



**SHiP**  
Supported Housing in Partnership

# Commissioning and Procuring Accommodation Based Supporting People Services

A Guide to Involving Housing Associations  
as Landlords and Developers

Phil Saunders and Nigel Rogers (February 2009)

## **Introduction**

I have the pleasure of being Chairperson of SHiP and this gives me the opportunity to introduce our first good practice briefing, hopefully of many.

The motivation for this briefing was triggered by a common concern expressed by SHiP members. In many cases the role of the landlord is not given sufficient importance by SP teams when they are looking at changing the way support services are provided to tenants living in accommodation based services.

The schemes that we have built over the years were funded by public money and we are obliged by our regulators (Homes and Communities Authority and Tenant Service Authority) to ensure public funding is not wasted. We also have a duty to assess possible partner organisations and monitor them and this must be considered as part of the commissioning process for accommodation based services.

As housing associations, we are not arguing for special treatment in the tendering and commissioning process. We simply want to ensure there is excellent partnership working with SP teams and that the landlord perspective is taken into consideration.

This briefing makes a series of recommendations. In our view, if SP teams and housing associations follow these recommendations when accommodation based services are being commissioned, it will help ensure best use is made of existing accommodation and that partnership working is successful.

**Tony Morgan** *SHiP Chairperson*

## **SHiP**

SHiP is a long established group of London and Southeast based Housing Associations working in the fields of support and supported housing. SHiP was originally set up to facilitate housing associations' shared interest and monitoring of agency managed services and this is still a significant element of its work. The remit of SHiP has grown and our partnership now provides a forum for information sharing, benchmarking, training and development of best practice. One of the most popular events organised by SHiP is our annual 2-day Brighton conference.

To find out more about what SHiP does or to make an enquiry about joining the group please contact:

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## **Methodology**

In compiling this report the researchers have:

- Undertaken a web survey of SHiP members;
- Carried out face to face or phone interviews with a representative sample of SHiP members, as well as with a similar type of Registered Social Landlord (RSL) based outside London;
- Interviewed a major non-RSL provider of supported housing and a “specialist” supported housing RSL who is not a member of the SHiP group;
- Talked to a number of local authority Supporting People teams, both inside and outside of London;
- Reviewed a range of good practice examples, relevant documents and guidance.

We would like to thank all of those who took part in the surveys and interviews.

## **The Changing Regulatory and Funding Context**

RSLs continue to be large-scale contributors to the supply and management of supported housing. Prior to the introduction of Supporting People (SP) in 2003, they were uniquely placed to attract revenue funding from the Housing Corporation and set Housing Benefit eligible ‘counselling and support’ service charges that also paid for support services. They were also in a position to determine whether supported housing services should be managed in-house or through the engagement of a managing agent.

The operating framework has changed radically with the introduction of SP. The transfer of the commissioning and funding role to Local Authorities required a reworking of the legal and financial relations between the main parties involved – the authority as representative of the SP Partnership, the landlord RSL and the support provider/managing agent. So in 2003, the sector’s representative bodies (through their Financial and Legal Arrangements Panel) published template contractual documentation (the Joint Working Protocol) to help facilitate the necessary changes.

In July 2004, the Housing Corporation also published their updated guidance “Housing Associations and Managing Agents – Performance Assessment Framework for Housing Associations Working with Managing Agents”. This guidance is still valid, even though the Corporation’s responsibilities have now transferred to the Homes and Communities Agency (funding) and the Tenant Services Authority (regulation). SHiP members continue to comply with this guidance through implementation of its collectively developed performance monitoring framework.

## **Key Issues for RSLs**

The separation of the funding arrangements for housing and support ushered in by SP means that the role of RSLs in ensuring the best use of the supported housing stock is changing. Currently in accommodation based schemes, the RSL may:

- Be the support provider as well as providing housing management services;
- Carry out housing management functions only, but have an established relationship with a support provider;

- Delegate housing management activities to the support provider who acts as a managing agent on the RSL's behalf (an arrangement subject to the Housing Corporation regulatory guidance referred to above).

As Local Authorities start to commission and procure new patterns of provision, RSLs face a range of challenges. These depend on the exact nature of both the existing and new service models in question. Any transformation of the housing *and* support aspects of accommodation based provision needs to be handled sensitively in the interests of service users. Yet, many RSLs report that this is less than widely recognised – commissioning and procurement of support is often undertaken with little or no involvement of the landlord RSL and with no reference to the operational consequences on the housing side.

## Findings from the Research

### Local Authority Views

When asked specifically, most authorities were sympathetic to the need for early and full involvement of RSLs as appropriate. However they did identify some frustrations and limitations, including difficulty getting exemptions from corporate policies requiring separate procurement of the support element of services. In some cases they felt this rendered them unable to conduct specific negotiations aimed at securing the right property, housing management and support package. In extreme cases, this could lead to serious implementation problems – an example was a Foyer project where, pending a separate procurement exercise, support arrangements could not be confirmed even as the multi-million pound development neared completion.

