



## **Housing Complaints Policy**

## **Introduction**

This policy outlines the Council's approach to handling complaints about the housing services the council provides to its tenants as a landlord.

We will ensure that when our tenants are telling us that they are dissatisfied with the service we provide that we respond in a timely and appropriate way.

Our policies and procedures are in line with the three principles set by the Housing Ombudsman for effective dispute resolution:

- Be fair – treat people fairly and follow fair processes.
- Put things right.
- Learn from outcomes.

## **Our Approach**

Our aim is to ensure that complaints are handled in a consistent, fair, and appropriate manner. We want to ensure that we are clear on the process we will follow and how we will deal with a complaint about the council housing service.

We are committed to ensuring that our staff are fully trained in complaint handling and can deal effectively with tenant feedback. We want to learn from any complaints so not only do we put right what went wrong but where appropriate we review our systems and processes to prevent similar complaints arising in the future.

## **What is a complaint?**

A complaint to us is *'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the landlord, its own staff, or those acting on its behalf, affecting a tenant or group of tenants.'*

This could generally, but not exclusively, come under the following categories:

- A complaint about a service.
- A complaint about a member of staff.
- A complaint about a policy.

## **What isn't a complaint? – Service requests**

A service request is a request requiring action to be taken to put something right. Service requests are not complaints, but must be recorded, monitored, and reviewed regularly.

Adopting a tenant led approach will help determine how the tenant would like their issue to be handled and whether it is handled as a service request or a complaint. By clarifying what the tenant can assist with the selection of whether a service request or complaint is more appropriate.

Service requests typically fall into these categories:

- A first report of an issue which would include a request for a housing related service.
- A request for an explanation of policy or practice.
- A request for information.

A complaint must be raised when the tenant expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. We will not stop our efforts to address the service request if the tenant complains.

## **Scope**

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The policy covers all housing complaints about the Council's role as a landlord **except**:

- I. Complaints which have already completed the internal complaints process.
- II. Complaints that have already been investigated by the Housing Ombudsman.
- III. Complaints that are to be allocated to the corporate complaints' procedure.
- IV. Other Statutory complaints about Children's or Adults Social Care Services separate policies and procedures are in place to deal with these. For further information, please contact the relevant complaints officer below:
  - Adult services complaints - 03000 266855, email [AHSCComplaints@durham.gov.uk](mailto:AHSCComplaints@durham.gov.uk)
  - Children's services complaints - 03000 265762, email [CYPSCComplaints@durham.gov.uk](mailto:CYPSCComplaints@durham.gov.uk)
- V. Where there are existing appeals procedures or legal resolution in place for decisions (e.g., homelessness applications, lettings reviews, Introductory Tenancy Reviews etc).
- VI. Complaints against Elected Members as these are dealt with under a separate policy and procedure [Elected Members Complaints](#). Further information is available from the Council's Monitoring Officer. They can be contacted via the online form on the Council's web site or alternatively write to Durham County Council, The Monitoring Officer, County Hall, Durham, DH1 5UL.
- VII. All instances involving potential insurance claims will be directed to the council's insurance team who can be contacted directly by emailing [corporateinsuranceteam@durham.gov.uk](mailto:corporateinsuranceteam@durham.gov.uk) or alternatively telephone 03000 269659 or write to the Corporate Insurance Team, County Hall Durham, DH1 5UL.
- VIII. If your complaint is about alleged serious misconduct of an employee of the Council, this will be dealt with through our internal Human Resources Procedures. We will not provide details or the outcome of those internal procedures, but we will let you know once internal processes are complete.
- IX. Where there has been a potential data breach in accordance with the Data Protection Act. There is a separate process for this outside of the Complaints Policy, which involves a full investigation of the matter and referral to the Office of the Information Commissioner should the tenant remain dissatisfied following internal review.
- X. Where a tenant is dissatisfied with the outcome of an FOI or subject access request, there is a process of internal review and escalation to the Office of the Information Commissioner.
- XI. The Council will not usually investigate complaints made more than twelve months after the first time the issue was reported.

