

CIH summary of the Housing Ombudsman consultation on the statutory Complaints Handling Code

Summary

The Social Housing (Regulation) Act passed in July 2023 (see CIH's [member briefing](#) here). It has placed the Housing Ombudsman's Complaint Handling Code (the Code) on a statutory footing. Members of the Housing Ombudsman scheme will be required to comply with it and the Ombudsman has a duty to ensure compliance.

As the first stage in this process, the Ombudsman has to [consult](#) on the Code, which is currently underway, with a closing date for responses by 23 November. We would like our members to provide their comments to shape CIH's response – **please contact [Sarah Davis](#) by 14 November with your comments.**

The Code will be adopted across the Housing Ombudsman and the Local Government and Social Care Ombudsman, which will provide greater consistency in approach for local authority landlords (although the Ombudsmen have different powers in response). More detail from the Local Government and Social Care Ombudsman on the Code can be found [here](#).

Members can watch a recording of our recent webinar in which Verity Richards, head of dispute support at the Housing Ombudsman discusses the draft Code and how it will be taken forward: <https://www.cih.org/recordings>.

CIH previously developed a guide on dealing with complaints which can be found here: [How to handle complaints effectively](#).

The impact of a statutory code – landlords' duty to comply and Housing Ombudsman duty to monitor compliance

The changes being proposed to the Code are limited; compliance with the current code will put scheme members in a strong position to respond to and comply with the refreshed code. However, the statutory basis of the Code reinforces its impact for landlords, who will be required to and must be able to evidence this. This will have to include explicit, timed plans to address any temporary non-compliance of any element, where this occurs.

The Housing Ombudsman has a duty to ensure that scheme members are compliant with the new Code, which will be a proactive duty and not limited to investigation when a complaint is raised with them by tenant(s). This will be done through reviews of the annual complaints' performance and service improvement plans (incorporating self-assessments of compliance against the Code), which landlords are required to report to boards and publish for tenants and stakeholders. There is also the data collected through the Tenant Satisfaction Measures (TSMs) (notably CH01: complaints relative to size of landlord and CH02: complaints responded to within Complaint Handling Code timescales).

The Ombudsman will require landlords to submit their complaints performance and service improvement plans to them in line with the timescale required to submit TSMs to the Regulator.

Where a landlord does not work with the Housing Ombudsman on improving its performance in the case of non-compliance, it can take measures including issuing a Complaints Handling Failure Order.

The Ombudsman is keen to know whether the complaints performance and service improvement report is sufficient to enable tenants and stakeholders to have oversight of complaints handling policy, practice and learning or if there are other more effective ways to do so (see questions below, Q5).

It also asks if its plans to align submissions with tenant satisfaction returns is an effective approach (Q6), and if the use of complaints performance and service improvement reports is a suitable baseline to monitor compliance across the sector (Q7).

Awareness of and access to complaints processes

The Code sets out the definition of a complaint, as opposed to a service request. A complaint expresses dissatisfaction with the service and tenants should be able to raise a complaint in many different ways.

There are times when a landlord may exclude a complaint but these are to be considered on merit rather than a blanket approach (see further [guidance](#)).

Proposed changes include:

- Extending the timeframe for complaints to be raised from six months to 12 months from when the tenant might reasonably have become aware of the issue (if problems with conditions recur for example)
- That attempts to resolve the service issue should continue whilst the complaints process is followed
- That complaints concerning safeguarding and health and safety should not be excluded
- Reinforcing landlords' responsibility to comply with the Equalities Act 2010 in making reasonable adjustments to access and use of the complaints process.

The Housing Ombudsman wants to know if these measures are sufficient to raise awareness and improve access or if other measures are required (Q1).

Extending fairness through consistent complaints handling

- The Code emphasises the importance of landlords having clear and accessible complaints policy and staff who are able to prioritise responses (with less prescription on details than formerly)
- It reinforces the requirement that a process should have only two stages for clarity for tenants; excluding any 'informal complaint' stage. Use of an external or independent panel or agency in assessing and responding to complaints must be part of, not additional to, that two stage process

- Stage one acknowledgement must be within 5 working days and responses within 10 working days. Where an extension is required, it should not exceed a further 10 working days
- Stage two can be required by tenants without stating reasons, and should be acknowledged within five working days, with the response made within 20 working days. Any extension should be limited to a further 20 working days. This stage should be undertaken by a different officer from the stage one investigation
- Individual staff and/ or contractors should not be named within responses, as the responsibility is that of the landlord
- A complaint can either be upheld or not; it cannot be partially upheld.

The Housing Ombudsman wants to know if these measures are sufficient to increase fairness through consistent complaints handling, and if not, what more is required (Q2).

Improving transparency and accountability

- The governing board or equivalent of the landlord should receive the annual self-assessment against the Code, which should be published for tenants and stakeholders; the complaints performance and service improvement report will now be part of the self-assessment process
- There should be a recognised Member for Complaints (MRC) on the governing board or equivalent to drive and embed a strong and positive culture in learning from complaints. The MRC and board should receive the information report and updates to review the landlord's complaints handling performance.

The Housing Ombudsman wants to know if these measures will increase landlords' transparency and accountability to their tenants (Q3) and help to embed a positive complaint handling culture (Q4). If not, what more is required.

Prioritising action

Where the volume of submissions exceeds the resources of the Housing Ombudsman to respond in any month, it will take a risk/ severity-based approach to prioritisation:

1. Where there has been a finding of severe maladministration or non-compliance with a Complaints Handling Failure order in the previous financial year
2. Where there has been a Complaints Handling Order issued in the previous financial year
3. Where a landlord's performance report has been issued in the previous financial year
4. Where no complaint has been raised on a landlord in the previous financial year
5. According to landlord size (largest first).

The Housing Ombudsman wants to know if this approach is fair and reasonable or if there are other means to address this (Q8).

Timetable

- The consultation closes on 23 November.

- Comments for CIH's response by 14 November please to sarah.davis@cih.org / 02476 851793
- After analysis of response during the autumn, the HO will issue its statement and final Code early in 2024, and it will come into force on 1 April 2024. Guidance on implementation will also be developed in advance and alongside the Code.

Summary of consultation questions

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?

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?

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

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

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?

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

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?

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.

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