



## Complaints Handling Policy

Status: APPROVED

<b>Policy Lead:</b>	Executive Director – Customer Experience
<b>Owned By:</b>	Executive Director – Customer Experience
<b>Date Approved:</b>	May-24
<b>Approved By:</b>	BHA Board
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<b>Regulatory / Legislative Considerations/ References:</b>	<ul style="list-style-type: none"><li>• Equality Act (Scotland) 2010</li><li>• Mental Health (Care and Treatment) (Scotland) Act 2003</li><li>• Data Protection or Freedom of Information (Scotland) Acts</li><li>• Housing (Scotland) Act 2010</li></ul>
<b>Other Documents to be read in conjunction with this policy:</b>	Unacceptable Actions Policy Equal Opportunities and Diversity Policy Compensation Policy Whistleblowing Policy



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<b>Policy Title:</b>	<b>Complaints Handling Policy</b>
<b>Purpose / Aim of policy:</b>	Our Complaints Handling Policy is designed to uphold the core values of Berwickshire Housing Association, ensuring transparency, accountability, and fairness in addressing any concerns or grievances raised by our customers, stakeholders, or members of the community. This policy aims to establish clear procedures for the prompt and efficient resolution of complaints, fostering a culture of open communication, respect, and continuous improvement.
<b>Scope of Policy:</b>	<p>The Policy will cover:</p> <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Policy Statement</li> <li>• Overview of Complaints Handling Procedure</li> <li>• Expected Behaviours</li> <li>• Maintaining confidentiality and data protection</li> <li>• What is a complaint</li> <li>• Who can make a complaint</li> <li>• Supporting the customer</li> <li>• How complaints may be made</li> <li>• Complaints via Social Media</li> <li>• Time limits for complaints</li> <li>• Particular circumstances</li> <li>• Serious, high risk or high profile complaints</li> <li>• Anonymous complaints</li> <li>• What if the customer does not want to complain</li> <li>• Complaints involving more than one area of BHA</li> <li>• Complaints relating to contracted services</li> <li>• Reporting Serious Concerns</li> <li>• Complaints about Senior Colleagues or Trustees</li> <li>• Complaints and other processes</li> <li>• Complaints and service requests</li> <li>• Complaints and disciplinary or whistleblowing processes</li> <li>• Contact from MPs, MSPs and Councillors</li> <li>• Complaints and compensation claims</li> <li>• Complaints and legal action</li> <li>• What to do if the CHP does not apply</li> <li>• Monitoring and Review</li> </ul>

<p><b>Approval Source:</b></p>	<p>BHA Board</p>
<p><b>Equality Impact Assessment:</b></p>	<p>Our EIA assessment in relation to complaints handling ensures that by adhering to the principles outlined below, we affirm our commitment to maintaining high standards of service delivery and fostering positive relationships with our tenants and the wider community. We recognise complaints as valuable feedback mechanisms that contribute to our ongoing efforts to create safe, inclusive, and vibrant communities across Berwickshire and the communities we serve.</p> <p><b>Accessibility:</b> We are committed to providing accessible channels for individuals to voice their complaints, ensuring that our procedures are easy to understand and navigate for all stakeholders, including those with diverse backgrounds or accessibility needs.</p> <p><b>Responsiveness:</b> We aim to respond promptly to all complaints received, acknowledging the concerns raised and initiating appropriate actions to address them in a timely manner. Prompt responses demonstrate our dedication to customer service and our willingness to listen to and engage with our community.</p> <p><b>Fairness and Impartiality:</b> Our complaints handling process is conducted with fairness and impartiality, treating all complainants with respect and dignity. We ensure that complaints are assessed objectively, without bias or prejudice, and that decisions are based on evidence and established policies and procedures.</p> <p><b>Accountability:</b> We hold ourselves accountable for our actions and decisions regarding complaint resolution, ensuring that all colleagues are aware of their responsibilities and obligations in handling complaints. By maintaining transparent records and documentation of complaints and their resolutions, we uphold accountability to our customers and stakeholders.</p> <p><b>Continuous Improvement:</b> We view complaints as opportunities for learning and improvement, using feedback from complaints to identify systemic issues, gaps in service delivery, or areas for enhancement. Through ongoing evaluation and refinement of our complaints handling process, we aim to enhance the quality of our services and strengthen trust and satisfaction among our stakeholders.</p>
<p><b>Sustainability Assessment:</b></p>	<p>There are no major sustainability implications linked to the contents of this policy</p>
<p><b>Partnership Assessment:</b></p>	<p>There are no partnership implications linked to the contents of this policy.</p>

