

# Landlord - Tenant Dispute Toolkit



## Acknowledgements

TPAS has long regarded the issue of landlord-tenant group relations as neglected, so the long-standing support of ODPM has been crucial to this project, as well as the related work leading up to it. The Tenant Services Branch in ODPM have acknowledged the issue and helped immensely in the funding, both through Section 16 for the earlier work, and in the identification of Innovation into Action as a further potential funding source.

Likewise, thanks goes to Innovation into Action for the funding and support for this project and a certain amount of tolerance during the changes that took place. The project itself has benefited from a strong Steering Group made up of Beverley Passey, tenant representative from High Wycombe, Chris Stock, Resident Participation Manager from Croydon, Michael Hewlett, tenant representative from Croydon, Peter Marcus, independent, Cora Carter from TAROE and James Gorrige from ODPM. Thanks also go to Peter for his tireless efforts on behalf of this project before it was agreed.

Going back in time, there have been others who have contributed to this work, including Sue Whittle, Marilyn Thornley and a number of tenant representatives who have kept reminding me that this remains a real and vital issue for them. In terms of the project itself, TPAS has benefited from three local authorities and their tenants who all gave up time selflessly to trial a new approach of tackling their disputes. We've benefited from the advice of John Gray about mediation. Finally many thanks to my TPAS colleagues Samantha Goodwin and Lisa Foulkes who did all the three case studies.

## Introduction/Background

Over five years ago the then TPAS Chair, Cliff Whiteley and Phil Morgan, TPAS Chief Executive, met with Chris Mullin, then Secretary of State for DETR (now ODPM), and raised our concerns about a trend towards derecognition and withdrawal of funding from tenant federations. Although TPAS could have continued down the road of complaining about this trend it was more important that TPAS carried out its mission to support tenant involvement through its work rather than through campaigning.

Although it was obvious that a number of factors were at play, it was the publication of Sheffield Hallam University's paper "*Policy Making, Participation and Performance Changes in Tenant Landlord Relationships in the Local Authority Sector*" for ODPM that allowed a structured approach to those factors. Thus TPAS was able to introduce that paper at four subsequent ODPM sponsored events with tenants and landlords. These events allowed both consideration of the drivers of change – best value, diversification of routes between landlords and tenants, neighbourhood renewal and modernisation of local government – as well as how best to resolve disputes that arose. The findings from all four events were presented to Lord Falconer, the then Housing Minister. Key findings included:

- Complaints should be dealt with locally where possible.
- There should be set procedures for monitoring and reviewing shortcomings in service provision.
- Compacts should be strengthened and utilised more effectively.

Lord Falconer was sufficiently concerned about the issue to ask for work to be taken forward in this area. TPAS proposed, and Lord Falconer accepted, that there should be standard clauses dealing with dispute resolution inserted into all Tenant Participation Compacts. This was announced by Lord Falconer in May 2002 and published by ODPM as an advice note from ODPM. That note has now been updated in the recently revised *National Framework for Tenant Participation Compacts* and is included as Annex A under the title *Guidance Note on using Tenant Participation Compacts to resolve disputes between Council Landlords and Tenants*. The model clauses are attached at Annex A.

Although the issuing of the advice note was a welcome step in terms of dealing with landlord-tenant group disputes there remained evidence that the clauses were being adopted in the very places where relations were good and disputes unlikely to occur. There needed to be a mechanism that dealt with situations where the model clauses were not in place, where disputes had arisen and where the power imbalance between landlords and tenant groups meant that dispute resolution was not seen as necessary. Although TPAS has some early ideas about how dispute resolution might work by drawing on mediation and following a clear process path, these were untested and needed to be developed. It was also important that any proposals were credible in terms of practicality and selling to both tenants and landlords. The Steering Group has been an important part of gaining such credibility.

## Landlord – Tenant Dispute Toolkit

This project looked at implementing that process path in a number of local authority areas. There are three (anonimised) reports at Annexes B, C and D along with short summaries in the body of the report. The process path has changed following the three case studies and comments from the Steering Group. In particular the introduction of joint action planning into the process has been a significant lesson for future work.

## Executive Summary

This report sets out the experience of TPAS in pursuing three case studies where disputes had arisen between landlords and tenant groups. Although all local authority landlords are meant to include dispute resolution clauses in their Compacts this report shows that a range of actions are needed, including adoption of the clauses.

For those that expected an easy target in terms of who was to blame for disputes, this will be a disappointing report. All three case studies identified clear areas of weakness that the disputes merely highlighted. In every case study each party had contributed to the problem.

Put simply, if you have poor Compacts, weak processes that are not captured in writing, unclear roles and responsibilities, poor communication between landlords and tenants and tenant involvement structures that remain exclusively focussed about one route of contact, then the chances of a dispute arising are far higher. In addition such a dispute will be harder to resolve and more disruptive.

The good news is that disputes are largely preventable – and mostly by doing what good landlords should be doing in any case. The first objective of this Guide is to stop disputes arising. That can be carried out by following a simple prevention list and following the chart that deals with particular issues.

The second objective of this report is to identify a viable mechanism for dealing with disputes. The next good news is that TPAS has now tried and tested a viable methodology where disputes do arise which can be utilised by tenants and landlords to deal with disputes successfully. In addition it will not only help deal with the dispute, but embed good practice to stop further disputes happening, in line with how landlords and tenants should be operating successfully. One of the points that many tenants and landlords have raised during the past 5 years is the importance of keeping disputes ‘in-house’. The toolkit can either be used through a consultancy project or as a self-help route to resolve a dispute.

