

# HOUSING COMPLAINTS GUIDANCE NOTES

## “WHAT TO DO IF YOU HAVE EXHAUSTED THE INTERNAL COMPLAINTS PROCESS”

## INTRODUCTION

The Localism Act 2011 introduced changes to way that complainants can escalate their complaint to the Housing Ombudsman Service having first exhausted the landlord's internal complaints procedure. These changes were came into effect from 1 April 2013.

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

## BACKGROUND

From 1 April 2013 the emphasis has been about trying to resolve complaints at a local level seeking to achieve consensus between complainants and the Trust.

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.

## DESIGNATED PANELS, MPs & COUNCILLORS

Complainants who have completed or exhausted the Trust'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 the Trust, an MP (in England) or a local District councillor (not a County or Parish Councillor).

## 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 Trust 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

Although there is no statutory obligation on the landlord to set up a designated complaints panel the Trust strongly believes in the principles of the Localism Act and wants to ensure that it complies with the Involvement and

Empowerment Standard set out within The Regulatory Framework for Social Housing in England from April 2012.

The Resident Complaints Group (formerly the Resident Complaints Monitoring and Review Group) or RCG was formed on 25<sup>th</sup> September 2012. The Group is made up of Trust residents from different backgrounds who possess a range of different skills and experience. The RCG meet on a least a 6 monthly basis to review and challenge the Trust's Complaints Service performance and identify opportunities for learning and service improvement. They also meet quarterly to carry out Audits of closed complaints, judging quality and standard of the handling and outcome of the complaint from a resident's perspective. When required this Group will provide the membership (x3) for a **Designated Tenant Panel** should it be needed.

This Designated Tenant Panel has been recognised by the Trust as a designated panel to review complaints from complainants that are not satisfied with the outcome of their complaint following the exhaustion of the Trust's internal complaints policy.

## **CONFLICT OF INTEREST**

A designated person cannot review a complaint case if:

- they have been involved in the Trust'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 Trust 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 the Trust

A designated person may have been approached to act as an advocate at an earlier stage in the complaints process. Where this has happened that designated person will not be allowed to be part of the Complaints Review Group chosen to review the case.

In such circumstances the complainant should be referred to another councillor or MP or in the case of the Designated Tenant Panel, the member will be replaced by another member drawn from the RCG.

## **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 the Trust'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 the Trust.**

A designated person does not have power over the Trust'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 the Trust or liaising with other Trust 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.**

## **WHAT HAPPENS WHEN A COMPLAINANT CONTACTS A DESIGNATED PERSON?**

As a general rule applicable to whichever designated person is chosen by the complainant, the designated person should;

- confirm with the complainant that the Trust's internal complaints procedure has been exhausted.
- ask the complainant for written authorisation stating that the chosen designated person may engage with the Trust regarding their complaint and that information about the case can be released to the designated person.

The Designated Tenant Panel, MPs or District councillors upon production of this written and signed authorisation may then ask the Trust for copies of the complaint case paperwork.

Any submission put forward by an MP or District Councillor on behalf of the complainant should be sent to the **Service Improvement Manager at the Trust** who will ensure that the submission is passed to the relevant investigating or reviewing Manager for their consideration. A response to the submission will be sent within 6 weeks.

More specifically the Designated Tenant Panel has undertaken to carry out a full desktop review of the complaint and from a tenant's perspective and to the

best of their abilities will consider the following factors when reviewing the complaint;

1. Has the Trust correctly followed their policies and procedures?
2. Has the Trust acted in a “fair and reasonable” way?
3. Are the Trust’s proposed remedial measures or compensatory amounts “adequate and proportionate”?

The Designated Tenant Panel will aim to conclude the review and come to a decision within a period of 6 weeks.

## **WHAT ARE THE LIKELY OUTCOMES FROM THE DESIGNATED TENANT PANEL?**

Having been approached to act as a designated person and having reviewed the complaint it is likely that there will be one of five possible outcomes:

