

Bulletin



Issue 12 2010

Customer focus



The best way to do well in a Short Notice Inspection

Increasingly, all of us expect a high level of service wherever we go, and so should our tenants.

Social housing has been slow to take up this challenge. The Audit Commission has helped to drive up standards and now some organisations have achieved three star ratings. To reach this level, organisations must put their residents at the heart of their business, service and the company. It is apparent as soon as you enter the reception area of a three star organisation how important their residents are to them. The whole organisation is geared around this ethos, rather than the archaic imperative of delivering services to suit staff and organisational drivers.

How will the shift to short notice inspections change what is expected? Although star ratings will no longer be given, the Audit Commission still clearly set out their opinion of an organisation's strengths and weaknesses. The key difference is that organisations will not have the comfort and breathing space offered by the lead-in time of a full inspection to get policies and procedures in place. Just doing nothing and hoping that a short notice inspection is not coming is hardly a sensible strategic approach.

Put residents first, put them at the heart of your business and do it now! Every single department in your company is there to provide services to your residents. Quite often it appears to be the other way around. Staff with this attitude need to wise up or find another job.

To prepare for an inspection, critically look at your organisation. Put yourself in your residents' minds and imagine what you would think of the service that your organisation provides. Is it designed to give residents a good service or is it simply the easiest way for the company to manage the properties? Do you give real choice to residents and do you listen to them?

Choice

Explain the likely cost of the choices to residents; what will be their own responsibility and what will be covered by the organisation. A landlord needs easily accessible information to show residents that what you are doing is cost effective and offers value for money.

Evaluating your service by benchmarking is the obvious answer. Benchmarking allows your organisation to show what you are doing well, but more importantly to look critically at your service and target the areas that need improvement, vital in any

Short Notice Inspection review. The most comprehensive product available for evaluating your repairs and maintenance service is Checkmate, produced by M3.

Good customer service is not hard, you just have to be convinced it's what you want to provide. The pride that you are working for one of the best companies in the country and making a difference to the lives of so many, is all the motivation you need.

Christian Blackbeard, M3 Consultancy
chris.blackbeard@m3h.co.uk

Contents

Editorial

NHMF report 2

Open book partnering debate

For and against 2,3

Sustainability

Reducing energy demand 4

Retrofitting for the future 5

Relish: Residents & sustainability 6

Procurement

Preparing for procurement 7

Successful procurement 8

Regulation and safety

Fire risk 9

Legionella risk 10

Asbestos guidance 11

Service provision

Shared service arrangements 12

Framework agreements 13

Contract management

Contract management risks 14

Insolvent contractor 15

NHMF Awards

Award winners 2010 16

Editorial



The internet allows us to find the answers to almost any question, but it is no substitute for face to face transfer of

knowledge with expert colleagues. This view was supported by the success of the 2010 NHMF Maintenance Conference which saw 300 delegates from across the social housing sector come together in Stratford upon Avon.

Maintenance continues to be a major part of housing expenditure and a high priority in terms of tenant satisfaction. Relatively small improvements in the cost and quality of the maintenance service can deliver significant gains for housing providers. It therefore follows that investment in the process of procurement of maintenance contracts will deliver benefits for the whole organisation. The NHF best practice guide 'Contract Management' funded by the NHMF, was launched at the conference and covers all the stages in detail.

The final plenary session of the NHMF Maintenance Conference staged a debate with argument for and against Open Book Partnering. A number of delegates were persuaded to change sides though the speakers agreed to disagree. The overall conclusion from both perspectives was that ultimately the successful delivery of a contract depends on two things: clear definition of expectations and well informed management from the client side.

The pressure on maintenance managers increases each year. They are required to meet improving regulatory standards such as gas servicing, the handling of asbestos, as well as being prepared for the possibility of Short Notice Inspections. The

sustainability agenda requires them to become overnight experts in new materials and techniques to retrofit existing properties. The economic recession has brought poverty, higher unemployment and antisocial behaviour to most parts of the country. Social housing maintenance departments are expected to lead the regeneration of the worst hit areas. The list of demands is endless: please provide employment and training schemes; please repair the dilapidation; please contribute to the local economy; please improve the housing stock and cut carbon emissions; but please don't spend a penny more. The nominations for the NHMF Awards demonstrate that it can be done.

Of course this cannot be done in isolation. There has to be a provision for time away from the frenetic activity of the day to day operational life to put the demands of all the stakeholders into perspective.

The two day NHMF Maintenance conference showcases best practice, invites contributions from the regulatory bodies and most importantly stimulates discussion amongst the delegates.

It brings together senior maintenance staff representing housing associations, local authorities, contractors, manufacturers, regulators, consultants and professional bodies. It continues to demonstrate that by sharing experience, drawing on different areas of knowledge and understanding the needs of the stakeholders we can capture the expertise to deliver more for less.

Liz Circuit, NHMF Deputy Secretary
National Housing Maintenance Forum
liz.circuit@m3h.co.uk



For Delivering long term savings via open book partnerships



It is generally agreed that improving services to customers requires an integrated approach that manages cost effectively. But some still don't see open book as the answer.

Ian Williams' experience has shown that true integration or partnering cannot be achieved without the central plank in place - cost management. A key way to achieve that without signalling the death of quality customer service nor falling back on a supplier/client relationship is open book.

Open book provides (with some important caveats) cost transparency, and ensures effective decision making. Its beauty lies in its simplicity - by comparison complex procurement and cost analysis models only lead to misunderstanding and dispute. By asking the wrong questions such models give clients and contractors no useful answers.

For our clients, well-managed open book means minimising duplication and waste. It gives both parties an incentive to continuously improve and optimises best value. It is for these reasons such a system has the Audit Commission's backing.

Like any system however if it's implemented poorly, or in a one size fits all approach, nobody is satisfied. If both parties are unclear about their responsibilities, then value for money suffers. But the same applies for SOR, lump sum and other commercial models. With open book, though, the chances of identifying these flaws early on is enhanced as either party can deliver improvements without recourse to adversarial processes. Poor and inefficient management never delivers, regardless of the cost management approach.

