



To: Housing Management Board
Report by: Marella Hoffman
Relevant scrutiny committee: Housing Management Board 5-3-2013
Wards affected: Wards containing Council housing

Regulatory changes to the Ombudsman system for handling tenants' unresolved complaints about their landlord, and local actions required to implement those changes.

Not a key decision

1. Executive summary

From April 2013, there will be two regulatory changes to the system for handling tenants' unresolved complaints about their landlord, namely that:

- a. Local authority tenants will now take their unresolved complaints to the Housing Ombudsman (rather than to the Local Government Ombudsman, as they used to do)
- b. There will be a new middle stage or local 'buffer' between tenants and the Ombudsman, technically referred to as a 'Designated Person', who can be a local councillor, an MP or a designated Tenant Panel

This report explains the changes and makes recommendations for how the Council might implement the regulatory requirements locally. It explains that any steps taken locally would be in line with the Council's corporate complaints procedure.

2. Recommendations

The Executive Councillor is recommended:

To approve the following plan of action as a way forward for Cambridge under the new scheme:

- a. Run a Freepost postal survey in the spring 2013 edition of Open Door magazine, sent to all Council tenants, asking whether they want a Tenant Panel for complaints

- b. Work with resident representatives to design a Tenant Panel for complaints, if the Open Door residents' survey indicates that tenants want one.

3. Background

3.1 In December 2012, the government announced the changes described above, to be put into place from April 1st, 2013. The short turnaround time was caused by delays in ironing out the details of the scheme since it was first proposed as part of the 2011 Localism Act. These governmental delays are acknowledged in the light-touch requirements expected of landlords in the first phase of the scheme from April 2013 onwards.

3.2 The scheme is timely for Cambridge as it dovetails with improvements that we already intended to make to our approach to complaints. Satisfaction with complaints returned one of the lower scores in our 2012 Tenant Satisfaction Survey. As a result, we have started a project to use residents' survey feedback and involvement to drive up customer satisfaction over the coming two years. The separate actions proposed in this present report to respond to the national changes in complaints systems will gel with and enhance this local improvement drive.

The new 'Designated Person' stage of a complaint

3.3 As illustrated in the sequence below, the new scheme means that once a complainant has exhausted their landlord's own complaints procedure, they can then take their complaint to a local 'Designated Person' (an MP, councillor or designated Tenant Panel), rather than having to go straight to an Ombudsman as they did before:

Landlord's own Complaints Procedure → 'Designated Person' → Housing Ombudsman

3.4 It is worth noting that complainants already use local MPs and councillors in this way as a 'middle stage' and will continue to do so. So the only real change is the introduction of the designated Tenant Panel as another alternative, in addition to local MPs and councillors.

3.5 The new scheme does not oblige complainants to use the Designated Person stage. They can still go straight to the Housing Ombudsman, but only after a 'cooling off' period of eight weeks has passed since they exhausted their landlord's internal complaints procedure:

Landlord's own Complaints Procedure → Direct to Housing Ombudsman, but only 8 weeks later

3.6 Any Tenant Panel created in Cambridge for the 'Designated Person' stage would not interfere with the Council's corporate complaints procedure, which, as part of our one-Council approach, is the same across all parts of the Council, including the landlord service.

Purpose of the new scheme

3.7 The Housing Ombudsman has made it clear that the main purpose of the changes is to reduce the number of tenant complaints reaching the Ombudsman, and to resolve them locally instead. The new scheme is firmly part of the localist agenda in that its stated purposes are to:

- a. Resolve most social housing tenant complaints locally from now on
- b. Ensure that tenants' complaints lead directly to service-improvements
- c. Shorten the time and bureaucracy it takes to resolve complaints
- d. Be part of the Co-Regulation regime introduced by the Localism Act, whereby landlords and local residents now regulate their landlord service together, in the absence of a government inspection regime

3.8 The Housing Ombudsman states that from now on, they will only investigate cases that they believe simply could not be resolved locally, cases where, as they put it, "we can add value that will not be achieved through local resolution".

The designated Tenant Panel

3.9 These are the basic rules defining the new Tenant Panel role:

- a. Landlords are not obliged to have a Tenant Panel, but must give it support and recognition if their tenants want one.
- b. The definition, expectations, selection, training and procedures of the Tenant Panel must all be designed locally. Neither the Localism Act nor the Housing Ombudsman will give any guidance or frameworks for the setting up of Tenant Panels.
- c. The Housing Ombudsman will merely hold a register of these Tenant Panels ie a record of their existence and contact details.
- d. Importantly, these Tenant Panels will have no 'powers', and no authority over the landlord or its procedures. Their role is a mediatory one only, seeking consensus and reconciliation between the landlord and complainant. They can also, if they wish, play a supporting, informing role for the complainant, helping them to understand the landlord's systems in order to achieve resolution of their complaint.

- e. They can only give advice and make recommendations. They cannot make 'judgements' or decisions as an Ombudsman does, and cannot get involved in any aspect of litigation or compensation around complaints.
- f. There will be no central control or regulation of the Tenant Panel role. Their function is purely local.

