



Information Note

Introduction to Tenant Management Organisations

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What Are Tenant Management Organisations?

Tenant management organisations, TMOs, may be used to allow tenants to become much more closely involved in how housing is managed in their local area. There are various forms of tenant involvement in local management and two main different types of tenant management organisation. This information note will introduce the various forms and explain the setting up and workings of estate management boards in some detail.

TMOs can take over some or all of the local housing management functions of a landlord. They are usually constituted as an industrial and provident society to have a proper legal identity separate from the people who get involved in it. A formal contract, called a management agreement, is drawn up detailing what functions the TMO will take over and how things will work. The landlord remains the owner of the homes involved. Tenants' rights including the right to buy are unaffected and tenants retain the same tenancy agreement. Local tenants must support the formation of a TMO and the functions it will take over.

The possibilities for what a TMO takes over managing could range from only one of the functions in the following list, or most of them. It depends on what is agreed.

Day to day repairs

Repairs when houses are relet

Cyclical maintenance (servicing heating boilers, outside painting, etc)

Some planned maintenance

Allocating new tenants to vacant homes

Organising the turnover of tenancies

Rent collection

Collecting rent arrears

Advice about housing benefits (not deciding on benefit awards)

Maintaining open spaces

Enforcing tenancy agreements (including dealing with antisocial behaviour)

In most of these functions, only so much is delegated to the TMO to do. For example, while the selection of new tenants may be devolved to the TMO, deciding the policy governing how the selection will be made would remain with the landlord.

When Should a TMO be Considered?

In some neighbourhoods, problems may be more severe and normal policies and practices don't work well enough. There may also be problems with linking up different parts of the housing service or different local services. In those circumstances a TMO could be considered, to give scope for different policies and practices to be introduced. The key point is that those differences have to be in response to the problems as perceived and experienced by local people. Local people have to be an integral part of making the change.

A TMO can give real decision making power over the things a TMO takes over. Note that a TMO only takes over housing/landlord functions. Things like street cleaning, crime and serious antisocial behaviour fall outside normal landlord services. Different initiatives like neighbourhood agreements might be more appropriate where the problems lie with different service providers linking up what they do in the neighbourhood. Neighbourhood agreements could also be considered alongside setting up a TMO.

Different Types of TMO and the Alternatives

The two types of TMO are

Tenant management co-operatives (TMCs)
Estate management boards (EMBs)

In a tenant management co-op the committee taking on the functions is made up entirely from tenants. Housing staff may take part in an advisory capacity. Like other forms of co-op, there is a strong “self-help” ethos in a tenant management co-op.

In an estate management board, the board will have a majority of tenants as members. The landlord will also have representation. There could also be a small number of interested others. This formulation is designed to enable a close partnership between the local tenants and landlord to take place. Tenants have a decisive influence, but the landlord remains committed to playing a full part in ensuring services work well.

In both models, staff are usually seconded from the landlord’s housing employees. The TMO can direct the tasks undertaken by staff but would not set their salaries and conditions of service.

This table shows options for how tenants might become involved in running their estates and influencing their landlord. It is based on the range of things tried at some time or other in Scotland in recent years. Note that only the last two options in the table amount to tenant management organisations.

Options for Involvement	Key Features
Informal neighbourhood agreements	<p>In this option, a tenants association remains an independent pressure group, which has come to an informal agreement with their landlord and possibly other agencies about what happens in their area. Although informal, they can be in writing and be signed by the different parties. They can strengthen the obligation to deliver on the part of the landlord and other agencies. It could be particularly helpful where the actions of different agencies, for example the landlord and the police have to be linked together to make sense.</p> <p>Tenants associations or other community representatives could take part in monitoring progress with the agreement.</p>
Estate action plans	<p>This is very like a neighbourhood agreement. They were used in the past in Glasgow to describe in detail what housing services would be delivered in each area.</p>

