

Code Compliance Framework

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Introduction

Statutory powers

The Social Housing (Regulation) Act 2023 (the Act) empowered the Housing Ombudsman to issue a code of practice about the procedures members of the Scheme should have in place for considering complaints.

It also placed a duty on the Ombudsman to monitor compliance with a code of practice that it has issued.

The Ombudsman consulted on the Complaint Handling Code (the Code) and our intended approach to the duty to monitor in late 2023. The statutory Code will take effect from 1 April 2024 and our duty to monitor compliance will commence at the same time.

Compliance with the Code

The Ombudsman believes all members must comply with all provisions in the Code as this represents best practice in complaint handling.

Where the Housing Ombudsman finds an organisation has deviated from the Code in policy or practice, it may use its powers to put matters right and ensure compliance with the Code. Where a landlord's policy does not comply with the Code, it must provide a detailed explanation for non-compliance in its self-assessment and the date by which it intends to comply.

Where there are exceptional circumstances which mean a landlord cannot meet specific requirements of Code, for example a small provider does not have a website, the Ombudsman will take a proportionate approach. In these circumstances, landlords must undertake all reasonable endeavours to deliver the intentions of the Code in an alternative way, for example by publishing information in a public area so that it is easily accessible.

Where a landlord is unable to comply with the Code due to exceptional circumstances, such as a cyber incident, it must inform the Ombudsman of its reasons, provide information to residents who may be affected, and publish this on their website. The landlord must provide all parties with a timescale for returning to compliance with the Code and the reasonableness of exemptions to the Code during this period may be assessed by the Ombudsman.

Monitoring compliance with the Code

The Ombudsman would like all landlords to have strong local complaint handling and a positive complaint handling culture – resolving complaints earlier and potentially without referral to the Ombudsman extends fairness to the benefit of all residents. This also leads to better services and strengthens relationships with residents.

We will use the duty to monitor compliance to further these aims by supporting better practice and providing opportunities for landlords to demonstrate complaint handling improvements.

Support for improvement will be provided through the Centre for Learning, accessible via our website, which hosts an ever-growing range of tools targeted at complaints handlers, senior managers and governing bodies.

We will monitor compliance in three ways. This will involve ensuring the landlord:

- Has scrutinised and challenged its compliance with the Code at its governing body through review of its self-assessment against the Code, its complaints handling performance and its learning from complaints, and published the outcome on its website annually;
- Complies with the Code in policy; and
- Complies with the Code in practice.

Where a landlord does not meet the requirements in any of the areas and does not move into compliance within a reasonable timescale, the Ombudsman may issue a Complaint Handling Failure Order (CHFO). The Ombudsman provides separate guidance on CHFOs on its website.

Code compliance framework

The Code compliance framework (the framework) sets out how we will assess whether a landlord has effectively scrutinised itself, whether its complaints policy complies with the Code, and whether it complies with the Code in practice.

As the self-assessment represents a snapshot of compliance at a point in time, landlords must re-assess following any significant changes to their organisation or procedures that affect complaint handling (see section 8.3 of the Code). This is also the reason for annual submissions to the Ombudsman.

The framework also sets how we will engage with landlords should they be identified as non-compliant with the Code to resolve the issues presented. It also explains the learning support we will offer and the powers the Ombudsman may use should landlords fail to act in response to our engagement on compliance with the Code.

This document should be read in conjunction with other publications including the Code, the Scheme, associated guidance documents and the systemic framework.

1. Definitions of Code compliance

The Ombudsman will assess landlord compliance with the Code in three areas, and the requirements in all three areas must be met:

Compliance in scrutiny and oversight

Ensuring that the landlord has:

- a) Produced an annual complaints performance and service improvement report, which must include:
 - the annual self-assessment against the Code to ensure their complaint handling policy remains in line with its requirements.
 - a qualitative and quantitative analysis of the landlord's complaint handling performance. This must also include a summary of the types of complaints the landlord has refused to accept;
 - any findings of non-compliance with the Code by the Ombudsman;
 - the service improvements made as a result of the learning from complaints;
 - its actions following any annual report about the landlord's performance from the Ombudsman; and
 - its actions following any other relevant reports or publications produced by the Ombudsman in relation to the work of the landlord.
- b) That the annual complaints performance and service improvement report has been reported to the landlord's governing body (or equivalent) and published on the section of its website relating to complaints. The governing body's response to the report must be published alongside this.