<p><b>Glossary of Terms</b></p>	<p>N/A</p>
<p><b>Risk Implications:</b></p>	<p>The risk implications of not adhering to or delivering against the principles outlined in the complaints policy include:</p> <p><b>Damage to Reputation:</b> Failure to address complaints promptly, fairly, and transparently can lead to reputational damage for the BHA, resulting in loss of trust and confidence among customers and stakeholders.</p> <p><b>Legal and Regulatory Consequences:</b> Non-compliance with complaints handling regulations or failure to follow established procedures may result in legal action, fines, or sanctions imposed by regulatory authorities.</p> <p><b>Increased Conflict and Dissatisfaction:</b> Ignoring or mishandling complaints can exacerbate conflicts and grievances, leading to heightened dissatisfaction among customers and potential escalation of disputes, ultimately amounting to Scottish Public Sector Ombudsman investigation.</p> <p><b>Loss of Stakeholder Support:</b> Inadequate complaints resolution processes may lead to disengagement or withdrawal of support from key stakeholders, including customers, community members, and funding bodies.</p> <p><b>Financial Impact:</b> Poor complaints management can result in increased costs associated with addressing escalated issues, legal expenses, and loss of revenue due to customer turnover or reduced funding opportunities.</p> <p><b>Missed Improvement Opportunities:</b> Failing to learn from complaints and implement necessary improvements may perpetuate systemic issues, hinder organisational development, and diminish overall service quality.</p>

## 1.0 Introduction

Our Compliments and Complaints Policy reflects Berwickshire Housing Association's (BHA) commitment to valuing feedback we get from our customers both from compliments and complaints. It seeks to resolve customer dissatisfaction as close as possible to the point of service delivery and to conduct thorough, impartial, and fair investigations of customer complaints so that, where appropriate, we can make evidence-based decisions on the facts of the case.

Likewise, when we get positive feedback from our customers, we will use this to validate our processes and demonstrate to our colleagues the value of maintaining high levels of customer service.

This policy and its supporting procedures and literature was first developed by the Scottish Public Services Ombudsman, working in partnership with an advisory panel of housing associations and a high-level group of key stakeholders.

The Model Complaints Handling Procedures (MCHPs) were revised in 2019 by the SPSO in consultation with all sectors. This new edition includes a core text, which is consistent across all public services in Scotland, with some additional text and examples specific to this sector.

As far as is possible we have produced a standard approach to handling complaints which complies with the SPSO's guidance on a MCHP. This procedure aims to help us 'get it right first time'. We want quicker, simpler, and more streamlined complaints handling with local, early responses by capable, well-trained colleagues.

All colleagues across BHA must cover this procedure as part of their induction and must be given refresher training as required, to ensure they are confident in identifying complaints, empowered to resolve simple complaints on the spot, and familiar with how to apply this procedure (including recording complaints). Complaints give us valuable information we can use to improve service provision and customer satisfaction. Our Complaints Handling Procedure will enable us to address a customer's dissatisfaction and may help us prevent the same problem from happening again. For our colleagues, complaints provide a first-hand account of the customers' views and experience, and can highlight problems we may otherwise miss. Handled well, complaints can give our customers a form of redress when things go wrong and can also help us continuously improve our services.

Handling complaints early creates better customer relations. Handling complaints close to the point of service delivery means we can deal with them locally and quickly, so they are less likely to escalate to the next stage of the procedure. Complaints that we do not handle swiftly can greatly add to our workload and are more costly to administer.

The Complaints Handling Procedure (CHP) will help us do our job better, improve relationships with our customers and enhance public perception of BHA. It will help us keep the user at the heart of the process, while enabling us to better understand how to improve our services by learning from complaints.

