

Housing Ombudsman Service

The Housing Ombudsman's Complaint Handling Code

Published July 2020

Contents

Part A:

1. Introduction
2. The purpose of the Code

Part B: The Code

1. Definition of a complaint
2. Accessibility and awareness
3. Complaint team, procedure, timeliness and responsiveness
4. Fairness in complaint handling
5. Putting things right
6. Continuous learning and improvement

Part C:

1. Compliance
2. Self-assessment

Part A

1. Introduction

Complaint handling performs an important strategic role for an organisation, providing vital intelligence on its health, performance and reputation. Data on complaint handling should be considered alongside other management information to provide assurance and assess risks.

The Ombudsman's Complaint Handling Code promotes the progressive use of complaints, providing a high-level framework to support effective handling and prevention alongside learning and development. The Code ensures complaint handling data is being used consistently across landlord members, promotes engagement at different levels within a landlord and sets out expectations for boards or equivalent governance, senior executives and frontline staff.

For boards or equivalent governance, the Code supports culture setting and intelligence for assurance exercises, using complaint data alongside other management information on stock, services and customer feedback to provide insight into their organisation. It is important for governance to understand the complaints their organisations are receiving and the impact of their complaint handling on residents.

For chief executives and senior managers, the Code supports learning from complaints and promotes the open and transparent use of information to assess performance and risks.

For operational staff, the Code supports excellent complaint handling and engagement with the Ombudsman. If the requirements of the Code cannot be delivered this should prompt discussion about what needs to change.

Information on complaints can provide essential insight for governance and should include, although not necessarily be limited to:

- Regular updates on the volume, category and outcome of complaints, alongside complaint handling performance including timely compliance with the Ombudsman's orders
- Review, at least once a year, of issues and trends arising from complaint handling, including discussion of the Ombudsman's yearly landlord performance report and the inclusion of any organisational learning in the landlord's Annual Report
- Consideration of individual complaint outcomes where necessary, including findings of severe maladministration of the Ombudsman or any referrals by it to regulatory bodies, including scrutiny of any subsequent procedural or organisational changes
- Confirmation that the Complaint Handling Code is being applied.

Compliance with the Code forms part of the membership obligations set out in the Housing Ombudsman Scheme. Landlords should comply with the requirements of the Code. The Code should be read in conjunction with the Scheme.

Landlords are encouraged to promote the Code and to share the outcome of their self-assessment with residents.

2. Purpose

The purpose of the Code is to enable landlords to resolve complaints raised by their residents quickly and to use the learning from complaints to drive service improvements. It will also help to create a positive complaint handling culture amongst staff and residents.

Some landlords see complaints as a form of negative feedback. In fact, there are many benefits to be gained from having an effective, efficient complaints process:

- Complaints allow an issue to be resolved before it becomes worse. Those not resolved quickly can take significant resource and time to remedy
- Involvement in complaint resolution develops staff decision-making and engagement
- Complaints provide senior staff with a window into day-to-day operations allowing them to assess effectiveness
- Good complaint handling promotes a positive landlord and resident relationship.

The Ombudsman's Complaint Handling Code sets out requirements for member landlords that will allow them to respond to complaints effectively and fairly.

While member landlords must comply with some elements of the Code, the Ombudsman recognises that each landlord will need to adapt its complaints policy and processes to meet the needs of its residents. Consequently, there are some areas where a landlord can use its discretion. The Code seeks to be prescriptive only where the Ombudsman believes clear and consistent practice by all landlords is essential. Landlords will be asked to self-assess against the Code on a comply and explain basis. Non-compliance could result in the Ombudsman issuing complaint handling failure orders. Separate guidance on these orders has been published by the Ombudsman.

The Code will act as a guide for residents setting out what they can and should expect from their landlord when they complain. The requirements in the Code also provide residents with information about how to make a complaint and how to progress it through the landlord's internal complaints procedure.

The Code supports the regulatory approach to complaints ensuring that a landlord's approach to complaints is clear simple and accessible and ensures that complaints are resolved promptly, politely and fairly.

Part B

The Code

1. Definition of a complaint
2. Accessibility and awareness
3. Complaint team, procedure, timeliness and responsiveness
4. Fairness in complaint handling
5. Putting things right
6. Continuous learning and improvement

1. Definition of a complaint

- 1.1. Effective complaint handling should be a resident friendly process that enables residents to be heard and understood. The starting point for this is a mutual understanding of what constitutes a complaint.
- 1.2. A complaint shall be defined as *an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.*
- 1.3. The resident does not have to use the word complaint in order for it to be treated as such. Landlords should recognise the difference between a service request (pre-complaint), survey feedback and a formal complaint and take appropriate steps to resolve the issue for residents as early as possible.

