

LONDON BOROUGH OF SOUTHWARK COUNCIL

FINAL ADVISORY REPORT

OBJECTION REVIEW - FAIR COMMUNITY HOUSING SERVICES (TMO)
JANUARY 2024

IDEAS | PEOPLE | TRUST



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BDO LLP APPRECIATES THE TIME PROVIDED BY ALL THE INDIVIDUALS INVOLVED IN THIS REVIEW AND WOULD LIKE TO THANK THEM FOR THEIR ASSISTANCE AND COOPERATION.

REPORT STATUS	
Auditors:	Greg Rubins - Partner (Quality Assurance) Aaron Winter - Director and Chief Audit Executive Angela Mason-Bell - Senior Manager Andrew Billingham - Manager
Draft report issued:	29/11/2023
Management response received:	15/01/2024
Final report issued:	16/01/2024

EXECUTIVE SUMMARY

Recommendations

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SCOPE

BACKGROUND

Fair Community Housing Services TMO

- ▶ FCHS is one of 17 Tenant Management Organisations (TMOs), which the Council funds to run services and provides local offices. Formed in 2004, FCHS is responsible for seven estates located in the North of the London Borough of Southwark, situated along Tooley Street between London Bridge and Tower Bridge.
- ▶ FCHS is a Friendly Society registered under the provisions of the Industrial and Provident Societies Act 1965, the aims and objectives of the company are for the benefit of the community. The governing documents of FCHS are the Modular Management Agreement (MMA) and the Rules. The MMA is an agreement between Southwark Council and FCHS, which means the Council appoints FCHS as its agent to carry out certain housing management functions. The MMA is a comprehensive legal document which regulates many aspects of delivering housing services by FCHS and describes the relationship with Southwark Council and its tenants. The MMA can only be changed by an agreement between FCHS and the Council.
- ▶ As with other TMOs, the MMA is monitored on behalf of the Council by the Tenant Management Initiatives (TMI) team within the Resident Services Department of the Housing Directorate. The Council's ability to monitor and at times step in and direct TMOs in terms of non-performance is Chapter 8 which is entitled "Performance, Monitoring and Reviewing of Standards". The seven clauses in this chapter cover areas such as The TMO's Performance Standards, The Council's Performance Standards, Regular Monitoring and Development Meetings, Annual Review, Equal Opportunities Monitoring and Five-Year Review.

FCHS Funding and External Decorations

- ▶ FCHS has received approximately £700k per annum in funding from the Council since its formation.
- ▶ Within this funding, FCHS has received £1.7m between 2008 and 1 November 2022 in respect of external decorations. FCHS has reported expenditure totalling £680,360 relating to external decorations. The latter is ringfenced and earmarked under the terms of the MMA to be used only for specific intended purposes.
- ▶ In 2021-22, the Council took the decision to take responsibility back for the completion of external decorations, and as part of this, the claw back of any unused monies within TMO earmarked reserves.
- ▶ According to the FCHS accounts, as of 31 March 2022, the TMO had £1,403,400 cash in the bank and net current assets of £1,287,168. This means the TMO is unable to repay the council the £1,703,352 that should have been used for decorations. Technically therefore, the FCHS is insolvent, and the Council is taking steps that protect the Council's interest and may bring the management agreement to an end.

- ▶ Under the MMA, TMOs are required to produce audited financial statements within six months of the end of the financial year (by 30 September).

Elector's Objection

- ▶ A formal objection to the Council's annual statement of accounts 2021/22 was initially emailed by an elector within the borough and leaseholder of FCHS to the Council's Chief Accountant on 17 September 2022. The primary concern of the elector related to the use of funding provided by the Council for external decorations work, and that this had not been ringfenced and utilised for the purposes intended and no external decorations work had been completed with the approximate £1.8m funding but that it had been used for unintended purposes such as overheads, unauthorised overtime etc.
- ▶ Connected to the primary concern, the elector questioned the extent to which the Council was monitoring the use of funding provided to FCHS and whether the Council was adequately scrutinising the monthly management accounts and annual financial accounts of the TMOs.
- ▶ In addition, the Council would be transferring the unused external decorations funding (£1.023m) back into its reserves. Per the terms of the MMA, the Council can recover the cyclical decoration allowances paid to the TMOs when the agreement ends or where the TMO hands back the function. This raised the question for the elector over the extent to which FCHS remained a going concern, particularly as it already owed the Council £60k relating to unlawful charges incurred.
- ▶ After the original objection, the elector raised further concerns, relating to:
 - The Council not observing or enforcing the Equal Opportunities Act requirements which are provisioned in the MMA and that TMO managers are "appointed" without formal recruitment processes being followed.
 - The Council not monitoring decisions made by TMO subcommittees such as Finance and HR, which is a provision under the MMA.
 - The Council not issuing a notice of dilapidation on FCHS despite no external decorations having been carried out for at least six years.
 - That previous internal audit reports had highlighted issues with the financial management of FCHS.
 - Possible more widespread issues across the other TMOs and non-compliance with the MMA.

Previous internal audit work (extracts relevant to this review)

FCHS cyclical TMO audit - final report July 2021

- ▶ Audit opinions: Design - Moderate Assurance / Operational Effectiveness - Limited Assurance
- ▶ Key findings:
 - A completed and signed Management Agreement between the TMO and the Council is not held by the TMO.
 - The annual budget was not finalised and signed off by the Council and appropriate committee members in advance of the financial year start.

- Budget monitoring is not being carried out monthly and is not discussed at Management Committee meetings.
- There is no formal process to ensure that all policies and procedures are reviewed periodically including the Equal Opportunities policy and finance procedures had not been reviewed since September 2006.
- Business interests were not declared by all committee members.

TMOs Reserves and Surplus Funds - final report November 2022

- ▶ Audit opinions: Design - Moderate Assurance / Operational Effectiveness - Limited
- ▶ Key findings:
 - FCHS should not have received cyclical decoration funding per its MMA.
 - For the financial year 2021-22, FCHS did not meet the reporting deadline.

