
Unacceptable Complainant Behaviour Procedure

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1. Introduction

- 1.1 This procedure sets out our approach to the very few complainants whose actions or behaviour is considered unacceptable whilst contacting us in connection with their complaint.
- 1.2 For the purposes of this procedure the following meanings apply:

- **Frivolous** – trivial, trifling or futile, not serious
- **Vexatious** – causing or intending to cause annoyance, irritation or distress; insufficient grounds to justify a response or action
- **Persistent** – refusal to accept our decision regarding a complaint or claim and continuing to demand a response to the issue
- **Malicious** – bearing ill-will or spite towards another.

2. Guidance aims

- 2.1 To make it clear to all complainants, both at initial contact and throughout their dealings with us, what we can or cannot do in relation to their case. In doing so, we aim to be open and not raise hopes or expectations that cannot be met.
- 2.2 To deal fairly, honestly, consistently and appropriately with all complainants, including those whose actions are considered unacceptable. We believe that everyone who approaches us has the right to be heard, understood and respected and that our employees¹ have the same rights.
- 2.3 To provide a service that is accessible to everyone, whilst retaining the right, to restrict or change such access where complainant actions are considered unacceptable.
- 2.4 To ensure that other complainants and employees do not suffer any disadvantage from complainants that act in an unacceptable manner.
- 2.5 To act in accordance with the Housing Ombudsman's best practice.

3. Defining unacceptable actions

- 3.1 People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to them contacting us. We do not view this behaviour as unacceptable just because someone is forceful or determined. In fact, we accept that being persistent can be a positive advantage at times. However, the actions of complainants that are angry, demanding, or persistent may result in unreasonable demands on, or unacceptable behaviour towards employees. It is these actions that are considered unacceptable and aims to manage under this guidance. The actions are grouped under the following broad headings:
 - Frivolous, vexatious persistent and unreasonable complainants (Appendix 1 – process map)
 - Aggressive or abusive behaviour (Appendix 2 – process map)
 - Malicious complainants (Appendix 2 – process map).

Reasonable adjustments

- 3.2 In accordance with the Equality Act 2010 we recognise that some complainants may have disabilities, such as challenging mental health or learning disabilities, that can make it difficult for them to express themselves or communicate clearly, particularly if they are anxious or upset. Likewise, we realise that some disabilities can make it difficult for complainants to assess the impact their behaviour may have on others.
- 3.3 We will always consider making reasonable adjustments for a disabled or vulnerable customer if asked to do so. This may include using different methods of communication and giving clear warnings as soon as the behaviour becomes unacceptable so that the complainant can change it. However, it is not reasonable for employees to be subjected to aggressive, offensive or abusive actions, language or behaviour and we will act in accordance with section 6 of this procedure to minimise this behaviour if required.

4. Frivolous, vexatious, persistent and unreasonable complainants

¹ For the purposes of this procedure this includes partner contractors and third parties acting on behalf of Livin.

- 4.1 Complainants may make unreasonable demands through the amount of information they seek or provide, the nature and scale of service they expect, or the number of approaches they make to Livin. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the complainant.
- 4.2 Examples of actions grouped under this heading include demanding responses within an unreasonable timescale, insisting on seeing or speaking to a particular member of staff², insisting that we provide information that is unreasonable, continual phone calls, emails, or letters, repeatedly changing the substance of a complaint or raising unrelated concerns.
- 4.3 When considering the most appropriate course of action the Head of Customer Experience will consider if the complainant:
- Repeats information and/or provides no new information to justify further action
 - Continually changes the focus of the original complaint to prolong engagement with Livin
 - Fails to advise exactly what the issue is or what they require to resolve the issue
 - Is making excessive contact or unreasonable demands, including abusive behaviour and threats³.
- 4.4 Every complaint must be considered on its own merits. Even if someone has made a frivolous or vexatious complaint in the past, it must not be assumed that any other complaint they make will also be frivolous or vexatious.

Handling Frivolous, vexatious, persistent and unreasonable complainants

Frivolous complaints

- 4.5 A frivolous complaint has no serious purpose or value. It may have little merit and be trivial; investigating would be out of proportion to the seriousness of the issues complained about. For example; a complainant complains about one typographical error in email correspondence he/she has received. We have apologised for the error, but the complainant seeks £500 in compensation or escalation of their complaint.
- 4.6 In these circumstances we have discretion to refuse to open a case or investigate the complaint. Alternatively, we may deal with the matter as a service request (see process flowchart at Appendix 1) and advise the complainant of their right to contact the Housing Ombudsman Service for advice if they wish.

