

MEMORANDUM OF UNDERSTANDING

between

THE LOCAL GOVERNMENT OMBUDSMAN AND THE HOUSING OMBUDSMAN

1 Introduction

The Localism Act 2011 introduced changes to the jurisdiction of the Local Government Ombudsman (LGO) and the Housing Ombudsman. Consequently a level of cooperation will be required to ensure that their respective roles can be fulfilled effectively and efficiently. This Memorandum of Understanding has been drawn up jointly by the LGO and the Housing Ombudsman as the basis for such cooperation.

2 Statutory Framework

2.1 Roles

LGO

The LGO investigates complaints from the public about injustice caused by maladministration or service failure by a local authority or other body within jurisdiction. LGO is also the social care ombudsman for England. In this role, LGO have jurisdiction to carry out independent investigations into complaints about any matters connected with the provision of adult social care. This is a seamless service covering all types of adult care in the public, private and third sectors irrespective of who funds or arranges that care. The LGO can recommend a suitable remedy (which can include financial redress) for any injustice found.

Housing Ombudsman

The Housing Ombudsman was set up to look at complaints about the landlords that are registered with it (i.e. members of the Housing Ombudsman scheme). It focuses on impartial dispute resolution in rented housing. It can carry out investigations where local resolution is not possible. The Housing Ombudsman can make awards of compensation or other remedies.

2.2 Who can make a complaint

To the LGO

A complaint to the LGO may only be made by, or on behalf of, a member of the public or a body of persons other than a local authority or other public service body. Members of the authority concerned cannot normally make a complaint to the LGO. Members may only do so if acting as members of the public, e.g. in relation to matters affecting them as users of a local authority service.

To the Housing Ombudsman

A complaint to the Housing Ombudsman may be made by, or on behalf of, a person or persons who have been in a landlord/tenant relationship with a member or those who have applied for property owned or managed by a member.

2.3 Summary of jurisdictions

With effect from 1 April 2013, jurisdiction over new complaints about the provision and management of local authority housing passed from LGO to the Housing Ombudsman.

The LGO and the Housing Ombudsman have agreed the main categories of complaint which fall within their respective jurisdictions. This list, which will be subject to periodic review, appears on our respective websites and is attached as Annex B.

3 Joint working

3.1 Consultation and collaboration between the LGO and the Housing Ombudsman

The Localism Act allows for consultation and collaborative working between the LGO and the Housing Ombudsman. It provides that if the Housing Ombudsman forms the opinion that a complaint relates in part to a matter within the jurisdiction of the LGO, the LGO may conduct an investigation.

The LGO has the power to disclose information to a third party (including the Housing Ombudsman) if it is necessary to do so for the purposes of an investigation. The LGO interprets this widely to include sharing information with the Housing Ombudsman in order to establish what issues have been the subject of a previous complaint, what issues are new and which body has jurisdiction.

Operational arrangements for the handling of complaints are set out in **Annex A** and will be subject to periodic review.

3.2 Stakeholder engagement

A copy of this memorandum will be placed on the LGO and Housing Ombudsman websites.

Both parties will discuss and keep under review the appropriateness of other forms of joint working such as joint press articles, joint themed reports, seminars and other forms of stakeholder engagement. The purpose of such work will be to:

- promote a better understanding of jurisdiction
- help ensure appropriate and timely referrals of complaints to the LGO and the Housing Ombudsman
- disseminate wider learning from investigations into the interactions between social landlords and local authorities.

3.3 Communicating with our staff

Arrangements will be made for communicating the provisions of this memorandum within the LGO and the Housing Ombudsman.

4 Review

Representatives from the LGO and the Housing Ombudsman will meet no less than once a year to review the operation of this Memorandum and to ensure that it reflects any developments and changes in working practices.

Signed:



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Dr Jane Martin
Local Government Ombudsman



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Dr Mike Biles
Housing Ombudsman

Annex A – Operational arrangements

A1 Types of complaint

Four types of complaint can be identified as a focus for this Memorandum. These are:

- Those that are made to the wrong party
- Those where the position is unclear
- Those that are for neither party
- Those which may engage the jurisdiction of both parties

A2 How complaints are handled

Both Ombudsmen must take care to avoid making (or appearing to make) jurisdictional decisions on the other's behalf. Often, the Ombudsman receiving a complaint will need to make enquiries to establish sufficient facts to determine which of the above categories a complaint falls into. Before signposting or referring a complaint to the other Ombudsman we should ensure that we have enough information to confirm that the complaint is not in our own jurisdiction.

If necessary, the Ombudsman making the initial enquiries should contact the other Ombudsman for more information about their approach before signposting or referring a complainant.

In order to reach a prompt and clear decision on jurisdiction, it may be necessary for discussions to take place between the LGO and Housing Ombudsman. For the LGO, Intake Team Leaders and Investigators have the authority to hold those discussions. For the Housing Ombudsman, any member of the dispute resolution team has that authority. In the event that agreement is not reached, or that the position cannot be made clear, the matter should be referred to the nominated Assistant Ombudsman (currently David Connolly) at the LGO or the nominated Adjudication Officer (currently Emma Foxall) at the Housing Ombudsman, or other nominated officers to be agreed.

