

Housing Ombudsman Service

Quarterly report:

**Complaint Handling Failure Orders
issued January to March 2021**

Introduction

Changes to the Housing Ombudsman Scheme introduced last year included a new [Complaint Handling Code](#), setting out clear expectations for landlords on handling housing complaints, together with a new power to issue a determination of complaint handling failure – a **complaint handling failure order** – where a landlord is failing to comply with its membership obligations.

The purpose of complaint handling failure orders is to ensure that a landlord's complaint handling process is accessible, consistent and enables the timely progression of complaints for residents.

They may be issued in relation to failings in an individual case where we have taken reasonable steps to seek engagement from a landlord, but the resident remains unable to progress a complaint. They may also be issued where there is evidence of a systemic issue within a landlord's complaint handling.

We will always provide a landlord with details of the issue and provides opportunities for the landlord to put things right before a complaint handling failure order is made.

Full details on when a complaint handling failure order may be issued, what further action the Ombudsman could take in such circumstances, and the reporting of their use, including publicly, is set out in our [Guidance on determinations of complaint handling failure and orders](#).

The guidance also highlights that each quarter we will publish the total number of complaint handling failure orders issued, the names of the landlords and reasons for the orders. We will also share this information with the Regulator of Social Housing.

We started to formally issue complaint handling failure orders from 1 January 2021 and this report covers those over the three months to the end of March 2021. It shows that we issued 10 complaint handling failure orders, eight complied with and two cases of non-compliance. Two case studies illustrate the experiences of residents and how the complaint handling failure orders have been used to progress their complaints.

Orders issued in shadow

Before starting to issue the complaint handling failure orders formally, we issued them in shadow between 1 September and 31 December 2020. This was to enable landlords to learn from instances where non-compliance was identified and to support the refinement of our own internal procedures. An example is set out in the case study below.

Case study: Shadow order issued in December 2020

A resident contacted the Ombudsman to report that he was experiencing difficulties progressing his complaint with his landlord, a housing association. Despite contact from the Ombudsman, the landlord did not respond in its timescales and failed to keep us updated with the progress of the complaint. It was also noted that the third stage of the process did not align with the Complaint Handling Code.

Given these findings, we issued a shadow complaint handling failure order to the landlord. In response, the landlord wrote a full and comprehensive response to the resident. The landlord also confirmed that it had completed the self-assessment and that this would be published with the relevant policies by the end of December 2020. It also advised that it was reviewing its customer feedback policy with a view to changing the process from three stages to two, pending consultation with tenants.

Resident insight

We asked residents for their feedback on cases where we had issued a complaint handling failure order. The response from one resident is set out below.

The resident had made a complaint to his landlord but the landlord decided not to deal with it as a complaint. He explained that the situation had made him feel *'extremely angry and frustrated [because] I didn't know where to go and I was being constantly ignored. [It was] a very stressful situation.'* He said he felt *'so frustrated and had no one to turn to for help'* until he contacted the Ombudsman.

He felt *'the complaint handling failure order made my landlord realise how poor they had been in handling my complaint and I think that it actually reached the correct people to resolve'*. He added that he would recommend the Housing Ombudsman Service to others in his situation.

Complaint handling failure orders issued January to March 2021

We issued 10 complaint handling failure orders during this quarter, all while the complaints were still within the landlord's own complaints process. In 8 cases, the landlord complied with the orders and there were two cases of non-compliance.

The order types issued to date are:

- **1: Issued due to the landlord's unreasonable delays in accepting or progressing a complaint through its process.**

Where residents experience difficulties and delays in getting a response from their landlord or in escalating a complaint to the next stage, and we are satisfied that the complaints process has stalled, we will write to the landlord advising it of the problem and set out the action it needs to take to resolve the issue. We generally provide a minimum of three opportunities for a landlord to contact the resident and progress the complaint but if a landlord fails to engage and we are satisfied that the complaints procedure has stalled we may issue a complaint handling failure order.

- **2: Issued due to unreasonable delays in providing complaint information requested by the Ombudsman.**

Landlords must provide information requested by the Ombudsman within 15 working days or an individually agreed reasonable timescale. Failure to provide evidence delays the resolution of the dispute for the resident and causes unnecessary distress and inconvenience. If the evidence is not provided within this time frame a complaint handling failure order will be issued. The investigation will proceed on the basis that the evidence does not exist and/or that the resident's evidence is accurate and reliable in this area.

Orders complied with:

The table below shows the orders issued where the landlord complied.

Date issued	Landlord	Case ref	Order type (see above)	Compliance date
14 January	Central and Cecil Housing Trust	201909418	1	21 January
14 January	Newham Council	202008669	1	21 January
2 February	South Kesteven District Council	201914905	1	9 February
3 February	Hyde Southbank Homes Limited	202001363	1	14 February
3 February	London & Quadrant Housing Trust	202005112	2	10 February
10 February	Ealing Council	202005837	1	18 February
8 March	Inquilab Housing Association Ltd	202008960	1	18 March

23 March	Orbit Group Ltd	201912310	1	12 April
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Orders with non-compliance:

The table below shows the two orders issued where the landlord did not comply and they are now in our formal remit for investigation.

Date issued	Landlord	Case ref	Order type	Details
4 February	Lambeth Council	202006404	1	Following numerous requests for the landlord to respond to the complaint an order was issued. This was not complied with and we decided the case had exhausted the landlord's internal complaints procedure. The case is now in our formal remit awaiting investigation.
18 February	Enfield Council	202004863	1	The landlord responded on 3 March, outside of the date for compliance, apologised for the delay and advised that it would respond to the complaint at stage one which it did the following day. Due to non-compliance we decided that the complaint had exhausted the landlord's complaints process and is now in our formal remit.

Case studies

The two case studies below demonstrate how and when we use complaint handling failure orders and their impact.

Case study: Complaint handling failure order

Ms Y contacted the Ombudsman to report concerns about the progress of her complaint in March 2020, prior to the implementation of the Complaint Handling Code. Throughout the following months, the Ombudsman and the resident contacted the council on six occasions to request that a response be provided to her complaint. Although the landlord acknowledged the complaint and agreed that a response would be provided, this was not provided, and the complaint remained outstanding on 1 December 2020.

We issued the complaint handling failure order in February 2021 due to the delay in accepting the complaint about the repairs service in line with the Code.

The landlord subsequently issued its first stage response. This case remains under consideration within the landlord's internal complaints procedure and is being monitored by the Ombudsman.

Case study: Complaint handling failure order

Mr Z contacted the Ombudsman to report that although he had raised a complaint about delays to repairs reported in August 2019, no response had been provided. The landlord informed us that the decision had been taken not to raise a complaint or respond to the resident until the outstanding repairs had been completed.

As it was clear that the landlord had failed to handle the complaint within reasonable timescales and had not updated the resident to confirm its proposed approach to responding to his concerns, we issued a complaint handling failure order.

The landlord subsequently issued its final response to the resident apologising for the delay in responding to him, offering suitable redress and confirming that the repairs were being progressed.

Useful links

[Guidance on determinations of complaint handling failure and orders](#)

[Complaint Handling Code](#)