



Localism Bill: creating a single housing ombudsman Impact assessment



Localism Bill: creating a single housing
ombudsman
Impact assessment

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Title: Localism Bill: creating a single housing ombudsman Lead department or agency: Department for Communities and Local Government Other departments or agencies:	Impact Assessment (IA)
	IA No: DCLG 0066
	Date: January 2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Primary legislation
Contact for enquiries: Elizabeth Sealey Philip Bartlett	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

At present there is no common route of redress for social housing tenants. Social housing tenants address complaints against their landlord to the Local Government Ombudsman for local authority tenants, or to the Independent Housing Ombudsman for housing association tenants. This gives rise to possible inconsistency in the treatment of complaints. Government intervention is necessary to bring all social housing complaints within the remit of a single ombudsman - the Independent Housing Ombudsman Limited - and to locate the expertise for dealing with housing complaints within a single organisation. This will allow tenants - regardless of whom their landlord is - to benefit from a single Ombudsman service dedicated to social housing complaints. This change stems from the Government's recent review of social housing regulation¹ which concluded, among other things, that the system for managing social housing complaints should be changed in order to strengthen the role of locally elected representatives and tenant groups, and address a perceived democratic deficit in understanding of housing issues at the local level. The review recommended that a 'democratic filter' should be introduced so that in future tenants who had exhausted their landlord's complaints procedure would have to go through their local tenant panel, MP or councillor, who in turn would seek to resolve the complaint before, if needed, referring the issue to the Ombudsman. (The impacts of the review's wider conclusions are set out in a separate assessment.)

What are the policy objectives and the intended effects?

Our policy objective is to provide a common route of redress for all complaints about the performance of social housing landlords by designating a single, specialist ombudsman for social housing. In April 2010 a new cross-domain regulatory system was brought into effect, ensuring that tenants of local authorities and housing associations can expect a broadly similar level of service from their landlord. Given the move to consistent standards across social housing, we now wish to put complaint handling on a more consistent footing by designating a single ombudsman for all complaints about social housing landlords. At the same time, we want to ensure that there continues to be a high quality ombudsman service for all social housing tenants and their representatives.

¹ <http://www.communities.gov.uk/documents/housing/pdf/1742903.pdf>

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

- Do nothing: This option was rejected as it would leave in place the current anomalous position of two separate ombudsmen services dealing with complaints about social housing landlords. This would not deliver the Government's objective of simplifying the service for tenants.
- Option 1: to designate the Independent Housing Ombudsman Limited as the single ombudsman for complaints about social housing landlords. This was the preferred option because of the Independent Housing Ombudsman Limited's existing single focus on housing.
- Option 2: to designate the Local Government Ombudsman as the single ombudsman. This option was rejected as it would not result in there being a single ombudsman *specialising* in complaints about social housing landlords (Local Government Ombudsman's remit covers all Local Government services)

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed 04/2014
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

Ministerial Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister: Grant Shapps..... Date: January 2011

Summary: Analysis and Evidence

Policy Option 1

Description: Create a single housing Ombudsman based under the Independent Housing Ombudsman

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised costs by 'main affected groups'

This option is expected to be cost neutral in running cost terms, as the overall level of activity will not change. The level of grant-in-aid received by the Local Government Ombudsman will be reduced by the pro-rata amount related to their social housing complaints and the Independent Housing Ombudsman Limited will charge fees from local authorities. There may be some transitional costs (e.g. additional pension costs arising from staff transfers) but it is not possible to quantify these accurately at this stage. The number of staff transferring is estimated to be between 5 and 15.

Other key non-monetised costs by 'main affected groups'

Loss of opportunity for the Local Government Ombudsman to investigate 'multi-faceted' complaints triggered by housing complaints, e.g. complaints which span other local authority services such as environment or health.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

We do not envisage any monetised benefits from the creation of a single Ombudsman.

Other key non-monetised benefits by 'main affected groups'

The main benefits will be to tenants and their representatives as the single ombudsman will create a simpler and specialised system for dealing with complaints about social housing landlords. This will help support the 'democratic filter' for complaints whereby cases can only be referred to the Ombudsman by local Councillors, MPs or tenant panels (option 2, by contrast, would require the Local Government Ombudsman to operate the filter on some but not all of the complaints it receives, which would be more administratively complex).

Key assumptions/sensitivities/risks

These costings assume that:

- * The amount identified for the cost of social housing remit of the Local Government Ombudsman can be accurately isolated.
- * Transitional arrangements and cooperative working on multi-strand complaints (i.e. involving social housing and other services) are effective.
- * Any transition costs are not high enough to have a material impact on the options appraisal.