Exclusions

- 1.4. A landlord shall accept a complaint unless there is a valid reason not to do so.
- 1.5. A complaints policy shall clearly set out the circumstances in which a matter will not be considered and these circumstances should be fair and reasonable to residents. For example:
 - The issue giving rise to the complaint occurred over six months ago. Where the problem is a recurring issue, the landlord should consider any older reports as part of the background to the complaint if this will help to resolve the issue for the resident. (N.B. it may not be appropriate to rely on this exclusion where complaints concern safeguarding or health and safety issues.)
 - Legal proceedings have been started. Landlords should take steps to ensure that residents are not left without a response for lengthy periods of time, for example, where a letter before action has been received or issued but no court proceedings are started or settlement agreement reached.

- Matters that have already been considered under the complaints policy.
- 1.6. If a landlord decides not to accept a complaint a detailed explanation should be provided to the resident setting out the reasons why the matter is not suitable for the complaints process.
 - 1.7. A resident has the right to challenge this decision by bringing their complaint to the Ombudsman. Where appropriate the Ombudsman will instruct the landlord to take on the complaint.

2. Accessibility and awareness

- 2.1. Landlords shall make it easy for residents to complain, by providing different channels through which residents can make a complaint.
- 2.2. Where a landlord has set up channels to communicate with its residents via social media, such as Facebook and Twitter, then it should expect to receive complaints via those channels. Policies should contain details of the steps that will be taken when a complaint is received via social media and how confidentiality and privacy will be maintained.
- 2.3. Landlords shall make their complaint policy available in a clear and accessible format for residents. This will detail the number of stages involved, what will happen at each stage and the timeframes for responding.
- 2.4. Landlords shall comply with the Equality Act 2010 and may need to adapt normal policies, procedures, or processes to accommodate an individual's needs. Landlords shall have a reasonable adjustments policy in place to address this.
- 2.5. Landlord websites shall include information on how to raise a complaint. The complaints policy and process shall be easily found and downloadable.
- 2.6. The complaints policy and process should be publicised in leaflets newsletters, online and as part of regular correspondence with residents. A copy should be provided when requested.
- 2.7. Landlords shall provide residents with contact information for the Ombudsman as part of its regular correspondence with residents.
- 2.8. Landlords shall provide early advice to residents regarding their right to access the Housing Ombudsman Service, not only at the point they have exhausted the landlord's complaints process. The Housing Ombudsman Service can assist residents throughout the life of a complaint. This affords the resident the opportunity to engage with the Ombudsman's dispute support advisors.

3. Complaint team, procedure, timeliness and responsiveness

Complaint team

- 3.1 Landlords should have a person or team assigned to take responsibility for complaint handling. This Code will refer to that person or team as the “complaints officer”. For some organisations, particularly smaller landlords, we recognise that this role may not be dedicated to complaint handling.
- 3.2 Complaints officers are one of the most important factors in ensuring that the complaints handling works well. Complaints officers should:
- be able to act sensitively and fairly
 - be trained to receive complaints and deal with distressed and upset residents
 - have access to staff at all levels to facilitate quick resolution of complaints
 - have the authority and autonomy to act to resolve disputes quickly and fairly.

Residents are more likely to be satisfied with complaint handling if the person dealing with their complaint is competent, empathetic and efficient.

Complaints procedure

- 3.3 When a complaint is made to the landlord it shall be acknowledged and logged at stage one of the complaints procedure.
- 3.4 Landlords should confirm their understanding of the complaint and the outcomes being sought with the resident. Clarification should be sought if the complaint is not clear.
- 3.5 If the complaint is not resolved to the resident’s satisfaction it shall be progressed to the next stage in accordance with the landlord’s procedure and the timescales set out in this Code.
- 3.6 A landlord’s complaints procedure shall comprise of two stages. This ensures that a resident has the opportunity to challenge any decision by correcting errors or sharing concerns via an appeal process.
- 3.7 The Ombudsman welcomes involvement by residents or senior executives outside the complaints team as part of the review process.
- 3.8 The Ombudsman does not believe a third stage is necessary as part of a complaints process but if a landlord believes strongly it requires one, it should set out its reasons as part of the self-assessment. A process with more than three stages is not acceptable under any circumstances in the Ombudsman’s view.

- 3.9 In the final decision the landlord's policy shall include the right to refer the complaint to the Housing Ombudsman Service. This should be through a designated person within eight weeks of the final decision or directly by the resident after eight weeks.
- 3.10 A full record shall be kept of the complaint, any review and the outcomes at each stage. This should include the original complaint and the date received; all correspondence with the resident, correspondence with other parties and any reports or surveys prepared.

