

## Introduction

The role of the Housing Ombudsman had already expanded in advance of the recent Social Housing (Regulation) Act, which now places its Code on a statutory footing and requires the Ombudsman to ensure that landlords comply with the new Code. Given the additional weight of this statutory basis, we value the opportunity to provide comment and feedback to the Housing Ombudsman through its consultation.

## General points

We welcome the joint approach of the Housing Ombudsman and the Local Government and Social Care Ombudsman on this Code; having one Code across housing providers will simplify the approach for local authorities and all residents. We welcome the ongoing work of the Housing Ombudsman with the Building Safety regulator as well, and hope that this will similarly provide greater consistency in approach, whilst accepting that the measures taken by the different Ombudsmen in response will vary.

Most landlords are already compliant and operating according to the existing Code and will therefore be well placed to meet the requirements of the new Code once finally established after the consultation. However, there are some significant changes that have been raised during the consultation, reflected in our responses to the questions below, which may cause some landlords additional burdens and /or that require greater clarity in the final version.

*Q1. Are the provisions in the Code sufficient to raise awareness and improve access to landlords' complaints processes? Yes / No. If no, what additional suggestions do you have?*

Yes, and it will be strengthened as well by the other requirements being introduced by the Act (such as the requirements on landlords to inform residents of their rights connected with their home and associated services, and their right to complain).

We agree overall with the changes proposed to the awareness of and access to complaints.

The extension to the timeframe for complaints to be made from 6 to 12 months will enable landlords and residents to be assured that issues that are possibly longstanding have been fully rectified before escalating through the complaint scheme (such as resolving damp and mould issues or anti-social behaviour).

The explicit direction that landlords should not exclude complaints relating to health and safety and safeguarding is useful clarification, as is the emphasis that landlords should continue to seek to resolve the original issue whilst the complaints process is ongoing; for most residents the priority is to have the original issue resolved. (We believe that the current Code includes material that would be useful to retain on the difference between service requests and complaints, see the answer below to Q4).

The proposed Code includes a requirement for measures that are anticipatory in terms of access to the service in paragraph 3.1 of the Code; it would be helpful for the Code to provide guidance on what this might involve. Many landlords ensure that information is available via their websites to meet some additional requirements (material in different languages, increased accessibility measures etc). It would be helpful to know if this is what the Housing Ombudsman means when it refers to anticipatory measures or if more is/ will be required to demonstrate compliance.

*Q2. Are the provisions of the Code sufficient to extend fairness through consistent complaint handling? Yes / No. If no, what additional suggestions do you have?*

We note the changes to the timescales for stage one complaints have been clarified and reduced - with acknowledgement within 5 working days and a response within 10 working days of receipt (instead of 10 days of being logged as previously). This may mean that more landlords will need to use the provision of a further 10 days' extension to resolve more complex complaints. If this is still counted as resolution within stage one for the purpose of the Tenant Satisfaction Measures (TSMs) and for compliance with the Code, that will be acceptable. It will clearly encourage speedy resolution where at all possible. Landlords are likely to want to record where they require extensions and any trends in that, but most will be concerned if this is recorded as poor performance in terms of TSM reporting or in the view of and any decision by the Housing Ombudsman itself.

The extension for stage two has been increased; we take it that this is likely to reflect the need where complaints are more complex and is to be welcomed (with the same proviso on reporting for TSMs as with stage one above).

The Code is clear that a complaint is either to be upheld or not in a landlord's process, with no partial upholding. We understand from some of the consultation webinars that this is primarily a matter for clarity in reporting and is intended to help landlords identify where there are patterns of complaints/ problems with specific services. It has been suggested that landlords might cluster complaints around service areas where there are multiple facets to complex complaints. Some guidance on this - whether there should be a set approach for consistency, or flexibility for this to be a matter to be clarified by landlords themselves within their own policies - would be helpful.

*Q3. Do the provisions of the Code increase landlords' transparency and accountability to their residents? Yes / No. If no, what suggestions do you have?*

The Code provides clarity for residents in terms of the complaints process, in setting out two clear stages. We have raised below the concerns that it might act against encouraging a speedy resolution of the original issue at the earliest possible stage and potentially raise tensions with residents (see Q4).

Any involvement of a formal tenants' panels is likely to sit at stage two, where this is valued and agreed by landlord and residents.

What the Code does not touch on is where residents may still want to address their concerns to local councillors and/ or MPs. This is obviously a choice for individual

residents, but it is unclear how, if this is not a formal part of the procedure, this will work with the two stage complaints process proposed. CIH argued for and welcomed the removal of a delay on escalation to the housing Ombudsman as was the previous process.. However, some residents may still wish to involve and seek support from their local representatives as well as escalating to the Ombudsman.