These are Code provisions 8.1 and 8.2.

Compliance in policy:

Ensuring that the landlord's complaints policy meets the expectations of the Code contained in all other provisions.

Compliance in practice:

Ensuring that the landlord's complaints handling meets the expectations of the Code in practice. This assessment is based on an assessment of the landlord's own reported performance, data and insights from the Ombudsman's casework and information from external data sources.

2. Compliance in Scrutiny and Oversight

Requirements

Landlords are required to:

- Produce an annual complaints performance and service improvement report for submission to the governing body;
- Produce a response from the governing body; and
- Publish both of these documents on their website.

Submission process

To meet the scrutiny and challenge compliance threshold, these documents or a link to them from the landlord's website must be submitted via our dedicated electronic form.

Alternative forms, such as word documents, excel spreadsheets or PDFs will be accepted only in exceptional circumstances and where this has been agreed with the Ombudsman in advance. This is to ensure consistency of data collection and analysis.

Reporting complaints handling performance

To simplify the process, the reporting of complaints handled within Code timescales as part of the self-assessment has been aligned to the requirements of the Regulator of Social Housing's Tenant Satisfaction Measures (TSM).

Landlords must report their performance complaints responded to within Complaint Handling Code timescales (CH02) in line with the detailed requirements set out in [Tenant Satisfaction Measures – Technical Requirements](#) (published on the Regulator of Social Housing's website).

Submission dates

Dates for submission of the electronic form by landlords have been aligned with the Regulator of Social Housing's requirements for the publication and submission of TSM outcomes.

Landlords with 1,000 homes or more are required to submit their form by 30 June each year.

Landlords with less than 1,000 properties are required to submit their self-assessments at the point they publish their TSMs or 12 weeks after their year-end, whichever is sooner.

Where landlords have self-reviewed due to a significant restructure, merger and/or change in procedures, these will be reviewed on submission.

Failure to submit

Landlords that fail to provide their submission form by the relevant date may be issued with a Type 3 CHFO setting a timescale for compliance. If there is non-compliance with the order, we may consider if a referral to the governing body or the Regulator of Social Housing is required.

Assessment against the scrutiny and challenge requirements

We will examine all forms submitted. We will contact the landlord where we find that there is:

- No annual complaints performance and service improvement report or that this is incomplete in any way;
- No governing body response; or
- The annual complaints performance and service improvement report and the governing body response are not published on the landlord's website.

We will ask that this is rectified within a reasonable period and the updated form re-submitted.

If the form is not re-submitted within this timescale, we may issue a Type 3 CHFO setting a timescale for compliance. If there is non-compliance with the order, we may consider if a referral to the governing body or the Regulator of Social Housing is required.

3. Compliance in policy

Requirements

Landlords are required to:

- Demonstrate compliance with the Code
- In exceptional circumstances where they are unable to meet a Code provision, they must explain when they will return to compliance, or demonstrate how they have made all reasonable endeavours to meet the intentions in an alternative way.

Assessment of compliance in policy

We will review the landlord's self-assessment against the Code. Where any non-compliance is recorded, we will review the explanation to determine whether the timescale for returning to compliance is reasonable, or that all reasonable endeavours have been made to meet the provision in an alternative, fair and reasonable way.

Where a self-assessment is not clear or appears contradictory to other evidence, data and insight we may hold, including data from open complaints, we may review the landlord's complaint handling policy.

This review is an assessment as to whether the policy is compliant with the Code's requirements, it is not a confirmation of its compliance in practice.

Action if there is non-compliance in policy

Where we need further information to determine if the landlord's approach is fair and reasonable, we will make contact and request a response within 15 working days.

If this information is not submitted within the timescale, we will issue a Type 3 CHFO. If there is non-compliance with the order, we may consider if a referral to the governing body or the Regulator of Social Housing is required.

Where we consider that any deviation from a Code provision is not being returned to compliance within a reasonable timescale, or sufficient endeavours not been made to meet the Code's intentions in an alternative, fair and reasonable way, we will contact the landlord and ask that their complaint handling policy is rectified.

We will also ask that the updated submission form is resent within a reasonable timescale, allowing a reasonable time for governing body oversight.

If the complaint handling policy changes are not made and/or the form is not re-submitted within this timescale, we will issue a Type 3 CHFO. If there is non-

compliance with the order, we may consider if a referral to the governing body or the Regulator of Social Housing is required.

