

London tenants Federation

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Briefing April 2015: **Problems with landlord contractors?**

Introduction: Tenants, leaseholders and their associations often have problems in dealing with the many different contractors and sub-contractors that are employed to provide housing management, day to day repairs and decent homes or major repairs works by council and housing association landlords. These can include: lack of accountability, difficulty in knowing where to take complaints to, how to get contractors back when repairs have not been done properly and not knowing who is overseeing the delivery of services.

This briefing aims to provide some of the backgrounds to the situation we are in at present, what LTF members feel are the key issues and problems and how some of these may be addressed - at the borough, estate and street level.

Background: In the past local authorities had their own direct labour organisations (DLOs) responsible for delivering a range of services including - collecting rubbish, waste and street cleaning, repairs and maintenance of council homes and design of new homes. While councils could 'outsource' provision of services (Local Government Act 1972) and enter into agreements to provide another local authority with goods and services (1970 Goods and Services Act) these powers were not used to a significant extent.

Compulsory Competitive Tendering (CCT): The introduction of CCT through the 1980 Local Government, Planning and Land Act, and the Local Government Acts of 1988, 1994 and 1995 completely changed the way that services were delivered. Council DLOs could apply for contracts, but had to compete with private companies.

Arguments used in support of the introduction of CCT were that it provided and encouraged choice, competition, cost savings and better service quality.

Arguments used against CCT were that it resulted in: a reduction in the competitive position of local authorities' directly employed workforces; weakened the relationship between communities and those delivering services; a loss of local apprenticeship schemes; a worsening of local pay, terms and conditions of employment for workers and that CCT's focus was actually on cost cutting rather than service delivery.

Best value: CCT was replaced in 2000 by 'Best Value'. While this was apparently more about service quality, what happened was that CCT was retained in a regime of monitoring and measuring of key performance targets and indicators. This necessarily led to complaints about the time spent on monitoring and measuring rather than delivering services that tenants wanted. Best Value Performance Indicators were replaced in 2007/8 by a set of National Indicators. In 2010, the number of indicators that a council may be measured against was reduced from around 1,200 to 198.

Community Right to Challenge: The Localism Act of 2011 introduced the community right to challenge – through which community organisations, registered charities, parish councils and others could express an interest in taking over a local service where they think they can do it differently and better – although this hasn't been taken up in significant numbers.

Today: local authorities may decide to outsource services as they see fit, either singly or jointly with another authority, providing that quality and value for money are maintained and some local authorities have brought a variety of services back in house. There is a

register of contracts held by London boroughs - <http://www.londoncontractsregister.co.uk/> which shows that there are 57 housing management contracts held by London boroughs worth £1,266,264,869 and 466 construction, repairs and maintenance contracts worth £5,508,995,179. There is no similar type of register relating to housing associations.

Some of the problems highlighted by LTF members: While LTF members report a range of good, bad and indifferent service delivery, highlighted below are some of the problems that tenants, residents and their associations may have in dealing with their landlord's contractors.

1. Landlords spend a lot of time explaining their own problems and difficulties to justify excuses for not delivering the services.
2. Tenant representatives are often seen by the landlord as a problem rather than an asset in terms of delivering good services.
3. Sometimes tenant and resident representatives have to run through hoops to gain access to accurate information.
4. Landlords prefer to select tenants that they want to engage with rather than dealing with representatives who are elected by tenants and residents.
5. Decent homes or major works is of poor quality compared to the money being spent.
6. A key concern is - who checks that works have been carried out and that they are to an adequate standard. Are sufficient well-qualified people employed to do this?
7. It's often hard to know exactly who you might be dealing with – a main contractor or a sub-contractor.
8. Problems are exacerbated by landlords using temporary agency staff.
9. Where landlords have outsourced housing management this can lead to additional problems for tenants and leaseholders in dealing directly with landlords and in holding them to account.
10. It is difficult to know whether work carried out by a contractor or sub-contractor is being checked properly.
11. Getting to the bottom of the problem of why repairs are not being done and services not delivered promptly and efficiently, is very difficult. There may be a whole range of different officers or departments and / or call centres to deal with.
12. There is general lack of consistency. Not only are there frequent changes in contracts and contractors, but also in landlord consultation mechanisms and landlord department reorganisations.
13. It's hard for tenants to know what rents and service charges or being used for and whether or not a good deal is being delivered, for the money paid. Councils often refuse to provide information on the basis that that contract terms and values are commercially confidential.
14. There is a lack of information about how well trained or qualified contractor or sub-contractor's workers are and whether their terms and conditions are good or poor.
15. RSL tenants can have difficulties in accessing information (Freedom of Information does not apply to them) and landlords not recognising their associations.

