

FAQs on the Complaint Handling Code

Implementation

Do landlords need to be fully compliant by 1 April?

No. The new version of the Code comes into effect on 1 April 2022, but we are giving landlords until 1 October 2022 to becoming compliant. Landlords are expected to do their self-assessment on this new version of the Code at a time that best assists them with auditing compliance and/or the work they are intending to do to achieve compliance by 1 October.

Definition of a complaint

Our residents contact us with issues about service provision that we have previously called complaints and then have quickly and informally resolved. However, the Code specifically states that when a complaint is logged, it must move to stage 1 and be handled in accordance with the Code. Does this mean that we can no longer address these issues quickly with the resident?

No. Contact from residents pursuing an issue with service provision can and should be handled quickly and effectively to obtain the best outcome for the resident. These are not complaints and should be handled in accordance with the policies in place for an escalated service request. Issues resolved in this way should still be logged on landlord systems for learning purposes. Where substantial further enquiries are needed to resolve the matter, or the resident requests it, then the issue then becomes a complaint and will need to be dealt with in accordance with the Code, but this does not necessarily mean that the complaint cannot be then addressed quickly if that is the appropriate method of handling.

If a resident verbally expresses dissatisfaction with the landlord's service provision must this be logged as a complaint?

Yes, any expression of dissatisfaction whether made verbally or in writing, must be acknowledged and logged at stage one of the complaints procedure within five days of receipt. The Code states that the resident does not have to use the word 'complaint' for it to be treated as such.

Accessibility and awareness

Must a landlord provide access to its complaints procedure through all the channels listed in the Code?

No. The Ombudsman recognises that not all channels listed in the Code may be available to a landlord, but where a channel is available, it is expected that it will be accessible to someone seeking to raise a complaint. As stated in the Code, having only one channel available to make a complaint is unlikely to be considered reasonable.

The Code requires the complaints policy and process to be on a landlord's website. What is the position if a landlord does not have a website?

The Ombudsman recognises that there may be a minority of landlords which do not have a website and in those instances, it is reasonable that the complaints policy and process are not available on a resource that the landlord does not have. The Ombudsman expects that, in these instances, information regarding the complaints policy and process is shared as widely as possible via alternative means such as leaflets, posters, newsletters and relevant correspondence with residents.

Do landlords have to respond to a complaint via the method it was made?

The Ombudsman would not necessarily expect landlords to use the same method used by the resident to raise the complaint. For example, it would not be appropriate for a complaint response to be shared on open social media. Landlords are expected to engage with residents early in the complaint to discuss their preferred method of communication.

Does a landlord need permission in writing from the resident before dealing with their nominated representative?

There needs to be an auditable record that the resident has nominated a representative to act for them – this can either be in writing or it can be a confirmation of the arrangement that is sent to the resident with the option to refute it. The complaint policy and procedure should clearly set out how a landlord will handle requests for a representative.

The Code states that the complaints policy must set out how they will respond to requests for reasonable adjustments in line with the Equality Act. If a landlord has a separate policy that details this, does it need to be repeated in the complaints policy?

No. Provided that there is a clear stance in a published policy about how requests for reasonable adjustments will be handled, it is sufficient for the complaints policy to link to that policy.

Does early engagement with the Ombudsman interfere with the landlord's complaints procedure?

No. While a complaint is in the landlord's complaints procedure our role is to support effective complaint handling at a local level. This may involve clarifying the areas of complaint and the outcomes sought by both parties but would not involve passing any comment on the complaint and what the decision or outcome of the complaint should be.

Should a landlord advise residents about the designated person process?

Landlords must provide clear advice to residents about how to refer a complaint to the Ombudsman. For the time being this should include information about the designated person process until such as the process is changed in legislation.

Complaint handling personnel

Do we have to set up a specific complaint team to deal with complaints?

The Ombudsman recognises that landlords will need to put in place the structures and arrangements for complaints handling that best suit their organisation. While we require there to be a dedicated “complaints officer”, we recognise that this may be in addition to other duties. We also recognise that a landlord may not need to resource a specific team to handle complaints to a high standard and accordingly, this is not a requirement of the Code.

How should complaints about the actions of third parties be handled?

If a landlord responsibility has been delegated to another organisation, then the handling of complaints about that responsibility may also be appropriate to delegate. The landlord is still responsible for the final complaint decision and for complying with the terms of its membership of the Housing Ombudsman Scheme and compliance with the Code.

Complaint handling principles

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Does the five working days for acknowledgement start from the day the complaint is received by the contact centre or by the complaint handler?

