

Complaints and Disputes

Introduction – Background

Our regulator, the Homes and Communities Agency states:

“Providers shall offer a range of ways for tenants to express a complaint and set out service standards for responding to complaints, including complaints about performance against the standards, and details of what to do if they are unhappy with the outcome of a complaint. Providers shall inform tenants how they use complaints to improve their services. Registered providers shall publish information about complaints each year, including their number and nature, and the outcome of the complaints. Providers shall accept complaints made by advocates authorised to act on a tenant’s/tenants’ behalf”.

Tenant Involvement and Empowerment Standard 2012 para 1.2

Available https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/422709/Tenant_I_and_E_Standard_2015.pdf

This is clearly directed at large Housing Associations, with a separate management, rather than a small, self-managed Co-op like ourselves. It assumes that complaints will be about the management, whereas for us, any complaint which refers to the running of the Co-op will inevitably involve other Co-op members.

However, we comply in the following ways:

1. The procedure below explains how members may express a complaint
2. This complaints policy is available to all members
3. The procedure sets the standard for responding to complaints, including time limits.
4. We accept complaints against this standard, and against the conduct of the complaints procedure.
5. The Co-op accepts that advocates may support or speak on behalf of members who complain.
6. We have included details of what a member can do if they are unhappy with the outcome of the complaint. In particular, we are members of the Independent Housing Ombudsman Scheme. Information on how to use the scheme is available from the Ombudsman website, P&PR or the Co-op Office.
<http://www.housing-ombudsman.org.uk/>
7. Housing Management will include a report on complaints in their Annual report each year, including recommendations of improvements to the Co-op’s conduct and services.
<https://www.gov.uk/government/publications/regulatory-standards>

The Co-op will use complaints to identify trends and improve services. An annual report will be produced by Housing Management to share key learning and changes made.

The Co-op’s policy is based on

- National Housing Federation Policies, the Small Print
- Nat Federation of Housing Associations Dealing with Complaints and Compensation
- Chartered Institute of Housing Good Practice Briefing Issue 14 Oct 1998

The policy deals with internal complaints against:

- a. a sub-group or other body of the Co-op
- b. another Co-op member acting in their Co-op capacity
- c. another Co-op member as an individual and a neighbour

The policy does not deal with complaints from outside the Co-op.

Complaints involving a Co-op employee are dealt with under the Grievance Procedure

<http://www.vinecoop.org.uk/co-op-policies/housing-management/grievance-procedure>

Housing Management is the sub-group responsible for dealing with Complaints.

Within Housing Management it is the job of the Welfare Officer to initiate the procedure.

The procedure may then be conducted by a specially nominated Complaints Officer together with a member from another sub-group. There will be a list of members who agree to act as Complaints Officers, when necessary, and training will be provided.

If the Welfare Officer is unavailable, another designated member of Housing Management will initiate the procedure to avoid delay.

The complainant and those complained against will be informed which two members are coordinating their complaint. They will be referred to as the 'Complaints Officers' in this policy.

If there is a complaint against Housing Management, this should go directly to the MC Chair, who will appoint two Complaints Officers and follow the procedure.

A Complaint against the MC should go to the GM Chair who will appoint two Complaints Officers and follow the procedure.

Principles of the Complaints Policy

adapted from Policies the Small Print

- All members have the right to have a complaint investigated.
- Complaints will be dealt with promptly, courteously, systematically, and fairly;
- Complaints will be dealt with in confidence;
- Complainants and those complained against will be kept informed of progress and the outcome of any investigation;
- Complainants and those complained against will have the right, at their own cost, to have a friend or advocate present at any interview;
- The Co-op will advise all dissatisfied complainants of their rights to redress;
- Where mistakes have occurred, the Co-op will not only apologise, but also seek to rectify the mistake wherever possible.
- The Co-op will record information about complaints and their outcome. For details on how this is done, see each Stage of the procedure below;
- The Co-op will initiate training for members involved in handling complaints.
- The Independent Housing Ombudsman should be a last resort following conclusion of all internal procedures.
- The Co-op will use the complaints system to learn from its mistakes and to raise the level of member satisfaction.

