

FAQs on the Complaint Handling Code

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Code Consultation

Why is the Ombudsman consulting on the Complaint Handling Code?

The Social Housing (Regulation) Act 2023 (the Act) places the Complaints Handling Code (the Code) onto a statutory footing. The Act confirms that any statutory guidance, including the Code must be consulted with member landlords, residents and the Regulator of Social Housing.

We are also consulting on our plans to monitor compliance with the Code.

What are the main changes to the Code?

You can read the full details in our consultation document, which can be [found online](#), and we would encourage all potential participants to read this. 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.

The main areas we are strengthening are:

- Increasing awareness and access to landlords' complaints processes
- Extending fairness through consistent complaint handling across the sector
- Improving transparency and accountability over complaint handling policy and practice
- Demonstrating continuous learning and improvement

We are also confirming that all sections of the Code will be mandatory for landlords; they must ensure that each provision is complied with.

How can I give my views?

Member landlords are being invited to give one corporate response to the consultation questions. Residents are invited to give individual responses to the consultation using our online form or using one of the methods below:

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.

Statutory Code

Do landlords need to be fully compliant by 1 April 2024?

We will publish the new version of the Code in January 2024, and landlords will need to be compliant from 1 April 2024 as compliance with the Code will be a statutory requirement from that date. In the interim, landlords should continue to ensure that they are compliant with the provisions of the current Code.

Landlords are expected to do their self-assessment on the new version of the Code at the earliest opportunity, taking into account the need to evidence their compliance and gain approval from the Board (or equivalent).

Landlords must also re-assess after a significant restructure and/or change in policy, procedure or approach. Landlords may be ordered to complete self-assessments as part of an investigation response.

What is a good reason to deviate from the Code?

The Code is statutory for social landlords and they must comply with all provisions included.

There may be exceptional circumstances that a landlord cannot comply with a particular provision of the Code. Landlords are expected to explain any such circumstances in their self-assessment. The Ombudsman will then consider the reasons and take action if appropriate.

Examples of reasons which may be considered are:

- Publication of the complaints policy on a website, if a landlord does not have one. In these circumstances, landlords would be expected to set out how it will ensure residents are aware of the policy such as providing a printed copy in communal areas.
- Definition of a complaint if a landlord has identified a need to create a pictorial version given its resident profile. In these circumstances, landlords would be expected to set out how it has developed the different definition and how it has assured itself that the definition will not act as a barrier to complaints.

Submission of Self-Assessments

How will landlords need to submit to the Ombudsman?

Landlords will be expected to submit their completed self-assessment to confirm that they are compliant with the Code. They will be asked to provide their completed self-assessments via an online form. Full guidance will be provided.

How will the Ombudsman use the self-assessments?

We intend to continue our assessment of landlord policy compliance with the Code through reviews of self-assessments. This will be supported by the new

requirement to submit these because it means we can review compliance with the Code without a complaint being referred to us.

What should we do if there are exceptional circumstances that prevent us from following our policy?

If a landlord has enacted its Business Continuity Planning in response to issues such as a cyber incident, they should assess whether an interim policy is required and if so, what the period of review will be. Landlords will be expected to provide an updated self-assessment to the Ombudsman.

Section 1 – Definition of a complaint

Can we use our own wording for the definition of a complaint?

No. Landlords must ensure that if an alternative approach is used (for example a pictorial definition) that it meets the definition set in the Code.

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.

Section 2 – Exclusions

Is there a list of reasons we can exclude a complaint?

No. This is because organisations are expected to consider their residents and operational arrangements when setting their policy. It also encourages landlords to consider each complaint on its own merits, which is an important principle of dispute resolution. Landlords may refer to the Housing Ombudsman Scheme for a full explanation of exclusions as guidance.

Under what circumstances we should stop consideration of a complaint due to legal proceedings?

Landlords should not hide behind legal proceedings and use them as a way of avoiding the complaints process. It is easier to resolve issues outside of the legal process.

The Ombudsman expects to see a landlord use its complaints process as part of its 'pre action protocol' stage, as an alternative dispute resolution process. The Code articulates what we consider to be the start of legal proceedings and under what circumstances a landlord may stop consideration of a complaint. Landlords should be able to evidence their reasoning for stopping their consideration of a complaint under any circumstances.