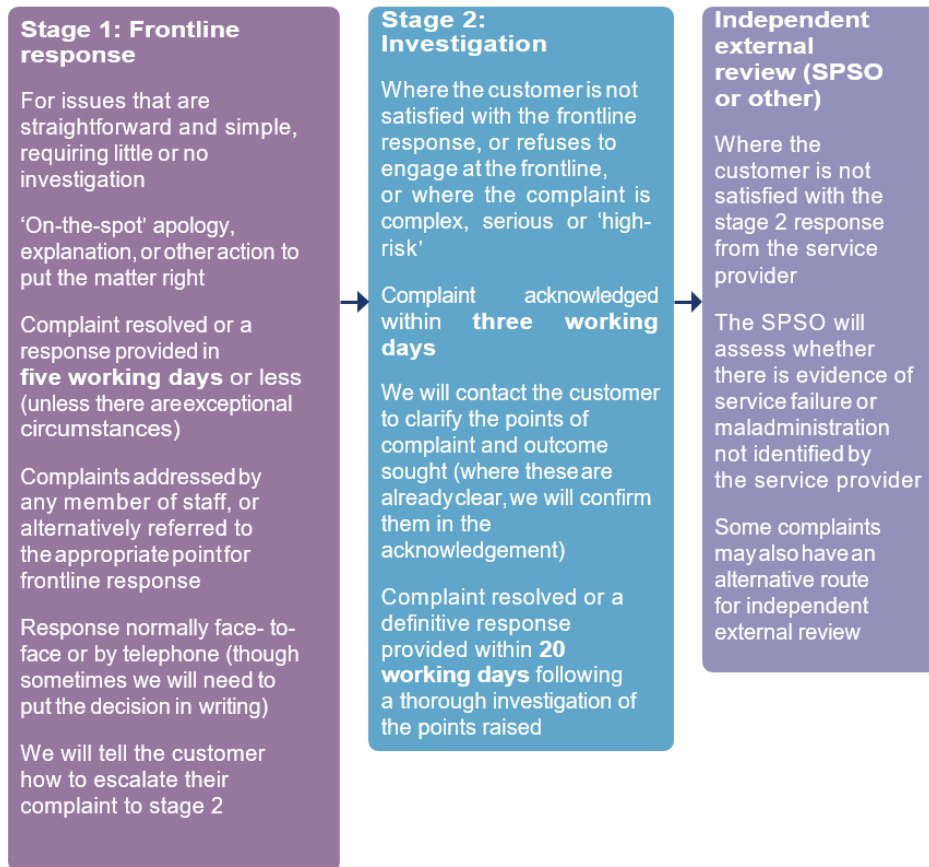
## **2.0 Policy Statement**

This Policy is supported by the Complaints Handling Procedure (CHP) that explains to colleagues how to handle complaints. The CHP consists of five parts and this policy encompasses parts 1 and 2. Parts 3 and 4 form the basis of the operating procedures and part 5 forms the basis of the customer information literature:

- 2.1 Overview and structure (part 1) – this document
- 2.2 When to use the procedure.  
(part 2) – guidance on identifying what is and what is not a complaint, handling complex or unusual complaint circumstances, the interaction of complaints and other processes, and what to do if the CHP does not apply.
- 2.3 The complaints handling process (part 3) – guidance on handling a complaint through stages 1 and 2 and dealing with post-closure contact.
- 2.4 Governance of the procedure (part 4) – staff roles and responsibilities and guidance on recording, reporting, publicising, and learning from complaints
- 2.5 The customer-facing CHP (part 5) – information for customers on how we handle complaints.

## **3.0 Overview of the Complaint Handling Procedure**

- 3.1 Anyone can make a complaint, either verbally or in writing, including face-to-face, by phone, letter, by email or social media (more guidance on this is provided in the section 10).
- 3.2 We will try to resolve complaints to the satisfaction of the customer wherever this is possible. Where this isn't possible, we will give the customer a clear response to each of their points of complaint. We will always try to respond as quickly as we can (and on the spot where possible).
- 3.3 Our complaints procedure has two stages. We expect the majority of complaints will be handled at stage 1. If the customer remains dissatisfied after stage 1, they can request that we look at it again, at stage 2. If the complaint is complex enough to require an investigation, we will put the complaint into stage 2 straight away and skip stage 1.



#### **4.0 Expected behaviours**

- 4.1 We expect all colleagues to behave in a professional manner and treat customers with courtesy, respect, and dignity.
- 4.2 We also ask customers bringing a complaint to treat our colleagues (people) with respect. We ask customers to engage actively with the complaint handling process by:
  - a) Telling us their key issues of concern and organising any supporting information they want to give us (we understand that some people will require support to do this)
  - b) Working with us to agree the key points of complaint when an investigation is required; and
  - c) Responding to reasonable requests for information.
- 4.3 We have a policy in place for when these standards are not met which is our Unacceptable Actions Policy that is published on our website.
- 4.4 We recognise that people may act out of character in times of trouble or distress. Sometimes a health condition or a disability can affect how a

person expresses themselves. The circumstances leading to a complaint may also result in the customer acting in an unacceptable way.

