

Social housing Complaints - Designated Person

Briefing note - general

Introduction

From 1 April 2013 changes have been made to social housing complaints procedures following the implementation of legislation contained within the Localism Act 2011.

This briefing note outlines the changes and explains the options available to complainants once they have completed BCH's complaints procedure and they remain dissatisfied with the outcome of their complaint.

Background

Prior to 1 April 2013 should a complainant go through all 3 Stages of BCH's complaints process and still remain dissatisfied with the outcome they could if they wished, submit their complaint to the Housing Ombudsman Service who would then decide if they are able to investigate the complaint.

From 1 April 2013 the emphasis has been very much about trying to resolve complaints at a local level seeking to achieve consensus between complainants and BCH. This now means that a complainant is unable to submit their complaint directly to the Housing Ombudsman Service immediately following the landlord's final response.

From 1 April 2013 complainants who have completed or exhausted BCH's internal complaints process can only refer their complaint directly to the Housing Ombudsman Service 8 weeks after receiving the landlord's final response.

If the complainant does not wish to wait 8 weeks they can request to have their complaint reviewed by a "Designated person". The Designated person can be a tenant panel recognised by BCH, an MP (in England) or a local District councillor (not a County or Parish Councillor).

Discussions have taken place with the Cabinet Member for Housing, Public Protection and Street Scene and it is recommended that the only designated person role for the Council/BCH should be Councillors. As it stands this means that any Member may be called upon to review a complainant's case as a designated person. In order to manage the process efficiently it has been proposed that the Cabinet Member for Housing, Public Protection should undertake this role.

The role of the designated Person

The general role of the designated person is to assist in resolving tenant complaints and issues locally. Their role is to provide a fresh and independent insight on complaints from a tenant, councillor or MP perspective – acting as a critical friend suggesting views and approaches that may not have been considered by BCH's staff and others in handling the complaint. Where a designated person considers that they are unable to resolve a complaint

locally and if a complainant wishes and authorises them to do so, they have the option to refer a complaint to the Housing Ombudsman Service.

Designated Panel

The option of setting up a designated tenant's panel has been discussed and explored by BCH with the tenant scrutiny Group (TOWER). TOWER wish to continue their focus on scrutiny activity, rather than take on a wider remit incorporating a Designated Panel. BCH also involve customers during the internal stages of the complaints process providing an independent view of individual complaints. TOWER therefore, feel that their involvement would add little additional value.

Liaison with other housing organisations within the Fylde Coast area have highlighted that most other landlords have similar approaches to dealing with complaints and involving tenants within their internal processes and therefore there was little interest in setting up a separate designated tenants panel. The exception to this is New Fylde Housing. New Fylde's panel could be potentially used by the Housing Ombudsman if it thinks that the complaint would benefit from their review prior to the Ombudsman's decision. New Fylde are aware they may be requested to review other landlord's complaints.

Conflict of interest

A designated person can not review a complaint case if:

- they have been involved in BCH's internal complaints procedure in relation to the complaint being reviewed
- they are connected to the complainant e.g. relative, close friend, business associate, direct neighbour
- they are connected closely to any member of BCH staff or Board that may have dealt with the complaint at any earlier stage of the complaints process
- they are involved formally in the governance of BCH

What are the actual powers that a designated person has?

Designated persons have the power of persuasion, negotiation and conciliation. They do not have "formal" powers other than the right to refer complaints to the Housing Ombudsman Service with the complainant's authorisation, once BCH's complaints procedure has been exhausted. Their role is to assist in resolving complaints locally and they will use appropriate diplomatic and conciliatory methods to do this, seeking to achieve consensus between tenants and BCH.

A designated person does not have power over BCH's policies and procedures although they may suggest ways they could be improved. A designated person would not be expected to make a formal judgement about the merits of a complaint, but if they do, their judgement will not be binding. They are not a tribunal. Their role is to facilitate resolution of tenant complaints which may involve them providing advice to tenants; advocating on their behalf; discussing matters with BCH or liaising with other BCH Panels or Groups.

Data Protection

There are data protection issues involved in all complaints handling. Staff, tenants, designated persons and others involved in complaints handling are subjected to appropriate codes of confidentiality that ensure good data management and those involved may only use information gathered for the purposes of handling the complaint. In all cases the complainant needs to remain in control of their complaint and a designated person will only be able to act for the complainant once a written and signed agreement has been received.

Implications for Councillors

As is the case now, tenants may take complaints to councillors, MPs or tenant panels as they see fit. However, to control tenants taking their complaint to different designated persons one after the other and to ensure consistency and efficiency in complaint handling the cabinet Member for Housing, Public Protection and Street Scene has been appointed as the Designated Person.

Any complaints referred to members once tenants have exhausted BCH's internal complaints process should be forwarded onto Cllr Gillian Campbell (Cabinet Member for Housing, Public Protection and street scene to deal with in their role as the Designated Person, within two weeks of receiving the complaint.

Complaints process chart

This flowchart provides a brief overview of the complaints process.

Further Information

Please see attached FAQs document, which provides further detail about the role, functions and operations of the "designated person", compiled by a stakeholder group consisting of representatives from the National Tenant Organisations, the Housing Ombudsman Service, the Department for Communities and Local Government, the Chartered Institute of Housing, the National Housing Federation, the Local Government Association, and the National Federation of ALMOs.