1. The Designated Panel considers that they do not have the necessary technical or professional skill sets to enable resolution of the complaint locally; they have been authorised by the complainant to refer the complaint to the Housing Ombudsman Service – the complaint will be referred to the Housing Ombudsman Service in writing by the Designated Panel
2. The Designated Panel identifies that there has been some form of service failure not previously addressed or that the Trust has not acted in line with its policies or procedures; this is highlighted to the Service Improvement Manager at the Trust who will liaise with the relevant staff to re-consider the final response and outcome from the Trust; depending upon the re-consideration, Designated Panel to consult with the complainant who will either accept any revised outcome or they will authorise the Designated Panel to refer the complaint to the Housing Ombudsman Service in writing
3. The Designated Panel concludes that the Trust may not have acted in “fair and reasonable” way; this is highlighted to the Service Improvement Manager at the Trust who will liaise with the relevant staff to re-consider the final response and outcome from the Trust; depending upon the re-consideration, Designated Panel to consult with the complainant who will either accept any revised outcome or they will authorise the Designated Panel to refer the complaint to the Housing Ombudsman Service in writing
4. The Designated Panel considers that the Trust’s remedial measures or compensatory offers are not “adequate or proportionate”; this is highlighted to the Service Improvement Manager at the Trust who will liaise with the relevant staff to re-consider the final response and outcome from the Trust; depending upon the re-consideration, Designated Panel to consult with the complainant who will either accept any revised outcome or they will authorise the Designated

Panel to refer the complaint to the Housing Ombudsman Service in writing

5. The Designated Panel considers that the Trust has handled the complaint correctly, there has been no unaddressed service failure issues, that the complainant has been treated in a fair a reasonable way and that the outcome proposed by the Trust is adequate and proportionate; complainant informed of this and that no further action will be taken – complainant can take their case to the Housing Ombudsman Service.

## **WILL THE DESIGNATED TENANT PANEL REALLY BE INDEPENDENT OF THE TRUST?**

The simple answer to this is **yes**. The Designated Tenant Panel will be provided with the necessary complaints case paperwork and will then be responsible for carrying out the review and reaching a decision based on their findings and discussions.

The Trust will lend administrative support where requested by the Designated Tenant Panel but will not be involved in their discussions or the decision making process.

The Designated Tenant Panel has set up a contact e-mail address that is independent of the Trust and which can be accessed by members of the Designated Tenant Panel. The address is:

**[Vahtdesignatedpanel@hotmail.co.uk](mailto:Vahtdesignatedpanel@hotmail.co.uk)**

## **CONTACT DETAILS**

### **MPs**

MPs can be contacted either via their constituency offices, the addresses of which are published in the telephone book or on-line or can be contacted via the House of Commons, London, SW1A 0AA

### **District councillors**

Councillors contact details can be found via the local authority websites.

### **Designated Tenant Panel**

The Designated Tenant Panel can be contacted either via e-mail address: [Vahtdesignatedpanel@hotmail.co.uk](mailto:Vahtdesignatedpanel@hotmail.co.uk) or by writing to:

Designated Tenant Panel (Complaints)  
c/o Service Improvement Manager  
Vale of Aylesbury Housing Trust  
Fairfax House  
69 Buckingham Street  
Aylesbury, Bucks, HP20 2NJ

Any correspondence received in this manner will be passed onto the Chair of the RCG.

### **The Housing Ombudsman Service**

The Housing Ombudsman Service can be contacted in a variety of ways: Via telephone: 0300 111 3000, E-mail: [info@housing-ombudsman.org.uk](mailto:info@housing-ombudsman.org.uk), Writing: Housing Ombudsman Service, Exchange Tower, Harbour Exchange Square, London, E14 9GE.

## **COMPLAINANT AUTHORISATION FORM**

The Designated Tenant Panel will not act on behalf of a complainant unless they have written and signed authorisation from that complainant. Similarly the Trust **will not release** any complaint case paperwork to any proposed designated person without having first received a copy of a **signed authorisation** form.

On the next page we have set out an example of the type of authorisation document that the Trust would prefer but we recognise that other designated persons may have their own forms or layouts.

## **PROCESS CHART**

At the back of this document for ease, we have included a process chart which gives an overview of the complaints procedure showing where the designated person options described in this guidance fit in. There is also a process chart summarising what will happen when you wish to use the designated tenant panel.

## **FURTHER INFORMATION**

Should any further clarification be required on the contents of this document or the procedures in place please contact:

Service Improvement Manager  
Vale of Aylesbury Housing Trust  
Fairfax House  
69 Buckingham Street  
Aylesbury  
Bucks  
HP20 2NJ

Tel: 01296 732600

***Below is an example of the type of authorisation required;***

Resident Name:

Resident Address:

Complaint reference Number:

I \_\_\_\_\_ confirm that my complaint has exhausted the Vale of Aylesbury Housing Trust's internal complaints procedure.

I remain dissatisfied with the outcome of my complaint because of the reason(s) set out below.

