

LTF meeting 14th July

Q&A session with Richard Blakeway, Housing Ombudsman

Q1 Regarding the Ombudsman recommendations. Is my housing association required to take your recommendations on board or not?

A1 Our recommendations do not have to be complied with, but our orders do. Legislation frames our orders primarily on achieving remedy for the individual. There is a bit of space for us to make recommendations about preventing things from happening again. We might, for example, order a senior management review of the case and our investigation to see if there are lessons that the landlord might learn or changes that it might make to a particular policy. Primarily orders are focused on individuals and putting them back in the position they would have been in if the issue hadn't gone wrong. These orders only flow where we have upheld the complaint. We monitor compliance with the orders.

Some ombudsman services say their recommendations are common sense, so they do not make orders as well as recommendations. However, we (the Housing Ombudsman) do make orders and pursue them. We have very high compliance rates with orders and seek satisfaction that they have been complied with.

There are proposals that the scope of our orders will be extended - so that we can get into the space that some recommendations are in and to say that policy and practice could be improved - to prevent service failure again.

So, your landlord must be compliant with orders, but not recommendations, although we know that some landlords treat recommendations a bit like orders. There is mixed practice and we want to get greater consistency.

Q2 Proposal for an addition/improvement to the code. My council will acknowledge a complaint and say *'we are very sorry that this has not been dealt with and will send out a tradesperson in about a week to look at it.'* Then they will say *'we have appointed a contractor to look at the general problem in your block that is causing the problem'* - perhaps a leak. In the end the onus is put on the tenant to keep chasing. The tradesperson may come out and then say someone else needs to come. The tenant then has to go through each stage of a complaints process again before getting to the ombudsman. This defeats most tenants.

Could you add something to the code saying that someone from the council/landlord, through their own initiative, should check that the tenant's problem is resolved and is informed? This could be through a phone call saying *'according to our system, your repair complaint has now been resolved. Please let us know that this is the case.'* I know this sounds like a lot of work, but it seems to be the only way to deal with a lot of these problems in social housing.

A2 Potentially there is space - in addition to anything in the code - to think about digging into this issue about repairs that haven't been effective or missed appointments - things like that. It might be an area where we could do further investigation and a special report. Let me reflect on this.

One thing is that we are really clear - the landlord is responsible. It has the relationship with the tenant. If it has employed a contractor, it needs to ensure that it is doing what it should be doing. We don't want any fudging of their responsibilities and that of the contractor. There may be circumstances where a landlord has tried to pursue this, and something has gone wrong, but certainly we see circumstances where the landlord has not done that. We are very clear about where accountability rests.

Q3 Landlord obligations to make their complaints service available to tenants. I've been involved in complaints about my council, which hasn't even given tenants information about its complaint's procedure, let alone their right to appeal to the Ombudsman. You mentioned obligations to make complaints service available. What are these obligations on councils, and are you monitoring this?

A3 The way the legislation works is that we can't chuck someone off our scheme if they are a social landlord. It's mandatory for social landlords to be involved with the scheme. Throwing them off wouldn't be positive as they would simply go into the wilderness.

However, we have clear expectations that must be met by members of our scheme, in particular, expectations around having a complaint procedure. That derives both from our scheme and code.

Where that is not happening, we can issue a complaint handling failure order to say the landlord is not complying with the scheme and needs to make an adjustment to do so. We have not had this arise, but if it occurred, we might be able to refer to the regulator or something like that.

Q4 Housing association not holding meetings (en-masse) for their tenants, and multiple complaints. Our housing association landlord has about 2000 properties in London - there must be hundreds of people like those on our block who have complained about them. We would like to be in touch with and band together with others. The housing association has stopped holding en-masse tenants' meetings that we used to have in the early days. They seem to think that that is too unmanageable. Does the Ombudsman do any work on multiple complaints like that?

A4 We do accept complaints from groups of residents and have published some of the decisions made where that has been the case. For instance, you will find a decision that we published on our website in December 2021. It was a group complaint about changes made to controlled parking or parking restrictions brought in by the landlord. We upheld the complaint and ordered remedies for all the members of the group. In

response to the decision, the landlord said that they had reflected, said that they hadn't done this right, and went on further to say they would review their approach on parking for all the areas where they had introduced it. This was a positive response from the landlord to our report and investigation.