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## Brief Summary of three case studies

### Case Study A

TPAS were contacted by local authority A requesting assistance after criticism from the Government Office and the Audit Commission following a recent inspection. There were a number of areas of criticism, but the particular problem that the local authority wished to address was the comment from the inspectors, that the Federation was not playing a 'strategic' role. The Federation did not agree with these findings, and a dispute had arisen.

The findings included concern about the actions of the Chair of the Tenants' Federation, poor communication, lack of clarity of roles, poor Compact and TP Strategy, little contact with tenants outside the Federation (which only covered 36% of tenants) and little accountability of the Federation. The Council had not previously dealt with these issues.

TPAS recommended that a plan be developed and implemented over a number of months. Key in any action plan was to have policies to deal with unacceptable behaviour, which was central to the dispute, and that it was for all parties to take responsibility for developing and implementing those policies. The plan needed to identify action points, the person responsible, who should be involved and a target date for completion.

### Case Study B

TPAS were contacted by the chair of the umbrella group for tenants in local authority B requesting assistance as they felt that true participation was being blocked by the local authority. There had been some minor financial discrepancies in the annual accounts of a number of the local groups. As a result, funding for all tenant groups had been frozen until the matter was resolved.

The findings included a lack of trust between councillors and tenants, (exacerbated by a leading tenant having stood for election), poor communication, little training (including none on bookkeeping), a limited involvement structure and no Action Plan within the Compact as to how or when tenants would be consulted. Recommendations included:

- a review of the current TP structure involving staff, elected members and tenants,
- a review of the TP Compact, to ensure that the updated document contains a detailed Action Plan, systems for complaints, monitoring and review, and a series of clear targets,
- a training programme for tenants, staff and elected members, and an agreed source of funding to cover the costs of this

### **Case Study C**

The cause of the dispute and many of the problems in Case Study C appear to be centred around the dispute between the Council and the Chair of one of the Area Groups, and the action that had been taken as a result. Following a number of complaints, and a meeting between the Chief Executive and the tenant concerned, the Chief Executive took the decision to withdraw his staff from attending meetings at which the tenant concerned was present in his capacity as Chair of the Area Group. Although this seemed to provide a solution for the Council and its staff, it had resulted in additional problems for a wider group of tenants.

The findings showed poor communication, including on why this action had taken place or what alternative arrangements should be in place, Tenants felt left out from contact with staff at meetings where the tenant was present (and staff not), and tenants felt the ruling was being applied inconsistently. The Tenant Compact was weak with no processes for dealing with disputes, tenants had not been prepared to tackle the issue, poor behaviour had previously been tolerated and tenant involvement simply recycled the same tenants.

TPAS set out a number of recommendations based on these findings, which formed the basis of an action planning meeting of staff and tenants.

## Issues Raised by the Case Studies

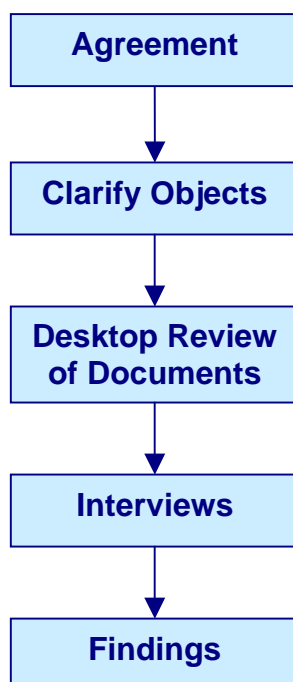
1. **Not everyone will be happy with the process.** There is a need to make the message clear that sometimes a problem cannot be resolved to everyone's satisfaction. Often this brings much of the positive activity within an organisation to a standstill whilst the various parties are in dispute. All parties concerned need to understand that it is rare for any party to come out unscathed when the case is examined in detail. Arbitration can be messy and time consuming, and you always end up with one party who is completely dissatisfied with the outcome. In such a situation, it is often better to leave the past in the past and agree a way forward. This is difficult for many people to accept, but it is often the best way of moving on and ensuring that a similar situation cannot arise again, or if it does arise again, there is an agreed and clearly communicated method for dealing with the situation.
2. **It's not as simple as bad landlords or bad tenants.** In fact the case studies revealed problems with at least one representative of each party of staff, tenants and councillors. Any party (landlord, individual tenant, group of tenants or elected members) can cause equally bad problems. In all three case studies, the people who came out unscathed were few and far between. This may be why people are often reluctant to use the services of a third party and 'air their dirty linen in public'.
3. **There is a low level of trust.** Trust is a hard currency – difficult to earn and easy to spend. Once lost it becomes elusive and relations flounder as any mistake or misunderstanding can be explained by "they always do that". It is important to recognise that within organisations with particularly severe problems, progress may be extremely slow. This is necessary though to rebuild trust.
4. **There are closed minds.** There can be problems with people from all parties having 'closed minds' and being resistant to change or to learning from others. Insularity was a recurring theme – failing to either learn from others or accept that lessons could be learnt. This reinforces a negative mindset and cynicism.
5. **There is a power imbalance between tenants and landlords in this process.** We need to accept that there is not an equal relationship between landlords and 'tenants'. However the disparity in power is exposed brutally when there are disputes – landlords have the power to agree to resolve them – tenants can merely ask. There is a need to set parameters to control power and this, of course, can apply equally to landlords and tenants who have 'power'.
6. **Poor relations and poorly defined roles.** The cases were also marked by lack of clarity of roles – such roles become more important where power, of whatever kind, is exercised.

