



# Habitual Complaints Policy

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**Title: Habitual Complaints Policy**

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<b>30/06/2016</b>	<b>Senior Complaints Officer</b>	<b>v.1.1</b>	<b>Annual review</b>
<b>19/10/2016</b>	<b>Complaint Manager</b>	<b>V3</b>	<b>Habitual status to be reviewed by panel representative before CEO</b>
<b>01 March 2021</b>	<b>Complaint Manager</b>	<b>V3.1</b>	<b>Review and update of existing policy</b>

**Reviewers/ Contributors**

<b>Name</b>	<b>Position</b>	<b>Version reviewed &amp; Date</b>
<b>Richard Lawrence</b>	<b>Senior Complaints Officer</b>	<b>V1.1 - 30/06/16</b>
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## 1. Introduction

- 1.1 Staff are trained to respond with patience and understanding to the needs of all complainants and their families, but there are times when there is nothing further that can reasonably be done to help a complainant to put right concerning a real or perceived problem. Habitual complainants can be a significant drain on resources. They can also cause undue stress for staff who may need support in difficult situations.

Network Homes (NH) developed this policy to help members of staff and managers deal with a small number of very difficult cases. We recognise that there is a clear distinction between a customer who makes a number of complaints because they genuinely believe that a service failure has taken place and a customer whose behaviour is unreasonable.

Where it is identified that we may be dealing with a Habitual Complainant we must ensure that all communication is professional, respectful and clearly explains any actions that are to be taken. This is to ensure that it is clear that any measures implemented are to minimise the amount of time staff members are putting in to answer queries for an individual, potentially taking time and resurges away from other residents.

A complaint monitor report is presented to the customer service committee quarterly. This monitor reports on complaint performance across Network Homes and highlights repeat complaints and lessons learnt. This will also include feedback on anyone put forward (for consideration) to be placed on the Habitual Complainants register.

- 1.2 When considering how to manage these types of complainant, staff need to consider the following:

- That the complaints procedure has been correctly implemented and that no material element of a complaint has been overlooked or inadequately addressed. In doing so it should be appreciated that habitual complainants may have issues, which contain substance.
- To identify the stage at which a complainant has become habitual.

## 2. Aims and Objectives

At Network Homes, we believe that our residents have the right to:

- Have their views heard
- Receive a good-quality service
- Expect prompt action when our performance is below standard, balanced by the resources we have available

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Our colleagues will be:

- Efficient and sensitive to the needs of residents
- Accessible and clearly identified
- Aware of the day-to-day concerns of our residents

Application of this procedure:

Complaints about Network Homes or about services provided by contractors working for Network Homes are processed in accordance with Network's complaints procedure.

During this process, staff will inevitably have contact with a small number of complainants who demand an unwarranted level of resources. The aim of this policy is to outline situations where a complainant is being unreasonable or has become habitual and to give guidance as to how these situations should be dealt with.

This policy will only be used as a last resort and after all reasonable measures have been taken to try to resolve a complaint using Network Homes' complaints procedure. Advocacy groups may represent or advise a complainant at his or her request.

### **3. Criteria for Recognition of a Habitual Complainant**

3.1 A complainant (and/or anyone acting on their behalf) may be considered to be habitual where current or previous contact with them shows that they meet any of the following criteria:

- Persists in pursuing a complaint where the Network Homes complaints procedure has been fully implemented and exhausted. For example, where investigation is deemed to be "out of time" or where a request for a further review has been refused.
- Changes the substance of a complaint, persistently raising new issues, unreasonably raising further concerns or questions on receipt of a response while the complaint is being dealt with. N.B. Care is taken not to disregard new issues which differ from the original complaint – these may need to be addressed as separate complaints.
- Is unwilling to accept documented evidence of services provided as being factual (e.g. rent or service charge accounts). This may also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed. It is worth noting considering that most complaints will not go back beyond six months in line with our complaints policy, so record keeping shouldn't be an issue in most cases.
- Insists they have not had an adequate response in spite of a large volume of correspondence specifically answering their questions/concerns.

