

Housing Ombudsman Service Consultation on the Complaint Handling Code

Introduction

Southern Housing is one of the largest housing providers in the UK with over 77,000 homes across London, the South East, the Isle of Wight and the Midlands.

We welcome the opportunity to comment on the revised Complaint Handling Code. Upon its initial launch Southern Housing signed up on a voluntary basis. We believe this latest draft offers housing associations, local authorities, and their residents much needed extra clarity about the Housing Ombudsman's (the Ombudsman) expectations.

Specifically, we welcome the promotion of individualised approaches by landlords, and an acknowledgment by the Ombudsman that landlords must not take a blanket approach to complaints.

The fact the Code is being placed on a mandatory footing places greater emphasis on some of the detail. For that reason, we're seeking clarification on matters such as:

- resolving complaints in light of court cases
- how we evidence that complaints handlers are not being distracted by other duties
- what counts as early resolution in contrast to an 'additional' stage.

We've queried the proposal that providers will now be required to issue a final response to Stage One complaints within 10 working days of the complaint being received (with a possible extension of 10 more working days). We agree that residents should expect prompt responses to complaints. However, the complexity of some cases will sometimes make it challenging to respond within 10 working days if an adequate investigation is to take place. We're also concerned that determinations ordering the implementation of spotlight reports fall outside the Code, but have the ability to create de facto policy. This should be addressed in the next draft of the Code.

Increasing awareness & access to landlords' complaints processes

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?**

Yes, generally Southern Housing agrees that the provisions in the Code are sufficient to raise awareness of, and improve access to, providers' complaints. In particular we agree with the approach set out in point 2.6 which makes clear landlords must not take

a blanket approach to excluding complaints. This is the approach we currently take and are keen for this to be the standard across the housing industry. Likewise, we strongly agree with points 3.1 and 5.8, which set out more clearly the expectation upon providers in terms of equalities legislation as well as proactively anticipating needs of residents.

However, there are areas where we feel clarifications are required.

Point 1.4 aims to make clear landlords must not stop their efforts to resolve a service request because a related complaint has been raised. Generally, we're happy with this approach – our approach is always to try to find a resolution. However, we'd caveat that if legal action has started (e.g. with a court date or claim submitted), our complaints process would pause, and the courts would look at the particulars within a complaint. The wider complaint could still be resolved by the registered provider. The Code doesn't appear to reflect these circumstances where legal action would necessitate a pause in efforts to resolve the request, and for thoroughness, we'd welcome its inclusion.

Point 2.2 extends the time a resident has for bringing a complaint from six months to 12 months from the point it was reasonable for them to have been aware of the issue. If there's evidence that the proposal for a 12-month cut-off is best practice for complaints, perhaps from other regulated sectors, we'd be keen to see this.

Extending fairness through consistent complaint handling across the sector

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?**

Broadly we believe the Code is sufficient for meeting these aims. However, it would be helpful to clarify some areas to truly extend fairness through consistent complaint handling. One point we particularly welcome is less prescription about the attributes required of complaint handling staff, as set out in points 4.1-4.3. We agree with the Ombudsman that these are operational matters for landlords to deal with.

We also welcome clarification that when communicating with residents, landlords mustn't identify individual members of staff or contractors connected with the complaint issues, except in exceptional circumstances, as set out in point 5.6.

6.14 clarifies that residents aren't required to explain their reasons for requesting their complaint be escalated from Stage One to Stage Two, and that this should not inhibit the progress of their case. We agree with the direction taken in this point, as it also

states that organisations are expected to make reasonable efforts to understand why an individual remains unhappy as part of its stage 2 response. Our view is that understanding the reasons for escalating the complaint is crucial to fully address the concerns and avoid missed opportunities for resolution. Without clear reasons for escalating to Stage Two, it's difficult to understand their dissatisfaction and desired outcome – we don't believe that trying to understand the reasons for escalation constitutes hindering the case's progress, but instead helps.

However, we *are* concerned about the proposal at point 6.2 to grant landlords only 10 working days (possibly extended by an additional 10 working days) to issue a full response to a Stage One complaint. By contrast, the final response to Stage Two reviews must be issued within 20 working days, and with a possible extension of 20 working days. We agree residents should expect prompt responses to complaints. However, it seems counterintuitive to give Stage Two twice as much time when its purpose is to ensure the detailed complaint was handled correctly. As stated at point 6.15 "Stage 2 must not be a more thorough, detailed investigation of the complaint. It is expected that this will have happened at stage 1." In order to achieve this 'thorough, detailed investigation' at Stage One providers need enough time to thoroughly examine complaints that are frequently complex and detailed. Accordingly, we would like to see the Code provide 20 working days to issue a final response to Stage One complaints. We feel this will mitigate the number of complaints being escalated to Stage Two and allow matters to be resolved more efficiently for complainants.

Point 6.8 aims to remove the ability to record a complaint as partially upheld. Our preference would be for the Code to retain the partially upheld category. The partially upheld category is a useful categorisation for some multi-faceted complaints where the majority of the complaint isn't upheld but some parts are. If the facility to record complaints as partially upheld is withdrawn, landlords may be forced to separately record different elements of multi-faceted complaints, which would add unnecessary bureaucracy and complexity. These issues require clarification in the next draft of the Code, otherwise they risk serious disruption to the logging of complaints.

