

Complaint Handling Code Consultation

National Housing Federation submission in response to the Housing Ombudsman Service

November 2023

Summary

The National Housing Federation (NHF) is the voice of housing associations in England, representing 570 housing association members that provide homes for around six million people.

Housing associations are committed to providing safe, quality homes for all residents and we welcome this consultation on the Housing Ombudsman's Complaint Handling Code.

We are also aware that the Social Housing Regulation Act places the Code on a statutory footing and registered providers will have a legal duty to comply with the Code. In this submission, we answer specific questions outlined within the consultation and set out our views on the proposed direction.

Our views on the consultation's proposals can be summarised as follows:

- We welcome the consultation and support the requirement for registered providers to comply with the Code. We agree the Code will help establish consistency in complaint handling across the sector. In particular, we welcome the extended period for residents to raise complaints.
- Overall, we agree that the Code will facilitate a positive complaints culture within organisations and support the alignment of the reporting requirements with the Regulator's Tenant Satisfaction Measures.
- However, we are concerned about some of the provisions included in the Code. These include the provision that complaints can either be upheld or not upheld – some cases can be multifaceted and it can be helpful to take a more nuanced approach in such instances as:

- The requirement to log expressions of dissatisfaction as complaints – in some circumstances an issue can be resolved swiftly with a positive outcome outside of the complaints process.
- Our members would also welcome clarity around the timeline for the introduction of new reporting requirements.

Introduction

The National Housing Federation (NHF) is the voice of housing associations across England, representing 570 housing association members that provide homes to around six million people.

Housing associations are committed to providing safe, quality homes for all residents and we welcome this consultation and the opportunity to feed into the proposed direction to the Regulator concerning tenants' rights and complaints.

We support the introduction of stronger and more proactive regulation, alongside wider changes outlined in the [Social Housing White Paper](#), to give tenants greater powers and improve access to swift and fair redress.

Through the [Better Social Housing Review action plan](#) the social housing sector is taking action to ensure that residents always receive the high-quality service they deserve. The plan sets out how housing associations will deliver against the original report's recommendations, including through partnerships with residents and frontline staff to develop and apply new standards, and by defining an excellent maintenance and repairs process.

Housing associations have taken the lead in the sector by demonstrating their commitment to resident engagement, accountability and transparency through our sector-wide initiative. Currently, over two hundred housing associations have adopted the Together with Tenants charter, representing over 86% of homes owned by our members. This reflects our sector's genuine commitment to responding to calls from residents to be more accountable to them.

As well as increasing transparency, our members are working in partnership with residents to continue to seek ways to improve and simplify processes to ensure complaints are resolved as soon they are raised. Where issues are escalated, our members work collaboratively with the Housing Ombudsman to swiftly resolve any disputes. The sector welcomes and actively incorporates the insights offered by the Housing Ombudsman to improve their complaint handling processes. We support

the removal of the democratic filter enabling residents to easily access the Housing Ombudsman service following the exhaustion of their landlord's process.

Our members are already working to ensure they provide the services that residents expect from their landlord and are continuously taking steps to improve their complaints handling process. This includes increasing their staffing levels, updating complaint policies and gathering feedback from their customers to identify areas for improvement. Housing associations are actively highlighting their complaints policy and complaints handling processes, striving to make them easily accessible across a range of platforms such as their websites, social media, and other communication channels.

That is why the NHF and our members welcome the clarifications of the provisions within the Complaint Handling Code.

Increasing awareness and access to landlords' complaint process

Exclusions

As a sector, we are committed to putting things right when things go wrong. That's why we welcome the extension to the period of time in which a resident can raise a complaint, from within 6 months to 12 months of the issue occurring. In addition to providing tenants with an increased timeframe to file a complaint, the extended period also grants registered providers an opportunity to address and learn from the issues raised, improving the overall complaint handling process.

We agree with the provision within the code that requires registered providers to consider the individual circumstances of each complaint and avoid adopting a blanket approach when considering the exclusion of complaints. However, where complaints concern safeguarding or health and safety issues, we would welcome additional clarity and guidance, especially in cases where legal conflicts may arise.