7. **There is no mechanism to resolve these disputes.** Frankly without this service being free it is unlikely that any issues would have been aired. It's not clear who can direct both sides to such a mechanism, nor how tenants can drive such a request.
8. **Weak Compacts.** Some five years after the introduction of Compacts, which were meant to set the arena for how tenants and landlords worked together, it's clear that for some landlords and tenants the Compacts have become tired and irrelevant. This matters, as weak compacts mean poor capture of both policies and mechanisms, including dispute resolution. The organisations with a lack of process are usually those with weak Compacts and strategies and those who are in turn more likely to experience serious disputes in the future.
9. **The need for good communication.** All landlords (and tenant groups, too!) need to have clear communication strategies with the tenant body as a whole, including representative groups.
10. **The need for tenant groups to be properly constituted, representative and inclusive.** This has two impacts – it ensures that tenants groups do speak on behalf of their tenants and that landlords know that they do so properly.
11. **The importance of widening out tenant involvement.** Something that should be welcomed by landlords and tenants and has the potential to drive better services and engage tenants in those services and communities.
12. **The need for proper documentation of policies.** A recurring theme was the lack of proper documentation – be it Compacts, dispute mechanisms, constitutions – and without such paper capture actions tended to be seen as poorly based and difficult to communicate.
13. **That process matters.** Gaps in the process were a common failing in each of the case studies. It has become fashionable to view process as old-hat and both the Housing Corporation's Involvement Policy, and, to an extent, the Review of the Compact Framework, have emphasised impact over process. Whilst TPAS has no issue about the emphasis on impact we've always had reservations about the denigration of process. In all case studies the lack of process was a major contributing factor – both to the dispute, and to the inability to resolve the dispute. In such cases, when something does go wrong, it is often difficult to find out where and when it went wrong because no clear process has been identified.
14. **Dealing with unacceptable behaviour.** The case studies have revealed unacceptable behaviour as a recurring theme. This emphasises the need to have proper policies and procedures in place, that have been agreed through proper process that allows wide

ownership, which enforce those procedures when unacceptable behaviour occurs.

15. **Be clear about what constitutes acceptable behaviour.** Quite often, disputes arise due to differing tolerance levels and different levels of acceptability. To avoid this, it is important that all groups have an open discussion at a very early stage to agree what people find acceptable, what they find offensive etc., and this may need to be facilitated. Different people find different things offensive and without clearing this up at an early stage, offence can easily be caused completely unintentionally. This discussion may then identify training and development needs. It is always advisable to consult more widely on what the group have agreed to ensure that it is what the wider public also find acceptable.
16. **Making it a priority.** In the three case studies, it was evident that problems are not always caused deliberately or due to a lack of will. More often than not it is due to people being too busy to prioritise this type of work.
17. **Prevention not cure.** It is important to stress the benefits of opting for prevention rather than cure. There is less benefit to be gained from implementing good systems and processes to deal with disputes after a dispute has arisen. By this stage, there is a lack of trust, leading to a lack of communication, an imbalance of power etc.
18. **That not all consultation processes are equal.** In some cases landlords want to set out joint decision making processes where tenants are a joint partner, in others they want a consultative approach in which tenants are part of, but not an equal part of, the decision-making process. Although there may be issues about who makes such a decision it is important that landlords are very clear during any consultation what role tenant consultation will have in the decision making process.

## Process Path to be used for disputes



**Agreement** – Prior agreement from all parties was a prerequisite for this project. Again part of the issue around the imbalance of power is that for any dispute resolution to work it must be freely entered into by all concerned. Of course advice by the inspection, regulation or ombudsman agencies may assist in this process.

**Clarify Objectives** – as part of the agreement, all parties need to be clear about what is at dispute and covered by the process path.

**Desktop Review of Documents** – whilst not an exhaustive list, any such review should include the following:

- The Tenant Participation Compact or agreement such as an Involvement Policy
- The Tenant Participation Strategy
- The Tenants' Handbook
- Minutes of meetings between landlords and tenant groups
- Minutes of other meetings within landlord and/or tenant groups
- Monitoring report by landlord and/or tenant group
- Constitutions
- Compact Complaints Procedure
- Code of Conduct
- Terms of Reference

**Interviews** – these may include the following key players:

- Federation or tenant group officers, collectively or individually
- Tenant Participation Officer
- Head of Housing Management (with overall responsibility for TP)
- Councillors, including lead member for Housing
- Leading figures on any joint landlord-tenant working groups
- Director of Housing
- A wide range of active tenants and other tenant representatives

These interviews may also highlight the need for further interviews.

**Findings – these should be part of a process that allows both challenge and action planning:**

- Compile findings
- Round Table meeting with all concerned to share the findings and recommendations
- Round Table meeting to then prepare joint Action Plan
- Final report to include Action Plan (see Annex E for model action plan)

## Prevention List

As with anything it is better to prevent than cure and fortunately our work has identified clear ways in which landlords and tenants can prevent disputes arising. Whilst this won't stop every problem it will minimise them and set out how they can be dealt with in an agreed way without escalation.