While being aware that RSLs have a legitimate interest in who will be the support provider in schemes they own, local authorities also identified conflict of interest issues when attempting to involve them in Tender Assessment Panels. The primary concern was that RSLs might favour or object to one provider over another for reasons that could not be taken into account in the tender process.

#### Good Practice – Involving RSLs in Tender Assessment Panels

One RSL was the landlord of a scheme for people with severe learning disabilities and very challenging behaviour. The Local Authority wanted to tender the (very high per capita cost) contract for support and care. The RSL did not want to be the provider - but saw itself as having important responsibilities towards some very vulnerable tenants. They were pleased when they were invited onto the TAP.

Some family members of the service users were also involved in the panel. There were quite strong differences of view from all parties when it came to selection. The RSL, in a view echoed by the families, was particularly unhappy with one potential provider who they had experienced as a poor performer. As a result of the discussions, this provider was not awarded the contract.

In some cases, recognition of RSLs' performance monitoring obligations and the wealth of information this generates about potential support providers has resulted in:

- Early discussions being held with both the landlord and potential support providers, outlining the authority's future plans;

- Landlords being given the ‘final say’ on whether any given services should be commissioned as a unified housing management and support service, or whether (as landlord) they retained the housing management;
- Discussions being held near to final tender stage when the RSL objected to a candidate for a support contract on the grounds that the agency had previously demonstrated a lack of housing management capacity;
- Authorities working with RSLs to help them obtain financing for any physical changes required by the tender specification, supporting a bid for capital improvement monies.

Some authorities were firmly of the view that RSL considerations were currently secondary to a much more important strategic aim – that support should be delivered regardless of tenure. Most consultation with RSLs had therefore been of a general nature, limited to the usual Supporting People channels of communication (Provider Forums etc).

There was recognition that at times there is little “joined up thinking” within Local Authorities between the Supporting People and Strategic Housing functions. Dialogue on joint commissioning had tended to focus on big new housing developments only. This did not drill down to, say, existing shared housing stock condition. At the micro level, this meant that, Supporting People Service Reviews had often not taken account of bricks and mortar issues, which had made “whole systems” service re-configuration difficult.

#### **Good Practice – Involving RSLs in a Negotiated Procedure**

One unitary authority saw competitive tendering as the default option for procurement of services. However, in one case, they allowed a support provider to negotiate a number of changes to their accommodation based services in conjunction with their partner RSLs.

The support provider suggested a single SP contract that would cover three properties – the two RSL schemes and another that they leased privately. The single contract represented a significant saving for the Local Authority when compared to the original three. It also allowed the provider to operate the service more effectively - and to avoid time consuming cost centre accounting. The commissioning body was happy with the proposal and waived the requirement for a formal procurement exercise.

#### **RSL Views**

RSLs reported that they were sometimes excluded from (or only sketchily involved in) discussions on the initial specification for some services. Failure to involve landlord RSLs in the service specification can often have direct financial and contractual implications for them. For example, a decision to move away from an accommodation based service model could leave them with redundant stock and tenants to re-house.

#### **Good Practice – Supporting People Impact Assessments and Decommissioning Protocols**

Two authorities have developed standard methodologies for assessing the likely impact on any risks to accommodation based services that might arise from shifts towards floating support. In one, a standard form is sent to the RSL that ensures the interests of other funders, stakeholders (including other statutory bodies) carers, families and service users are taken into account. The form also asks whether changes to the use of the property have been allowed for in the RSL’s Business Plan and identifies the likely impact of deleting the property from the local supported and social housing stock.

The other authority has a published Decommissioning Protocol that clearly sets out the procedures to

be adopted and makes various commitments, for instance to provision of alternative accommodation for service users.

RSLs were of the view that procurement should be a means to an end: the end being the alignment of local provision and local need. However it is precisely on this front that many RSLs believe their legitimate interests are being most ignored.

Implicit in such objectives is the notion of service change and service closure in some cases. RSLs face a number of direct financial threats from such prospective changes:

- They will almost always expect to experience void losses if a particular property changes its client group or needs level category - the existing client group will have to be re-housed and a new one moved in;
- They may find that a new support service specification creates a new requirement to partially remodel a particular property, for example by putting in an office or CCTV if the new user group presents higher risk management concerns than previously;
- A change of support provider in an agency managed service can create problems around the ownership of white goods, which are normally part funded through housing development allowances and in part the property of the landlord;
- Even more fundamentally, if a service is deemed 'strategically irrelevant', a landlord can be faced not merely with the issue of apparently redundant stock (which might have to be disposed or subject to expensive conversion for another purpose) but also a group of vulnerable tenants who continue to need a service. In one case, an RSL was faced with this problem when the managing agent lost a support contract, simply handed back the keys and walked away from the property.
- Where provision of housing management and support are split, there is often a residual 'intensive housing management' or 'tenancy support' need. Furthermore, stakeholders such as Social Services often expect input from the housing provider that exceeds that which is normal in general needs. The RSL as landlord often has to fund both the service required by users and the time spent in liaison and problem solving at the behest of other agencies.