A tenant does not have to use the word 'complaint' for it to be treated as such. Whenever a tenant expresses dissatisfaction, we will give them the choice to make complaint.

We will accept complaints from anyone who has received a service or anyone acting on behalf of a person or organisation receiving a service from the council. The express consent of the complainant is required where a complaint is being made on behalf of a tenant.

When a complaint is acknowledged at either stage of the process, we will be clear which aspects of the complaint we are, and are not, responsible for and clarify any areas where this is not clear.

If the Council, as landlord, decides not to accept a complaint, an explanation will be provided to the tenant setting out the reasons why the matter is not suitable for the complaints process and the right for the tenant to take that decision to the Ombudsman. If the Ombudsman does not agree that the exclusion has been fairly applied, the Ombudsman may tell the Council, as landlord, to take on the complaint.

The Council, as landlord, must give tenants the opportunity to have a representative deal with their complaint on their behalf, and to be represented or accompanied at any meeting with the landlord.

This Policy also sets out the steps that the Council will take to address the behaviour of tenants who act in an abusive, unreasonably persistent, or vexatious manner and who place unreasonable demands upon staff and the council. See Appendix 1.

Generally, we will consider anonymous complaints if there is enough information about the complaint to enable us to make further enquiries.

Complaints about the Council's landlord service sent directly to the Chief Executive or other Corporate Directors, will be logged as a corporate complaint, and will be managed and progressed through the housing complaints policy.

Where a Councillor or MP makes a complaint on behalf of a constituent about the Council's housing service as a landlord, this will be logged as a corporate complaint and will be managed and progressed through the housing complaints policy.

An expression of dissatisfaction with services made through a tenant's survey is not defined as a complaint, though wherever possible, the person completing the survey should be made aware of how they can pursue a complaint if they wish to. Where we ask for wider feedback about our services, we also must provide details of how tenants can complain.

## **How we will deal with your complaint**

### **Stage 1 – Investigation into the complaint**

Complaints relating to the council's role as social landlord will be dealt with in line with the [Complaint Handling Code](#). A complaint can be resolved at any time during the following two stages.

We have processes in place to consider which complaints can be responded to as early as possible, and which require further investigation. We will consider factors such as the complexity of the complaint and whether the tenant is vulnerable or at risk.

The Service Development and Intelligence Team will be responsible for complaint handling, including liaison with the Ombudsman. The Code refers to a 'complaints officer' and this will be the Service Development and Intelligence Manager. This officer has the authority and autonomy to act to resolve disputes promptly and fairly.

Most stage 1 complaints can be resolved promptly, and an explanation, apology or resolution provided to the tenant.

Complaints will be acknowledged, defined and logged at stage 1 of the complaints policy within **five working days of the complaint being received**.

The Council will issue a full response to a stage 1 complaint within 10 working days of the complaint being acknowledged.

The Allocations and Tenancy Manager will consider the Stage 1 complaint.

The Council will decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform the tenant of the expected timescale for response. Any extension will be for no more than 10 working days without good reason, and the reason(s) will be clearly explained to the tenant.

When the Council informs a tenant about an extension to these timescales, it will also provide the tenant with the contact details for the Housing Ombudsman.

A complaint response will be provided to the tenant when the answer to the complaint as soon as this is known, not when the outstanding actions required to address the issue are

completed. Outstanding actions must still be tracked and actioned promptly with appropriate updates provided to the tenant.

The Council, as landlord, must address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.

Where a tenant raises an additional complaint(s) during the investigation, these must be incorporated into the stage 1 response if they are related to it and the stage 1 response has not yet been issued. Where the stage 1 response has been issued, or the new issues are unrelated to the issues already being investigated or it would unreasonably delay the response, the new issues must be logged as a new complaint.

The Council will confirm the following in writing to the tenant at the completion of stage 1 in clear, plain language:

- a) the complaint stage;
- b) the complaint definition;
- c) the decision on the complaint;
- d) the reasons for any decisions made;
- e) the details of any remedy offered to put things right;
- f) details of any outstanding actions; and
- g) details of how to escalate the matter to stage 2 if the individual is not satisfied with the response.

