



Resolving complaints locally: Your role as a designated person

The National Tenant Organisations

Written by Nic Bliss & Blase Lambert

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Resolving complaints locally: Your role as a designated person

From 1 April 2013, the Localism Act 2011 puts in place new arrangements for dealing with complaints by social tenants against their landlords. Councillors, tenant panels and MPs (“designated persons”) will be able to play a more active role in resolving complaints at the local level.

This document is aimed at the people who will be designated persons. It is to help you to carry out your role as effectively as possible. We recommend that designated persons also read our guide “Tenant Panels: Options for Accountability”, which contains information about all forms of tenant panels¹.

The only legally defined powers of designated persons are to refer complaints from social housing tenants to the Housing Ombudsman². However, the effectiveness of your role will be dependent on how you use your wider powers of persuasion and constructive challenge to help landlords and tenants resolve complaints locally.

A social housing tenant may refer their complaint directly to the Ombudsman (i.e. without referral from a designated person) 8 weeks after the exhaustion of the landlord complaints procedure.

¹ The National Tenant Organisation guide “Tenant Panels: Options for Accountability” is available at www.nationaltenants.org/tenantpanels

² Generally the Housing Ombudsman will only consider complaints once the landlord's internal complaints procedure has been exhausted and which have been brought to the Ombudsman's attention within six months after the landlord's complaints procedure has been exhausted. This is set out in his “scheme” (see note 14 below).



What's a designated person?

“Designated persons” are defined as an MP, a local councillor³, or a designated tenant panel, whose purpose is to assist in resolving complaints locally. A designated tenant panel should be part of a set of tenant panel arrangements that have been agreed between tenants and landlords to enable tenants to be involved in decision-making and to hold the landlord to account⁴.

There could be one, more than one, or no tenant panels recognised by a landlord for complaints purposes, dependent on what tenants and the landlord consider makes sense locally. If no tenant panel is recognised by a particular landlord, the only designated persons that the landlord's tenants could access would be councillors or MPs.

Designated tenant panels could be recognised to operate across a whole landlord or in particular geographical areas. Designated tenant panels operating in a particular area could be recognised by more than one landlord⁵.

If you are an MP or a councillor, you automatically become a designated person as soon as your term of office starts. You stop being a designated person when it ends. A local authority's councillors (or a particular political party in the local authority) may choose that tenants' interests would be best served by identifying one or more councillors to particularly act in the designated person role – i.e. with other councillors referring complainants to the identified councillor(s).

³ The Localism Act only specifies councillors from the “local housing authority” in the district where the complainant lives to be a designated person. This does not include county or parish councillors except where county councils are the same as district councils, such as at Cornwall, Durham and Northumberland.

⁴ Options for tenant panel arrangements are set out in “Tenant Panels: Options for Accountability”

⁵ A sample “terms of reference” for a designated tenant panel can be found at www.nationaltenants.org/designated-persons-project



A tenant panel becomes “designated” when a landlord⁶ has recognised it for purposes of referring complaints. The landlord should then notify the Housing Ombudsman that it has recognised you. A tenant panel stops being “designated” if the landlord who has recognised you “de-recognises” you. A landlord is required through the Tenant Involvement and Empowerment Standard to support the formation and activities of tenant panels, including those set up for the purposes of dealing with complaints.

What’s the aim of “designated persons”?

“Designated persons” are about empowering you to contribute to getting housing problems sorted out locally. It is about you:

- using your local knowledge, contacts and relationships to work with tenants and landlords to find local solutions at the earliest possible occasion
- being able to constructively challenge landlords and tenants so that they can sort things out for themselves wherever possible
- being part of a local democratic framework providing support to tenants and being relevant to ordinary people and communities
- building up local knowledge to give feedback to help landlords improve their complaints handling.

