

3<sup>rd</sup> April 2023

**Formal request to meet with Michael Gove**

Dear Michael Gove,

Thank you for your letter dated 28 November 2022, in response to our letter of 16 November 2022 in which we raised concerns about the recommendations set out in the Levelling Up, Housing and Communities Committee report following the Inquiry into the Regulation of Social Housing.

Our primary concerns, as set out in our letter of 16 November 2022, are:

- Increasing the regulatory powers of the Housing Ombudsman will be largely ineffective unless tenants have access to specialist advocacy and support.
- The recommendations focus too heavily on alternative dispute resolution; tenants need to be able to take legal action against their landlord, including at a court hearing where necessary

Your response to these concerns was to continue pushing tenants towards the Housing Ombudsman, downgrading court proceedings as 'adversarial and costly'.

We fundamentally disagree with this position - our legal system may be adversarial, but it is effective when used to secure action to improve housing conditions for tenants if it is properly funded. The current position, brought about in part because of the removal of standalone disrepair claims from the scope of Legal Aid in the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012, means that a high number of tenants are forced to live in squalor. Prior to LASPO, Legal Aid was used to allow tenants to bring standalone disrepair claims, supporting them to access this adversarial system and giving them equality of arms with landlords so that their representations were backed by consequences. The majority of cases were settled and legal aid support was refunded to the scheme.

It is evident that the existing system is inadequate as demonstrated by significant increase in housing condition issues since disrepair was removed from the scope of Legal Aid. The market has not adapted to the removal of legal aid, as post-event insurance-based claims and conditional fee agreements have proven ineffective. Clearly, the sector will not regulate itself, and therefore, proper access to justice for tenants must be facilitated.

Your department continues to steer tenants towards the Housing Ombudsman, despite being informed by residents participating in your Social Housing Resident Panel that the Housing Ombudsman should not be the sole avenue for resolving tenant housing issues.

This situation is problematic for several reasons, as outlined below:

- While tenants in social housing can theoretically access a remedy through the Ombudsman, what options are available for tenants who rent from private landlords?
- Many tenants report to us that they have sought assistance from the Ombudsman and still their disrepair has not been rectified. How will sending more cases to the Ombudsman improve this situation?
- What can the Ombudsman do about enforcement to ensure that repairs are carried out? Legal action offers this power, but the Ombudsman currently does not.
- In its current form, the Ombudsman is not truly inquisitorial. It operates using the principles of our adversarial legal system, such as the burden of proof. How can the Ombudsman be reformed into a truly inquisitorial system to avoid replicating the employment tribunal system?
- There is no genuine equality of arms before the Ombudsman. Cases that are better presented with strong evidence are considered more quickly and are more likely to achieve a favourable outcome for the complainant. This inequality becomes evident when parties can afford legal assistance with their complaints. Social landlords are familiar with the system and can assemble a team to respond to a complaint, while tenants lack the same knowledge and resources. How can the Ombudsman and its processes be made accessible for those who cannot afford legal assistance with their complaint?

While we recognise that the Ombudsman has a place in the solution to this problem, it cannot be the only solution proposed. We note that many other stakeholders have expressed similar concerns to ours in respect of your approach to this issue.

In February 2023, the Ledbury Action Group / Tower Blocks UK resigned from your Social Housing Residents Panel stating they and other group members 'have been telling DLUHC repeatedly that the Ombudsman route cannot be the only way'.

Inside Housing reported <sup>1</sup>that the chair of the Housing Law Practitioners Group (HLPAs) -an organisation of solicitors, barristers, advise workers and others who work in the field of housing accused you of being naive. Mr Mullings, the chair of HLPAs told Inside Housing that "Letting accommodation that is unfit for human habitation is against the law. The law needs to intervene in cases where it occurs."

"But unless tenants can get full legal redress with timely remedies for urgent, dangerous problems and proper damages awards calculated in a predictable and reasoned way, using the legislation that is on the statute books right now, then they are left legally disenfranchised and we will continue to see housing conditions cause misery, injury and, I fear, the worst of all consequences,"

---

<sup>1</sup> <https://www.insidehousing.co.uk/home/home/gove-dubbed-naive-after-urging-lawyers-to-refer-cases-to-ombudsman>

The campaigning of Awaab Ishak's family, the legal team of the family, the charity Shelter and the Manchester Evening News rightly advocated for the introduction of Awaab's Law. On 9th February 2023 your department committed to Awaab's Law. The law is needed as hundreds of thousands of households continue to live in properties that are not fit for habitation and that are causing or exacerbating serious health issues.

We spoke with barrister Christian Weaver who acted for Awaab Ishak's family in the inquest into his death. He told us "The awful conditions many across the country are being forced to live in has become increasingly apparent following the inquest into the tragic death of Awaab Ishak. Clear evidence exists of a significant number of landlords wilfully disregarding their legal obligations. A complete culture change is needed to ensure that these landlords do better. This culture change will only occur if those living in poor quality housing have ready access to legal aid. Landlords knowing their tenants can enforce their legal rights is the only way in which tenants' concerns will be treated with the importance they deserve."

It is extremely concerning that you appear to recognise that more needs to be done, yet to continue to recommend that the only remedy which ought to be made available is an Ombudsman which, as set out above, is not fit for this purpose.

We urge you to reconsider your position and to engage with housing experts to address this issue properly, rather than turning to the Ombudsman as a panacea.

Some of the worst housing conditions in the country have been reported in our region of London, and we know that this issue is nationwide. As we believe this is an issue of national importance, South West London Law Centres requests a meeting with you to further discuss our concerns and address any additional points you may have on this subject.

Please could you send us an available date for a meeting to demonstrate that you will listen to us and to reassure the many tenants and housing experts that their concerns will be heard in a face-to-face meeting.

Thank you

Yours sincerely

Patrick Marples  
Chief Executive  
South West London Law Centres