- 4.5 Customers who have a history of challenging or inappropriate actions, or have difficulty expressing themselves, may still have a legitimate grievance, and we will treat all complaints seriously. However, we also recognise that the actions of some customers may result in unreasonable demands on time and resources or unacceptable behaviour towards our colleagues. We will, therefore, apply our policies and procedures to protect colleagues from unacceptable actions such as unreasonable persistence, threats, or offensive behaviour from customers.
- 4.6 Where we decide to restrict access to a customer under the terms of our policy, we have a procedure in place to communicate that decision, notify the customer of their right of appeal, and review any decision to restrict contact with us.
- 4.7 If we decide to restrict a customer's contact, we will be careful to follow the process set out in our policy and to minimise any restrictions on the customer's access to the complaints process. We will normally continue investigating a complaint even where contact restrictions are in place (for example, limiting communication to letter or to a named colleague). In some cases, it may be possible to continue investigating the complaint without contact from the customer. Our policy allows us in limited circumstances to restrict access to the complaint process entirely. This would be as a last resort, should be as limited as possible (for a limited time, or about a limited set of subjects) and requires manager approval. Where access to the complaint process is restricted, we must signpost the customer to the SPSO (see Part 3: Signposting to the SPSO).
- 4.8 The SPSO has guidance on promoting positive behaviour and managing unacceptable actions.

## **5.0 Maintaining confidentiality and data protection**

- 5.1 Confidentiality is important in complaints handling. This includes maintaining the customer's confidentiality and confidentiality in relation to information about colleagues, contractors or any third parties involved in the complaint.
- 5.2 This should not prevent us from being open and transparent, as far as possible, in how we handle complaints. This includes sharing as much information with the complainant (and, where appropriate, any affected colleagues) as we can.



When sharing information,

- 5.3 We should be clear about why the information is being shared and our expectations on how the recipient will use the information.
- 5.4 We must always bear in mind legal requirements, for example data protection legislation, as well as internal policies on confidentiality and the use of customer information.
- 5.5 Examples where complaints investigations may be restricted by confidentiality:
  - a) where a complaint has been raised against a colleague and has been upheld – we will advise the customer that their complaint is upheld, but would not share specific details affecting colleagues, particularly where disciplinary action is taken.
  - b) where someone has raised a concern about a child or an adult's safety and is unhappy about how that has been dealt with – we would look into this to check whether the safety concern had been properly dealt with, but we would not share any details of our findings in relation to the safety concern.

## **6.0 What is a Complaint?**

- 6.1 BHA's definition of a complaint is: 'an expression of dissatisfaction by one or more members of the public about BHA's action or lack of action, or about the standard of service provided by or on behalf of BHA.
- 6.2 For clarity, where a colleague also receives a service from BHA as a member of the public, they may complain about that service.
- 6.3 A complaint may relate to the following, but is not restricted to this list:
  - failure or refusal to provide a service
  - inadequate quality or standard of service, or an unreasonable delay in providing a service
  - delays in responding to enquiries or requests
  - unfairness, bias, or prejudice in service delivery
  - lack of provision, or the provision of misleading, unsuitable or incorrect advice or information
  - a repair that has not been carried out properly or in an agreed timeframe
  - dissatisfaction with one of our policies or its impact on the individual or failure to properly apply law, procedure or guidance when delivering services
  - failure to follow the appropriate administrative process

- conduct, treatment by or attitude of a colleague or contractor (except where there are arrangements in place for the contractor to handle the complaint themselves: see Complaints about contracted services); or
- disagreement with a decision, (except where there is a statutory procedure for challenging that decision, or an established appeals process followed throughout the sector).

