

<b>Subject:</b>	<b>New arrangements for dealing with complaints by social housing tenants against their landlords.</b>		
<b>Date of Meeting:</b>	<b>26 March 2013</b>		
<b>Report of:</b>	<b>Strategic Director; Place</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Brian Foley</b>	<b>Tel: 29-3109</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 From 1 April 2013 the Localism Act will put in place new arrangements for dealing with complaints by social housing tenants against their landlords through the Housing Ombudsman Scheme.
- 1.2 MPs, Councillors, and Tenant Panels, will be Designated Persons which will give them an opportunity to play a more active role in resolving complaints at the local level.
- 1.3 This paper is for information and summarises how the Scheme will operate. It describes the role of the Designated Person and how Tenant Panels can become involved in resolving complaints.
- 1.4 There is a short presentation accompanying this paper, the slides are in the Appendix.

**2. RECOMMENDATIONS:**

- 2.1 Housing Management Consultative Sub-Committee note the report.
- 2.2 That Housing Management Consultative Sub-Committee request the Standards and Complaints Manager:
  - a. Produces a briefing note for elected members and local MPs on how the Housing Ombudsman Scheme will operate.
  - b. Arranges a training workshop for elected members to enable them to act as Designated Persons
  - c. Produces material that will publicise the new process to tenants.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

#### **The Housing Ombudsman Scheme**

- 3.1 From 01 April 2013 Local Housing Authorities in England which are registered providers of social housing must be a member of the Housing Ombudsman Scheme for dealing with complaints about the management of social housing.
- 3.2 This enables tenants and others to have their complaints investigated by the Housing Ombudsman.
- 3.3 The following people, known as Designated Persons, can refer complaints about social landlords to the Housing Ombudsman.
  - a. an MP
  - b. a Local Councillor for the district in which the property concerned is located
  - c. a Designated Tenant Panel for a social landlord
- 3.4 The Ombudsman will not consider complaints which, in his opinion are:
  - a. made prior to having exhausted the social landlords complaint procedure
  - b. made within 8 weeks of having exhausted the complaint procedure:
    - unless a Designated Person has refused to refer the complaint to the Ombudsman, or
    - has agreed for it to be brought to the Ombudsman
- 3.5 The Ombudsman will decide how to consider and investigate complaints and may decide to suspend or not to progress an investigation if he thinks there is opportunity to resolve the dispute locally.
- 3.6 The Ombudsman may promote local resolution of a dispute by either:
  - a. referring the complaint back to the complainant and the social landlord and/or a Designated Person to resolve the dispute, or
  - b. providing assistance to the complainant and social landlord and/or a Designated Person to resolve the dispute.
- 3.7 If the complaint is referred by a Designated Person the Ombudsman must inform the Designated Person of the result of the investigation and any determination made.

#### **The role of the Designated Person**

- 3.8 A Designated Person will help resolve the complaint in one of two ways:
  - a they can try to resolve the complaint themselves, or
  - b they can refer the complaint straight to the Ombudsman.

If they refuse to do either the tenant can contact the Ombudsman directly.

- 3.9 The Designated Person can try to put things right in which ever way they think may work best. If the problem is still not resolved following the intervention of the Designated Person either they or the tenant can refer the complaint to the Ombudsman.
- 3.10 If a tenant refers their complaint to the Ombudsman without prior referral to a Designated Person there must be at least 8 weeks from the end of the landlord's complaint process before the Ombudsman can consider the case.
- 3.11 Designated Persons have no direct impact on the Council's internal complaints procedure and do not have power over the Local Authority's policies or procedures.
- 3.12 MPs and local councillors have always been involved in complaints procedures as advocates for tenants and this role will continue.
- 3.13 The specific role of MPs and councillors as Designated Persons is different as they play a more specific part in the procedure. The detail of that role is not spelt out in the Localism Act; but as stated in 3.8 it is in part to refer complaints to the Ombudsman and also to be involved in complaint resolution.

#### **How Tenant Panels could be involved in complaint resolution**

- 3.14 The Localism Act introduces an opportunity for tenants to help resolve complaints locally before the matter is referred to the Housing Ombudsman.
- 3.15 Tenant Panels acting in the role of Designated Persons may be able to explain to other tenants how things work and help unblock problems.
- 3.16 Where a Designated Tenant Panel is involved in individual complaints the panel members should be properly trained to carry out the role and to be able to do so with appropriate integrity, confidentiality, and in accordance with legal requirements.
- 3.17 The intention behind the changes is to encourage local dispute resolution at a level closer to people with the knowledge and expertise best able to deal with disputes. It is also to reduce complaints to the Housing Ombudsman Service that are outside their scope.
- 3.18 A group of tenants may apply to their landlord to become a recognised Tenant Panel which will then take on the role of Designated Person.
- 3.19 A Designated Tenant Panel could be set up in just one landlord area or can operate across several. A landlord can recognise more than one Tenant Panel.