1. **Acknowledge that everyone has roles, responsibilities and relationships.** This can be for staff, councillors, and tenant representatives. Everyone has a role and all would benefit from developing and agreeing precisely what those roles are. This should then move onto responsibilities – setting the boundaries within which individuals have to act. Both the process of developing roles and relationships and setting them out are positive approaches which also improve relationships. Then if disputes arise it's clear what the disputes are about.
2. **Codify and Capture on Paper.** This has several benefits – it tells everyone the same, it can be referred to and used, and it tells both inspectors and regulators that there is both a clear process trail and a clear result from the joint activity to develop and implement these roles.
3. **Get a good Compact or TP strategy.** The Compact/TP Strategy is the obvious arena for tenants and landlords to discuss how tenants are involved. Many of these are weaker than they need be and are in some need of review – especially after the Corporation's Involvement Policy and the related additions to the Compact Framework. Reviewing them will be far more productive than any other activity – and it's what inspectors and regulators expect to see. TPAS has the Bank of Good Practice of Compacts, ODPM funded guides to Compacts, including how to review your compact, and has material for members on developing a Tenant Involvement Strategy for housing associations based on the Involvement Policy. The Compact should also make clear what type of consultation is taking place, so that tenants are clear whether they are equal partners or are only one part of a decision-making process.
4. **Put in the Compact the standard clause for Dispute resolution (Annex B).** It is approved by ODPM and it means that if a problem arises there is a mechanism for dealing with it. If you can come up with anything better fine – but make sure that something is in there.
5. **Allow the Compact process to include discussion around the training for roles.** If tenants (and others) are to take on roles then they should have the opportunity to be trained to take on those roles successfully. There shouldn't be parallel debates about Compacts separate from the development and agreement about roles.
6. **Open up tenant involvement.** One of the real flashpoints is the perception, real or imagined, that tenant groups aren't representative.

Both tenants and landlords should avoid the trap of staying put with such groups and instead should work together to promote wider engagement of tenants. This can work alongside tenant groups, or even support them, but no-one wants small groups of tenants being the sole point of contact between landlords and tenants.

## Problem Solving Table

In addition to the Prevention List TPAS have also prepared a problem solving table that identifies particular issues and how they might either be prevented or solved.

Issue	Prevention	Cure
Lack of Trust	<ul style="list-style-type: none"> <li>• When tenants are engaged, there is a meaningful outcome and clear feedback /explanations</li> <li>• Agree shared aims</li> <li>• Be honest</li> <li>• Be realistic → slow progress is better than no progress</li> <li>• Set parameters</li> <li>• Set 'red lines' for behaviour</li> </ul>	<ul style="list-style-type: none"> <li>• Quick fixes – agreed ones</li> <li>• Acknowledge there has been a problem and agree to move on – all sides</li> <li>• Not allocating blame</li> <li>• Agree a route forward - possibly via a third party “blessed are the peacemakers”</li> </ul>
Power imbalance/abuse of power	<ul style="list-style-type: none"> <li>• Set 'red lines' for behaviour</li> <li>• Agree clear roles and responsibilities for all parties even if that involves acknowledging imbalanced relationships</li> <li>• Highlight that more power involves more responsibility and more hurdles to get over</li> <li>• Clear complaints policy and procedure</li> <li>• Clear disciplinary procedures for all</li> <li>• Agree how to deal with any disputes following breaking of any agreement or Compact</li> </ul>	<ul style="list-style-type: none"> <li>• Willingness to enforce/use any measures available</li> <li>• Use of a third party where no mechanism exists, to deal with individual cases as far as possible (acknowledge the restrictions where no paper trail exists)</li> <li>• Use a third party to either develop actions in prevention or to agree an action plan to do it</li> </ul>

Issue	Prevention	Cure
<p>Clarity of roles and responsibilities</p>	<ul style="list-style-type: none"> <li>• Develop negotiated and agreed</li> <li>• Terms of reference</li> <li>• Constitution } standing orders if</li> <li>• Code of conduct } necessary</li> <li>• Communication strategy</li> <li>• Compact/TP strategy</li> <li>• Complaints/dispute procedure</li> <li>• Timetabled and structured reviews of all of the above/training programme in place for those who have roles or may wish to take on roles.</li> <li>• Support network for all involved</li> </ul>	<ul style="list-style-type: none"> <li>• If there is nothing in place or what is in place lacks clarity or rigour</li> <li>• Review what exists with all parties</li> <li>• Take account of guidelines from Office of the Deputy Prime Minister (ODPM)/Housing Corporation (HC)/Audit Commission (AC)</li> <li>• Borrow good practice from elsewhere</li> <li>• Agree it</li> <li>• Communicate outcomes</li> <li>• Implement the things listed under prevention</li> </ul>
<p>Weak Compact/ TP strategy</p>	<ul style="list-style-type: none"> <li>• Take account of guidance from ODPM, HC, AC etc.</li> <li>• Be aware of good practice e.g. TPAS website (<a href="http://www.tpas.org.uk">www.tpas.org.uk</a>)</li> <li>• Incorporating dispute resolution clauses</li> <li>• Robust consultation with existing involved tenants and currently uninvolved tenants</li> <li>• Inform all tenants of its existence</li> <li>• Clarity about, what and how tenants are consulted</li> <li>• Timetabled and structured reviews</li> <li>• Agreed action plan</li> <li>• What, aims, who, by when, how measured</li> <li>• Agreed targets (SMART)</li> </ul>	<ul style="list-style-type: none"> <li>• If problems arise, implement the things listed under prevention &amp; make sure adequate resources are available to do it effectively</li> </ul>