Vexatious complaints

- 4.7 We will refuse to accept a case if it is apparent that the customer is acting in a vexatious manner by pursuing a complaint without merit and where there is an intention to cause inconvenience, harassment or expense to Livin (see process flowchart at Appendix 1). For example; a customer is aware that his complaint has no merit but advises the company he will raise a dispute with Ombudsman Services just to generate financial costs. We will also advise the complainant of their right to contact the Housing Ombudsman Service (HOS) for advice if they wish.

Persistent complainants

- 4.8 We recognise that some complainants will not, or cannot, accept that Livin is unable to assist them further or provide a level of service other than that provided already. Complainants may persist in disagreeing with the action or decision taken in relation to their case or contact us persistently about the same issue.
- 4.9 Examples of actions grouped under this heading include persistent refusal to accept a decision made in relation to a complaint, persistent refusal to accept explanations relating to what we can or cannot do and continuing to pursue a case without presenting any new information. The way in which these complainants' approach us may be entirely reasonable, but it is their persistent contact regarding a matter that cannot be resolved that is not.

² For example, the Chief Executive, Executive Director or a manager

³ A Breach of Tenant's general responsibilities sections 8.2.1 – 8.2.3 of Livin's tenancy agreements.

- 4.10 We consider the actions of this type of complainants to be unacceptable when they take up what is regarded as being a disproportionate amount of time and resources. In these circumstances we will consider the options available at 7.3. These include restricting access to the service or refusal to acknowledge or respond to any further correspondence on the matter with the complainant (Appendix 1 – process map).
- 4.11 Where we have refused to open or investigate a complaint for any reason the complainant will be advised of their right to contact the Housing Ombudsman Service (HO) for guidance if they wish.
- Unreasonable use and levels of contact*
- 4.12 Customers have the right to raise more than one complaint however, this contact becomes unreasonable when the effect of the repeated complaints is to harass or prevent us from reaching a legitimate aim or decision about a service or complaint.
- 4.13 We consider that levels of contact become unacceptable when the amount of time spent corresponding with the complainant by telephone, email/webchat and so on, or reviewing and filing written correspondence impacts on its ability to deal with another customer's feedback.
- 4.14 We will only restrict access to the complaints service in exceptional circumstances as the complaints process is a valuable tool for customer redress, but it reserves the right to do so in such cases (Appendix 1 – process map).

5. Malicious Complainants

- 5.1 We consider that a complaint is malicious if it is clearly an act to cause harm, deter us from taking necessary action/providing a service⁴ or is part of a 'tit for tat' complaint. This procedure seeks to ensure that customers and employees are protected from harassment and intimidation caused by malicious complaints.

Handling malicious complainants

- 5.2 Where a complaint is malicious and false, or it is believed that it has been made with the deliberate intention of getting another person into trouble or preventing us from providing support to a vulnerable person. We may consider the complainant to be guilty of harassment and anti-social behaviour (Appendix 2 – procedure flowchart) and in these circumstances we will consider the options available at 7.3, which include:
- refusing to investigate the matter
 - taking appropriate action against the complainant.
- 5.3 However, where a complaint indicates that there may have been clear breaches of company policy or misconduct, the Head of Customer Experience may decide that an investigation is appropriate.

6. Aggressive or abusive behaviour

- 6.1 We understand that complainants may be angry about the issues raised in their complaint, however any violence towards, or abuse of employees, contractors or third-party representatives will not be accepted⁵ (Appendix 2 – process map).

⁴ For example, to prevent Livin from supporting a person at risk of self-harm or harm from others.

⁵ A Breach of Tenant's general responsibilities sections 8.2.1 – 8.2.3 of Livin's tenancy agreements.