⁶ An Arms Length Management Organisation or Tenant Management Organisation may be asked to assist with facilitation of debate with tenants about recognition of designated tenant panels, but responsibility for recognition of designated tenant panels remains with council housing and housing association landlords.



What will you do as a designated person?

Your main role as a designated person is to assist in resolving tenant complaints. You are there to provide a fresh and independent perspective on problems. You will play a critical friend role - suggesting views and approaches that may not have been considered by tenants or landlord staff and others in the handling of complaints.

Designated persons are not intended to be a tribunal, to carry out the role of the Ombudsman or to be an additional stage in a landlord complaints procedure. Your role is to facilitate the local resolution of complaints.

Your role will be impartial - acting as honest broker and constructively challenging both “sides”. Your role may be to express your opinion:

- to a tenant that they have been through all stages of a complaint - it has been properly handled and the nature of the complaint suggests that there’s little to be gained by them pursuing it further
- to a landlord that it has not followed procedures correctly or the procedures are inappropriate, and it should acknowledge and do something about the mistake as soon as possible
- to either party that, even if the tenant or landlord is right or wrong about the facts of a complaint, they could have handled it better

If you consider that you cannot help to resolve a complaint locally, and if the complainant authorises you to do so, a



part of your role as a designated person is that you can refer the complaint to the Housing Ombudsman.

You could also participate in using the learning gathered from complaints to help improve services. You could let the landlord know your views about how policies and procedures could be changed to prevent complaints arising again. Making helpful suggestions may be a particularly important part of the designated person role.

Designated tenant panels may be contacted by the tenants of other landlords operating in their area. The tenant's landlord would only be expected to respond to a designated tenant panel it had recognised, and a designated tenant panel could only refer complaints to the Ombudsman made by tenants of landlords who had recognised the panel. Nonetheless, the tenant panel may still be able to provide helpful advice about procedures and standards the tenant should expect.

There could be different ways that designated persons carry out their roles, and different approaches will suit different local circumstances. The "designated persons" role is new and it will require the imagination of local people coming up with new ideas to make it effective.

Dealing with complaints raised by tenants

Many people use the services of social landlords including tenants, leaseholders, shared homeowners, and people living in hostels or who receive care services. Any of these people may contact designated persons if they feel that a landlord has not dealt with something as they should do. Other people may also wish to complain to landlords such as people who feel that they should have been allocated a



home or that an anti-social behaviour case should have been dealt with more effectively⁷.

The starting point for formal complaints should be the landlord's complaints procedure. Most procedures include stages where complaints are initially received by the staff member responsible for the problem, then by their manager, and then by a review panel, which may already involve some tenants and/or councillors⁸. Tenants and landlords may consider that recognition of designated tenant panels might mean that there is not a need for an internal review as part of the landlord procedure.

A tenant who wants to progress a formal complaint is likely to feel quite frustrated. They may feel like there is nowhere else to turn to. They may be vulnerable and confused. They may have multiple difficulties in their lives. They may have language, learning or other difficulties. You may have to take some of these things into account when dealing with a complaint.

There may be many reasons why a complaint has not been resolved. At one end of the spectrum, it is possible that the complainant just won't take no for an answer. At the other, there may be a prevailing landlord culture where even people who review the complaint are unable to view the problem with sufficient independent perspective. Most unresolved complaints fall somewhere in between.

Someone may also approach a designated person at an earlier stage in a complaint, perhaps before they have even submitted a formal complaint to the landlord. You can give helpful advice to the complainant at any stage of a

⁷ In this document, we have used the term "tenant" to apply to all the people who may potentially raise issues with designated persons.

⁸ Possible ways that tenants could be involved in complaints handling are set out in "Tenant Panels: Options for Accountability"



complaint. Landlord complaints procedures can feel quite daunting to some people, and tenants may also not know what standards of service they should be receiving.

It may be helpful for you to contact the landlord at an early stage of a complaint, but the landlord should have the opportunity to put things right. Generally the Housing Ombudsman's "scheme" does not allow it to consider complaints until the landlord's complaints procedure has been exhausted.