Suggestions on how to address the problems set out above:

1. The key thing to remember is that is social housing landlords – either councils or housing associations are responsible for the work or services delivered by the various

contractors or sub-contractors that they use. Repairs, management and maintenance and capital works are paid for through rents and service charges. Landlords have contracts with their tenants and leaseholders through tenancy and leasehold agreements. Contractors have signed contracts with landlords or their managing agents; not with tenants and leaseholders. Landlords should ensure that (i) the contracts they or their managing agents draw up, result in the good service delivery and (ii) should deal effectively with any problems that are raised by tenants and leaseholders relating to such contracts.

2. Having an effective tenants and residents associations and having ways for established TRAs to link with others is the best way to ensure that tenants and residents are able to share and exchange on the issues / problems affecting them and to speak with a stronger collective voice.
3. Having access to good information is essential. Some landlords provide a lot of information on their websites. Key things that are useful for all tenants representatives to have are:
 - diagrams showing landlord structures, with officer names, job titles, email and telephone contacts – of all those that may be dealing with day to day repairs, communal repairs and decent homes or major repairs work. These should be regularly updated;
 - detail on how to make formal complaints;
 - information on which contractors and sub-contractors are being used by their landlord;
 - a plan of decent homes or major works that are to be carried with, for individual estates / streets, a time line of when different sections of works will be take place;
 - a copy of the contract for the decent homes or major works and detailed drawings of any changes to be made particularly inside tenants homes;
 - regular meetings with landlord representatives who are responsible for overseeing contractors;

If struggling to get hold of information (including any of those above), tenants and leaseholders of local authorities can make freedom of information requests. Information on how to do this will be available on councils' websites. It is possible to use websites such as www.whatdotheyknow.com – which facilitate both FOI requests and responses being placed in the public domain.

Leaseholders get quite detailed breakdowns of cost of regular service charges and those for capital works. Maintaining good relationship with leaseholder and their own associations and sharing information can be a good way for tenants to find out how much they are paying for items in their rent (albeit that tenants contributions for capital works will be paid for collectively and over a long period of time, while leaseholder charges are upfront costs).

Sometimes asking a local councillor or MP to access information can be helpful. Members' enquiries tend to be dealt with as a priority (particularly by local authorities).

4. In the past local authorities tended to routinely support the development of tenants and residents associations as a key way of consulting with tenants and residents at the estate or street level. In addition many also facilitated the bringing together of TRAs through borough-wide networks such as tenant federations or councils. These

are good ways of sharing and exchanging information and can be effective ways of addressing problems that are impacting across the borough, as well as a way of putting forward a stronger collective voice in negotiation with local authority landlords. Over the years, however, there has been a gradual increase in negative views expressed both about tenant representatives – particularly that they are just the 'usual suspects'. Independently funded borough-wide tenant groups now tend to be in the minority rather than a majority. At the same time there has also been an increase in borough's use of: focus groups; landlord selection of individuals to engage with on key issues and to scrutinise landlord functions. The main problems with this are that it reduces the number of tenants involved and centralises tenant engagement rather than spreading out widely. This can result in disempowerment.

Housing associations have more routinely avoided supporting the establishment of tenants associations (and gone for more informal ways of engaging with their tenants) although some do support tenants associations. Housing associations and borough ALMOs have also gone for tenant board members. The benefits of this can be that where tenants are elected by other tenant representatives and have a remit to widely feed in their views in a democratic fashion means that tenants' voices are widely heard at the top level. The problems however can be that individual tenants or residents can become increasingly isolated from the wider tenant movement, have no way in which to be accountable to others and can be strictly confined within company rules and regulations. Good and bad examples have been reported by LTF members.

5. Poor quality work is unacceptable. Again having a strong tenants and residents association is often the best way of holding landlords to account for poor quality work. The works are paid for through rents and service charges. Leaseholders have to pay up for the cost of capital works up front, while tenants pay long term.

Trying to avoid poor capital works often means thinking ahead and to think through all eventualities. Always attend consultation meetings; try to get hold of as much information as possible at this stage; keeping a good record of what landlords and contractors have said they would do; ask them how will they deal with issues if things go wrong; ensure good lines of communication are open with the landlord or managing agent and other residents on the estate, street or local area. If tenants and residents are not happy with what is being planned, demand that alternatives are provided. All these things can be much more difficult to address once works start on site. Remember if you don't ask, you don't get!

Landlords are required to hold special 'section 20' meetings with leaseholders when major works are being carried out. This is another opportunity for tenants and residents associations to get hold of information on how much the works are estimated to cost and which contractor will be appointed. Again it is worth tenants and leaseholders sharing information.

Leaseholders can also find more information on the Leasehold Advisory Service (LEASE) website <http://www.lease-advice.org/> and may sometimes choose to challenge works proposed to be carried out and the estimated costs through a First Tier Tribunal.

