, the landlord needs to confirm the amount of allowance to be paid to the TMO so that it can agree a budget before going live. The landlord needs to ensure that its internal financial processes are adapted to take account of the existence of the TMO. In addition, the Lead Officer has to make sure that all relevant parts of the landlord organisation are aware of the TMO and its implications for their work i.e. housing officers, repairs officers, housing benefit section etc. The landlord also has to put in place a system for monitoring the TMO's performance, as well as for providing ongoing advice and support to the TMO.

## Sources of information/support

1. The Housing (Right to Manage) Regulations 2008
2. Right to Manage Guidance - Modular Management Agreement for TMOs
3. Right to Manage Guidance on Schedules
4. Resident's Choice – The Guidance on tenant management and other options supported through the Tenant Empowerment Programme
5. NFTMO Calculating Allowances booklet

[www.lacog.org.uk](http://www.lacog.org.uk)

[www.nftmo.com](http://www.nftmo.com)

[tenantempowerment@communities.gsi.gov.uk](mailto:tenantempowerment@communities.gsi.gov.uk)



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