Issue	Prevention	Cure
<p>Dealing with “difficult” individuals</p>	<ul style="list-style-type: none"> <li>• Recognising they exist and knowing where they can make a valuable contribution – certainly as sceptics - and where they can't</li> <li>• (possibly identify this through psychometric testing)</li> <li>• Utilise the Code of Conduct Information Sheet available at - <a href="http://www.tpas.org.uk/sub_page.asp?artid=159&amp;id=1&amp;cat=1&amp;nameCat=">http://www.tpas.org.uk/sub_page.asp?artid=159&amp;id=1&amp;cat=1&amp;nameCat=</a></li> </ul>	<ul style="list-style-type: none"> <li>• Tackle the individual in an accountable manner</li> <li>• Make training and support available for the individual and others (perhaps other members of their group).</li> <li>• Work with the individual and group to negotiate and agree what constitutes acceptable behaviour/and ensure all documentation is in place</li> <li>• Ultimately, if all else fails, enforce /use any measures available.</li> </ul>
<p>Need for wider involvement of tenants/ Reliance on too small a group of tenants</p>	<ul style="list-style-type: none"> <li>• Include involved tenants in the process of agreeing wider involvement mechanisms</li> <li>• Trial and review a range of wider involvement mechanisms on a regular basis to establish what works</li> <li>• Ensure these mechanisms are included in the Compact / TP strategy document</li> </ul>	<ul style="list-style-type: none"> <li>• When problems arise, work to implement the things listed in prevention</li> </ul>
<p>“Closed minds”</p>	<ul style="list-style-type: none"> <li>• Be aware of and engage in TPO and tenant fora - locally, regionally and nationally</li> <li>• Attend conferences and seminars</li> <li>• Awareness of the need to know of good practice examples and where to get them from</li> <li>• Give out positive messages about being open to new ideas and change</li> </ul>	<ul style="list-style-type: none"> <li>• Challenge by demonstrating that success can be achieved by doing things differently (any party)</li> <li>• Visit other organisations</li> <li>• Then go back and do the things listed under prevention</li> </ul>
<p>Communication</p> <ul style="list-style-type: none"> <li>• wider engagement</li> <li>• feedback</li> </ul>	<ul style="list-style-type: none"> <li>• Agree a communication strategy</li> <li>• Be clear about the roles and responsibilities of all and back this up with good documentation</li> </ul>	<ul style="list-style-type: none"> <li>• Deal with issue/problem (as identified above)</li> <li>• Communicate the solution</li> <li>• Implement prevention</li> </ul>

## Annex A

### Model clauses

1. A scrutiny panel containing independent tenants, elected members and staff members will be established solely for the purpose of investigating the case/complaint. The panel will review the case and make recommendations for an improvement in the situation.
2. A neighbouring local authority, selected jointly by the landlord and tenant representatives, will be appointed as a 'critical friend', probably on a reciprocal basis. A panel of nominees, including elected members, staff members and tenants, will review any conflict and will make suggestions about how to reach an amicable solution.
3. In unresolved or serious cases an independent mediator will be hired to work with both parties to find a compromise with which all parties agree. The mediator will be chosen by both the landlord and the relevant tenant representatives. This may be one named mediator or a company selected prior to the conflict arising, or from a 'select list' of mediators.
4. Where all other measures have failed to reach a satisfactory conclusion an independent arbitrator will be appointed jointly by the landlord and tenants to review the case and arrive at a conclusion. This conclusion is binding and must be adhered to by all parties involved.

## Annex B

### Innovation into Action Dispute Resolution Case Study A

#### 1. Introduction

- 1.1 The Council concerned in case study 1 contacted TPAS in October 2002 to ask for assistance in dealing with a dispute between the Council and the Tenant Federation. Both the Housing Inspectorate and the Government Office had highlighted the problems between the parties in reports. Both the Council and the Tenant Federation agreed to take part in the Innovation Into Action project in the hope of finding an amicable solution.

#### 2. Methodology

- 2.1 The first stage of the process was to review a series of documents:
- Tenant Participation Compact
  - Tenant Participation Strategy
  - Tenant Federation quarterly monitoring reports
  - Service Level Agreement for the Federation
  - Federation's presentation to the Housing Policy and Performance Board
  - Job description for the Tenant Participation Officer post
- 2.2 The second stage of the process was to interview the key people involved. TPAS interviewed the following:
- Officers of the Tenant Federation
  - Divisional Director
  - Policy Officer
  - 2 elected members who are members of the Housing Policy and Performance Board
  - Temporary Tenant Participation Officer
- 2.3 Following the initial interviews, TPAS took the decision to re-interview the Federation officers individually. This decision was taken as it became apparent in the early stages of the interviews that the opinions of some individuals were not being reflected due to the presence of other people. With hindsight TPAS would have spoken to everybody concerned, individually, from the outset.

#### 3. Findings

- 3.1 TPAS found some evidence of good work that could provide the foundations for future work. TPAS genuinely believed that progress could be made quickly once the lines of communication were opened

and clarified. This was especially due to the commitment and will of all of the people interviewed to achieve things and move forward in partnership. TPAS felt that this could be achieved with the hard work and dedication that clearly existed.

3.2 The cause of the dispute and many of the problems in case study 1 appeared to be centred around an individual member of the Federation. The problems resulted in the individual being banned from attending Council meetings for a period of six months. Although this provided a solution for the Council, this caused some issues for the Federation at the time, as the Federation was never given a full and frank explanation of the reasons for the suspension. The federation therefore felt they had no choice other than to show support for the Chair. There still appeared to be some outstanding issues relating to this matter which had never been brought to a satisfactory conclusion for all parties. The particular individual was no longer an officer of the Federation but still had some involvement in the Federation. There was a clear need for the issues between the Council and the ex-Chair to be resolved without the influence or involvement of the Federation.