Our members ensure that the diverse needs of their residents are met by providing additional support to address barriers that may affect a resident's ability to access landlord services. Therefore, we agree with the provision within the Code that mandates organisations to consider their duties under the Equality Act 2010 and make reasonable adjustment for individuals enabling them to easily make a complaint.

Overall, we agree that the provisions of the Code are sufficient to raise awareness and improve access to landlords' complaint processes. We believe that the Code will

enable a standardised approach to handling complaints within the sector and offer residents increased clarity and transparency regarding how they can seek and access fair redress.

Extending fairness through consistent complaint handling through the sector

Complaint handling staff

We and our members acknowledge the importance of a landlord's internal arrangements in enabling effective complaint handling. We therefore welcome the amendment to the Code offering a less prescriptive and flexible approach in outlining the attributes expected of complaint handling staff and agree that these are operational matters for landlords to deal with. Nonetheless, we would welcome further clarity concerning the provision that complaints teams are not given any additional roles that impact on their ability to handle complaints. While it is often the case that our members will have staff dedicated specifically and exclusively to complaint handling, this is not always the case.

The complaint handling process

Although the Code's provisions aim to extend fairness through consistent complaint handling, we believe that further consideration is needed to improve clarity and understanding.

For instance, section 5.3 of the Code sets out that 'when an individual expresses dissatisfaction, organisations must register the issue a complaint' whereas section 5.2 of the Code signifies the importance of early and local resolution of issues between organisations and individuals being instrumental to effective complaint handling. We believe that it would be beneficial for both the individual and the organisations to have the opportunity to resolve any issues of dissatisfaction outside the complaint handling process where it would be most appropriate and effective to do so. We also believe that the requirement to log expressions of dissatisfaction as complaints has the potential to create unwarranted burdens for landlords and could also deter residents from raising concerns they may consider minor.

We agree with the requirement for landlords to have one policy in place for complaints to provide clarity for residents. We also acknowledge that staff members' actions are taken on behalf of the organisation, and that it may be appropriate that individual staff members are not identified. Nevertheless, we are concerned that this approach may hinder landlords in their efforts to enhance transparency with their

residents. Furthermore, in specific situations, such as those requiring face-to-face resolution or involving case managers, having a designated and named single point of contact for residents, particularly in complex complaints, is beneficial.

Complaint stages

Complaint determination

While we appreciate the intention behind suggesting that a landlord's response to a complaint should either be upheld or not upheld, and discouraging partial upholding for clarity, it is crucial to recognise that complaints can often be multifaceted, making a single resolution challenging in some cases. For instance, where a complaint raised relates to more than one service area, this can sometimes result in different outcomes for each element of the complaint.

Our members have reported that this approach has the potential to limit their ability to respond to individual issues. The option to designate a complaint as partially upheld is valuable, especially in cases where specific elements of the complaint are upheld while others may not be, providing a nuanced resolution mechanism. Additionally, we are concerned that the inability to partially uphold a complaint could decrease transparency and clarity with residents, resulting in increased customer dissatisfaction and complaint escalations.

Complaint escalation

The Code outlines that organisations are expected to make reasonable efforts to understand why an individual remains unhappy as part of its Stage 2 response. However, section 6.14 also states that residents are not required to explain their reasons for requesting their complaint be escalated from Stage 1 to Stage 2.

The absence of a clear rationale for escalating a complaint creates a barrier for landlords. This could hinder landlords' capacity to thoroughly consider and address the complaint effectively, and further delay the complainant attaining a resolution. Moreover, the absence of a requirement to provide a reason to escalate to Stage 2 could potentially lead to a surge in escalated complaints. This could potentially create resource challenges for the staff managing complaints and the Housing Ombudsman Service.

Complaint resolution timescales

The Code specifies that a thorough and detailed investigation must be conducted at Stage 1. Therefore, while it is important to provide prompt responses to complaints, it is vital that the focus should remain on the quality of the response to ensure complaints are dealt with effectively at Stage 1 and avoid the possibility of frustrating complainants.

Therefore, we welcome the increased period from 10 to 20 working days of an extended period for considering Stage 2 complaints. However, for both Stage 1 and Stage 2, we would welcome clarity regarding what would constitute as 'good reason' for an agreeing an extension with a resident. This will support landlords in determining when to apply an extension to a complaint, facilitate a consistent approach within the sector and provide residents with clarity concerning the complaint handling process.