The secret of open book success lies in the detail. Including clauses that protect both client and supplier such as pain/gain mechanisms to encourage good performance



or penalise failure, is vital. Partnerships shouldn't mean losing targets and KPIs under a fuzzy blanket of mutual trust - the obligations must remain, but delivered together rather than in opposition.

Sharing ideas, best practice and financial information is the ideal way to deliver improved services. Closing the door on open book only leads to the customer losing out.

Mike Turner, Ian Williams Ltd
mike.turner@ianwilliams.co.uk



Against A step forward...?



In general use Open Book accounting on building contracts refers to any arrangement where the actual costs of the work are measured and compared to a target price. The normal situation being an agreement to share savings on the target cost and to share any cost overrun between the client and contractor. The costs consist of the net buy price of materials, specialist plant, etc., an agreed rate for labour times the hours worked, some agreed breakdown of other overheads and a profit margin. The target cost being a pre-estimate of these costs. It largely came into use by clients with substantial needs for continuous development of buildings, warehouses, stores, supermarkets, offices, etc.

The use of open book in social housing maintenance contracts is more recent. The question is whether open book provides the same advantages in this setting. EU procurement regulations do not allow social landlords to continue to use a contractor just because they like them. At the end of the contract term a new procurement has to be undertaken. This factor, more than any other, weakens the argument for open book. Let's consider three factors: checking the open book account truly reflects the actual costs, the power of the incentive to produce savings and the track record of the arrangement.

Do the clients' know the real cost? Tesco's can, if they want, count the bricks. On a responsive repair contract is there any real way of knowing that the materials you have been invoiced for were actually fixed in your homes or that the costs rendered do not conceal hidden contractor discounts? When it comes to all the variable costs there are real problems in evidencing that what you are paying for is what it actually cost the contractor and is what you pay for what you get. In general

you are paying for the labour whether it is working or not.

The sharing of savings appears to be a good incentive but why would a contractor who can obtain 100% of the target cost give back half the saving if they can deliver at 95% of the target cost. The obvious incentive is to 'make-up' the costs to 100% and hope that they will not get found out. In a worst-case scenario they could operate at, say, 95% of target cost and make up the costs to 105% and recover 102.5%! Nice work if you can get. And as the song goes "and you can get it if you try."

The final problem is track record. My work involves a good deal of benchmarking of repairs costs. The few examples of open book costs I have been able to source shows a distinct cost disadvantage against client using other contract arrangements and in many cases the use of open book has produced situations where clients have no effective repair history at all. Generally, my colleague consultants have analysed open book contracts and the track record of cost-efficiency appears to be poor. I have been involved in open book procurements at the insistence of clients on two occasions. I shall, by choice, not be doing any more.

Rob McNaughton,
Housing Quality Network
rob.mcnaughton@hqnetwork.co.uk



Reducing energy demand



Reducing carbon emissions takes planning, commitment from staff and residents, good technology, and *funding*

As social housing providers we have the responsibility to tackle fuel poverty, especially in the face of increasing fuel costs. Affordable warmth will only really be achieved by heavily adopting renewable technology or a redesign in the basic building construction principles.

Grant funding for social housing new build depends on achieving Code for Sustainable Homes levels 3 and above.

At Orbit we are meeting this challenge using the German *passivhaus* principles, where the focus is on providing high levels of insulation and greater air tightness than required by Building Regulations, combined with high performance windows, doors and roof to ensure the external envelope is as thermally efficient as possible. Our priority is building construction basics rather than high technology solutions. Asset managers need low cost future maintenance and the householder seeks ease of operation. This approach does result in sustainable affordable warmth and goes some way in reducing the 80% carbon reduction mountain by 2050.

In existing stock the UK Government wants social housing providers to devise grant funded affordable solutions linked to renewable technology solutions. Repairs and maintenance budgets have little room for the capital costs associated with high technology renewable solutions even with grant aid. Reducing heating and energy bills which reduces carbon emissions may be more significant for individuals and the UK as a whole than regularly replacing say the kitchen fitments at intervals less than stipulated by Decent Homes. But will residents agree?

Our solution at Orbit is to develop a template for each property archetype linked to our long term planned maintenance programme and financial business plan. A costed 'eco-shopping list' of works ranges from basic traditional like-for-like refurbishment satisfying current regulatory requirements up to a high combination of passive house and renewable technology solutions. Each programme template is devised specifically to provide the best affordable solution for that archetype and takes account of maintaining the long term financial viability of the archetype, including each having a unique energy impact assessment. This approach does not require the full range of carbon busting work to be undertaken at one time but can be phased and linked to the planned refurbishment of key components over the life of the property.



Another obstacle is the sourcing of suitable tried and tested products but without the cost premium which is invariably included due to the 'eco' labelling.

In considering all the above, proactive consultation with residents is a must. At Orbit this dialogue is a key part in developing the template approach. We focus on providing a range of energy awareness information and understanding of passive principles. This extends to carrying out data monitoring and lifestyle surveys of the homes' internal environment. This shows how a small change in life style combined with low cost heating and ventilation systems and improved levels of insulation and air-tightness will not only reduce energy bills but help eliminate common maintenance issues such as condensation and mould growth.

Making a real impact in reducing carbon emissions will only be tackled with increased funding. The debate as to recovery of resident's energy cost savings to help offset the capital cost is gaining more strength and a need to successfully access both UK and EU funding is a high priority for Asset Managers.

John Barnham, Orbit Heart of England HA
john.barnham@orbit.org.uk



Retrofitting for the future



Establish your baseline and maximise the effectiveness of your capital investment

With the likelihood that 4 out of 5 social housing properties will still be in use in 2050 one of the challenges for asset managers will lie in seeking out opportunities to retrofit as part of their ongoing asset management responsibilities: planned and routine maintenance, voids and capital programmes will all present a chance to systematically improve energy performance and lower carbon emissions.