Complaints are not the same as personal disputes or disciplinary matters. However, where a matter involves both a personal conflict and a service-related issue, the Co-op will assess it under this complaints procedure, unless it is clearly better suited to another process.

Procedure

There is a 'Welfare Stage' prior to the beginning of the Procedure (see below). The Procedure is now grouped into two formal stages as follows:

- Stage 1: Investigation and Response
- Stage 2: Review and Appeal The Complainant and the person complained against should be made aware of this timetable.

All complaints will be acknowledged within 5 working days of receipt.

If at any point the complainant does not respond or contact the Complaints Officer within the time-scale, it will be reported to the next MC that the complaint has been dropped, unless extenuating circumstances have been accepted. The person complained against will be kept fully informed.

Unless the procedure is delayed by extenuating circumstances, the process should take no longer than five months, and will be reported to five consecutive MCs.

Welfare Stage

A complaint should be made directly to the Welfare Officer. This may be in writing, or it may be a verbal request.

If the Welfare Officer is unavailable, another designated member of Housing Management will initiate the procedure to avoid delay.

The Welfare Officer then meets with the complainant in complete confidence to discuss the issue. If the complainant wants a complaint to go ahead, the Welfare Officer explains what the process will involve.

If the complaint is withdrawn it is expunged from the record.

If the complaint is not withdrawn Stage One begins and a written complaint, clearly specifying the issues, should be made.

Complaints may be submitted by email, phone, in writing, in person, or through an advocate and will be acknowledged within 5 working days.

Summary: At the Preliminary stage the Welfare Officer discusses the issue with the complainant, and ensures that they are prepared to go through the formal procedure.

If a complaint is withdrawn at any point in the process, the withdrawal must be unconditional.

Stage 1.1: Receive the complaint and initiate mediation

The Welfare Officer may decide to act as Complaints Officer themselves and nominate a member from outside HM as the second officer. Alternatively they may nominate another member of Housing Management together with a member from outside HM. The second officer will be recruited from an established pool of members, to deal with this specific complaint. The two nominated officers will be referred to as the Complaints Officers.

The Complaints Officers will record the complaint and file it in a confidential Complaints File. They will agree on a definition of the complaint. It may be

a. Personal: i.e. against another member or group of Co-op members as individuals e.g. harassment; noise nuisance.

b. Against the Co-op: i.e. a Co-op group or an individual acting in their Co-op capacity
e.g. complaint about the implementation of Co-op policy.

They will then

a. interview the complainant to clarify the complaint and establish the details as the complainant sees them. (Often complaints are not worded clearly and refer to many issues that are not directly relevant. The Complaints Officers should agree with the complainant on the specific grounds of the complaint).

b. ensure that the person or group complained about has a written copy of the complaint

c. interview the person, or representative of the group complained about, to establish their response.

The Complaints Officers keep a record of these meetings.

They then encourage the two parties to sort it out between them, and facilitate a meeting if appropriate. Both complainer and those complained against have equal say.

The Complaints Officers mediate, but may call on outside mediation.

At this stage the Complaints Officers do not evaluate the complaint but act as neutral mediators.

The results of the discussion should be minuted and filed in the confidential Complaints File.

In the case of an ongoing personal complaint, if the mediation is not successful the complainant should be asked to keep a diary of incidents.

In the case of a serious personal complaint, which may not be appropriate for the Co-op to deal with, the Complaints Officers will encourage the complainant to go to an relevant outside agency: such as a law centre, a CAB, or the police.
(see the Co-op website for relevant contacts).

The complainant will be given any support deemed to be necessary, e.g. emergency repairs or security devices.

It is the responsibility of the complainant to report to the Complaints Officers about progress and to take the complaint forward.

Summary: At Stage 1.1 the Complaints Officers mediate, and help the complainant to sort things out with those complained against.

An item should be placed on the Agenda of the next MC for information. The procedure (but not the details) are reported.

If the mediation process is successful, and agreement is reached with both parties, the complaint is terminated. Notes on the process are kept and filed in the confidential Complaints File. They remain confidential and should be destroyed after one year.

