

Guidance on local resolution

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Local Resolution Guidance

This guidance sets out the aims and purpose of local resolution and how to work with the parties to promote resolution of a dispute through the landlord's processes.

Role

Paragraph 10 of Schedule 2 to the Housing Act 1996, and paragraphs 33 and 34 of the Scheme give the Housing Ombudsman the power to promote the local resolution of disputes, including on premature complaints. We are not investigating or determining complaints at this stage. This differs to our early resolution process which seeks to determine complaints by way of agreement between the parties.

Our role at local resolution is to use our dispute resolution principles to empower landlords and residents, giving them the tools to resolve complaints themselves within the landlord's procedures. Our assistance is discretionary, and we will decide what to do to facilitate the resolution of the complaint.

Our dispute resolution principles are:

- **Be fair** – treat people fairly and follow fair processes
- **Put things right**
- **Learn from outcomes**

The principles recognise that resolving complaints early, preferably within the landlord's own process, provides better outcomes for residents and improves relationships between residents and landlords. Our role is enabling and facilitating – *to support effective landlord-tenant dispute resolution by others*. We are providing support to landlords and residents to use our principles to resolve the dispute and we will decide how far to go to assist the parties to find a resolution. Resolving complaints locally forms a key part of our corporate plan for 2019-22.

Approach

Complaints are always best resolved as soon as possible, when the issues are far easier to identify and remedy. We can help by focusing our advice on what is required to resolve the problem; rather than merely describing the stages of the landlord's complaints process. We will engage in constructive conversations that progress matters to an effective outcome; by establishing what has happened and what needs to happen next, by whom and by when. We will always ensure the parties understand our advice by clearly explaining what we think is needed to resolve a dispute and why.

Whilst a complaint is in the landlord's complaints process our aim is to achieve resolution fairly and quickly through the efforts of the landlord. Preferably at the next possible opportunity which is usually the next appropriate stage of the landlord's process. Complaints should not be simply passed though the complaints process with a view to reaching the Ombudsman.

How we facilitate local resolution will depend on the facts and circumstances of each individual complaint. We will ensure the resolution of the complaint puts things right for the complainant.

Suitability for local resolution

A case may be suitable for local resolution if we are satisfied that:

- the action or omission complained about can be easily resolved by clear defined action, and
- the outcome expectations of the resident are fair and appropriate
- the landlord is willing to consider solutions to resolve the complaint.

If we think the complainant has been treated fairly and has not lost out as a result of the landlord's actions we will explain this to them. Complaints often arise from simple misunderstandings or poor communication and our intervention will enable the parties to talk to each other to find a solution they can both accept. This can help bring about a better and longer-lasting solution to the problem and can help preserve the ongoing relationship between landlords and residents.

We will also focus on enabling landlords to have a positive view of complaints by encouraging landlords to identify lessons from individual complaints and to use this information to improve its services.

We will not generally intervene in complaints that are likely to be or are outside the Ombudsman's jurisdiction. We will however, signpost these complaints to the landlord's complaints processes.

We usually begin by identifying whether the complainant needs to make a request for a service or whether a formal complaint is necessary. We can ask the complainant what has happened so far and explain the difference between, for example, reporting a repair to the landlord's repairs team or making a formal complaint because there have been unreasonable delays in carrying out a repair.

Enquiries

An **enquiry** is a request for information, assistance or advice where **no** formal complaint has been made to the landlord. Our response to enquiries includes:

- Providing information about our service
- Signposting for
 - Advocacy and support
 - The appropriate body to deal with the issue
 - Or advice on rights
- Advice or assistance on making a complaint

Local resolution activities

Local resolution encompasses a range of activities from giving guidance on how to make a formal complaint to pro-actively facilitating the resolution of the dispute.

From the very first contact we must think about what the complaint is about and what the issues in dispute are. We can then tailor our response to the circumstances of the complaint. We can also ensure that we consider possibilities for local resolution from the start and these are explained to the complainant.

Our understanding of the complaint is a work in progress as we may not have enough information at first contact to be sure what the issues are. Beware of making assumptions to fill in the gaps in what we know or making decisions without evidence, for example that the landlord has not responded to the complaint or the complainant has not made a formal complaint. We cannot help to resolve a dispute if we do not know what the problem is or what the outstanding issues are. If we do not understand what the complaint is about we risk wasting time and not helping resolve the complaint.

By knowing what the complaint is about we can make sure our response and intervention are proportionate. If we do not think about proportionality we risk not being able to manage volumes of cases and we may have unrealistic expectations of what the landlord can/will do. This will not help the complainant to have realistic expectations of what the landlord can do to put things right in their complaint. Be aware the complaint can also change as it progresses through the landlord's complaints process. For example, the focus could change from the completion of a repair to a compensation request; new issues might be added, elements of the complaint may be outside jurisdiction, be historical or have already been resolved.

- We will help complainants access and navigate their landlord's complaints procedure.

Wherever possible we will check what the landlord's complaints procedure says by checking its website – we will then be able to give accurate information about who to contact, how to contact them and what to expect from the landlord in response to the complaint. Often this is all that is needed to assist the complainant to pursue the dispute through the appropriate process.

