

# CABINET

24 MAY 2024

## REPORT OF THE PORTFOLIO HOLDER FOR HOUSING AND PLANNING

### A.5 ANNUAL HOUSING COMPLAINTS PERFORMANCE AND SERVICE IMPROVEMENT REPORT INCLUDING SELF-ASSESSMENT AGAINST THE HOUSING OMBUDSMAN'S COMPLAINT HANDLING CODE

#### PART 1 – KEY INFORMATION

##### **PURPOSE OF THE REPORT**

To present to Cabinet an Annual Complaints Performance and Service Improvement report for scrutiny and challenge, which includes a self-assessment carried out against the Housing Ombudsman's Complaint Handling Code for 2023/24 prior to publication and submission.

##### **EXECUTIVE SUMMARY**

In July 2020, the Housing Ombudsman published a new Complaint Handling Code ("the Code") that provided a framework for high-quality complaint handling and greater consistency across landlord's complaint procedures. Its aim was to enable landlords to resolve complaints raised by their residents quickly and to use the learning from complaints to drive service improvements.

This Code was revised in 2022 to make it explicit about what was mandatory and where it was appropriate for landlords to use their discretion to achieve best practice in complaint handling.

Prior to the implementation of these revisions, complaints against the Council, as a landlord, were dealt with under the Corporate Complaints Policy. However, the revision of the Code and self-assessment at the time resulted in a stand-alone procedure being developed for handling complaints received regarding the Council in its capacity as a landlord to ensure that it meets all of the requirements of the code.

Following the implementation of the Social Housing (Regulation Act) 2023, the Housing Ombudsman's Complaint Handling Code became statutory on 1 April 2024. This was accompanied by a further revision of the Code and the Council's Housing Complaints Policy has been amended to take account of these changes.

The Complaint Handling Code 2024 requires landlords to produce an annual complaints performance and service improvement report for scrutiny and challenge and this information should be presented to the landlord's governing body. As part of this, landlords are required to look beyond the circumstances of individual complaints and consider whether any service improvements can be made as a result of learning from complaints and these are outlined in Appendix A.

The annual complaints performance and service improvement report also includes a self-assessment against the Code and this information and this needs to be published.

The Social Housing (Regulation) Act 2023 also places a duty on the Housing Ombudsman to monitor compliance with its statutory Complaint Handling Code and to assist with this, all landlords are required to submit their self-assessment to the Housing Ombudsman by 30 June each year, commencing in 2024.

It is also worth noting that the Local Government and Social Care Ombudsman and the Housing Ombudsman have been working closely to harmonise the respective Codes for Complaint Handling. In late 2023 the two Ombudsman services consulted on a single code across both of their areas of responsibilities. In recognition of the different legal powers the organisations hold, the conclusion reached was to produce two closely aligned Codes for complaint handling. In view of this, it is timely to look at the harmonisation of the Corporate and Housing Complaints procedures to deliver the expectations of the closely aligned Ombudsman Codes. This review will be programmed within 2024/25.

#### **RECOMMENDATION(S)**

**That Cabinet:**

- (a) endorses the Portfolio for Housing and Planning performing the role of Member Responsible for Complaints for the purposes of the Housing Ombudsman Complaint Handling Code and associated guidance;**
- (b) in accordance with the Housing Ombudsman's Complaint Handling Code and in compliance with Cabinet's scrutiny and oversight requirements, receives the Councils Annual Complaints Performance and Service Improvement Report, which includes the Annual Self-assessment against the Code, as set out in Appendices A and B.**
- (c) subject to (b) formally provides its response to the Annual Complaints Performance and Service Improvement report, for publication;**
- (d) authorises officers to publish both the Report and the Cabinet's response on the Council's website within the section relating to complaints and to submit the self-assessment to the Housing Ombudsman by 30 June;**  
**and**
- (e) notes that there is to be a review in 2024/25 of the Council's Corporate and Housing Complaints procedures to deliver the expectations of the now closely aligned Local Government & Social Care and Housing Ombudsmen Codes.**

#### **REASON(S) FOR THE RECOMMENDATION(S)**

To approve the self- assessment carried out before its submission to the Housing Ombudsman.

#### **ALTERNATIVE OPTIONS CONSIDERED**

The Council's Complaints self-assessment sets out how we comply with the Housing Ombudsman's Complaint Handling Code and the evidence to support this position. The only alternative option would be to not complete this assessment.

