

# Tenant Management Organisation Development Policy

Tenant Management Initiatives Service

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# Background

A Tenant Management Organisation (TMO) is a resident owned and run company which provides housing services on behalf of the council, in accordance with provisions in the 1985 Housing Act. TMOs are developed under the Housing (Right to Manage) (England) Regulations 2012 (RTM), which were introduced by Government to make it easier for secure council tenants to exercise their statutory Right to Manage.

Southwark Council Housing Strategy to 2043 has a commitment to “Enable council tenants and home owners to take greater control over their local housing services, and supporting the development of tenant management organisations”.

Southwark Council is widely recognised as a leader in the field of TMOs and has won nine separate awards for its support and achievements in this area. Few local authorities can match Southwark in terms of the number of homes under tenant management, with currently over 4,396 homes managed by 15 TMOs, and a further two TMOs in development. Southwark TMOs range in size from 40 homes to almost 1,500 and some of them have expanded to co-op neighbouring properties.

The range of housing services delivered by Southwark TMOs is similarly varied but usually encompasses the cleaning, repairs, tenancy management and rent collection functions. With the exception of Leathermarket JMB, major investment programmes are retained by the council. Recent tenant opinion surveys results show that tenants of tenant managed homes have satisfaction levels 14 percentage points greater than those in homes directly managed by the council.

According to the RTM regulations, the role of the Local Authority is to facilitate the exercise of the RTM by the tenants. The RTM Regulations state that once a Local Authority has accepted a RTM notice served by tenants the TMO may make a request to the Local Authority for support reasonably required for the purposes of pursuing the proposal notice.

The RTM Regulations define “support” as the provision or financing of TMO office accommodation, facilities and training. Central government also used to offer significant financial support in the form of Tenant Empowerment Grants for council tenants groups embarking on the RTM process via the Department of Communities and Local Government (DCLG). However these grants substantially came to an end in 2016. However, the DCLG will continue to fund provision of an independent approved assessor service. The impact of the withdrawal of government funding means that there is currently no external funding for independent advisors to support tenants through the RTM statutory process. Local authorities and tenant groups must develop new ways of working to ensure that tenant management initiatives are still a viable option for local communities.

This document is intended as a policy statement from the council to its residents setting out how the council will fulfil its RTM obligations and what additional local support will be made available to residents. It also sets out the processes and procedures by which this support can be accessed and what residents can expect from the council.

# TMO development

## Stages

According to statutory guidance this process is split into the following stages, the timescales may be extended by agreement between the council and the group.

- a) Exploring the Options I: a tenants group examines the options for further involvement in the landlord service. This stage has approximately four months duration.
- b) Exploring the Options II: a tenant group is clear that it wants to create a TMO and serves a RTM Notice. This stage has approximately two months duration.
- c) Development: the prospective TMO undertakes a programme of learning and development to legally incorporate a tenant owned company or society, (i.e. a Tenant Management Organisation) agree a Business Plan which includes outlining how the management and maintenance services will be delivered, governance arrangements for the TMO, including the creation of a Modular Management Agreement, housing management policies, financial plans, resident engagement and consultation, equalities and creating an offer document for residents which is issued prior to the residents ballot. The prospective TMO Board of management must be subjected to a Competence Assessment carried out by an Approved Assessor appointed by the Secretary of State. This stage has approximately 15 months duration.
- d) Implementation: this stage takes place post positive result of a residents' ballot. It covers a wide range of activities: finalising retained and delegated responsibilities in the Modular Management Agreement, developing the TMO operational business model and housing management procedures, finalising the management allowance, setting up the TMO local office, undertaking activities relating to informing the local community and building membership, promoting the TMO, ensuring that the TMO has appropriate risk and service policies i.e. governance, financial and banking arrangements, the employment and performance management of staff. This stage has approximately six months duration.
- e) Liaison and Monitoring: when the TMO becomes operational the role of the Local Authority is to ensure that the TMO carries out its delegated housing management functions in accordance with the management agreement. This entails offering ongoing advice and support to TMO Boards and receiving regular financial and housing service performance reports in accordance with agreed set of Key Performance Indicators (KPIs).

## Council Support

The council will support council tenants 'groups wishing to exercise their right to manage. Support will include non financial support such as training, access to council IT systems, support with recruitment, etc. and the provision of office accommodation once the TMO becomes operational together with financial support to cover costs such as independent professional advice for the drafting and implementation of development and implementation work plans.