(attach separate sheet if required)

I would like you \_\_\_\_\_

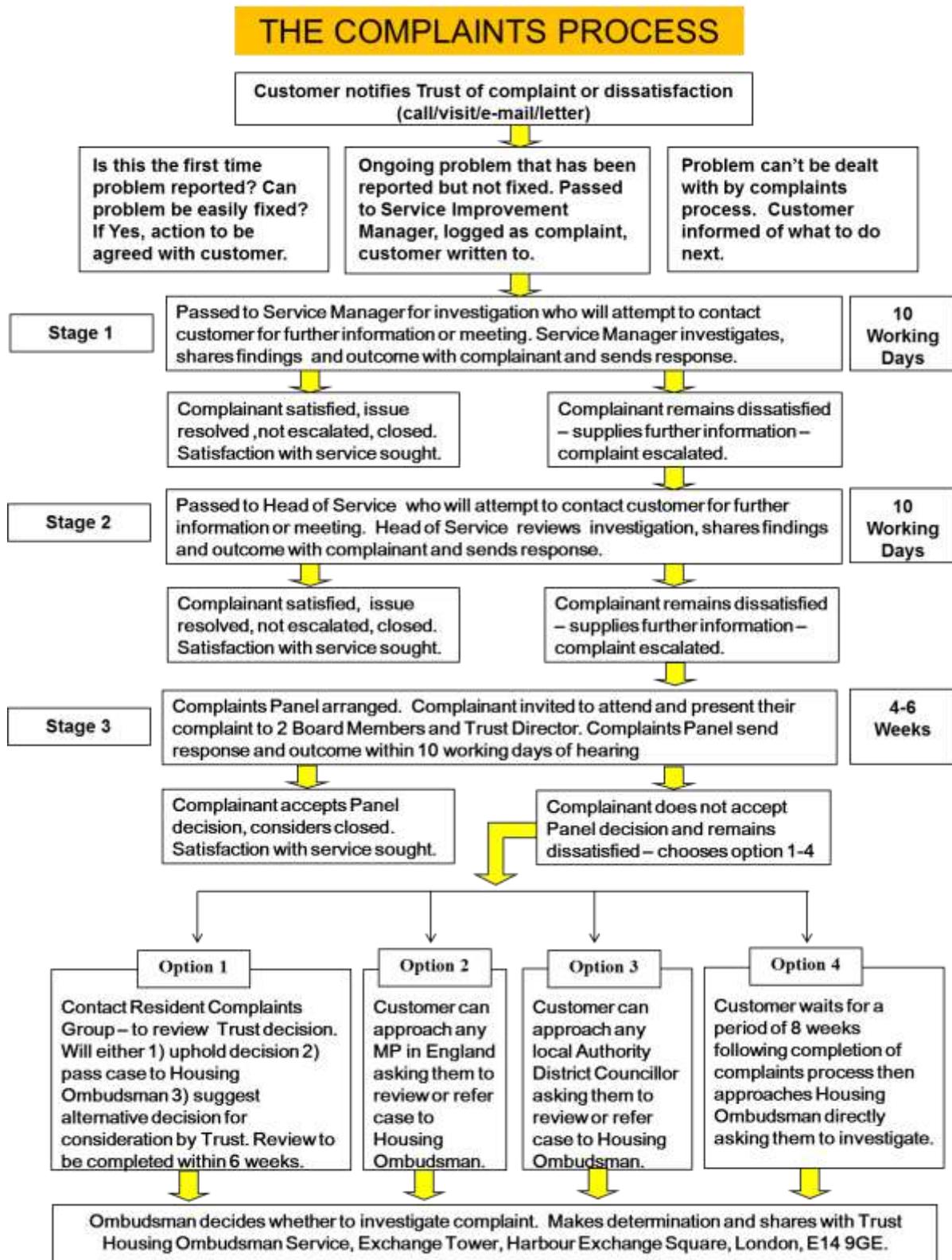
as an MP, a local District councillor or the Designated Tenant Panel (delete as applicable) to act on my behalf, review my complaint case and consider if there is anything that can be done at a local level to resolve the outstanding issues that I have listed. If you feel appropriate, please forward my case to the Housing Ombudsman Service for their investigation and consideration in due course.

I authorise the Vale of Aylesbury Housing Trust to provide all relevant complaint case paperwork to you.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**Complaints process chart:**



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## How the Trust's Designated Panel Works:

YOUR COMPLAINT HAS EXHAUSTED THE TRUST'S INTERNAL COMPLAINTS PROCESS

