

To: Sarah Newton, Chairperson of HSE

CC: Ruhena Ahmed, Deputy Director – DLUHC Social Housing Directorate

CC: Richard Blakeway, Housing Ombudsman

1 November 2023

Dear Sarah,

Re: Draft Building Safety Regulator complaint guidance for principal accountable persons and resident complaint guidance

We are writing to share concerns about the forthcoming guidance on operating a complaints process for a high-rise residential building, and how it will fit with the operations of the Housing Ombudsman and the Complaint Handling Code in the social rented sector. Our members are working hard to ensure they meet the requirements of the Building Safety Act, and we would appreciate clarity on the areas raised below.

While we understand that this guidance will be designed to cover properties in all sectors, we are concerned that we risk ending up with two separate complaints definitions and processes in the social rented sector. This will cause confusion for residents (and landlords), which in turn makes it harder for residents to quickly raise and resolve concerns with the safety of their building.

Our main issue is that the Building Safety Regulator conflates the terms 'complaints' and 'concerns'. Both the guidance for the principal accountable person and the guidance for residents talk about 'operating a complaints process for a high-rise residential building.' However, the definition of a complaint is 'any concern a resident may have about building safety risks or the performance of an accountable person'. Concerns are not the same as complaints.

The Housing Ombudsman has done significant work over the last few years to embed a universal definition of a complaint in the social rented sector as: "an expression of dissatisfaction, however made, about the standard of service, actions or lack of action

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by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or a group of residents.' The Housing Ombudsman looks at complaints which landlords have failed to resolve over a long period of time, mediates and decides on an appropriate outcome. In those cases where the landlord is at fault, the Housing Ombudsman then orders them to put it right.

However, the main conclusion that Dame Hackitt made on this area in the Independent Review is that people living in high-rise buildings must have a way to raise health & safety concerns which are not being resolved by their landlord, and get them resolved quickly. Residents absolutely have a right to go through the Housing Ombudsman to complain about their landlord, but in the meantime, they should be able to get a quick response from the Building Safety Regulator through its 'raise a concern' process rather than being taken through another complaints process.

The other challenge for social landlords is that the Housing Ombudsman is currently consulting on its statutory Complaints Handling Code, which states that social landlords must use the definition of complaint that they mandate and must *not* have more than one complaint process for dealing with complaints covered by the Code. The problem for landlords is firstly developing a complaints policy and procedure which meets both the Housing Ombudsman and Building Safety Regulator requirements and is clear and straightforward for all residents; and secondly understanding what they should do for cases which inevitably will fall within the remits of both the Housing Ombudsman and the Building Safety Regulator.

For this reason, it would make much more sense to replace the word 'complaint' throughout this guidance with the word 'concern'. The Building Safety Regulator could make it very clear that residents can raise a complaint with the Housing Ombudsman at the same time as contacting the Building Safety Regulator and could also set out very clearly what comes under the Building Safety Regulator's remit, but the purpose of this guidance – and a key aim for our members - is to make sure that residents are able to very quickly make their homes safe.

Residents' guidance

In addition to the above-mentioned points, we have real concerns that the associated guidance for residents is not written in a plain English way and would be very difficult for a lay person to understand. A resident living in a high-rise building in the social rented sector should just have one complaints policy they need to look at and one process to follow, and then one route to escalate where they don't get the response they want. They should not have to try and work out whether something needs to go to the Housing Ombudsman or the Building Safety Regulator, particularly where issues are complex and could fall under the remit of both.

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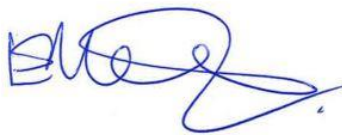
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In the social rented sector, the use of the terminology 'principal accountable person' and 'accountable person' is also not particularly helpful, as residents are most likely to just contact their landlord through the usual routes, such as the call centre or complaints handling number – and are encouraged by their landlords and the Housing Ombudsman to do so. We would welcome much more clarity about the joined-up approach that the Housing Ombudsman and the Building Safety Regulator will take so that residents do not fall between the cracks, and do not have to work out themselves where their complaint should be escalated.

Considering the points made in the Hackitt Review, we would also like this guidance to make it much clearer that residents can raise a concern with the Building Safety Regulator at any point whether they have been through the landlord's complaints process or not.

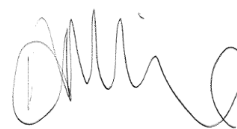
We therefore request a meeting between the Building Safety Regulator, DLUHC, Housing Ombudsman and ourselves to explore the issues raised above. We have discussed these issues with the LGA and they are keen to attend too. Please contact Lisa Birchall, Lead Policy Officer at the NFA, lisa.birchall@almos.org.uk to arrange.



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