### Stage 1: Exploring the Options -Preparing the Right to Manage Notice

Tenants wishing to find out information about becoming a TMO will be sent an information e-pack. The information pack will contain comprehensive details on what a TMO is, considerations to take into account when exploring whether a TMO is the right approach, a TMO development support application form and guidance on how to complete the form. Groups may also find it useful to use the NFTMO guide TMO network for mentoring/learning.

To initiate the formal TMO process, the tenants' group must serve a written notice on the council of its intention to exercise the Right to Manage. This notice must propose managing at least 25 homes let on secure local authority tenancies, within the area set out in the notice and the TMO membership must comprise at least 20% of all tenants, and at least 20% of all secure tenants from within the area. The council will offer up to £500 to cover the cost of a lead advisor assisting the group in drafting the RTM notice to ensure it complies with statutory requirements.

In order to apply for this payment the group must demonstrate that:

- They have become a council recognised Tenant & Resident Association (TRA) constituted group with a bank account and clear governance and include both council tenants and leaseholders. The group will submit minutes of the most recent AGM.

- The TRA membership must represent at least 10% of the number of households in the proposed area of benefit.

## Stage 2, Development Work - Support and Funding Application

Once the tenants group has served the Right to Manage notice on the council and the council has accepted the proposal notice, the group may request reasonable support from the council to assist taking forward its plans, by submitting a Funding Application. Support will comprise financial and non-financial support. Officers will assist the tenants in submitting the application form in order to request support. Requests for support will be assessed on a case by case basis by the Resident Involvement Manager and approved by the Director for Communities.

A list of supporting documents which the group will have to submit alongside the application can be seen in Appendix 1.

## Non-financial support

The council wants the TMO to succeed and will support the TMO to ensure that it has effective governance, systems and processes in place to manage TMO business and respond to operational challenges. The council will support the TMO in the following key areas, but not limited to:

- Training and advice on council systems, housing management and maintenance policies and procedures.
- Supporting the TMO appoint staff and contractors.
- The provision of TMO office space (see below).
- Support development of good governance and democratic processes.
- Equalities and community development.
- Providing guidance and advice on HR and performance management.
- Understanding staff management.
- Advising the TMO on key performance indicators (KPIs) detailed in the MMA, also individual TMO KPIs and how its performance will be measured against the indicators.
- Guiding the TMO to develop local KPIs and targets to support the achievement of TMO objectives.
- Understanding what minimum housing management standards are (i.e. Key Performance Indicators).
- Introducing ongoing monitoring expectations.

## The Provision of TMO Office Space

As part of the implementation stage, the council will also provide the TMOs with suitable office accommodation in accordance with government guidance.

The council will decide how best to fulfil this obligation on a case by case basis working alongside the TMO's committee. Officers will ensure value for money as well as other considerations such as accessibility, are taken into account when deciding how to provide office space which will be ultimately decided balancing the aspirations of the TMO against council's departmental and corporate objectives and in accordance with the council's scheme of delegated authority and available budgets.

Options can include, but are not limited to: commercial premises in the local area, existing TRA halls in the estate or neighbouring estates, renting space in local community facilities, adapting other small communal spaces, sharing an office with a nearby TMO, etc. The cost of providing office accommodation is covered by the council. New build offices will only be considered as a last resort once all other avenues have been explored and deemed not feasible.

## Financial Support

In order to demonstrate the reasonableness of the request for financial support in the Funding Application, residents groups must:

- Demonstrate that they understand the implications of both the TMO development process and of becoming a TMO (the council will provide residents an e-pack with detailed information and FAQs covering these points)
- Explain what they hope to achieve by setting up a TMO which can't be achieved by any other means
- Demonstrate they have explored the possibility of joining an existing TMO and that this is not a viable option, explaining why.

- Demonstrate they have spoken to at least two other TMO management committees, show evidence of what was learnt.
- Demonstrate they have been in touch with the National Federation of Tenant Management Organisations and joined their “Guide TMO Network” which helps groups exploring developing as a TMO and offers peer-to-peer mentoring.
- Demonstrate all committee members have completed the following training (this will be provided by the council free of charge): equalities and diversity, HRA principles, how services are currently delivered to the proposed area of benefit, governance, community engagement. Where this is not the case, provide evidence of how these.
- Demonstrate how they will meet the Funding Principles set out below.

