

**MEMORANDUM OF UNDERSTANDING**

**between**

**THE REGULATOR OF SOCIAL HOUSING**

**and**

**THE HOUSING OMBUDSMAN**

## Purpose

This memorandum of understanding (MoU) sets out the functions of the Regulator of Social Housing (RSH) and the Housing Ombudsman and is a statement of intent as to the continued framework of communication, cooperation and exchange of information between the parties. It has been agreed by both organisations in accordance with section 100H of the Housing and Regeneration Act 2008.

While this MoU does not create or impose legally binding rights or obligations on the part of RSH or the Housing Ombudsman, both organisations are committed to working in accordance with its provisions. Each organisation will take steps to ensure that their staff are aware of what is in the MoU. They will keep staff updated about it, and about the responsibilities it places on their staff.

The MoU will also be made public and placed on RSH and the Housing Ombudsman's websites which we consider is the best way to bring it to the attention of the public, in accordance with our statutory obligation.

## Roles of the Parties to this Memorandum

RSH and the Housing Ombudsman have distinct roles within the social housing sector and exercise their functions within their respective statutory remits. In exercising their separate roles, they reach independent findings or judgements based on the evidence available and in accordance with their published approaches<sup>1</sup>.

### Regulator of Social Housing

Under the Housing and Regeneration Act 2008 (the 2008 Act), RSH<sup>2</sup> has statutory objectives which drive its approach to regulating registered providers. It also maintains a register of providers of social housing. These include local authorities and other organisations such as non-profit housing associations, co-operatives and for-profit organisations.

The RSH focus is at landlord level. RSH sets standards which state the outcomes that landlords must deliver against. It regulates to ensure a viable, efficient and well governed sector and seeks to drive landlord improvements to the quality of homes and services delivered. RSH takes a proactive approach to regulating its standards. RSH judges the extent to which large providers are delivering against the outcomes of the standards through a risk-based inspection programme. It also receives a variety of information to help understand how well a landlord is delivering against the outcomes of RSH's standards. This regulatory intelligence includes regulatory

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<sup>1</sup> See the Housing Ombudsman's [Scheme](#) and RSH's [Regulating the Standards](#)

<sup>2</sup> The regulator is an executive non-departmental public body of the Ministry of Housing, Communities and Local Government (MHCLG) reporting to Ministers through its Accounting Officer. The regulator is accountable to Parliament for the discharge of functions conferred on it by virtue of Part 2 (regulation of social housing) of the 2008 Act. Further information on [our role and approach](#) can be found on GOV.UK

returns; information, data and insight from the Housing Ombudsman; and a range of other sources such as referrals.

RSH considers all of this information in the round to inform its inspection programme and other regulatory work. RSH publish regulatory judgements to give its view as to the extent to which landlords are delivering against the outcomes of our regulatory standards. Where landlords are not delivering against the outcomes of the standards RSH will hold them to account. It has a range of regulatory and enforcement powers to use as necessary. Further information on how RSH regulates is set out in [Regulating the Standards](#).

RSH does not have a role in mediating or resolving individual disputes between landlords and their residents – that is the statutory role of the Housing Ombudsman.

## **The Housing Ombudsman**

The Housing Ombudsman makes the final decision on disputes between residents and member landlords. It sets complaints handling requirements for members through its Statutory Complaint Handling Code and supports effective landlord-tenant dispute resolution by others, including landlords themselves, promoting positive change in the housing sector. The Ombudsman can also look beyond individual disputes into the wider and deeper issues responsible for generating complaints and seek to address those issues to improve residents' lives and landlords' services. Full conditions of membership, and the Ombudsman's powers, are set out in the [Scheme](#).

When investigating complaints, the Housing Ombudsman will decide what is fair in all the circumstances. This may include consideration of, but is not limited to, relevant legislation, codes of practice, policies and procedures.

## **Working together**

### **Cooperation and communication**

Under Section 100H of the Housing and Regeneration Act 2008, RSH and the Housing Ombudsman must each take such steps as it considers appropriate to cooperate in the exercise of their respective functions.