Current average capital costs for the full retrofit of a dwelling are estimated to be well over £25k. However, there is much that can still be achieved at relatively lower cost offering steady payback in terms of energy savings and carbon emissions. Evidence supports the case that the first £5,000 spent wisely can deliver the biggest proportional returns.

But where to start? Firstly, you can't improve what you haven't measured, so you need to be clear about where you are, before you can establish where you need to get to. Through tenancy changes, Energy Performance Certificates are steadily becoming an effective barometer for individual property performance and asset managers are well advised to use this information to build a detailed evaluation of their differing stock characteristics before spending on bold technologies. Furthermore, 'cleansing' databases of old SAP 2001 data and previous 'right to buy' transactions will help to provide a more accurate picture of overall SAP ratings and where to target improvement measures.

Recent analysis of EPC results has shown, there is still plenty of 'low hanging fruit' to be had and in the majority of cases properties can be systematically improved through quick, easy and economical measures that sit well with planned maintenance and void turnarounds. Loft and cylinder top ups, low energy lighting block changes, swapping to high efficiency boilers and simple draught proofing measures can all be carried out as predefined routines that have a positive impact upon the outcome of an EPC. In terms of capital works, kitchen and bathroom replacements lend the opportunity to consider internal wall insulation measures before the refit process, often providing added benefits in the control of damp and condensation.

Of course the most appropriate retrofit measures will always vary according to property type so it's essential you have a true picture of your property portfolio in order to categorise which retrofit

measures will work best – be it a rural semi or inner city high rise. Understanding the carbon/cost ratio of the range of energy saving technologies can be invaluable in identifying the returns on investment. Solid wall properties present a particular challenge to housing providers, however external and internal wall cladding technologies, despite their higher capital costs, still offer good value in terms of reducing carbon and can be enhanced subsequently with small scale renewable energy technologies like air source heat pumps or solar thermal panels.

Targeting capital investment effectively will continue to test asset management professionals and the new Feed in Tariff (FiT) and Renewable Heat Incentive (RHI) will serve to offer landlords a new range of opportunities, particularly for their south facing roofs with solar thermal and photovoltaics taking centre stage alongside a range of renewable technologies. Care will nevertheless need to be taken at the strategic planning stage to validate payback and ensure that properties are well insulated and equipped to last over the period.

Like Decent Homes, the retrofit agenda will continue to rely upon asset managers' knowledge and experience to identify short and long term opportunities to improve stock energy performance. In the next few years new technologies and techniques will continue to emerge, underlining the need for landlords and their contractors to work ever closer to meet the challenge.

Andrew Percival, Sustainable Property Solutions, Kinetics Group
andrew.percival@kineticsgroup.co.uk



Relish™

Involving the community in reducing energy consumption

Relish stands for 'Residents 4 Low Impact Sustainable Homes'. This 12 month pilot was set up in March 09 to prove how a pragmatic and cost effective approach to retrofitting can not only meet the decent home standard, but also contribute to the government's sustainability and fuel poverty agendas.

From the outset, the residents' experience has been at the heart of this initiative, helping to evaluate the most effective ways to reduce energy use and fuel poverty in social housing through:

- Residents: working together with their landlord, making simple day to day changes that will reduce their energy use.
- Low Impact: ensuring each home is refurbished in a way that minimises their energy use, optimising the benefits of low cost, affordable and sensible improvements.
- Sustainable Homes: promoting lifestyle habits, relevant for each household, which deliver long term beneficial outcomes for families, monitored through their own updateable household energy rating.

Optimising benefits for residents

The Relish partners, Worthing Homes (landlord), Faithorn Farrell Timms (surveyors) and Rydon (contractor) set out to quantify the impact of the project on CO2 emissions and fuel poverty in residential properties by:

- making relatively small financial investments in existing, occupied homes, informing and empowering residents, placing them at the heart of lifestyle changes
- evaluating the most cost effective, achievable ways to improve each property

- realising the financial benefits of good energy habits; engaging with the whole family, making everyone aware of how they influence energy consumption; incentivising and embedding good energy habits through advice packs, ongoing guidance and a unique household Relish Rating.

The 8 Relish rules

- 1 The pilot homes must be 'matched' (standard, traditional housing stock – 1950s 3 bedroom semi-detached homes)
- 2 Maximum spend £6,500 per home
- 3 Supported by a residents' awareness and support programme
- 4 Outcomes measured over a 12 month period
- 5 Scientific, monitored evaluation maximises the value of pilot data
- 6 All processes follow best practice, including communications with residents
- 7 Pilot scheme data will inform wider roll-out programme
- 8 Outcomes fed back to residents as a rating, which reflects the energy efficiency of their lifestyle as well as their home

First quarter results

The results from the first quarter are encouraging, reducing CO₂ from 1990 levels by 63+%. Bespoke energy advice delivered a further energy saving of over 20%. The half year report, due about now, will also show:

- % energy reduction achieved through education/advice alone
- residents' top tips for reducing energy bills
- retrofitters' top tips for reducing energy bills
- a shortlist of tested approaches and products that produce the best return on investment

The focus for the remainder of the pilot will be:

- understanding residents' top challenges
- maintenance and development of good energy habits
- completion of monitoring
- refining the household Relish Rating
- post works thermal testing.

Relish phase 2

The second phase of Relish will be rolled out across 158 occupied homes in tandem with decent homes works. As well as applying lessons learned from phase 1, we will focus on:

- training for surveyors, tradespeople
- appointing resident advocates with opportunities for accredited training
- developing a personalised, automated feedback system for monthly advice (less dependent on expensive home visits)
- developing incentives / prizes for top performing households

The Relish project was the first project to be accepted onto the new Constructing Excellence Innovation in Practice programme which launched in 2009.

