

## London Borough of Enfield

### Cabinet

**Meeting Date** 3<sup>rd</sup> February 2021

**Subject:** Housing Ombudsman Complaint Code – Self  
Assessment CE 20/017

**Cabinet Member:** Cllr Gina Needs

**Executive Director:** Sarah Cary / Jeremy Chambers

**Key Decision:** No

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### Purpose of Report

1. The Housing Ombudsman Service was established by law to review complaints about housing organisations that are registered with the Regulator for Social Housing. It aims to resolve disputes involving the tenants and leaseholders of social landlords (including local authorities) and voluntary members (private landlords and letting agents). Social Landlords are required to be members of the Housing Ombudsman's Scheme.
2. The Housing Ombudsman introduced a new Complaint Handling Code (the Code) on 1<sup>st</sup> July 2020, which came into operation in September 2020. As part of the new code, councils are required to self -assess their complaints system against the Code, and report to their Cabinet

### Proposal(s)

3.. Cabinet is asked to:

- Note the contents of the Housing Ombudsman's Complaints Handling Code [the Code], including the new sanctions available to the Housing Ombudsman.
- Note the outcome of the self-assessment and the actions required to meet the standards of the Code.
- Note the action plan attached to the report.
- Delegate to the Director of Housing and Regeneration, after consultation with the Cabinet Member for Social Housing the approval of a revised Compensation Policy for tenants and leaseholders.

### Reason for Proposal(s)

4. As outlined above, self-assessment against the Code is mandatory and had to be completed by 31 December 2020. The Ombudsman also requires the Council to report to Members and to publish the outcome of its assessment. The Ombudsman may request sight of the assessment and evidence in its support. The Ombudsman may require Councils to periodically repeat the self-assessment,

for example following any amendments to the Code or a significant change to the landlord's organisational structure.

## **Relevance to the Council Plan**

5. The Code aims to improve standards for tenants which supports the delivery of the priorities of the 2018-2022 Corporate Plan, "Creating a lifetime of opportunities in Enfield", those of providing Good Homes in Well-connected Neighbourhoods, and Sustaining Strong and Healthy Communities.

The Code will also compliment the objectives of the Housing Strategy - <https://new.enfield.gov.uk/services/housing/housing-and-growth-strategy-2020-2030-housing.pdf>

## **Background**

6. The Housing Ombudsman's service published its Complaint Handling Code in preparation for its assumption of greater powers at the beginning of 2021. The Code provides the future framework for complaint handling by social landlords and aims to introduce greater consistency across landlords' complaint procedures. It is also intended to create a 'resident-focused process' that makes it easier for tenants to make complaints about their landlords.

7. The Council's current response to Complaints should be set in context. The Council's housing stock is 15,678 (including Leaseholders). In 2019/20 the Council received 553 complaints (3% of tenants and leaseholders) of which 52 were resolved informally, 472 resolved at first stage and 29 at final stage. 49 were referred to the Housing Ombudsman, of which 5 were upheld. Enfield Council's relatively positive performance in Complaints Handling is shown in benchmarking information published in Inside Housing last year and attached at Appendix 3.

8. The Council approach to handling complaints is generally consistent with that of the Housing Ombudsman and Enfield welcomes the more "resident focussed" emphasis which accords with the Council's priorities.

## **Main Considerations for the Council**

### **Main Features of the Code**

9. The Code creates a universal definition of a complaint and introduces a two-stage structure for the complaints procedure with clear timeframes set out for responses. Landlords were asked to assess their complaints processes and procedures against the Code by 31 December 2020 and publish the results. The Ombudsman has clarified that the assessment can be published, and a report taken to Cabinet in February 2021, which should be explained on the Council's website.

10. The Code introduces new powers. Non-compliance with the Code could result in the Ombudsman issuing complaint handling failure orders. Guidance on these orders has also been published and they will be implemented from 1 January 2021. Complaint handling failure orders can be issued, for example, when a complaint gets stuck in the landlord's process or where landlords do not provide evidence requested by the Ombudsman in a timely manner.

11. The Housing Ombudsman will also be able to issue a 'severe maladministration' finding to clarify the range of determinations from service failure to maladministration to severe maladministration, together with a requirement for the landlord to demonstrate learning after the Ombudsman's decision.

12. The Code aims to achieve a more proactive approach in identifying possible systemic failure and to undertake further investigation either into an individual landlord or sector-wide issues. Any systemic failing found would be referred to the Regulator of Social Housing, as part of a broadening range of closer working processes between the two organisations.

