



Right to Manage Guidance

- 1) Model Code of Governance for
Tenant Management Organisations
- 2) Guidance on a Code of Confidentiality

6



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Acknowledgements

Under the Modular Management Agreement, Tenant Management Organisations (TMOs) are expected to publish a Code of Governance and a Code of Confidentiality, based on ODPM guidance.

This guidance contains a new model Code of Governance to help TMOs to operate as effective, democratic and accountable organisations. TMOs are expected to publish their own Code of Governance, based on this recommended best practice model. As TMOs have widely differing housing management functions, they will need to adapt this model Code of Governance to fit their particular circumstances. However, they should carefully consider all of the matters covered in the model Code and minute the outcome of the decisions reached as to what should and should not be included in the TMO's own Code of Governance.

The guidance also deals with a new TMO Code of Confidentiality which TMOs will find helpful in drawing up their own Code.

- The Code of Governance is based on the Code of Governance published by the National Housing Federation which has been specifically adapted for use by TMOs by the Confederation of Co-operative Housing (CCH).
- Guidance on a code of confidentiality was prepared by the Right to Manage review team and deals with the policy and procedures which TMOs will wish to consider and incorporate, as appropriate, in their own codes.

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SECTION 1

Code of Governance for Tenant Management Organisations

THE PRINCIPLES OF GOOD GOVERNANCE FOR TENANT MANAGEMENT ORGANISATIONS (TMOs).

Governance is the task of defining the goals and standards of an organisation and ensuring that there are effective management and other structures that will enable the organisation to achieve those goals and standards.

There are three key elements to good governance in TMOs:

1. high ethical standards and explicit values;
2. strong systems of democratic accountability to members, tenants and the local community;
3. proper systems to ensure effective operations.

A TMO should have a clear sense of what values and standards it stands for. This is important in terms of defining the TMO's identity both to active committee members and to the wider community. It would be expected that all TMO's would support the following as core values:

1. self-help and self-responsibility – developing the TMO in such a way as to ensure the maximum number of members of the community identify with and take a pride in their neighbourhood;
2. democracy – proper accountability to TMO members and tenants. A commitment to partnership working with the wider community, voluntary organisations and external stakeholders who will contribute to the quality of life;
3. equality – fairness and equality of opportunity in all aspects of the TMO's governance;
4. honesty & openness – a spirit of openness, making full disclosure of governance matters and other information;

5. social responsibility and caring for others – ensuring that mutual support and respect of all members of the community is the bedrock of the decision-making process and the conduct of its life.¹

TMOs also need to ensure that their systems operate effectively to best meet tenants' needs and to satisfy the requirements of external organisations to which the TMO is accountable. The following principles should dictate the operational standards to which a TMO should adhere:

1. control – there should be effective and defined systems for internal delegation, so that the TMO can work on a day-to-day basis;
2. structures – there should be appropriate staffing structures to maintain the TMO's work;
3. information – there should be a means by which the TMO receives adequate up to date information and advice to inform its decisions;
4. review – there should be formal and open processes for periodic review of the TMO's performance;
5. clarity – there should be clarity regarding the roles and responsibilities between TMO committee members, seconded and directly employed staff and other organisations employed to carry out work for the TMO;
6. audit – there should be an effective and proper means by which the TMO has its work internally and externally audited.
7. forward planning – there should be mechanisms in place, agreeing and monitoring business plans with specific objectives covering a number of years.

This code of governance aims to help TMOs put these principles into practice. Good governance is more than good practice, it makes good business sense too. It is about organisational mission, clarity of purpose and effectiveness. As such, good governance enhances the TMO's reputation, and ensures better results are achieved.

¹ Those TMOs that are co-operatives adopt the co-operative values and principles – defined by the International Co-operative Alliance. These values and principles are central to their co-operative identity.

A PREAMBLE

- A1. The code has been based on the Code of Governance published by the National Housing Federation and has been specifically adapted for use by TMOs, by the Confederation of Co-operative Housing (who have also adapted the code for housing co-operatives). It contains guidance for best practice in the governance of TMOs. TMOs are all different – they are about communities developing their own standards and structures to meet the needs of their neighbourhood. Therefore, not all recommendations will apply to all TMOs. Even so, every TMO should consider all the issues in the code, take action appropriate to its circumstances and record that action in published documents.
- A2. TMOs should set out, in their published annual report, a clear statement of whether they comply with this code and, if not, the areas concerned, and the reasons for non-compliance.
- A3. This code also recommends the annual publication of other key information. Where not all of this information appears in the published annual report, there should be a clear statement in the report of how it can be obtained.
- A4. TMOs are advised to adopt constitutions, standing orders and other governance documentation, which support and enable their implementation of this code.