For further information go www.relish.org

Robin Roberts, Worthing Homes
Colin Farrell, Faithorn Farrell Timms
Jeff Henton, Rydon Maintenance



Preparing for Procurement



Start by establishing what you want to achieve and how to achieve it

The newly published service standards from the Tenant Services Authority have demonstrated the focus placed on the delivery of asset management services by residents, with a particular emphasis on local 'offers' for how the service should be delivered.

The procurement of these services provides registered providers with the perfect opportunity to engage with stakeholders in the development of a service that meets both the needs of the resident as well as taking into account the specific needs of the provider for the delivery of the service.

Before commencing any procurement exercise it is important for the provider to review how the service(s) being procured is currently being delivered and also to capture all stake-holders aspirations for the future delivery of the service.

The procurement process can be described as a journey with four distinct phases:

Stage 1 Scoping – measurement of the current service and defining service requirements for future delivery

Stage 2 Procurement – the formal procurement of the service

Stage 3 Mobilisation – ensuring integration of the new service provision

Stage 4 Contract Delivery – the management of the contract for its duration

The best way to prepare for the procurement exercise is to allocate the necessary resources to complete an adequate scoping

exercise. Providers should set up a Procurement Core Group with the following considerations:

- Identification of key stakeholders – who are they?
- Resident involvement – how will you engage?
- Ensure full sign up – Housing/Finance/IT etc.
- Ensure that the group is representative
- Board buy-in – how?
- Resource scheduling – ensure that necessary time is allocated

This group should lead all four stages of the procurement process commencing with the scoping process, the output of which will be the procurement strategy document that must be approved by the Board and should include the following:

- Partnering? – is partnering the correct route for the provider
- What is partnering? – defining what partnering means to the provider
- Where are we now? understanding current costs and performance levels against peers
- External and internal drivers
- Relationship management – the client – contractor(s) relationship
- Current organisational processes and procedures
- Cost model – reviewing and recommending the cost model for the contract
- Incentivisation e.g. shared savings
- Contract selection – the preferred form of contract
- Supply chain integration
- Integration – defining the level of direct integration with the contractor(s)
- Improved customer input – customers are at the heart of all stages of the process
- Enhanced service delivery – agreeing current levels of performance and targets for improvement
- IT development and integration – provider's IT link to the contractor's
- Qualitative selection process – clarifying the weighting of cost to quality
- Lot sizes – defining the work-streams and split of work by lot
- Client resources and timetable – establishing the resources required and a timetable
- Procurement Core Group – clear terms of reference for the Group for each stage
- Risk management – identification and mitigation of any key risks identified

Without stakeholder engagement in the procurement the process will be flawed.

Each procurement process must be tailored to the individual needs of the client and its stakeholders.

Mathew Baxter, echelon Consultancy
mathew@echelonconsultancy.co.uk



Procuring the contract you want



Planning and a clear assessment of your options leads to success

Maintenance contracts are the largest and most significant contracts many social housing providers will sign. Increasingly, these contracts are being established for longer periods (five to ten years is common), so it is vital to get them right.

Sufficient time needs to be built in to consider all the options and tender the contract.

Deciding what you want

The starting point in procuring the contract and contractor you want is to identify what you are looking for. There are a number of issues and you should involve all stakeholders in considering them. These stakeholders include tenants, leaseholders, staff and board members. You will need to gather information about your future requirements and current contract.

At a macro level, there are some broad options to consider:

- delivering the work through a direct labour organisation;
- procuring an external contractor; or
- setting up shared services arrangement or joint venture.

With an external contract, you will need to decide how the works will be packaged. This includes answering questions such as:

- will responsive repairs, voids and servicing be a separate contract or part of a larger, all embracing "asset management" package;
- how many contractors should there be;
- how long a contract is envisaged, and should it be a contract or framework agreement;
- does the provider want to adopt a partnering approach, or is a more

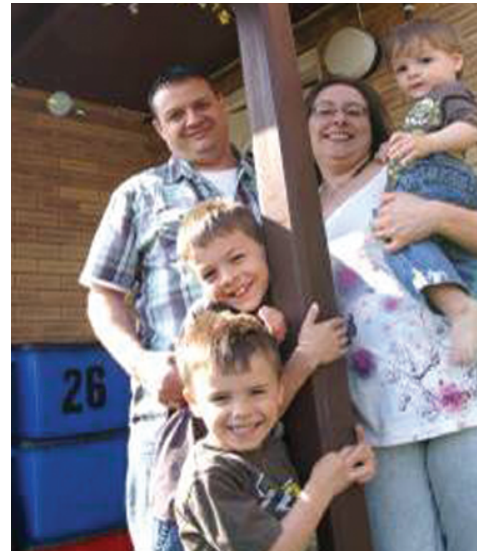
traditional, "hands off", approach preferred; and

- what form of contract is appropriate (which should usually be the last thing to be decided).

Working through each of these questions requires a methodical approach. For example, deciding on the number of contracts involves considering both the geographical spread of your housing stock and your policy towards small and medium sized businesses (who often include your current and other local suppliers). If you advertise one large contract, smaller contractors may not be able to deliver it. Economies of scale may outweigh this disadvantage, but with the consequence that only larger national contractors could tender for your work. Using more than one contractor spreads risk, but may remove the ability to partner to achieve a high trust, high value relationship. It may also be harder to justify the higher priced contractor's costs to leaseholders where the two contractors' prices are different.

Getting the contract and contractor you want

Once you have decided your objectives, achieving them depends on two things – planning the process and identifying the potential problems that may derail it. You need to allow enough time to prepare the legal and procurement documents including, where applicable, leaseholder consultation materials. You need to identify what resources you need and when. Marking specific dates in diaries for evaluating PQOs and Tenders can help keep the procurement on track.



Predicting potential problems

Leaseholder consultation can be particularly tricky. Leaseholders must be consulted at the right time, and with the right information, otherwise you risk service charges not being fully recoverable.

Where TUPE will apply, you should decide how you will deal with TUPE costs before starting the procurement. Contractors cannot price accurately for TUPE unless you can provide employee information with the invitation to tender.

