



# Habitual Complaints Policy

**April 2023**

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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.

SW9 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 several 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 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 resources away from other residents.

A complaints report is presented to the Services Committee quarterly. This monitor reports on complaint performance, highlights repeat complaints and lessons learnt. This will also include details of anyone that has been formally added to the Habitual Complainant Register.

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

- If 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 outstanding, which contain substance.
- To identify the stage at which a complainant has become habitual, was it pre complaint, during or post. They don't need to have had a complaint to be considered habitual.

## 2. Aims and Objectives

**At SW9, 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

**Our colleagues are expected to be:**

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

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## Application of this procedure:

Complaints about SW9 or about services provided by contractors working for SW9 are processed in accordance with Our 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 complaints procedure has been fully implemented and exhausted or refused and Housing Ombudsman Service rights provided. For example, where investigation is deemed to be “out of time”, where a request for a further review has been refused, or our decision will not change.
- 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 despite a large volume of correspondence specifically answering their questions/concerns.
- Is unable to identify the precise issues they wish to be investigated, despite efforts to help them do so by staff and, where appropriate, advocacy groups.
- Is unwilling or unable to accept that the concerns identified are not within the remit of SW9 to investigate and/or fall outside of our complaints policy.

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- Harasses or uses threatens physical violence towards staff or their families/colleagues. This includes verbal or in writing abuse. 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. 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.
- 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.
- 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).
- If 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. Safeguarding Vulnerable Adults

4.0 Some complainants may be repeatedly complaining because of mental health problems. Where this is the case any concerns that staff may have about vulnerability should be raised in line with the safeguarding adults policy and procedure. Should this not already be recorded we will look to see what support we can offer if found to be the case but would not stop any agreements deemed necessary.

4.1 We will also continue to review and satisfy ourselves that none of the protected characteristics of the complainant have been a factor in the escalation. This is framed by way of the Equality, Diversity and Inclusion (EDI) strategy SW9 has taken on in respect of residents and our colleagues.

#### 5. Pre action that can be taken:

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The pre-action stage is put in place to document and inform residents of our concerns around their behaviour and/or level of contact. This stage is aimed at providing the residents with every opportunity to understand and resolve our concerns and also assist in controlling their level of contact to ensure their behaviour does not impact the services we can offer other residents.

When a complainant has been identified as meeting one or more of the criteria in 3.1, managers will consult with the Customer Resolution Manager where advice will be provided on how to manage current contact and what information is required to apply the policy at the Pre-action stage, if agreed it is correct to do so.

In most cases the Customer Resolution Manager can decide whether the “pre-action” element of the policy needs to be applied. If it is agreed it is not the best way of managing the situation, the Complaints Team should still be able to discuss possible ways of managing the resident in question.

**Below are the actions that can be considered/taken as per of the pre-action guidance.**

- 5.0 Drawing up a signed agreement with the complainant (if appropriate) setting out a code of behaviour for the parties involved if SW9 is to continue dealing with the complaint.
- 5.1 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 contact criteria is clearly documented and explained to all parties involved.
- 5.2 Restricting contact to liaison through a single point of contact within SW9 this may include redirection of emails sent to teams or individuals not their single point of contact, as the single point of contact would respond.
- 5.3 Informing the complainant that whilst they may not contact us directly, they can delegate someone who can act on their behalf.
- 5.4 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.
- 5.5 Informing the complainant that SW9 reserves the right to refer habitual complainants to our Solicitors and/or the police where we believe that a criminal offence has been committed.
- 5.6 Temporarily suspending all contact with the complainant, or investigation of a complaint, whilst seeking legal advice or guidance.

- 5.7 Banning the complainant from some or all SW9 buildings, if necessary, by means of an injunction.

Items 5.1 – 5.8 would be considered a voluntary agreement between the resident and us, until such time that the resident has been through the full Habitual Complaints process and a formal decision has been reached. This would be clearly explained to the resident by the Customer Resolution Manager who will encourage the resident to agree to the informal agreement seen as a pre action agreement. However, if a resident has been through the process and confirmed a Habitual Complainant, we would look to strictly enforce the measures put in place as covered below.

## 6. Formal Actions for dealing with Habitual Complainants

If having been through the pre-action stage the behaviour and/or level of contact has not improved, the Customer Resolution Manager will inform the resident of their intent to seek formal approval and place the resident on the Habitual Complainants register. The process for taking such measure is explained below.

- 6.0 If advice or warnings do not reduce habitual behaviour, then a chronology of contact and evidence of poor behaviour will be prepared by the relevant service manager and documentation collated and sent to the Customer Resolution Manager to support the case.
- 6.1 At this stage the Complaint Manager will consider the information provided to decide if they believe formal action is now appropriate.
- 6.2 If this is the case the Customer Resolution Manager will put together an anonymised report detailing their concerns given the residents actions, behaviour and level of contact. This will be sent over to a SLT member or Board member.
- 6.3 Following the review by the SLT/Board member, the report will be updated to include necessary commentary and the Customer Resolution manager will decide whether it is considered there is still merit in pursuing action and presenting the report to the Executive. If it has been determined no further action is to be taken, then the report/action will not move forward, if this is the case then resident will be warned that they will continue to be monitored, and a case could be put forward again otherwise;
- 6.4 The Executive Director will then consider the report and make a final decision on if the action is justified and proportionate.
- 6.5 If the Executive Director decides to take action, a letter will be sent detailing the action to be taken and for what period.
- 6.6 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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## 7. Reviewing the Habitual Status

- 7.0 All contact by an individual confirmed as habitual will be reviewed to consider whether a different complaint is being reported, for which the usual complaints procedure needs to be implemented.
- 7.1 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 increased restrictions, partial removal (or easing) of restrictions, or full removal. If fully removed, a time frame would be set as if the resident repeats habitual behaviour then we would look to strictly reenforce the measures put in place, and possibly increase them.
- 7.2 Each resident will be written to as above in 7.2 where the review undertaken will be any amendments to the restrictions already in place will be clarified.

## 8. Performance monitoring and Responsibilities

- 8.0 A record should be maintained of current habitual complainants by the Customer Resolutions Manager. This must be kept secure at all times and should only be updated by the Customer Resolutions Manager .
- 8.1 As part of a wider focus the Customer Resolution 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 Customer Resolutions Manager will include this in their 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

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## 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.

## 11. Equality and diversity

- 11.1 SW9 will treat all customers with fairness and respect. We value diversity and work to promote equality and tackle unlawful discrimination.
- 11.2 Our Habitual complaints approach promotes open communication between customers and Network Homes' staff to understand the complaint and resolve it in a positive manner. We will consider customers' communication needs and preferences and offer support or tailor our approach accordingly and make any reasonable adjustments necessary to the operation of this policy to ensure that it is open and accessible to all.
- 11.3 We are committed to helping customers to access information about their homes and services in a way that suits individual needs. We will apply this policy consistently, fairly, and will not discriminate against anyone based on any relevant characteristics, including those set out in the Equality Act 2010. We will make reasonable adjustments to policy, process, training, culture and learnings when identified as required.

## 12. Review

All policies should be reviewed every 12 months 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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<b>Policy author:</b>	<b>Policy and Performance Manager</b>	
<b>Policy owner:</b>	<b>Head of Customer Services</b>	
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	<b>Initial or full EIA</b>	

### Change Record

<b>Date</b>	<b>Reviewed by (name and title)</b>	<b>Version</b>	<b>Summary of changes</b>
December 2023	Zoe Christodoulou, Policy and Performance Manager	V2.0	3-yearly review