6.4 A complaint is not:

- a routine first-time request for a service (see Complaints and service requests)
- a request for compensation only (see Complaints and compensation claims)
- issues that are in court or have already been heard by a court or a tribunal (see Complaints and legal action)
- disagreement with a decision where there is a statutory procedure for challenging that decision (such as for freedom of information and subject access requests), or an established appeals process followed throughout the sector
- a request for information under the Data Protection or Freedom of Information (Scotland) Acts
- a grievance by a colleague or a grievance relating to employment or staff recruitment
- a concern raised internally by a colleague (which was not about a service they received, such as a whistleblowing concern)
- a concern about a child or an adult's safety
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- abuse or unsubstantiated allegations about our organisation or staff where such actions would be covered by our *[Unacceptable Actions Policy or equivalent]*; or
- a concern about the actions or service of a different organisation, where we have no involvement in the issue (except where the other organisation is delivering services on our behalf: see Complaints about contracted services).

6.5 Our CHP gives more examples of 'what is not a complaint' and how to direct customers appropriately. This includes an example of when an anti- social behaviour complaint may and may not be considered a complaint.

6.6 We will not treat these issues as complaints and will instead direct customers to use the appropriate procedures. Some situations can involve a combination of issues, where some are complaints and others are not, and each situation should be assessed on a case-by-case basis.

6.7 If a matter is not a complaint, or not suitable to be handled under the CHP, we will explain this to the customer, and tell them what (if any) action we will take, and why.

## **7.0 Who can make a complaint?**

- 7.1 Anyone who receives, requests, or is affected by our services can make a complaint. This obviously includes our customers (tenants). It also includes a member of the public who could have access to or be affected by our services, including our anti-social behaviour and neighbour nuisance services. In this policy and in our procedures these people are termed 'customers', regardless of whether they are or were using a service.
- 7.2 We also accept complaints from the representative of a person who is dissatisfied with our service. See Complaints by (or about) a third party.

## **8.0 Supporting the customer**

- 8.1. All members of the community have the right to equal access to our complaints procedure. It is important to recognise the barriers that some customers may face complaining. These may be physical, sensory, communication or language barriers, but can also include their anxieties and concerns. Customers may need support to overcome these barriers.
- 8.2 BHA publishes its Equal Opportunities and Diversity Policy on its website at [www.berwickshirehousing.org.uk](http://www.berwickshirehousing.org.uk)
- 8.3 We have legal duties to make our complaints service accessible under equalities and mental health legislation. For example:
- the Equality Act (Scotland) 2010 – this gives people with a protected characteristic the right to reasonable adjustments to access our services (such as large print or BSL translations of information); and
  - the Mental Health (Care and Treatment) (Scotland) Act 2003 – this gives anyone with a 'mental disorder' (including mental health issues, learning difficulties, dementia and autism) a right to access independent advocacy. This must be delivered by independent organisations that only provide advocacy. They help people to know and understand their rights, make informed decisions and have a voice.
- 8.4 Examples of how we will meet our legal duties are:
- proactively checking whether members of the public who contact us require additional support to access our services
  - providing interpretation and/or translation services for British Sign Language users; and
  - helping customers access independent advocacy (the Scottish Independent Advocacy Alliance website has information about local advocacy organisations throughout Scotland).
- 8.5 In addition to our legal duties, we will seek to ensure that we support vulnerable groups in accessing our complaints procedure. Actions that we may take include:

a) helping vulnerable customers identify when they might wish to make a complaint (for example, by training frontline colleagues who provide services to vulnerable groups)

b) helping customers access independent support or advocacy to help them understand their rights and communicate their complaints (for example, through the Scottish Independent Advocacy Alliance or Citizen's Advice Scotland); and

c) providing a neutral point of contact for complaints (where the relationship between customers and frontline colleagues is significant and ongoing).

8.6 These lists are not exhaustive, and we must always take into account our commitment and responsibilities to equality and accessibility.

## **9.0 How complaints may be made**

9.1 Complaints may be made verbally or in writing, including face-to-face, by phone, letter or email and in certain cases, on social media channels.

9.2 Where a complaint is made verbally, we will make a record of the key points of complaint raised.

9.3 Where it is clear that a complex complaint will be immediately considered at stage 2 (investigation), it may be helpful to complete a complaint form with the customer's input to ensure full details of the complaint are documented. However, there is no requirement for the person to complete a complaint form, and it is important that the completion of a complaint form does not present a barrier to people complaining.

## **10. Complaints via Social Media**

10.1 Complaint issues may also be raised on digital platforms (including social media).

10.2 Where a complaint issue is raised via a digital channel managed and controlled by BHA (for example an official Twitter address or Facebook page) we will normally acknowledge the complaint on social media but explain that beyond this, we must continue by direct or private message.

