

Ombudsman Consultation- Complaints Handling Code

CWAG Consultation Response 20/11/2023

Introduction

Councils with ALMOs Group (CWAG) represents stock owning local authorities where council housing is managed by ALMOs. There are currently eighteen local authority members managing around 215,000 properties across England. CWAG is a Special Interest Group of the Local Government Association.

CWAG would like to highlight several issues and concerns in relation to this consultation.

1. Lack of clarity on roles and responsibilities of different Regulators and the Housing Ombudsman

The new Complaints Handling Code forms part of wider changes to social housing regulation set out in the Social Housing (Regulation) Act 2023. As these changes are rolled out there is a potential lack of clarity and scope for confusion around whether some issues fall within the remit of the Housing Ombudsman as part of the Complaints Handling Code or regulation by the RSH.

For example, the duty to monitor organisations compliance with the Code needs to be properly co-ordinated with the RSH to prevent regulatory duplication and confusion. Whilst joint working arrangements are set out in the Memorandum of Understanding between the Social Housing Ombudsman and the RSH, greater clarity would be helpful confirming that the primary focus of the Social Housing Ombudsman remains resolution of individual complaints and the systems around complaints management. Other wider organisational and systemic issues and concerns fall within the remit of the RSH as part of their programme of regulatory engagement.

The Building Safety Regulator has also introduced new guidance for principal accountable persons on complaints which differs from the Ombudsman Complaints Handling code. This is potentially confusing as it is possible for both schemes to apply in a particular case. For social landlords which are members of the Ombudsman scheme, there is a requirement to have a single accountable complaints process to be followed by the landlord, however this runs counter to BSR guidance on complaints.

CWAG, ARCH and the NFA have written jointly to the Building Safety Regulator highlighting this and a possible resolution around recognising the difference between a 'complaint' and a 'concern' and seeking to clarify the importance of distinguishing between them. This would bring greater clarity enabling tenants to raise issues with the relevant regulator.

2. Include measures to encourage speedy informal resolution of issues.

The requirement in the new Code to register 'any expression of dissatisfaction however raised' as a formal complaint has the potential to result in very formal and bureaucratic arrangements not conducive to speedy resolution of issues.

In contrast, the current Complaints Handling Code makes allowance for chasing up and resolving issues informally whilst allowing the issue to be logged as a complaint if the resident wishes:

Chasers on a service request, such as a missed appointment, can often be resolved 'there and then' with an apology and the provision of another appointment and may not need to enter the complaints system. However, if further enquiries are needed to resolve the matter, or if the resident requests it, the issue must be logged as a complaint. (Ref: Complaint Handling Code 2022 para 1.6)

Removing this option from the new statutory code risks focussing organisational effort into formal cumbersome bureaucratic processes. Allowing scope for informal chasers on service requests would be a helpful option provided it doesn't obstruct access to the complaints process or cause delays and an audit trail is available to demonstrate this.

3. Recording issues and the removal of the option to partially uphold a complaint.

Removing the option to partially uphold a complaint is problematic:

'If an organisation has got something wrong it must record the complaint as being upheld, even if there are elements of the complaint it has not upheld. It is not appropriate to record a complaint as being partially upheld.' (Ref: Complaint Handling Code 2022 para 6.8)

This change to the code creates difficulties in complex, multi-layered complaints where some elements may be clearly untrue and reputationally damaging, but other aspects may be upheld. We would prefer the possibility of retaining a more nuanced and accurate outcome.

4. Stage One Response Times

The reduction in the time allowed to respond to a stage one complaint from up to 15 days (5 days to log and 10 days to respond from the date of logging) to a maximum of 10 days to both log and issue a final response will create new pressures within the system and compromise landlords ability to carry out a thorough investigation within the timescales on more complex cases.

5. Managing tenant expectations

It would be helpful to retain references within the current code to managing resident's expectations linked to the complaints process.

'Landlords should manage residents' expectations from the outset, being clear where a desired outcome is unreasonable or unrealistic.' (Ref: Complaint Handling Code 2022 para 4.3)

The environment in which social housing providers work is increasingly challenging and it is important not to create unrealistic expectations around desirable and achievable outcomes.