Discount rate

Impact on admin burden (AB) (£m):

Impact on policy cost savings (£m):

In scope

New AB:	AB savings:	Net:	Policy cost savings:	Yes/No
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Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England				
From what date will the policy be implemented?	01/04/2013				
Which organisation(s) will enforce the policy?	the Local Government Ombudsman and the Independent Housing Ombudsman				
What is the annual change in enforcement cost (£m)?					
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A		
Does the proposal have an impact on competition?	No				
What proportion (per cent) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs:		Benefits:		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Med	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties² Statutory Equality Duties Impact Test guidance	No	9
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	10
Small firms Small Firms Impact Test guidance	No	10
Environmental impacts		
Greenhouse gas assessment	No	10
Wider environmental issues	No	10
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	10
Human rights Human Rights Impact Test guidance	No	10

² Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Justice system <u>Justice Impact Test guidance</u>	No	10
Rural proofing <u>Rural Proofing Impact Test guidance</u>	No	10
Sustainable development <u>Sustainable Development Impact Test guidance</u>	No	10

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	http://www.communities.gov.uk/documents/housing/pdf/320365.pdf (The Cave Review)
2	http://www.communities.gov.uk/documents/housing/pdf/1742903.pdf (The DCLG Review)
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Introduction

Social housing in England is provided by either local authorities or housing associations and totals around 4m homes and houses around 8 million tenants. Currently there are two Ombudsman services whose remits are or include addressing complaints about social housing; the Independent Housing Ombudsman Limited which covers housing associations; and the Local Government Ombudsman which covers local authorities. The Local Government Ombudsman is also responsible for addressing complaints regarding local authorities' health and education services. The Local Government Ombudsman estimate that around 20 per cent of a total 18,000 complaints and enquiries received over the past year (2009-10) fall within the broad category of 'housing'. This figure includes complaints into matters unrelated to social housing such as homelessness and grants for private housing. Somewhere in the order of 12-15 per cent of cases where complaints were investigated and determinations were made are estimated to relate to social housing.

The recent Review of Social Housing Regulation³ recommended an enhanced role for tenants and their locally elected representatives – MPs and Councillors - in addressing complaints between tenants and landlords, including the introduction of a 'democratic filter' between tenants and the Ombudsman service. As part of this process the Government will create a single Ombudsman service specialising in complaints about social housing landlords as this will offer a simpler, clearer and more specialised system for handling complaints.

Problem under consideration

All tenants of social housing – regardless of whether they happen to be a tenant of a local authority or a housing association – can expect to receive broadly comparable minimum standards of service from their landlord. This was a key recommendation of the independent Cave Review of social housing in 2007 and has become known as 'cross-domain' regulation. The Cave Review also recommended a 'cross-domain' approach to complaint handling – and in particular, that there should be a single ombudsman for social housing complaints.

In its own review of social housing regulation (published in October 2010), the Government stated its commitment to retaining cross-domain regulation but also proposed changes to give tenants a stronger role in driving up standards of service locally (including via the complaints system), with a reduced role for regulatory intervention by the state. As part of these changes, the Government has proposed the creation of a 'democratic filter' for social housing complaints, whereby complaints that cannot be resolved locally can be referred to the ombudsman by local representatives – i.e. MPs, local councillors or recognised tenant panels.

The move to common standards across the sector undermines the case for retaining two separate ombudsmen for social housing complaints. Given that social landlords are now subject to common standards set by a single regulator, it makes little sense for complaints about landlord performance (including against the standards) to be considered by two different ombudsmen. This conclusion was implicit in the Cave Review. Similarly, the introduction of bespoke arrangements for handling all social housing complaints (specifically the 'democratic filter' outlined above) provides added impetus for creating a common route of redress that is specific to social housing, rather than separate routes for complaints about local authority and housing association landlords.

In response to these drivers for change, and to provide a simple and easily understandable route of redress to a single ombudsman specialising in social housing matters, the Government

³ The Review of Social Housing Regulation was published in October 2010. It recommended focussing the regulation of social housing on economic issue and giving greater power to tenants and their landlords to shape the housing services they receive <http://www.communities.gov.uk/documents/housing/pdf/1742903.pdf>

is bringing forward legislation that will transfer responsibility for dealing with complaints about local authority landlords from the Local Government Ombudsman to the Independent Housing Ombudsman Limited.

Rationale for intervention

Government is responsible for setting the regulatory framework governing social housing. It is our responsibility to ensure that the system in place for protecting social tenants is as simple and as effective as possible, and that it delivers the greatest value for money for taxpayers.

Before, during and after the recent review of social housing regulation the Government has committed itself to the principles of 'cross-domain' regulation i.e. all social housing tenants, regardless of who their landlord is, can expect comparable levels of service. Creating a single housing Ombudsman is entirely consistent with this as this means that all tenants can expect the same level of redress if local resolution has failed, via an ombudsman service that specialises in social housing matters.