The Social Housing (Regulation) Act 2023 places a duty on the Housing Ombudsman to monitor compliance with its statutory Complaint Handling Code. This means that the Housing Ombudsman is required to ensure that all landlords meet the standards set out in the Code for complaint handling. To assist with this, all landlords are required to submit their self-assessment to the Housing Ombudsman by 30 June each year, commencing this year.

If this was to not be completed or submitted, the Council would risk non-compliance with the Complaints Handling Code

Where the Housing Ombudsman identifies any concerns with a landlord's compliance with the Code, they will engage with them to bring them back into compliance promptly. If there is evidence of ongoing failures in compliance, the Ombudsman will consider using their wider powers including Complaint Handling Failure Orders (CHFO). The

Ombudsman Self-assessment Guidance states a landlord's failure to provide their submission may be issued with a Type 3 CHFO (non-compliance with the statutory Complaint Handling Code).

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

The operation of an effective complaints policy and procedure contributes to the Corporate Plan 2024-28 themes of pride in our area and services to residents and of financial sustainability and openness.

### OUTCOME OF CONSULTATION AND ENGAGEMENT

Consultation and engagement has been undertaken with members of the Council's Tenants Panel regarding the revised Housing Complaints Policy and the self-assessment and performance report will be presented to its next meeting.

We will continue to regularly engage with our Tenants Panel to review performance statistics relating to complaints.

### LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	Yes	If Yes, indicate which by which criteria it is a Key Decision	<input checked="" type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	27 March 2024

The Social Housing (Regulation) Act 2023 placed a duty on the Housing Ombudsman to monitor compliance with the statutory Complaint Handling Code ("the Code"). This means that the Housing Ombudsman is required to ensure that all landlords meet the standards set out in the Code for complaint handling, regardless of their size and operating model.

The legal duty placed on the Ombudsman to monitor compliance with the Code, is regardless of whether it receives individual complaints from residents about a landlord. Landlords must assess against the Code and assure policies and practices comply with the Code at least annually. For the first time, this means landlords need to submit their self-assessment annually to the Ombudsman. The self-assessment must form part of the Council's Annual Complaint Performance and Service Improvement Report. Landlords may wish to include wider scrutiny arrangements such as using a tenant panel to review its self-assessment or complaints policy to satisfy itself that its complaints function is operating with the Code.

The timing of the annual submission to the Ombudsman has been aligned with the Regulator of Social Housing's requirements for the publication and submission of Tenant Satisfaction Measures (TSM) outcomes. For landlords with over 1,000 homes

this will be 30<sup>th</sup> June 2024. The self-assessment must also be published on the Council's website so that residents are able to easily access it.

The Housing Ombudsman Service has provided Self-assessment guidance. The self-assessment must be provided to the Housing Ombudsman using the dedicated electronic form, which asks landlords to provide electronic links to key information and documentation required to support their submission, these include:

- The self-assessment as published on the website
- The annual complaints performance and service improvement report
- The governing bodies response to the report
- The complaints policy

For the purposes of complying with the self-assessment process Cabinet is the governing body and is required to provide a response to the report.

Failure to comply with the Code may result in Type 3 Complaint Handling Failure Orders (CHFOs) being issued. A Type 3a may be issued where a landlord fails to provide their annual submission form to demonstrate compliance in scrutiny and oversight of the complaints handling process. A Type 3b CHFO may be issued where the Ombudsman has found that there is non-compliance with the Complaint Handling Code with respect to policy or in handling complaints in practice.

The Code Compliance Framework ("the Framework") sets out how the Ombudsman will assess whether a landlord has effectively scrutinised itself, whether its complaints policy complies with the Code, and whether it complies with the Code in practice.