B GOVERNANCE OF TMOs

The central principle of good governance for TMOs is that there should be an effective governing body² which has the legal responsibility for the organisation, leads and controls it, at the same time as remaining appropriately accountable to its membership, to tenants and residents and to external stakeholders. This section seeks to define the role of the governing body, how it relates to its membership and to tenants and residents and sets out guidelines for effective operation.

- B1. The TMO's rules will set out the powers of the *governing body*. The TMO should aim to ensure that the *governing body* is broadly representative of the population living in the TMO area.
- B2. The *governing body* is legally accountable for the business of the TMO, but it should always see itself as answerable to its tenants and residents – reporting regularly, consulting tenants and residents on key issues and taking note of views expressed.
- B3. A TMO is also formally accountable to its membership. Membership of the TMO should be open to or automatically given to all tenants, registered occupiers and leaseholders in the TMO managed properties³. TMOs should also consider whether the interests of the community will be best served by allowing freehold homeowners of former managed properties to become members.

² Throughout this code of governance, the management committee/board is referred to as the governing body. The structure and functions of the governing body are laid in the TMO's rules.

³ Membership should be open to all tenants and leaseholders in the TMO area. This code of governance refers to tenants throughout. This is taken to mean tenants and leaseholders.

- B4. In some TMOs, new tenants are obliged to become or are automatically made members of the TMO. Where this is not the case, the TMO should ensure that all tenants are aware of their right to join the TMO.
- B5. Unless all tenants are automatically made members, the TMO should aim to ensure that its membership is broadly reflective of the community in the TMO area, particularly in relation to equal opportunities issues. If this is not the case, the TMO should report on this issue in its annual report and identify what steps are being taking to address the issue.
- B6. The TMO is accountable to its membership through general meetings. TMO rules relating to the proper calling of general meetings – ie. through written notice – should always be observed. It should be the case that all TMO members have the opportunity to express their opinions and vote on the TMO's values and objectives and key policy issues at general meetings.
- B7. The TMO should ensure that:
1. all tenants and residents are encouraged to become involved in the running of the TMO;
 2. all tenants and residents receive information about what membership of the TMO means and about the running of the TMO (translated into the TMO member's first language where appropriate);
 3. no barriers exist to any tenant or resident becoming involved in the running of the TMO, particularly in relation to equal opportunities issues;
 4. appropriate training and support are available to all tenants and residents to enable them to become involved in the running of the TMO.
- B8. The *governing body* should seek to involve the maximum number of tenants and residents in the running of the TMO as possible, either through membership of the *governing body* or through other means.
- B9. The *governing body* should consider whether the interests of openness and accountability would be best served by making all of its meetings open to tenants and residents, although there will always need to be facilities for the *governing body* to hold closed meetings to deal with confidential matters.
- B10. The essential functions of the *governing body* should be set down in the rules of the TMO, or in standing orders and should, as a minimum, include duties to:
1. ensure compliance with the values and objectives of the TMO;
 2. ensure that policies that will enable that the TMO to achieve its objectives are drawn up, reviewed and agreed;
 3. establish plans which will enable the TMO's policies to be achieved;
 4. establish a framework of delegation and systems of control;

5. monitor the TMO's performance in relation to the TMO's plans, budgets, controls and decisions;
6. consider how the TMO will carry out *best value* reviews of its services on a periodic basis, and how it will relate to the landlord's *best value* review programmes;
7. determine staffing arrangements to enable the TMO to meet its objectives, and appoint (and dismiss where necessary) the most senior member of staff;
8. make decisions on all matters that might create significant financial or other risk to the TMO, or which raise material issues of principle;
9. report to its membership and to tenants and residents that TMO business is being conducted lawfully and according to accepted standards of performance and propriety.

B11. All *governing body* members share responsibility for its decisions. Each member should act only in the interests of the TMO and not on behalf of any constituency or interest group, including any landlord nominee to the *governing body*⁴.

