

**TAUNTON HERITAGE TRUST****Complaints Policy and Procedure of Taunton Heritage Trust****1. Introduction**

The Taunton Heritage Trust views complaints as an opportunity to learn and improve for the future, as well as a chance to put things right for the person or organisation that has made the complaint.

Our policy is:

- To provide a fair complaints procedure which is clear, flexible and easy to use for anyone wishing to make a complaint and responsive to the needs of individual complaints.
- To ensure that those who complain are listened to with courtesy and empathy
- To ensure that complainants will never be disadvantaged because of making a complaint
- To make sure everyone at the Taunton Heritage Trust knows what to do if a complaint is received
- To make sure all complaints are investigated fairly and in a timely way
- To make sure that complaints are, wherever possible, resolved and that relationships are repaired by taking timely appropriate action or remedies
- To give apologies, if appropriate
- To create a positive complaint handling culture through continuous learning and improvement and to gather information which helps us to improve what we do.
- As a registered social housing provider, to adhere to The Housing Ombudsman's Complaint Handling Code when dealing with Residents' complaints. (The Code is attached at Appendix I)
- To comply with confidentiality and data protection regulations when complaint handling
- To provide a copy of our Complaints Policy and Procedure to anyone on request and in an accessible format

**2. Compliance**

Taunton Heritage Trust is a member landlord of the Housing Ombudsman service. Under that Scheme the Trust must:

- agree to be bound by the terms of the Scheme
- establish and maintain a complaints procedure in accordance with any good practice recommended by the Ombudsman
- as part of that procedure, inform Residents of their right to bring complaints to the Ombudsman under the Scheme
- publish its complaints procedure and make information about this easily accessible to those entitled to complain on its website and in correspondence with Residents
- manage complaints from Residents in accordance with its published procedure or, where this is not possible, within a reasonable timescale
- respond promptly to information requests made by the Housing Ombudsman Service as part of the ongoing investigation into complaints from Residents.

### **3. Definition of a Complaint**

A complaint is any expression of dissatisfaction, whether justified or not, about any aspect of the Taunton Heritage Trust.

In relation to a complaint from a Resident, The Housing Ombudsman's Complaint Handling Code states that:

'A complaint shall be defined as an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own Staff, or those acting on its behalf, affecting an individual resident or group of Residents.

The Resident does not have to use the word complaint for it to be treated as such.' A complaint that is submitted via a third party or representative must still be handled in line with the landlord's complaints policy.

### **4. Where complaints come from**

Complaints may come from:

- Residents, their carers, their families, or a representative of a Resident
- Grant recipients or referral organisations
- A contractor or supplier
- Any person or organisation who has a legitimate interest in the Taunton Heritage Trust
- Complaints may also be made about the Trust to the Charity Commission, Housing Ombudsman or other regulator. The Trust acknowledges its obligation to cooperate with any requests from regulators in relation to complaints.

### **5. Types of Complaints**

A complaint may be about (this list is not exhaustive):

- The service we provide
- The accommodation we provide
- Our grants scheme
- A Resident
- A member of Staff or Trustee
- A contractor or supplier

This policy does not cover complaints from Staff, who should use the Taunton Heritage Trust's Discipline and Grievance policies and procedures.

### **6. Exclusions**

The Trust will not be able to deal with an issue through the Complaints Procedure if:

- Legal proceedings have been started
- The complainant is anonymous, unless there is sufficient documentary evidence to substantiate the complaint
- The issue has already been considered
- The issue occurred 6 months or more ago
- The issue is a recurring one

If the Trust decides not to accept a complaint, a detailed explanation will be provided setting out the reason why the matter is not suitable for the complaints process.

## **7. Receiving Complaints/Accessibility**

A complaint can be received verbally: by phone, by email, in writing, or orally.

### **Publicised Contact Details for Complaints:**

Written complaints should be sent to the Chief Officer, Taunton Heritage Trust, Huish Homes, Magdalene Street, Taunton TA1 1SG or by e-mail at [chiefofficer@tauntonheritagetrust.org.uk](mailto:chiefofficer@tauntonheritagetrust.org.uk).

Verbal complaints may be made by phone to the Chief Officer 01823 335348.

If a complaint relates to the Chief Officer, a written complaint should be sent to the Chair, Taunton Heritage Trust, Huish Homes, Magdalene Street, Taunton TA1 1SG.

### **Charity Commission:**

The Charity Commission website states that 'complaints should be made directly to the charity about which you are complaining and that if you are not happy with how the charity deals with the complaint you should contact the relevant regulator'.

### **Housing Ombudsman Service:**

If a Resident remains dissatisfied about the outcome of their complaint, they have the right to take the matter to The Housing Ombudsman whose address is: PO Box 152 Liverpool L33 7WQ. Tel: 0300 111 3000. When writing to the Ombudsman please state your full name and address, telephone number (if any) and set out the details of the complaint. The Ombudsman will only be able to consider a complaint if they are satisfied that the Trust's own Complaints Procedure, as detailed above, has been fully exhausted and that it falls within their jurisdiction. [www.housing-ombudsman.org.uk](http://www.housing-ombudsman.org.uk)

The Housing Ombudsman Service can assist Residents and relatives throughout all stages of their complaint through the engagement of their dispute support advisors.

