

The Housing Ombudsman's response to the Mayor's draft London Housing Strategy consultation

1. The housing ombudsman is pleased to have the chance to comment on the Mayor's draft London Housing Strategy.
2. The housing ombudsman's role is to resolve disputes involving members of the housing ombudsman scheme (approved by the Secretary of State under the Housing Act 1996) and to support the effective landlord-resident dispute resolution by others.
3. Landlords and residents have an ongoing relationship, so if things go wrong, matters can easily escalate and relationships sour. Residents need to have confidence that any issues they raise will be dealt with fairly and impartially, whether by their landlord or by an independent ombudsman. For this reason we strongly support the Mayor's dedication to enabling London residents to have (straightforward and speedy) access to a recognised ombudsman scheme.
4. This response focuses on the specific areas of the draft housing strategy which touch on the housing ombudsman's role as set out above. Headings used are taken from the strategy document.

Build to Rent scheme in London

5. In paragraph 3.78 the strategy provides that all London Build to Rent providers must have a complaints procedure in place and be a member of a recognised ombudsman scheme".
6. Paragraphs 7 to 9 below, set out a little background to the housing ombudsman's current statutory jurisdiction with the aim of ensuring that the Mayor is able to refine and implement his strategy taking in account the (somewhat complex) jurisdictional position; in our view this will need to be factored into any decision as to who would be the appropriate "recognised ombudsman" for residents of Build to Rent schemes.
7. The Housing Act 1996 ensures that our remit covers all registered providers of "social housing" (as defined in the Housing and Regeneration Act 2008) in relation to "all their housing activities" and all local housing authorities in respect of their "housing management functions". Additionally a number of private landlords join the housing ombudsman as voluntary members – as at 31 March 2017 we had 71 voluntary members, representing 18,004 housing units. It is a pre-condition of membership that a voluntary member will agree to be bound by the Scheme, and that it will establish, maintain and publish a complaints procedure (see paragraph 5 of the Scheme).

8. As above, the housing ombudsman's jurisdiction is very broad in respect of housing associations – we can determine complaints brought in respect of “all their housing activities”. This means that we have jurisdiction in relation to complaints of all housing association residents (i.e. tenants, licensees, shared owners and leaseholders). Also – and critically – this jurisdiction is “rent-type-blind” and so includes any homes let by housing associations at market rent. Our jurisdiction also extends to situations in which a housing association is operating or carrying out its housing activities via a subsidiary body or company.
9. The position in relation to local housing authorities is different. Where a landlord is a local housing authority, the housing ombudsman has jurisdiction for complaints concerning action taken by or on behalf of that authority in its capacity as a registered provider of social housing (as defined in the Housing and Regeneration Act 2008). We also have jurisdiction in respect of complaints about the management of any property sold on a long lease, i.e. even if it is *not* social housing. But we do not currently have jurisdiction in relation to homes let by local authorities at market rent. The ombudsman can therefore consider complaints concerning actions taken on the local housing authority's behalf, for example, by a local housing company, management company or ALMO, where that action relates to social housing.
10. Our understanding is that there are a range of organisations currently active in delivering and managing London's Build to Rent schemes and that in addition to institutional investors and private developers, some local authorities, council-owned development companies and housing associations are involved.
11. We are conscious that while recent legislative developments – e.g. the ADR Directive and mandatory registration of letting and property management agents with a recognised redress scheme – afford greater access to valuable dispute resolution mechanisms, they have also resulted in a confusing and muddled ombudsman/ADR landscape. Residents can find it hard to know where they should go to seek the redress to which they are entitled. We are naturally very supportive of the Mayor's commitment to ensuring that residents of all Build to Rent Schemes are afforded the protection of a sound landlord complaints procedure and access to a “recognised ombudsman scheme”. However, we would urge him to ensure that the appropriate ombudsman is clearly signposted to all such residents to avoid tenant confusion. Given the explanation of our current jurisdiction set out above, we are a little concerned that requiring Build to Rent landlords to be members of another ombudsman scheme (i.e. not the housing ombudsman) may be confusing for residents – particularly if a situation evolves where, as seems likely, some Build to Rent schemes already fall, even if only in part, within the mandatory jurisdiction of the housing ombudsman.
12. We would be very happy to meet with the Mayor after the consultation period is over if he requires further information on this. And of course the recent announcement by the Secretary of State about proposals for a new cross-sector housing ombudsman will be of relevance to the Mayor's approach and in due course we will be responding to the government's promised consultation.

Listening to the views of social housing tenants and leaseholders

13. In paragraph 5.68 the Mayor states that he considers it is currently “unnecessarily complicated” for residents to access the Ombudsman, “because they must first make complaints to their landlord and if they are not resolved they must take their complaints to the Ombudsman via a designated person or wait eight weeks after the end of the complaints procedure to refer their complaint directly”.
14. As the Mayor will be aware, the eight-week “designated person filter” was introduced by the Localism Act 2011. The housing ombudsman recognises that designated persons *can* play an important role in helping residents to frame their complaints to us, however we would also like to point out that the number of complaints the housing ombudsman receives via this route accounts for a small percentage of total complaints – just 8% in the year 2016-17. Further, we have already, publicly, expressed our view that there is no reason for the designated person filter to be a statutory requirement and are happy to be given the opportunity to restate that position now.
15. By the time a complainant has gone, unsuccessfully (i.e. without receiving a satisfactory resolution of their complaint), through their landlord’s internal complaints procedure, it is inevitable that the complainant will have been living with the issue for some time. It’s therefore unsurprising that complainants can find it an additional source of frustration when they try to bring their complaint to the ombudsman only to be told that we are statutorily obliged to wait a further 8 weeks before we can consider their case. While we make sure to let complainants know of their right to seek help from a designated person, we fear that in some cases – perhaps particularly for elderly or vulnerable complainants - this can act as a blocker. This further hurdle and/or delay may, therefore, prevent them from ultimately gaining the redress to which they are entitled.
16. We are therefore supportive of the Mayor’s intention to urge Government to streamline the process for individual complainants to ensure that the requirement to bring their complaint via a designated person or wait a further eight-week period is removed from the primary legislation.