B12. Each *governing body* member, including any landlord nominee to the *governing body*, should be given a formal letter specifying their obligations, and should sign a copy to indicate acceptance. These should include obligations to:

1. uphold the values and objectives of the TMO;
2. uphold the TMO's core policies (including those on equal opportunities);
3. contribute to and share responsibility for the *governing body's* decisions;
4. prepare for and attend meetings, training sessions and other events which relate to the *governing body*;
5. represent the TMO on occasions;
6. declare any relevant interests;
7. declaration of confidentiality;
8. uphold this Code of Governance.

B13. The TMO's rules will state how many members should make up its *governing body*. We suggest that management committees should have not fewer than 7 members and not more than 15. The TMO's rules will also state what quorum the TMO has for *governing body* meetings. Rules relating to removal of *governing body* members for non-attendance at meetings should be observed, including for any landlord members of the *governing body*.

⁴ This applies particularly to Estate Management Boards, where the landlord nominates members to the board. It does not apply to landlord representatives who are in attendance at governing body meetings and who are not members of the governing body.

B14. Members of the *governing body*, including any co-optees, should be made aware that breaches of *governing body* obligations could result in termination of membership of the *governing body*.

B15. The *governing body* has a responsibility to ensure that:

1. all TMO members are aware of their right to stand for election to the *governing body* and what that means;
2. training and support are available as necessary for new members of the *governing body*;
3. effective arrangements are in place to maintain and enhance the skills and motivation of all members of the *governing body*.

B16. The *governing body* may wish to co-opt members for one of the following reasons:

1. to involve TMO members with the *governing body* prior to the election of the governing body;
2. to gain particular skills and experience on the *governing body*;
3. to involve a representative of a particular minority group not represented on the committee.

The TMO's rules will state the maximum number of co-optees allowed to stand on the *governing body*, and the rules should state whether or not co-optees have voting rights. TMO employees or representatives from organisations that the TMO employs should not normally be co-opted onto the TMO's *governing body*, although the *governing body* will usually invite particular employees to be in attendance. A co-optee should not usually be the chair of the TMO.

B17. TMO policies and standing orders should state how urgent decisions will be taken. Urgent decisions should usually be taken by the TMO chair, or another delegated member of the *governing body*, in conjunction with at least one other person (either a member of staff or another *governing body* member). For urgent decisions that fall outside the remit of existing TMO policies or which may prove to be contentious, the views of as many *governing body* members should be sought as possible. All urgent decisions taken should be reported to the next *governing body* meeting, and those consulted should be recorded in the minutes.

B18. The *governing body* must ensure that it has the ability to work as an effective team to take strategic decisions and an understanding of tenants and residents' issues and concerns. It should also ensure that it either has itself or has access to (either through co-options or through its staffing arrangements) various qualities and skills so that it can make effective decisions and monitor the TMO's performance. Dependent on the range of activities undertaken by the TMO, the *governing body* will need access to the following to carry out its duties:

1. skills relating to community empowerment and development;
2. general business, financial and management skills;

3. knowledge of the external framework, particular issues relating to the landlord's operations, and operating environment for TMOs; and
4. other relevant skills, such as legal, technical and public affairs.

- B19. Decisions made by any TMO meetings should, wherever possible, be based on documents circulated to members in advance of meetings. Points for decision should be clearly identified in those documents. Decisions should be recorded in the minutes of the relevant meeting.
- B20. The *governing body* should set aside time annually for a full discussion about the effectiveness with which it is conducting its business.

C SUB-COMMITTEES

Most TMOs will have sub-committees to the governing body to oversee specified areas of the TMO's work. This section sets out the principles that should apply to the work of sub-committees.

- C1. TMOs should periodically review sub-committees reporting to the *governing body*.
- C2. Each sub-committee should have clear terms of reference and written responsibilities agreed by the *governing body* and should report regularly to the *governing body*.
- C3. Only TMO members or co-opted members of the *governing body* should serve on a sub-committee, although paid staff and/or landlord representatives may be in attendance at sub-committee meetings. If a *governing body* sets up a sub-committee, there should be a minimum of one *governing body* member on the sub-committee.
- C4. Sub-committee members should be prepared to sign a declaration of confidentiality, where the *governing body* deems it necessary.
- C5. In the case of dispute, decisions made by the *governing body* must override those of any sub-committee.
- C6. Each TMO should ensure that specific arrangements, either by use of sub-committees or through the *governing body* itself, are made to cover the employment of staff (see section E).