### **Complaints from Residents:**

Residents are encouraged to raise minor complaints informally and verbally in the first instance with their Warden, as this can lead to better understanding and very often a quick resolution of the issue.

If further enquiries are needed to resolve the matter, or if the resident requests it, the issue must be logged as a complaint.

There is difference between a service request, where a resident may be unhappy with a situation that they wish to have rectified, and a complaint about the service they have/have not received.

If the complaint cannot be resolved quickly or is more serious it should be made in writing to the Chief Officer who will follow the Complaints Procedure given below. A written complaint should contain sufficient detail to enable the Trust to respond.

The individual complainant must act solely in his/her interest and must not act as a self-appointed spokesperson allegedly on behalf of all the other Residents. A Resident however may have a representative deal with the complaint on their behalf and be

represented and/or accompanied at any meeting with the Trust where this has been requested/ offered or where this is reasonable.

**All other complaints:**

All other non-Resident verbal complaints, either in person or by phone, made to any member of Staff or Trustee should be passed to the Chief Officer to investigate or delegate to the appropriate person to investigate or take appropriate action.

All written/email complaints must go directly to the Chief Officer to investigate or delegate to the appropriate person to investigate or take appropriate action.

Complaints received by telephone or in person need to be recorded. The person who receives a phone or in-person complaint should:

- Document the facts of the complaint
- Take the complainant's name, address, and telephone number
- Note down the relationship of the complainant to the Trust
- Tell the complainant that we have a complaints procedure
- Tell the complainant what will happen next and how long it will take
- Where appropriate, ask the complainant to send a written account by post or by email so that the complaint is recorded in the complainant's own words.

Appendix 2 gives some practical guidance for Staff handling oral complaints

**8. Communication with complainant**

All correspondence relating to complaints shall use plain language that is appropriate to the complainant.

At the completion of each stage (see Complaints Procedure below) the Trust will write to the complainant advising them of the following:

- The complaint stage
- The outcome of the complaint
- The reasons for any decisions made
- The details of any remedy offered to put things right
- Details of any outstanding actions
- Details of how to escalate the matter if dissatisfied

As part of the Complaint Policy the Complainant shall be given a fair opportunity to:

- Set out their position
- Comment on any adverse findings before a final decision is made.

**9. Variation of the Complaints Procedure**

The Board may vary the procedure for good reason. This may be necessary to avoid a conflict of interest, for example, a complaint about the Chair should not also have the Chair as the person leading a Stage Two review.

**10. Monitoring and Learning from Complaints**

Complaints are reviewed regularly to identify any trends which may indicate a need to take further action or assess risks.

The Trust will complete and report to the Board the Housing Ombudsman Service Self-Assessment form (copy at the back of the Ombudsman's Complaint Handling Code at appendix 1). The form will also be published on our website.

#### **11. Responsibility**

Overall responsibility for this policy and its implementation lies with the Board of Trustees via the Governance, Strategy and Policy Committee.

#### **12. Confidentiality**

All complaint information will be handled sensitively, telling only those who need to know and following any relevant data protection requirements.

#### **13. Publicising this Complaints Policy and Procedure**

The policy is displayed on the Trust's website, referred to in the Resident's handbook and included in the Resident Welcome Pack.

#### **14. Unacceptable behaviour during the complaints process**

A complainant who displays threatening or abusive behaviour or language (whether verbal or written) that causes Staff or Trustees to feel threatened, abused and/or continues to contact the Trust with unreasonable demands during/following a complaint investigation will have their complaint closed and in the case of a Resident may have their appointment set aside.

#### **15. Records**

Records of complaints will be kept by the Trust for 3 years.

## **RESOLVING COMPLAINTS - PROCEDURE**

### **Stage One**

#### If a Resident-related oral complaint

Details of complaint to be recorded by Staff member, noting the specifics of the issue, the complainant's name & contact details and the relationship of the complainant to the Trust. This information must then be passed to the Chief Officer to investigate. The Chief Officer will:

- *Advise the complainant of the THT Complaints Policy & Procedure (and offer a copy)*
- *Advise the complainant what will happen next and how long it may take*
- *Where appropriate, ask the complainant to record a written account, so that the complaint is recorded in the complainant's own words.*
- *Advise the complainant that we will acknowledge the complaint within 5 working days.*

**If the matter is resolved**, the Chief Officer will advise the complainant of the outcome of the matter. Depending on the nature of the matter, the CO may report the outcome to the Residents Committee.

**If the matter is not resolved**, the CO will investigate further, seeking guidance from a Trustee if necessary.

**From this point and at each relevant stage, the Trust will email or write to the complainant advising them of the following & attaching a copy of the Trust's Complaints Policy & Procedure -**

- **The stage of the complaint**
- **The outcome of the complaint**
- **The reasons for any decisions made**
- **The details of any remedy offered to put things right**
- **The details of any outstanding actions**
- **The details of how to escalate the matter if dissatisfied.**

**The complainant must be given a fair opportunity to**

- **Set out their position**
- **Comment on any adverse findings before a final decision is made.**

- If the complaint is about the Chief Officer, this information must be passed to the **Chair**.

