



Complaint Handling Code Consultation

Placing the Code on a statutory footing
and our duty to monitor compliance
with it

What we are proposing and how to have your say

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Foreword from The Housing Ombudsman

Three years ago, we published the Complaint Handling Code.

The aim was to end a postcode lottery in the handling of social housing complaints in England, and promote a fair, positive complaint handling culture.

These founding principles remain at the heart of the Code becoming statutory.



Effective complaint handling is essential for landlords and an indicator of culture and behaviours. The Code helps organisations to get it right – to build relationships with residents, horizon scan and manage risks, promote organisational learning and develop services. The Code itself was the result of continuous engagement with a working group of landlords drawn from across our membership, together with tenant and professional bodies. This consultation is an opportunity to engage residents and landlords further in the Code.

Despite the pressures on landlords, the response of most social landlords to the Code has been tremendously positive since its introduction. For example, the series of online engagement events we hosted on it during Covid-19 had more than 2,000 participants.

The Code empowers two groups. Obviously, the first is residents. It helps them understand their rights and what good looks like. It raises awareness of redress and makes procedures more accessible, less intimidating and the outcomes more meaningful.

But it also empowers landlords, especially complaint handling teams, to get the right resources in place and the role of complaint handlers respected, especially when engaging with service areas. It has added rigour to procedures and aided professionalism. It should elevate complaints and the lessons they provide within the organisation – to the boardroom or council committee.

Yet we know the sector is on a journey, with the Ombudsman upholding around two-thirds of complaints about their handling.

The Social Housing (Regulation) Act making it a statutory Code is a moment to change that. Given familiarity with the Code, it would be a mistake to underestimate the difference of it becoming statutory. While the obligations are essentially the same – to support continuity – a legal duty to meet them may require change for some landlords. For the Ombudsman, a duty to monitor will mean we can intervene even where we have not received a formal complaint. The Code is also the basis for assessment against some complaint-related Tenant Satisfaction Measures.

The self-assessment provides a tool to support landlords to meet their duty. It is an opportunity to engage residents in developing complaint handling and it must go to the governing body and be published. It is not the only support we are providing. We

want to develop the role of the Member Responsible for Complaints and will hold an annual event. Complaint handling failure orders are an early indicator if issues are arising and we host regular drop-ins. Plus much more through our Centre for Learning.

Lastly, we have partnered with the Local Government and Social Care Ombudsman to support the Code being extended to their jurisdiction. For councils who are landlords, this will end the two-tier system with corporate complaints, which has been a challenge for some. For housing associations and their residents, this will make no difference. For the public in England using council services, it should make a huge difference to their experience of complaining.

We look forward to hearing your views.

Richard Blakeway

Housing Ombudsman

1. Scope of this consultation

<p>Topic of this consultation</p>	<p>The Social Housing (Regulation) Act 2023 (the Act) places the Complaints Handling Code (the Code) onto a statutory footing. It also puts a duty on The Housing Ombudsman Service (HOS) to monitor compliance with the Code.</p> <p>The Code itself is not changing a great deal, although we are taking the opportunity to strengthen and clarify some aspects following feedback from landlords and residents. More significantly, the effect of making it a legal requirement means the Code assumes even greater importance. And HOS will need to put in place an approach to monitoring compliance with it.</p> <p>So, we are seeking views about:</p> <ul style="list-style-type: none"> - The Code and whether any further improvements can be made to this. - Our outline proposals for monitoring compliance and whether these are transparent, proportionate and fair. And what else we might need to consider in fulfilling our new duty effectively and efficiently. <p>The HOS and Local Government and Social Care Ombudsman (LGSCO) have decided to adopt the Code jointly. This will lead to a more consistent experience of complaint handling across housing and key local services.</p> <p>This development does not result in major changes to our Code, but we have drawn out for members the main impact for them around the time residents will have to bring complaints and we are seeking views about this.</p>
<p>Scope of this consultation</p>	<p>This consultation represents an opportunity for interested persons and organisations to provide feedback about the operation of the Code and to influence development of the regime for monitoring compliance with it.</p> <p>We are also seeking comments on the draft Equality impact assessment which has been developed alongside our proposals.</p> <p>As part of this consultation, HOS will satisfy requirements placed on it to consult with landlords, residents and the Regulator of Social Housing before the Code is issued.</p> <p>HOS will review its proposals in respect of the Code and how to give effect to its duty to monitor compliance in light of the responses received to this consultation.</p>
<p>Geographical coverage</p>	<p>These proposals relate to England only.</p>

