Hi Yvonne

This is the reply I sent to the person who contacted me after the York conference.

Since the Localism Act 2011 (in particular, section 180) tenants have a variety of choices when it comes to what to do next after the landlord’s Internal Complaints Procedure (ICP) has been (as the statute states) “exhausted”.  Being able to access my Service directly without having to wait 8 weeks is not a matter of ‘not conforming to the original legislation’ it is explicitly provided for in section 180. There is no question in my mind but that a myth has indeed grown up that tenants must wait 8 weeks after the conclusion of the ICP before they can come to me without having to go via a designated person.  Waiting 8 weeks is one option if that is what a tenant wants to do but, as I say, there are many more choices available to get a problem sorted out.

The text below is a slight adaptation of the article I wrote for Inside Housing.  I hope it makes the position very clear and helps you in your endeavours.

The so-called ‘8-week rule’

There is a myth that disputes cannot come to me until eight weeks after completion of  providers’  internal complaints procedures (ICPs). This is a misunderstanding of the Localism Act 2011 and of my Scheme approved by the Secretary of State.

Since 1 April 2013, complainants within the scope of the Localism Act have many  choices should their grievances not be resolved by the end of their provider’s ICP. They can, indeed, wait eight weeks and come straight to me but they might decide instead to go to a designated person (any MP, a local councillor, or a designated tenant panel) and ask them to resolve the dispute.  What is less commonly understood is that they may go to a designated person and ask them to refer their dispute to me immediately. Whether the  designated person agrees to or refuses the complainant’s request, provided the acceptance or rejection is in writing or confirmed in writing, the matter could be with me the same or, at the latest, the following day.

So, all tenants of councils and of private, not-for-profit landlords (i.e. housing associations etc) may use the designated persons to achieve not only the ‘dual track’ access to me that was recommended by the Law Commission but also resolution of disputes by designated persons themselves. The choice lies with tenants depending on their needs and the outcomes they are seeking and their landlords are best placed to help them make that choice depending on the outcome sought.

Tenants of for-profit landlords who have chosen to join my Scheme can still bring their disputes to me without having to decide whether to engage with designated persons or not.

With very best wishes and thanks for your interest,

Dr Mike Biles

Housing Ombudsman

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81 Aldwych

London

WC2B 4HN

0300 111 3000

[www.housing-ombudsman.org.uk](http://www.housing-ombudsman.org.uk)