## **Stage Two**

### If a Resident-related oral complaint

If the complainant feels that the problem has not been satisfactorily resolved at Stage One, they can request that the complaint is reviewed at Board level. At this stage the complaint will be passed to the Chair of the Trustees who may delegate the matter to other members of the Board, but it will be the Chair who will ultimately report back to the complainant.

The request for Board level review should be acknowledged within a week of receipt and the acknowledgement should set out who will deal with the case and when the complainant can expect a response.

If the complaint relates to a specific individual, they should be informed and given a further opportunity to respond. The person who dealt with the original complaint at Stage One should be kept informed of progress.

Ideally, complainants should receive a definitive reply within 20 working days from request to escalate. If this is not possible, a progress report should be sent providing an indication of when a full reply will be given.

Whether the complaint is upheld or not, the reply to the complainant should describe the action taken to investigate the complaint, the conclusions from the investigation and any action taken as a result of the complaint.

The decision taken at this stage is final unless the Board decides it is appropriate to seek external assistance with resolution. The complainant can however complain to the Charity Commission or to the Housing Ombudsman at any stage.

**The following procedure must be followed for any written Resident complaint or non-Resident related verbal or written complaint –**

### **Stage One**

Details of complaint if non-Resident related and verbal to be recorded by Staff member, noting the specifics of the issue, the complainant's name & contact details and the relationship of the complainant to the Trust. This information must then be passed to the Chief Officer (CO) who may delegate a colleague to investigate the matter further or may choose to investigate the matter personally. All written non-resident related and Resident related complaints to go to the CO. Either the CO or the delegated colleague will:

- *Advise the complainant of the THT Complaints Policy & Procedure (and offer a copy)*
- *Advise the complainant what will happen next and how long it may take*
- *Where appropriate, ask the complainant to record a written account, so that the complaint is recorded in the complainant's own words.*

**If the matter is resolved**, either the CO or the delegated colleague will advise the complainant of the outcome of the matter and report this (if a colleague) to the CO. Depending on the nature of the matter, the CO may report the outcome to the relevant Committee.

**If the matter is not resolved**, and has been dealt with by a delegated colleague, that colleague must refer the matter to the CO to investigate further, seeking guidance from a Trustee if necessary.

**From this point and at each relevant stage, the Trust will email or write to the complainant advising them of the following & attaching a copy of the Trust's Complaints Policy & Procedure -**

- **The stage of the complaint**
- **The outcome of the complaint**
- **The reasons for any decisions made**
- **The details of any remedy offered to put things right**
- **The details of any outstanding actions**
- **The details of how to escalate the matter if dissatisfied.**

**The complainant must be given a fair opportunity to**

- **Set out their position**
  - **Comment on any adverse findings before a final decision is made.**
- If the complaint is about any colleague other than the Chief Officer, this information must be passed to the Chief Officer to investigate
  - If the complaint is about the Chief Officer, this information must be passed to the Chair.

### **Stage Two**

If the complainant feels that the problem has not been satisfactorily resolved at Stage One, they can request that the complaint is reviewed at Board level. At this stage the complaint will be passed to the Chair of the Trustees who may delegate the matter to other members of the Board, but it will be the Chair who will ultimately report back to the complainant.

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The decision taken at this stage is final unless the Board decides it is appropriate to seek external assistance with resolution. The complainant can however complain to the Charity Commission or to the Housing Ombudsman at any stage.

**Review**

This policy is reviewed every three years and updated as required.

POLICY APPROVED DATE: \_\_\_\_\_2023\_\_\_\_\_

NEXT REVIEW DATE: \_\_\_\_\_2026\_\_\_\_\_

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Appendix 1 – Housing Ombudsman Code

**Housing**  
Ombudsman Service

**The Housing  
Ombudsman's  
Complaint Handling Code**

**Published July 2020**

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## Part A

### 1. Introduction

Complaint handling performs an important strategic role for an organisation, providing vital intelligence on its health, performance and reputation. Data on complaint handling should be considered alongside other management information to provide assurance and assess risks.

The Ombudsman's Complaint Handling Code promotes the progressive use of complaints, providing a high-level framework to support effective handling and prevention alongside learning and development. The Code ensures complaint handling data is being used consistently across landlord members, promotes engagement at different levels within a landlord and sets out expectations for boards or equivalent governance, senior executives and frontline staff.

For boards or equivalent governance, the Code supports culture setting and intelligence for assurance exercises, using complaint data alongside other management information on stock, services and customer feedback to provide insight into their organisation. It is important for governance to understand the complaints their organisations are receiving and the impact of their complaint handling on residents.

For chief executives and senior managers, the Code supports learning from complaints and promotes the open and transparent use of information to assess performance and risks.

For operational staff, the Code supports excellent complaint handling and engagement with the Ombudsman. If the requirements of the Code cannot be delivered this should prompt discussion about what needs to change.