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- Is unable to identify the precise issues they wish to be investigated, despite efforts to help them do so by Network Homes staff and, where appropriate, advocacy groups.
- Is unwilling or unable to accept that the concerns identified are not within the remit of Network Homes to investigate and/or fall outside of our complaints policy.
- Focuses on a trivial matter to an extent out of proportion with its significance and continues to focus on this point. (It is recognised that determining what is trivia is subjective)
- Uses or threatens physical violence towards staff or their families/colleagues. This will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will only be pursued through written communication. All incidents are documented and reported, when appropriate, to the police.
- Has an excessive number of contacts with Network Homes placing unreasonable demands on staff. Such contacts may be in person, by telephone, letter, fax or electronically. The specific circumstances of each individual case are used in deciding how many contacts are excessive.
- Harasses or is personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint, or their families and/or colleagues. It is recognised that complainants may sometimes act out of character at times of stress, anxiety or distress and allowances are made for this. All incidents of harassment or aggression are documented and dated.
- Electronically records meetings or conversations without the prior knowledge and consent of the other parties involved. It may be necessary to explain to a complainant at the start of the investigation into their complaint that such behaviour is unacceptable and can, in some circumstances, be illegal.
- Displays unreasonable demands or expectations and fails to accept that these may be unreasonable once a clear explanation has been given (e.g. insisting on the response to a complaint or enquiry being provided more urgently than is reasonable or recognised practice).
- Is a relative/carer/friend is incorrectly complaining on behalf of a resident. i.e. the relative/carer/friend is complaining without merit as our resident has not raised a complaint in the first instance and/or we do not have the correct authority to speak with the relative/carer/friend.
- Uses racist, sexist, homophobic or otherwise offensive language.

#### **4.0 Safeguarding Vulnerable Adults**

4.1 Some complainants may be repeatedly complaining because of mental health problems.

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Where this is the case any concerns that staff may have about vulnerability should be raised in line with the safeguarding adults policy and procedures.

## **5.0 Options for Dealing with Habitual Complainants**

- 5.1 When a complainant has been identified as meeting one or more of the above criteria Managers will consult with the central complaint team. Advice will be provided on what information is required to apply the policy.
- 5.2 A chronology of contacts will normally be prepared by the relevant service manager and documentation collated to support the case.
- 5.3 The Complaint Manager will consider the information provided to decide if action is appropriate and will normally contact the complainant by phone, in writing or by email to explain why this behaviour is causing concern, ask the complainant to change their behaviour, if appropriate propose a suggested pattern of contact for the future and explain what actions might be taken if the behaviour does not change.
- 5.4 However, if the behaviour is severe Network may take action without notice.
- 5.5 If the behaviour continues the complaints team will prepare a report for the Chief Executive to consider. The report will detail the behaviour causing concern, outline the proposed action and the timescales involved.
- 5.6 Before the report is considered by the Chief Executive a member of the relevant resident panel will be asked to review, comment on the case and make recommendations or amendments to the report. This will ensure that the relevant checks and balances are in place before putting forward the case to apply the policy. The report being presented to the resident panel will be anonymised.
- 5.7 Following the review by the resident panel member, the report will be updated to include necessary commentary and the complaints manager will decide whether it is considered there is still merit in pursuing action and presenting the report to the Chief Executive. If it has been determined no further action is to be taken, then the report/action will not move forward, otherwise;
- 5.8 The Chief Executive will then consider the report and decide if the action is justified and proportionate.
- 5.9 If the Chief Executive decides to take action, a letter will be sent detailing the action to be taken and for what period.
- 5.10 This letter will be copied to others already involved in the complaint such as practitioners, councillors, members of Parliament and other advocates etc.