10.3 We may respond to very simple complaints on open social media. This will normally only be appropriate where an issue is likely to affect a large number of people, and we can provide a very simple response (for example, an apology for a cancelled repair affecting multiple customers).

- 10.4 We may also become aware that an issue has been raised via a digital channel not controlled or managed by us (for example a YouTube video or post on a private Facebook group). In such cases we may respond and ask the person to get in touch with us directly so we can try and resolve the complaint.
- 10.5 We must always be mindful of our data protection obligations when responding to issues online or in a public forum.

## **11. Time limit for making complaints**

- 11.1 The customer must raise their complaint within six months of when they first knew of the problem, unless there are special circumstances for considering complaints beyond this time (for example, where a person was not able to complain due to serious illness or recent bereavement).
- 11.2 Where a customer has received a stage 1 response, and wishes to escalate to stage 2, unless there are special circumstances, they must request this either:
  - a) within six months of when they first knew of the problem; or
  - a) within two months of receiving their stage 1 response (if this is later).
- 11.3 We will apply these time limits with discretion, taking into account the seriousness of the issue, the availability of relevant records and colleagues involved, how long ago the events occurred, and the likelihood that an investigation will lead to a practical benefit for the customer or useful learning for the organisation.
- 11.4. We will also take account of the time limit within which a member of the public can ask the SPSO to consider complaints (normally one year). The SPSO have discretion to waive this time limit in special circumstances (and may consider doing so in cases where we have waived our own time limit).

## **12.0 Particular circumstances**

- 12.1 Complaints by (or about) a third party
- 12.2 Sometimes a customer may be unable or reluctant to make a complaint on their own. We will accept complaints from third parties, which may include relatives, friends, advocates and advisers. Where a complaint is made on behalf of a customer, we must ensure that the customer has authorised the person to act on their behalf.  
It is good practice to ensure the customer understands their personal information will be shared as part of the complaints handling process (particularly where this includes sensitive personal information). This can

include complaints brought by parents on behalf of their child, if the child is considered to have capacity to make decisions for themselves.

- 12.3 The provision of a signed mandate from the customer will normally be sufficient for us to investigate a complaint. If we consider it is appropriate we can take verbal consent direct from the customer to deal with a third party and would normally follow up in writing to confirm this.
- 12.4 In certain circumstances, a person may raise a complaint involving another person's personal data, without receiving consent. The complaint should still be investigated where possible, but the investigation and response may be limited by considerations of confidentiality. The person who submitted the complaint should be made aware of these limitations and the effect this will have on the scope of the response.

See also Part 1: Maintaining confidentiality and data protection.

### **13.0 Serious, high-risk or high-profile complaints**

- 13.1 We will take particular care to identify complaints that might be considered serious, high-risk or high-profile, as these may require particular action or raise critical issues that need senior management's direct input. Serious, high-risk or high-profile complaints should normally be handled immediately at stage 2.
- 13.2 We define potential high-risk or high-profile complaints as those that may:
- involve a death or terminal illness
  - involve serious service failure, for example major delays in providing, or repeated failures to provide, a service
  - generate significant and ongoing press interest
  - pose a serious risk to our operations
  - present issues of a highly sensitive nature, for example concerning:
    - immediate homelessness
    - a particularly vulnerable person; or
    - child protection.

### **14.0 Anonymous complaints**

- 14.1 We value all complaints, including anonymous complaints, and will take action to consider them further wherever this is appropriate. Generally, we will consider anonymous complaints if there is enough information in the complaint to enable us to make further enquiries. Any decision not to pursue an anonymous complaint must be authorised by the service area director.

- 14.2 If we pursue an anonymous complaint further, we will record it as an anonymous complaint together with any learning from the complaint and action taken.
- 14.3 If an anonymous complainant makes serious allegations, these should be dealt with in a timely manner under relevant procedures. This may not be the complaints procedure and could instead be relevant child protection, adult protection or disciplinary procedures.