Tenants being in control of their complaints

Complainants must always remain in control of their complaint. You can give a complainant advice but you shouldn't normally take any formal action to progress a complaint with someone else without clear authorisation from the complainant. You should ask the complainant to sign a form authorising you to take action. This is to protect you as well as the complainant.

You should also ask the complainant to sign that they are authorising the landlord to release personal information about the complaint to you. If you do not do this, the landlord's legal data protection requirements may prevent it from discussing the complaint with you. You will need to ensure that there are effective systems in place to manage and keep confidential any information you receive in your role as a designated person.

Tenants may approach as many designated persons as they wish about taking on their complaint, and you may be contacted by a tenant who has already approached others. You should ask about this and find out the latest position. You should also ask whether they authorise you to speak about their complaint to other designated persons, which may help you to agree a common approach.



A complainant makes contact

Is the complainant a constituent of yours? If you are a tenant panel, has the complainant's landlord recognised you as a designated tenant panel?

Is the complainant able to progress their complaint themselves?

Has the complainant raised the matter with the landlord?

Has the landlord informed the complainant that their internal procedure has been concluded? Is it more than six months since the issue complained about took place? Is it more than six months since the landlord's complaints procedure has been exhausted?

Has the complainant told you about other designated persons they have approached?

Does the complainant authorise you to approach other designated persons about their complaint?

If not ...

You may wish to offer the complainant advice about how they can progress their complaint, but you will be unable to contact the landlord

If the complainant is particularly vulnerable, then you will need to make a sensible judgement about ensuring they get the support they need.

You may wish to offer advice, but you should suggest that the matter needs to be raised with the landlord

You may wish to offer advice, and with the complainant's agreement, you may wish to contact the landlord. You may refer the matter to the Ombudsman, but under his "scheme" (see note 14), he will not normally consider it until the landlord's procedure has been exhausted. His scheme also sets out a number of other circumstances where he will not normally consider a complaint.

You may tell the complainant that knowing about other steps they have taken will help you consider how you can help

You may tell the complainant that not being able to discuss the complaint with other designated persons may make it harder for you to resolve

If appropriate, contact other designated persons to discuss the complaint and any previous action taken



Does the complainant authorise you to act on their behalf with regards the complaint?

You may still give them advice but you will have to tell them that you are unlikely to be able to discuss the complaint with anyone else

Does the complainant authorise their landlord to release personal information about the complaint to you?

The landlord will not be able to discuss the complaint with you.

Make sure that you agree with the complainant what action you are going to take. Make contact with the landlord about the complaint. Maintain dialogue with the complainant and agree any ongoing action.

Has it been possible to resolve the complaint locally?

Exercise judgment about referring the complaint to the Ombudsman

Skills and resources that may help

Whilst a range of skills and knowledge will be required by designated persons for them to be effective, good common sense is perhaps the main requisite. Staying calm and not reacting before knowing all the facts is important. A good designated person will earn the respect of tenants and landlords by being measured and impartial whilst at the same time providing constructive and considered challenge.

Skills relating to achieving consensus between tenant and landlord will be important, such as diplomacy, conciliation and negotiation. Knowing how housing is meant to operate will be helpful, but this knowledge will come with time.

Tenant panels, councillors and MPs will all bring different skills, knowledge and experience to the designated person role, and developing relationships between different designated persons in the same area will help to develop the skills, facilitate joint working and build up local expertise.



These approaches may help designated persons:

- designated tenant panels may wish to seek out other designated tenant panels operating in their area. They may also want to approach the local council about engaging with local councillor designated persons.
- local councillors and MPs working with designated tenant panels operating in their constituencies could be one way of demonstrating their support for the local community.
- designated tenant panels may feel that it would be in the interests of tenants to invite local councillors or MPs to be voting or non-voting members of their panel.
- local councillors and MPs could play a useful role in ensuring that landlords operating in their constituency have had proper debates with their tenants about how tenant panels should be set up and that the resulting panels are in a sufficient position to be able to constructively challenge.