## Funding Principles

Funding applications will have to demonstrate how the following principles will be met:

- To procure and get best value for money from a variety of sources including local training provided free, or at low cost, by other TMOs the London Borough of Southwark and other local sources.
- A commitment to appoint only lead advisors from the council’s approved list.
- How overheads and direct costs must be kept to a minimum
- A commitment for leafleting, door-knocking, newsletters, fun days, general meetings etc. to be organised and carried out by the tenant group members on a voluntary basis and/or funded through existing TRA resources.

The table below is a guide as to the maximum funding payable for each stage of the process. It is important to note that the council will assess each request for support on a case by case basis in order to establish its reasonableness and the table below is shown as a guideline. The council may also revise funding requirements depending on the size of the proposed catchment area. Payments will be released in stages and will be linked to the successful achievement of agreed outcomes as set out in the sections below. Appendix 2 shows a flowchart of the various stages, milestones and payments.

Stage	Guide Amount
Right to manage notice	£500
Development stage	£12,500
Offer Document	£3,000
Ballot	£2,000
Implementation	£8,500
Set up	£10,000
<b>Total</b>	<b>£36,500</b>

## Funding Stages

Once the notice has been served and accepted the below steps will be followed (maximum sums are indicative only):

### Stage 2, Development Work

a) A first payment of up to £4,000 will be released. This payment will cover the cost of developing a work plan and the early stages of its delivery. It will be the responsibility of the group to ensure the work programme is developed in accordance with the group’s requirements and circumstances in line with its aims and objectives. The group will also be responsible for appointing an Approved Assessor through the Department for Communities and Local Government (DCLG), their role is to assess the group’s development and competence throughout the process. The lead advisor will expect input from the tenants group and the appointed Approved Assessor in agreeing the work programme. The work programme must meet the following minimum requirements:

- Enable the tenant group to meet all competencies in accordance with RTM regulations.
- List all activities including setting up appropriate governance structures and incorporation, strategy development, training and capacity building, study visits, legal incorporation of the TMO (company registered under the Companies 2006 (possibly a Community Interest Company or an organisation registered under the

Co-operative & Community Benefit Societies Act 2014), promotion of information and testing opinion in the local community, building membership, risk assessment and business planning, regular liaison and negotiation with the landlord over the content of a draft offer and management agreement

- Be fully costed and include volunteers' time, direct costs and expected landlords contribution in kind.
- Be presented on the excel spreadsheet template itemised and costed. Showing breakdown of expenditure including costs of lead advisor hours broken down into preparation and meeting time, based on current published rates. It must include details of work tenants will lead on or contribute to it and any requests for council in kind contributions.

The work plan and its proposed implementation cost will be submitted by residents and quality assured by officers in the TMI team in order to establish its reasonableness and must be signed off by the TMI team manager in order to access further financial support. The council's TMI team will carry out interim competency assessments to reduce the risk of competency standards not being achieved at the end of the process. Once the group successfully completes the Stage 2 assessment carried out by the DCLG approved Assessor, the next payment of up to £4,000 towards the delivery of the work plan and to support the group's work towards preparing for final Stage 3 Competence, will be released.

c) Confirmation by the Approved Assessor Service that the TMO has passed the Stage 3 Competence Assessment will trigger the third and final payment of up to £4,500 towards finalising the Offer Document, TMO Business Plan and the Management Agreement in preparation for a ballot of all tenants and leaseholders in the benefit area.

d) In addition, the council will fund the cost of producing the Offer Document up to a maximum of £3,000 and fund the administering of the ballot by an independent third party agency up to a maximum of £2,000 .

e) If the ballot returns a positive result, i.e. the results show that a majority of secure tenants voted in favour of tenant management the process will move onto the implementation stage.

### Stage 3, Implementation

The 'implementation stage' is the last phase of the process when the TMO and council finalise the TMO business plan and Management Agreement, including policies and procedures. The regulations guide both parties to complete the implementation within nine months of the ballot results. Funding for this stage will be up to a maximum of £8,500 and will be triggered on submission and approval of the costed implementation stage work programme. The work programme must follow a template and cover the following areas:

- Completion of the Management Agreement Schedules.
- Creation and implementation of financial management and banking systems and create Financial Standing Orders including registration for VAT.
- Agreeing the TMO's budget.
- Creation of job descriptions and person specifications for all TMO staff.
- Support the TMO to appoint TMO staff, in particular the estate manager in advance of the handover date.
- Creating and implementing an appropriate Code of Governance.
- Procurement of TMO contractors.
- Agreeing Service Level Agreements for all TMO contractors.
- Creating and acting on the tenant and leaseholder communication and consultation strategies.
- Liaising with the Council.
- Supporting the TMO to set up and use the appropriate ICT housing management systems.
- Creating HR policies, contracts and robust governance documents.
- Smooth handover of control from the council to the TMO including the transfer of records, information and staff transfers under TUPE rules.
- Areas of knowledge have been met by other means i.e. relevant qualifications, work experience, etc.