### **15.0 What if the customer does not want to complain?**

- 15.1 If a customer has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, we will explain that complaints offer us the opportunity to improve services where things have gone wrong. We will encourage the customer to submit their complaint and allow us to handle it through the CHP. This will ensure that the customer is updated on the action taken and gets a response to their complaint.
- 15.2 If the customer insists they do not wish to complain, we are not required to progress the complaint under this procedure. However, we should record the complaint as an anonymous complaint (including minimal information about the complaint, without any identifying information) to enable us to track trends and themes in complaints. Where the complaint is serious, or there is evidence of a problem with our services, we should also look into the matter to remedy this (and record any outcome).

### **16. Complaints involving more than one area of BHA**

- 16.1 If a complaint relates to the actions of two or more areas within our organisation, we will tell the customer who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.
- 16.2 If a customer complains to us about the service of another organisation or public service provider, but we have no involvement in the issue, the customer should be advised to contact the appropriate organisation directly.
- 16.3 If a complaint relates to our service and the service of another organisation or public service provider, and we have a direct interest in the issue, we will handle the complaint about BHA through the CHP. If we need to contact an outside body about the complaint, we will be mindful of data protection.

16.4 Such complaints may include:

- a complaint to us about rent arrears that is partly caused by problems with a claim for Housing Benefit to the local authority, or
- a complaint to us about anti- social behaviour that relates to our service and a local authority service.

## **17.0 Complaints about contracted services**

17.1 Where we use a contractor to deliver a service on our behalf we recognise that we remain responsible and accountable for ensuring that the services provided meet [the organisation's] standard (including in relation to complaints). We will either do so by:

- ensuring the contractor complies with this procedure; or
- ensuring the contractor has their own procedure in place, which fully meets the standards in this procedure. At the end of the investigation stage of any such complaints the contractor must ensure that the customer is signposted to the SPSO.

17.2 We will confirm that service users are clearly informed of the process and understand how to complain. We will also ensure that there is appropriate provision for information sharing and governance oversight where required.

17.3 BHA has discretion to investigate complaints about organisations contracted to deliver services on its behalf even where the procedure has normally been delegated.

## **18.0 Reporting Serious Concerns**

18.1 Customers can contact the Scottish Housing Regulator (SHR) where their social landlord regularly and repeatedly fails to achieve the regulatory requirements for social housing; and this failure affects a group of the social landlord tenants.

What is a serious concern?

A serious concern is defined as when your social landlord:

- has acted in a way which puts tenants' interests at risk and this affects, or could affect, a group of tenants or all tenants; or
- repeatedly fails to achieve outcomes in the Social Housing Charter or outcomes agreed with tenants; or
- has not reported its performance annually to its tenants or has reported it inaccurately; or



- does not meet our standards for how an RSL should govern itself and manage its finances; or has not met any targets we have set it.

18.2 Examples of a serious concern (please note these examples are not exhaustive) When your social landlord:

- fails to consult with tenants on a rent increase; or
- regularly fails to do gas safety checks when it should; or
- regularly does not do repairs when it should; or
- does not allow tenants to apply for another house; or
- does not respond formally to complaints.

The Scottish Housing Regulator considers serious concerns of this nature to be a Significant Performance Failures (SPF) under the 2010 Act.

18.3 Customers can report a serious concern as per the following SHR guidance:

To report a serious concern, customers should complete the form following this link to the SHR website - [Complaints and serious concerns - information for tenants and service users of social landlords | Scottish Housing Regulator](#)

Customers can send it to the SHR by email or post. A customer completing the form should tell the SHR exactly what the issue is and why you believe the concern is serious. You should show how the problem affects a group of the social landlord tenants; and also tell us how and when you raised it with the social landlord and how it responded; and why you believe the serious concern has not been resolved or resolved within a reasonable time.

## **19.0 Complaints about senior colleagues or trustees**

19.1 Complaints about senior colleagues can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When serious complaints are raised against senior colleagues or trustees, it is particularly important that the investigation is conducted by an individual who is independent of the situation. We must ensure we have strong governance arrangements in place that set out clear procedures for handling such complaints.

19.2 The SHR specifies that a serious complaint against senior staff or the governing body of an RSL is a 'notifiable event', and as such the regulator must be informed immediately. It has also drawn up 'regulatory expectations' for the handling of serious complaints against the Chief Executive. These can be found on the SHR website.