Different Types of TMO and the Alternatives

Options for Involvement	Key Features
Local lettings initiatives	<p>In a local lettings initiative, the landlord agrees to do something different from normal letting processes, to respond to particular issues. It could concern the rules for who is eligible to be housed, or it could involve different processes for preparing houses for letting or introducing prospective tenants to the area.</p> <p>Local lettings' initiatives often arise from pressure from local communities and their representatives. They may have some part in the lettings processes and/or take part in monitoring results.</p>
Estate forums	<p>Estate forums establish an informal partnership approach with local communities to some local services. They allow community representatives and service providers to share views about issues and how to deal with them. They usually have very limited decision making powers, if any. Although the officers who attend may themselves have devolved decision making powers and so may be influenced by community representatives.</p>
Estate sub committee	<p>An estate sub-committee will be a formally constituted sub-committee of the landlord's housing committee or board of management. It allows the landlord to devolve some decision making to the local level and have tenant representation on the committee.</p>
Estate management boards (EMBs)	<p>Estate management boards are formally set up organisations who contract to take over responsibility for delivering some landlord services. This means they have decision making powers over the things for which they take on responsibility. For example they could take on the whole repairs service. Tenants form a majority on the boards and the boards become formal partnerships between tenants and the landlord. The partnership is governed by a legal agreement, called a management agreement, specifying in detail what the boards responsibilities are, what the landlord's obligations to the board are and how the board must account to the landlord for its work.</p>
Tenant management co-ops (TMCs)	<p>In a tenants' management co-op, tenants form the committee taking over responsibility for some landlord functions. Like an EMB, there is a legally binding management agreement. While the EMB emphasises the initiative as a partnership between tenants and landlord, a TMC emphasises the voluntary input given by tenants to running aspects of the housing service.</p>

The Right to Manage

The Housing (Scotland) Act 2001 provides for a tenants' right to manage. This means landlords of secure tenants are obliged to allow tenants to take over the management of their housing, provided they work out satisfactory proposals to do so. There is no obligation on landlords to assist tenants prepare proposals. Nor is there a commitment to funding to enable tenants to bring in the support they would need to do so. TIS are unaware of any group of tenants in Scotland who have attempted to exercise this right.

The Constitution of a TMO

The usual legal form for a TMO is an industrial and provident society, an I&PS. A group of people can establish an I&PS by adapting model rules to create a constitution covering aims and how the organisation must operate. The aims must relate to service to a community and prevent payment or profit being distributed to members or board members. The rules would specify membership eligibility, board membership, elections to the board and the usual provisions for democracy within the organisation. In the case of an EMB, the membership would include the landlord as a "corporate" member. "Corporate" just means the member is an organisation with its own legal identity. An EMB's rules would provide for how the landlord could be represented on the board running it.

The TMO has a legal identity separate from the tenants who sit on its board. This protects those tenants from individual liability for the TMO's actions.

The Management Agreement

The management agreement underpins the whole working of a TMO. It specifies what functions the TMO is taking over from the landlord, the standards of service required of the TMO, the extent to which the TMO can change the service delivery arrangements, the limitations of the powers of the TMO, the support offered to the TMO by the landlord, the liaison arrangements between the TMO and the landlord including consultation on matters not devolved to the TMO, how the landlord will pay the TMO for its services, how income and expenditure will be controlled, how the TMO will be staffed, the rights and responsibilities of the landlord and the TMO, how the performance of the TMO will be monitored, what happens if the agreement is breached and how the agreement can be ended if things don't work out.

Note that no secure tenants' rights conferred by acts of parliament can be taken away from tenants arising from setting up a TMO.

It is possible to have an agreement which allows the TMO to take over some functions and leave others with the landlord. An agreement could also be written to restrict the functions taken over initially, with a view to extending these once experience was gained and the arrangement was shown to have benefits for tenants.

Setting Up an Estate Management Board

In the remainder of this information note, the focus will be on EMBs, although much of what is covered would apply to TMCs as well.

The main steps required to enable an EMB to take over some landlord functions are

- ◆ Support from the majority of tenants
- ◆ Sufficient numbers of tenants interested in taking an active part
- ◆ The development of the skills and knowledge required for the job of board members
- ◆ The establishment of an organisation (the EMB)
- ◆ The production of a management agreement
- ◆ Securing approvals to proceed
- ◆ Putting the management agreement into practice, including deploying staff

Most of those steps can be taken in stages. For example, a broad discussion should take place about the potential of an EMB in a particular area taking account of local circumstances. This would naturally lead on to discussion about what functions should be taken over, at least to start with.

While that is happening, more active tenant interest could be invited and the attitude to the idea among all tenants could be gauged.

The formation of an I&PS would require a steering committee to develop possible rules, which would eventually be adopted at an inaugural general meeting.

Interested tenants would have to learn about housing service delivery beyond usual for recipients of a service. This means there would need to be a fair amount of training.