Basic information

Who is being consulted	HOS's statutory consultees, private registered providers, local authority registered providers, voluntary members of the Scheme, tenants and residents, and any other stakeholders who have an interest in social housing in England.
Body responsible for the consultation	The Housing Ombudsman Service
Duration	This consultation will last for 8 weeks from 28 September 2023. The closing date is 23 November 2023.
Enquiries	For any enquiries about the consultation please contact CodeConsultation2023@housing-ombudsman.org.uk and a member of the team will be pleased to help
Full list of documents and links related to this consultation	<ul style="list-style-type: none">• Complaint Handling Code• Frequently Asked Questions• Equality Impact Assessment

2. How can you share your views?

You can find our consultation questions below. If you would like to answer these questions, please do so by [responding online](#). We need to hear from you by **23 November 2023**. If you respond after this date, your response may not be considered.

Other ways you can respond



Email: CodeConsultation2023@housing-ombudsman.org.uk
Please include “Complaint Handling Code consultation” in the subject heading.



Telephone: 0204 524 1795
Please state that your call is about the Complaints Handling Code consultation.



Post: Housing Ombudsman Service, PO Box 152, Liverpool L33 7WQ
Please mark the envelope “Complaint Handling Code consultation”



If you need the information in this document in a different format, please contact us using the methods above.

When you contact us, please make it clear which questions you are responding to, and include:

- Your name;
- A contact email address (if possible);
- Whether you are responding on behalf of an organisation and, if you are, the name of the organisation; and
- Whether you are a social housing tenant or shared owner, a social housing landlord or someone else.

After the closing date of this consultation, we intend to publish a summary of the responses we receive. Please do not share any information in your response which you would not be happy for us to make publicly available or that identifies other individuals.

This consultation is not a route for making a complaint about a landlord. If you need to contact us about your landlord our contact details are below:

Email: info@housing-ombudsman.org.uk or call: 0300 111 3000

Information provided in response to this consultation, may be published or disclosed in accordance with legislation (e.g. the Freedom of Information Act 2000).

3. Introduction

About the Housing Ombudsman Service

3.1 The Housing Ombudsman Service (HOS) makes the final decision on disputes between residents and member landlords. Our decisions are independent, impartial and fair.

3.2 We also support effective landlord-tenant dispute resolution by others, including landlords themselves, and promote positive change in the housing sector.

3.3 Our service is free to the 4.7 million households eligible to use it.

3.4 Our role is set out in the Housing Act 1996 and the Housing Ombudsman Scheme approved by the Secretary of State.

About the Complaint Handling Code and its development

3.5 The Complaint Handling Code (the Code) was first published in 2020. It was the result of a collaboration between members of our Scheme, residents, and our Service.

3.6 The purpose of the Code is to enable landlords to resolve complaints raised by residents quickly, and to use the data and learning from complaints to drive service improvements. Following the Code helps to create a positive complaint handling culture within an organisation.

3.7 The Code helps to ensure a landlord's approach to complaints handling is clear, straightforward, and accessible, and that complaints are resolved promptly, consistently, politely and fairly.

3.8 The Code acts as a guide for residents. It sets out what they should expect from their landlord's complaint handling process. The requirements in the Code ensure they are provided with information about how to make a complaint and how to progress it through their landlord's internal complaints procedure.

3.9 The Code has been successful. It has delivered more transparency and consistency in complaint handling. But more than that, it has elevated the status of complaints and those dealing with them. In many more organisations complaints are now viewed as a key source of insight about performance, how residents feel about delivery and how services can be developed and improved.