The timeframe starts from the day the complaint is received by the landlord. If complaints are received by teams that are not responsible for handling complaints, landlords should have processes in place to ensure the complaint is passed to the relevant team (or person) to allow them to acknowledge the complaint.

How do timeframes apply to complaints raised by advocates / representatives?

Stage 1 timescales for handling complaints start from the point that consent is received for the advocate to represent the resident. If consent is not provided at the point the complaint is made, and is required by the landlord's policy, the Ombudsman expects landlords to request consent in the acknowledgement to avoid unreasonable delays to the complaint.

The Code states that communication with the resident should not generally identify individual members of staff or contractors as their actions are undertaken on behalf of the landlord. Does this mean that landlords should not include names of employees in any responses to complaints?

It is important that a landlord takes responsibility for the actions of its employees and contractors rather than apportioning responsibility by directly naming individuals where there is no reason to do so. There may be instances where include the details of individuals may be appropriate and any reference to individuals should be compliant with data protection legislation.

What does the Ombudsman consider to be a reasonable timescale for escalation?

The Code does not give a timescale for escalation requests as we recognise that what is reasonable will differ from landlord to landlord. Landlords must include their timescales for an escalation request in the complaint policy as well as recognition that there will be certain complaints, for example particularly complex complaints, where it may be appropriate to extend the escalation timescale.

What would be a 'reasonable reason' for declining an escalation request?

The Ombudsman encourages landlords to use every stage of the internal complaint procedure as a genuine opportunity to resolve a dispute with a resident. The Code requires landlords to clearly set out the reasons for declining to escalate a complaint and these should be the same as the reasons for not accepting a complaint – that the complaint should not be looked at further because it would compromise legal proceedings to do so or because it has now become clear that this complaint has previously fully exhausted the complaints process. Refusing to escalate a complaint because of a merit assessment of the resident's reasons for escalation is unlikely to be considered reasonable. Refusing to escalate a complaint because the resident is seeking to challenge an outcome that they had previously agreed to is also unlikely to be considered reasonable – people are allowed to change their mind about what they consider to be an appropriate outcome – it is then the role of the stage 2 review to consider whether the original outcome agreed was appropriate.

Complaint stages

Do we have to log another complaint if the agreed timeframe for handling a complaint is not met?

We do not expect landlords to automatically log a further complaint if they exceed the timescales for handling the complaint. However, if the resident raises this as a further complaint, then it must be recorded. If a landlord identifies that they are likely to miss the agreed timeframe for handling the complaint, this should be explained to the resident in the next available update along with details of any new timeframe – landlords should not wait until the agreed timeframe has expired before alerting the resident to the issue. The new timeframe will need to be agreed with the resident and, if they are not in agreement, they have the right to challenge the proposed timeframe to the Ombudsman.

We have Stage 1 and Stage 2 and then, if required, a resident can request an Independent Tenants Panel if unhappy with the Stage 2 result, is that ok?

The Code encourages resident involvement in complaint handling and views this as a sign of a healthy and positive complaint handling culture, but the Ombudsman does not consider that a third stage is necessary. Instead, resident involvement may be more appropriate in scrutiny panels and other quality assurance work.

Why is there no guidance in the Code about stage 3?

The Ombudsman does not consider that a third complaint stage is necessary or in keeping with the principles of efficient complaints handling. Accordingly, we are not including it in the Code.

Putting things right

Some complex complaints can take longer to fully resolve, particularly when works need to be scheduled. Is it okay to keep these complaints open to ensure agreed actions are completed?

No. Landlords must issue the complaint response to the resident once the answer to the complaint is known, not when the outstanding actions required to address the issue, are complete. This affords the resident the opportunity to challenge the conclusions on their complaint, including whether the proposed actions are appropriate, immediately. Where the outstanding issues involves undertaking work which may take weeks or months to complete, the landlord should inform the resident of the timescale for the works to be completed and must track and action the outstanding work expeditiously and provide regular updates to the resident.

If goodwill compensation is offered as redress, should we issue the payment even if the customer has not explicitly accepted it?

The landlord must judge this on a case by case basis in dialogue with the resident. It should be noted that accepting compensation offered by a landlord at the final stage of the internal complaint procedure does not prevent residents from being able to escalate their complaint to the Ombudsman.

Continuous learning and improvement

What systems do you expect landlords to implement to learn from complaints?

Record keeping and data recording are critical to enabling learning from complaints. If data is not recorded about what has been complained about and what the answer to the complaint was, it cannot be meaningfully analysed for learning to feed back into service provision. The systems that a landlord will need to ensure that this data is recorded in a way that is capable of being analysed and acted upon will differ from landlord to landlord, but what is critical is a good data culture and an understanding of the importance of complaints in generating learning.