Section 3 – Accessibility and awareness

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. If a landlord chooses to take this approach, it should ensure that the separate policy is published on its website to ensure residents are aware of what this means for them.

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 not considered reasonable.

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 and take this into account when responding.

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.

Where this is the case, landlords must ensure that this is detailed in its self-assessment under the 'comply or explain' principles set out in the Code.

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.

Do landlords have to raise complaints from anonymous individuals, or those that state that they wish to remain anonymous?

The Ombudsman recognises that there may be times that landlords are approached by unnamed individuals who wish to make a complaint. Landlords are expected to make reasonable enquiries to understand the issue reported and whether the individual complaining is a resident.

Do landlords have to raise complaints from groups of residents or resident associations?

The Ombudsman expects landlords to accept complaints unless there are valid reasons to do so. Landlords are expected to consider each complaint on its own individual merits and this includes those made by groups of residents.

Landlords should consider the substantive issue(s) reported to them and make a decision about how best to respond to the concerns effectively whilst ensuring that any personal or sensitive information is handled appropriately.

For example, where the substantive issue is impacting on residents in a similar way, a landlord may choose to ask the group to nominate a lead complainant to act as a representative for all those affected. Alternatively, if the substantive issue is similar, but impacting on individuals differently, the landlord may decide to open individual complaints for all those affected and respond accordingly.

Wherever a landlord is handling a group complaint, it must ensure that it keeps appropriate records to confirm which residents are included in its response, any actions agreed and any remedies offered.

Section 4 – Complaint handling staff

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 in order to handle complaints to a high standard and accordingly, this is not a requirement of the Code. However, the Code does specify that complaints should be prioritised and that other duties should not impact on the complaints officer(s) ability to handle complaints. Landlords are responsible for assuring themselves that this is not the case.

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. If the landlord decides to delegate the complaint handling to a third party, this must form part of the two stage complaints process; no additional stages are permitted in the Code.

The landlord is still responsible for the final complaint decision and for ensuring that the third party is complying with the terms of its membership of the Housing Ombudsman Scheme and compliance with the Code.

Section 5 – The complaint handling process

Can we resolve expressions of dissatisfaction before they become complaints?

An expression of dissatisfaction is a complaint and must be recorded as such.

The Ombudsman encourages the early resolution of issues, but this should be balanced with not blocking access to the complaints process or a drive to bring down volumes of complaints through categorising them as something else. The Code is clear that additional stages such as ‘informal complaints’ or ‘stage 0’ are not acceptable.

Where a resident is reporting an issue for the first time, landlords may consider this as a service request. The landlord would be expected to respond by arranging appropriate action and ensuring this is delivered. This would not be recorded as a complaint and the resident must be informed that their concern has been handled as a service request.

Where a resident is reporting a concern for the second time, the issue is significantly affecting them or where they are asking for a complaint, landlords would be expected to record this as a complaint.

Landlords are expected to set out its approach to service requests and complaints in its policy.

Can we triage complaints?

The Code encourages early identification of complex complaints so landlords can decide on the best way to address the issue and any extension needed to the timescales. Landlords should do this as early as possible after they receive the complaint, rather than wait until closer to the response timescales, and communicate any necessary extensions to the resident as soon as possible.

Landlords must ensure that any extensions are within the timeframes specified by the Code and that residents are provided with contact details for the Housing Ombudsman when they are informed of any extensions.

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. Any delay in allocating the complaint does not extend the timescales.

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, the Ombudsman expects landlords to request consent in the acknowledgement to the resident 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 residents to respond to a stage 1 letter to request escalation?

The Code does not give a timescale for residents to make escalation requests.

If a landlord decides to set a timeframe by which a resident must respond to the stage one letter to request escalation, this must be communicate to the resident. Landlords are expected to consider requests from residents even after any set date has passed. Landlords must not unreasonably decline to escalate a complaint.

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 which must be in line with the exclusions set out in its policy.

Where landlords decline to accept an escalation, they must provide their reasons to the complainant and provide details of the Housing Ombudsman. The Ombudsman will review the individual reasons and may either accept the complaint for investigation or refer the case back to the landlord to request a further review.