The introduction of democratic filter for complaints to the Ombudsman will mean that the numbers of complaints that are referred to the Ombudsman are likely to reduce over the first few years of it being introduced as more cases will be able to be resolved at a local level.

Policy objective

The overall policy objective is to create a single housing Ombudsman that deals even-handedly with complaints from all social housing tenants regardless of whom their landlord is. This body should provide a centre of expertise on social housing matters and minimise costs for taxpayers.

Description of options

- *Do nothing*

This option was not chosen as it would not deliver the Government's objectives of providing access to complaints procedures across social housing, simplifying the complaints procedures.

The option chosen by Ministers was;

- Option 1: designate the Independent Housing Ombudsman Limited as the single Ombudsman. Transfer responsibility for handling complaints about local authority social landlords from the Local Government Ombudsman to the Independent Housing Ombudsman Limited via the Localism Bill. Reduce the amount of Grant-in-Aid paid to the Local Government Ombudsman related to their housing function; and allow the Independent Housing Ombudsman Limited to charge fees to local authorities to cover the additional costs of their extended remit.

This is the preferred option as it delivers all of the Government's objectives. In particular it will create a single ombudsman for complaints about social housing landlords, and that ombudsman will specialise in social housing matters. This is a legislatively simpler option than option 2 as there will be no need to alter the Independent Housing Ombudsman Limited's fee charging powers and we expect it to be cost neutral in running cost terms.

To do this the Government will need to amend the legislation that defines the remits of both organisations. Appropriate funding arrangements are likely to entail a reduction in payment of Grant-in-Aid to the Local Government Ombudsman, of an amount that covers their activities on complaints about social housing landlords and the Independent Housing Ombudsman charging fees to local authorities to cover its additional responsibilities.

Another option put to Ministers was:

- Option 2: extend the Local Government Ombudsman's remit to cover housing associations via the Localism Bill. Abolish the Independent Housing Ombudsman Limited and transfer any staff to Local Government Ombudsman ensuring housing expertise is grouped together in the same organisation.

This option was not chosen as it would not deliver the Government's objective of locating responsibility for handling all complaints about social housing landlords in a specialist ombudsman for social housing, as the Local Government Ombudsman would retain its additional responsibilities for local authority education and health services. It would also be less consistent with wider reforms to the handling of social housing complaints, as it would mean that the new 'democratic filter' would apply to some complaints made to the Local Government Ombudsman but not others – this scenario is likely to be considerably more administratively complex than Option 1. This option has not been quantified in any detail at this stage as it does not achieve the Government's primary objective.

Costs of preferred option

Currently the Local Government Ombudsman and the Independent Housing Ombudsman are funded differently; the Local Government Ombudsman is entirely funded by Grant-in-Aid from the Department and the Independent Housing Ombudsman Limited is entirely funded by fees levied on Private Registered Providers of housing (commonly known as housing associations), and does not receive any public funding. Our proposed model in Option 1 is that we will reduce the Grant-in-Aid that the Local Government Ombudsman currently receives by the pro-rata amount for carrying out its social housing complaints remit. Local authorities would then – as members of the Independent Housing Ombudsman service – be liable to pay fees in the same way as housing associations currently do. Any fees that local authorities are liable for would be subject to a new burdens assessment to ensure no upwards pressure is put on council tax.

The Independent Housing Ombudsman Limited's budget for 2009/10 was £3.2m (approx)⁴ and the Local Government Ombudsman budget for 2010/11 is £14.4m (approx). The Local Government Ombudsman has estimated that the cost of meeting their social housing landlord complaints remit is **£500k (approx.) or 3.5 per cent of their budget**. As a contingency, we have estimated that this could be as high as **20 per cent of their budget (£2.8m approx.)** This is based on a crude formula of *per cent of complaints = per cent of budget*. These figures are for indicative purposes only at this stage and further detailed work on costings will be done. We are confident that this transfer of functions will not represent a new burden on local authorities and will incur no extra ongoing cost for the Department or HM Treasury. There may be some transitional costs (e.g. additional pension costs arising from staff transfers) but it is not possible to quantify these accurately at this stage and the number of staff transferring is expected to be relatively low (in the 5-15 range).

The main uncertainty is the accuracy of the identified pro-rata amount that the Local Government Ombudsman dedicates to its housing remit. The nature of complaints to the Local Government Ombudsman – often involving several services within their remit – means that it is impossible without further detailed analysis to be 100per cent accurate at this stage. The risk is that the amount identified is insufficient to allow the the Independent Housing Ombudsman Limited to perform its extra functions and it has to defer complaints, increase fees or use its existing budgetary reserves. But we are clear that, in principle, the resources currently deployed by Local Government Ombudsman in relation to complaints about local authority landlords should be transferred to the Independent Housing Ombudsman Limited.