External consultancy work (Chris Buss) - final report January 2023

- ▶ Key conclusions (extract):
 - There is considerable scope for improving the quarterly monitoring of the TMO's in terms of frequency.
 - Six recommendations were made, that the Council should:
 - monitor the TMO's in line with the agreement it has with each TMO, not in line with the latest version of the national agreement.
 - draft up a schedule of quarterly, annual, Equal opportunities & five-year reviews, which should be monitored and reported on.
 - ensure that equal opportunities reports are completed annually and reported on.
 - review the role of internal audit regarding the TMOs and the TMI.
 - rewrite the guidance on monitoring and reviewing TMOs to be more directional.
 - introduce a checklist to cover the Serious Failings issues to be used as part of the review mechanisms.

Other areas raised in scoping discussions for potential inclusion in the audit.

- The appointment process for the auditors used by the TMOs.
- The extent to which the auditors are providing an opinion on compliance by the TMOs with the MMA with regards to use of the external decorations funding.
- The extent to which FCHS is a going concern considering the repayment of funding allocated in error for external decorations.
- The correct treatment of external repairs in the accounts of FCHS.
- Whether the TMOs have the correct skills to perform the various requirements specific in the MMA.
- Follow up of the recommendations made in the external consultant's report.

Timeline to date on response and actions taken.

Date	Activity	Individuals involved
17 Sept. 2022	Elector's initial formal objection	To Chief Accountant, copied Director of Resident Services and TMI officers
26 Sept. 2022	Partial response provided to the elector on accounts specific queries.	From Chief Accountant, copied Corporate Finance accountant
26 Sept. 2022	Elector raises formal objection with Grant Thornton	To External Audit Director, copied Director of Resident Services, Chief Accountant and Corporate Finance Accountant
14 Oct. 2022	Elector raises wider concerns over the management of TMOs and the Council's absence of monitoring and oversight to ensure the requirements of the MMA are being met.	To External Audit Director from elector
28 Nov. 2022	External Audit confirm that the elector's objection is valid, and a series of steps are set out to be completed in response.	From External Audit to elector
28 Dec. 2022	Response to External Audit's lines of enquiry	From Strategic Director, Housing to External Audit Director copied to then Strategic Director, Finance and Governance
5 Jan. 2023	External Audit raise queries to the Council's Monitoring Officer with regards to the lawfulness of FCHS spending monies not for their intended purposes under the MMA.	From External Audit to Assistant Chief Executive - Governance and Assurance (and Monitoring Officer)
2 Mar. 2023	Follow up queries from External Audit to the Council based upon information received to date.	From External Audit to Strategic Director, Housing
	Provision of breakdown of the £1,703,352 external decorations	From Housing Departmental

	paid to FCHS for the period 2008-09 to 2019-20.	Finance Manager to External Audit Director.
21 Apr. 2023	Internal audit advisory review requested of FCHS.	
27 Apr. 2023	Meeting between BDO Internal Audit and the Council's External Auditors, Grant Thornton.	
31 May 2023	Scoping meeting between BDO Internal Audit and the Council - Strategic Director, Housing and Senior Finance Manager	

PURPOSE

The Council engaged us to conduct an advisory review to support the External Audit report on the elector's objection and independently verify the Council's response to the queries raised.

This report sets out the key findings, issues and agreed management actions from our review.

RISK AREAS REVIEWED

1. The funding allocated to FCHS for external decorations has not been used for its intended purposes.
2. The Council has not performed adequate monitoring of the FCHS to identify that funding for external decorations has been allocated in error.
3. The provisions for monitoring and oversight of FCHS under the MMA have not been exercised by the Council.
4. The Council has not performed adequate monitoring to assure itself that funding allocated for external decorations have been used for the stated purpose.
5. The MMA between the Council and FCHS has not been kept up-to-date and is not correct with regards to external decorations roles and responsibilities.
6. The Council does not have feasible plans in place in relation to the balance between the funds assigned and used in error, including whether leaseholders are required to pay for the external decorations again.
7. The Council did not have valid reasons for not issuing a notice of dilapidation, and the housing stock condition survey did not support this decision.
8. TMO managers and staff are appointed without a recognised recruitment and appointment process, which considers the skills, knowledge and experience required for the role.
9. The external auditors are not appointed in accordance with procurement rules and the appointment does not extend to consideration of the financial requirements of the MMA and use of funding.
10. The recommendations arising from the external consultant's report have not been adequately addressed.



AREAS OF COMPLIANCE

- ▶ **Risk 1:** Section 5 of the MMA states the Council shall appoint a liaison officer between the Council and the TMO. Discussions with officers confirmed this is the TMI Team Leader and their subordinates.

▶ **Risk 2:** The MMA states the TMO shall provide the Council with a copy of the accounts and balance sheet for the previous financial year audited by a qualified auditor. We confirmed the Council received this for four out of the last 5 years. At the time of testing the audited accounts had not yet been received for 2022.

▶ **Risk 7:** We obtained the housing stock condition surveys for all properties managed by FHCS. We reviewed the surveys, and they show stock condition data including information on when attributes were installed, had works done and when they are next due for repair. The surveys do not make any recommendations regarding notices of dilapidation.

Officers confirmed they would validate the housing stock conditions survey by sending a surveyor to conduct a feasibility report. This report and the survey would highlight any issues the property has and would provide a level of non-decency. The last feasibility report was carried out in July 2018 by Calfordseaden. Best practice guidance suggests a sample of stock conditions surveys should be carried out every five years.

We reviewed the report, and it states it was compiled following discussions with key client contacts, Fair Street TMO and residents alike by reviewing previously completed works schedules, repair logs and following several site inspections.

The report details many defects and repairs that need to be undertaken but does not mention a notice of dilapidation. The report only mentions urgent works needed to the staircase at Devon Mansions. We have not followed this up as part of this review as it was not within the scope.