The Code states that they must have policies and procedures in place for managing unacceptable behaviour from individuals or their representatives. 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 unacceptable behaviours will be handled, it is sufficient for the complaints policy to link to that policy. If a landlord chooses to take this approach, it should ensure that the separate policy is published on its website to ensure residents are aware of what this means for them.

Section 6 – 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. We would expect landlords to acknowledge the delay, provide its reasons and how it will put this right.

If a landlord identifies that they are likely to miss the agreed timeframe for handling the complaint, this should be explained to the resident at the earliest opportunity – landlords should not wait until the agreed timeframe has expired before alerting the resident to the issue. The new timeframe must not exceed 10 days for stage 1 or 20 working days at stage 2.

Residents have the right to challenge the proposed timeframe where there is an extension by coming to the Ombudsman and must be provided with details about how to contact us for consideration.

What if the resident doesn't provide a reason for wanting a stage 2?

We do not expect residents to have any knowledge of housing law or why they believe something has gone wrong. Whilst most residents will give a clear reason why they are unhappy, they simply need to express that they remain unhappy for a complaint to proceed to stage 2.

Landlords are expected to make reasonable efforts to understand why the resident is unhappy as part of its stage 2 response.

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 is clear that policies must have 2 complaint stages. Landlords may decide to include an Independent Tenants' Panel in place of its current stage 2. If this approach is taken, landlords must ensure that the timescales set out in the Code are met.

Alternatively, the Code encourages resident involvement in complaint handling and views this as a sign of a healthy and positive complaint handling culture, through scrutiny panels and other quality assurance work.

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

Complaint policies can only have up to two stages. The Ombudsman does not consider that a third complaint stage is necessary or in keeping with the principles of efficient complaints handling.

How will a complaint be handled if it falls within the jurisdiction of both the LGSCO and the Housing Ombudsman.

The Housing Ombudsman and LGSCO websites carry guidance over which complaints fall under which jurisdiction. There are some complaints that can fall under the jurisdiction of both organisations and, in those instances, the organisations will

confer on who takes primacy in handling the complaint or if a joint investigation will be undertaken.

Section 7 – Putting things right

If a compensation amount is offered to the resident, is the organisation able to offset this against any rent arrears that the resident may be in?

The Ombudsman has published a guidance note about offsetting which can be found [here](#).

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 involve 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 and provide regular updates to the resident. Landlords should also consider how it will ensure that any redress offered takes into account the impact of the time taken to resolve these issues.

If we have responded to a complainant at stage 1 and they confirm they are happy with the proposed actions, but there are subsequent delays to completing these, do we need to open a new complaint or re-open the stage 1 and escalate it to stage 2?

Landlords must track any outstanding actions and provide regular updates to the resident. If these timescales are further delayed, residents must be advised of this as soon as possible, and informed of the reason. If they are unhappy with the changes, landlords should agree with the resident whether a new complaint should be opened or if their stage 1 should be re-opened and escalated.

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

The landlord must consider 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; this must be clear in any documentation provided to the resident in order to progress payment(s).

Section 8 – Self-assessment, reporting and compliance

Does the organisation have to share its performance report with residents and/or the Ombudsman?

The Code says an annual complaints performance and service improvement report must be reported to its governing body (or equivalent) and published on the on the section of its website relating to complaints. The governing body's response to the report must be published alongside this. So, this information will be available to all interested parties, including residents and the Ombudsman.

Landlords may want to involve resident panels (or equivalent) in their scrutiny process. We would also encourage a landlord to publicise their complaint handling performance and the improvements that have resulted from complaints to encourage a positive complaint handling culture.

Does the Ombudsman have any recommendations on how to share and implement learning and improvement within an organisation?

The Code now sets out the information which landlord boards (or equivalent) should be reviewing. It confirms that landlords are expected to publish a report annually which sets out key information including service improvements so that staff and residents are aware.

The senior executive overseeing complaints and the Member Responsible for Complaints will want to work together to drive a programme of awareness raising and learning across their organisations.

The Code says that landlords must carry out a self-assessment following a significant restructure, what types of circumstances would this include?

The Code confirms that self-assessments must be completed where a merger has been completed. Landlords are also expected to carry out a self-assessment if there is a change to complaint handling procedures.