### **Outcome of Self-Assessment by Enfield**

13. The self -assessment form is attached to this report at Appendix 1. The form focuses on the following areas: Definition of a Complaint; Accessibility; Complaints Team and Process, Communication, Co-operation with the Housing Ombudsman Service, Fairness in Complaint Handling; Outcomes and Remedies and Continuous Learning and Improvement.

14. The assessment was undertaken by the Head of Legal Services and the Complaints and Access to Information Manager in consultation with the Director of Housing and Regeneration and Heads of Service in the Housing and Regeneration Department. The assessment took into consideration the current complaints process, statistics on complaints handling, statistics on compliance with Ombudsman's recommendations and timescales, customer feedback on the complaints process, annual reports, current communication of the complaints process. Improvements identified and how they will be implemented are set out in the action plan attached at appendix 2.

### **Definition of a Complaint**

15. The current policy needs to be updated to reflect the exact definition used by either the Housing Ombudsman or the Local Government and Social Care Ombudsman. The definition used by the Local Government and Social Care Ombudsman and that used by the Housing Ombudsman differ slightly, however Local Authorities are free to choose which one to use. Exclusions detailed within the current policy are considered to be fair and reasonable.

### **Accessibility**

16. The assessment found some room for improvement in this area. There are many ways in which the residents can complain for example on-line, by telephone, by letter or via their ward Councillors. It was recognised that there could be some improvement in accessibility, for example by highlighting the reasonable adjustments (such as large print and easy read) the Council can provide and by improving access for non-native English speakers. The Council also need to improve accessibility to the Housing Ombudsman by providing more information on the right to contact the Ombudsman for early resolution. The Complaints Policy will be updated, to include a reasonable adjustments section, and any other areas identified by the self-assessment.

### **Complaints Team and Process**

17. The assessment found the Council's team and process were generally in accordance with the Code's recommendation however the response times in relation to first and final stage need to be reviewed. The Complaints team, although not having autonomy to compel engagement with other departments to resolve disputes, does have an agreed escalation process with senior management to ensure engagement.

18. It is recognised that responding to complaints which fall within the remit of the Housing Ombudsman includes services delivered across the Council. We will be centralising the monitoring of all complaints about the Council Housing service regardless of where they are delivered to ensure oversight and compliance with the Ombudsman's and Regulator's expectations.

### **Communication**

19. The assessment found that there is the opportunity to improve practice in this area. Residents should be informed of the landlord's position and given a chance to respond and challenge any area of dispute before the final decision. The Council is of the view that this is not something that is viable for first stage complaints but is useful at final stage as it would encourage engagement and discussion of final stage findings and may prevent escalation to the Ombudsman.

20. In relation to communication generally about the Complaints process and how to access the Housing Ombudsman Service, more can be done to communicate to, and engage with, residents: for example Housing News, Housing E Newsletter, link to website for both housing and corporate complaints, posters on notice boards at key sites, changes to letter responding to first stage complaints, quarterly rent statements, Customer Voice and the Housing Advisory Group.

21. In terms of staff, it was recognised that there needs to be communication on the role of the Housing Ombudsman, and training on complaints handling across the Council.

22. Reporting of statistics on complying with the Council's current timescales is done on a quarterly basis including reporting to Members

### **Co-operation with the Housing Ombudsman Service**

23. The assessment found that the Ombudsman was usually but not always responded to in a timely way. This was found to be due to a combination of factors: delayed responses from departments, complexity of the case, information needing to be obtained from different departments, and limited team members from the central Complaints Team with access to the in-box. It was also noted that the housing department have no oversight of the cases that reach the Ombudsman. In future, a list of Housing Ombudsman cases will be periodically shared with relevant heads of service to ensure that trends are spotted earlier, to capture all relevant input to the response and to share any learning that results from the complaints. Improvements suggested for co-operation with the Housing Ombudsman Service are set out in the action plan.

### **Fairness in Complaint Handling**

24. The Council's complaint process was assessed as meeting the requirements of this section. The Council does not keep a record of complaints that it refuses to escalate but is not aware of any complaints that have not been escalated.

### **Outcomes and Remedies**

25. The Council does take appropriate steps to put things right where things have gone wrong. There could, however, be improvement in this area: earlier recognition of poor service by the Council, better understanding of what remedy the resident is seeking, training of Complaints team staff and departments on what are appropriate remedies.