## **Stage 2**

If all or part of the complaint is not resolved to the tenant's satisfaction at stage 1, it will be progressed to stage 2 of the Council's procedure.

Stage 2 is the Council as landlord's final response and must involve all suitable staff members needed to issue such a response.

Requests for stage 2 will be acknowledged, defined and logged at stage 2 of the complaints policy within **five working days of the escalation request being received**.

Tenants must not be required to explain their reasons for requesting a stage 2 consideration. We are expected to make reasonable efforts to understand why a tenant remains unhappy as part of its stage 2 response.

The person considering the complaint at stage 2 must not be the same person that considered the complaint at stage 1 and will be a manager in a separate team to the person who dealt with the stage 1 complaint. In the first instance, the Service Development and Intelligence Manager will consider stage 2 responses.

We will issue a final response to the stage 2 within 20 working days of the complaint being acknowledged.

We will decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform the tenant of the expected timescale for response. Any extension will be no more than 20 working days without good reason, and the reason(s) must be clearly explained to the tenant.

When an organisation informs a tenant about an extension to these timescales, they will be provided with the contact details of the Housing Ombudsman.

A complaint response will be provided to the tenant when the answer to the complaint is known, not when the outstanding actions required to address the issue are completed. Outstanding

actions must still be tracked and actioned promptly with appropriate updates provided to the tenant.

We will address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.

We will confirm the following in writing to the tenant at the completion of stage 2 in clear, plain language:

- a) the complaint stage;
- b) the complaint definition;
- c) the decision on the complaint;
- d) the reasons for any decisions made;
- e) the details of any remedy offered to put things right;
- f) details of any outstanding actions; and
- g) details of how to escalate the matter to the Housing Ombudsman Service if the individual remains dissatisfied.

### **The Housing Ombudsman**

If you remain dissatisfied with the response you received at stage 2, you can refer your complaint to the Housing Ombudsman. Further details can be found at [Home | Housing Ombudsman Service \(housing-ombudsman.org.uk\)](#) with details on the full [Complaint Handling Code](#).

### **Remedy**

Remedies offered may not necessarily be about money. Where fault has been found, we will apologise and try to return you to the position you would have been in before the error. This could be provision of a service, amending a process or procedure, correcting an error, or changing a decision. It may be that an apology is a suitable remedy. For more information surrounding remedies, please refer to Durham County Council's Remedy Policy.

### **Learning from complaints**

When investigating the complaint, consideration will be given to actions that could be taken to prevent a similar complaint from occurring again.

We will provide opportunities for tenants to become involved in reviewing complaints to identify areas where improvements can be made to prevent similar complaints arising in the future. This will include the involvement of tenants in review the number and nature of any complaints received but will not involve them directly in the detail of a complaint.

### **Independent mediation**

Where there are complex issues between two parties, one being the council, it can sometimes be advisable to seek independent mediation to resolve the complaint.

The Council would refer any potential cases where independent mediation was being considered to the Council's Head of Legal and Democratic Services

### **Persistent and vexatious complainants**

There will be cases where a complainant will persist even after the conclusion of their complaint. They will often follow multiple channels of contact.

Whenever a complaint is received which has been investigated previously, and concluded with a response, the matter will be referred to a senior manager. If the material points of the complaint are the same as a previously determined complaint.

### **Equality and Diversity**

Equality is at the heart of everything the council does, and our aim is to treat people fairly with respect and dignity. The policy complies with legal requirements in relation to age, disability, gender, pregnancy and maternity, marriage and civil partnership, gender reassignment, race,

religion or belief and sexual orientation. Reasonable adjustments will be made for people with disabilities.

### **Record Keeping and Data Protection**

Clear and accurate records of all complaints will be kept for a minimum of 2 years.

### **Training for staff**

All officers who deal with complaints on behalf of the council will be given training and access to guidance on delivery of the complaints process.

