



Strengthening consumer redress in the housing market - A Consultation (Ministry of Housing, Communities and Local Government)

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About Age UK

Age UK is a national charity that works with a network of partners, including Age Scotland, Age Cymru, Age NI and local Age UKs across England, to help everyone make the most of later life, whatever their circumstances.

In the UK, the Charity helps more than seven million older people each year by providing advice and support. It also researches and campaigns on the issues that matter most to older people. Its work focuses on ensuring that older people: have enough money; enjoy life and feel well; receive high quality health and care; are comfortable, safe and secure at home; and feel valued and able to participate

About this consultation

The Government is consulting on options for improving and streamlining Ombudsman schemes for private and public sector housing. This includes the Housing Ombudsman, Local Government and Social Care Ombudsman, Property Ombudsman and other housing redress agencies and schemes.

They have invited comment on three possible options for reform:

- A single housing ombudsman bringing together existing housing redress schemes into a single body through primary legislation.
- A 'single front door' approach to offer one point of contact through which complaints would be directed to the correct service.
- A rationalisation of existing schemes with a standardised approach. This could mean an Ombudsman for the social sector and a separate service covering the private rented sector, leasehold and estate agents.

Ombudsman schemes normally deal with issues of maladministration. This relates to how providers treat residents/clients, including how they deal with complaints, and how far they follow guidance and the relevant procedures. A complaint is normally required to go through an internal complaints procedure first before applying to the Ombudsman. After this is exhausted the Housing Ombudsman requires a 'designated person', such as an MP, to make the referral (alternatively, the complainant can wait eight weeks and then self-refer).

Although Ombudsman schemes are free, there can be a long delay to have a complaint dealt with and only a small number of cases are investigated in detail. Any decline in the number of complaints made to the Ombudsman may indicate a lack of confidence in the current system – rather than a reduction in the numbers of housing problems arising for older people.

Ombudsman schemes do not normally deal with issues that are the concern of the courts or tribunals – which means there are limits on their ability to tackle the substance of a housing complaint, for example, ensuring a repair is carried out in a timely manner. However, in some cases Ombudsman action may include legal considerations e.g. homelessness and social care.

The majority of service providers comply with Ombudsman recommendations, although their powers are limited and may potentially be ignored.

Key points and recommendations

- Housing redress systems for older people need to be linked to increased funding for independent housing information, advice and advocacy services – which would reduce pressure on Ombudsman schemes. In addition Ombudsman schemes should be able to link older people into local information and advice services.
- Whatever shape the final redress system takes, complainants should be quickly and effectively triaged to the correct service or officer. This is particularly important for older and vulnerable complainants who may find it more difficult to navigate the system and suffer greater adverse effects from delays.
- There should be a continued priority to make online information accessible and age friendly, as well as providing information in printed and other formats designed to make it as easy as possible for older people to pursue a complaint.
- Internal complaints procedures should be consistent across providers, with greater protection for complainants. Complainants currently dealt with by the Housing Ombudsman should not have to be referred by a ‘designated person’ and complainants should not have to wait eight weeks to self-refer.
- Age UK supports the principle that complaints should be used by the relevant regulatory body to identify patterns of complaints and systemic problems, to improve the delivery of housing services to older people.
- The powers of Ombudsman schemes could be selectively extended to include some additional legal areas beyond their current remit to help resolve a broader range of cases.
- Complaints by older and vulnerable people, where the issue is likely to have a serious impact on their health and wellbeing should be given additional priority by Ombudsman schemes.

INTRODUCTION

A wide range of housing complaints are raised by older people with Age UK. Local Age UKs often support older residents to make a complaint with a provider or through an Ombudsman or other redress scheme. Other cases may require legal action to resolve the problem raised.

Typical areas of housing complaints include:

- Failures to address: disrepair, damp or mould, pest infestation, or a failure to make timely adaptations where urgently required.
- Broken or inadequate utilities or heating systems and a failure to maintain communal areas.
- Age discrimination by housing providers in the delivery of services or rude and inappropriate behaviour
- The modification, decline and withdrawal of housing support services without proper consultation
- Failures to mediate and deal effectively with anti-social behaviour by neighbours as well as home security measures to prevent crime.
- Unfair or opaque charges or fees for services and the withholding of information relating to charges.

Age UK is particularly concerned about older people who find it difficult to make a complaint due to poor physical or mental health. This means reform needs to ensure the housing redress services are as accessible as possible. Some older people living in retirement or specialist housing schemes may be reluctant to make a complaint because they fear adverse treatment by the provider. Older private tenants may also be fearful of pursuing a complaint because of the threat of eviction or poor treatment by the landlord.

Efficient and effective access to housing redress is vital and an improved system could provide the Government and policy makers with a clearer understanding of housing problems and areas that require urgent reform. However, improving redress is no substitute for addressing the issues that give rise to complaints in the first place. Furthermore, aspects of an improved redress system may be of limited impact without corresponding changes to the law, regulation or funding landscape. For example, while a right to redress for private tenants would be welcome, many will be reluctant

to bring a complaint due to fears of 'no fault' eviction. Current provisions to tackle retaliatory eviction where a tenant complains about the condition of their property do not go far enough.