3.3 The case study also uncovered the following findings:

- There were problems with internal mechanisms of the Federation e.g. one member would send out literature on letter headed paper without consulting other federation members.
- There was an issue of communication and feedback within the Federation e.g. members attending other panels and meetings but not always feeding back information from that meeting, or taking forward the views of the Federation as a whole.
- The Federation only represented approximately 36% of the borough in terms of coverage by tenant and resident associations, and not all of these groups used the Federation's office. This was possibly due to a clash of personalities with one member of the Federation.
- There was no clear definition of roles e.g. role of TP Officer and role of Federation. This stemmed from the fact that the TP Officer's job was created against the wishes of the Federation.
- Much documentation was weak, including the Tenant Compact, and was therefore underused.
- All parties on occasions of unacceptable behaviour by individuals.
- There had been a lack of support on occasions for individual members of the Federation.
- The existing tenant involvement structure did not have a wide enough focus and was basically restricted to tenant groups.
- There was a lot of misunderstanding of the term 'strategic'. This was actually the motivating factor in both parties agreeing to take part in the project.
- Not all of the Council policy documents were in plain English.
- Monitoring arrangements for the Federation were inadequate. Much of the information produced quarterly could be used for anything

and no action was taken if performance fell short e.g. non-production of newsletters.

- In many ways the Federation operated differently to other Federations nationally – this may be why the ‘strategic’ issue had arisen.
- There was an overuse of the same individuals on a variety of panels.
- The federation’s office provided an excellent resource, but perhaps needed to be marketed more effectively to attract a wider range and number of tenants in becoming involved.
- The system for handling nominations for the Housing Policy and Performance Board was very good.
- The pre-meeting with tenant co-optees to the Housing Policy and Performance Board prior to meetings was excellent and the opportunities it presented should have been maximised by tenants.
- The Tenants Panel was a good initiative and should be strengthened and maximised in liaison with the Federation.
- A Federation review day had been held and a report produced, but nobody had taken responsibility for following through the recommendations.
- External consultants had been commissioned to undertake various tasks, which was positive, but this opportunity had then been wasted due to a lack of ownership/ follow up.

#### **4. Recommendations**

4.1 Based on the findings above, TPAS made the following recommendations:

- There needs to be additional monitoring, including the introduction of a number of performance indicators for both the Council and the Federation. This should be reflected in the Federation’s quarterly monitoring report which needs to be reviewed to make the information more relevant and meaningful.
- Federation representatives need to maximise the opportunities to have their views recorded and to request agenda items e.g. at Housing Policy and Performance Board meetings.
- There needs to be a clarity of roles e.g. Tenant Participation Officer/ Federation/Councillors/Street Representatives.
- There needs to be regular meetings and communication between the Tenant Participation Officer and Federation.
- The Federation’s involvement in the stock options appraisal needs to be clarified and formalised.
- The Federation must acknowledge its responsibility to provide impartial advice and information and formal procedures may need to be developed to ensure that this happens.
- There is a need to formalise both the relationship between the Federation and new groups and what the Federation’s involvement with groups will be.

- The Federation need to work with the Council to develop alternative methods of involvement with the aim of involving more tenants, becoming more representative and more strategic.
- The Federation needs to be producing regular newsletters and information to tenants and the Council needs to offer more support to ensure that this is achieved.
- The Tenant Participation Compact needs to be thoroughly reviewed and updated to include tenant involvement in Best Value and stock options and to include a communications strategy and monitoring procedures.
- The Council needs to ensure that all documentation is in Plain English. The Council may need the Federation's assistance to achieve this.
- The Federation needs to develop new internal procedures and ensure that these are followed.
- The Federation needs to produce an action plan outlining their future direction and needs to be more accountable for the funding they receive.
- The Federation should be offered the opportunity to take a full and active part in the future recruitment of staff and consultants. They need to be offered and agree to undertake the relevant training in order for them to be able to achieve this.
- The Federation needs to explore opportunities for partnership working e.g. regular contact with the HA Federation that operates within the area.
- Marketing and promotional material about the Federation is needed to encourage wider involvement.

## **5. Conclusion**

- 5.1 Relations between the Council Officers and the Federation seemed to improve over the course of the project, partly due to the resignation of the former Chair of the Federation. However, this individual is still involved with the Federation and clearly still has outstanding issues with the Council. The Council staff and Federation officers were starting to build a good relationship which had the potential to be developed further.

## **6. Outcomes**

- 6.1 Following the work that TPAS carried out in case study 1, all parties agreed that the following documents and protocols were needed
- Communication Strategy
  - Wider Involvement Strategy
  - Standard forms and protocols for use by the Federation
  - A new Service Level Agreement between the Federation and the Council to include clear targets and monitoring arrangements.

- 6.2 As a result, the Council appointed consultants to help facilitate this process with all parties. It was agreed that by introducing these policies and procedures, all parties would be clear about the roles and responsibilities.
- 6.3 This will give all parties the confidence and ability to work together to ensure that similar problems do not occur in the future, and that no one individual can hold too much power.

## Annex C

### Innovation Into Action Dispute Resolution Case Study B

#### Background

TPAS was contacted by the Chair of the District Wide Compact (DWC) group in Local Authority B requesting assistance, as they felt that true participation was being blocked by the local authority.

TPAS met with the Director of Housing, Chair of the District Wide Compact Group and key elected members to discuss the purpose and potential benefits of the Innovation Into Action project. Following this meeting, written confirmation was received from both the Landlord and the District Wide Compact Group, agreeing to take part in the project.

#### Process

The first stage of the process was to conduct a desktop review of a number of documents including:

- The TP Compact
- The TP Strategy
- The Tenants' Handbook
- Minutes of District Wide Compact Group meetings
- Minutes of the Policy and Development Committee (PDC) meetings.

A series of interviews were then conducted with the following individuals to ascertain their views about the cause of the problem and any potential ways forward:

- Chair of DWC group
- Members of the DWC group
- Chairs of two Local Compact groups
- Director of Housing
- Tenant Participation Officer
- Chair of the PDC
- Vice Chair of the PDC
- Portfolio holder for Housing.

