

Using the Complaints and Tribunal Procedures

The Importance of Being Able to Complain under the National Codes

The National Codes form an accreditation system whereby good accommodation providers and those managing their properties are recognised and badged as meeting a set of both management and physical standards they voluntarily enter into. It is an important part of entering any accreditation scheme that those who voluntarily declare they meet a set of standards are both verified and that there is a level of accountability to tenants and the community generally in respect of those standards.

The National Codes comply with the four core values of accreditation as set down by the Accreditation Network UK (ANUK).

This states:

"There must be a proper complaints process that should be simple, inclusive, transparent, rapid and known."

By signing up to either of the National Codes, members are accepting and agreeing to the complaints and Tribunal system, its purpose, rules and procedures.

The Purpose of the Complaints Procedure and the Tribunal

The purpose of the complaints process is to provide an alternative dispute resolution procedure. The aim of complaining is to resolve a particular issue or set of issues to the joint satisfaction of the complainer and the complainant. In the first instance every attempt is made (within a defined and reasonable timescale) to reach a solution before triggering the Tribunal process.

Where agreement cannot be reached then the matter is referred to an independent Tribunal. The Tribunal will take a decision on the matters under consideration and that decision is final. The Tribunal can also make recommendations to other bodies, such as the Local Authority, providers themselves, regulatory agencies, the students' unions and educational institutions. These recommendations often have considerable force.

The National Codes Administrator, based at Unipol Student Homes, services the Complaints and Tribunal system (except in the event of Unipol being the recipient of a complaint in which case this role is carried out by the Chair of the National Codes Committee of Management).

Making a Complaint

All complaints made under the National Codes must be received from:

- a tenant of the property concerned
- an ex-tenant of that property
- a person representing the Local Authority in which the landlord or property is based
- a person representing the University (or that university's students' union) attended by one or more occupant of that property
- a parent or relative representing any tenant or ex tenant of that property
- the company secretary of Unipol Student Homes
- the Vice President, Welfare, of the National Union of Students (but only in relation to general issues)

If the representative is a parent or relative of a tenant or ex-tenant, then written authority from the tenant must be attached to the complaint, authorising the complaint on their behalf.

If the complaint is made by anybody other than that of a tenant every effort should be made to have that complaint endorsed by a tenant that is, or had been, affected.

Complaints must be in writing and addressed to Unipol at

The National Codes Administrator (NCA)
Unipol Student Homes
155-157 Woodhouse Lane
Leeds LS2 3ED

or by e-mail : S.Kemp@unipol.leeds.ac.uk

The Complaint must state clearly:

- what breach of the code has been made
- any steps the tenant/s or complainant have taken to bring this breach to the owners notice
- an indication of the timescale involved concerning any particular problem
- a contact address and telephone number for a tenant/s or community member and/or their representatives.

Upon receiving the complaint the NCA will check that it fulfils the above criteria and then acknowledge receipt of the complaint.

Once a complaint is received the member of the relevant Code will be written to, informing them of the complaint and giving them 7 working days in which to respond.

The NCA may commission a member of the Audit Panel to inspect the property as part of the response to the Complaint. In this case the property inspection will take place within 10 working days of the complaint being lodged and an inspection report will be prepared that will be used in the complaint is not resolved.

Generally, it is hoped that reporting a complaint about a property of a member who has signed the National Code voluntarily will result in that member taking any necessary remedial action immediately.

Complainants are sent details of the members response to the complaint.

In the event that the matter cannot be resolved at this time then details of the complaint will then be sent to the Chair of the Tribunal for action. In certain circumstances the Chair may decide to suspend the member or a particular building from membership of the Code, pending a hearing of the Tribunal. This is referred to as Chair's Action.

The time limit for the submission of complaints will be six months after the end of the tenancy agreement.

Complaints Relating to Deposits

Any complaints concerning deposit deductions relating to tenancies which are protected by the Tenancy Deposit Protection Schemes should, in the first instance, be dealt with through the scheme's own Alternative Dispute Resolution (ADR) process. The outcome of that process is final and is not reviewable by the Tribunal although the outcome from this process can be used as part of the narrative of any other complaint that may be being made.

Complaints that meet the criteria relating to deposit deductions are dealt with under the Fast Track Tribunal unless there are multiple complaints (normally in excess of five) when the Full Tribunal will be used.

Sending the Unresolved Complaint to the Tribunal

The Chair of the Tribunal will determine one of two courses of action (following consultation with the Vice-Chairs that are available):

to take Chair's action and hear the matter themselves

to call a full Tribunal meeting

Decisions taken by Chair will be conveyed to all concerned parties, in writing, within 5 working days of the hearing taking place.

If a complaint (or parts of a complaint) is upheld against a member then details of the decision will be posted onto the website.

If a complaint is not upheld then the member can decide whether they wish the details to appear in the public domain.

The Tribunal

The Tribunal is designed to be the final resort in a serious dispute. The Tribunal is expensive to administer and sits only when important.

The Tribunal consists of 12 members:

- the Chair
- two Vice Chairs - one nominated by providers and one nominated by NUS
- a representative from each of the three members of the consortium
- three representatives from the owner community (selected by the Committee of Management)
- one person nominated by the appropriate local authority's environmental health department (where the complaint originated from)
- one person nominated by the appropriate local students' union (where the complaint originated from)
- one person nominated by the appropriate educational institution (where the complaint originated from excepting that the complaint is not about that body).