AREAS TO IMPROVE

Our key findings from this audit include the following:

▶ **Risk 1:** We found the Management Modular Agreement (MMA) did not clearly define roles and responsibilities for external decorations. (see issue 1 - High)

The Council does not have any evidence to confirm any training they have provided to the TMO around the management of the TMO and its associated responsibilities. There is no oversight from the Council of whether training is provided by TMO's to their staff or the quality of any training given. (see issue 2 - High)

Allocation of funding to the TMO is not always clearly detailed for what purpose it is for making it difficult for the TMO to know what amounts were for external decorations and shouldn't be spent. (see issue 3 - Medium)

We received limited evidence from the TMO regarding how they had spent the external decorations money and therefore cannot confirm it was spent appropriately. (see issue 4 - High)

▶ **Risk 2:** Throughout our testing Council officers could not provide full supporting evidence to show the TMO complied with the MMA of the Council had executed its contract monitoring responsibilities adequately. They stated this may be due to some of it being saved on the personal drive of an Officer who was on extended leave. (see issue 5 - High)

Our testing of the last five years could not evidence that Council officers received a copy of the TMO's budget at the start of the fiscal year to scrutinise. (see issue 6 - Medium)

Our testing of a random sample of five quarters from the last five years failed to confirm Council officers obtained and reviewed evidence of the TMO quarterly revenue report in line with the MMA. (see issue 7 - Medium)

The MMA in operation from 2004 to 2021 stated the TMO should have a separate bank account for major works. The TMO did not have this and Council officers failed to spot the omission, which may indicate that the TMO compliance with the MMA was not being adequately monitored. (see issue 8 - Medium)

- ▶ **Risk 3:** Our testing of a random sample of quarters from the last five years failed to confirm Council officers regularly attended TMO Board meetings. (see issue 9 - Medium)
- ▶ Our testing of a random sample of quarterly Board meetings from the last five years confirmed Financials are not included as a standard agenda item to ensure it receives regular and appropriate scrutiny. (see issue 10 - Medium)

The MMA states there should be a joint Council/TMO meeting twice a year. Officers confirmed instead they meet with the TMO quarterly as part of the quarterly performance monitoring meeting. The Council did not have a standard agenda or record minutes of the discussion that took place to support this. (see issue 11 - Medium)

- ▶ **Risk 4:** The Council conducts random sampling as part of its monitoring regime. However, this is reactive when an issue becomes known to the Council as opposed to proactive. (see issue 12 - Medium)

The MMA states the Council should undertake five yearly reviews. Officers stated this was carried out by the internal auditors. However, the appointed internal auditor was unaware this was their role and had not set up a work programme to ensure compliance with this. Audits had been completed but the MMA responsibility was not made clear to the internal auditors. (see issue 13 - Medium)

- ▶ **Risk 5:** The latest MMA does not have a schedule for review, or a responsible officer assigned to keep on top of any changes and to regularly confirm the MMA remains fit for the Council's purpose. (see issue 14 - Low)
- ▶ **Risk 6:** There is no documented procedure which sets out the process the Council will follow when recovering funds that have been used in error. (see issue 15 - Low)
- ▶ **Risk 8:** We tested a random sample of three recruitment exercises in the last 10 years against the process detailed in the MMA. We found one exception where the TMO could not provide evidence of a completed application form for the successful candidate. (see issue 16 - Low)
- ▶ **Risk 9:** The MMA states the appointment of external auditors must be done annually by Members of the Board and arrangements should be reviewed every three years by requesting quotes from alternative auditors. Evidence was not provided to confirm the appointment of the external auditors in 2019 or that a three-year review was conducted in 2015. (see issue 17 - Medium)

- ▶ **Risk 10:** Council officers could not confirm or provide evidence they reviewed and implemented the recommendations from the external consultant's report. (see issue 18 - Medium)





We conclude the TMO has limited financial management controls as we were unable to fully verify evidence of where the TMO had spent the external decorations monies or that it was spent appropriately. The Council should consider its next steps in trying to identify where the monies have gone, whether any expenditure was ultra vires and whether the TMO remains a going concern as a result of this.


We also found the controls designed to mitigate the risks around the management of TMOs were not well designed or fully operating.


We have raised 18 findings to help the Council enhance their control environment including introducing a checklist for officers to work from to ensure TMO's comply with the Management Modular Agreement (MMA), enhance the training provision for TMO's or regularly scrutinise the adequacy of the training provided and save evidence of compliance with the MMA in a central location.

DETAILED FINDINGS

1 Roles and responsibilities	
Risk:	The funding allocated to FCHS for external decorations has not been used for its intended purposes.
Significance	 HIGH

 FINDING	
Issue	
<p>We reviewed the Modular Management Agreement (MMA) signed by both the Council and FCHS on 10/02/2004. We noted the agreement was marked “Department of the Environment Welsh Office.”</p> <p>The MMA makes four references to external decorations and three of these were in relation to the allowance that would be paid.</p> <p>The MMA states on page 41, that the Tenancy Management Organisation (TMOs) responsibility is for repair and not replacement. Paragraph 3(d) on page 43 lists some of the repair responsibilities which includes external decorations. This is the only reference in the text of the agreement and the agreement does not specifically state they cannot use the external decorations fund outside of the repair function. The confusion around the external decorations fund could have been exacerbated by the fact the allowance was regularly paid to the TMO.</p> <p>The revised MMA, applicable from 2022, makes no reference to external decorations and the repair function responsibility has been removed.</p>	
Risks	
If roles and responsibilities are not clearly defined around external decorations, then officers may omit actions or conduct action which they are not authorised to do.	


 RECOMMENDATION	
1.1 Contact all TMO's and ensure they are fully aware of their roles and responsibilities.	
1.2 Consider holding workshops form TMO's so roles and responsibilities can be reinforced.	

 MANAGEMENT RESPONSE	
1.1	Agreed. Quarterly meetings are now being held with all TMO Managers to ensure TMOs are fully aware of their roles and responsibilities. The first meeting was held on the 16 th of November 2023 and the next one is scheduled for the 24 th of January 2024. Notes of the meeting on the 16 th of November 2023 with suggested agenda items for the meeting on the 24 th of January 2024 enclosed for ease of reference.
1.2	Agreed. The next meeting with TMO Managers will be on 24 th of January 2024 and the methodology for paying management and maintenance allowances for delegated responsibilities will be discussed. The guidance has been sent to all TMO Managers.