A second series of interviews were then arranged as a result of the findings of the first two stages, with the following individuals:

- Former Chair of a Local Compact group
- A Village Voice Representative
- A Block Representative
- Public Finance Accountant
- Property Surveyor.

The initial findings were presented at a meeting to which all those interviewed were invited.

The final stage was to develop an Action Plan at a session with all those who had been interviewed, plus any other interested parties

### **Findings**

There had been some minor financial discrepancies in the annual accounts of a number of the Local Compact groups. As a result, funding for all Local Compacts had been frozen until the matter was resolved.

Many of the tenants felt that elected members were reluctant to commit to the future of TP in the district, especially in financial terms. The Local Authority is a wealthy one, and elected members state the reason for this as being that 'they know what they are doing'.

There was a lot of mistrust, especially between tenant representatives and elected members. Part of the reason for this appeared to be that the Chair of the DWC Group had previously stood in Council elections against the current elected members.

The communication channels between each of the parties were unclear and this had led to a lot of misunderstandings, which had exacerbated the problems.

There were very little training or information sessions on offer to tenants, and no training in bookkeeping.

The involvement structure was very limited, with little else on offer other than involvement in traditional groups.

The District Wide Compact had commitments to consult tenants, but contained no Action Plan or timetable as to when or how this consultation would take place.

### **Action Plan/Recommendations**

TPAS recommended a course of action to include:

- A review of the current TP structure involving staff, elected members and tenants.
- A review of the TP Compact, to ensure that the updated document contained a detailed Action Plan, systems for complaints, monitoring and review, and a series of clear targets.
- A training programme for tenants, staff and elected members, and an agreed source of funding to cover the costs of this.
- A genuine commitment from elected members to the future of TP, and a budget to demonstrate this.

## Annex D

### Innovation Into Action Dispute Resolution Case Study C

#### Introduction

A tenant from Case Study C contacted TPAS in January 2004 to ask for assistance in dealing with a dispute between the Council and the tenant group of which the individual concerned was the Chair. TPAS subsequently contacted Local Authority C to assess whether the Local Authority was willing to take part in the project. The Local Authority declined the offer, stating that this was a dispute between the Local Authority and an individual tenant, not a group of tenants, therefore making it ineligible for the IIA project. TPAS conveyed this back to the tenant concerned, who did not agree with the assessment by the Local Authority. TPAS therefore informed the tenant concerned that they would need to provide evidence of support from a wider body of tenants to demonstrate that this was indeed a dispute between the Local Authority and a group of tenants. Unfortunately, this support was not forthcoming.

In June 2004, TPAS was then contacted by two different tenants stating that although the dispute had originally been between an individual tenant and the Landlord, it was now starting to affect the wider tenant movement. TPAS therefore made further contact with the Landlord who agreed that this was now the case and the Local Authority was now willing to take part in the project. Unfortunately, the tenant who made the original approach to TPAS indicated that they no longer felt able to take part in the project. This was due to discussions with, and advice received from, the Local Government Ombudsman.

#### Methodology

The first stage of the process was to interview the key people involved. TPAS interviewed the following:

- Tenants from two of the three Area Tenant Groups
- Tenant Participation staff
- Senior staff.

The second stage of the process was to hold a drop in session for tenants of the third Area Group, as the Group's Chair (the tenant who made the original approach to take part) felt unable to participate in any way in the case study. Twelve tenants and three elected members were interviewed as a result of attending the drop in session.

The third stage of the process was to review a series of documents:

- Tenant Participation Compact

- Constitution for the Area Groups

In the other case studies undertaken, TPAS has also reviewed documents such as the TP Strategy, Compact Complaints Procedure, Code of Conduct and Terms of Reference, but none of these were available in this case.

### Findings

The cause of the dispute and many of the problems in Case Study C appear to be centred around the dispute between the Council and the Chair of one of the Area Groups, and the action that has been taken as a result. Following a number of complaints, and a meeting between the Chief Executive and the tenant concerned, the Chief Executive took the decision to withdraw his staff from attendance at any meeting at which the tenant concerned was present in his capacity as Chair of the Area Group. Although this seemed to provide a solution for the Council and its staff, it had resulted in additional problems for a wider group of tenants.

The case study uncovered the following findings:

- There was an issue of communication and feedback between the Council and its tenants. During the course of the interviews, it was clear that there was no common understanding amongst either staff or tenants as to the reasons for the action being taken against the individual tenant, or an understanding of what that action actually meant in reality.
- An interim arrangement had been made where issues from the Group could be raised with the Council through the Area Group Secretary. None of the tenants affected were aware of this arrangement when questioned during the interviews.
- A number of tenants had ceased attending the local meetings chaired by the tenant concerned as they felt that the meetings had deteriorated due to the lack of officer presence. They felt that the Chair would not listen to them, but that there was nothing that they could do about the situation. These tenants felt that rules were not being adhered to, and the Council was not addressing the situation.
- Tenants attending the Area Group meetings felt let down that the staff surgeries held at the start of each meeting ceased because staff were prevented from attending when the Chair of the group was there. This led to tenants in the area feeling frustrated and feeling that they were receiving a lower standard of service to the tenants living in other areas where surgeries were still taking place.
- A number of tenants were unwilling to take the necessary action to deal with the situation.
- The tenants involved in the Central Panel felt that they were no longer as effective due to the fact that staff no longer attended their meetings because the tenant with whom the Council had a dispute attend the meetings.
- Tenants were frustrated that the Council appeared to be constantly 'moving the goalposts' as they allowed some officers to attend some of

the meetings at which the individual tenant was present, but not others. Tenants felt that officers attended when it was to the benefit of the Council and not when it was to the benefit of tenants. Tenants felt that a decision needed to be made one way or the other instead of them being left in 'no man's land'.

