

**Policy on dealing with
non-compliance with the
Ombudsman's orders**

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Introduction

The purpose of this policy is to maintain public confidence in the integrity of the Housing Ombudsman Service and the orders that are made. It is also to ensure members are held accountable for non-compliance.

This policy sets out the Housing Ombudsman's expectations in relation to compliance with the orders made in our determinations and the actions that we will take in the event of non-compliance. This policy is designed to ensure that any action taken is justified, appropriate, proportionate, publicised and complies with Scheme requirements.

When an order is made

Where we have made a finding of service failure, maladministration or severe maladministration, the Ombudsman can order a landlord to implement the remedies we have identified for that case. We aim to provide fair and proportionate remedies to complaints that are appropriate to the circumstances of each individual case. This includes ensuring that the order we propose is proportionate to the severity of the maladministration the Ombudsman has found during our investigation. Any order made should be SMART:

- Specific
- Measurable
- Achievable
- Realistic
- Time-based.

Extract from Housing Ombudsman Scheme

43. The Ombudsman will determine complaints by what is, in the Ombudsman's opinion, fair in all the circumstances of the case. The Ombudsman's determinations may reject the complaint or make orders or recommendations including that the member

- a. Apologise to the complainant;***
- b. Pay compensation to the complainant;***
- c. Performs or does not perform any of the contractual or other obligations existing between the member and the complainant;***
- d. Exercises or does not exercise any of the rights existing between the member and the complainant;***
- e. Undertakes or refrains from undertaking works;***

f. Takes such other reasonable steps to secure redress within the legal powers of the member.

Compliance with determinations of the Ombudsman

When the Ombudsman determines a complaint both parties can request a review of the decision and submit any new evidence. If there are reasons why it may not be possible for a landlord to comply with an order, this should be raised at review.

When an order is made following review, the landlord is expected to comply with this within a reasonable timescale.

Extract from Housing Ombudsman Scheme

44. Members are expected to comply with the determination of the Ombudsman following the Ombudsman's consideration of a complaint.

When making an order we will specify a time frame within which we expect the landlord to comply with our orders. Generally, we will expect orders to be complied with within three months. We will request that the landlord provides evidence to show that it has complied, unless this has already been provided by the resident.

We will make enquiries of member landlords to ascertain progress against the orders we make. We will consider whether any deviation from, or breach of, the order requires further action. The view of the resident will be considered.

Extract from Housing Ombudsman Scheme

45. The Ombudsman may require a member to report to the Ombudsman on compliance with a determination in such a way and at such a time as the Ombudsman may specify

Non-compliance

The majority of orders made by the Housing Ombudsman are complied with within three months. However, where non-compliance occurs, we will discuss the reasons for this with the member landlord's senior executives. The Ombudsman will then produce a special report to set out the reasons for non-compliance and the action the member landlord is taking to comply, as well as any wider action that is being taken.

The report will be sent to the member landlord's board or scrutiny body, be published on our website and we will share this with the Regulator of Social Housing. The

special report will remain on the Housing Ombudsman's website for a minimum period of 12 months following compliance.

Dependent on the circumstances, we may also take steps to require the member landlord to publish the detail of its non-compliance so that its residents and other interested parties are aware. We will set the requirements of the publication and the length of time that this information should be available to residents. We may also publish details in our own Annual Report.

The approach set out above is in line with our Scheme and Principle 6 of the Public Services Ombudsmen Principles for Remedy.

We will continue to monitor progress until compliance is achieved. We may report again if this is further delayed beyond agreed timescales.

Extract from Housing Ombudsman Scheme

46. The Ombudsman will report a member to any appropriate regulatory agency and/or the board, committee or scrutiny panel of the member, if it fails to comply with the Ombudsman's determination

47. The Ombudsman may order a member or former member which fails to comply with a determination to publish that it has failed to comply, in such a way as the Ombudsman sees fit.

48. The Ombudsman may publish the fact and circumstances of non-compliance by any member, or former member naming the member in the Ombudsman's annual report or elsewhere