3.10 Landlords self-assess against the Code annually on a 'comply or explain' basis, and are required to make this publicly available. The self-assessment provides a snapshot of compliance with the Code, and can also be an indication of the culture of an organisation.

3.11 While the Code has been a success to date, we recognise that there is much more to do to reap the full benefits it has the potential to deliver.

3.12 As the Government seeks to improve consumer protections and influence in the housing sector following the publication of the Social Housing White Paper, it views the Code as integral to this effort and Parliament has placed it on a statutory footing. That also means we need to formally consult about the Code.

3.13 Although the Code we are consulting on here has not changed much and members will be familiar with its provisions, enshrining the Code in law means it has the potential to be more consequential. Members and their governing bodies will want to consider this change in status and the implications for them.

3.14 We have taken the opportunity of this consultation to make amendments to the Code in some areas to strengthen and clarify our expectations, and to do some minor restructuring. These modifications respond to questions raised by landlords and residents and also take into account findings from our casework.

3.15 Section 4 provides further information about the Code and seeks views about it and whether any further improvements can be made. A copy of the proposed Code is available [here](#).

3.16 As well as placing the Code onto a statutory footing, the Social Housing (Regulation) Act 2023 (the Act) also puts a duty on us to monitor landlords' compliance with the Code.

3.17 Our proposals for the framework we will use to monitor compliance with the Code are set out in Section 5. We welcome views about and whether these are sufficient, transparent and fair. And also what else we might need to consider in fulfilling our new duty effectively and efficiently.

Draft timetable for introducing the statutory Complaint Handling Code and monitoring compliance

3.18 The table below summarises our current intended timetable for introducing the updated Code:

Proposed timing	Anticipated activity
23 November 2023	Code consultation ends. Responses after this date may not be considered.
Autumn 2023	HOS analyses and considers consultation responses. Any drafting changes to the Complaint Handling Code will be made at this stage. We will also be able to firm up our approach to monitoring compliance.
Early 2024	HOS publishes a report which will summarise the key areas of feedback from the consultation and set out our decision

	on the final form of the Code and how we will carry out our duty to monitor.
1 April 2024	The statutory Code and our new monitoring arrangements will come into force. There will be information, support and guidance for members about this in advance and throughout implementation.

4. The updated Complaint Handling Code

4.1 The Code, which was developed in collaboration with landlords and residents, has improved awareness and access to complaint processes. But all parties have told us there is more that can be done. We have reflected on that feedback and considered our own casework experience in updating the Code.

4.2 HOS and the Local Government and Social Care Ombudsman have decided to adopt the Code jointly. This will lead to a more consistent experience of complaint handling across housing management and statutory services in some local authorities.

4.3 This partnership does not result in major changes to our Code but we have highlighted the impact of this approach at Section 4.5 (c).

Increasing awareness and access to landlords' complaints processes

4.4 Section 1 of the Code sets out the definition of a complaint. Section 2 identifies exclusions, valid reasons why a landlord might decide not to accept a complaint. Section 3 explains the approach to be followed on providing access to and raising awareness about a landlords complaint processes. The Code has been updated to strengthen or clarify certain provisions in these areas.

4.5 The updates to the Code are (section references shown in brackets):

- a) To make clear landlords must not stop their efforts to resolve a service request because a related complaint has been raised. (1.4)
- b) To extend the time a resident has for bringing a complaint from 6 months to 12 months from the point it was reasonable for them to have been aware of the issue. This reflects best practice in complaint handling in local authorities and also ensures residents are not timed-out raising complaints about their home, particularly property condition, if issues reoccur after the landlords response. (2.2)
- c) To make clear landlords must not exclude complaints about safeguarding or health and safety issues. The last iteration of the Code indicated only that it might not be appropriate to exclude such cases. (2.3)
- d) To make clear landlords must not take a blanket approach to excluding complaints. Each case needing to be considered on the individual circumstances. (2.6)

- e) To raise landlord awareness of the need to comply with their duties under the Equality Act 2010, including anticipating any needs and reasonable adjustments of residents who need to access the complaints process and keeping reasonable adjustments under active review. (3.1 and 5.8)

Consultation question 1



Are the provisions in the Code sufficient to awareness and improve access to landlords' complaints processes?