D RESPONSIBILITIES OF THE CHAIR

There are a range of duties and responsibilities that are normally carried out by the TMO's Chair, although in some cases, some of these duties could or should be delegated to other members of the governing body or Company Secretary if a limited company. In carrying out these duties, governing body members should always remember that they are acting on behalf of the TMO, and not in isolation.

- D1. The following duties would normally be the responsibility of the TMO Chair, but in some cases some of these duties might be delegated to other *governing body* members. In any event, there should be clarity as to who is responsible for ensuring that these duties are carried out:
1. ensuring the efficient conduct of the *governing body's* business and of the TMO general meetings;
 2. ensuring that all *governing body* members are given the opportunity to express their views before any important decision is taken;
 3. establishing a constructive working relationship and proper support exists between the *governing body* and the most senior member of staff;
 4. ensuring that the *governing body* delegates sufficient authority to its sub-committees; *governing body* members; members of staff and others to enable the business of the TMO be to carried out effectively between meetings of the *governing body*. Also ensuring that the *governing body* monitors the use of delegated powers;
 5. ensuring that the *governing body* receives professional advice when it is needed, either from staff or external sources;
 6. ensuring that the TMO complies with the other recommendations of this Code, which are appropriate to its circumstances;
 7. representing the TMO on occasion;
 8. taking decisions that are formally delegated to the Chair according to the TMO's standing orders;
 9. to ensure proper arrangements are made to appraise the most senior member of staff and to determine their remuneration, where applicable;
 10. to ensure, when necessary, that the most senior member of staff is replaced in a timely and orderly fashion;
 11. to ensure that proper arrangements are made to review the performance of organisations employed by the TMO, including the landlord;
 12. to ensure that proper arrangements are made to review the performance of services provided by the landlord; and
 13. ensuring through training or co-options that the *governing body* has the skills and knowledge and experience to carry out its duties.

E EMPLOYMENT OF STAFF

Smaller TMOs will rely on a greater degree of active involvement in day to day management by governing body members, whilst in larger TMOs, day to day management will be carried out almost exclusively by a staff team. However, the majority of TMOs employ one full or part time member of staff to support their operations. Each TMO will need to determine how their aims and objectives will be met through the employment of seconded or directly employed staff, and what role the voluntary activity of TMO members will contribute. This section looks at how these choices should be made and what criteria should govern employment of staff.

- E1. Where members of staff are employed, either directly or through secondment, clear working arrangements between them and the *governing body* are a key element of governance.
- E2. The *governing body* should determine which of its management functions, if any, should be carried out by TMO members and which functions should be carried out by paid staff. These decisions should be subject to regular review by the *governing body*, but in making such decisions the *governing body* should be mindful of:
 - 1. day-to-day practicalities;
 - 2. not over-burdening the TMO's voluntary membership;
 - 3. how the TMO deals with issues of confidentiality and equal opportunities;
 - 4. ensuring that the TMO's day-to-day management functions are dealt with in a sustainable fashion, and do not suffer if particular TMO volunteers are not available to carry out their work.
- E3. Responsibility for strategic decision-making cannot be devolved to members of staff. The TMO, through its *governing body*, remains accountable for all decisions, particularly to statutory external bodies. Therefore, the *governing body* should ensure that it receives information necessary to perform its duties, and in particular, that it receives advice and support on matters relating to compliance with its rules, the law, the need to remain solvent and on establishing and maintaining proper systems of control. This support could be through employment of staff, or through some other method, but the *governing body* should satisfy itself that it has access to appropriate levels of support where necessary.
- E4. Any members of staff, whether seconded or directly employed, should carry out management functions, where directed to do so by the TMO, in accordance with the values, objectives and policies of the TMO.
- E5. All directly employed members of staff should have a written contract of employment which, as well as complying with current legislation, clearly defines:
 - 1. their duties and the standards of performance expected;
 - 2. the procedures for monitoring performance and fixing remuneration;