RSH and the Housing Ombudsman have agreed that they will:

- a) seek to achieve a complementary and compatible approach so far as that is consistent with their independent roles;
- b) communicate with one another at an early stage on any issues that might have significant implications for the other organisation<sup>3</sup>;

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<sup>3</sup> The regulator must consult with the Housing Ombudsman before setting standards, or issuing, revising or withdrawing a code of practice (s196 Housing and Regeneration Act 2008). The Housing Ombudsman has a statutory duty to consult the regulator before issuing, revising or replacing (i) the

- c) signpost the enquirer to the other organisation where appropriate, making sure to explain to the enquirer *why* the other organisation is the appropriate organisation;
- d) meet and communicate regularly – at appropriate levels of seniority, including at operational level – to discuss matters of mutual interest including stakeholder engagement;
- e) seek to promote understanding about their respective roles including for tenants and landlords; and
- f) ensure consistency in the way in which they are communicating about each other's roles.

## Information sharing

### Legal basis of information sharing

Under section 109 of the Housing and Regeneration Act 2008, RSH may disclose information to a public authority (which would include the Housing Ombudsman) if it thinks that information is necessary either for purposes connected with its own functions or for purposes connected with the public authority's functions.

The Housing Ombudsman has the power to refer service failure indicative of systemic failure to an appropriate regulatory agency.

The Housing Ombudsman also has the power to share a member's complaint handling failure with an appropriate regulatory agency, along with any related details as the Housing Ombudsman sees fit. This can include the failure of a member to comply with its orders.

Taking the above into account, the following areas of information exchange have been agreed:

- a) RSH and the Housing Ombudsman will share current information and data on registered providers to inform their respective activities where appropriate.
- b) RSH and the Housing Ombudsman will co-ordinate effectively and share insight regularly on specific cases when appropriate, particularly where both organisations are actively engaging with the same registered provider because serious failures are suspected or have been identified.
- c) RSH and the Housing Ombudsman will share intelligence on emerging sector risks and developments where relevant to their respective roles including themes from their consumer casework.

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HOS complaints handling code (paragraph 2(11B) of Schedule 2 to the Housing Act 1996) (ii) HOS good practice guidance (s51ZA of the Housing Act 1996). The Housing Ombudsman must consult with RSH before making an application to the Secretary of State for approval of a scheme (paragraph 3(1) of Schedule 2 to the Housing Act 1996).

- d) The Housing Ombudsman will notify RSH and refer in advance of publication of a wider investigation or where a determination of severe maladministration has been made on a case and will provide appropriately anonymised information.
- e) RSH will notify the Housing Ombudsman in advance of publication of its Regulatory Judgements where possible.
- f) RSH and the Housing Ombudsman may share statistical information relevant to the exercise of their respective functions about the types of cases handled, or individual registered providers.
- g) RSH will share information with the Housing Ombudsman in relation to enforcement action for consumer cases where such action may affect the carrying out of the Housing Ombudsman's functions.
- h) The Housing Ombudsman will share information with RSH in relation to actual or contemplated systemic activity where such action may affect the carrying out of RSH's functions.
- i) RSH and the Housing Ombudsman will share at an appropriate stage to allow for considered input, draft publications that may affect the exercise of the other's functions.

## **General Data Protection Regulation**

The parties do not expect to routinely share personal data or exchange sufficient quantities of personal data to necessitate entering into a separate data sharing agreement. Where any personal data is disclosed in accordance with arrangements under this MoU each party will ensure that they fully comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (GDPR). For more details about how personal data is processed please see the privacy notices for [RSH](#) and the [Housing Ombudsman](#).

Neither RSH nor the Housing Ombudsman will generally provide information about specific cases but where it does, this may include personal data in line with GDPR article 6(1)(e) where processing is necessary for the performance of a task carried out in the public interest or in the exercise of RSH's official authority or, where relevant, under 6(1)(c) where processing is necessary for compliance with a legal or regulatory obligation.

## **Freedom of Information Act 2000 (FOIA)**

Both parties are public bodies for the purposes of FOIA, where a request for information is received by either party under data protection laws or FOIA and that request relates to the other party (and/or information originally received from the other party under this MoU), the recipient of the request will seek the views of the other party as soon as possible to ensure that the timeframes for response can be met, where the information being sought under the request includes information

obtained from, or shared by, that party. However, the decision to disclose or withhold the information (and therefore any liability arising out of that decision) remains with the party in receipt of the request.

## **Review**

Representatives from RSH and the Housing Ombudsman will review this MoU on an annual basis, or after a significant change in legislation, policy or practice in either party, to ensure that it reflects any developments and changes in working practices.

This MoU was agreed by both parties on 5 July 2024.