## **Criteria for recognising a Designated Tenant Panel**

- 3.20 It is for the Council to agree with tenants the ways that Tenant Panels should be recognised (or de-recognised) for purposes of being a Designated Person. There should be a clear audit trail for that process.
- 3.21 The landlord will be accountable to their tenants for the Tenant Panels they do and do not recognise.
- 3.22 In discussing the recognition of Designated Tenant Panels with the landlord, tenants should consider what potential beneficial outcomes there could be from the recognition and support for a Designated Tenant Panel, such as:
- tenants will have received help in resolving their complaints locally, or,
  - there will be learning from the local handling of complaints

Over time, the Designated Tenant Panel will need to demonstrate that those beneficial outcomes have been delivered.

- 3.23 In deciding not to recognise (or to de-recognise) a Tenant Panel, the Local Authority would need to agree with tenants that a particular Tenant Panel would be unlikely to deliver beneficial outcomes for tenants.
- 3.24 The Ombudsman may criticise landlords if there is not a clear audit trail for the involvement of tenants in decision-making about Designated Persons or if a Designated Tenant Panel is not sufficiently enabled to contribute independent views to the local resolution of complaints.
- 3.25 Landlords must give the Ombudsman the contact details for every Designated Tenant Panel they have recognised.
- 3.26 The Ombudsman will require the Local Authority to provide a means of contact with the Tenant Panel that is independent of it.
- 3.27 The Ombudsman will expect that reasonable steps have been taken to ensure that tenants see the contact point for a Designated Tenant Panel as being independent of the landlord.

## **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 The Standards and Complaints Manager will make a presentation to the next round of Area Panels about the new arrangements for dealing with complaints by social housing tenants, and facilitate a discussion on related matters, such as:
- a. whether they would like a Tenant Panel or Panels to be formed to act as a Designated Person
  - b. the benefits of forming a Panel
  - c. the criteria that could be used to recognise a Tenant Panel and a mechanism for monitoring its effectiveness.

The results of those discussions will then be fed back to the Housing Management Consultative Sub-Committee, which will then be in a position if appropriate to make recommendations to the Housing Committee

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 The costs of setting up and maintaining a tenant panel to act as a designated person are not included in the Housing Revenue Account budget for 2013/14. If the panel were to be set up in 2013/14 then it is estimated that costs of approximately £3,000 would have to be managed within existing resources by using underspends elsewhere in the HRA and reported as part of the regular budget monitoring process. This estimate includes the cost of training panel members, any costs of setting up tenant panel meetings at council venues as well as any out of pocket expenses of panel members. Staff time to manage these meetings would also have to be made available by Housing from existing resources. Any on-going costs would then need to be factored into the 2014/15 budget and beyond.

*Finance Officer Consulted: Monica Brooks*

*Date: 05/03/13*

### Legal Implications:

- 5.2 Part 7 of the Localism Act 2011 makes changes to the Housing Act 1996 to extend the jurisdiction of the Housing Ombudsman to complaints made against local housing authorities such as the council. The changes are expected to come into force on 1 April 2013. At the same time, the jurisdiction of the Local Government Ombudsman to investigate complaints relating to the provision and management of social housing will cease.

Should the council decide to recognise a Tenants' Panel, consideration will need to be given to the legal issues relating thereto, which include the data protection implications of handing personal data, and insurance for the Panel.

*Lawyer Consulted: Liz Woodley*

*Date: 05/03/2013*

### Equalities Implications:

- 5.3 The Equalities Act 2010 will apply to Tenant Panels. Tenant Panels have a responsibility to reflect the needs and aspirations of all tenants when carrying out their roles. Consideration should be given to how Tenant Panels can reflect the views of under represented groups.

### Sustainability Implications:

- 5.4 It makes good business sense for landlords to support Tenants Panels who are able to help resolve complaints and use the learning gained from their work to shape services that are more efficient and effective.

#### Crime & Disorder Implications:

- 5.5 There are no adverse Crime and Disorder implications arising from the proposals in this report.

#### Risk and Opportunity Management Implications:

- 5.6 There is a potential for Tenant Panels to come into contact with children and vulnerable adults. It will be essential that Panel members have Disclosure and Barring Service checks (formerly CRB).

#### Public Health Implications:

- 5.7 There are no public health implications

#### Corporate / Citywide Implications:

- 5.8 There will be initial resources implications in terms of support and training for Tenant Panels. There is potential for a Tenant Panel to operate across all the social housing landlords in the city.