### **Review**

This policy will be reviewed every 2 years in line with the Housing Ombudsman complaint handling code.

## Appendix 1

Principle	What we will do
Accessibility	<ul style="list-style-type: none"> <li>• Our complaints policy will be well publicised, accessible, and understood by staff.</li> <li>• The guidance and process for feeding back to the council will be simple yet effective and provide a clear and effective process for handling complaints.</li> <li>• Stages in the complaint handling process will be kept to a minimum.</li> <li>• • Information on support services will be provided to tenants.</li> </ul>
Accountability	<ul style="list-style-type: none"> <li>• Information will be provided in a clear and open way and honest evidence-based explanations provided to give reasons for our decisions.</li> <li>• We will acknowledge our mistakes and put matters right.</li> <li>• • We will ensure that tenants are informed of their right to complain to the Housing Ombudsman.</li> </ul>
Timeliness	<ul style="list-style-type: none"> <li>• Wherever possible and within the parameters of what is appropriate, investigating officers from relevant service groupings will try and resolve the complaint at first point of contact.</li> <li>• Timescales for responding to the tenant will be communicated to the tenant, adhered to, and monitored.</li> <li>• • Complaints will be acknowledged within 5 working days and if it is not possible to resolve the complaint immediately, timescales will be agreed between the investigating officer and the tenant.</li> </ul>
Fairness	<ul style="list-style-type: none"> <li>• Feedback will be received and dealt with in an openminded and impartial way.</li> <li>• Tenants will be treated fairly, and their issues taken seriously.</li> <li>• Responses will be proportionate; one size does not fit all.</li> <li>• Roles and responsibilities will be clear both to the tenant and staff.</li> <li>• • Tenants will be assured that making a complaint will not adversely affect their future dealings with the council.</li> </ul>
Learning	<ul style="list-style-type: none"> <li>• Feedback will be used to show how our performance is perceived by Tenants and how it can be improved. As a council we will have a feedback loop into the service areas.</li> <li>• • In order to learn, there will be ongoing monitoring to ensure that timescales and satisfaction levels are met.</li> </ul>



## **Appendix 2**

### **Abusive, unreasonable persistent or vexatious complainants**

1. Dealing with a complaint is a straightforward process, but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the council. This can happen either while their complaint is being investigated, or once the council has finished dealing with the complaint.
2. When this occurs complainants will be subject to the following.
  - We will not normally limit the contact which complainants have with council employees. It is important to distinguish between people who make several complaints because they really think things have gone wrong, and people who are simply being difficult. It must be recognised that tenants may sometimes act out of character at times of anxiety or distress and reasonable allowances should be made for this.
  - We do not expect staff to tolerate abusive, vexatious, or unacceptable persistent behaviour by complainants or any tenants. Where a person's behaviour threatens the immediate safety and welfare of staff, a decision will be taken to place that person on the council's Potentially Violent Persons Register (PVPR). Abusive, vexatious or unacceptable persistent behaviour in the context of the PVPR is defined as conscious, deliberate or malicious acts of violent, aggressive or abusive behaviour towards Council employees including physical assault. The following behaviours will not be tolerated and apply to all the access channels including telephone, face to face, email, web form and social media.
    - Using abusive or foul language
    - Multiple contact to the service
    - Physical assault
3. Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant.
4. Even where an applicant displays abusive, vexatious or unacceptable persistent behaviour they can still make requests for information. These will be assessed according to the relevant access to information legislation. There are grounds within the Freedom of Information Act to declare a request as vexatious. However, this is a separate process managed by the Information Management Team in consultation with Legal Services.
5. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled vexatious or unreasonably persistent.
8. We define abusive, vexatious, or unreasonably persistent complainants as those complainants who, because of the frequency or nature of their contacts with the council, hinder our consideration of their or other people's complaints. The description 'abusive,' 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant. Once complainants have exhausted the council's complaints policy they can pursue their complaint with the Housing Ombudsman, or through legal challenge.

9. Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.
10. Features of an abusive, unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, one single feature on its own does not necessarily mean the person will be considered as being in this category):
11. An abusive, unreasonably persistent and/or vexatious complainant may:
  - have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious).
  - refuse to specify the grounds of a complaint despite offers of assistance,
  - refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure (e.g., parking ticket and planning appeals; policy decisions),
  - refuse to accept that issues are not within the power of the council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation),
  - insist on the complaint being dealt with in ways which are incompatible with the complaint's policy or with good practice (insisting, for instance, that there must not be any written record of the complaint),
  - make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced,
  - make an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints,
  - make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails),
  - harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or using offensive language,
  - change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed,
  - deny statements he or she made at an earlier stage in the complaint process,
  - refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given,
  - make the same complaint repeatedly, perhaps with minor differences, after the complaint's policy has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaint's policy,
  - persistently approach the council through different routes about the same issue,

- persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons,
- refuse to accept documented evidence as factual,
- complain about or challenge an issue based on a historic (more than a year old) and irreversible decision or incident,
- have knowingly recorded meetings or face to face/telephone conversations without prior knowledge and consent by the parties involved.

### **Imposing restrictions**

12. We will ensure that the complaint is being, or has been, investigated properly according to the corporate complaint's policy.
13. In the first instance the service manager will consult with the Customer Relations Team Manager prior to issuing a warning to the complainant. The service manager will contact the complainant either in writing, by phone or face to face to explain why this behaviour is causing concern and ask them to change this behaviour. If a complainant has a disability, reasonable adjustments will be made if necessary. The service manager will explain the actions that the council may take if the behaviour does not change. All telephone or face to face conversations will be carefully documented.
14. If the abusive, vexatious, or persistent unacceptable behaviour continues, the Customer Relations Team Manager will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the council in future will be restricted. The Customer Relations Team Manager will make this decision and inform the complainant in writing of what procedures have been put in place and for what period.
15. Any restriction imposed on the complainant's contact with the council will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place for. In most cases restrictions will apply for between 3 and 6 months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis. Any entry onto the Potentially Violent Person's Register will be for 12 months, any repeat instance of violence or aggression within the PVPR timeframe will result in a reset of the PVPR entry, effectively resetting the entry for a further 12 months.
15. Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:
  - banning the complainant from making contact by telephone except through a third party e.g., councillor/friend acting on their behalf.
  - banning the complainant from using some council buildings to access services.
  - banning the complainant from accessing any council building except by appointment agreed by relevant service manager;
  - requiring contact to take place with one nominated single point of contact;
  - restricting telephone calls to specified days / times / duration;
  - requiring any personal contact to take place in the presence of an appropriate witness and/or advising that the conversation will be recorded.

- letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence);
  - in extreme circumstances, the Council may involve the Police. Where this is the case, the complainant will be advised that this is the course of action that the Council is taking and why. Examples include:
    - abusive and threatening behaviour
    - physical abuse
    - refusal to leave the premises.
16. When the decision has been taken to apply this policy to a complainant, the Customer Relations Team Manager will contact the complainant in writing (and/or as appropriate) to explain:
    - why we have taken the decision;
    - what action we are taking;
    - the duration of that action;
    - the review process of this policy; and
    - the right of the complainant to contact the Local Government Ombudsman about the fact that they have been treated as an abusive, vexatious/persistent complainant.
  17. The Customer Relations Team Manager will enclose a copy of this policy in the letter to the complainant.
  18. Where a complainant continues to behave in a way which is unacceptable, the Customer Relations Team Manager, in consultation with the Head of Legal Services, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
  19. The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Customer Relations Team Manager after three months and at the end of every subsequent three months within the period during which the policy is to apply. During this period, an integrated restorative practice approach will be considered to try and find a positive way forward for all parties involved.
  20. The complainant will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.
  21. Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action. In those cases, the complainant will be put on the Potentially Violent Persons Register for a minimum of 12 months.

**New complaints from complainants who are treated as abusive, vexatious or persistent.**

22. New complaints from people who have come under this policy will be treated on their merits. The Customer Relations Team Manager will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.