Landlords will also often provide useful information on how housing systems work, but sometimes some may think that something is the case just because that's the way it's always been done.

Councillors and MPs may have the support of their own offices. Their staff may act for councillors or MPs, but the councillor or MP will remain responsible for their actions. There is a wealth of people and organisations who can give advice and support to designated tenant panels. The National Tenant Organisations regularly provide advice and



information to tenants⁹. The Government currently funds the “Tenant Central” training programme¹⁰ and residential training at the National Communities Resource Centre at Trafford Hall¹¹.

As well as this, there is a regulatory requirement that landlords provide support the formation and ongoing activities of tenant panels¹². This should be sufficient to enable tenants to consider complaints independently of the landlord, including:

- set up and recruitment support
- access to training
- secretarial and administrative support
- publicity to the tenant constituency of the existence and contact details for the panel
- support regarding indemnity and insurance issues

In order to ensure that tenants perceive the tenant panel to be in a position to offer independent challenge, it may be useful for it to have its own contact details (e.g. an e-mail address such as tenantpanel@landlord.org.uk) which are only accessed by the designated tenant panel or officers working for it.

⁹ Contact details for various organisations are shown at the end of this document. Information on tenant panels can be found in Tenant Panels: Options for Accountability.

¹⁰ For further information, see www.tenantcentral.org.uk

¹¹ For further information, see www.traffordhall.com

¹² Options for how support could be provided are set out in Tenant Panels: Options for Accountability



Other resources you may find useful include:

- working with the Chartered Institute of Housing and others, the National Tenant Organisations have published a set of designated person “frequently asked questions” (aimed primarily at landlords) which are available at www.nationaltenants.org/designatedperson and www.cih.co.uk/designatedpersonfaqs. We will answer further questions if they are asked.

We also maintain an e-mail database of people who receive occasional updates from us. Please e-mail designatedperson@nationaltenants.org if you wish to be included on the database.

We are intending to publish ongoing information about designated persons on our website. Please send us any information about how you operating or the structure of designated persons you consider may be helpful for others.

- the Chartered Institute of Housing have published Complaints: CIH charter for housing available at www.cih.org/complaintscharter setting out the outcomes an effective complaints handling service can achieve
- the Housing Ombudsman intends to publish a document on dispute resolution principles in the near future and he also publishes case study digests of complaints he handles



Conflicts of interest

There are various potential conflicts of interest that could be relevant to your role as a designated person. Conflicts of interest often crop up in public life. The key to managing them is ensuring that the conflicts do not (and are not seen to) influence how you carry out your role. In some cases, conflicts of interest may be so severe that the person concerned is unable to carry out the role.

Councillors and MPs are subject to local authority and parliamentary Codes of Conduct which commit them to uphold the seven principles of public life. These principles¹³ form a good basis for how all designated persons should act.

You may wish to consider the following potential conflicts of interest:

- councillors and MPs who have particular roles (e.g. councillors who have the local authority's housing brief or MPs who are Ministers) may wish to refer complaints to other councillors or their local staff to act on their behalf
- councils with retained housing stock may wish to identify particular councillors without any council housing role to act as designated persons who are in a position to challenge landlord decisions.
- it would be difficult for tenants and councillors who are housing association or Arms Length Management Organisation board members to fulfil the role of a designated person.

¹³ Available at www.public-standards.gov.uk



- tenants may be involved in other activities within the landlord. This does not necessarily mean that they could not be part of a designated tenant panel (in fact their participation in other activities may help them in the role). But the more that tenants are involved in shaping decision-making in the landlord, the more difficult it may be for them to have independent perspective in relation to the designated person role. It would not be helpful for a tenant who had previously been involved in the landlord's complaints procedure (e.g. at the review stage) to subsequently participate in a designated tenant panel's complaint handling.