### **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The Housing Ombudsman Scheme is defined and there is no alternative.

### **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 Reasons for report recommendations are included in the body of the report.

**SUPPORTING DOCUMENTATION**

**Appendices:**

**Appendix 1 – Relevant Material**

1. There are several documents which members of Area Panels may find helpful for broadening their understanding and knowledge of the complaint process and role of the Designated Person under the Housing Ombudsman Scheme.
2. The documents can be found at:
  - a. The Housing Ombudsman Designated Person Factsheet:  
[www.housing-ombudsman.org.uk/downloads/Designated%20Persons%20Factsheet.pdf](http://www.housing-ombudsman.org.uk/downloads/Designated%20Persons%20Factsheet.pdf)
  - b. The CIH paper ‘Complaints Handling: the designated person. Frequently Asked Questions’ can be found at:  
[www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/Designated%20person%20FAQs.pdf](http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/Designated%20person%20FAQs.pdf)
  - c. The National Tenant Organisations document ‘Options for Accountability’  
<http://nationaltenants.files.wordpress.com/2012/03/tenant-panels-options-for-accountability.pdf>

## Appendix 2 – Presentation slides

<p><b>1.Complaints to the Ombudsman from April 2013</b></p> <p><b>Which Ombudsman service will tenants be able to use?</b></p> <p>Independent Housing Ombudsman for:</p> <ul style="list-style-type: none"> <li>• all Housing Management functions</li> </ul> <p>Local Government Ombudsman for:</p> <ul style="list-style-type: none"> <li>• all other Council services</li> </ul>	<p><b>2.Independent Housing Ombudsman</b></p> <p><b>What happens after Stage 1 and Stage 2 are completed?</b></p> <p><b>IHO</b> = Access through a Designated Person or direct access after 8 weeks</p> <p><b>LGO</b> = Direct access for anyone at anytime</p>
<p><b>3. Independent Housing Ombudsman</b></p> <p><b>Who or what is a Designated Person?</b></p> <ul style="list-style-type: none"> <li>• A Member of Parliament</li> <li>• A local councillor for the district</li> <li>• A group of tenants that are formally recognised as a Tenant Panel</li> </ul>	<p><b>4.Independent Housing Ombudsman</b></p> <p><b>What is the role of the Designated Person?</b></p> <ul style="list-style-type: none"> <li>• Try to resolve the complaint in whatever way they think will work best</li> <li>• Refer the complaint to the Ombudsman</li> <li>• Identify learning from complaints</li> </ul>
<p><b>5.Independent Housing Ombudsman</b></p> <p><b>What is the advantage of involving local people?</b></p> <ul style="list-style-type: none"> <li>• The IHO believes local people may be able to: <ul style="list-style-type: none"> <li>– Use their knowledge to 'unlock' disputes</li> <li>– Bring their understanding to bear</li> <li>– Offer reassurance and support</li> <li>– Explain things that either party may not be aware of</li> </ul> </li> <li>• Fewer case will need to be passed to the IHO (13 eligible cases in 2012/13)</li> </ul>	<p><b>6.Independent Housing Ombudsman</b></p> <p><b>How is a Tenant Panel formed?</b></p> <ul style="list-style-type: none"> <li>• At the request of tenants and is tenant led</li> <li>• It must be 'recognised' by the Council</li> <li>• There must be agreed criteria for recognition</li> <li>• It must be independent from the Council</li> <li>• The panel members must be able to treat complaints confidentially and with integrity</li> <li>• There must be a clear audit trail for recognition</li> </ul>
<p><b>7.Independent Housing Ombudsman</b></p> <p><b>How is a Tenant Panel recognised?</b></p> <ul style="list-style-type: none"> <li>• The council and tenants will reach agreement on how panels will be recognised.</li> <li>• It could be that Tenant Panels will: <ul style="list-style-type: none"> <li>– have to be easily accessible and easy for tenants to use</li> <li>– have an objective and impartial view of individual complaints</li> <li>– be able to help resolve complaints</li> <li>– be able to learn from complaints</li> <li>– recommend realistic ways for improving service</li> <li>– demonstrate the agreed outcomes have been achieved</li> </ul> </li> </ul>	<p><b>8.Independent Housing Ombudsman</b></p> <p><b>What are the next steps?</b></p> <ul style="list-style-type: none"> <li>• Presentation to Area Panels</li> <li>• Area Panels discuss prospect of a Tenant Panel being formed</li> <li>• Area Panels discuss their ideas with HMCSC</li> <li>• Agree recognition criteria and panel composition</li> <li>• Agree monitoring arrangements</li> <li>• Make recommendations to Housing Committee</li> <li>• Identify Tenant Panel members</li> <li>• Receive training</li> <li>• Publicity</li> </ul>