Information on complaints can provide essential insight for governance and should include, although not necessarily be limited to:

- Regular updates on the volume, category and outcome of complaints, alongside complaint handling performance including timely compliance with the Ombudsman's orders
- Review, at least once a year, of issues and trends arising from complaint handling, including discussion of the Ombudsman's yearly landlord performance report and the inclusion of any organisational learning in the landlord's Annual Report
- Consideration of individual complaint outcomes where necessary, including findings of severe maladministration of the Ombudsman or any referrals by it

to regulatory bodies, including scrutiny of any subsequent procedural or organisational changes

- Confirmation that the Complaint Handling Code is being applied.

Compliance with the Code forms part of the membership obligations set out in the Housing Ombudsman Scheme. Landlords should comply with the requirements of the Code. The Code should be read in conjunction with the Scheme.

Landlords are encouraged to promote the Code and to share the outcome of their self-assessment with residents.

## 2. Purpose

The purpose of the Code is to enable landlords to resolve complaints raised by their residents quickly and to use the learning from complaints to drive service improvements. It will also help to create a positive complaint handling culture amongst staff and residents.

Some landlords see complaints as a form of negative feedback. In fact, there are many benefits to be gained from having an effective, efficient complaints process:

- Complaints allow an issue to be resolved before it becomes worse. Those not resolved quickly can take significant resource and time to remedy
- Involvement in complaint resolution develops staff decision-making and engagement
- Complaints provide senior staff with a window into day-to-day operations allowing them to assess effectiveness
- Good complaint handling promotes a positive landlord and resident relationship.

The Ombudsman's Complaint Handling Code sets out requirements for member landlords that will allow them to respond to complaints effectively and fairly.

While member landlords must comply with some elements of the Code, the Ombudsman recognises that each landlord will need to adapt its complaints policy and processes to meet the needs of its residents. Consequently, there are some areas where a landlord can use its discretion. The Code seeks to be prescriptive only where the Ombudsman believes clear and consistent practice by all landlords is essential. Landlords will be asked to self-assess against the Code on a comply and explain basis. Non-compliance could result in the Ombudsman issuing complaint handling failure orders. Separate guidance on these orders has been published by the Ombudsman.

The Code will act as a guide for residents setting out what they can and should expect from their landlord when they complain. The requirements in the Code also provide residents with information about how to make a complaint and how to progress it through the landlord's internal complaints procedure.

The Code supports the regulatory approach to complaints ensuring that a landlord's approach to complaints is clear simple and accessible and ensures that complaints are resolved promptly, politely and fairly.

## Part B

### The Code

1. Definition of a complaint
2. Accessibility and awareness
3. Complaint team, procedure, timeliness and responsiveness
4. Fairness in complaint handling
5. Putting things right
6. Continuous learning and improvement

#### 1. Definition of a complaint

- 1.1. Effective complaint handling should be a resident friendly process that enables residents to be heard and understood. The starting point for this is a mutual understanding of what constitutes a complaint.
- 1.2. A complaint shall be defined as *an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.*
- 1.3. The resident does not have to use the word complaint in order for it to be treated as such. Landlords should recognise the difference between a service request (pre-complaint), survey feedback and a formal complaint and take appropriate steps to resolve the issue for residents as early as possible.

#### Exclusions

- 1.4. A landlord shall accept a complaint unless there is a valid reason not to do so.
- 1.5. A complaints policy shall clearly set out the circumstances in which a matter will not be considered and these circumstances should be fair and reasonable to residents. For example:
  - The issue giving rise to the complaint occurred over six months ago. Where the problem is a recurring issue, the landlord should consider any older reports as part of the background to the complaint if this will help to resolve the issue for the resident. (N.B. it may not be appropriate to rely on this exclusion where complaints concern safeguarding or health and safety issues.)
  - Legal proceedings have been started. Landlords should take steps to ensure that residents are not left without a response for lengthy periods of time, for example, where a letter before action has been received or issued but no court proceedings are started or settlement agreement reached.
  - Matters that have already been considered under the complaints policy.

- 1.6. If a landlord decides not to accept a complaint a detailed explanation should be provided to the resident setting out the reasons why the matter is not suitable for the complaints process.
- 1.7. A resident has the right to challenge this decision by bringing their complaint to the Ombudsman. Where appropriate the Ombudsman will instruct the landlord to take on the complaint.

## **2. Accessibility and awareness**

- 2.1. Landlords shall make it easy for residents to complain, by providing different channels through which residents can make a complaint.
- 2.2. Where a landlord has set up channels to communicate with its residents via social media, such as Facebook and Twitter, then it should expect to receive complaints via those channels. Policies should contain details of the steps that will be taken when a complaint is received via social media and how confidentiality and privacy will be maintained.
- 2.3. Landlords shall make their complaint policy available in a clear and accessible format for residents. This will detail the number of stages involved, what will happen at each stage and the timeframes for responding.
- 2.4. Landlords shall comply with the Equality Act 2010 and may need to adapt normal policies, procedures, or processes to accommodate an individual's needs. Landlords shall have a reasonable adjustments policy in place to address this.
- 2.5. Landlord websites shall include information on how to raise a complaint. The complaints policy and process shall be easily found and downloadable.
- 2.6. The complaints policy and process should be publicised in leaflets newsletters, online and as part of regular correspondence with residents. A copy should be provided when requested.
- 2.7. Landlords shall provide residents with contact information for the Ombudsman as part of its regular correspondence with residents.
- 2.8. Landlords shall provide early advice to residents regarding their right to access the Housing Ombudsman Service, not only at the point they have exhausted the landlord's complaints process. The Housing Ombudsman Service can assist residents throughout the life of a complaint. This affords the resident the opportunity to engage with the Ombudsman's dispute support advisors.