Yes / No.

If no, what additional suggestions do you have?

Extending fairness through consistent complaint handling across the sector

4.4 Section 4 of the Code outlines the importance of a landlords internal arrangements for handling complaints and the priority of this function. Section 5 outlines how a complaints handling process should operate. Section 6 sets out the allowed stages of a complaint handling process, the timetable for these and approach. Section 7 is about remedies and putting things right.

4.5 Key aspects of the Code to note include (section references shown in brackets):

- a) Less prescription and description about the attributes required of complaint handling staff. These are operational matters for landlords to deal with. (4.1-4.3)
- b) Confirmation that 'informal' additional stages in landlord complaint handling processes are not appropriate. These have led to confusion amongst residents and to delays. (5.2)
- c) Clarification that when communicating with residents, landlords must not identify individual members of staff or contractors connected with the complaint issues, except in exceptional circumstance. (5.6)
- d) To clarify that a complaint can either be upheld or not upheld by a landlord. A complaint cannot be recorded as partially upheld. (6.8)
- e) To clarify residents are not required to explain their reasons for requesting their complaint be escalated from Stage 1 to Stage 2. This should not inhibit the progress of their case. (6.14)
- f) To establish that if landlords need an extension to provide a Stage 2 response, this must not be for more than 20 working days without good reason, and this being explained to the resident. The current Code provides for an extension up to 10 working days, the change is proposed in response to wider best practice in complaint handling. Residents still have the right to refer

their complaint to the Ombudsman if they disagree with any extension given. (16.18-6.20)

- g) To confirm landlords should have no more than two stages in their complaint handling process. That includes where a landlord uses the service of another organisation to handle part or all of its complaint handling. (6.23-6.26)
- h) To simplify the content on remedies, with separate guidance now available about the factors landlords should consider when formulating fair redress proposals. (Section 7)

Consultation question 2



Are the provisions of the Code sufficient to extend fairness through consistent complaint handling?

Yes / No.

If no, what additional suggestions do you have?

Improving transparency and accountability over complaint handling policy and practice; demonstrating continuous learning and improvement

4.6 Section 8 of the Code sets out requirements for landlords to conduct self-assessments against the provisions in it. It also identifies reporting requirements. Section 9 of the Code sets out our expectations around scrutiny and oversight of complaint handling by landlords.

4.5 Key aspects of the Code to note includes (section references shown in brackets):

- a) To confirm that governing bodies receive the landlords self-assessments against the Code. This assessment should also be published. (8.2)
- b) To confirm the appointment from the governing body (board or scrutiny committee) of a Member Responsible for Complaints (MRC) and provide more information about this role. (9.5-9.6)
- c) To support an information report to the landlord's governing body and the MRC. (9.7)
- d) To clarify the requirement for a standard objective in relation to complaint handling only relates to relevant staff and third parties. (9.8)
- e) To clarify the complaint handling and service improvement report will now form part of the self-assessment process.

Consultation question 3



Do the provisions of the Code increase landlords' transparency and accountability to their residents?

Yes / No.

If no, what suggestions do you have?

Consultation Question 4



Do the provisions of the Code help to embed a positive complaint handling culture?

Yes / No.

If no, what suggestions do you have?

5. The Housing Ombudsman Service new duty to monitor landlords' compliance with the Code

Self-assessment of compliance with the Code by landlords

5.1 The Code was introduced in 2020 alongside a self-assessment which allowed landlords to assure themselves that they were complying with it.

5.2 The current Code includes 'comply or explain' principles that allow landlords to provide evidence and reasons for not complying with elements of the Code. We currently review landlords' explanations where concerns have been identified through complaints to the Ombudsman.

5.3 With the implementation of the Social Housing (Regulation) Act 2023, landlords have a legal duty to deliver against the Code and demonstrate they have done so.

5.4 For residents, this will mean an ability to hold their landlord to account and see how it is performing on complaints. Residents may be able to do this where the landlord engages them in the self-assessment exercise. Additionally, landlords are expected to publish its self-assessment.