4. Compliance in practice

Requirements:

Landlords are required to handle complaints in line with the provisions set out in the Code.

Assessment of compliance in practice

We will review the landlord's self-reported performance against TSM CH02.

We will review any evidence, data (including any absence of data) and insights from our casework. We will also use information from relevant external sources. This analysis will cover the preceding 12 months.

Action if there are less significant concerns of non-compliance in practice

Where we have minor concerns that complaint handling in practice is not meeting the expectations of the Code, we will suggest that the landlord reviews specific content in our Centre for Learning, hosted via our website.

Action if there are more significant concerns of non-compliance in practice

Where we have more significant concerns with regard to compliance in practice, we will contact the landlord. This contact could:

- Ask the landlord for further evidence; or
- Ask that the landlord amends its practice to meet the expectations of the Code.

Where we need further information, we will ask that the landlord responds within 15 working days.

Where we consider that something needs to be remedied, we will ask that this is completed with evidence is submitted to the Ombudsman within a reasonable timescale.

If the landlord fails to meet these timescales, we may issue a CHFO. If there is non-compliance with the Order, we may consider if a referral to the governing body or the Regulator of Social Housing is required.

Where significant concerns remain, we may visit the landlord to understand what is happening in practice and give the landlord an opportunity to set out the reasons for its performance in more detail. This is set out further below.

Landlord visit

Where we have significant concerns about a landlord's complaint handling in practice, we will contact them to arrange a visit. Concerns may relate to:

- the nature and prevalence of non-compliance with the Code;
- the level of detriment caused by non-compliance;
- the number of residents affected or potentially affected; or
- the length of time non-compliance has persisted or is likely to persist.

Prior to any visit, we will ask the landlord to advise residents when we are coming and why. We will also ask that the landlord provides us with a space where we can speak directly to residents to understand their experience of the landlord's complaint handling. Alternatively, we may ask residents to contact us via a dedicated call for evidence hosted through our website. Where this is the case, we will ask the landlord to advise its residents of this.

The nature and focus of the visit will vary dependent on the area of concern but activities could include:

- interviews with senior officers, members of the governing board and complaints handlers;
- inspection of complaint files;
- inspection of papers presented to the governing body on complaints;
- review of complaint handling data and systems; or
- observations of complaint handlers dealing with complaints.

At the end of the visit, we will share our findings with senior management. We will follow this up with a report which will conclude if there is non-compliance in practice against any provisions in the Code.

In certain circumstances, this approach may be combined with wider activities under paragraph 12 of our Scheme.

Action following a landlord visit relating to non-compliance in practice

Where there is non-compliance in practice following a landlord visit, we may issue a type 3 CHFO setting out what is required to put this right and request that this is completed within a reasonable timescale. This could include:

- Providing training to relevant staff and reviewing learning tools, including via our Centre for Learning
- Conducting a review of complaint handling procedures that is reported to the governing body
- Reviewing the governance oversight of complaints
- Revising complaint related template letters

If there is non-compliance with the order, we may consider if a referral to the governing body or the Regulator of Social Housing is required.

5. Reviews of Complaints Handling Failure Orders

Approach

We are committed to providing an independent, fair and impartial service. The reviews process allows us to ensure consistency in decision-making and improve our customer care.

Process

Landlords may request a review of a CHFO if:

- There are new facts or evidence that have a bearing on the determination; or
- The landlord challenges the facts and/or evidence on which the Ombudsman relied.

A review request must be submitted within three weeks of receipt of the CHFO and state the basis for review. Any relevant new facts or evidence must be provided as part of the request.

The Ombudsman will reject a review request if it is out of time, or we consider that the grounds for review are not met.

Further information is available in our Reviews Policy.

6. Publication

Purpose

We will publish information about our findings from Code compliance monitoring to promote learning across the sector and share examples of good complaint handling, as well as areas where improvement is required.

Approach to publication

We will use a variety of channels to share this information, including:

- Learning tools and networks within our Centre for Learning
- Annual Complaints Review
- Good Practice guidance
- Notice of individual Type 3 CHFOs
- Quarterly summary CHFO Report
- Press notices or social media content.

Where we publish an individual CHFO, we will give landlords the opportunity to share a learning statement prior to publication. Any publication will also make clear if we have made a referral to their governing body or the Regulator of Social Housing.