### **Continuous Learning and Improvement**

26. The Council has benefited from the self-assessment exercise. The Council recognises that currently its performance in terms of continuous learning from complaints requires some improvement. The Council currently shares learning points with the departments affected, with senior management and with Members but learning is not shared in a systematic way or frequently enough. Residents are informed of improvements at an individual level if it is their complaint, and collectively via the annual reports. The Council recognises that the following suggested improvements need to be made in this area: increased communication to residents using the methods outlined above, discussion of relevant learning at Customer Voice, and active engagement with residents in the development of the Council's complaints procedure. The Council will commit to an annual report on performance, trends and learning, to be taken to Housing Advisory Group, Customer Voice and reported to Housing Scrutiny.

27. The Council is revising the existing compensation policy for Council tenants and leaseholders as this is seen as a good practice way of addressing problems.

28. The Council will look to forge greater links with the Ombudsman to ensure that it continues to keep informed of best practice. In this respect, the Council will also use benchmarking information to embed best practice and learn from other organisations.

29. The Action Plan contains details of the actions to be taken to embed continuous, organisational learning in the Council.

### **Safeguarding Implications**

30. There are no safeguarding implications. An improved focus on complaints, and effective learning from complaints, should lead to a better, more proactive service offer for residents. Those most vulnerable and prone to potential safeguarding concerns, will have increased chances of having their concerns addressed sooner, or avoided entirely.

### **Public Health Implications**

31. An improved resident – focussed complaints system will enable housing and housing management to be improved which will have a positive public health impact on residents.

### **Equalities Impact of the Proposal**

32. There is an assumption that there will be a positive impact on those with protected characteristics by an improvement in the Complaints process. An Equalities Impact Assessment has been undertaken (attached as Appendix 4) which reveals the need for more data to better understand the impact. Any actions from the EQIA have been included in the action plan.

### **Environmental and Climate Change Considerations**

33. There are no environmental and climate change implications.

### **Risks that may arise if the proposed decision and related work is not taken**

34. The Housing Ombudsman could issue a Complaints Handling failure order. There would be reputational risks.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

35. There is a need to ensure that the improvements outlined in this report are implemented or there will be a risk of non-compliance with the Housing Ombudsman's Scheme and a reputational risk. A working group will be set up to ensure implementation.

### **Financial Implications**

36. Improvements to the service to bring the Council's Complaints process up to the standards to meet the requirements of the Code can be delivered within existing budgets.

### **Legal Implications**

37. The role and purpose of the Housing Ombudsman (THO) was created by the Housing Act 1996 (the 1996 Act). Under the Localism Act 2011, the jurisdiction of the Local Government Ombudsmen to deal with complaints and disputes from residents in housing provided by local housing authorities passed to THO

38. The purpose of THO as set out in the 1996 Act and amended by the Localism Act 2011, is to enable tenants and other individuals to have complaints about member landlords investigated by an independent ombudsman in accordance with a scheme approved by the Secretary of State. Under the terms of the Housing Ombudsman Scheme (the Scheme) approved by the Secretary of State for MHCLG (which took effect on 1 September 2020) the role of THO is to:

- resolve disputes involving members of the Scheme, including making awards of compensation or other remedies when appropriate, and
- to support effective landlord-resident dispute resolution by others.

39. Local housing authorities are obliged to be members of the Scheme. The conditions of membership are set out in the Scheme and include a requirement for members to establish and maintain a complaints procedure in accordance with any good practice recommended by THO. Such good practice is incorporated in the Complaint Handling Code issued by THO on 7 July 2020.

40. The Tenant Involvement and Empowerment Standard 2017 sets out expectations on complaints:

Providers shall offer a range of ways for tenants to express a complaint and set out clear service standards for responding to complaints, including complaints about performance against the standards, and details of what to do if they are unhappy with the outcome of a complaint. Providers shall inform tenants how they use complaints to improve their services. Registered providers shall publish information about complaints each year, including their number and nature, and the outcome of the complaints. Providers shall accept complaints made by advocates authorised to act on a tenant's/tenants' behalf.

### **Workforce Implications**

41. None

### **Property Implications**

42. None

### **Other Implications**

43. None

### **Options Considered**

44. The Housing Ombudsman requires the Council to take the action set out in this report.

## **Conclusions**

45. The self -assessment of the Council's current complaints process against the expectations set out in the Code have provided an opportunity for the Council to review its current processes and procedures in the way it handles its housing complaints. The resulting action plan will enable the Council to embed best practice in Complaints handling to provide a better outcome for our residents.

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Date of report: 11<sup>th</sup> January 2021

## **Appendices**

1. Complaint Handling Code self-assessment
2. Action Plan
3. Benchmarking Information
4. Equalities Impact Assessment

## **Background Papers**

The following documents have been relied on in the preparation of this report:

Housing Ombudsman Complaint Handling Code