Responsible Officer:	1.1 Jackie Richards - TMI Monitoring Team Leader
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Implementation Date:	1.2 Jackie Richards - TMI Monitoring Team Leader
	1.1 March 2024
	1.2 June 2024

2 Training

Risk:	The funding allocated to FCHS for external decorations has not been used for its intended purposes.
Significance	 HIGH

FINDING

Issue

Officers stated it is the responsibility of the TMO to make sure its staff are trained. This is also confirmed within the MMA. The TMO can access the Council's My Learning Source, however, this is not specific to the MMA.

When the TMO is first set up there was a learning and development programme provided by the Council which takes them through the responsibilities of a TMO and management functions. However, this was completed several years ago and there is no record kept by the Council. There is also a regular turnover of TMO staff, therefore any new staff member would not have received this training.

Furthermore, there is no oversight from the Council of whether training is provided by TMO's to their staff, or the quality of any training given and whether it covers all aspects of the responsibilities within the MMA.

The Council did set up a TMO Chairs group in 2021 to improve the dialogue with TMO's. However, evidence shows engagement from the TMO's is low and as a result has not continued as planned.

Risk

Without adequate training there is a risk TMO staff may not fully understand their roles and responsibilities and deliver them effectively leading to some of the issues identified in this review.

RECOMMENDATION

2.1 Consider implementing a regular training programme for TMO staff to act as a refresher for existing staff and to ensure any new staff have been trained. Alternatively, obtain copies of training records to ensure TMO staff have received regular training.


2.2 Contact all TMO's and confirm if they would like to receive any additional training on their roles and responsibilities, which the Council could provide.

MANAGEMENT RESPONSE

2.1	Agreed. Regular meetings have now started with the TMO Managers. Training and development of staff will be agenda for discussion. The TMO monitoring regime will also include obtaining and reviewing training records of TMO members of staff.
2.2	Agreed. This will be discussed at the meeting with TMO Managers on the 24 th of January 2024.

Responsible Officer:	2.1 Jackie Richards - TMI Team Leader 2.2 Jackie Richards - TMI Team Leader
Implementation Date:	2.1 March 2024 2.2 March 2024

3 Allocation of funding

Risk:	The funding allocated to FCHS for external decorations has not been used for its intended purposes.
Significance	 MEDIUM

FINDING

Issue

Council officers confirmed a breakdown of allowances are sent annually to the TMO. Officers provided evidence of payment schedules from 2008/09. For 2008/09 and 2009/10 it is unclear how the external decorations payment is calculated as it is not clearly documented. Amounts for external decorations are clearly labelled from 2010/11.

Risk

If the purpose of payments is not clearly detailed there is a risk payment will not be used by the TMO for their intended purpose.

RECOMMENDATION


- 3.1 Contact TMO's and confirm they understand what all the payments issued by the Council to them can be used for.
- 3.2 Ensure all payments to TMO's include an appropriate description of their use.

MANAGEMENT RESPONSE

3.1	Agreed. The methodology for calculating management and maintenance allowances has been sent to all TMO Managers (evidence provided). The divisional accountant will be invited to quarterly meetings to give a presentation on the TMO allowances for the delegated functions.
3.2	Agreed. The Finance Manager will now be required to set out clearly the purpose of each allocated funding to TMOs.

Responsible Officer:	3.1 Stephan Colombies - Finance Manager 3.2 Stephan Colombies - Finance Manager
Implementation Date:	3.1 January 2024 3.2 January 2024

4 Analysis of spend

Risk:	The funding allocated to FCHS for external decorations has not been used for its intended purposes.
Significance	 HIGH

FINDING

Issue

Officers provided a breakdown of the payments made to the TMO via the Council's financial payment system (SAP). According to the Council records the TMO received £1,859,485.59 for external decorations between 01/04/2008 and 31/03/2022. As at 31/03/2022, the TMO's audited accounts showed the TMO had £1,293,484 left in reserves in total (although the TMO states only £1,022,992 was for the external decorations).

We requested evidence of the £556,002 spend from the TMO (the Council had previously not requested this). The TMO states they spent £357,442 (£198,560 verbally unaccounted for) on the Better Home Programme and a door entry system. However, evidence provided showed only the following amounts were spent:

1. Invoice dated 19/11/2014 for Silk & Mackman Services - Door entry system - £34,476.90.
2. Invoice dated 09/09/2015 for Axis Europe - Better homes project - £4,380.67.
3. Invoice dated 31/08/2013 for Keegans Ltd - Door entry design and internal improvement for Better Homes - £3,619.31
4. Invoice dated 17/09/2014 for Keegans Ltd - Door entry and security works and disbursements - £683.44.

The TMO provided a spreadsheet showing all FCHS transactions back to 2008-09. We reviewed the spreadsheet, and it is not clear which transactions relate to the external decorations fund. Under the Name column only one amount was listed as an external decoration debit:

2008-09 - 2022-23: None
2013-14: £410

The following amounts were listed as Door Entry System Project in the Name column although there is only partial evidence of the spend:

2013-14: £52,364
2014-15: £28,730.75

The following amount was listed as spent on the Better Homes Project:

2014-15: £300,000 (please note a £300,000 credit for the Better Homes Project was made in 2013-14 and it is unclear where this came from).

The following amounts were listed for disrepair costs:

2020-21: £57,537.70
2021-22: £36,781.93
2022-23: £12,134.19.

The overall total spend amount is £487,958.57, which potentially could be for external decorations, but it is not clear. There is also limited evidence of what this was actually spent on.

We received invoice evidence totalling £43,160.32, which means we could not evidence spend of £522,841.27.

Risk

If the TMO fails to maintain an adequate record evidencing spend there is a risk money could have been used inappropriately or fraudulently. There is also a risk the TMO could become financially insolvent.

If funds have not been used for the intended purpose there is a further risk works still need to occur to rectify any required repairs/decoration which will come at a further cost that need to be funded by other reserves.