## Resolving Disputes

If any disputes arise between the residents' group and the council in relation to the determination of its support offer, the council will aim to hold meetings to settle disputes satisfactorily to both parties. A facilitator, independent advisor working for the tenant group, or an elected member, could assist in this process. Mediation might also be considered as an option for settling disputes. Reasonable cost of mediation will be covered by the council. If the correct procedures have been followed, but negotiations have failed, the matter may be referred to an arbitrator, in some cases appointed by the Secretary of State. However, this can be expensive, and the arbitrator will decide how costs will

be shared. The Tenant Management Organisation may also consider contacting the Independent Housing Ombudsman if it is felt that maladministration has occurred.

**Appendix 1** Supporting documents to be submitted for a Stage 1 payment::

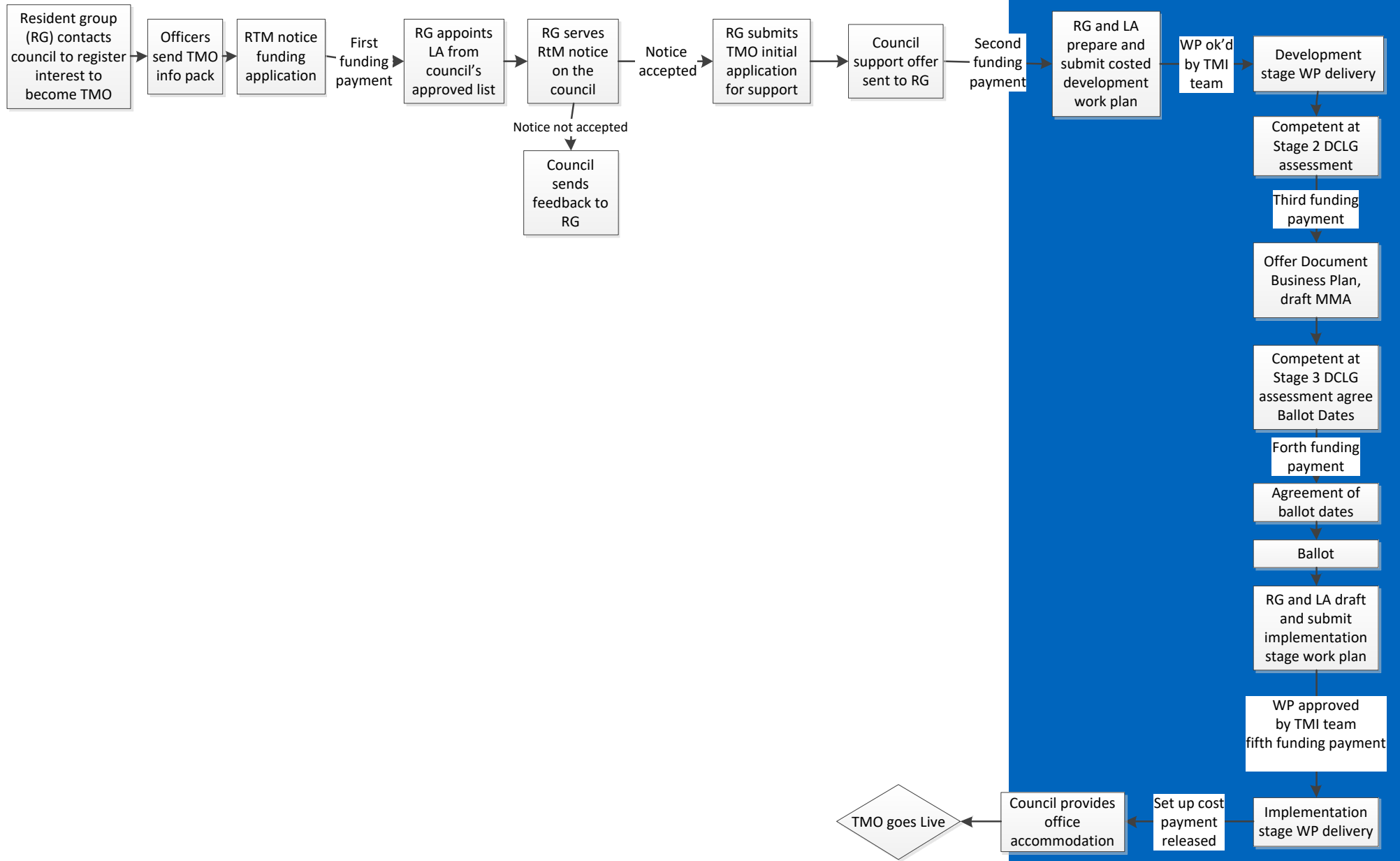
- Signed copy of the constitution of the tenant group, or confirmation it has not changed from previous stages or confirmation that the group is not constituted
- Certificate of incorporation for incorporated groups
- Membership List
- Minutes of tenant group Annual General Meeting
- Outline of scheme including details of:
  - map showing geographical area of the study (area of benefit)
  - brief details of landlord/s and housing management arrangements
  - total number of dwellings with breakdown of tenants
  - local demographics and ethnic breakdown