We have guidance on our website about making group complaints. Some conditions must be met. For example, it must be evident that everyone wants to make or is happy to be part of a formal complaint. It is an area that we want to develop further. I have lots of thoughts on this. It is an area that I am exploring with my team.

Q5 Are landlord lessons learnt? When we make complaints, we are often told that our landlord has learnt lessons, but it often appears that they haven't. Part of your briefing talks about lessons learnt, but this will only work if someone checks if they have and whether changes have been implemented - as a result. My experience is that it ends up on a bit of paper that ends up being put on the top shelf and gets completely forgotten about.

A5 I think to reinforce the point that I made about us trying to use our investigations to say there are wider lessons here and using our orders and recommendations to promote this. Further investigation work is providing lots of lessons for landlords. We are asking them to tell us what difference it has made. In some cases, where, for instance, we ask for a senior management review, we will ask for the outcome of that.

When we publish our findings of severe maladministration, we invite the landlord to provide a statement setting out what changes it has made. It is important that we keep saying this stuff. We do push to see that it happens. There is also an important role for tenants in being clear that they want to see their landlords demonstrating service improvement.

Q6 Landlord seeming to actively prevent a complaint from escalating to stage two. When we feel we are complying with our landlord complaint process, but feel they are actively preventing us from escalating to a stage 2 (required before we can proceed to the Ombudsman) what can we do? I have one instance about our lift, which has been going on for several months and our landlord either completely ignores it or sets out to squash an escalation. I can't proceed until they agree - it is like they are marking their own homework. I think I have a strong case, but I can't get my landlord to progress it, although clearly, they have not dealt with my complaint.

A6 We can't formally investigate a complaint until it has exhausted the landlord procedure. However, if it is evident to us that the landlord is not progressing the complaint and we have issued (for example) a complaint handling failure order since we were made aware of this through our pre-investigation disputes support work, and then this is not complied with, we may deem the complaint to have exhausted the landlord's procedures and take it to a formal investigation.

This is no comment on your landlord or your case, but my advice would be to contact our disputes support team if you have not done so already, and make it clear that you are stuck between stages one and two and ask them for help.

Q7 Clarification on cold calling about suing a council for disrepairs. Would you clarify for us the issue of cold calling? We have had people asking if we feel that we have been unfairly treated by our council landlord and, if so, there are ways we can sue them.

A7 This is very different from us. It sounds potentially that solicitor firms may have been approaching you. I don't know the specifics of your issue, but I am aware that some solicitors have proactively approached people living on estates to say you could make a disrepair claim. Some people will legitimately want to go through the court route. It may be the best route for them, but there is also the complaints process.

The Ombudsman investigation is less adversarial and has a different approach to evidence than the court does. It is also free to access, while with the courts, there is a cost - although I appreciate that there might be a no-win-no-fee involved. There is still a cost that come through a fee - if it is successful.

We have done some work on complaints versus legal court claims. The complaints system is there for people to use - a distinct alternative to the court (if I have correctly understood your question).

Q8 Street property tenant with no tenants' association to join and long-term repair problems. I'm a street property council tenant. There isn't a tenants and residents association within my postcode. I've been resident in the borough for about 40 years and have frequent repair issues that remain unresolved. I've tried to use the complaints procedure. I get either a level zero complaint or occasionally level 1. I've asked for escalation of my complaints, but nothing happens. All I get is a date when the respective party that should deal with the issue will contact me, but they do not contact. Then I again write to the authority, and they restart me in the complaint process. There are no checks and balances. I feel that even if a tenant complies with the complaints process, the landlord isn't going to take account the issues, be responsible for or make provisions for dealing with the complaint. I've got complaints that extend back over 10-years.