For RSLs, there is a strong link between the perceived security of support contracts and their willingness to undertake risks in terms of supported housing development. One RSL had not developed any new supported housing for three years because they did not have assurance that the support contract would not be tendered out to an external agency. They felt this rendered uneconomic the time and effort put into attracting initial capital funding to carry out the design and development work.

Less dramatically (but perhaps more immediately), respondents spoke of prioritising stock reinvestment programmes on supported housing that appeared to have the most secure contractual future. It does not always make sense to invest in property that might be under threat of losing its support contract. If the contract is lost, further investment might be necessary to adapt it for another purpose.

There was also widespread frustration that RSLs *private* capital investments in particular properties, perhaps especially in extra care schemes for the elderly, were often being put at risk. There are also difficulties surrounding strategic use of Recycled Capital Grant Fund, with no obvious framework for discussion on how this "corporate"

resource might be utilised locally to facilitate the delivery of effective accommodation based services.

In summary, RSLs felt that the process of strategically re-aligning local support services could inflict *housing* costs on them, which are invisible to the support commissioner. Where accommodation based services were decommissioned, RSLs wanted local authorities to offer guidance on how the accommodation could be used to meet current local strategies. This would help ensure appropriate alternative uses were considered at an early stage, along with accessing the appropriate public funds when re-modelling costs could not be directly funded. Failure to address these issues is leading to loss of valuable, designated supported housing to the sector, as properties are being sold, mothballed or reverted to general needs use. This loss will be very difficult to recover, as planning and funding complexities are making development of new supported housing very difficult.

#### **Case Study – Problems with Client Group Based Commissioning**

One authority wanted to change the pattern of its provision for substance users. The proposals spanned health, social care, support and housing. Led by the local Drug and Alcohol Action Team, the initiative was wide ranging. But the DAAT did not understand that RSL properties were an essential element of the service.

The RSLs were not consulted until a number of new providers were announced. The announcement, with its short implementation period, affected a number of agency arrangements that the RSLs were contractually locked into. So, not only were they saddled with an extensive change management exercise to which they were not signed up, they were also worried about the long term well being of the affected service users (as well as that of neighbouring tenants, if problems arose with the performance of the new providers).

### **Recommendations**

The ultimate objective of this study is to make a number of constructive suggestions, aimed at facilitating effective partnership working. To this end, a number of recommendations are set out below:

- Commissioners should capitalise on the wider strategic role of RSLs in contributing to the achievement of area based outcomes. There is scope for increased co-ordination between Supporting People and Strategic Housing Teams to ensure that the development of new (and best use of existing) supported housing stock by RSLs makes maximum impact on meeting local priorities;
- Commissioners should continue to support appropriate development and investment proposals for supported housing, including those that arise from procurement driven change. In particular, they should support efforts to maintain supported housing stock levels and ensure appropriate stock condition;
- Subject to handling of conflicts of interest, commissioners should involve RSLs in procurement and tendering initiatives as appropriate; for example during consultation, service specification and tender assessment phases;

- RSLs should ensure they respond corporately to commissioning and procurement exercises. They need to gain increased recognition of their role as key Third Sector partners and have a clear sense of the added value they bring;
- RSLs should continue to engage in partnership based service delivery, working constructively with support providers commissioned by Local Authorities and ensuring their agency managed properties remain viable and well managed;
- When new service models are put into place, all parties should seek to enter into fair and transparent agreements, utilising the Joint Working Protocol or similar;
- RSLs should work collaboratively with Local Authorities around the practical aspects of procurement driven change management, in order to ensure that the interests of service users and other stakeholders are safeguarded;
- RSLs can bring considerable resources to the development and refurbishment of Supported Housing. It may be possible for them to enter into partnering arrangements, whereby they offer Local Authorities new or improved accommodation based schemes and housing related support services as a package;
- Within the strategic context of Local Area Agreements there may be scope for specialist housing associations and other support providers to work with generalist “housing partner” RSLs, bringing specialist skills to wider neighbourhood and regeneration driven initiatives;
- It should be recognised that support providers and managing agents should be able to initiate discussions about whole systems change with partner RSLs and Local Authorities. They too have a key role to play in ensuring that housing and support services are harmonised to the benefit of service users;
- The sector’s representative bodies should build on recent initiatives, such as the Hact/Sitra collaborate project, to ensure tools such as the Joint Working Protocol are kept live and up to date;
- The National Housing Federation has a role to play in advising its members on how to bring their full corporate capacity to the provision of support services (directly or in partnership) within the context of wider area and neighbourhood based initiatives;
- Sitra should ensure its Providers Guide to Procurement is regularly updated to take account of recent developments in Supporting People, Personalisation of Services and Commissioning Practice;
- The Homes and Communities Agency and/or the Tenant Services Authority should update the Housing Corporation guidance on RSL monitoring of managing agents.