RECOMMENDATION

4.1 Ensure all TMO's maintain adequate evidence of their spend and transactions are clearly documented to which fund they relate.

4.2 Consider conducting a forensic audit of FCHS's spend to verify where they spent the External Decorations fund and if they remain a going concern.




MANAGEMENT RESPONSE

4.1 Agreed. The Finance Manager has been asked to scrutinise the transactions of all TMOs and ensure accurate postings of all spends from each budget head. The Strategic Business Manager has been asked to support this work.

4.2 Agreed. A forensic accountant will be appointed by the council's finance department to work with the corporate anti-fraud team and the resident involvement manager to conduct a forensic audit of FCHS to verify where FCHS spent the external decorations fund.

Responsible Officer:	4.1 Nat. Stevens - Resident Involvement Manager 4.2 Nat. Stevens - Resident Involvement Manager
Implementation Date:	4.1 June 2024 4.2 June 2024

5 Missing evidence	
Risk:	The Council has not performed adequate monitoring of the FCHS to identify that funding for external decorations has been allocated in error.
Significance	 HIGH

FINDING

Issue

Throughout our testing Council officers could not provide full supporting evidence due to the fact some of it was potentially held on the personal drive of an officer who was currently on long term sick leave. This was not something we could not verify. The following evidence was missing from random samples chosen from the last five years:

TMO budget presented at the beginning of the fiscal year:

2019/20
2021/22

Quarterly revenue report:

2019/20 Q4
2021/22 Q3

Quarterly board meeting agenda and minutes:

2019/20 Q4
2020/21 Q1

Quarterly performance monitoring:

2019/20 Q4
2020/21 Q1

Annual review:

2018/2019

Risks

If documentation is not held in a central location accessible by all relevant officers there is a risk the evidence has not been requested and cannot be produced when necessary to evidence decisions taken by the Council.



RECOMMENDATION

5.1 Ensure all documentation is saved in a central location on a shared drive so it can be accessed by all responsible officers. This will also allow senior officers to have overall scrutiny of the monitoring done to ensure it complies with the MMA.




MANAGEMENT RESPONSE

5.1 Agreed. All monitoring files and records for each TMO to be migrated to info@work which will be accessed by all responsible officers and senior officers to have overall scrutiny of the monitoring done to ensure TMOs comply with the MMA

Responsible Officer: 5.1 Jackie Richards - TMI Team Leader

Implementation Date: 5.1 September 2024

6 Budgets

Risk:	The Council has not performed adequate monitoring of the FCHS to identify that funding for external decorations has been allocated in error.
Significance	 MEDIUM

 FINDING
Issue

The MMA states the TMO shall provide the Council with a copy of the budget for the coming financial year before the beginning of the financial year.

We requested evidence officers had obtained a copy of the TMO's budget at the start of the fiscal year for the last five years.

Officers provided evidence they had obtained copies of the TMO's budget for the following years:

2018/19
2020/21
2022/23

Officers could not provide evidence for 2019/20 and 2021/22. We are therefore unable to provide assurance that officers are correctly obtaining evidence of the TMO budget on an annual basis and reviewing it to ensure allocated spend is correct and in line with the MMA.

Risks

If officers fail to perform their role in line with the MMA, then the performance of the TMO will not be adequately scrutinised.



RECOMMENDATION

6.1 Ensure officers obtain copies of TMO's budgets on an annual basis at the start of the fiscal year. The Council should consider introducing a contract management checklist to ensure their role is adequately performed.




MANAGEMENT RESPONSE

6.1 Agreed. The Finance Manager is required to get all the TMOs to provide their budgets and this work will be supported by the Strategic Business Manager, George Davidson.

Responsible Officer:	6.1 Stephan Colombies - Finance Manager
Implementation Date:	6.1 April 2024

7 Quarterly revenue reports

Risk:	The Council has not performed adequate monitoring of the FCHS to identify that funding for external decorations has been allocated in error.
Significance	 MEDIUM

FINDING

Issue

The MMA states the TMO shall provide the Council with a copy of the quarterly revenue report within six weeks of the end of each quarter.

We selected a random sample of five quarters from the last five years to confirm the Council had obtained evidence from the TMO of their quarterly revenue report. The following evidence was provided:

2018 Q2
2020 Q1
2022 Q2

Officers could not provide evidence for Q4 2019 and Q3 2021.

Risk

If officers fail to request evidence or the TMO fails to provide evidence of their quarterly revenue report, then the Council officers cannot appropriately scrutinise spend to ensure it is in line with the MMA. Furthermore the Council and the TMO will not be operating in line with the MMA



RECOMMENDATION

7.1 Regularly request evidence of the TMO's quarterly revenue report and scrutinise spend accordingly.

7.2 Introduce a quality control check to confirm the correct monitoring is being performed by officers.




MANAGEMENT RESPONSE

7.1	Agreed. The Finance Manager will request the quarterly revenue report and scrutinise spend. This work will be supported by the Strategic Business Manager, George Davidson.
7.2	Agreed.

Responsible Officer:	7.1 Stephan Colombies - Finance Manager and to be supported by George Davidson, Strategic Business Manager 7.2 Jackie Richards - TMI Monitoring Team Leader
Implementation Date:	7.1 April 2024 7.2 April 2024

8 Major works bank account

Risk:	The Council has not performed adequate monitoring of the FCHS to identify that funding for external decorations has been allocated in error
Significance	 MEDIUM

 **FINDING****Issue**

The previous MMA from 2004 stipulates that TMO's should have a separate bank account for major works. FCHS does not have a separate major works account, it has a current account and a 35 days' notice saving account. Although this requirement is removed from the new MMA and it is up to the discretion of the TMO, it highlights the fact the MMA was not being monitored correctly by Council officers.

Risk

If the MMA is not monitored correctly by the Council, they may fail to ensure the TMO is performing its correct roles and responsibilities.

 **RECOMMENDATION**


8.1 Introduce a contract management checklist to ensure all elements of the MMA are being met by the TMO. The checklist should be reviewed annually.