An OJEU process is likely to be required for most repairs and maintenance contracts. The EU procurement rules apply to works contracts with a value of over £3,927,260 and services contracts over £156,442 (excluding VAT). Whilst these rules may reduce your flexibility, they are only a problem if you don't follow them! With adequate preparation they should not be a cause for concern. Without it, you are likely to run into difficulties.

Andrew Millross,
Anthony Collins Solicitors LLP
andrew.millross@anthonicollins.com

Anthony Collins
solicitors



Fire risk

Preventing disproportionate fire damage

The occupants or owners of any flat within an institutional building are highly reliant upon the elements of construction that are present between their apartment and the neighbouring ones (above, below or adjacent) to separate them from the others in the event of a fire. By regulations/law, it is a requirement that these walls/floors are able to resist the actions of a fully developed fire for a period sufficient to allow the Fire and Rescue Service to either extinguish the fire in the adjacent enclosure or to provide protection to the escape routes to permit late evacuation if it has not been possible to control the fire.

Regrettably, there are two very vulnerable openings that may permit the fire to breach these fire resisting enclosures:

- 1 fire doors to gain access to the apartment
- 2 risers, ducts and openings for the passage of services, water pipes, cables, soil pipes etc., from central supply



Incorrect use of an intumescent pipe collar on a PVC duct

The first of these is a well documented subject and various guides to fire door technology will be found on websites such as www.ifsa.org.uk and www.intfire.com. The second set of apertures, those provided to accommodate the passage of services into the accommodation, is definitely the poor relation in respect of published guidance as to how fire can be prevented from exploiting these service penetrations.

Regular guidance, as published in Approved Document B 2006 in support of the England & Wales building regulations, just talks in general terms about the need to firestop such apertures, but apart from a few vague references to proprietary materials, cementitious products and mineral fibre there is little specific guidance.

The services entering modern homes are much more sophisticated and in greater number than even a few years ago. Firestopping is just not the way to seal these penetrations. The insulation on cables must not be able to burn through the seal, expansion/bowing and

buckling of the pipes and any cable supports must not be able to dislodge or negate the sealing system. The seals must be able to close-off any plastic pipes to prevent fire from exploiting them; including the 38mm pvc pipes that Approved Document B appears to allow to pass through a wall or floorslab without bespoke sealing. Such pipes, even small ones, permit the passage of smoke in vast quantities and at the same time, adds to the smoke production unless sealed by a collar. It must be recognised that it is smoke that normally kills the occupants and firestopping does not necessarily prevent the passage of smoke. In fact, the most commonly found form of firestopping is 'pink-squirty-foam' (comes in other colours), which is capable of producing significant volumes of toxic smoke itself when burning.

It is a fact that Approved Document B pays lip service to the avowed objective to control the spread of fire and smoke. The competent person who will now be employed by the responsible person to carry out the Regulatory Reform (Fire Safety) Order mandated fire risk assessment may not feel at all willing to take such a liberal view, as does the guidance of the uncontrolled generation and passage of smoke. Consequently, proper bespoke systems may be the only way of obtaining a positive risk assessment.

Every form of service penetration seal, whether a gunnable sealant; a coated mineral wool batt; a pipe collar; intumescent pillows and, oh yes, even 'pink-squirty foam' should be sold with a field of application defining the size and number of services; the size of the aperture; the nature of the penetrated construction. Therefore, every specification/installation should call up a sealing system that is proven/certificated for the actual application that you have.

Don't take chances; only specify sealing systems that have evidence for your application. A failure to do so can have dire consequences on the resident and/or the building owner!

Peter E Jackman
International Fire Consultants Group (IFC)
peter.j@intfire.com



**INTERNATIONAL FIRE
CONSULTANTS LTD**

Evicting Legionella



Don't allow the bacteria to take up residence!

In the current economic climate there is considerable pressure to be more efficient with your limited resources. This article can be used as a catalyst for reviewing your current status with respect to *legionellosis* risk management.

Those with water hygiene responsibility for their organisation must take the right management decisions and justify their strategy:

- Are you doing too much or too little?
- How effective are the risk management systems you have in place?

The management of *legionellosis* risk falls under the Control of Substances Hazardous to Health (COSHH) Regulations 2002. The HSE have issued an Approved Code of Practice (ACoP) & Guidance document L8 Legionnaires' disease – the control of Legionella bacteria in water systems to provide practical guidance with regard to *legionellosis* risks.

In 2003 the HSE published additional guidance "Essential information for providers of residential accommodation" <http://www.hse.gov.uk/pubns/indg376.pdf>. This document provides useful guidance on management, responsibility and assessment for providers of residential accommodation.

To review your strategy you need to look at two aspects:

- 1 Management system
- 2 Technical and operational aspects of our water systems

An independent compliance audit is strongly recommended to review management systems.

Independent *legionellosis* risk assessments are required to check technical and operational aspects. Use a consultant not a contractor. Contractors sell water treatment, disinfection, etc and may use a risk assessment to justify it.

All too often risk assessments are condition surveys, which disregard the vulnerability of the relevant population and the specific circumstances of the landlord-tenant relationship.



Do you need to risk assess all of your properties? The Water Hygiene Centre's approach is to complete a 'risk screen' of all properties and conduct on-site risk assessment of those identified by the screen as requiring it.

One recent audit revealed the following:

- No previous audit
- Few of the basic elements of a written scheme were in place
- No Responsible Person
- Tank cleaning contractor appointed to undertake risk assessment of 50 tower blocks and 30 sheltered schemes charging over £25,000

- Suitable and sufficient risk assessment had not been conducted;
- Amounted only to condition surveys;
- No scoring, no prioritisation and no data on hot water systems;
- Much more information was gathered for cold water systems;
- Remedial works were only recommended for cold water systems, and covered cleaning and disinfection regardless of condition [£400,000 of work including some minor upgrading].
- No justification for the selection of the properties for risk assessment

Remember

- Separate consultancy from contract works
- Take account of relevant risks and measures for each property
- Guidance isn't law

Act now:

- Appoint and train your Responsible Person (and Authorised Persons, Competent Persons)
- Select an independent authorising engineer and schedule the audit
- Implement the audit findings by revising management systems

Prevent Legionella as tenant in your properties, instead of going through the pain of evicting it!