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## **6.0 Action that may be taken (may include):**

- 6.1 Drawing up a signed agreement with the complainant (if appropriate) setting out a code of behaviour for the parties involved if Network Homes is to continue dealing with the complaint.
- 6.2 Declining further contact with the complainant either in person, by telephone, fax, letter or electronically – or any combination of these – provided that one form of contact is maintained and the contract criteria is clearly documented and explained to all parties involved.
- 6.3 Restricting contact to liaison through a single point of contact within Network Homes.
- 6.4 Informing the complainant that whilst they may not contact us directly, they can delegate someone who can act on their behalf.

Items 6.1 – 6.4 would be considered a voluntary agreement between the resident and us, until such time that the resident has been through the full Habitual Complainants process and a formal decision has been reached. This would be clearly explained to the resident by the complaints manager who will encourage the resident to agree to the informal agreement as part of an “action before action agreement”. If a resident has been through the process and confirmed a Habitual Complainant we would look to strictly enforce the measures put in place.

- 6.5 Advising the complainant that they have been provided with a full response in relation to the points raised, that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant is notified that the correspondence is at an end and that further communication will be acknowledged but not answered.
- 6.6 Informing the complainant that Network Homes reserves the right to refer habitual complainants to our Solicitors and/or the police where we believe that a criminal offence has been committed.
- 6.7 Temporarily suspending all contact with the complainant, or investigation of a complaint, whilst seeking legal advice or guidance.
- 6.8 Banning the complainant from some or all of Network Homes buildings, if necessary by means of an injunction.

## **7.0 Reviewing the Habitual Status**

- 7.1 All contact by an individual will be reviewed to consider whether a different complaint is being reported, for which the usual complaints procedure needs to be implemented.

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- 7.2 As a minimum the habitual status of an individual will be formally reviewed every six months to determine whether their behaviour has improved or whether the restrictions in place should remain. This may include the partial removal (or easing) of restrictions.
- 7.3 Each resident given a habitual status will be written to, at least every six months, to outline the review undertaken and clarify any amendments to the restrictions already in place.

**8 Performance monitoring and Responsibilities**

8.1 A record should be maintained of current habitual complainants by the Central Complaint Team. This must be kept secure at all times and should only be updated by the complaints manager.

8.1.1 As part of a wider focus the complaints manager will also consider if our communication with a resident and the action(s) taken could have impacted or lead to subsequent action(s) taken by a resident, triggering the Habitual Complainants policy. If this is the case, then the complaints manager will include this in his report and will provide relevant feedback to those involved to ensure that lessons are learnt going forwards.

Where possible, equality data should be collected of complainants, so we can review its use against protected characteristics.

**9. Related Documents**

Complaints policy which deals with difficult and abusive customers.

**10. Legislation and Regulation**

The legislation listed in this policy is not intended to cover all legislation applicable to this policy. To meet the required Regulator of Social Housing Governance & Financial Viability Standard outcome on adherence to all relevant law, Network will take reasonable measures to ensure compliance with any and all applicable legislation by reviewing policies and procedures and amending them as appropriate.

The legislation listed within this policy was considered at the time of the development of this policy, but subsequent primary and secondary legislation, case law and regulatory or other requirements will be considered and the policy reviewed and adopted in accordance with the requirements set out therein, even should such subsequent legislation not be explicitly listed within this policy. Any queries relating to the applicable legislation should be directed to the policy author.

This policy has been updated and is now in line with the regulations, guidance and spirit of the Housing Ombudsman Service’s Complaints Handling Code and will be updated in line with any future changes to the code and/or guidance received directly from the Ombudsman Service.

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## **11. Equality & Diversity**

We will apply this policy consistently and fairly, and will not discriminate against anyone based on any relevant characteristics, including those set out in the Equality Act 2010 and as outlined in our complaints policy.

## **12. Review**

All policies should be reviewed every 3 years as a minimum, or sooner if there is a specific legislative, regulatory or service requirement or change in guidance, law or practice.

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