Timeframe for responses

- 3.11 A landlord's complaints procedure shall include the following maximum timescales for response:
- Logging and acknowledgement of complaint – five working days
 - Stage one decision – 10 working days from receipt of complaint – if this is not possible, an explanation and a date by when the stage one response should be received. This should not exceed a further 10 days without good reason
 - Stage two response – 20 working days from request to escalate – if this is not possible an explanation and a date when the stage two response will be received. This should not exceed a further 10 working days without good reason
 - Stage three response – where a landlord believes this stage is absolutely necessary a response should be sent within 20 working days from request to escalate. Any additional time will only be justified if related to convening a panel. An explanation and a date when the stage three response will be achieved should be provided to the resident.
- 3.12 A landlord may choose to set shorter response times for each stage of the complaints procedure but response times must not exceed those set out above.

Communication with residents

- 3.13 When communicating with residents, landlords shall use plain language that is appropriate to the resident.
- 3.14 Landlords shall address all points raised in the complaint and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.
- 3.15 At the completion of each stage of the complaints process the landlord should write to the resident advising them of the following:

- the complaint stage
 - the outcome of the complaint
 - the reasons for any decisions made
 - the details of any remedy offered to put things right
 - details of any outstanding actions
 - details of how to escalate the matter if dissatisfied.
- 3.16 As part of the complaint policy the resident shall be given a fair opportunity to:
- set out their position
 - comment on any adverse findings before a final decision is made.
- 3.17 Communication with the resident should not generally identify individual members of staff or contractors as their actions are undertaken on behalf of the landlord.
- 3.18 Landlords should adhere to any arrangements agreed with residents in terms of frequency and method of communication.
- 3.19 Landlords should keep residents regularly updated and informed even where there is no new information to provide.

Duty to cooperate with the Ombudsman

- 3.20 When the resident remains dissatisfied at the end of the landlord's complaints process, they may bring their complaint to the Ombudsman. Landlords shall cooperate with the Ombudsman's requests for evidence and provide this within 15 working days. If a response cannot be provided within this timeframe, the landlord shall provide the Ombudsman with an explanation for the delay. If the explanation is reasonable, the Ombudsman will agree a revised date with the landlord.
- 3.21 Failure to provide evidence to the Ombudsman in a timely manner may result in the Ombudsman issuing a complaint handling failure order.

4. Fairness in complaint handling

- 4.1. Landlords shall operate a resident-focused complaints process ensuring they are given the opportunity to explain their point of view and the outcome they are seeking before a decision is reached.
- 4.2. Landlords should manage residents' expectations from the outset, being clear where a desired outcome is unreasonable or unrealistic.
- 4.3. Landlords should give residents the opportunity to have a representative deal with their complaint on their behalf, and to be represented and/or accompanied at any meeting with the landlord where this has been requested or offered and where this is reasonable.

- 4.4. Where a key issue of a complaint relates to the parties' legal obligations the landlord should clearly set out its understanding of the obligations of both parties and seek clarification before doing so where this is not initially clear.
- 4.5. A complaint investigation shall be conducted in an impartial manner, seeking sufficient reliable information from both parties so that fair and appropriate findings and recommendations can be made.
- 4.6. Any complaint investigation shall be fair. To ensure fairness, processes and procedures shall require the complaints officer to:
- deal with complaints on their merits
 - act independently and have an open mind
 - take measures to address any actual or perceived conflict of interest
 - consider all information and evidence carefully
 - keep the complaint confidential as far as possible, with information only disclosed if necessary to properly investigate the matter.
- 4.7. The landlord's assessment of the issue should include:
- what the complaint is about
 - what evidence is needed to fully consider the issues
 - what risks the complaint raises for the landlord
 - what outcome would resolve the matter for the resident
 - any urgent action that it needs to take.
- 4.8. A complaint should be resolved at the earliest possible opportunity.
- 4.9. The resident, and if applicable any staff member who is the subject of the complaint, must also be given a fair chance to:
- set out their position
 - comment on any adverse findings before a final decision is made.
- 4.10. Complaint policies and processes should set out the circumstances in which a landlord can exercise discretion in how to respond to a complaint and who has the power to exercise that discretion. Landlords should exercise discretion appropriately and provide clear explanations to residents when doing so.
- 4.11. Landlords should not unreasonably refuse to escalate a complaint through all stages of the complaints procedure and must have clear and valid reasons for taking that course of action.

