

ROLE OF DESIGNATED PERSONS IN COMPLAINTS HANDLING

What is a designated person?

Designated persons were introduced by the Government to improve the chances of complaints about housing being resolved locally. The idea behind 'localism' is that local people know best how to decide on local issues. The introduction of designated persons is intended to involve local politicians and local people in resolving local housing issues. It follows from this that there is to be no central control or regulation of the development of local resolution mechanisms. The Housing Ombudsman is not a regulator and cannot define the expected role or processes for designated persons. That would be contrary to the purpose of localism.

Who can be a designated person?

A 'designated person' can be an MP, a local Councillor, or a Tenant Panel. Landlords do not have to set up tenant panels but they are expected to support their formation and activities if their tenants want them. To be effective the tenant panel must be 'recognised' by the landlord.

What does the designated person do?

A designated person will help resolve the complaint in one of two ways; they can try and resolve the complaint themselves or they can refer the complaint straight to the Ombudsman. If they refuse to do either the tenant can contact the Ombudsman directly. The designated person can try to put things right in whichever 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.

Complaints to the Ombudsman do not have to be referred by a designated person, but if they are not there must be at least 8 weeks from the end of the landlord's complaint process before the Ombudsman can consider the case. The law says that when the designated person refers a complaint to the Ombudsman, it must be in writing.

What is the impact of designated persons on complaints procedures?

Designated persons have no direct impact on a landlord's internal complaints procedure. MPs and local councillors have always been involved in complaints procedures as advocates for tenants. They will continue to have that role. Their specific role 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 a part of it is to refer complaints to the Ombudsman. In practice this means that if a complaint is not resolved at the end of the landlord's complaints procedure, the tenant can refer the matter to a designated person OR wait 8 weeks and refer the matter directly to the Ombudsman. A designated person has no legal authority over a landlord's policy or procedure.

The Housing Ombudsman and designated persons

Early and local resolution is the best possible outcome to a complaint. The HO will encourage positive relationships between landlords and tenants and the designated persons to achieve this. The HO will also provide information and advice to support designated persons in improving the methods and approaches they might use to resolve a

dispute. Whilst the HO will not comment on designated persons' decisions he will feedback on referrals from designated persons to improve complaints handling at all levels.

The Ombudsman has no jurisdiction over designated persons and has no authority to regulate or produce guidance for their selection, activity or conduct. The Ombudsman will be required to maintain a register of recognised Tenant Panels, but will not oversee the involvement of panels or any other designated person in the local resolution of complaints.

What is a designated tenant panel?

One of the 'designated persons' is a group of tenants acting as a designated tenant panel. The designated tenant panel is a new type of body with a specific function in the complaint process. In order to be recognised as a 'designated tenant panel' it must be recognised by the landlord.

What does a designated tenant panel do?

The designated tenant panel can help to resolve the complaint in two ways; it can try to resolve the complaint itself or it can refer the complaint straight to the Ombudsman. The tenant panel can try to put things right in which ever it thinks will work best. This could be for example, by acting as an advocate for the complainant, by giving advice, providing a review of the way the complaint has been handled or being more proactive and suggesting a solution. If the complaint is not resolved by the tenant panel, it can refer the complaint to the Housing Ombudsman. The law says that this referral has to be in writing.

Who is responsible for setting them up?

Landlords do not have to set up a designated tenant panel. They can work with their tenants to establish a panel, or tenants can form a panel themselves. For a designated tenant panel to be effective in the role it is essential that landlord and tenant work together to establish one that will work for them both. If the panel does not meet the needs of tenants, they will not take their complaints to it; if it does not meet the needs of the landlord it will not work with it to resolve complaints. Either way the panel will not play an effective role in helping to resolve complaints or improve service.

To be 'designated' a tenant panel must be 'recognised' by the landlord. There is no guidance on what is required to achieve recognition. However, the HCA's Tenant Involvement and Empowerment Standard carries a broad expectation that a landlord will support the formation and activity of tenant panels. It follows that a landlord would need a proper reason to refuse recognition. A designated tenant panel could be recognised by more than one landlord. A landlord could recognise more than one tenant panel.

Is there any training or support available for tenant panels?

Landlords must find a balance between providing support to tenant panels and enabling them to consider matters independently. Unless a tenant panel is facilitated and encouraged to think independently it is unlikely to be able to make a useful contribution. Support to tenant panels needs to be provided in a way that enables them to take an independent view. When agreeing how to set up tenant panels, landlords and tenants should discuss the support needs of the panel. It makes business sense for landlords to

support tenant panels as that will help them to play a genuine and useful role in reviewing landlords' procedures and improving its service delivery.

What is registration?

The Localism Act requires the Housing Ombudsman to keep a register of tenant panels. It is a landlord's responsibility to register a panel with the Ombudsman once it has been recognised and to inform him of any subsequent changes. This will help the Ombudsman identify whether a complaint is referred by a designated tenant panel. Only designated tenant panels acting in the capacity of designated persons (dealing with individual complaints) should be registered with the Ombudsman.