There are two other periods that tenants and residents and their associations should pay attention to. Firstly the period of time just before the contractor finishes the contract, when they will be drawing up a snagging list. This is also an important time for residents to get together to draw up their own snagging lists – and to demand

that these are addressed. Secondly is during the year after major / capital works have been finished. For this period of time the contractor is responsible for dealing with issues that come up and repairs relating to the contract work. This is a time for tenants to assess how well the works have been carried out and for reporting either key issue that are still problems particularly where lots of tenants have the same problem.

If attempts to address issues directly with landlords or their managing agents fail, here are some suggestions of making a louder noise / trying to pressure your landlord:

- Carrying out a petition – often effective if more than half the households (and more if possible) on the estate or street have signed since it effectively demonstrates level of concern by those directly affected.
 - Get a local newspaper interested in publishing an article. Social landlords don't like to be embarrassed in the local press. This can be more effective if a petition has been carried out and/or if a good 'personal story' with photographs can be put together.
 - Use your website and or social media to highlight issues in the public domain.
 - Asking a councillor or MP to write to the landlord about the problems – asking what they are going to do to address the problems
 - Making formal complaints – through landlord complaint's procedures.
 - If trying to address issues through (i) using a landlord's complaints system or (ii) contacting a local councillor or MP has failed, you may decide to take this further to the housing ombudsman. <http://www.housing-ombudsman.org.uk/>
6. It is very important to try to extract information from landlords around how they are checking whether contracted works have been carried out and to a standard that tenants and leaseholders might expect for the rent and service charges they pay. In terms of major /decent homes works there should be a clerk of works, whose job is to see that work is being carried out properly and that health and safety rules are followed. It is important that in early stages of consultation on major / decent homes works that tenants and residents find out what their landlords' arrangements are on this and how they might feed in information or highlight issues of concern to them. Find out how often they will be calling at residents' doors and what percentage of households they will visit. Tenants associations or borough-wide tenant and residents groups might lobby or campaign for a landlord agreement or policy on this, which should be publicly available on their websites (since this is so often raised as an issue of concern). In terms of day to day repairs, again overseeing or checking of works done is the responsibility of landlords. Tenant and residents associations and borough-wide groups could negotiate with or lobby their landlords around what they would want to see contained in a landlord policy on this.
7. At the local level, tenants should keep a record of any job numbers that are provided by their landlords for any repairs carried out to their homes. Contractors should carry identification and tenants should note the name of the contractor or sub-contractor.

In the case of decent homes or major repair works it is important for individual tenants and TRAs to obtain not only which contractors will be dealing with works – but also to ask in consultation sessions which sub-contractors that may be used.

8. Having temporary staff is generally not helpful in terms of getting a good landlord service. While that does not mean that there cannot be very good members of staff

who are employed on a temporary basis, having permanent staff that have acquired a good understanding of - the particular landlord working procedures, local knowledge and developed relationships with local tenant representatives always delivers a better service to both tenants and landlords. It is worth tenants associations emphasising this in negotiations with their landlord.

9. Tenants and residents associations should keep records of problems. These should be fed into any negotiating meetings and where these issues are not addressed. Where things are getting difficult tenants groups might try contacting local councillors or MPs, carrying out a petition on their estate and /or trying to get coverage in their local press.
10. (see item 5.)
11. Getting to the source of any problem and why repairs are not done or works not carried out well requires having good information as set out in (3.). Sharing information you have on a face book page, website or in estate or street newsletter or public notices will help individual tenants and residents getting through the system.
12. Lack of consistency is part and parcel of the system of dealing with different contracts. Shout loudly about this at negotiating meetings with landlords. Make sure that they provide you with as much information as you need. Make sure also that they know when things are working well. When it is working well use this as a marker of what you want and lobby for this with other tenants / tenants and residents associations.
13. Ask specifically for financial breakdowns, make Freedom of Information requests, ask local councillors and MPs to ask for information you can't get hold of.
14. Ask landlords what they are demanding of contractors in terms of staff training and what they do to ensure health and safety of their workers on site. Ask them how they track the use of sub-contractors and likewise their staff training and what they do to ensure health and safety of their workers on site. When landlords are tendering for contracts tenants and residents groups could ask them to include requirements about staff training and health and safety issues. Use google to try to find out more about specific contractors and liaise with borough-wide council tenants groups or housing association tenants' federations and organisations to find out what information they may have.
15. A local councillor or MP may sometimes be able to extract more information than you. Putting concerns in the public domain may also help – through local newspapers, housing press and your website, Facebook page or twitter (if you have these).

Don't be put off by landlords not formally recognising your association. The important thing is that you have a democratic mandate if you are supported by the majority of people on your estate or street. You might try writing model letters that each resident on your estate or street might submit when there are problems. This, like petitions, is hard for landlords to ignore – especially if supported by more than 50% of households.