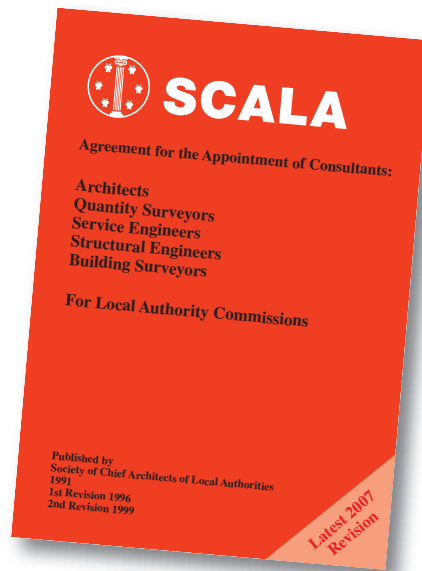


Agreement for the Appointment of Consultants

The SCALA “Agreement for the Appointment of Consultants:... For Local Authority Commissions” covers all the usual culprits, - architects, quantity surveyors, service engineers, structural engineers and building surveyors - is a SCALA best seller and is © SCALA.



Our SCALA Manager, Steve Dodsworth, is fed up with licking envelopes containing copies addressed throughout the kingdom. It's a success, because it addresses the needs of local government. It was first published in 1991, had its first revision in 1996 and a second in 1999. However, practice and, more significantly, legislation has moved on over that period and SCALA Council decided that it is in need of a redraft. Tony Blackler, of Manches Solicitors, and myself are charged with the task. On the principle of "if it ain't broke, don't fix it" we will be respectful to this successful publication and try to build on that success. However, the new CDM regulations and the Housing Grants Construction and Regeneration Act require amendments to be made - and, before you think of it, yes we are aware that Parliament is still to consider amendments to the HGCR but we, like JCT and others, have given up waiting for those! To relieve Steve's envelope licking, it's probable that the new edition will be in electronic form sold in rather the same way as the JCT contracts.

In respect of contracts, there is now a range of commonly used forms which should be recognised by a form of appointment for consultants, whereas the current edition of SCALA's appointment document is geared to JCT. That will be addressed in the redraft, and current construction practice will also be followed in redrafted payment clauses, which will be simplified and tightened to relate payment to performance. Recent court judgements regarding adjudication rules have led many to think that the safest way is to use The Scheme

for Construction Contracts as the adjudication rules in construction contracts - we share that view and the adoption of the Scheme will also simplify the document. Adjudication is far more common, and likely to involve local authorities, now than litigation or arbitration were at the time the appointment document was first published. That has led us to review consultants' obligations in the event of adjudication and disputes generally (aide memoire - we mustn't forget mediation!) and the associated fee arrangements.

The importance of a well defined brief is referred to in the current edition, but that is so fundamentally important to setting up a project for success that we are planning to build it into the main body of the document. Other editorial amendments include bringing the Memorandum of Agreement to the front of the document, where one would normally expect to see it, and introducing some optional clauses where current practice often takes different alternatives.

Some of the more detailed amendments will include the following. The provisions for Lead Consultant and Lead Designer will be broader to reflect current practice - and to include project managers. The form for a given consultant will cross-refer to the scope of services for other consultants within the client's team. Third party rights will be covered and an alternative clause written for those who may wish to include a net contribution clause. The rather dated references in the current document to education building guidelines will be updated. ▶



Rob Tate

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Rob Tate is an architect, a Past President of SCALA and a former Head of Property Services at the LB of Enfield. He is a construction consultant, expert witness and a member of the President's Panel of Adjudicators of both the RICS and Chartered Institute of Arbitrators.

Rob, author of the SCALA and LGTF 'Guide to Standard Forms of Construction Contracts', has offered to share his experience and expertise with you and looks forward to hearing from readers.

“Tightening up consultants’ obligations is crucial in appointments.”

See the Legal section of the Knowledge Base for a comprehensive range of articles.

The Conditions of the appointment will incorporate clear definitions of the skill, care and diligence obligations of consultants. Anyone involved in commissioning major projects on tight budgets and programmes will appreciate the need to hold consultants to the delivery of the client’s objectives and the redrafted document will address this, for example in respect of design programme, budget and the obligation not to cause a breach by the client of third party agreements. Tightening up consultants’ obligations is crucial in appointments, so we are looking to link payment of fees to performance, KPI’s and, possibly, DQI’s, as well as requiring sign-off for each

work stage. We’ll be introducing provisions for removal of consultants’ personnel on the reasonable objection of the client and reviewing the termination provisions.

The overall objective is to ensure the success of the existing document is retained whilst also ensuring it reflects current practice. It’s an interesting exercise and I hope you’ll like the end product. It is programmed to complete the exercise in July, reporting and discussing with SCALA Forum and Council along the way. Hopefully, it should then be transformed into an electronic publication for sale - and saving of Steve’s saliva glands! ■

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STOP PRESS: Hemsworth Arts & Community College

Students and parents help brief college block with high tech learning environment

Continuing the school’s commitment to provide the best possible learning environment this new two storey Social and Learning Block is the latest development in the schools extensive building programme. The idea for this latest £800,000 development came about following consultations with both students and parents who identified a need for further social areas and a high tech learning environment.

The first floor ‘Learning Zone’ will provide a 12.5 sq. metre high tech space for students to have lead lessons with all the latest technology. Facilities include 90 PC’s in an amphitheatre style layout, interactive whiteboards, plasma screens and the latest audio/visual equipment. As well as structured teaching sessions for students, the ‘Learning Zone’ will also be used to provide adult education and external training sessions for the benefit of the whole community.

The ground floor ‘Social Area’ will take the form of a relaxed seating area with soft furnishings, catering provision and other amenities providing students with an under cover space for social interaction before and after college and during break times. The new building

will also contain a smaller group room, office, toilets and a snack area.

NPS Property Consultants are providing architectural, structural, mechanical and electrical engineering, CDM and quantity surveying services from the company’s North West (Wigan) office in conjunction with their North East (Normanton) office. Works commenced on site mid May with an estimated completion of December 2007. ■



Artists impression of new Social and Learning Block at Hemsworth Arts & Community College