 **MANAGEMENT RESPONSE**

8.1 Agreed. A contract management checklist is being developed.

Responsible Officer:	8.1 Jackie Richards - TMI Monitoring Team Leader
Implementation Date:	8.1 April 2024

9 Officer attendance at meetings

Risk:	The provisions for monitoring and oversight of FCHS under the MMA have not been exercised by the Council.
Significance	 MEDIUM

FINDING

Issue

We tested officer attendance at the last five AGMs and confirmed attendance at all five.

We selected a random sample of five quarters from the last five years and requested evidence of quarterly TMO Board meetings to confirm Council officer attendance. Evidence could only confirm a Council officer attended the following:

2018 Q2 (officer attended but documented that they left early).

2021 Q3

2022 Q2

There was no evidence to confirm that an officer attended Q4 2019 or Q1 2020 board meetings.

Risk

If officers do not regularly attend the TMO Board meeting they may not provide the adequate scrutiny required to ensure the TMO's compliance with the MMA.



RECOMMENDATION

9.1 The Council should decide whether officers should attend all TMO quarterly Board meetings to provide the adequate scrutiny required.

9.2 The Council should ensure attendance at Board meetings is in line with the stipulated requirement.




MANAGEMENT RESPONSE

9.1	Agreed. TMI Monitoring Officers are required to attend all quarterly board meetings to and provide evidence to the TMI Team Leader.
9.2	Agreed. TMI Team Leader will be required to provide evidence of attendance of TMI Monitoring Officers at quarterly board meetings in line with the stipulated requirement and provide evidence to the Resident Involvement Manager.

Responsible Officer: 9.1 Jackie Richards - TMI Monitoring Team Leader
9.2 Jackie Richards - TMI Monitoring Team Leader

Implementation Date: 9.1 April 2024
9.2 April 2024

10 Quarterly Board meetings

Risk:	The provisions for monitoring and oversight of FCHS under the MMA have not been exercised by the Council.
Significance	 MEDIUM

 FINDING
Issue

We tested a random sample of quarterly Board meetings to confirm there was a standard agenda and minutes were taken. We tested Q2 2018, Q4 2019, Q1 2020, Q3 2021 and Q2 2022.

Officers could not provide full supporting evidence for all of the sample. There was no evidence of minutes or an agenda for Q1 2020, Q3 2021 and Q2 2022, although evidence was provided for the preceding meetings. From what was provided it is clear there is an agenda and minutes are taken. However, financial information is not included as a standard agenda item to ensure it is regularly discussed in a consistent way.

Risk

Failure to include regular financial information as a standard agenda item could result in budgets and spend not receiving regular scrutiny to ensure it is transparent.



RECOMMENDATION

10.1 TMO quarterly Board meetings should include financials as a standard agenda item to ensure it receives regular scrutiny.



MANAGEMENT RESPONSE

10.1 Agreed. TMI Team Leader will be required to provide evidence of attendance of TMI Monitoring Officers at quarterly board meetings in line with the stipulated requirement and ensure budget and discussion of financial information is a standard agenda item for all board meetings to the Resident Involvement Manager.

Responsible Officer:	10.1 Jackie Richards - TMI Team Leader
Implementation Date:	10.1 April 2024

11 Performance monitoring/liaison

Risk: The provisions for monitoring and oversight of FCHS under the MMA have not been exercised by the Council.

Significance  MEDIUM

 **FINDING****Issue**

The MMA states there should be a joint TMO/Council meeting twice a year. However, officers confirmed it is their "methodology" to have a joint performance review meeting incorporated into the quarterly monitoring meetings (four per year). The monitoring officer meets with the TMO manager and if necessary, the TMO board/committee.

We requested evidence of quarterly performance monitoring for the years 2018 (Q2), 2019 (Q4), 2020 (Q1), 2021 (Q3) and 2022 (Q2). Evidence could not be provided for Q4 2019 and Q1 2020

The evidence showed performance indicators were monitored on a spreadsheet. However, there is no evidence of the discussions that took place in particular to cover the twice-yearly liaison meeting. There was also no standard agenda to ensure items were covered as detailed in the MMA.

Risk

If there is no standard agenda, liaison may become unstructured. If minutes of the quarterly performance/liaison meetings are not taken there is a risk discussed actions are not documented and followed up.

**RECOMMENDATION**

11.1 Introduce a standard agenda for the quarterly performance meetings.

11.2 Ensure minutes are taken for the quarterly performance meetings to document discussions and assigned actions.

**MANAGEMENT RESPONSE**


11.1 Agreed. A standard agenda is being developed by the TMI Team and customised to each TMO based on the management agreement for the quarterly performance meetings. This will be monitored by the TMI Team Leader and reports provided to the Resident Involvement Manager.

11.2 Agreed. This will be done by the TMI Team.

Responsible Officer: 11.1 Jackie Richards - TMI Monitoring Team Leader
11.2 April 2024

Implementation Date: 11.1 Jackie Richards - TMI Monitoring Team Leader
11.2 April 2024

12 Random sampling

Risk:	The Council has not performed adequate monitoring to assure itself that funding allocated for external decorations have been used for the stated purpose.	
Significance		MEDIUM

FINDING

Issue

Officers stated random sampling is used as part of the monitoring regime. However, this is reactive as opposed to proactive, for example if the monitoring officer notices any discrepancies i.e. invoices being paid late or issues with procurement, then they will conduct additional sampling. The Council provided limited evidence to show random sampling was conducted in November 2022 and August 2018.

Risk

If the Council uses a reactive auditing process issues may not be identified until after the fact resulting in financial or reputational loss to the Council.

RECOMMENDATION


12.1 The Council should enhance their audit sampling by introducing an audit methodology, which targets specific areas of TMO activity on a regular basis to proactively identify any issues.

MANAGEMENT RESPONSE

12.1 Agreed. The Strategic Business Manager, George Davidson, has been asked to assist with setting out an effective financial governance auditing framework for TMOs including the TMO business plan, the projected income and expenditure budget and spend against budgets.