Stage 1.2: The Complaints Officers gather factual evidence and negotiate

If the complaint is not resolved through mediation at Stage 1.1 the Complaints Officers will seek to gather factual evidence from both sides and from others who may be involved.

They will:

- Interview Co-op members or others cited as witnesses and take statements from them
- Check minutes of meetings, e-mails and other written or photographic evidence.

- Re-interview the complainant and the person or group complained against in the light of the evidence.

Both sides have the right to be supported by a friend or advocate.

All interviews will be minuted and filed; all letters will be filed in the confidential Complaints File.

The complaint may be sorted out at this stage. If the person complained against files a counter complaint, this will also be investigated by the Complaints Officers. At this stage the Complaints Officers do not evaluate the complaint but act as a neutral mediator between the complainant and the person complained against.

Summary: at Stage 1.2 the Complaints Officers collect evidence from both sides and try to resolve the matter.

An item should be placed on the Agenda of the next MC for information. The procedure (but not the details) are reported.

If the process is successful, the complaint is terminated. If the complainant does not respond to requests for a meeting, and does not keep in contact with the Complaints Officers, the complaint will be terminated.

Stage 1.3: The complaint is taken to the MC

If the complaint is not resolved through mediation at Stage 1.2 the Complaints Officers evaluate the evidence and prepare a report for the MC.

The Complaints Officer should produce a written report for the next MC describing the steps taken and the evidence gathered. This is the first time the names and the nature of the complaint are recorded in the MC minutes.

The Officers, through HM sub-group, make a recommendation, and put item For Decision on the Agenda of the next MC.

The MC may take one of the following decisions:

1. the complaint is upheld
2. the complaint is dismissed
3. the complaint may be partially upheld
4. The MC rules that the issue is not one with which the Co-op is concerned
5. further investigation is required.

Members who have an interest in the case should not participate in the MC discussion. The Secretary will write to all concerned telling them of the MC's decision and the reasons for it.

Copies of the letters will be filed in the special Complaints File. The names, the nature of the complaint and the MC's decision will be recorded in the MC Minutes.

Summary: At Stage 1.3 the Complaints Officers make a recommendation to the next MC. The MC makes a ruling.

This stage must be completed within 10 working days and may be extended to 20 working days with written explanation.

Stage 2a: Implementation of MC's decision

Personal Complaints

If the MC upholds a personal complaint it may require the problem to be put right if this is appropriate (e.g. rubbish cleared up; loud noise to stop). It will be the job of the Complaints Officers to ensure that this is done.

The Complaints Officers will warn the perpetrator that failure to do so could lead to sanctions.

If the complaint involves a breach of their Tenancy Agreement it could lead to a Notice to Quit.

The Member complained against may appeal against the decision and bring the appeal to the next next MC.

If there is no appeal, and the Member complained against does not comply within one month (unless there is a delay due to extenuating circumstances accepted by the MC), they may be deemed to be in breach of their Tenancy Agreement.

If the complaint does involve a breach of tenancy, HM will write to the person complained about asking them to remedy the breach within 28 days. If this is not complied with, HM could then bring a proposal to the next MC that the person's membership could be terminated and a Notice to Quit issued.

If the MC dismisses a personal complaint, the complainant has the right:

- a. to appeal against the decision and bring the appeal to the next MC
- b. to continue to pursue their complaint on a personal level with the help of an outside body, a solicitor, a CAB or the Law Centre at their own expense.

If a personal complaint is upheld partially, the Complaints Officers should ensure that the MC's requirements are carried out. This may involve action on the part of the Co-op (e.g. noise insulation) or of one or both of the parties involved.

The MC may also decide that the issues involve faults on both sides and request the two parties go to an independent arbitration service.

If the MC rules that the issue is not the business of the Co-op, it will be up to the Complainant to take action through other channels.

If the MC asks for further investigation of a personal complaint, the Complaints Officers should bring the information requested to the next [fourth] MC. That MC will have the same options as at Stage 3.

The MC may only ask for more investigations once before making a decision about a personal complaint.