## **3. Complaint team, procedure, timeliness and responsiveness**

### **Complaint team**

- 3.1 Landlords should have a person or team assigned to take responsibility for complaint handling. This Code will refer to that person or team as the “complaints officer”. For some organisations, particularly smaller landlords, we recognise that this role may not be dedicated to complaint handling.
- 3.2 Complaints officers are one of the most important factors in ensuring that the complaints handling works well. Complaints officers should:
- be able to act sensitively and fairly
  - be trained to receive complaints and deal with distressed and upset residents
  - have access to staff at all levels to facilitate quick resolution of complaints
  - have the authority and autonomy to act to resolve disputes quickly and fairly.

Residents are more likely to be satisfied with complaint handling if the person dealing with their complaint is competent, empathetic and efficient.

### **Complaints procedure**

- 3.3 When a complaint is made to the landlord it shall be acknowledged and logged at stage one of the complaints procedure.
- 3.4 Landlords should confirm their understanding of the complaint and the outcomes being sought with the resident. Clarification should be sought if the complaint is not clear.
- 3.5 If the complaint is not resolved to the resident’s satisfaction it shall be progressed to the next stage in accordance with the landlord’s procedure and the timescales set out in this Code.
- 3.6 A landlord’s complaints procedure shall comprise of two stages. This ensures that a resident has the opportunity to challenge any decision by correcting errors or sharing concerns via an appeal process.
- 3.7 The Ombudsman welcomes involvement by residents or senior executives outside the complaints team as part of the review process.
- 3.8 The Ombudsman does not believe a third stage is necessary as part of a complaints process but if a landlord believes strongly it requires one, it should set out its reasons as part of the self-assessment. A process with more than three stages is not acceptable under any circumstances in the Ombudsman’s view.
- 3.9 In the final decision the landlord’s policy shall include the right to refer the complaint to the Housing Ombudsman Service. This should be through a

designated person within eight weeks of the final decision or directly by the resident after eight weeks.

- 3.10 A full record shall be kept of the complaint, any review and the outcomes at each stage. This should include the original complaint and the date received; all correspondence with the resident, correspondence with other parties and any reports or surveys prepared.

### **Timeframe for responses**

- 3.11 A landlord's complaints procedure shall include the following maximum timescales for response:

- Logging and acknowledgement of complaint – five working days
- Stage one decision – 10 working days from receipt of complaint – if this is not possible, an explanation and a date by when the stage one response should be received. This should not exceed a further 10 days without good reason
- Stage two response – 20 working days from request to escalate – if this is not possible an explanation and a date when the stage two response will be received. This should not exceed a further 10 working days without good reason
- Stage three response – where a landlord believes this stage is absolutely necessary a response should be sent within 20 working days from request to escalate. Any additional time will only be justified if related to convening a panel. An explanation and a date when the stage three response will be achieved should be provided to the resident.

- 3.12 A landlord may choose to set shorter response times for each stage of the complaints procedure but response times must not exceed those set out above.

### **Communication with residents**

- 3.13 When communicating with residents, landlords shall use plain language that is appropriate to the resident.

- 3.14 Landlords shall address all points raised in the complaint and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.

- 3.15 At the completion of each stage of the complaints process the landlord should write to the resident advising them of the following:

- the complaint stage
- the outcome of the complaint
- the reasons for any decisions made

- the details of any remedy offered to put things right
- details of any outstanding actions
- details of how to escalate the matter if dissatisfied.

3.16 As part of the complaint policy the resident shall be given a fair opportunity to:

- set out their position
- comment on any adverse findings before a final decision is made.

3.17 Communication with the resident should not generally identify individual members of staff or contractors as their actions are undertaken on behalf of the landlord.

3.18 Landlords should adhere to any arrangements agreed with residents in terms of frequency and method of communication.

3.19 Landlords should keep residents regularly updated and informed even where there is no new information to provide.

### **Duty to cooperate with the Ombudsman**

3.20 When the resident remains dissatisfied at the end of the landlord's complaints process, they may bring their complaint to the Ombudsman. Landlords shall cooperate with the Ombudsman's requests for evidence and provide this within 15 working days. If a response cannot be provided within this timeframe, the landlord shall provide the Ombudsman with an explanation for the delay. If the explanation is reasonable, the Ombudsman will agree a revised date with the landlord.

3.21 Failure to provide evidence to the Ombudsman in a timely manner may result in the Ombudsman issuing a complaint handling failure order.