There is a risk that transferring housing functions away from the Local Government Ombudsman could conceivably lead to a reduction in the overall value of benefits delivered by the Ombudsmen. Information from the LGO indicates that many of the social housing-related complaints and enquiries that they handle are closely interrelated with other aspects of local authority services. For example, aspects of 'housing' complaints/enquiries can depend on numerous other local authority functions such as health, education, social care and benefits. The loss of opportunity for the LGO to investigate 'multi-faceted' complaints, triggered by a housing complaint, could result in a less comprehensive response.

⁴ The Independent Housing Ombudsman Limited's budgeting is based on the amount of fees income from the previous year. Most years this includes a surplus, in 2009/10 this surplus was £400k (approx)

We propose to mitigate this risk in two ways. Firstly, we will legislate to enable the Housing Ombudsman to conduct joint investigations with the Local Government Ombudsman on complaints that cut across both ombudsmen's jurisdictions. Secondly the proposed 'democratic filter' for complaints to the Housing Ombudsman will result in greater involvement by local representatives, who should in turn be able to help tenants with 'multi-faceted' complaints secure redress across more than one service.

Where future investigations of social housing span wider issues of local governance then officials from both the Local Government Ombudsman and the Independent Housing Ombudsman Limited might need to work together on cases, which could be more resource intensive / less efficient than handling a case within a single organisation. However we believe that the benefits from creating a single Ombudsman outweigh the risks; social housing tenants of housing associations are just as likely to have complaints that encompass more than one issue and there is no clear evidence to suggest that these are not dealt with effectively.

Benefits of preferred option

The benefits of this policy are non-financial and will create a more specialist and easier-to-use system for social housing complaints, with expertise located in one body. This will also help deliver the Government's policy of giving greater power back to communities by making it easier for locally elected representatives and tenant panels to deal with tenant complaints.

Risks and assumptions

The main risk is that moving housing complaints away from the Local Government Ombudsman will result in a loss of synergy with complaints that encompass more than one of the local authorities' duties. In investigating housing complaints the Local Government Ombudsman often addresses related issues such as benefits, anti social behaviour, social care and health matters. These related issues cannot be addressed so readily by the the Independent Housing Ombudsman Limited so the Local Government Ombudsman may need to continue to play a role in these instances (and Local Government Ombudsman and the Independent Housing Ombudsman Limited might need to work together on cases).

Summary and preferred option

The preferred option as set out above is to transfer the Local Government Ombudsman's responsibilities for dealing with complaints about local authority landlords to the Independent Housing Ombudsman Limited. We believe this is the best option in terms of delivering the Government's objectives and is cost neutral in terms of running costs, for example:

- The cost of meeting the Local Government Ombudsman's housing remit is identified and their grant-in-aid reduced by the corresponding amount.
- Local authorities with retained housing stock (and therefore obliged to be part of the Housing Ombudsman's scheme) will pay fees to the Independent Housing Ombudsman Limited. Any fees that local authorities are liable for would be subject to a new burdens assessment to ensure no upwards pressure is put on council tax.

There are no quantifiable cost benefits at this stage. Further analysis of costs and benefits will be done at the transitional stage.

Specific Impact Tests

Statutory equality duties

This will not have any impact on statutory equalities duties. How the Ombudsmen operate their services will not change – only the scope of their remit.

Economic impacts

We do not believe that this will have any impact on competition or small firms. The Ombudsmen deal exclusively with complaints from social housing tenants.

Environmental impacts

This will not have any greenhouse gas or wider environmental impacts.

Social impacts

This will not have any impacts on health and well-being, human rights, the justice system or rural proofing.

Sustainable development

This will not have any impact on social, economic or environmental development.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p> <p>There will be no statutory commitment to review but there is a political commitment to review the regulatory landscape for social housing in 2014 and the review of the single housing Ombudsman will form part of that</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The review will determine whether the single Ombudsman model is still providing good, timely and accurate resolution of complaints referred to them and whether greater efficiencies have been realised.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>The review will look at the number of cases dealt with by the single Ombudsman, the time between referral and determination and whether there is a consistent level of customer satisfaction.</p> <p>Over the coming months, further details of any proposed research and analysis will be considered by a Localism Bill review steering group, to ensure that the methods are appropriate, proportionate, and cross-cutting where possible, so that we collect only essential information/data at both the baseline and follow-up review stages.</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The current number of complaints dealt with by the Independent Housing Ombudsman Limited and the length of time between referral of complaints to determination.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>A successful creation of a single Ombudsman service that provides a simpler and straighter forward route for resolving social housing complaints, increases customer/ tenant satisfaction and is cost-neutral/ beneficial to the taxpayer.</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p> <p>Both the Local Government Ombudsman and the the Independent Housing Ombudsman Limited currently collect, collate and publish statistics regarding the number of complaints they receive</p>

and the time between referral and determination.

Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]