Point 5.2 states that 'informal' additional stages in landlord complaint handling processes are not appropriate, and point 6.23 - 6.26 confirms landlords should have no more than two stages in their complaint handling process. We agree with this approach, and are in favour of simplicity for the sake of both registered providers and residents. However, we believe it would be helpful to clarify how 'early resolutions' are categorised. They sit outside the Stage One and Two categories, and aren't informal additional stages, but an opportunity to resolve issues quicker without the resident having to wait for a response. We'd like to see regard given to these types of activity in the subsequent draft of the Code. Additionally, we'd be keen that the Ombudsman gives examples of what it deems 'informal' additional stages.

Point 4.1 states 'Organisations must have a person or team assigned to take responsibility for complaint handling...This role may be in addition to other duties.' Point 4.3 states that 'It is important that complaints teams are seen as a core service, and not given any additional roles that impact their ability to handle complaints effectively.' We agree complaints should be handled by trained individuals with dedicated time and expertise. We're keen to understand what provisions the Ombudsman would like to see put in place to evidence and assure them that other duties do not impact on the complaints officer(s') ability to handle complaints.

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

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?**

Yes, we do believe these provisions increase transparency and accountability to residents. The detail provided on the information the Member and the governing body (or equivalent) must receive is helpful. We'd welcome more detail though on what the Ombudsman feels is an appropriate level of staffing to support the Member Responsible for Complaints to perform this role and report on their findings.

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?**

In the main, we believe the new Code will have a positive impact in the complaints process. We support the inclusion of a standard objective for complaint handling at point 9.8, and welcome the clarification that it relates to relevant staff and third parties.

However, it'd be helpful if point 5.3 were reconsidered. This states that "when an individual expresses dissatisfaction, organisations must register the issues as a complaint". We don't believe registering all dissatisfaction as a complaint will deliver the best possible experience for our residents, who often prefer quick results and fixes. We want to work with residents to constructively deal with issues as part of early resolution, as set out in point 5.2. In the same spirit, we also believe 4.1 of the existing Code relating to early and local resolution should be reintroduced.

Points 9.5 - 9.6 confirm that the appointment from the governing body (board or scrutiny committee) of a Member Responsible for Complaints (MRC) is required, and that registered providers should provide more information about this role. We'd like more detail on the Ombudsman's expectations around the information required.

Self-assessment of compliance with the Code by landlords

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?**

Yes, we believe that a sufficient framework has been provided in the draft Code for stakeholders to have oversight of a landlords' complaints handling policy, practice and learning. We agree with all of the changes made and believe these are reasonable and proportionate.

The Housing Ombudsman's new duty to monitor Code compliance

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?**

Yes, Southern Housing is supportive of measures to streamline work between Ombudsman and the Regulator. However, a return in April might not allow for a thorough assessment to be made of the previous financial year. Moving the deadline to May (alongside the SDR) may be more realistic.

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?**

While we're supportive of the principle of self-assessment, the consultation document also states that 'additional sources of intelligence' will be used in assessing compliance. Our suggestion would be that additional sources used by the Housing Ombudsman to monitor compliance should be proportionate, relevant, and led by residents. The Ombudsman should prioritise evidence centred on the experiences and requirements of residents.

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 outcome by other means.**

We tentatively agree that the prioritisation approach is fair and reasonable. However, as we think the Ombudsman would acknowledge, it's difficult to assess this given this will be the first time the Code has had such significance. We'd suggest the Ombudsman looks to the prioritisation processes taken by the Ombudsman in other regulated sectors, including health and utilities, for best practice and learning. Certainly, after the first year of full implementation of the new Code, it would be helpful if the Ombudsman were to conduct and publish a review of prioritisation, perhaps with

the opportunity for further consultation with key stakeholders including residents and registered providers.

Other

Question 9: Do you have any other relevant comments you would like us to consider?

Firstly, we believe registered providers will require more time to implement changes to systems, and that the current timescale of April 2024 is not realistic. Showing compliance with the Code will be challenging, and policy changes must undergo a rigorous approval process. Additionally, time for training for complaint handlers on the new Code is needed. Accordingly, it would be helpful to have a transition period for evidencing compliance with the new regime, for those who are first assessed after the changes have come into effect.

We're also concerned by the omission of any reference to resolving issues '*there and then*' or by agreeing appropriate action '*immediately*'. These sections of the current Code (1.4 and 4.1) enable landlords to take quick action to resolve issues prior to a formal stage 1 investigation if that is agreeable to the complainant. When the current Code was being introduced, many landlords argued that they resolved large numbers of issues in this way and any requirement to stop doing so would be contrary to the principles of speedy and effective dispute resolution, which the Housing Ombudsman promotes.

We'd welcome amendments to the Code that make it more customer focused, by allowing for resolution before Stage One. Some real-life examples of what types of issues the Ombudsman would expect to be resolved before Stage One could be helpful to interpret the Code.

Simplification of the Code and changes in language could also make it more accessible.

Finally, we're also concerned determinations ordering the implementation of spotlight reports fall outside the Code, but have the ability to create de facto policy. It would be helpful if due attention were paid to this in the subsequent draft of the Code. Transparency on the formulation of spotlight reports, including evidence bases and sector engagement, is crucial for effective enforcement. The Code should also provide clear roles and responsibilities for the Ombudsman in implementing and enforcing these reports.