Responsible Officer:	12.1 Jackie Richards - TMI Team Leader
Implementation Date:	12.1 April 2024

13 Five yearly review

Risk:	The Council has not performed adequate monitoring to assure itself that funding allocated for external decorations have been used for the stated purpose.	
Significance		MEDIUM

 **FINDING****Issue**

Section 5.2 of the MMA states the Council should monitor the total performance of the TMO in fulfilling its responsibilities under the MMA agreement. Council officers stated the five yearly review, as stipulated in the MMA, was being carried out by the Council's appointed auditor BDO. However, BDO are unaware this is the role they are carrying out as it has never been communicated to them and they have not set up a work programme to cover this.

The following reviews have been undertaken since 2016/17:

2018/19 Haddon Hall, Browning

2019/20 Leathermarket CBS (Grant Award), Fair Community Housing Services, Falcon Point

2020/21 None

2021/22 Cooper Close, JMB Leathermarket

2022/23 Applegarth, Brenchley Garden, Delawyck.

Only 10 of the 17 TMO's have been audited over the past five fiscal years. This means that the Council is not operating in accordance with the MMA if the audits are being used as the five yearly review. Furthermore, the scope of the internal audits conducted does not fully cover all the five yearly review requirements detailed in the MMA.

Risk

If the five yearly review is not undertaken there is a risk the Council is not fully aware of issues affecting the TMO.

**RECOMMENDATION**

13.1 The Council should consider how it will meet the five yearly review requirement of the MMA and confirm all parties involved are aware of their responsibility.


**MANAGEMENT RESPONSE**

13.1 Agreed. The TMI team to set out a timetable with a clear action plan to conduct the five yearly reviews of all TMOs.

Responsible Officer: 13.1 Jackie Richards - TMI Monitoring Team Leader

Implementation Date: 13.1 April 2024

14 MMA review

Risk:	The MMA between the Council and FCHS has not been kept up-to-date and is not correct with regards to external decorations roles and responsibilities.
Significance	 LOW

 FINDING
Issue

The MMA was last reviewed in 2022 and this is based on the last central government revision in 2013. Previously the agreement and the accompanying schedules did not align therefore this contradiction was corrected.

However, the latest MMA doesn't have a schedule for review, or a responsible officer assigned.

Risk

The latest MMA doesn't have a schedule for review, or a responsible officer assigned. This should be introduced so the Service can keep on top of any changes and to regularly confirm the MMA remains fit for the Council's purpose.

 RECOMMENDATION


- 14.1 Introduce a schedule for review of the MMA.
14.2 Assign an officer responsible for ensuring the MMA remains up to date.

 MANAGEMENT RESPONSE

14.1	Agreed. A spreadsheet setting out the date each MMA was signed to be put together with a clear timetable for each five year review.
14.2	Agreed. A TMI Monitoring Officer is already assigned to each TMO to ensure the MMA remains up to date.

Responsible Officer:	14.1 Jackie Richards - TMI Team Leader 14.2 Jackie Richards - TMI Team Leader
Implementation Date:	14.1 April 2024 14.2 April 2024

15 Debt recovery procedure

Risk:	The Council does not have feasible plans in place in relation to the balance between the funds assigned and used in error, including whether leaseholders are required to pay for the external decorations again.
Significance	 LOW

 **FINDING****Issue**

Clause 19 of Chapter 1 of the MMA details the actions the Council can take if and when a TMO fails to perform in line with expected performance standards. However, there is no documented procedure which sets out the process the Council will follow when recovering funds that have been used in error.

Risk

Without a documented procedure there is a risk the Council will not act in a consistent manner, which has been approved by senior officers.

 **RECOMMENDATION**

15.1 Introduce a documented process outlining when and how it will seek to recover funds from a TMO used in error.


 **MANAGEMENT RESPONSE**

15.1 Agreed. A procedure document to be developed outlining when and how the council will seek to recover funds from a TMO used in error.

Responsible Officer: 15.1 Jackie Richards - TMI Team Leader

Implementation Date: 15.1 Jackie Richards - TMI Team Leader

16 Recruitment

Risk:	TMO managers and staff are appointed without a recognised recruitment and appointment process, which considers the skills, knowledge and experience required for the role.
Significance	 LOW

FINDING

Issue

We obtained a list of all FCHS recruitment in the last ten years and confirmed there were 16 recruitment exercises.

We selected a random sample of three (Repairs Team Leader 15/08/2022, Team Leader/Housing Officer 30/08/2022, Estate Manager 30/05/2023), in line with the BDO methodology, to test to ensure recruitment complied with the MMA.

We confirmed compliance with the recruitment process documented in the MMA apart from one exception; Evidence could not be provided that the Estates Manager recruited on 30/02/2023 had completed an application form (however all other aspects of the recruitment process could be evidenced).

Risk

If application forms are not completed, then there is a risk the process is not consistently applied and full information regarding candidates is not gathered.


RECOMMENDATION

16.1 Remind TMO's about the requirement within the MMA for all job applicants to complete a job application form.

MANAGEMENT RESPONSE

16.1 Agreed. This would be reiterated by the TMI Monitoring Officers at TMO Board meetings and HR sub-committee meetings.

Responsible Officer:	16.1 Jackie Richards - TMI Team Leader
Implementation Date:	16.1 June 2024

17 External auditors	
Risk:	The external auditors are not appointed in accordance with procurement rules and the appointment does not extend to consideration of the financial requirements of the MMA and use of funding.
Significance	 MEDIUM

FINDING

Issue

FCHS confirmed the following auditors were appointed in the last ten years.

1. MHA Macintyre Hudson March 2012 to March 2016.
2. Kreston Reeves LLP March 2017 to March 2019.
3. Appleby and Wood (London Limited) March 2020 to present day.

The MMA states the appointment of auditors must be annual by Members. Every three years they should also review the arrangement and see quotes for alternative auditors. FCHS could not provide evidence that they decided to appoint Appleby and Wood as external auditors in 2019. The Annual General Meeting minutes states:

"No recommendation today. The Finance Sub-Committee will make a recommendation to the board and this recommendation will then be brought to a General Meeting for residents to vote on".