## **4. Fairness in complaint handling**

4.1. Landlords shall operate a resident-focused complaints process ensuring they are given the opportunity to explain their point of view and the outcome they are seeking before a decision is reached.

4.2. Landlords should manage residents' expectations from the outset, being clear where a desired outcome is unreasonable or unrealistic.

4.3. Landlords should give residents the opportunity to have a representative deal with their complaint on their behalf, and to be represented and/or accompanied at any meeting with the landlord where this has been requested or offered and where this is reasonable.

4.4. Where a key issue of a complaint relates to the parties' legal obligations the landlord should clearly set out its understanding of the obligations of both parties and seek clarification before doing so where this is not initially clear.

- 4.5. A complaint investigation shall be conducted in an impartial manner, seeking sufficient reliable information from both parties so that fair and appropriate findings and recommendations can be made.
- 4.6. Any complaint investigation shall be fair. To ensure fairness, processes and procedures shall require the complaints officer to:
- deal with complaints on their merits
  - act independently and have an open mind
  - take measures to address any actual or perceived conflict of interest
  - consider all information and evidence carefully
  - keep the complaint confidential as far as possible, with information only disclosed if necessary to properly investigate the matter.
- 4.7. The landlord's assessment of the issue should include:
- what the complaint is about
  - what evidence is needed to fully consider the issues
  - what risks the complaint raises for the landlord • what outcome would resolve the matter for the resident
  - any urgent action that it needs to take.
- 4.8. A complaint should be resolved at the earliest possible opportunity.
- 4.9. The resident, and if applicable any staff member who is the subject of the complaint, must also be given a fair chance to:
- set out their position
  - comment on any adverse findings before a final decision is made.
- 4.10. Complaint policies and processes should set out the circumstances in which a landlord can exercise discretion in how to respond to a complaint and who has the power to exercise that discretion. Landlords should exercise discretion appropriately and provide clear explanations to residents when doing so.
- 4.11. Landlords should not unreasonably refuse to escalate a complaint through all stages of the complaints procedure and must have clear and valid reasons for taking that course of action.
- 4.12. When a resident seeks to escalate a complaint the landlord should consider:
- what the escalation review will be about i.e. why the resident remains dissatisfied, and whether any part of the complaint been resolved
  - who will undertake the review
  - who needs to be kept informed

- what evidence needs to be gathered i.e. comments from those involved, relevant policies and contemporaneous records, inspections etc
  - how long the review will take and when it will be completed.
- 4.13. Where a landlord decides not to escalate a complaint it should provide an explanation to the resident. It should make clear that its previous response was its final response to the complaint and provide information on referral to the Housing Ombudsman.
- 4.14. Landlords should have policies and procedures in place for managing unacceptable behaviour from residents and/or their representatives when pursuing a complaint.
- 4.15. Any restrictions placed on a resident's contact due to unacceptable behaviour should be appropriate to their needs and should demonstrate regard for the provisions of the Equality Act 2010.

## 5. Putting things right

- 5.1. Effective dispute resolution requires a process designed to resolve complaints. Where something has gone wrong a landlord should acknowledge this and set out the actions it has already taken, or intends to take, to put things right. Examples of where action to put things right may be required are:
- there was an unreasonable delay
  - inaccurate or inadequate advice, explanation or information was provided to the resident
  - the landlord's policy or procedure was not followed correctly without good reason
  - there was a factual or legal error that impacted on the outcome for the resident
  - there was unprofessional behaviour by staff.
- 5.2. Landlords should acknowledge and apologise for any failure identified, give an explanation and, where possible, inform the resident of the changes made or actions taken to prevent the issue from happening again.
- 5.3. Landlords should recognise that putting things right is the first step to repairing and rebuilding the landlord and resident relationship.
- 5.4. When considering what action will put things right landlords should carefully manage the expectations of residents. Landlords should not

promise anything that cannot be delivered or would cause unfairness to other residents.

### **Appropriate remedy**

5.5. Complaints can be resolved in a number of ways. A landlord's policy shall require that any remedy offered reflects the extent of any and all service failures, and the level of detriment caused to the resident as a result. These shall include:

- acknowledging where things have gone wrong
- providing an explanation, assistance or reasons
- apologising
- taking action if there has been a delay
- reconsidering or changing a decision
- amending a record
- providing a financial remedy
- changing policies, procedures or practices.

5.6. Any remedy offered must reflect the extent of any service failures and the level of detriment caused to the resident as a result.

5.7. Factors to consider in formulating a remedy can include, but are not limited to the:

- length of time that a situation has been ongoing
- frequency with which something has occurred
- severity of any service failure or omission
- number of different failures
- cumulative impact on the resident
- a resident's particular circumstances or vulnerabilities.

5.8. When offering a remedy, landlords should clearly set out what will happen and by when, in agreement with the resident where appropriate. Any remedy proposed must be followed through to completion.

5.9. In awarding compensation, landlords shall consider whether any statutory payments are due, if any quantifiable losses have been incurred as well as the time and trouble a resident has been put to as well as any distress and inconvenience caused.

