

Housing Ombudsman's new systemic framework

The Housing Ombudsman Service (HOS) has launched a new systemic framework that sets out the guidance the complaints arbitration service will follow when assessing if disputes point towards more fundamental problems.

Factors such as the severity and scale of an individual failing, a disproportionately high volume or lack of complaints received about a landlord and the length of time over which issues have persisted will be used to decide whether systemic problems are at play.

In particular, the HOS will be looking to identify complaints-handling failures or service failures where extra work is needed to prevent mistakes being repeated, or where reoccurring issues across several providers require sharing of best practice.

The Housing Ombudsman Scheme was revised in September 2020 (information sheet no 10 of 2020) to enable further investigation into systemic issues for the first time. The HOS is now looking beyond individual disputes into the wider and deeper issues responsible for generating complaints so that they can, in turn, seek to address those issues using a range of outcomes to improve residents' lives and landlords' services.

Paragraph 50 of the Scheme allows the Housing Ombudsman to conduct further investigation to ascertain whether there is a systemic failure:

“The Ombudsman may conduct further investigation beyond the initial complaint or landlord to establish whether any presenting evidence of service failure is indicative of a systemic failing. Where this is the case it will be referred to the appropriate regulatory body.”

This framework has been developed to support the HOS with proactive identification of key issues impacting residents and the sector, enabling the HOS to examine and respond to issues and themes arising in the sector. It also provides an opportunity to strengthen resident and landlord relationships, share insight from complaints and promote best practice.

These investigations will allow the HOS to respond to warning signs and maximise the impact of their preventative role. They will also allow them to extend access to fairness for all residents, regardless of whether they have complained.

In particular, the HOS approach will aim to identify:

- Complaint handling failures where further work with an individual or group of landlords could support the earlier resolution of complaints

- Service failures, either by an individual or group of landlords, where further investigation into underpinning policies, procedures or approach is required to prevent service failure reoccurrence
- Reoccurring issues across several landlords where further investigation could promote greater understanding and sharing of best practice.

The HOS values the relationship with member landlords and their residents, and recognise that best results can be achieved when working well with each other. As such they will be using these new powers to promote a culture of learning and openness, allowing better insight into the root cause of problems and sharing learning to drive better service delivery for all residents.

An overview of their systemic work will be produced in the Ombudsman's Annual Report.

Assessment

The HOS handles thousands of complaints nationally each year providing the basis on which they consider whether to undertake further investigation under paragraph 50 of the Scheme including work at dispute support, making Complaint Handling Failure Orders as well as formal investigations. However, they may consider other indicators, as other Ombudsman with similar powers do, and will conduct regular research and analysis to identify the issues affecting residents from a range of sources, including partner and landlord data, media reports, resident engagement activity and horizon scanning.

The HOS will then decide which issues they believe require a response and what level of response is appropriate and proportionate. This decision will be based on several factors, including but not limited to:

- The severity of an individual determination
- The seriousness and potential scale of the impact
- Whether the volume of complaints received is disproportionate compared with the size of the landlord, or suggests a possible systemic issue
- An absence of complaints about an issue or member landlord when other indicators strongly suggest we should be seeing them
- Whether the issue affects more than one landlord and is thematic in nature the length of time the issue has persisted and whether it is indicative of a pattern of behaviour.

Investigation level

The HOS will be proportionate in their response to a potentially systemic issue and their approach to further investigation will continue to be inquisitorial. Where a possible systemic issue is identified, they will consider an appropriate course of action. This may include:

- Further investigation - This may take a range of forms to be determined by an assessment of what activity is required to draw conclusions. e.g., it may be a desktop review of evidence with insight from relevant parties where appropriate. It may also be decided that additional evidence is required from relevant parties to inform their findings, such as landlords, staff, residents and partners.
- Monitoring - Maintaining a watching brief on an emerging trend or issue.
- No further action - This will be appropriate where the issue identified at scoping stage does not require further investigation to take appropriate action on.

Outcomes

The HOS may decide, either at the scoping stage, or following an investigation, that one or more of the outcomes listed below is appropriate and proportionate. These outcomes range from specific actions with individual landlords to sharing learning and best practice with all landlords through their publications and include:

- Making recommendations to the landlord's governing body for them to consider further action (Housing Committee in the case of SDC)
- Publishing the learning identified. For example, Spotlight reports into sector-wide issues, guidance, or special interest reports into individual cases
- Workshops and training events
- Partnership working with individual landlords
- Issuing orders to individual landlords, including complaints handling failure orders
- Formal referral to the landlord's governing body
- Formal referral to the appropriate regulator for their consideration.

Where necessary, the HOS may add additional outcomes. E.g. while actively managing a landlord, further evidence becomes available that necessitates referral to the governing body.

Reporting and Publication

Where appropriate, details of investigations will be made available on the HOS website and will include:

- Reasons for, and scope of, the investigation
- Details of how anyone affected or holding relevant information can contribute to the investigation

- Dates and milestones for responses

The purpose of publication is to raise awareness of issues and to share good practice and recommendations with landlords, building on the aim of establishing a positive complaint handling culture across the sector. Publishing information on systemic work, including analysis, reports and recommendations and where appropriate, landlords will be named.

The HOS will publish the name of any landlord and the details of any formal referral to a governing body or to the appropriate regulator.

Kevin Topping, Head of Housing Services Ext: 4196

Email: kevin.topping@stroud.gov.uk