The Housing Ombudsman

If designated persons consider that they can't resolve complaints locally, they may refer complaints to the Housing Ombudsman. The Ombudsman will check that the complaint falls within his jurisdiction (i.e. the complaint relates to a landlord he is able to receive complaints about, and it is about a subject matter he deals with complaints about¹⁴). He will also check that the landlord's complaints procedure has been exhausted and that the complainant has authorised that the complaint can be referred to the Ombudsman. It is a legal requirement that designated persons refer

¹⁴ The Ombudsman publishes a "scheme" that sets out who he can receive complaints from; what complaints can be about, and how he handles them. This scheme is available on his website www.housing-ombudsman.org.uk. A new Ombudsman "scheme" will be published prior to his extended role being introduced on 1 April 2013.

In the local authority sector, the boundary between complaints about the housing service (which fall within the Housing Ombudsman's remit) and complaints about other Council services (which fall within the Local Government Ombudsman's remit) may not always be easy to distinguish. The Housing Ombudsman sets out what he has agreed with the Local Government Ombudsman on this distinction in his scheme. For further information, contact the Housing Ombudsman. A tenant panel, councillor or MP (not acting in their formal designated person role) could potentially give advice to a complainant about a non housing service issue, perhaps signposting them to the part of the Council that deals with it or to the Local Government Ombudsman, but their formal powers of referral to the Housing Ombudsman only relate to housing service matters that fall within the Housing Ombudsman's jurisdiction.



complaints to the Ombudsman in writing, although the Ombudsman is exploring whether this could be through a form on his website.

If a complaint does fall within his jurisdiction, the Ombudsman will investigate the complaint, which, as well as engaging with the complainant and the landlord, may also involve dialogue with the designated person. In some cases, where the Ombudsman considers that complaints can be better resolved locally, he may refer complaints he has received to designated persons.

At the conclusion of his investigation, the Ombudsman will issue a determination of his findings. The Ombudsman can require landlords to take action on any orders he may make as a result of his determination. He may also make recommendations and issue comments to assist in improving services. The Ombudsman will notify the designated person regarding the outcome of his investigation in writing.

As part of his investigation, the Ombudsman may consider whether and how a tenant has been able to access designated persons. If there has not been a designated tenant panel for them to access, he may investigate whether the landlord has taken sufficient steps to enable debate amongst tenants about whether designated tenant panels should be set up.

The Ombudsman will keep records of contact details for designated tenant panels which will be publicly available on his website. Contact details for designated tenant panels will be included on the website when a landlord has informed the Ombudsman that they have recognised a panel. The information available on the Ombudsman's website will also include which landlord or landlords who have recognised the designated tenant panel.



The National Tenant Organisations

Confederation of Co-operative Housing (CCH)

CCH was formed in 1993 as the representative body for co-operative and mutual housing. Its membership is open to housing co-ops, community-controlled housing organisations, and others that support co-op housing.

Address: 19 Devonshire Road, Liverpool L8 3TX
Phone Number: 0151 726 2228
e-mail/website: info@cch.coop/www.cch.coop
Twitter: [@nicblisscch](https://twitter.com/nicblisscch)

National Federation of Tenant Management Organisations (NFTMO)

The NFTMO was founded in 1992 and represents tenant management co-ops, estate management boards and other forms of tenant management organisations in the council and housing association sector.

Address: Resource Centre, Burrowes St, Walsall WS2 8NN
Phone Number: 01704 227053
e-mail/website: contact@nftmo.com/www.nftmo.com

Tenants and Residents Organisations of England (TAROE)

TAROE was founded in 1997 as the representative body for tenants in social housing in England. Membership is open to regional tenant bodies, tenant federations, tenant & resident associations, and individual tenants.