At least one member present must be a student and the quorum shall be seven.

Tribunal hearings will be heard within twelve working weeks of the procedure being triggered. If either the member or the complainant/s cannot attend within that time then the hearing will take place in absentia of that party.

Any members of the Tribunal panels with an interest (financial or personal) in any case before the Tribunal should declare it to the tribunal before the case is heard and the Tribunal will consider whether that member should continue to deliberate on that complaint.

Decisions taken by the Tribunal will be conveyed to all concerned parties, in writing, within 5 working days of the hearing taking place.

Powers of the Tribunal

The Tribunal can take four decisions, they can:

request additional information and reconvene at a later date to consider the complaint
uphold the complaint
make a recommendation to other parties
reject the complaint.

The Tribunal can make recommendations to all statutory bodies, educational institutions and all other appropriate parties. In the event that a complaint from a student was malicious a recommendation from the Tribunal to the institution in respect of its disciplinary procedures would be likely.

The Tribunal can recommend whatever they wish but generally this falls into the following categories:

a warning letter to the relevant party
the suspension of a member from the National Code for either a specified period of time or indefinitely (6 years) and conditions set for the lifting of that suspension
the setting of conditions for continuing membership of the Code

the issuing of a press release detailing the complaint and its outcome.

Any decision of the Tribunal is confirmed in writing.

Members of the Tribunal will, regardless of receiving any complaint, meet on an annual basis in order to receive a report detailing the proceedings of the Tribunal during the past year. This will occur on a set date each year by the Chair.

Procedures of the Tribunal - Before the Tribunal Meeting

The complainant and the member will be informed of the date of the Tribunal meeting not less than 15 working days before the meeting and invited to attend. Should problems arise from both the complainant and the member being present at the same time at the same meeting, where possible, every effort will be made to allow separate appearances before the Tribunal.

It is desirable that all the details regarding complaints are received by Tribunal members as soon as possible, but in any event all details of the complaint/s shall be circulated to all Tribunal members who have confirmed their attendance not less than 3 working days before the meeting.

The Tribunal is not for arguing legal points but are for the purpose of deciding, on the evidence presented, whether a landlord/agent has complied with the Code standards. No legal representatives (acting in that capacity) are allowed at the Tribunal representing either the landlord/agent or tenant. Representatives of any party, subject to prior notification are allowed.

No observers or other parties shall be present, except with the permission of the Tribunal

Those interested parties invited to attend the Tribunal must not less than 3 working days before the hearing (after that date admission is only by permission of the Tribunal):

confirm that they intend to attend
confirm any representatives they intend to bring
submit any additional written submissions for consideration by the Tribunal.

Procedures of the Tribunal - At the Tribunal Meeting

All members present will be reminded to turn off any mobile phones or other electronic communications equipment that may disturb the hearing.

Members of the Tribunal will be identified to the parties at the commencement of proceedings.

The parties to the complaint will be identified at the commencement of that agenda item.

Details of the complaint shall be circulated to all Tribunal members who have confirmed their attendance not less than two working days before the meeting.

Additional paper work can only be laid on the table with the consent of the Tribunal.

For each complaint:

- the Chair shall summarise the complaint/s and any action taken. This summation shall be definitive and not open to challenge.
- the Chair will then invite any parties to the complaint that are present to make comments, within a time-frame decided upon by the Chair
- generally the complainant will be invited to speak first
- the parties to the complaint shall address the Tribunal only
- members of the Tribunal will then ask any questions
- after hearing matters relating to the complaint the Chair shall summarise the issues.
- if there are a number of complaints being considered then the Tribunal shall undertake its deliberations in confidence at the end of the hearings

- if there is one complaint then the Tribunal shall undertake its deliberations, in confidence, at the end of that hearing
- in reaching a decision every effort shall be made by the Tribunal to reach consensus but in the event of a variety of views being expressed then a simple majority shall decide the matter (with the Chair having an original and, in the event of a tie, a casting vote)
- the decision taken is the view of the Tribunal as a whole and no record is kept of any voting that took place nor is any report made of that vote
- the Tribunal can decide whether to announce its decision, after its deliberations, to the parties concerned at that time, or decide to give its decision in writing later.

Procedures of the Tribunal - After the Tribunal Meeting

All decisions given will be confirmed in writing not more than five working days after the meeting in any event.

The decision once confirmed in writing is made public.

A report from the Tribunal is made public on the website and the report contains details of the case and the outcome together with any recommendations made by the Tribunal.

The NCA, in administering the Tribunal, will action any recommendations made by the Tribunal.

It is normal for a Press Release to be issued after a Tribunal decision and for the Local Authority to be notified of any outcome where a particular complaint is upheld in relation to a building falling within their regulatory ambit

Selection of Full Tribunal Members

The Chair is elected by the Tribunal every three years and is independent of all members.

Of the two Vice Chairs, one selected to represent members nominated by the Committee of Management and one is nominated by the National Union of Students is made for three years, or, in the case of a resignation, from that date.

The Consortium of the Accreditation Network UK (ANUK), Unipol and the National Union of Students (NUS), which has ultimate ownership of the Codes, can nominate one member each to the Tribunal, three in all

Three member representatives are selected by the Committee of Management
The Local Authority Environmental Health Department, the local students' union and educational institution (unless the complaint is about them) are invited on to the Tribunal (one member each) to hear any complaint within their area of jurisdiction.