**Appendix 2** Supporting documents for Development Funding (£12,500)

- Itemised costed work programme in the format template provided
- Risk assessment for the project
- Evidence that lead advisor has been procured through open competition and from the council's approved list

**Appendix 3** Supporting documents for Implementation Funding (£8,500)

- Itemised costed work programme in the format template provided
- Risk assessment for the project





## Appendix 5 Glossary

**Acceptance date:** the date on which a Tenant Management Organisation receives a notice that an authority has accepted its proposal notice

**Allowances:** management and maintenance allowances payable by the council to the TMO for the work it does under the management agreement.

**Approved assessor:** a person approved by the Secretary of State for the purposes of assessing the competence of Tenant Management Organisations. Before tenants vote on whether to accept the TMO's management offer an independent person from outside the organisation must be satisfied that the TMO is competent to deliver on the promises set out in that offer. The independent person is called the 'Approved assessor'.

**Approved assessor service:** a person or organisation designated by the Secretary of State to appoint an approved assessor. The Department for Communities and Local Government currently provides the approved assessor service

**Area:** the area specified in the Tenant Management Organisation constitution

**Assessment of Competency:** TMOs developing under the Right to Manage must pass an independent assessment of competency, based on the Common Assessment Model (CAM)

**Authority:** the local housing authority on which a proposal notice is served.

**Ballot:** a formal ballot / vote for or against tenant management on the estate. For it to be successful the majority of votes and the majority of secure tenants votes must be in favour of the TMO..

**Commencement date:** the date on which these Regulations come into force, i.e. 06 August 2012

**Common Assessment Model (CAM):** the CAM is the document that sets out the standards that the TMO will need to meet in order to be assessed as competent.

**Competence:** the competence of a Tenant Management Organisation to exercise the management functions set out in the offer notice

**Governance:** how the tenants organise themselves and run the TMO in accordance with their rules and with laws and good practice.

**House:** includes any house or flat, including (a) part of a house; (b) land let together with a house and (c) land held for a purpose related to the house

**Modular Management Agreement (MMA):** a Government document used by tenant management organisations (TMOs) and local authorities to agree how to divide the responsibilities and management duties that the TMO will take on. The MMA is 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.

**Offer Document:** when tenants vote on the proposed TMO they must be provided with an offer document setting out information they will need to make an informed choice.

**Right to Manage:** this is a legal right for Council tenants to manage the homes they live in.

**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.

**Secure tenant:** a secure tenant is a person who has a secure tenancy (as defined by section 79 of the Housing Act 1985).

**Tenant:** a person who holds a secure tenancy (within the meaning of section 79 of the Housing Act 1985) or other tenancy (e.g. introductory tenants and holders of long leases) from an authority

**TMO:** a Tenant Management Organisation is a means by which council or housing association tenants and leaseholders can collectively take on responsibility for managing their homes.

The Development Stage - 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.

**Training:** identified in the Training Needs Analysis AND is directed towards achieving the requirements of the CAM

**Work Programme:** the work programme identifies the tasks of the Lead Advisor, the landlord and the TMO. 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