### **Concerns about legal liability**

5.10. In some cases a resident may have a legal entitlement to redress. There may be concerns about legal liability in this situation. If so, the landlord should still offer a resolution where possible, as that may remove the need for the resident to pursue legal remedies.

- 5.11. Landlords have a duty to rectify problems for which they are responsible. However, where necessary a resolution can be offered with an explicit statement that there is no admission of liability. In such a case, legal advice as to how any offer of resolution should be worded should be obtained.

For further information on remedies please see <https://www.housing-ombudsman.org.uk/about-us/corporate-information/policies/dispute-resolution/policyon-remedies/>

## 6. Continuous learning and improvement

- 6.1. A positive complaint handling culture is integral to the effectiveness with which landlords resolve disputes, the quality of the service provided, the ability to learn and improve, and the relationship with their residents.
- 6.2. Accountability and transparency should be embedded in a positive complaint handling culture, with landlords providing feedback to residents on failures in complaint handling and the actions taken to learn and improve from this.
- 6.3. Creating and embedding a culture that values complaints and gives them the appropriate level of priority requires strong leadership and management.
- 6.4. A good culture should also recognise the importance of resident involvement, through the formation of resident panels, consulting with residents on the formulation of complaints policies and procedures and through including them in panel hearings as part of the dispute resolution process, where appropriate.
- 6.5. Landlords should look beyond the circumstances of the individual complaint and consider whether anything needs to be 'put right' in terms of process or systems to the benefit of all residents.
- 6.6. An effective complaints process enables a landlord to learn from the issues that arise for residents and to take steps to improve the services it provides and its internal processes. Landlords should have a system in place to look at the complaints received, their outcome and proposed changes as part of its reporting and planning process.
- 6.7. Any themes or trends should be assessed by senior management to identify any systemic issues, serious risks or areas for improvement for appropriate action.
- 6.8. Landlords should proactively use learning from complaints to revise policies and procedures, to train staff and contractors and to improve communication and record-keeping.
- 6.9. Landlord's should recognise the impact that being complained about can have on future service delivery. Landlords should ensure that staff are supported and engaged in the complaints process including the learning that can be gained.

- 6.10. Landlords shall report back on wider learning and improvements from complaints to their residents, managers and staff. Feedback shall be regularly provided to relevant scrutiny panels, committees and boards and be discussed, alongside scrutiny of the Ombudsman's annual landlord performance report.
- 6.11. Learning and improvement from complaints should be included in the landlord's Annual Report.

## Part C

### 1. Compliance

1.1. Under the Housing Ombudsman Scheme a member landlord must:

- agree to be bound by the terms of the Scheme
- establish and maintain a complaints procedure in accordance with any good practice recommended by the Ombudsman
- as part of that procedure, inform residents of their right to bring complaints to the Ombudsman under the Scheme
- publish its complaints procedure and make information about this easily accessible to those entitled to complain on its website and in correspondence with residents
- manage complaints from residents in accordance with its published procedure or, where this is not possible, within a reasonable timescale.
- respond promptly to information requests made by the Housing Ombudsman Service as part of the ongoing investigation into complaints from residents.

1.2. Failure to comply with the conditions of membership may result in an Ombudsman's determination of complaint handling failure and an order to rectify within a given timescale (paragraphs 13 and 73 of the Housing Ombudsman Scheme).

1.3. Failures under the Scheme and Code which would result in a complaint handling failure order include, but are not limited to:

- non-compliance with the Complaint Handling Code
- failure to accept a formal complaint in a timely manner or to exclude a complaint from the complaints process without good reason
- inaccessible complaints process and procedure or unreasonable restrictions as to how a complaint can be made
- not managing complaints from residents in accordance with the complaints policy

- failure to progress a complaint through the complaints procedure
  - failure to respond to a complaint within the set timescales without good reason
  - failure to keep the resident informed and updated
  - failure to notify the resident of the right to refer the complaint to the Ombudsman
  - failure to provide evidence to support investigation by the Ombudsman.
- 1.4. Where a complaint is still within a landlord's complaints procedure or the Ombudsman has requested evidence for investigation the landlord will be informed of any complaint handling failure. Details of the failure will be provided along with any action required to rectify it. Where no action is taken the Ombudsman will issue a complaint handling failure order.
  - 1.5. Each quarter the Ombudsman will publish the total number of complaint handling failure orders issued, the names of the landlords and reasons for the orders and will share this information with the Regulator of Social Housing. The number of complaint handling failure orders issued against a landlord will form part of the Ombudsman's annual landlord performance reports and will be available on the Ombudsman's website.
  - 1.6. In addition, from time to time the Ombudsman may wish to publish a report detailing the specifics of a complaint handling failure case where this would help highlight the impact of the failure on the resolution of the dispute and delays and/or distress caused to residents.
  - 1.7. When carrying out an investigation the Ombudsman will consider whether the landlord dealt with the complaint fairly and will assess this against the requirements of the Code. Any failure identified could result in a finding of service failure or maladministration.
  - 1.8. The Ombudsman will specifically refer to the Code in its findings. Orders and recommendations will be made to put matters right and ensure compliance with the Code.
  - 1.9. The Ombudsman may request evidence of a landlord's self-assessment in order to confirm satisfactory compliance with the Code. Where there have been failures to comply with the Code or in operating an effective complaints procedure, the Ombudsman may issue a complaint handling failure order and ask the landlord to complete the self-assessment as part of the rectification action and to report back to the Ombudsman on its outcome.