5.5 We have developed the Code self-assessment (Appendix A) based on feedback including:

- a) To make clear to landlords which provisions of the Code must be delivered and to require evidence to support assessments of compliance.

- b) If landlords decide they are unable to comply with a specific element of the Code, they must provide their reasons and evidence as part of the self-assessment
- c) If landlords are unable to comply with their published policy as a result of exceptional circumstances, they must inform their residents and the Ombudsman and provide a timescale by which they will return to compliance
- d) Landlords will be required to publish their self-assessments annually. Landlords may need to re-assess in specific circumstances such as a merger, policy review or in response to an order by the Ombudsman.

5.5 We have developed the remainder of the complaint performance and service improvement report based on best practice with regard to transparent reporting of performance and learning.

Consultation Question 5



Does the complaint performance and service improvement report provide a sufficient framework for landlords' governing bodies, residents and other stakeholders to have oversight of complaints handling policy, practice and learning?

Yes / No.

If no, what suggestions do you have?

The Housing Ombudsman's new duty to monitor Code compliance

5.6 The Social Housing (Regulation) Act 2023 places a duty on HOS to monitor landlords' compliance with the Code.

5.7 This duty covers all member landlords, and applies regardless of whether a complaint has been referred to the Ombudsman. This supports HOS to extend fairness by enabling us to make further enquiries and act to ensure compliance without the need for a complaint to be referred to HOS by a resident.

5.8 In carrying out this duty, we intend to continue our assessment of landlord policy compliance with the Code through reviews of self-assessments.

5.9 We intend to assess compliance in practice through the other information required in the complaint performance and service improvement report and through additional sources of intelligence. Complaint handling performance information is reported to the Regulator of Social Housing under Tenant Satisfaction Measures; the two measures which are most relevant are CH01 (complaints relative to the size of the landlord) and CH03 (complaints responded to within Complaint Handling Code timescales). We believe the reporting burden on landlords would be lightened by

reusing this data as part of the complaint performance and service improvement report qualitative analysis.

5.10 Consequently, we intend to ask all landlords to submit their complaint performance and service improvement report in line with their timetable for Tenant Satisfaction Measure returns.

5.11 In our review of landlord compliance, we may sometimes require further information or clarification from landlords and will continue to use our powers set out in the Scheme to do so.

5.12 To date, where we have found instances of non-compliance landlords have responded positively and demonstrated a willingness to resolve these issues. When performing our compliance monitoring duty, we intend to continue with this approach - notifying landlords of any actions needed, setting reasonable timescales for action and tracking delivery.

5.13 In the unlikely event that a landlord refuses to comply with the Code despite being notified, we will use our powers set out in the Scheme . This may include issuing a Complaint Handling Failure Order.

5.14 Where the volume of submissions received in a month exceeds our capacity to assess compliance, we intend to prioritise our work as follows:

- a) Landlords where we have issued a severe maladministration finding on complaint handling or there was non-compliance with a Complaint Handling Failure Order in the previous financial year.
- b) Landlords where we have issued a Complaint Handling Failure Order in the previous financial year.
- c) Landlords where we have issued a landlord performance report.
- d) Landlords where we have not received a complaint during the previous financial year.
- e) Remaining landlords tackled in bands by size, largest first.

Consultation Question 6



Are our plans to align submissions with Tenant Satisfaction Measure returns an effective approach?

Yes / No.

If no, what suggestions do you have?

Consultation Question 7



Do our plans to use the complaint performance and service improvement report provide a suitable baseline for HOS to monitor compliance across the sector?

Yes / No.

If no, what suggestions do you have?

Consultation Question 8



Is our proposed prioritisation of Code compliance assessments, in the event of demand exceeding capacity, fair and reasonable?

Yes / No.

Please explain why and what ideas you have for achieving this outcomes by other mean

7. A final word...

7.1 If you have any other general comments about the Complaint Handling Code, the proposals for updating it, our approach to the duty to monitor compliance or on any other related matters, please let us know here.

Code Consultation Question 9



Do you have any other relevant comments you would like us to consider?