Complaints that are made to the wrong party

The LGO and the Housing Ombudsman each have their own arrangements for the receipt of new complaints. Where either party receives, or becomes aware of, a complaint that falls within the jurisdiction of the other party, the complainant will be advised that the matter is outside jurisdiction but that they may make a complaint to the other party. Contact details for the other party will be given.

Complaints where the position is unclear

One party may receive a complaint which is unclear, for example in the following ways:

- It is not clear which, if any, body has jurisdiction to deal with the complaint
- It is possible that the other body has previously dealt with a complaint about the same or a similar matter and it is necessary to establish what aspects of the complaint are new

In such circumstances, enquiries will be made of the complainant and/or the other party in order to clarify the position.

Complaints that are for neither party

The LGO and the Housing Ombudsman cannot make complaint decisions on behalf of each other. But they will build up and share knowledge of each other's jurisdiction so that appropriate advice can be given to complainants. Where a complaint is not accepted by one party, it will be open to the complainant to approach the other party which will make its own decision on jurisdiction. But where it is clear that the complaint does not fall within the jurisdiction of either party, the complainant will be given advice about any known alternative avenues of redress.

Complaints which may engage the jurisdiction of both parties

Some complaints may be sufficiently broad as to fall within the jurisdiction of both the LGO and the Housing Ombudsman. In those cases, the LGO and Housing Ombudsman will liaise to establish what measures are necessary to ensure that both parties deal appropriately and effectively with the complaint.

Where it is known that a decision on a complaint by one party may have a bearing on the consideration of a complaint by the other party, a case discussion will take place before a final decision is issued. In some cases it may be appropriate for one party to suspend action on an investigation until the other party has reached a view on its own investigation.

Decisions on complaints which fall within the jurisdiction of the LGO may only be taken by or with the delegated authority of the LGO. Where the Housing Ombudsman has jurisdiction, the decision may only be taken by or with the delegated authority of the Housing Ombudsman. Where there is a joint investigation, a joint decision will be issued, in the form of a joint statement or report.

Annex B

Complaints referred to the Housing Ombudsman

Unless stated otherwise the Housing Ombudsman considers complaints about housing associations and local housing authorities.

Leasehold services

- Shared ownership and sales processes for leasehold properties
- Shared ownership stair-casing
- Full ownership and sales processes for leasehold properties owned by housing associations
- Right to buy and right to acquire for tenants of housing associations
- Repair responsibilities under the lease
- Mortgage rescue schemes
- Leasehold services provided by the landlord

Moving to a property

- Transfer applications that are outside [Housing Act 1996 Part 6](#)
- Type of tenancy offered
- Mutual exchange
- Decision to renew a fixed tenancy
- Decants
- Mobility Schemes

Rent and service charges

- Rent or service charges

Occupancy rights

- Terms and conditions of occupancy rights
- Succession
- Assignment
- Ending a tenancy (eg notice periods)
- Abandonment of property
- Possession proceedings

Property condition – repairs and improvements

- Condition of the property when first let (eg void works)
- Responsive repairs
- Planned maintenance or cyclical works
- Improvement works carried out by landlord or tenant
- Rechargeable repairs
- Disabled adaptations

Tenant behaviour

- Anti-social behaviour
- Noise nuisance
- Harassment

Estate management

- Cleaning or repairs of communal areas
- Boundary issues
- Grounds maintenance
- Parking
- Use of communal areas

Complaint handling

- The landlord's handling of a complaint in their complaint process, including delays

Compensation

- Home loss or disturbance payments
- Improvements carried out by the tenant
- Payment for damage to property or tenants belongings
- Discretionary payments

Complaints referred to the Local Government Ombudsman

Unless stated otherwise the Local Government Ombudsman considers complaints about local authorities.

Housing allocations under [Housing Act 1996 Part 6](#)

- Applications for re-housing that meet the reasonable preference criteria (dealt with by the local housing authority or any other body acting on its behalf, which could include a housing association). Includes complaints about:
 - Assessment of such applications, the award of points, banding or a decision that the application does not qualify for reasonable preference
 - Operation of choice based lettings schemes and about the suitability of accommodation offered under those schemes.

Homelessness under Housing Act 1996 Part 7

- Applications for assistance under the homelessness legislation (dealt with by the local housing authority or any other body acting on its behalf, which could include a housing association). Includes complaints about:
 - Homelessness advice and homelessness prevention activities
 - How applications are dealt with and decisions about eligibility for and allocation of interim and temporary accommodation.

General housing advice

- General advice from the local authority about housing options
- Handling of reports from tenants of private landlords about unlawful eviction, harassment and other matters

Housing benefit

- Handling of applications for housing benefit

Housing improvement grants

- Applications for mandatory and discretionary housing improvement grants. Includes complaints about:
 - Provision of advice, processing of applications, preparation of schedules of work, payment of grant and other decisions on grant eligibility and entitlement
 - Actions of social services occupational therapy services with regard to assessment and eligibility for disabled facilities grant

Antisocial behaviour

- Antisocial behaviour which does not fall within the remit of a social landlord.

Noise nuisance

- Reports of statutory noise and other nuisance to environmental health services

Sale or disposal of land on housing estates

- Applications or requests to buy parcels of land owned by local authorities
- Sales processes for properties owned by local authorities
- Right to buy and right to acquire for tenants of local authorities

Planning and building control at properties owned by a social landlord

- Applications for planning permission
- Planning enforcement
- Applications and enforcement under the building regulations

Delivery of adult social care services, including that done by registered social landlords