- 1.10. Where there are significant concerns regarding a landlord's compliance with the Code the Ombudsman may escalate these to the landlord's board or equivalent, and may refer the matter to the appropriate regulatory body including the Regulator of Social Housing.

## 2. Self-assessment

- 2.1 The Ombudsman expects landlords to carry out regular self-assessment against the Code and take appropriate action to ensure their complaint handling is in line with the Code. This assessment should be completed by 31 December 2020.
- 2.2. The Ombudsman expects landlords to report the outcome of their self-assessment to their board members. In the case of local authorities, self-assessment outcomes should be reported to elected members.
- 2.3. The Ombudsman expects landlords to publish the outcome of their assessments. The Ombudsman may request sight of the assessment and evidence in support. The Ombudsman may require landlords to periodically repeat the self-assessment, for example following any amendments to the Code or significant change to the landlord organisational structure.

### Self-assessment form

Compliance with the Complaint Handling Code			
1	Definition of a complaint	Yes	No
	<p>Does the complaints process use the following definition of a complaint?</p> <p><i>An expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.</i></p>		
	Does the policy have exclusions where a complaint will not be considered?		

	Are these exclusions reasonable and fair to residents?  Evidence relied upon		
<b>2</b>	<b>Accessibility</b>		
	Are multiple accessibility routes available for residents to make a complaint?		
	Is the complaints policy and procedure available online?		
	Do we have a reasonable adjustments policy?		
	Do we regularly advise residents about our complaints process?		
<b>3</b>	<b>Complaints team and process</b>		
	Is there a complaint officer or equivalent in post?		
	Does the complaint officer have autonomy to resolve complaints?		
	Does the complaint officer have authority to compel engagement from other departments to resolve disputes?		
	If there is a third stage to the complaints procedure are residents involved in the decision making?		
	Is any third stage optional for residents?		
	Does the final stage response set out residents' right to refer the matter to the Housing Ombudsman Service?		
	Do we keep a record of complaint correspondence including correspondence from the resident?		
	At what stage are most complaints resolved?		
<b>4</b>	<b>Communication</b>		
	Are residents kept informed and updated during the complaints process?		

	Are residents informed of the landlord's position and given a chance to respond and challenge any area of dispute before the final decision?		
	Are all complaints acknowledged and logged within five days?		
	Are residents advised of how to escalate at the end of each stage?		
	What proportion of complaints are resolved at stage one?		
	What proportion of complaints are resolved at stage two?		

	<p>What proportion of complaint responses are sent within Code timescales?</p> <ul style="list-style-type: none"> <li>• Stage one Stage one (with extension)</li> <li>• Stage two Stage two (with extension)</li> </ul>		
	Where timescales have been extended did we have good reason?		
	Where timescales have been extended did we keep the resident informed?		
	What proportion of complaints do we resolve to residents' satisfaction		
<b>5</b>	<b>Cooperation with Housing Ombudsman Service</b>		
	Were all requests for evidence responded to within 15 days?		
	Where the timescale was extended did we keep the Ombudsman informed?		
<b>6</b>	<b>Fairness in complaint handling</b>		
	Are residents able to complain via a representative throughout?		
	If advice was given, was this accurate and easy to understand?		
	<p>How many cases did we refuse to escalate?</p> <p>What was the reason for the refusal?</p>		
	Did we explain our decision to the resident?		
<b>7</b>	<b>Outcomes and remedies</b>		
	Where something has gone wrong are we taking appropriate steps to put things right?		
<b>8</b>	<b>Continuous learning and improvement</b>		
	What improvements have we made as a result of learning from complaints?		
	<p>How do we share these lessons with:</p> <p>a) residents?</p>		

	<p>b) the board/governing body?</p> <p>c) In the Annual Report?</p>		
	Has the Code made a difference to how we respond to complaints?		
	What changes have we made?		

- Remain calm and respectful throughout the conversation
- Listen - allow the person to talk about the complaint in their own words. Sometimes a person just wants to "let off steam"
- Do not debate the facts in the first instance, especially if the person is angry
- Show an interest in what is being said
- Obtain details about the complaint before any personal details
- Ask for clarification wherever necessary
- Show that you have understood the complaint by reflecting what you have noted down
- Acknowledge the person's feelings (even if you feel that they are being unreasonable) - you can do this without making a comment on the complaint itself or making any admission of fault on behalf of the Trust e.g "I understand that this situation is frustrating for you"
- If you feel that an apology is deserved for something that was the responsibility of the Trust, then apologise
- Ask the person what they would like done to resolve the issue
- Be clear about what you can do, how long it will take and what it will involve
- Do not promise things you cannot deliver
- Give clear and valid reasons why requests cannot be met
- Make sure that the person understands what they have been told
- Wherever appropriate, inform the person about the available avenues of review or appeal