A key purpose of the self-assessment is to support landlords to assure themselves that their complaint handling policy and procedures comply with the Code. The Ombudsman recognises that landlords are best placed to decide what constitutes a 'significant restructure' and whether a review is required; they should not limit themselves to only mergers or changes in complaint policies.

What should we do if there are exceptional circumstances that prevent us from following our policy?

If a landlord has enacted its Business Continuity Planning in response to issues such as a cyber incident, they should assess whether an interim policy is required and if so, what the period of review will be. Landlords will be expected to provide an updated self-assessment to the Ombudsman.

Section 9 – Scrutiny and oversight: continuous learning and improvement

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

Record keeping and data recording are critical to enable 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 identifying themes and trends that require further analysis to generate learning. You can find more learning about this topic in our [Spotlight report on Knowledge and Information Management](#).

What analysis and reporting do you expect landlords to undertake?

Landlords should consider volume, categories, and outcomes of complaints, alongside complaint handling performance to analyse these and identify themes and trends. They should also consider individual complaints which may require further consideration, attention or a 'deep dive' to assure itself that the root causes of the complaint have been recognised and lessons learned.

We would also expect landlords to review publications and reports issued by the Housing Ombudsman to consider opportunities for learning.

The Ombudsman is now asking for a published report on complaint handling performance, yet the Regulator of Social Housing recently removed certain reporting requirements. Why are you moving in a different direction?

The complaint performance and service improvement report does not replace the Regulator's requirement. Although the report does include performance information, the focus is to support landlords to share how they have used complaints to make positive changes to its services. The main audience for this will be its Governing Body and residents.

What constitutes a 'suitably senior executive' which landlords are expected to appoint to oversee complaint handling performance?

It is for landlords to appoint the person best placed to oversee complaint handling performance. However, the Ombudsman would expect this person to have suitable experience in assessing operational performance, accountability for this performance and for them to have appropriate levels of decision making to resolve any issues identified.

The Ombudsman expects this individual to be a member of the organisations executive team (or equivalent).

Can the Member Responsible for Complaints be a resident or non-executive director?

Yes. Landlords can appoint any individual as the Member Responsible for Complaints and this includes residents, depending on its governance arrangements.

Regardless of who is appointed from its governing body, landlords are expected to provide the Member Responsible for Complaints with appropriate training, guidance and support to ensure that they are able to fulfil this role effectively.

We have a resident scrutiny panel, how does their work fit into the annual report on complaint handling and service improvements?

The Ombudsman encourages landlords to involve residents in scrutinising and challenging its complaint handling procedures and proposed service improvements. This promotes healthy engagement between landlords and its residents, particularly given the unique insights that residents have from their lived experiences.

Landlords will have different arrangements in place to involve residents in its scrutiny and oversight activities and the Ombudsman recognises that this will often have been agreed with residents in response to their views. Regardless of the arrangements in place for scrutiny activities, landlords must publish the annual report on complaint handling and service improvements

Duty to monitor compliance with the Code

The Social Housing (Regulation) Act 2023 places a duty on the Housing Ombudsman to monitor landlords' compliance with the Code. This covers all member landlords, regardless of whether a complaint has been referred to the Ombudsman.

How will you use the self-assessments to monitor compliance with the Code?

The Ombudsman intends to use the self-assessments to confirm if landlords have carried out, and published their self-assessments as required by the Code. We also intend to make further enquiries if a landlord has identified any points within the Code that it is not able to comply with.

We will also use wider information including the Tenant Satisfaction Measures, outcomes from determinations, insights from our casework and wider intelligence to verify if landlords self-assessments are a true reflection of its policies and practices.

What further enquiries will you make to verify if what a landlord reports in its self-assessment is complete and correct?

The enquiries that are made will depend on what landlords have reported in their self-assessment but they may include contacting landlords to request:

- information about current complaint volumes and trends;
- copies of associated policies and procedures such as reasonable adjustments or managing unacceptable behaviours;

- internal reports and/or correspondence about complaint handling.

The Ombudsman may also widen our enquiries using a call for evidence to ask for comments from other stakeholders such as residents or elected representatives if required.

How will you decide which landlords to review if you have lots of submissions in a short period of time?

Whilst the Ombudsman aims to review all submissions, we will prioritise our work to assess the submissions. We propose to do this 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.

But we remain open to ideas about the approach we should be taking.