The Framework states that the Ombudsman will assess compliance with the Code in three areas, and the requirements in all three areas must be met:

- Compliance in Scrutiny and Oversight
- Compliance in Policy
- Compliance in Practice

Under the area of Compliance in Scrutiny and Oversight, the landlord must have:

- a) Produced an Annual Complaints Performance and Service Improvement Report, for submission to the governing body, which must include:
  - the annual self-assessment against the Code to ensure their complaint handling policy remains in line with its requirements;
  - a qualitative and quantitative analysis of the landlord's complaint handling performance. This must also include a summary of the types of complaints the landlord has refused to accept;
  - any findings of non-compliance with the Code by the Ombudsman;
  - the service improvements made as a result of the learning from complaints;
  - its actions following any annual report about the landlord's performance from the Ombudsman; and
  - its actions following any other relevant reports or publications produced by the Ombudsman in relation to the work of the landlord.
- b) That the annual complaints performance and service improvement report has been reported to the landlord's governing body (or equivalent) and published on the section of its website relating to complaints. The governing body's response to the report must be published alongside this.

These are Code provisions 8.1 and 8.2.

Under the area of Compliance in Policy, the landlord's complaints policy must meet the expectations of the Code contained in all other provisions.

Under the area of Compliance in Practice, the landlord's complaints handling must meet the expectations of the Code in practice. This assessment is based on an assessment of the landlord's own reported performance, data and insights from the Ombudsman's casework and information from external data sources.

**X**    **The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:**

The Monitoring Officer has assisted with the production of the Cabinet report and provided the text within the Legal Requirements section above. The Self-Assessment Guidance states Landlords should consider the completion of the self-assessment as an opportunity to reflect on their approach, and to make any necessary changes to policy, process, or practice to ensure effective complaint handling.

In preparation for completing the self-assessment, landlords should ensure they are fully aware of the provisions and requirements for handling complaints effectively and fairly

Completion of the self-assessment will typically require landlords to:

- review current practices to identify any gaps or actions required to comply
- take any necessary action to ensure that Code requirements are met
- gather and document evidence to support the assessment of compliance
- scrutinise and challenge the assessment, to provide assurance
- publish the self-assessment and wider documentation
- communicate and embed changes made through the self-assessment

The above is not an exhaustive list of the actions needed to complete the self-assessment; landlords should utilise their own governance and scrutiny channels to assure the governing body, and their residents that they comply with the Code.

When completing the self-assessment landlords should continually ask themselves if it is a true reflection of their complaint handling service, and how they have assured that this is the case. The Complaint Handling Code requires one member of the governing body (i.e. Cabinet) to have lead responsibility for housing complaints. The role is responsible for ensuring the Cabinet receives regular information on complaints that provides insight and learning on the landlord's complaint handling performance.

The Housing Ombudsman Service has previously provided Best Practice Guidance for Landlords for the Effective Involvement of Governing Bodies in relation to its 2022 revision of the code and this is included as Appendix C to this report.

The Member Responsible for Complaints (MRC) should be responsible for ensuring that the self-assessment is scrutinised and challenged. The expectation is that the MRC is responsible for ensuring that complaint handling drives service improvement for residents and learning and business improvement for the organisation. This accords with the Report to Cabinet being in the name of the Portfolio for Housing and Planning, who should be confirmed as the MRC in this context. This forms part of their role in embedding a positive complaint handling culture across housing services.

An MRC in presenting the assessment should consider:

- examining the evidence referred to and ensuring that this is complete and accessible to readers including staff and residents
- scrutinising any data and performance information included to ensure the governing body is satisfied that it is accurate, reliable, and repeatable
- challenging any commentary or context, to ensure that it is a fair and reasonable assessment

Both the self- assessment and performance report have been presented to the MRC and the MRC will have an ongoing monitoring role with complaints information being presented and reviewed on a quarterly basis from 1 April 2024. This will ensure that data is scrutinised and challenged and will provide assurance that the service is handling complaints effectively and using the insights gained from these to drive service improvement.

Cabinet as the governing body is required to provide scrutiny and challenge to the Annual Report and the self-assessment, provide a response prior to publication and submission by 30<sup>th</sup> June 2024.

The purpose of publishing the governing body’s response to the self-assessment is to provide assurance that the self-assessment is a true reflection of the landlord’s complaint handling. The response should set out how the MRC has scrutinised and challenged the self-assessment and how any risks identified as part of the review have been addressed. Landlords should also include any lessons learned through the self-assessment process and actions taken as a result. The response can also highlight areas of achievement and any challenges that the landlord has faced during the reporting year. When doing so, landlords are encouraged to take an open and transparent approach to demonstrate accountability to their residents and other stakeholders.