Daniel Pitcher, Water Hygiene Centre
daniel.pitcher@waterhygienecentre.com



Asbestos guidance



The long awaited publication Asbestos: The Survey Guide HSG264 has now been published and contains specific guidance for those providing social housing

A number of other key changes have also appeared within the guidance. Type 1, 2 are now defunct and will be known as Asbestos Management Surveys and Type 3 will be known as Refurbishment and Demolition Surveys. The guidance also contains further information on what each of the surveys should consist of and also more clearly defines the role of the client in the survey process.

The principles of Regulation 4 of the Control of Asbestos Regulations 2006 are not amended and by now all social landlords should have produced management plans and asbestos surveys for all common parts of properties built prior to 2000. The same also applies to any office premises that may be occupied. Additionally as part of the management process all identified asbestos items should be subjected to annual re-inspection.

It is difficult to apply Sections 2, 3 or 4 of the Health and Safety at Work Act 1974 or the Control of Asbestos Regulations 2006 to domestic premises but HSE are known to have used the Management of Health & Safety at Work Regulations 1999 where asbestos incidences have occurred as a result of contractor activities that have resulting in tenants being exposed to asbestos.

Two pages of the HSG264 are set aside for residential. In short the guide sets out steps that a social housing provider should follow. In the first instance a desk evaluation of the housing stock should be undertaken to assess the commonality of the stock. Similar properties based upon design, construction and age can be placed into archetypal groups for further consideration. The number of archetypes will in many instances be far higher than those used for gathering information on a typical asset / stock survey as the selection will need to allow for a wider variability in design.

While data extrapolated from one dwelling within a block will suffice for a traditional stock condition survey, the asbestos survey will need to consider the variability within the block to allow for factors such as number of bedrooms, roof spaces etc. For example properties adjacent to bin stores are more likely to have added fire protection.

The guidance says that sufficient inspections need to be undertaken to ensure that variability in asbestos use has been established.



Given these changes, providers will now need to more proactively survey dwellings for asbestos, not just kitchens and bathrooms and then make this information available to contractors.

The guidance on what to do next leaves a number of key questions unanswered. For example do you extrapolate the data from surveyed premises to other properties of the same type? If so what caveats should go with the data? How do you extrapolate the data if you have found large variances in the archetypes or asbestos within the archetypes, or does this mean you survey all properties?

Importantly for those that manage tenanted properties the thorny question of telling tenants about the asbestos or potential asbestos within the property has not been addressed. But the question of moral duty needs to be considered especially in the light of developing case law.

The guidance advises that it is the employers responsibility to ensure the surveying organisation / individual is competent – with UKAS Accreditation for asbestos inspections, or membership of the ABICS scheme.

John Richards, Thames Labs
john@thameslabs.co.uk





Shared service arrangements

Can sharing services provide efficiencies without having to follow OJEU?

Housing, as with the rest of the economy, has gone through tough times and faces real challenges this year. Cuts in public sector funding are undoubtedly on their way in the years following the General Election. There is still pressure to complete Decent Homes works and the sector is being challenged to contribute to a sustainable economy by reducing its carbon footprint. In March this year, the Government announced the new "Warm Homes" standard which providers will now have to meet and sitting on everyone's shoulder is of course the Tenant Services Authority with its new standards effective from 1 April 2010.

Making efficiencies in operating costs will become vital over the next few years because real cashable savings can be banked and used to help meet business plan targets of whatever nature. Accordingly, looking at ways of "sharing services" to reduce operating costs becomes more important – if an organisation can access a service that has already been set up and is run by another organisation there are obvious savings to be made. The more organisations which do that, the greater the efficiencies and savings to be shared all around.

Shared service arrangements can take different forms and can be as simple as sharing captured data, e.g. benchmarking clubs, through to sharing of function, or sharing or loaning out staff on secondment arrangements. More sophisticated arrangements are based on agreements to cooperate or collaborate, to open up existing materials, supplies, or services frameworks for call-off by other organisations through to joint buying arrangements and formal corporate vehicles set up to trade.

Whatever the nature of the arrangement, EU and UK procurement law always has to be considered. Housing organisations are Contracting Authorities and are therefore bound to follow the rules. The three main ways of setting up a shared service arrangement are through:

- Setting up a properly procured framework agreement which can be accessed by other organisations;
- Allowing an "in-house" service organisation to be accessed by other housing organisations, under the long established Teckal exemption; or
- Looking to make use of last year's ECJ Landkreise decision.

Framework agreements have been in use for a number of years. They are flexible and effective ways of allowing other organisations to make use of a service that has been procured by a contracting authority – even to the extent of earning income through it. However, there are problems mainly around not correctly identifying in the Contract Notice who is entitled to call-

off services under the framework and then around calling off more services than are permitted, or different services, or services to a higher value, or seeking to impose different terms in call off contracts.

The case law established by the Teckal decision means that if a housing organisation has a truly in-house service arm it can make this available to other organisations provided the appropriate degree of control over that in-house function remains in place and the function does not really engage in work for commercial clients. The Landkreise decision has real potential for exploitation by the sector, because it means that organisations coming together to "pool" resources to discharge their "public" obligations and functions, may be able to do so outside of the requirements of the procurement law framework.

As with all OJEU procurement processes, the devil is in the detail; whether the Landkreise decision is as flexible in practice as it appears to be in theory, when applying it to "shared service" arrangements, remains to be seen. If it is, then the braver organisations out there may push some boundaries over the next few years in the drive to achieve operational efficiency.