Address: The Old Police Station, Mersey Rd, Runcorn WA7 1DF
Phone Number: 01928 798120
e-mail/website: runcornoffice@taroe.org/www.taroe.org

Tenant Participation Advisory Service (TPAS)

Formed in 1988, TPAS promotes excellence in resident involvement and empowerment through training, advice, and accreditation - representing 1900 tenant groups and 230 landlords across England.

Address: Trafford Plaza, 73 Seymour Grove, Manch M16 0LD
Phone Number: 0161 868 3500
e-mail/website: info@tpas.org.uk/www.tpas.org.uk
Twitter: [@tpasengland](https://twitter.com/tpasengland)



Useful contacts

<p>Association for Retained Council Housing</p>	<p>c/o HouseMark, 4 Riley Court, Millburn Hill Road, Univ of Warwick Science Park, Coventry CV4 7HP Telephone: 024 7647 2711 e-mail: info@arch-housing.org.uk Website: www.arch-housing.org.uk</p>
<p>Care Quality Commission</p>	<p>CQC National Customer Service Centre, Citygate, Gallowgate, Newcastle NE1 4PA Telephone: 03000 616161 Website: www.cqc.org.uk</p>
<p>Centre for Housing & Support</p>	<p>1st Flr, Elgar House, Shrub Hill Road, Worcs WR4 9EE Telephone: 01905 727272 e-mail: info@chs.ac.uk Website: www.chs.ac.uk</p>
<p>Chartered Institute of Housing</p>	<p>Octavia House, Westwood Way, Coventry CV4 8JP Telephone: 02476 851700 e-mail: customer.services@cih.org Website: www.cih.org</p>
<p>Department for Communities and Local Government</p>	<p>Eland House, Bressenden Place, London SW1E 5DU Telephone: 0303 444 000 e-mail: contactus@communities.gov.uk Website: www.communities.gov.uk Twitter: @TenantPower</p>
<p>Equality & Human Rights Commission</p>	<p>3 More London, Riverside Tooley St, London SE1 2RG Helpline: 0845 604 6610 englandhelpline@equalityhumanrights.com Telephone: 0203 1170235 e-mail: info@equalityhumanrights.com Website: www.equalityhumanrights.com</p>
<p>Homes and Communities Agency</p>	<p>Central Business Exchange II, 406-412 Midsummer Boulevard, Central Milton Keynes MK9 2EA Telephone: 0300 1234 500 e-mail: mail@homesandcommunities.co.uk Website: www.homesandcommunities.co.uk</p>
<p>Housing Ombudsman Service</p>	<p>81 Aldwych, London WC2B 4HN Telephone: 0300 111 3000 e-mail: info@housing-ombudsman.org.uk Website: www.housing-ombudsman.org.uk</p>
<p>Leasehold Advisory Service</p>	<p>Maple House, 149 Tottenham Court Road, London W1T 7BN Telephone: 020 7383 9800 Website: www.lease-advice.org</p>



Local Government Association	Local Government House, Smith Square, London SW1P 3HZ Telephone: 0207 664 3000 e-mail: info@local.gov.uk Website: www.local.gov.uk
National Communities Resource Centre	Trafford Hall, Ince Lane, Wimbolds Trafford, Chester CH2 4JP Telephone: 01244 300246 e-mail: info@traffordhall.com Website: www.traffordhall.com
National Federation of ALMOs	Rockingham House, St Maurice's Road, York YO31 7JA Telephone: 0845 4747 008 e-mail: almos@hqnetwork.co.uk Website: www.almos.org.uk
National Housing Federation	Lion Court, 25 Procter Street, London WC1V 6NY Telephone: 0207 067 1010 e-mail: info@housing.org.uk Website: www.housing.org.uk
Sitra (housing with care & support)	3 rd Floor, 55 Bondway, London SW8 1SJ Telephone: 0207 793 4710 e-mail: post@sitra.org Website: www.sitra.org