The Housing Ombudsman expects the role of the MRC to champion a positive complaint handling culture and build effective relationships with complaints teams, residents, its audit and risk committees as well wider teams and the Housing Ombudsman Service. The Council should therefore utilise the Audit Committee in year to provide additional assurance.

**FINANCE AND OTHER RESOURCE IMPLICATIONS**

There are no significant financial implications associated with this self-assessment and performance report as it confirms existing arrangements which are currently funded via existing budgets in the Housing Revenue Account

However, it is anticipated that the implementation of the revised Complaints Handling Code and the actions required to meet these will have a financial impact in the longer term.

<b>X</b>	<b>The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:</b>
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As highlighted within earlier reports relating to the HRA budgets and business plan, the new era of social housing regulation merging from the Social Housing (Regulation) Act 2023 will have a major impact on the overall financial position of the HRA in future years. It is recognised that the impact will likely be due to the aggregation of a number of emerging requirements such as those set out in this report, rather than perhaps any single item. Although the importance of such regulation is acknowledged and reflects the Council’s stated commitment and priority to provide good quality housing, the resulting costs involved either directly or through demand for the necessary additional capacity, were not reflected within the self-financing reforms implemented by the Government in 2012. Such costs therefore represent additional financial pressures that will have to be balanced against the broader challenge of delivering a long term financially sustainable HRA in future years.

**USE OF RESOURCES AND VALUE FOR MONEY**

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The Council has an adopted Financial Strategy.
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B) Governance: how the body ensures that it makes informed decisions and properly manages its risks,	The Council has a mature constitutional structure and framework of policy for decision-making. It is intended that the appended policies will augment that framework.
.C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The Council has an adopted Financial Strategy.

**MILESTONES AND DELIVERY**

If Cabinet agrees to the self- assessment, noting any comments it wishes to make in connection with this, it will then be submitted to the Housing Ombudsman by 30 June 2024 and published on the Council’s website. The stated review in 2024/25 of the Council’s Corporate and Housing Complaints procedures to deliver the expectations of the now closely aligned Local Government & Social Care and Housing Ombudsmen Codes is intended to be completed by 31 March 2025.

**ASSOCIATED RISKS AND MITIGATION**

The Housing Ombudsman believes that all members should comply with all provisions in the Code as this represents best practice in complaint handling. The Social Housing (Regulation) Act also placed a duty on the Ombudsman to monitor compliance with their code.

Where a landlord does not meet the requirements of the Code in any areas and does not move into compliance within a reasonable timescale, the Ombudsman will issue a Complaint Handling Failure Order and publish this.

There are three types of Complaint Handling Failure Orders:

Type 1: A CHFO may be issued in relation to failings in an individual case where the Ombudsman has taken reasonable steps to seek engagement from a landlord, but the resident remains unable to progress a complaint through the landlord’s process

Type 2: A CHFO may also be issued on an individual case where the landlord has failed to provide information, either at the outset of the investigation or to confirm compliance with our orders, to the Ombudsman as requested.

Type 3: A CHFO may be issued where a landlord fails to comply with its membership obligations under paragraph 9 of the Scheme.

In addition to this, the Housing Ombudsman has powers to carry out wider investigation where there is evidence of a ‘systemic failing’ and where this the case, it will be referred to the Regulator of Social Housing. This could trigger the Regulator using its enforcement powers which include requiring a registered provider to submit a performance improvement plan or to take particular actions set out in an enforcement notice. The Regulator will also be able to authorise an appropriate person to enter a social housing premises to take emergency remedial action and issue penalties or require the housing provider to pay compensation.

**EQUALITY IMPLICATIONS**

In line with the Public Sector Equality Duty, within these policies the Council has due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

**SOCIAL VALUE CONSIDERATIONS**

Creates healthier, safer and more resilient communities: To build stronger and deeper partnership working arrangements whilst continuing to engage and empower tenants.

**IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030**

The operation of the Housing Complaints Policy and associated self-assessment does not present a direct impact on the Council's target for net zero greenhouse gas emissions from its business operations by 2030. The Council will be mindful of energy efficiency measures, wherever relevant, in the implementation of its policies.

**OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS**

**Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.**

<b>Crime and Disorder</b>	The Housing Complaints Self-Assessment does not directly relate to crime and disorder considerations.
<b>Health Inequalities</b>	The Housing Complaints Policy, upon which the self-assessment is based, ensures equal access to the Council's housing complaints service.
<b>Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance).</b>	The Council will follow subsidy control legislation and regulations, where applicable, in relation to the content and implementation of these policies.
<b>Area or Ward affected</b>	All

**PART 3 – SUPPORTING INFORMATION****BACKGROUND**

The Council has retained its housing stock and currently manages over 3,000 homes as well as more than 400 leasehold properties and 389 garages.

In July 2020, the Housing Ombudsman published a new Complaint Handling Code providing a framework for high-quality complaint handling and greater consistency across landlord's procedures. Its aim was to enable landlords to resolve complaints raised by their residents quickly and to use the learning from complaints to drive service improvements

This was followed in November 2020 by the Social Housing White Paper which committed to improve the national regulatory system for social housing to make landlords more accountable and to improve the formal national ombudsman complaint system.

This White Paper also included a 'Charter for Social Housing Tenants' and this contains seven commitments that social housing tenants should expect from their landlord, one of which was to have their complaints dealt with promptly and fairly.

The subsequent Social Housing (Regulation) Act 2023 introduces new social housing consumer standards that contain specific expectations registered providers of social housing must comply with and detail the outcomes that providers are expected to achieve.

In relation to complaints, the Transparency, Influence and Accountability Standard states that:

- Registered providers must ensure their approach to handling complaints is simple, accessible and publicised.
- Registered providers must provide accessible information to tenants about:
  - a) how tenants can make a complaint about their registered provider;
  - b) the registered provider's complaints policy and complaints handling process;
  - c) what tenants can do if they are dissatisfied with the outcome of a complaint or how a complaint was handled; and
  - d) the type of complaints received and how they have learnt from complaints to continuously improve services

The Housing Ombudsman Service provides redress for individual tenant complaints. However, its Complaints Handling Code became statutory from 1st April 2024 and provides a single, robust set of standards for complaints procedures to be accessible, fair and efficient. A legal duty is also placed on the Ombudsman to monitor compliance with the Code, regardless of whether it receives individual complaints from residents about a landlord.

Following consultation, a further revision of the Housing Ombudsman's Code came into force on 1 April 2024 and our Housing Complaints Policy has been amended to take account of these changes.

The revised Complaint Handling Code requires landlords to produce an annual complaints performance and service improvement report for scrutiny and challenge, which includes a self-assessment against the Code.

We welcome complaints and actively encourage tenants and customers to express their dissatisfaction to us. All expressions of dissatisfaction represent a positive opportunity to gather intelligence and insight that will help us to improve our service delivery.

Since the implementation of the Housing Ombudsman's Complaint Handling Code, there has been a significant increase in the number of housing complaints being recorded with these increasing from 36 in 2021/22 to 124 complaints in 2023/24.

This is partly attributable to the adoption of the Housing Ombudsman's definition of a complaint and it being made easier for residents to complain by providing different channels through which complaints can be made. There has also been a national publicity campaign to raise awareness amongst social housing tenants about how to make a complaint if they are dissatisfied with the service being provided by their landlord.

The analysis of complaints enables us to understand where things have gone wrong and to identify what we can do to stop this happening again. The service takes a positive approach to learning from both individual complaints as well as any trends in the type of complaints being received. For example, it was identified that systems need to be put in place to ensure that tenants are kept informed about the progress of repair items and that outstanding actions are tracked. This role is now being carried out by the Technical Officers team in Building Services who chase outstanding and overdue repairs and keep tenants informed of progress and delays.

From 1 April 2024, the Housing Portfolio Holder will receive a quarterly report on the volume, outcomes and trends of complaints being received and will also overview performance at the monthly meetings held with housing managers. This more formalised approach to reviewing issues, risks and trends is being implemented to support our revised complaint handling arrangements.

We will also publicise the improvements we have made as a direct result of this feedback, so tenants and customers can see how their feedback has improved standards of service. We also recognise the broader role of the Housing Ombudsman Service and will implement recommendations resulting from their investigations.

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

None.

#### **APPENDICES**

**Appendix A – Housing Complaints Performance Report for 2023/24**

**Appendix B - Self assessment against the Housing Ombudsman's Complaint Handling Code**

**Appendix C - Housing Ombudsman Service Best Practice Guidance for Landlords for the Effective Involvement of Governing Bodies 2022**

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