Complaints against the Co-op

If the MC upholds a complaint against the Co-op, it will:

- a. Issue an apology
- b. Require the problem to be put right at an organisational level (e.g. a policy may need to be clarified; a sub-group may be criticised for not carrying out Co-op policy properly and asked to work more effectively)
- c. Seek to rectify the mistake wherever possible

If the MC dismisses a complaint against the Co-op, the complainant has the right:

- a. to appeal against the decision and bring the appeal to the fourth MC
- b. to take their complaint to the Independent Housing Ombudsman

If the MC asks for further investigation of a complaint against the Co-op, the Complaints Officers should bring the information requested to the next MC. That MC will have the same options as at Stage 1.3.

The MC may only ask for more investigations once before making a decision about a complaint against the Co-op.

An item for information should be placed on the (fourth) MC Agenda to record the outcome of the complaint.

An item for decision should ask the MC to enforce sanctions or, if the complaint involves a breach of tenancy, begin the NTQ process.

If there are any Appeals, a further item for decision should be placed on the (fourth) MC Agenda.

The Secretary will write to all concerned telling them of the MC's decisions and the reasons for them. The letters will be filed in the special Complaints File.

Stage 2b: Appeals

Any appeals should come to the next MC.

The complainant or the person complained against should lodge their intention to appeal with the Complaints Officers within one week of receiving the MC's decision, unless there are extenuating circumstances accepted by the Complaints Officers.

At that point the Complaints Officer should appoint an Appeals Group of two members who have not previously been involved in the complaint. They should be neutral, have no personal interest and not be in the group complained about. They will consider the appeal:

- a. from the point of view of the content
- b. from the point of view of the conduct of the Co-op's complaints procedure

The MC has five options as before:

1. the appeal is upheld
2. the appeal is dismissed
3. the appeal may be partially upheld
4. The MC rules that the issue is not one with which the Co-op is concerned
5. further investigation is required

Summary: At Stage 2b the MC's decisions are implemented.

Any further appeals or reports of new information should be produced within a month and come to the next MC.

An item for information should be placed on the MC Agenda to record the outcome of the complaint.

An item for decision should ask the MC to enforce sanctions, or, if the complaint involves a breach of tenancy, begin the NTQ process.

If there are any Appeals, a further item for decision should be placed on the (fourth) MC Agenda.

The Secretary will write to all concerned telling them of the MC's decisions and the reasons for them. The letters will be filed in the special Complaints File.

Stage 2c: Final Appeal and Closure

At this stage, the decision of the MC is implemented.

If the complainant is appealing and their appeal is upheld, the procedure is the same as if the complaint had been upheld.

If the appeal is dismissed the complainant has the right

- a. for a personal complaint: to continue to pursue their complaint with the help of an outside body, a solicitor, a CAB or the Law Centre at their own expense
- b. for a complaint against the Co-op: to take their complaint to the Independent Housing Ombudsman.

If the person complained against is appealing and their appeal is upheld, no further action will be taken.

If their appeal is dismissed, the MC will require the problem to be put right (e.g. rubbish cleared up; loud noise to stop).

It will be the job of the Complaints Officers to ensure that this is done.

If the Member complained against does not comply within one month (unless there are extenuating circumstances accepted by the MC), HM may then bring a proposal to the next MC that sanctions should be applied. If the complaint involves a breach of tenancy or bringing the Co-op into disrepute, the ultimate sanction is that the person's membership should be terminated and a Notice to Quit issued.

Summary: At Stage 2c: The final appeal is completed

An item for information should be placed on the MC Agenda to record the outcome of the appeal.

An item for decision should ask the MC to enforce sanctions, or begin the NTQ process.

The Secretary will write to all concerned telling them of the MC's decision and the reasons for it. The letters will be filed in the special Complaints File.

This Stage 2 response must be completed within 20 working days (extendable to 30 working days with written explanation).

Once Stage 2 is complete, any member may escalate the complaint to the Housing Ombudsman Service:

<https://www.housing-ombudsman.org.uk/residents/make-a-complaint/>