

Evidence checklist guidance

AN INQUISITORIAL APPROACH

The Ombudsman's investigations consider whether a landlord has dealt with both the initial request and the subsequent complaint fairly given all the circumstances. Any findings made must be based on evidence. The evidence provided by both parties is therefore vital for our investigation. Unlike a court, where evidence supporting a particular position is selected and submitted by each party, it is for the Ombudsman to decide what evidence they need to see. The Ombudsman is not bound by the same rules of evidence as the court and can therefore consider hearsay evidence. The Ombudsman may also request evidence relating to third parties.

Under the terms of membership of the Housing Ombudsman Scheme the Ombudsman may ask a landlord to provide information that is, in the Ombudsman's opinion, relevant to the complaint. The member must provide copies (without charge) or allow examination of the following records and documents:

- a. the landlord's policies and procedures
- b. any internal files, documents, correspondence, records, accounts or minutes of meetings, in hard copy or electronic form. This includes records relating to similar cases where the Ombudsman needs them to establish consistency of practice.

What type of evidence?

In all cases the Ombudsman is likely to want to see the following evidence:

- Occupancy agreement setting out the rights and responsibilities of each party
- The initial request made by the complainant along with any subsequent complaints
- Any contemporaneous notes or correspondence relating to the subject matter of the complaint
- The complaint responses sent at each stage of the complaints procedure
- Any policy guidance relating to the subject matter of the complaint.

Repairs complaints

When investigating complaints concerning the condition of a property or the response to a request for repairs, in addition to the evidence listed above the Ombudsman would generally expect to see the following:

- The first notification that was received requesting the repair or reporting the condition
- The repairs records relating to the complaint and evidence of any actions taken by the landlord
- Copies of any inspection reports or surveys
- Copies of any correspondence with contractors relating to the issue
- Copies of any correspondence with the resident including any generic information sent to all residents if relevant to the complaint (i.e. information about improvement works)
- Copies of any related telephone or file notes
- Evidence as to when the works were completed
- Copies of the repairs policy and procedure.

Anti-social behaviour (ASB) complaints

In addition to the general evidence listed above the Ombudsman is likely to request the following:

- Details of the first report of ASB and any actions/decisions taken
- Copies of any statements or notes of meetings with the complainant or others involved in the ASB
- Any related third party evidence (i.e. allegations made about the complainant, information from Police or ASB group)
- Evidence of any witnesses including professional witnesses and, or other residents
- Copies of correspondence to the complainant throughout the course of any internal investigation
- Evidence of the outcome of any internal investigation and any plan for future monitoring
- The ASB policy and procedure

Generally the Ombudsman will ask for this information at the point the complaint is accepted for investigation. The Ombudsman may however request some information earlier to help clarify where a complaint is in the complaints process or to establish the most recent action. This will inform the Ombudsman's discussions and enable them to promote effective dispute resolution whilst the matter is still in the complaints process.