Mark Robinson, Shoosmiths mark.robinson@shoosmiths.co.uk

shoosmiths

Best practice maintenance awards 2011



1. Client best at meeting residents' needs
2. Most innovative DLO
3. Best managed external contract
4. Best use of technology

Nominations by 26th November 2010.
Awards will be presented at NHMF Conference
dinner in January 2011

Visit www.nhmf.co.uk to apply

Perils of framework agreements



Can framework agreements really deliver the standards and efficiencies required without leaving out smaller, local suppliers?

As used by the public sector, framework agreements primarily deliver a singular benefit i.e. the reduction of procurement costs. For many years the United Kingdom used the framework agreement as a means to demonstrate compliance with the letter of European procurement directives if not the spirit. So if the EU was not exactly enamoured with the UK's use of such agreements does that mean there is anything inherently wrong with them?

The answer depends how the client intends to use the framework. In 2008 the EU produced a Code of Best Practices Facilitating Access by SME's to Public Procurement Contracts. This shows starkly how SME's in the UK are only gaining direct access to about 31% of above threshold procurements whilst in Slovakia nearer 77% of above threshold procurements are awarded to SME's. It is easy to fall into the framework trap of seeking a single operator who can deliver multiple services by convincing oneself that the local suppliers will get this work anyway further down the supply chain. There is no guarantee that will be the case and even if it does happen the local firms will have to reduce their rates to accommodate the main contractor's costs. The dominance of the housing maintenance/repairs market by big players should be viewed with some caution and serious consideration to splitting into lots or value bands should be given.

There is a tendency for client's to believe that once they have an agreement in place they must push all of their budget through it. This is not the case and often it is sensible to look outside the framework agreement when the market place has tightened up. Remember you should not be re-negotiating terms of a framework after it has been established to try and take advantage of reduced market prices. If you openly advertise outside the agreement there is nothing preventing your framework members bidding for the contract. Be aware that in all public sector procurement, accepting abnormally low bids can

and should be challenged, as Norwich City Council knows to its cost on its housing maintenance programme. Another bidder sought an injunction against the contract being awarded to Connaught PLC whose bid was reported to be some £6m lower than most other bidders. The full result of that will be heard later. The cost of finding alternative service providers while the contract sits in limbo can be very large indeed.

Where a framework is genuinely required, i.e. an ongoing requirement for over OJEU threshold procurements, the mechanism for allocating projects is critical. The agreement itself should specify how future call-offs are to be allocated and client's should record the process they have used on each occasion. This will basically be a check list against the criteria set out in the agreement. If a mini-auction process is necessary then remember to ask all of those on the framework capable of doing the work whether they wish to take part. Whilst you can seek supplementary information in the mini-auction you need to be mindful of and apply the same selection criteria as set out in the framework itself, although these may be more precisely set out or formulated.

Whilst framework agreements are very useful tools, they must be used in the right situation. They can seriously impact a local economy and may not deliver services of the same level of responsive quality and attendance as smaller providers are able to deliver. Do you really need a framework or will a term contract or other solution deliver better results? In any event a framework is certainly not something you can set up and forget. When running mini-auctions you may undertake just as many procurement exercises as you aimed to avoid by setting up the framework in the first place.

Peter Gracia, Gracia Consult peter.gracia@graciaconsult.com



NHMF MAINTENANCE CONFERENCE



January 2011

For details and to book: www.nhmf.co.uk info@m3h.co.uk 020 8254 5580



Hidden risks of contract admin

Keeping control over the life of the contract

Maintenance contracts tend to be the most valuable contracts that a housing provider will procure and administer. These types of contract also pose some of the biggest risks to the organisation (and individual careers).

echelon recently audited a maintenance contract that was already excessively overspent with potentially seven more years to run.

Was the board solely responsible for governance and ensuring that an effective risk management framework is in place? Is it only the executive management team which is responsible for its implementation? Both are accountable for demonstrating value for money. Had this group failed in their duties by being too "hands off" which had culminated in the mess that was before us and now paid attention - too little too late?

It is essential to appreciate that effective contract administration is not simply an operational function and the duty of a technical officer. Intrinsically linked to organisational strategy, there are some basic considerations for a housing provider:

- 1 What are the organisational drivers / objectives (involving residents, community involvement and the direction from the TSA)?
- 2 What is the most appropriate procurement strategy for OUR organisation: • In-house provision • Single integrated contractor • Joint venture • Multiple contractors • Client consortia, etc?
- 3 What are the pros and cons of each of these arrangements and the risk to the organisation, not at least the commercial risks?
- 4 What forms of contract would suit the arrangement?
- 5 What competencies are there within the organisation to manage the contract and who will be responsible and do they have the time to do the job effectively?

The board should take responsibility for understanding and signing off the strategy before it is implemented demonstrating appreciation of the risks and their management.

Once a procurement exercise has been concluded, efforts should be made to ensure that physical agreements are executed during the mobilisation period. Where this is not the case, effective governance is not being followed and both parties are taking risks. A contract running without a physical agreement for any period over three months should be unacceptable and presents a risk that can only be untangled by legal professionals at considerable time and cost should matters go wrong.

There are four key areas for contract administration:

- 1 contract delivery: making certain the delivery of the works/services is in accordance with the contract, and that it is effective and the contractor is accountable to the tender stage promises;
- 2 relationship management: maintaining constructive working relationships with the contractor which does not mean there are no challenges to the contractor whether on performance, cost issues

- or planning and reporting. It is not enough to highlight and discuss issues; good leadership demands actual action taken and change;
- 3 contract management: following the formal contract administration processes that are particular to each standard form of contract and ensuring the contract is kept up to date and that there is proper record keeping. Informal agreements create extensive areas of risk and challenge
- 4 change management: dealing properly with changes and any developments of the contract.

The board and the executive management team should require regular reporting with appropriate levels of detail from their maintenance contracts and from time to time appoint external auditors to ensure compliance with proper procedures as an effective mitigating action and "no surprises" approach to managing risk. If there are early concerns, these should be followed up in a timely fashion to prevent exceptional reviews - too little too late.