- 4.12. When a resident seeks to escalate a complaint the landlord should consider:
- what the escalation review will be about i.e. why the resident remains dissatisfied, and whether any part of the complaint been resolved
 - who will undertake the review
 - who needs to be kept informed
 - what evidence needs to be gathered i.e. comments from those involved, relevant policies and contemporaneous records, inspections etc
 - how long the review will take and when it will be completed.
- 4.13. Where a landlord decides not to escalate a complaint it should provide an explanation to the resident. It should make clear that its previous response was its final response to the complaint and provide information on referral to the Housing Ombudsman.
- 4.14. Landlords should have policies and procedures in place for managing unacceptable behaviour from residents and/or their representatives when pursuing a complaint.
- 4.15. Any restrictions placed on a resident's contact due to unacceptable behaviour should be appropriate to their needs and should demonstrate regard for the provisions of the Equality Act 2010.

5. Putting things right

- 5.1. Effective dispute resolution requires a process designed to resolve complaints. Where something has gone wrong a landlord should acknowledge this and set out the actions it has already taken, or intends to take, to put things right. Examples of where action to put things right may be required are:
- there was an unreasonable delay
 - inaccurate or inadequate advice, explanation or information was provided to the resident
 - the landlord's policy or procedure was not followed correctly without good reason
 - there was a factual or legal error that impacted on the outcome for the resident
 - there was unprofessional behaviour by staff.
- 5.2. Landlords should acknowledge and apologise for any failure identified, give an explanation and, where possible, inform the resident of the changes made or actions taken to prevent the issue from happening again.
- 5.3. Landlords should recognise that putting things right is the first step to repairing and rebuilding the landlord and resident relationship.

- 5.4. When considering what action will put things right landlords should carefully manage the expectations of residents. Landlords should not promise anything that cannot be delivered or would cause unfairness to other residents.

Appropriate remedy

- 5.5. Complaints can be resolved in a number of ways. A landlord's policy shall require that any remedy offered reflects the extent of any and all service failures, and the level of detriment caused to the resident as a result. These shall include:

- acknowledging where things have gone wrong
- providing an explanation, assistance or reasons
- apologising
- taking action if there has been a delay
- reconsidering or changing a decision
- amending a record
- providing a financial remedy
- changing policies, procedures or practices.

- 5.6. Any remedy offered must reflect the extent of any service failures and the level of detriment caused to the resident as a result.

- 5.7. Factors to consider in formulating a remedy can include, but are not limited to the:

- length of time that a situation has been ongoing
- frequency with which something has occurred
- severity of any service failure or omission
- number of different failures
- cumulative impact on the resident
- a resident's particular circumstances or vulnerabilities.

- 5.8. When offering a remedy, landlords should clearly set out what will happen and by when, in agreement with the resident where appropriate. Any remedy proposed must be followed through to completion.

- 5.9. In awarding compensation, landlords shall consider whether any statutory payments are due, if any quantifiable losses have been incurred as well as the time and trouble a resident has been put to as well as any distress and inconvenience caused.

Concerns about legal liability

- 5.10. In some cases a resident may have a legal entitlement to redress. There may be concerns about legal liability in this situation. If so, the landlord should still offer a resolution where possible, as that may remove the need for the resident to pursue legal remedies.

- 5.11. Landlords have a duty to rectify problems for which they are responsible. However, where necessary a resolution can be offered with an explicit statement that there is no admission of liability. In such a case, legal advice as to how any offer of resolution should be worded should be obtained.

For further information on remedies please see <https://www.housing-ombudsman.org.uk/about-us/corporate-information/policies/dispute-resolution/policy-on-remedies/>

6. Continuous learning and improvement

- 6.1. A positive complaint handling culture is integral to the effectiveness with which landlords resolve disputes, the quality of the service provided, the ability to learn and improve, and the relationship with their residents.
- 6.2. Accountability and transparency should be embedded in a positive complaint handling culture, with landlords providing feedback to residents on failures in complaint handling and the actions taken to learn and improve from this.
- 6.3. Creating and embedding a culture that values complaints and gives them the appropriate level of priority requires strong leadership and management.
- 6.4. A good culture should also recognise the importance of resident involvement, through the formation of resident panels, consulting with residents on the formulation of complaints policies and procedures and through including them in panel hearings as part of the dispute resolution process, where appropriate.
- 6.5. Landlords should look beyond the circumstances of the individual complaint and consider whether anything needs to be 'put right' in terms of process or systems to the benefit of all residents.
- 6.6. An effective complaints process enables a landlord to learn from the issues that arise for residents and to take steps to improve the services it provides and its internal processes. Landlords should have a system in place to look at the complaints received, their outcome and proposed changes as part of its reporting and planning process.
- 6.7. Any themes or trends should be assessed by senior management to identify any systemic issues, serious risks or areas for improvement for appropriate action.
- 6.8. Landlords should proactively use learning from complaints to revise policies and procedures, to train staff and contractors and to improve communication and record-keeping.