- Much documentation was weak, including the Tenant Compact, which was therefore underused.
- There were no clear processes set for dealing with disputes and no defined procedure.
- All parties, on occasions, had accepted unacceptable behaviour by individuals.
- The tenant involvement structure did not have a wide enough focus.
- All involvement structures were dominated by the same tenants which was off-putting to other tenants who felt that they did not get the opportunity to have their say.

The main cause of the dispute seemed to centre on the handling of the situation with the Chair of one of the Area groups. The problem was dealt with ineffectively and actually caused a lot more problems than it solved. The result being that a large number of previously involved tenants felt disengaged and disempowered. Tenants were divided on the issue of whether the Council should have taken any action at all, but they all agreed that the original problem had not been solved and that the sanction imposed had caused numerous difficulties for other tenants.

### **Recommendations**

Based on the findings above, TPAS made the following recommendations:

- All tenants and staff who were affected by the ongoing dispute with the Chair of the group needed to be informed of the situation with regards to officer attendance at meetings where that individual was present.
- If the current action against the individual tenant was to remain, alternative arrangements for communicating with both the Area Group and Central Panel needed to be identified, discussed and agreed with all parties concerned. This was the responsibility of both the Council and the tenants concerned.
- If the current action was to continue, Council staff needed to arrange surgeries in the area affected on an alternative date to the Area Group meetings. This would ensure that tenants in this area had equal access to staff, as in other areas.
- The TP Compact needed to be thoroughly reviewed to incorporate guidance such as the ODPM guidance on using Compacts to resolve disputes, which was published in 2002. The review should involve as wide a group of tenants as possible.
- A process and procedure to deal with disputes needed to be agreed and introduced. If action such as that which had been taken against the individual tenant was to remain as an option, it should be for a fixed term, after which time the situation should be reviewed.

- Behaviour protocols and a Code of Conduct for all groups needed to be introduced, which may include the need for training for staff and tenants.
- The constitutions for the Area Groups needed to be reviewed, to include a discussion around the issue of postal voting for the Area Group Annual General Meetings.
- There was a need to broaden the current involvement structure. Many tenants felt intimidated by both formal meetings, and by tenants who had been involved with the Council over a long period of time and who had a higher knowledge base in terms of housing. Mechanisms needed to be introduced to allow tenants who were new to involvement to work together. Some of these mechanisms needed to be less formal than the existing structure, and not involve tenants who were already involved.
- A procedure needed to be agreed around how groups allocated the Environmental Improvements funding, with a minimum of three tenants to be actively involved in managing and allocating the budget in each of the three areas..
- Each of the Area Groups needed to hold regular meetings

### **Feedback and Action Planning Sessions**

TPAS returned in January 2005 to facilitate the feedback and action planning sessions referred to above. Both sessions were well attended by tenants and elected members, but unfortunately no senior officer was in attendance at either session. This was particularly disappointing and would seem to indicate a lack of commitment to the whole process by senior officers. The only staff in attendance were the members of the TP Team, who had all been seconded onto the Stock Transfer Team. Again, this was of concern as there had been no back-filling of their posts, resulting in only the very basic TP functions being covered by the TP team staff in addition to their day-to-day duties.

Both the feedback and action planning sessions were, however, successful and productive and a detailed action plan was agreed (attached). The difficulty was that no senior staff were in attendance to assist in the production of the Action Plan so it was not possible to establish whether they would be committed to implementing the Action Plan.

In addition to the above meetings, TPAS also met with the Chair of the Area Group against whom sanctions have been taken by the Council. The Chair wished to make it clear that the only reason for not taking part in the IIA project was that they had a case pending with the Local Government Ombudsman. The case was almost at a conclusion and they felt that by taking part in the earlier stages of the project, it may have compromised the outcome of the case. A discussion took place with the Chair about the findings and proposed actions to establish their views, but the specifics of the Chair's Ombudsman case were not discussed.

## Annex E

## Action Plan

Activity	Who will be involved	Target Date	Lead person	Monitoring arrangements
<p>Review Constitution for Area Groups and introduce a Code of Conduct including:</p> <ul style="list-style-type: none"> <li>• Information as to what constitutes a breach</li> <li>• How to raise a potential breach</li> <li>• A process for dealing with breaches</li> <li>• Sanctions/ actions that will be taken following a breach</li> <li>• How to make a complaint</li> <li>• How to appeal against a decision</li> </ul>	<p>Initial draft to be devised by Independent Tenant Advisor (ITA) working group using good practice examples and information sheet.</p> <p>Draft to be circulated for discussion at Area Group meetings.</p> <p>Information to be circulated in tenants' magazine.</p> <p>All views to be collated by ITA working group and draft amended.</p> <p>Constitution and Code of Conduct to be formally adopted by Area Groups.</p> <p>Code of Conduct to be adopted by Working Group.</p>	<p>Draft Code of Conduct and revised Constitution to be produced by the end of March.</p> <p>Consultation to be completed in April.</p> <p>To have been adopted by 10<sup>th</sup> May 2005.</p>	<p>Independent Tenant Advisor (ITA)</p>	<p>Implementation of documents.</p> <p>Notify all parties if timescales slip and update them on reasons why, and new dates</p> <p><b>**Note – it will be important to agree in advance when the old Constitution will become null and void and when the new Constitution will be introduced. This is particularly important in terms of voting.</b></p>