Once tenant interest and commitment was clear, once the outline of the EMBs rules were emerging and once clarity was achieved on the functions the EMB would take over, then work could start on a management agreement. This is a large task in which a thorough focus on detail is important.

For example, were the delivery of day to day repairs taken over, this would also include responding to emergency repairs and work which requires specialist contractors. It would also be necessary to sort out when work should be done to tenants' homes as day to day repairs and when planned maintenance contracts are to be used.

With lettings, variations if any to the landlord's letting policies would need to be agreed, as would the maintenance of waiting lists, prospective tenant selection processes and ensuring they are fair. Increasingly, landlords take part in common housing registers. This means applicants apply once to the lists of several landlords, so that they can be considered for a larger range of housing which may meet their needs. Arrangements would be needed for applicants on common housing registers to be considered for housing run by the EMB.

Setting Up an Estate Management Board

The responsibility for rent collection could either be devolved to an EMB or left with the landlord. If it is devolved, responsibilities for pursuit of rent arrears need to be clear and agreement reached about how this is done. In some arrears cases, legal action has to be taken for recovery.

Councils now have wide responsibilities along with the police for dealing with antisocial behaviour. Landlords still have responsibilities in this respect as well and they will usually stem from the terms of each tenant's tenancy agreement. An incidence of antisocial behaviour may also be a breach of a tenancy agreement, requiring follow up by an EMB, if it has taken over responsibility for enforcing tenancy agreements. However, some work in dealing with antisocial behaviour requires specialist skills. These will usually reside with specialist council staff. People on the receiving end of antisocial behaviour will not want to see delays or lack of effective action arising from uncertainties about when the EMB should act, when the landlord should act and when the local council should act.

These examples have been given to illustrate how much attention to detail is required in drawing up the management agreement. Once the EMB's duties are clear, how the services it delivers are paid for must be worked out. With repairs, it is likely that a separate contract would be needed with one or more contractors directly with the EMB, rather than the repairs being done as part of the landlord's contracts with contractors. This separate contract would provide for payments made for work done.

The final stages of setting up include demonstrating wider tenant support, receiving approval from Scottish Government Ministers, electing the board members, signing the management agreement and a period of shadow working before going live. Shadow working just means an overlap between the old way of working and the new to ensure any teething problems can be identified and solved. As a general indication, it may take around 2 years to get an EMB up and running.

Issues to Consider

When considering whether or not to proceed to setting up and EMB, the following should be considered:

- ◆ Tenants would be taking on a lot of work, both in the setting up and the running of an EMB, and a tenants' input has to be sustained in the long term.
- ◆ There is considerable scope for doing things differently and being more responsive to local issues.
- ◆ There are limits to the responsibilities an EMB takes over. Good links with other services would be needed.
- ◆ There are other ways to involve tenants in improve local services to consider as well, less demanding on tenants' time and effort.
- ◆ Good relationships between the active tenants and the landlord are needed, as is a strong commitment to making it work as a partnership
- ◆ There could be extra expense, for example if it is necessary to set up a local office. Perhaps extra expenses like this could be offset against other savings expected from having an EMB.
- ◆ Staff loyalty to the neighbourhood and local tenants could be strengthened.
- ◆ There are many practical staffing issues to consider. In small areas, only a few staff would be seconded to the EMB. They would have to show a wide range of skills. The range of duties has to be related to staff pay and conditions. Responsibility for dealing with personnel problems would have to be clear. Arrangements would be needed for cover in cases of staff absence.
- ◆ Would tenants take on any duties beyond those of board members?
- ◆ As an advanced form of tenant participation, there may be possibilities for grant aid to help with set up costs from Communities Scotland / the Scottish Government. Their Tenant Participation Development Team could be approached about this.

Conclusions

Tenant Management Organisations offer a potent alternative in which tenants can take over substantial control of some landlord functions, while the landlord remains owner of tenants' homes. They provide scope for tailoring the approach to services to the specific needs of the locality. There is a lot of work to do to explore and develop a TMO. Strong landlord and tenant commitment is needed for success. Close attention is needed to the details of a management agreement and how it is implemented. A TMO would not solve problems associated with non-landlord local services. Other means to link up different services may also be needed.

Tenants interested in the possibility of setting up a TMO should discuss the issue fully with their landlord. Organisations like the Tenants Information Service could be approached to help tenants and the landlord explore the options fully, involve more tenants and co-ordinate setting up a TMO.

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