The landlord's regulatory obligations

3.10 These are the landlord's regulatory obligations in relation to the new scheme:

- a. By April 2013, the landlord must have a process planned for how they will, across 2013, decide with tenants whether and how to create a local Tenant Panel under the new scheme. National guidance underlines that it is neither expected nor desirable that Tenant Panels be 'rushed in' locally so as to be up and running for April 2013.
- b. The landlord must have what the Ombudsman calls an "audit-trail" showing that in the local process to decide whether or not to create a Tenant Panel, the landlord got a "wide consensus with a cross-section of tenants" on whether and how a Tenant Panel should be formed, and how it should work. From April 2013, if a complaint comes to the Ombudsman about a landlord, the Ombudsman may require to see this "audit-trail" of the landlord's consultation about forming a Tenant Panel.
- c. The landlord must support the creation of a Tenant Panel if tenants want one, must let tenants lead on how it is created, and once it is up and running, must respond to the Tenant Panel in a "timely and constructive way".
- d. The landlord must ensure that all tenants see ongoing, positive promotion and publicising of the landlord's own Complaints Procedure, and of the Tenant Panel for complaints if there is one.
- e. The landlord must have a robust in-house Complaints Procedure and good management of the complaints process, with:
 - Transparent monitoring of complaints trends
 - Transparent monitoring of performance information on complaints (eg. turnaround times for resolving complaints, satisfaction rates of complainants after their complaint process, proportion of complaints that lead to service improvements, etc.)
 - Regular publication to all customers of the ways in which they can make a complaint without feeling daunted or anxious about it

Examples of details to consider in the design of a local Tenant Panel for complaints

3.11 If a Tenant Panel for complaints were set up in Cambridge, stakeholders would give careful thought as to where the panel would fit into or around the processes of the Council's internal complaints procedure. (For information, it can be noted that the Council's corporate complaints procedure has three main stages. At stage one, a complaint can be made to any member of staff in person or by phone, letter, email or online form. The Council will reply within 7 days. If the complainant is not eventually satisfied with the Council's full response to their complaint, the complaint can go to stage two, to be reviewed by management. If the complainant is not satisfied with management's final resolution of their complaint, they can take it to stage three, which is the Council's Independent Complaints Investigator. The response from the Council's Independent Complaints Investigator currently includes advice on how to access the Ombudsman if the complainant is still dissatisfied.)

3.12 Together, landlords and resident representatives are also expected to ask themselves questions like the following, so as to tailor any Tenant Panel to local needs and circumstances:

- a. How many complaints about our landlord get referred to the Ombudsman currently? So how many might we expect to go to a Tenant Panel? How can we design the Tenant Panel so that it is proportionate to this need? (Landlords and resident representatives are encouraged not to invest excessive time or resources in the creation of a Tenant Panel, beyond the proportionate need.)
- b. Which existing resident representatives could be on the Panel, and which roles would have a conflict of interest? (For instance in Cambridge, elected residents on the Housing Management Board, as co-managers of the business being complained about, would not be on a panel reviewing complaints about the business. But national guidance suggests that resident groups like our Housing Regulation Panel - whose existing role is to inspect, scrutinise and challenge the standards of their landlord service - would have no conflict of interest and could act as, be part of or dovetail with a Tenant Panel for complaints.)

Recommended action plan

3.13 As summarised above on page one, section 2, under Recommendations, the following actions are proposed as a potential way forward for Cambridge under the new scheme:

a) Run a Freepost postal survey in the spring 2013 edition of Open Door magazine, which is sent to all Council tenants and leaseholders, to:

- Ask whether residents would like a Tenant Panel for complaints or not
- Thus get the “wide consensus with a cross-section of tenants” that the Ombudsman will require as a permanent “audit-trail”
- Invite suitable volunteers to come forward to participate in the setting-up process
- Show residents that we have taken on board their 2012 Tenant Satisfaction Survey feedback about low satisfaction with complaints, and that we are taking steps to improve this area substantially for them

b) Work with resident representatives to do a review or audit of the way we, as a landlord, currently manage and learn from complaints. It is recommended that we use the free Complaints Toolkit provided by the Housing Quality Network to help providers get their approach to complaints up to standard for the new scheme (attached, for information, as Appendix 1).

c) Form a working group with resident representatives to design a resident panel for complaints, if the Open Door residents’ survey indicates that they want one.

d) Update HMB on progress after the first year, as part of ongoing resident involvement reporting to HMB in 2014.

4. Implications

(a) Financial - Nil

(b) Staffing - This work is part of the routine duties of existing staff.

(c) Equal Opportunities - Should advance Equal Opportunities by empowering diverse or vulnerable residents who may currently feel too intimidated or uninformed to pursue a complaint.

(d) Environmental - Nil

(e) Procurement - Nil

(f) Consultation and communication - If the project to form a Tenant Panel for complaints goes ahead, it will be communicated in full to customers through Open Door magazine and the Council’s website. The project would make a significant contribution to the Council’s overall positive practice on consultation and community engagement with services.

(g) Community Safety - Nil

5. Appendices

Toolkit for Complaints Procedures, from the Housing Quality Network

6. Inspection of papers

No background papers were used in the preparation of this report.

If you have a query on the report please contact:

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