Mathew Baxter, echelon Consultancy
mathew@echelonconsultancy.co.uk



Contract management

Written by Anthony Collins Solicitors and
available from the National Housing Federation
www.housing.org.uk



Effective contract management is built on the foundations of the stages of scoping and procurement through to delivery. This comprehensive guide provides a strategic approach to implementing these stages, and is essential reading for anyone involved in managing any type of contract.



Help, my contractor is insolvent!

Information about insolvency can help prevent the worst damage

Contractor insolvency is a growing problem for registered providers of social housing. If you are responsible for responsive repairs, capital works programmes or gas servicing or installation within your organisation, you should make sure that you:

- understand insolvency
- avoid the risk of insolvency events
- work out the practicalities of insolvency
- know about the options if an insolvency event occurs

Understanding insolvency

Insolvency is when a contractor is unable to pay its debts as they fall due or its liabilities are greater than its assets.

There are three main types of insolvency:

- a company voluntary arrangement
- administration
- liquidation or bankruptcy

Where a company enters a company voluntary arrangement or administration, it is possible that the company may continue trading and provide the works or services. Under your contract, you should usually be able to terminate the contract immediately or you can reserve your rights to terminate and see whether a buyer comes forward for the business or whether it trades out of insolvency.

If a company is in liquidation or individuals in a partnership are bankrupt, the services or works will not continue and you will have to look for emergency options in order to provide essential services or works.

Avoiding insolvent events

What are you doing to avoid contractors at risk of insolvency?

- Have you reviewed your procurement processes to ensure that the tests of bidders' financial standing are sufficiently robust? Do your selection

criteria exclude bidders with poor bank references or poor credit rating checks? Do you check management accounts?

- If a bidder puts in a very low price, are you applying the abnormally low tender rules? Bidders can be excluded after certain steps are taken if there are concerns about whether they can deliver the contract for the tendered price.
- During the service period or works, is the contractor having trouble obtaining credit from its suppliers? Do you have an integrated supply chain which will allow you to investigate potential issues? Spotting the signs of impending insolvency will give you more time to manage and mitigate the situation.

Practical issues

If an insolvency event prevents the works or services being provided, you will need to think about things such as:

- Information or IT systems provision - do you have rights to use the contractor's software or data needed to continue providing the service?
- How do you terminate the contract properly?
- Do any depot or call centre leases need to be terminated as well as the main services or works agreement?
- What are your liabilities for any staff that might transfer under the TUPE regulations?
- Who owns the stores or materials which have not yet been used?
- Do you need to insure the works or services the insolvent contractor has provided if their insurance has lapsed?

Options for dealing with insolvency

If a business has purchased the shares in the company in administration or subject to a CVA, the company may come out of administration and operate as usual. You

need to decide whether or not to terminate the contract.

If the insolvent company's assets are purchased, you will need to consider whether you should "novate" the contract. "Novate" means ending the current contract with the old contractor and starting a new contract on the same terms with the new organisation. This ensures the arrangements between you and the new entity are in writing. The new company must take responsibility for all the works or services provided by the old company.

If your organisation has the capacity, you may bring the service in-house whilst you go through a fresh procurement process to identify a new provider for the works or services.

Things to watch out for

Do not forget that:

- when a novating or changing service provider, take advice about whether you are entering into a new qualifying long term agreement (QLTA) or doing qualifying works for the purpose of the leaseholder consultation regulations
- consider compliance with the procurement regulations when procuring any "new" contracts
- you should investigate claiming against any bond or parent company guarantee that might have been provided by the insolvent company.

Richard Brooks,
Anthony Collins Solicitors LLP
richard.brooks@anthonycollins.com



NHMF Maintenance Awards 2010

Client best at meeting residents needs

Wolverhampton Homes



Wolverhampton Homes has a growing number of elderly and vulnerable tenants. The Decent Homes programme is very disruptive but has to be delivered to each household. Wolverhampton Homes dealt with this by involving their tenant liaison team, and occupational therapists, and using Decent Homes information packs together with a DVD in nine languages showing tenants what to expect. Contractors could access the resulting tenant profiles so as to adapt sensitively to their needs. They achieved very high tenant satisfaction levels, while reducing delays to their programme through a robust refusals strategy.

Most innovative DLO

Housing Solutions



The DLO of Housing Solutions has changed its method of working to offer customer choice, and to take account of customer views in all operations. The average time taken to do all repairs has been cut from 9 days to 6 days without any cost increase. By texting tenants the day before their repair and calling them 30 minutes before it, 98% of appointments are kept. Customer satisfaction has increased from 86% to 93%. They offered a Home MOT to heaviest users of the repair service, who could qualify for a £100 no claims bonus. Their Handyman service carries out repairs to supported housing and communal areas through regular visits. These two initiatives produced savings of more than £150K with more projected and customer satisfaction with shared areas has leapt from 60% to 85%.

Best managed external contract

Kier Harlow



Harlow Council and Kier Support Services set up a Joint Venture to improve the Council's maintenance and environmental service. The aim is to go beyond Harlow to other local social landlords to reduce overheads and streamline services.

The JV has helped Harlow repairs go from 'poor' five years ago to 'good' in 2008. Maintenance has achieved large savings, better efficiency, but also improved quality and speed of service.

The day-to-day work of the partnership ensures an innovative approach to each aspect of its work: the local economy is being supported through sourcing materials locally and a trade academy for construction skills has been created in partnership with Harlow College.

Best use of technology

Wansbeck Homes



Wansbeck Homes have seamlessly integrated standard software systems to deliver a customer focused repair service. This begins with repair handbooks for tenants that replicate the diagnostic system used by call centres to log repairs. This links into their job management system which timetables the work into two hour appointment slots. Operatives receive instructions and update the system remotely, eliminating paperwork. Their location is mapped in real time so the call centre managers know what resources are available where at all times. Tenant satisfaction calls are made as soon as the operative leaves.

This enables Wansbeck to manage their resources more efficiently, while their tenants are kept well informed, with jobs completed in one visit.