No further evidence was supplied. In addition, FCHS were unable to provide evidence that they conducted a three-year review and obtained quotes for alternative auditors in 2015. The TMO did provide evidence of the three year review in 2020.

Risk

If evidence of decision making is not retained, then we cannot confirm compliance with the MMA. If TMO's do not act in accordance with the MMA, there is a risk they adopt processes which have not been approved by the Council and appoint external auditors who may not have the appropriate skills to perform the engagement or pose a familiarity threat.



RECOMMENDATION

17.1 Remind TMO's of the process for appointing external auditors.

17.2 As part of the Council's contract management process, ensure evidence is received of the decisions to annually appoint external auditors.




MANAGEMENT RESPONSE

17.1 Agreed. This was flagged with FCHS at the annual general meeting on the 21st of September 2023. Appleby and Wood (London Limited) has now resigned.

17.2 Agreed. This was flagged with FCHS at the annual general meeting on the 21st of September 2023. Appleby and Wood (London Limited) has now resigned.

Responsible Officer:	17.1 Jackie Richards - TMI Team Leader 17.2 Jackie Richards - TMI Team Leader
Implementation Date:	17.1 April 2024 17.2 April 2024

18 External consultant report

Risk:	The recommendations arising from the external consultant's report have not been adequately addressed.
Significance	 MEDIUM

 **FINDING****Issue**

In 2022, the Council commissioned a report reviewing the arrangements between TMOs and the Council.

The report makes the following recommendations:

1. *The Council should monitor the TMO's in line with the agreement it has with each TMO, not in line with the latest version of the national agreement.*
2. *The Council should draft up a schedule of quarterly, annual, Equal opportunities & five-year reviews, which in itself should be monitored and reported on.*
3. *That Equal opportunities reports are completed annually and reported on. This should be separate to the annual review.*
4. *The role of internal audit with regard to the TMO's and the TMI should be reviewed to ensure that the resource is used effectively.*
5. *The Council guidance on monitoring and reviewing TMO's should be rewritten and reviewed it should be more directional and less based on trust.*
6. *That a checklist to cover the Serious Failings issues as set out in Schedule 3 of Chapter 1 of the MMA be drafted and used as part of the review mechanism.*

If the Council agrees this approach, then this should be included as an action plan and monitored.

We contacted the Resident Involvement Manager to confirm what had been done to implement the recommendations. We were referred to the TMI Team Leader who stated she had not seen the report and therefore would not have implemented the recommendations.

The Strategic Director of Housing and Modernisation sent an email on 28/12/22 to the reports author which stated *I have asked the resident involvement manager from 1/9/22 and therefore with overall responsibility for the TMI team to incorporate your recommendations into his business plan for 2023/24 and to produce an appropriate action plan.* We have not received any evidence to confirm this has occurred.

Risk

If the recommendations are not implemented, then the issues identified in the report might not be addressed.

**RECOMMENDATION**

18.1 Review the report on self-financing and implement the recommendations. If the Council accepts the risk of not making any changes, then this should also be documented and approved by senior management

**MANAGEMENT RESPONSE**

18.1 Agreed. The report has been reviewed by the current resident involvement manager (Nat. Stevens) and a re-organisation of the resident involvement service

has been recommended. A proposed new structure and the rationale for the change including new job descriptions which sets out the set of skills, experience and knowledge required to deliver a more professional service is awaiting final sign off.

In the meantime a structured approach has been taken to forensically look at each TMO in line with the recommendations. Three TMOs have so far been reviewed (fair community housing services (FCHS), two towers (TT) and 'Brenchley gardens (BG) which have revealed very significant weaknesses in the way the three organisations have been governed and monitored.

FCHS and TT may be technically insolvent and may be potentially in breach of the law if they are allowed to continue to trade. A forensic audit is required to determine the solvency of the FCHS and TT.

BG may also be in potential breach of the management agreement if it is established that BG has been unlawfully allocating council housing outside the statutory framework (part 6 of the Housing Act 1996) reserved for the London Borough of Southwark and not BG.

The council entered into a self-financing management agreement with Leathermarket JMB in April 2013 for five years. The agreement ended on the 31st of March 2018 and there is no evidence on file to suggest that the council has extended the self-financing agreement beyond March 2018. I am enclosing copies of the signed self-financing management agreement and reproduced, for ease of reference, clause 20.3A and 20.3B below:

20.3A This Agreement shall expire on the day prior to the fifth (5th) anniversary of the Starting Date (i.e., on 31 March 2018) unless extended by the Council pursuant to clause 20.3B below and subject to earlier termination as provided herein.

20.3B The Council shall be entitled (but with no obligation whatsoever) to extend the term of this Agreement for a further period of five (5) years by giving notice to this effect to the TMO no later than six (6) calendar months before the date on which the Agreement would otherwise expire pursuant to Clause 20.3B.

Responsible Officer:	18.1 Jackie Richards - TMI Team Leader
Implementation Date:	18.1 September 2024

APPENDIX I - DEFINITIONS

RECOMMENDATION SIGNIFICANCE	
High	A weakness where there is substantial risk of loss, fraud, impropriety, poor value for money, or failure to achieve organisational objectives. Such risk could lead to an adverse impact on the business. Remedial action must be taken urgently.
Medium	A weakness in control which, although not fundamental, relates to shortcomings which expose individual business systems to a less immediate level of threatening risk or poor value for money. Such a risk could impact on operational objectives and should be of concern to senior management and requires prompt specific action.
Low	Areas that individually have no significant impact, but where management would benefit from improved controls and/or have the opportunity to achieve greater effectiveness and/or efficiency.

FOR MORE INFORMATION:

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The matters raised in this report are only those which came to our attention during the course of our audit and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. The report has been prepared solely for the management of the organisation and should not be quoted in whole or in part without our prior written consent. BDO LLP neither owes nor accepts any duty to any third party whether in contract or in tort and shall not be liable, in respect of any loss, damage or expense which is caused by their reliance on this report.

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