- 19.3 We also have arrangements for handling minor complaints against the chief executive and for complaints against other senior colleagues and the governing body. These arrangements take account of the need to ensure that the final decision is fair, objective, and impartial.
- 19.4 In the event a complaint is made against the Association's Chief Executive, the customer will be automatically referred to the Company Secretary. The complaint would be acknowledged within two working days and a formal resolution and response sent within a period not exceeding twenty working days. The Chair of the Board of Trustees would review the complaint investigation and formally sign off any response.
- 19.5 In the event a complaint is made against the Association's Chair of Board of Trustees, any other Trustee, or a subsidiary Board member the complaint would be automatically referred to the Company Secretary. The complaint would be acknowledged within two working days and a formal resolution and response sent within a period not exceeding twenty working days. The Chief Executive would review the complaint investigation and formally sign off any response.

## **20.0 Complaints and other processes**

- 20.1 Complaints can sometimes be confused (or overlap) with other processes, such as disciplinary or whistleblowing processes. Specific examples and guidance on how to handle these are below.

## **21. Complaints and service requests**

- 21.1 If a customer asks BHA to do something (for example, provide a service or deal with a problem), and this is the first time the customer has contacted us, this would normally be a routine service request and not a complaint.
- 21.2 Service requests can lead to complaints, if the request is not handled promptly or the customer is then dissatisfied with how we provide the service.

## **22. Complaints and disciplinary or whistleblowing processes**

- 22.1 If the issues raised in a complaint overlap with issues raised under a disciplinary or whistleblowing process, we still need to respond to the complaint.
- 22.3 Our response must be careful not to share confidential information (such as anything about the whistleblowing or disciplinary procedures, or outcomes for individual staff members). It should focus on whether BHA failed to meet our service standards and what we have done to improve things, in general terms.

22.4 Colleague investigating such complaints will need to take extra care to ensure that:

- we comply with all requirements of the CHP in relation to the complaint (as well as meeting the requirements of the other processes)
- all complaint issues are addressed (sometimes issues can get missed if they are not also relevant to the overlapping process); and
- we keep records of the investigation that can be made available to the SPSO if required. This can be problematic when the other process is confidential, because SPSO will normally require documentation of any correspondence and interviews to show how conclusions were reached. We will need to bear this in mind when planning any elements of the investigation that might overlap (for example, if staff are interviewed for the purposes of both the complaint and a disciplinary procedure, they should not be assured that any evidence given will be confidential, as it may be made available to the SPSO).

22.5 The SPSO's report 'Making complaints work for everyone' has more information on supporting colleagues who are the subject of complaints.

### **23.0 Contact from MPs, MSPs or Councillors**

BHA will deal with MPs, MSPs and elected Councillors on behalf of a customer on receipt of a mandate signed by the customer authorising us to act on their behalf to investigate the complaint.

### **24.0 Complaints and compensation claims**

Where a customer is seeking financial compensation only, this is not a complaint. However, in some cases the customer may want to complain about the matter leading to their financial claim, and they may seek additional outcomes, such as an apology or an explanation. Where appropriate, we may consider that matter as a complaint, but deal with the financial claim separately. It may be appropriate to extend the timeframes for responding to the complaint, to consider the financial claim first.

In every instance, our colleagues should refer to the Compensation Policy and to their Line Manager before communicating any offer of appropriate compensation.

### **25.0 Complaints and legal action**

25.1 Where a customer says that legal action is being actively pursued, this is not a complaint.

- 25.2 Where a customer indicates that they are thinking about legal action, but have not yet commenced this, they should be informed that if they take such action, they should notify the complaints handler and that the complaints process, in relation to the matters that will be considered through the legal process, will be closed. Any outstanding complaints must still be addressed through the CHP.
- 25.3 If an issue has been, or is being, considered by a court, we must not consider the same issue under the CHP.

### **26.0 What to do if the CHP does not apply**

- 26.1 If the issue does not meet the definition of a complaint or if it is not appropriate to handle it under this procedure (for example, due to time limits), we will explain to the customer why we have made this decision. We will also tell them what action (if any) we will take (for example, if another procedure applies), and advise them of their right to contact the SPSO if they disagree with our decision not to respond to the issue as a complaint.
- 26.2 Where a customer continues to contact us about the same issue, we will explain that we have already given them our final response on the matter and signpost them to the SPSO. We may also consider whether we need to take action under our Unacceptable Actions policy.

### **27. Monitoring & Review**

This policy will be reviewed and re-approved every 3 years, or sooner if there are any changes in legislation or guidance, or it is deemed no longer suitable and sufficient.