We can help the complainant in shaping and forming their complaint to maximise the chances of resolution. By establishing what their complaint is really about, how it has affected them and what they think would put it right. We will emphasise the importance of finding an amicable solution. Helping to define the complaint in this way can assist the landlord to understand not only the real issues but also what outcome the complainant is seeking. We can also assist the complainant to think about what the current outstanding issues are; by separating out any historical matters or matters that do not relate to the landlord's actions.

By developing good relationships with our landlords, we can assist when there are problems with the operation of the landlord's own processes. We can assist by unblocking channels of communication between the landlord and complainant which may have prevented the progression of a complaint through the landlord's complaint process. Sometimes the parties do not agree on what the dispute is about or whether issues have already been addressed – we have a unique perspective that allows us to give the parties information that can help them to have more informed

discussions. We must emphasise that the complaints process is a way of resolving complaints rather than a set of stages to pass through before referral to the Ombudsman.

We expect a landlord to consider a complainant's circumstances when deciding how best to respond to a complaint; even if this means acting outside of its usual complaints processes, where it is proportionate and reasonable to do so.

We can signpost to relevant advice agencies or organisations if the complainant needs advocacy or representation in bringing a complaint to their landlord. We must be careful of not giving legal advice in response to enquiries for example about the rights and responsibilities of either party.

When a landlord decides not to consider a complaint further even though the complaints process has not been exhausted we must think about the following:

- What are the landlord's reasons for not progressing the complaint?
 - Does the landlord's complaint process allow it to decide not to progress or escalate the complaint?
 - What are the benefits of considering or reviewing the complaint further?
 - How can the complaint be resolved?
 - What advice can we give the landlord about escalating the complaint including asking it to do so.
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- We provide advice about potential resolutions.

We can use our expertise in the resolution of housing disputes to explore potential outcomes with complainants to ensure they are realistic and achievable. We can help the parties take a fresh look at the situation. We are not giving a decided view on the merits of the specific case as we haven't carried out an investigation. We can provide advice about the range of options available and how best to progress and resolve a complaint.

Points to think about when discussing local resolution with the parties include:

- What is the problem?
- Impact of what's happened?
- Any potential solutions?
- Is the solution already there but not acted upon?
- What does the complainant want?
- What is the landlord's response?
- Do we need more information?
- How are we going to help resolve this dispute?

By understanding what the outstanding issues are and what the complainant hopes to achieve as early as possible then we can advise the complainant on the best course of action in the most effective way.

We must present relevant reasons and information in our conversations and written communication which supports any solutions we are setting out. If we cannot identify

reasons why the solution suggested would help resolve the dispute, we need to consider whether the solution is appropriate. We can refer to the landlord's policies and procedures, good practice, relevant obligations, and help complainants understand those obligations and what is achievable. Equally we can help the landlord to understand the complainant's expectations.

Remember we often only have a partial picture of the situation and it can be easy to jump to conclusions; we need to be aware of our assumptions. For example, assuming there is no merit to a complaint or that there have been no failings on the part of the landlord. We also need to recognise when either or both parties are relying on assumptions. We can clarify statements and obtain information to establish what is happening. By listening to the parties' views and concerns we are better able to identify the real issues in a dispute and how best to proceed.

When considering options for resolution we must think about the implications or consequences that are likely or possible if a certain action is taken. For example, would the recommended action be likely to achieve the desired outcome, would it have any undesirable effects, are there other possibly better ways of achieving a positive outcome.

Examples of when it is proportionate to take a more pro-active approach in local resolution can include:

- When the difference between the landlord's position and the complainants seems minimal.
- When the parties seem to be at crossed purposes or there are misunderstandings.
- When the landlord is using the complaints process as a series of stages to be completed before the complaint can come to the Ombudsman or as a barrier to complaints.

Potential solutions to a dispute can include:

- an apology
- acknowledgement of a mistake
- a comprehensive explanation
- commitment to carry out works or to a course of action
- compensation
- recognition of the impact the landlord's actions has had on a complainant even if those actions were reasonable.

This is solution focus - *When focusing on solutions it helps to focus on what's wanted, check what resources may be needed, notice what is working, describe a successful outcome, identify useful approaches and discuss and take small actions.*

We can use case examples of best practice in local resolution. We can direct the parties to our website tools and case studies to illustrate the role we can play in finding a resolution.

- We manage the expectations of both parties

We do this because the parties have expectations of us. We need to understand these expectations to be able to work effectively with the parties and influence the outcome of the complaint. We must be clear and accurate when advising the parties about our role and powers, using language that is user-friendly and jargon free. Particularly when there are limits to our involvement in the complaint. We must advise the complainant about elements of their complaint we may not be able to assist with as early as possible; signposting them correctly.

We must ensure we provide the right information at the right time; this means avoiding information overload which can lead to confusion and a lack of understanding about what is happening.

When we do not manage expectations this inevitably leads to disappointment and dissatisfaction with our service which can have an impact on our reputation and increased difficulties in managing ongoing contact with the parties. We need to ensure the parties understand what we can do to assist, this includes explaining what we will do and when. We need to be realistic about what we can achieve, and we must ensure we do what we have promised. We must understand what is expected of us to be able to manage the expectations of our customers.

By keeping the parties informed about what happens next and by clearly explaining what we are doing and why, we are setting out a way forward which will enable us to better manage the progress and resolution of a complaint.