3. how disciplinary and grievance matters will be dealt with;
 4. the length of the contract, whether or not it could be renewed and any notice period.
- E6. Secondment of staff from the landlord should only be done on the basis of a clear agreement between the TMO and the landlord, particularly in the following areas:
1. job descriptions and terms and conditions of employment;
 2. management and supervision arrangements that ensure that seconded staff are, directly or indirectly (through line management), responsible to the *governing body* throughout the duration of their secondment;
 3. how the landlord will deal with grievance and disciplinary procedures and how the TMO will relate to those matters;
 4. agreements as to how a seconded member of staff will be recruited and supported;
 5. procedures relating to the termination of a secondment.
- E7. The *governing body* should ensure that there is a committee or other means to appraise and make recommendations to the *governing body* about the remuneration and terms and conditions of employment of either all staff or in larger TMOs the most senior member of staff. Such a committee should include at least one member of the *governing body* and should not include paid staff of the TMO, although the most senior member of staff may provide advice regarding other staff. The proceedings of such a committee should be considered confidential, although methods used to determine remuneration levels should be clear and transparent.
- E8. In larger TMOs, the TMO will employ a senior member of staff who will be accountable to the governing body for all staffing matters, and who will have responsibility for leading and managing other staff. The essential duties of the senior member of staff should be to:
1. manage the affairs of the TMO in accordance with the values, objectives and policies of the TMO, and the specific decisions of the *governing body*;
 2. help the *governing body* draft and review the TMO's policies and strategy;
 3. draw the *governing body's* attention to matters that it should consider and decide;
 4. ensure that the *governing body* is given the information necessary to perform its duties and, in particular, that it receives advice on matters concerning compliance with its governing instrument, the law and the need to remain solvent;
 5. ensure that proper systems of control are established and maintained;
 6. supervise the preparation of documents for consideration by the *governing body*;

7. assist the *governing body* in the proper conduct of its business;
8. lead and manage the staff of the TMO and ensure that their performance is appraised;
9. represent the TMO if directed to do so by the *governing body*.

F OPENNESS

TMOs should act in an open and accountable way in relation to their members, local communities, local authorities and other interested parties. As a general rule, information about a TMO, its work, its governing body and sub-committees (where relevant), and its employees should be available unless there are good reasons of confidentiality or practicality why not.

- F1 TMOs should accept an obligation to account for their actions in an open manner, and should have policy references about access to their information and documentation. TMOs should publish information about their performance in addition to the prescribed reports on their finances.
- F2 The TMO should publish an annual report of its activities and performance, which should be circulated to all TMO members, to tenants and residents, to the landlord, to local community organisations and other interested parties. This report should include details of:
1. performance in relation to areas of TMO responsibility;
 2. performance in relation to areas of landlord retained responsibility, where appropriate;
 3. any conclusions from *best value* reviews of services;
 4. the TMO's finances;
 5. community activities and membership issues within the TMO (including information about how tenants and residents can become members, and what that means);
 6. listings of current *governing body* members, and about how members can stand for election to the *governing body*;
 7. details of staffing;
 8. an equal opportunities audit that identifies performance, membership of the TMO, membership of the governing body and staffing in relation to particular minority groups, as applicable, and any action the *governing body* intends to take in relation to issues raised;
 9. as noted at A2, a statement of whether the organisation complies with this code of governance and, if not, the details of and reasons for non-compliance.

- F3. TMOs should comply with outside requests for information wherever practicable.
- F4. The TMO should review the openness of the TMO's arrangements on a regular basis.

G ACCOUNTABILITY

TMOs should balance the interests of various groups, and must be accountable in different ways to various stakeholders, including its membership, its tenants, leaseholders and freehold homeowners, and the landlord. Accountability through governance structures, as described in this code, is important, but only one part of an overall approach to accountability.

- G1. The TMO is accountable to its membership through general meetings of the TMO. The *governing body* has a responsibility to ensure that its membership has an opportunity to express opinions and vote on key strategic issues, and abides by and implements day to day policies on the basis of decisions made by its general meetings (unless they contradict legal or contractual requirements).
- G2. The TMO is accountable to tenants and leaseholders on matters listed in the TMO's management agreement with the landlord. The TMO should use its best efforts to ensure that all tenants and leaseholders are effectively consulted with on key housing management issues that affect them, and that opinions expressed are taken into account.
- G3. The TMO is accountable to freehold homeowners of former managed properties (if there are any) and the wider community. TMOs should consider, especially in relation to any wider non-housing activities it pursues, how it engages the non-tenant population in the local community.
- G4. The TMO has a contractual accountability to the landlord through its management agreement, although TMOs should endeavour to see their relationship with the landlord as a partnership arrangement, where both parties seek to encourage and support one another and see each other's positions and opinions.