A8 For us to handle/investigate a complaint, there has to be a tenant-landlord relationship. This is set out in legislation. You may have a representative, but there must be that tenant-landlord relationship. Regarding a stage zero, this is something we have been very clear about in our complaint handling code - it is not an approach that social landlords should take. It may be appropriate to respond to something informally quickly - outside the formal complaints process - but this is a practice that has been changing over the last couple of years. As your issues goes back some time, I would

advise - if there is a tenant-landlord relationship - that you could contact our disputes support service. We cannot investigate at that point as our powers are more limited, but approach us.

With anyone who has raised a specific case, we have to do a jurisdictional assessment and things like that, so I'm trying to talk in generic terms and encourage you to contact our disputes support team.

Q9 Landlord blame culture, and charging tenant for repairs. We have a housing association landlord with lot of issues with repairs. The landlord has an in-built culture of blaming tenants - for some repair issues and being a certain kind of person. They don't know me - but everything they relate to me is filtered through a negative bias against social housing tenants.

There is also an issue about repairs that tenants are expected to pay for - such as a broken window. I don't know how they expect any who is claiming universal credit to be able to do this. There are a lot of vulnerable people on our estate. Our landlord also evades responsibility for things they are supposed to do, and operatives fail to turn up on time for visits. How do we hold them to account and get them to treat tenants with respect - because they certainly don't?

A9 Again - you could contact the disputes support team, if you want to. I understand your points about the tone of communication. This is important and something we have stressed concerning our damp and mould investigations and other areas too. About service charges, there is a distinction between us and a tribunal. If someone wants to dispute a charge this may be something for a tribunal - as they have the powers to look at that. We might, however, look at whether the communal consultation was right around the charges.

Q10 A housing association's excessive advertising in seeking to achieve a pro-demolition ballot. We are facing a second redevelopment ballot. Our 2000 ballot was the first to return a no vote to demolition. Our story has recently been covered in the national press because we are facing excessive advertising from the housing association's regeneration team as the ballot did not provide their preferred outcome - for demolition. All of this has created a lot of uncertainty on our estate. My question is can we put in a complaint for excessive advertising. We have already complained through our MP, but there doesn't seem to be a complaints procedure for redevelopment-related issues.

A10 I would approach our disputes support team. I don't know enough about the case, and it would not be appropriate to look at it here. If the advertising is by a council, there is the local government ombudsman. But, if this is about your landlord, our disputes support team could look at it. We can't, however, investigate until the landlord complaints procedure has been exhausted.

Q11 Housing association tenant problems with long-term ineffective repair

issues. I have raised complaints through my landlord's procedures for more than ten years, and the disrepair has still not been resolved. We have gaps in the windows - making the rooms freezing cold, and we have no heaters. We have had leaks in the property, fungus and blockages in the drains. A surveyor came and acknowledged the repair issues. A year later, during the pandemic, operatives came to deal with them. They did some of the repairs, but not to a good standard. The surveyor also agreed that they were not done to their standard.

There were more than five operatives in our home during the pandemic. This was while our children were studying at home by zoom, and we were not supposed to be in close contact with others outside our household. The works were not completed. Operatives returned twice during the winter, but still the repairs were not completed. These same problems have lasted for ten years - subjecting us to harassment. In total, six or seven of our landlord's surveyors and many operatives have been to my home, but the problems are still there.

A11 If you haven't already done so, I would suggest making a formal complaint to the landlord. If you need support - reach out to our disputes support team.

Q12 Tenant with long standing damp issues. I'm a council tenant and have had damp issues in my home since my daughter was eight months old and she is now 20. We and my a 13-year-old son live in a one-bedroom flat. The council has done nothing to deal with the problem. At one time, they moved me out and then back into the same property and said the damp wouldn't come back. My daughter suffers asthma and my son also seems to have started to suffer from asthma as well. Last month the council sent someone to clean the wall - made of plasterboard, not a brick. I'm asking them how they are going to do this. Can the Ombudsman help with all this?

A12 As set out in response to Q11.

Richard Blakeway thanked the meeting attendees for their wide variety of questions.

The chair of the meeting thanked Richard Blakeway for his comprehensive responses to the questions.

Getting in touch with the Ombudsman:

Phone number - 0300 111 3000

Email - info@housing-ombudsman.org

There is a [complaint form](#) on the website -