*Q4. Do the provisions of the Code help to embed a positive complaint handling culture? Yes / No. If no, what suggestions do you have?*

The new Code lacks the explicit acknowledgement that many landlords try and do resolve situations with immediate action being agreed with residents, and the role of complaints being to focus on service failures. By strictly requiring an initial indication of dissatisfaction to be logged as a complaint, this may act against some tenants raising their dissatisfaction with a service, where their only and immediate concern is resolution of the original issue. The previous Code was helpful in stating this, with the inclusion of an appendix that provided support for landlords to adopt this approach.

We appreciate that the Housing Ombudsman is aiming to introduce clarity and to ensure that there shouldn't be a process that delays or puts off a complaint when the resident wants to raise one. However, potentially this could delay the resolution of the problem, or increase tensions between resident and landlord. It must be explicit that complaints are initiated where tenants wish to do so. Landlords may still record what led to the expression of dissatisfaction in order to identify trends or problems in service quality and delivery, supporting the learning that the Housing Ombudsman expects and aims for landlords to embed.

The requirement for a senior officer of the organisation and a member of the governing board to ensure there is appropriate and regular oversight at the highest level within the organisation will strengthen a robust culture of positive learning from complaints (section 9). However, this may be a considerable burden for very small organisations with limited staff/ voluntary officers.

*Q5. 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?*

Yes. The self-assessment against the Code within the report is a tool to provide assurance to the Housing Ombudsman on compliance. We anticipate that landlords will look in the long term to develop this report further with input from residents, for example as an outcome of scrutiny reviews, and to be shaped by boards. This would be in line with the co-regulatory approach of the Regulator.

*Q6. Are our plans to align submissions with Tenant Satisfaction Measure returns an effective approach? Yes / No. If no, what suggestions do you have?*

Yes. It makes sense that landlords should be making these connected reports at the same time rather than have different timeframes. However, it is important to acknowledge that there are significant changes for landlords in regulation and the

reporting requirements resulting from the measures of the Social Housing (Regulation) Act all being introduced at the same time. Some flexibility for landlords where this is identified as a potential problem in practice, either by the Regulator or Housing Ombudsman, or both where necessary, until the changes are embedded in landlords' governance and reporting processes would be valued. For this reason, it is vital that the Housing Ombudsman assesses the responses and confirms the final Code as soon as possible to enable landlords to ensure they are prepared, undertake self-assessment and make any changes to ensure compliance as soon as possible.

We understand from some of the consultation webinars that the Housing Ombudsman has held, that the TSM information will be provided under its Memorandum of Understanding from the Regulator. If it requires landlords to provide this separately and directly to the Housing Ombudsman this should be made clear, as it would be a duplication.

The reporting requirements for small landlords on the TSMs are different; clarity on if and how the Housing Ombudsman will require this information from these landlords is needed, and how the Housing Ombudsman might minimise the additional burdens for small landlords with limited resources, from this and other requirements of the Code.

*Q7. 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?*

Yes. These will obviously also be complimented by the Housing Ombudsman's existing and ongoing work with individual complaints over the longer term.

*Q8. 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 outcome by other means.*

The consultation document does not clarify how the Housing Ombudsman will take account of and use the information from the TSMs in prioritising its compliance assessments, although it will require and receive information about these.

*Q9. Do you have any other relevant comments you would like us to consider?*

The increased role of the Housing Ombudsman has led to an increase in the referral of complaints for it to consider, and we understand that there are significant timescales for complaints to be resolved. Having to ensure compliance with the statutory code will add to the overall workload. Arguably the critical concern for individual residents referring their complaints is to have these considered and a determination given in a timely way, and we are concerned that this may be difficult to deliver, given the increased focus on proactive compliance monitoring as well.

Given the new duties for the Housing Ombudsman and the proactive consumer regulatory role for the Regulator of Social Housing, it would be valuable to understand if there will be a review of the workings of the Memorandum of Understanding and how this is supporting the overall aims of information flow and driving service improvement.

In addition, information for residents to ensure clarity on the different roles and responsibilities of the Housing Ombudsman and the Regulator, in respect both of action with landlords and support for and responses to residents, would be valuable (and with other regulators, such as the Building Safety Regulator).

## About CIH

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple - to provide housing professionals and their organisations with the advice, support, and knowledge they need. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in twenty countries on five continents across the world.

Further information is available at: [www.cih.org](http://www.cih.org)

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