H EQUALITY OF OPPORTUNITY

Equality of opportunity should be a core value for all TMOs, where it is clearly recognised that discrimination exists within society and that a continuing focus on how policies are reviewed, implemented and monitored will always be required to ensure that the TMO does what it can to eliminate discrimination. TMOs are recommended to take lawful positive action where minority groups in the TMO's area of operations are under-represented in the TMO's membership, governing body or staffing structures (where appropriate).

- H1. Each TMO should adopt a policy for equality of opportunity and publish it. The policy should promote equal opportunities in all areas of the TMO's work including:
 - 1. allocation of housing (and any other services);
 - 2. provision of services;

3. membership of the TMO, opportunities for involvement in its running, including the membership and operation of the *governing body* and any sub-committees;
4. staff recruitment, training and conditions of service;
5. the TMO's buying of goods and services and contracting procedures.

TMOs should be open in publicising their achievements and performance in these areas.

I AUDITING PROCEDURES

Effective audit is essential to good governance. This goes beyond traditional financial audit into all areas of a TMO's work. Standards of performance, service delivery and compliance should all be subject to some form of audit, if they are to remain effective.

11. Every TMO should ensure that it observes the following principles that:
 1. its external auditors must be independent and effective;
 2. there should be a proper procedure for the selection and periodic review of the appointment of external auditors;
 3. every TMO must have effective internal controls;
 4. larger TMOs should have an effective internal audit service, others should make effective arrangements for discharging the internal audit function;
 5. the TMO complies with any recommendations from external or internal auditors;
 6. points (1) to (4) above should be regularly reviewed and the outcome of each review reported to the *governing body*.
12. All TMOs should be aware of and informed about the latest guidance and codes from the Auditing Practices Board, and should implement the recommendations of those documents that apply to them.

J CONDUCT AND PROBITY

TMOs should ensure a reputation for high standards of conduct and probity. These standards are reinforced by legislation, the values of the TMO and the provisions of the TMO's rules. In line with the section above on the need for openness, this section stresses the need for TMOs to move towards a regime in which actual and potential conflicts of interest, whether financial or more general, are formally recorded and available for public inspection.

- J1. TMOs should have codes of conduct for their *governing body* members and staff, aimed at upholding high standards of probity and ethics.

- J2. The *governing body*, or a sub-committee with the necessary delegations, should from time to time review:
1. the stated values of the TMO, and how they are implemented in practice;
 2. the implementation of this Code of Governance, and its underlying principles;
 3. the codes of conduct adopted by the TMO for its *governing body* members and staff;
 4. the policies and procedures of the TMO relating to hospitality, gifts and other matters of business ethics.
- J3. TMO members must ensure that their private and personal interests do not influence their decisions, and that they do not use positions of responsibility within the TMO to obtain personal gain of any sort that does not apply equitably to all members.
- J4. TMO members should be meticulous about declaring dualities or conflicts of interest. Where appropriate, TMOs should maintain records of the interests of TMO members and staff and, subject to considerations of individual privacy, should make these available to public inspection.
- J5. When the TMO discusses an item, which poses a conflict of interest for any member or other person present, that person should declare the interest.
- J6. If the conflict is clear and substantial, the TMO member should offer to withdraw and, if invited to remain, refrain from voting on the matter. Where such a conflict is likely to reoccur on a frequent basis, a management or sub-committee member should offer to resign.
- J7. TMO members should regard matters specifically concerning their individual circumstances as a clear and substantial conflict.
- J8. TMO members who are the paid staff or board members of, or providing goods or services to, other housing or not-for-profit organisations should declare conflicts of interest arising in the normal way. However, such employment or board membership should not automatically mean that the TMO member cannot attend and vote at general meetings, or cannot become a member of the *governing body* or sub-committee.
- J9. The *governing body* should establish a policy on the receipt of hospitality and gifts by TMO members and staff engaged in TMO business to ensure that:
1. personal gifts with a significant monetary value are not accepted;
 2. hospitality is not accepted if it could be seen as a way of exerting an improper influence over the TMO's decisions;
 3. gifts and hospitality are formally recorded in a register, apart from inexpensive items, such as working meals or free calendars.