OUR RESPONSE

We do not have a strong preference for a specific option, as set out in the consultation paper, but believe there is certainly scope for consolidation in some parts of the market. Whichever option is chosen should take account of the measures below, designed to improve the experience of older people and ultimately help them to resolve a problem. It should aim to help resolve problems at an early stage to reduce the need for legal action.

Advocacy and advice

- Housing redress, particularly for vulnerable older people, must be linked to increased funding for advice and advocacy services, as part of resolving the complaint. Without this some older people will be reluctant or unable to engage with an internal complaints procedure or an Ombudsman. The recent CLG select committee on older people's housing said that support for housing advice services should be a priority for the Government.

Referrals

- Older people are often uncertain about how to make a complaint or the right agency to approach. The complexity of housing law means this is not straight forward so any reform which simplifies referrals to the right agency would be very helpful.
- A single point of access for housing redress services, as suggested in the consultation, is appealing. It would reduce the need to pass older people backwards and forwards between agencies – which they often find frustrating and demoralising. Ombudsman schemes should be in a position to automatically link older people into independent information and advice services to help support their case and if necessary consider legal action.
- We would like to see age friendly material, both printed and online, designed for older people (in consultation with older people), to help them better understand housing redress and to make it as easy and simple as possible to register a complaint. Complaints should be seen as a positive opportunity to improve the delivery and quality of housing services for older people.

Internal complaints

- Internal complaints procedures should follow the policy of the redress scheme, which will include response times. However, the process can still become lengthy and drawn out and may fail to resolve a housing problem at an early stage. We have concerns that some standardised letters and responses from housing providers often fail to acknowledge the substance of a complaint and therefore do not help to achieve a solution. This problem reflects a lack of

training, guidance, mediation skills and flexibility toward the needs and requirements of vulnerable older people, as well as a funding environment that may discourage client and solution focused approaches. Although Ombudsman schemes already address these issues we would support them having a stronger and more proactive role to encourage more providers to improve how they treat complaints – especially in retirement housing.

- The Government should consider prompting the Ombudsman and regulators to issue stronger guidance to providers to improve and simplify internal complaints procedures. Where complaints relate to sub-contracted services within, for example, a retirement housing system, there should be a clear single route for dealing with the complaint. Sheltered housing residents have told us their complaint can be passed from one service provider to another without clarity about who takes responsibility for their problem.
- If a resident is being abused or badly treated by a provider or agent of the provider they may fear that using the internal complaints procedure could have negative consequences for them. This might include making a resident feel uncomfortable, anxious or guilty about making a complaint or even indirect pressure to leave a housing scheme.
- The Government should review measures to protect vulnerable residents from any potential adverse consequences of making a complaint. This is particularly important for older people living in retirement, specialist or private rented housing. For example, one helpful measure might be to ensure that residents are automatically linked into independent advice and advocacy services.
- Where residents have serious concerns about the repercussions of making an internal complaint, they should have the option of making a direct application to the redress scheme.
- There should be a review of the length of time required (currently 8 weeks) before a complaint can be initially taken to the Housing Ombudsman. The requirement of referral via a designated person should be removed. In many cases this is a pointless exercise where the designated person simply rubber stamps referrals.
- We accept that some issues, which have reached the Ombudsman, may take longer than others to resolve – depending on the complexity of the complaint. However, a fast-track route for priority cases should be developed, with clear priority criteria where the health or wellbeing of an older or vulnerable person is threatened – which may require an urgent interim solution as part of resolving the dispute.

Influencing reform

- Age UK supports the principle that complaints should be used by the regulator to identify systemic problems in housing services.
- There has been a reduction in publically available data showing the type of complaints made to the Housing Ombudsman scheme. Establishing a central point for the collection and analysis of data (including a breakdown by age) could be used to inform broader legal or policy remedies. For example, evidence of widespread failure to follow consultation procedures when making changes to housing support services. Ensuring a strong link between complaints, the regulatory bodies and policy makers should be seen as an important part of any reform. If the Government were to unify housing redress schemes into one body it would need to consider good lines of communication with the relevant regulator.
- Broader reforms to the private rented sector relating to increased licencing of landlords could clearly help to resolve common complaints made by older tenants. Despite legislative steps to strengthen the rights of tenants to take court action against a landlord many older people will not have access to legal advice or resources enabling them to take this up. This makes it even more important that Ombudsman schemes offer an effective route to resolve disputes, without risking the eventual eviction of the tenant. Similarly access to mediation and dispute resolution services are particularly important for older leaseholders. Taking legal action through a tribunal can involve a significant financial risk – which acts as a deterrent to making a legitimate complaint.

Powers of redress schemes

- Responses to complaints should go further than look at how the provider has dealt with the complaint and provide more support to enforce the outcome of complaints that are upheld.
- Most providers eventually follow the advice of the Housing Ombudsman, for those that ignore recommendations there should be stronger penalties. Clearly the length of time taken to resolve a complaint regarding housing conditions is likely to have a greater impact on the health and wellbeing of older people or other vulnerable groups.
- We would like to see the Local Government and Social Care Ombudsman take a stronger role to ensure that local authorities are carrying out their role in the licencing and regulation of park homes. Ongoing problems for older people living in park homes reflect a failure of implementation, despite Government measures to improve protection for residents.