- 6.9. Landlord's should recognise the impact that being complained about can have on future service delivery. Landlords should ensure that staff are supported and engaged in the complaints process including the learning that can be gained.
- 6.10. Landlords shall report back on wider learning and improvements from complaints to their residents, managers and staff. Feedback shall be regularly provided to relevant scrutiny panels, committees and boards and be discussed, alongside scrutiny of the Ombudsman's annual landlord performance report.
- 6.11. Learning and improvement from complaints should be included in the landlord's Annual Report.

Part C

1. Compliance

- 1.1. Under the Housing Ombudsman Scheme a member landlord must:
 - agree to be bound by the terms of the Scheme
 - establish and maintain a complaints procedure in accordance with any good practice recommended by the Ombudsman
 - as part of that procedure, inform residents of their right to bring complaints to the Ombudsman under the Scheme
 - publish its complaints procedure and make information about this easily accessible to those entitled to complain on its website and in correspondence with residents
 - manage complaints from residents in accordance with its published procedure or, where this is not possible, within a reasonable timescale.
 - respond promptly to information requests made by the Housing Ombudsman Service as part of the ongoing investigation into complaints from residents.
- 1.2. Failure to comply with the conditions of membership may result in an Ombudsman's determination of complaint handling failure and an order to rectify within a given timescale (paragraphs 13 and 73 of the Housing Ombudsman Scheme).
- 1.3. Failures under the Scheme and Code which would result in a complaint handling failure order include, but are not limited to:
 - non-compliance with the Complaint Handling Code

- failure to accept a formal complaint in a timely manner or to exclude a complaint from the complaints process without good reason
 - inaccessible complaints process and procedure or unreasonable restrictions as to how a complaint can be made
 - not managing complaints from residents in accordance with the complaints policy
 - failure to progress a complaint through the complaints procedure
 - failure to respond to a complaint within the set timescales without good reason
 - failure to keep the resident informed and updated
 - failure to notify the resident of the right to refer the complaint to the Ombudsman
 - failure to provide evidence to support investigation by the Ombudsman.
- 1.4. Where a complaint is still within a landlord's complaints procedure or the Ombudsman has requested evidence for investigation the landlord will be informed of any complaint handling failure. Details of the failure will be provided along with any action required to rectify it. Where no action is taken the Ombudsman will issue a complaint handling failure order.
- 1.5. Each quarter the Ombudsman will publish the total number of complaint handling failure orders issued, the names of the landlords and reasons for the orders and will share this information with the Regulator of Social Housing. The number of complaint handling failure orders issued against a landlord will form part of the Ombudsman's annual landlord performance reports and will be available on the Ombudsman's website.
- 1.6. In addition, from time to time the Ombudsman may wish to publish a report detailing the specifics of a complaint handling failure case where this would help highlight the impact of the failure on the resolution of the dispute and delays and/or distress caused to residents.
- 1.7. When carrying out an investigation the Ombudsman will consider whether the landlord dealt with the complaint fairly and will assess this against the requirements of the Code. Any failure identified could result in a finding of service failure or maladministration.
- 1.8. The Ombudsman will specifically refer to the Code in its findings. Orders and recommendations will be made to put matters right and ensure compliance with the Code.
- 1.9. The Ombudsman may request evidence of a landlord's self-assessment in order to confirm satisfactory compliance with the Code. Where there have been failures to comply with the Code or in operating an effective complaints procedure, the Ombudsman may issue a complaint handling failure order and ask the landlord to complete the self-assessment as part of the rectification action and to report back to the Ombudsman on its outcome.

- 1.10. Where there are significant concerns regarding a landlord's compliance with the Code the Ombudsman may escalate these to the landlord's board or equivalent, and may refer the matter to the appropriate regulatory body including the Regulator of Social Housing.

2. Self-assessment

- 2.1 The Ombudsman expects landlords to carry out regular self-assessment against the Code and take appropriate action to ensure their complaint handling is in line with the Code. This assessment should be completed by 31 December 2020.
- 2.2. The Ombudsman expects landlords to report the outcome of their self-assessment to their board members. In the case of local authorities, self-assessment outcomes should be reported to elected members.
- 2.3. The Ombudsman expects landlords to publish the outcome of their assessments. The Ombudsman may request sight of the assessment and evidence in support. The Ombudsman may require landlords to periodically repeat the self-assessment, for example following any amendments to the Code or significant change to the landlord organisational structure.