- J10. The *governing body* should establish a policy on the offering of hospitality and gifts by the TMO, or by *governing body* members and staff on its behalf to ensure that:
1. no gifts of a significant monetary value are given or offered;
 2. hospitality is not offered if it could be seen as lavish, or as a way of exerting an improper influence over the decisions of another person or organisation;
 3. all hospitality offered is formally recorded in a register, apart from inexpensive items, such as working meals.
- J11. The *governing body* should ensure that proper arrangements are made for the referral and determination of individual cases raising issues of ethics or probity.

SECTION 2

Guidance on a Code of Confidentiality

CODE OF CONFIDENTIALITY POLICY AND PROCEDURE

1. In carrying out its management functions under the management agreement, a TMO inevitably deals with problems and cases which raise matters of confidentiality. The TMO has a responsibility, as a service provider, employer and democratic organisation, to ensure that it has in place and operates robust Confidentiality policies and procedures in the way it manages its own organisation and conducts its business. This is all part of good governance.
2. The Code of Confidentiality therefore applies to the way in which the TMO operates all of its policies and procedures under its agreement. Amongst other things, it should cover relationships and communication between the TMO committee and staff on issues of confidentiality and how information and records relating to individual tenants are discussed, dealt with and stored. It should clearly set out how and in what circumstances the Code will be applied.
3. The TMO's own Code will be made public and should give assurance to tenants and others that all relevant aspects of the TMO's business and conduct are incorporated in the Code.
4. The Code should incorporate the following elements.

PURPOSE AND SCOPE

5. This should set out the purpose and scope of the Code and link this to the requirements of Chapter 1 Clause 9.
6. Clause 9 requires the TMO to treat as strictly confidential all information in its possession in relation to tenants, leaseholders and freeholders living in the property. It also prevents the TMO from giving the information or permitting it to be seen by another person or organisation except where the individual concerned has given his or her express advance written consent (unless the TMO is required to do so by law).
7. The TMO should also be aware and familiar with the need to comply with the requirements of the Data Protection Act 1998 and, if necessary, should register as a data user.

PRINCIPLES AND VALUE OF A CODE OF CONFIDENTIALITY

8. This should stress the importance of having a Code by setting out in broad terms the main areas where it will operate. Examples include dealing with customers – whether through face to face contact, letters, telephone etc; keeping and maintaining files and records; dealing with requests for information; and the relationship between the TMO committee and staff.

PROCEDURES FOR GENERAL RECORD-KEEPING

9. The Code should set out the procedures for dealing with the following matters:
 - Data protection
 - Access to personal files
 - Requests for confidential information from other agencies or parties
 - Other considerations such as requests to be in writing
 - Dealing with telephone enquiries
 - Confidentiality in interviews
 - Dealing with violent or potentially violent tenants
10. The procedures will apply to the TMO's responsibilities as a service provider (including its actions in hiring contractors or other agencies); as an employer (in its recruitment and employment practices); and as a democratic organisation (linked to its constitution).

OTHER SPECIFIC MATTERS WHICH MAY NEED TO BE INCLUDED

11. There is a range of other miscellaneous matters where the TMO may be dealing with confidential information. Examples include:
 - Requests from friends or relatives trying to trace tenants or leaseholders
 - Requests for information from a member of the council, MP or MEP
 - Requests for rent accounts references from building societies, banks, mortgage lenders etc
 - Requests from debt collection agencies
 - Requests from utility services

RELATIONSHIPS BETWEEN THE MANAGEMENT COMMITTEE AND STAFF ON ISSUES OF CONFIDENTIALITY

12. There should be separate guidance for (a) TMO staff and (b) the TMO committee.

BREACHES OF PROCEDURES

13. Where a breach of confidentiality is alleged, or there has been a complaint, the Code must set out how the breach or complaint will be investigated and dealt with. This should deal separately with an alleged breach involving a member of staff; and one which may involve a committee member.

MONITORING AND REVIEW OF THE CODE

14. The TMO should set out procedures for monitoring the code to ensure that it is operating effectively, and that it is kept up to date and reviewed periodically to reflect changes or developments in the TMO's own management responsibilities, or other changes in law, policy and practice affecting the TMO's operations.

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