The current Code mandates that in cases where an agreement on an extension period cannot be reached, landlords must provide the contact details of the Housing Ombudsman to enable tenants to contest the landlord's suggested timelines. We suggest that it may be helpful to provide some wording for a complainant to use in such circumstances. This ensures clarity regarding the reasons for seeking the Ombudsman's intervention at this stage.

Improving transparency and accountability

The sector's commitment to enhancing its relationships with residents is evident through initiatives such as "Together with Tenants," where our members have been actively working to strengthen accountability and build trust.

We believe the proposed Code further strengthens this ambition and the provision of the Code increases landlords' transparency and accountability to their residents. The publication of the landlords' self-assessment will ensure that residents are informed of their landlord's performance. Likewise, we agree with the provision that governing bodies receive the landlords' self-assessment as this will facilitate effective oversight and improve decision making.

We welcome the introduction of the Member Responsible for Complaints (The Member) and we believe that alongside the provision of the Code, this role will play a crucial part in fostering a positive complaint handling culture within organisations.

Monitoring landlords' compliance

Self-assessment of compliance with the Code by landlords

We agree that the complaint performance and improvement report provides a sufficient framework for landlords' governing bodies and other stakeholders to have oversight of complaints handling policy, practice and learning.

Furthermore, to enhance transparency, we would welcome additional clarity regarding the content of the published report. This would ensure a consistent reporting framework, allowing residents to make clear and meaningful comparisons between landlords' performance.

The Housing Ombudsman's new duty to monitor the code

We agree with the proposal for landlords to submit their complaint performance and service improvement report in line with the timetable for Tenant Satisfaction Measure (TSM) returns. We believe this is an effective approach and will minimise the reporting burden on landlords. It is important to highlight that, while larger providers are mandated to submit TSM data annually, smaller registered providers are exempt from this requirement. Consequently, the Housing Ombudsman will need to address how they plan to collect pertinent data in these instances, including whether a proportionate approach will be applied.

We agree that the Housing Ombudsman's plans to use the complaint performance and service improvement report provides a suitable baseline for Housing Ombudsman Service (HOS) to monitor compliance across the sector. Nevertheless, we see the alignment of data collection on the Complaint Handling Code and the TSMs as an opportunity for collaboration between the Regulator and the Housing Ombudsman in refining their reporting mechanisms. We seek additional clarity on how these two bodies intend to approach their data analysis, aiming to enhance transparency and foster learning within the sector.

We agree with the proposed prioritisation of Code compliance assessments outlined in the consultation.

Further considerations

Overall, we welcome the Complaint Handling Code and its aims to ensure that complaints are handled effectively. The sector also welcomes the insights offered by the Housing Ombudsman, particularly the spotlight reports setting out recommendations regarding specific areas of service provision.

As the Housing Ombudsman and the Regulator of Social Housing expand their scope and new requirements are introduced, it is important that the remits of the two organisations do not overlap. To that end, we welcome the publication and recent update of the Memorandum of Understanding between the Housing Ombudsman and Regulator of Social Housing. Additionally, as the Housing Ombudsman expands its duties, including monitoring compliance with the Complaint Handling Code, it is crucial that the service is sufficiently resourced to respond to demand.

To ensure sector preparedness, we would welcome confirmation of the timeline regarding reporting requirements. It would also be helpful if the Housing Ombudsman could provide real-time support to landlords, particularly smaller organisations, to support their compliance with Complaint Handling Code. We would also welcome more detailed sectoral guidance on compensation parameters to support landlords when providing financial remedies to put things right.

Conclusion

We welcome this consultation seeking views on Housing Ombudsman's Complaint Handling Code. In our response, we support the requirements for registered providers to comply with the Code to establish clear and consistent handling processes within the sector. We believe the provisions of the Code will support the prompt resolution of complaints for residents and foster a positive complaint handling culture. However, we outline some provisions within the Code that could benefit from further clarity to ensure that complaint handling is consistent within the sector.

We look forward to collaborating closely with the Housing Ombudsman Service to achieve service improvement in the sector and ensure residents have access to quick and fair redress.