- 6.2 We expect employees and contractors to be treated courteously and with respect and violence or abuse towards employees is unacceptable. 6.3 Violence is not restricted to acts of aggression that may result in physical harm, it also includes threatening behaviour or language (whether oral or written) that may cause employees to feel offended, afraid, threatened, or abused. Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory remarks, and rudeness. We consider inflammatory statements, and unsubstantiated allegations can be classed as abusive behaviour.
- 6.4 We will not tolerate language used by complainants that is designed to insult or degrade or is racist, sexist or homophobic.
- 6.5 Employees directly experiencing aggressive or abusive behaviour from a complainant have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this guidance. We will end communication⁶ if the customer is considered aggressive, abusive, or offensive and the employee has the right to make this decision, tell the customer, and end the communication if the behaviour does not stop.
- 6.6 Abusive and threatening behaviour towards employees will be treated as anti-social behaviour and dealt with in accordance with our Anti-Social Behaviour Procedure⁷ and/or Accident and Incident Reporting Procedure.

7. Restricting complainant contact

- 7.1 Complainants may not always be aware that their contact is inappropriate or unreasonable. Employees should always advise the complainant immediately if they are acting in an unacceptable way and what the consequences may be if this continues. They should also advise that a record of the incidents will be made for consideration by the Customer Voice and Complaints Manager if the behaviour continues in the future. Appendix 3 gives tips to employees on how to handle unreasonable behaviour effectively.
- 7.2 With the exception of the immediate decisions taken at the time of an incident, decisions to restrict contact are only taken after careful consideration of the situation by the CFT. On all occasions a 'Restricting Access to Livin' form (Appendix 4) should be completed and authorised by the Customer Voice and Complaints Manager. Wherever possible, we will offer a complainant the opportunity to modify their behaviour or action before this decision is taken. Complainants will be told in writing why a decision has been made to restrict future contact, the restricted contact arrangements and, if relevant, the length of time that these restrictions will be in place.⁸

Options available to handle unacceptable behaviour

- 7.3 There is a range of options available to the Customer Voice and Complaints Manager for restricting access due to the unreasonable actions outlined in this procedure. These are not fixed and will be made on a case-by-case basis. We may decide to:
- only take telephone calls from the complainant at set times on set days, or put an arrangement in place for only one member of staff to deal with calls or correspondence from the complainant in the future;
 - require the person to make an appointment to see a named employee, or that the complainant only contacts us in writing;
 - require the person to nominate a family member, friend or support worker to contact us on their behalf;
 - return the documents to the person or, in extreme cases, advise them that further irrelevant documents will be destroyed;
 - read and file future correspondence, but not reply or acknowledge receipt unless it relates to a new and unrelated complaint
 - take other action that we consider appropriate and always say what action and why.

Right to Appeal

- 7.4 A complainant can appeal a decision to restrict contact. The Head of Customer Experience will consider the appeal. They will advise the complainant in writing either that the restricted contact arrangements still apply or that a different course of action has been adopted.

Recording restricted access

⁶ Telephone, video call, web chat, face to face contact or email correspondence.

⁷ Where the incident is considered a 'one off' the Housing Team will contact the customer and remind them of section 8.2.3 of their Tenancy Agreement and monitor future contact as necessary.

⁸ In cases where the complaints process has been completely exhausted we may decide not to engage in further communication indefinitely about that particular matter.

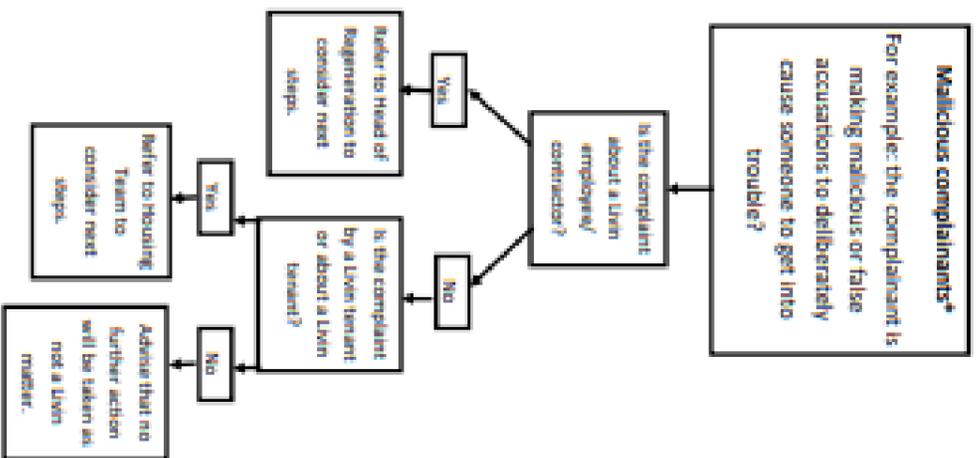
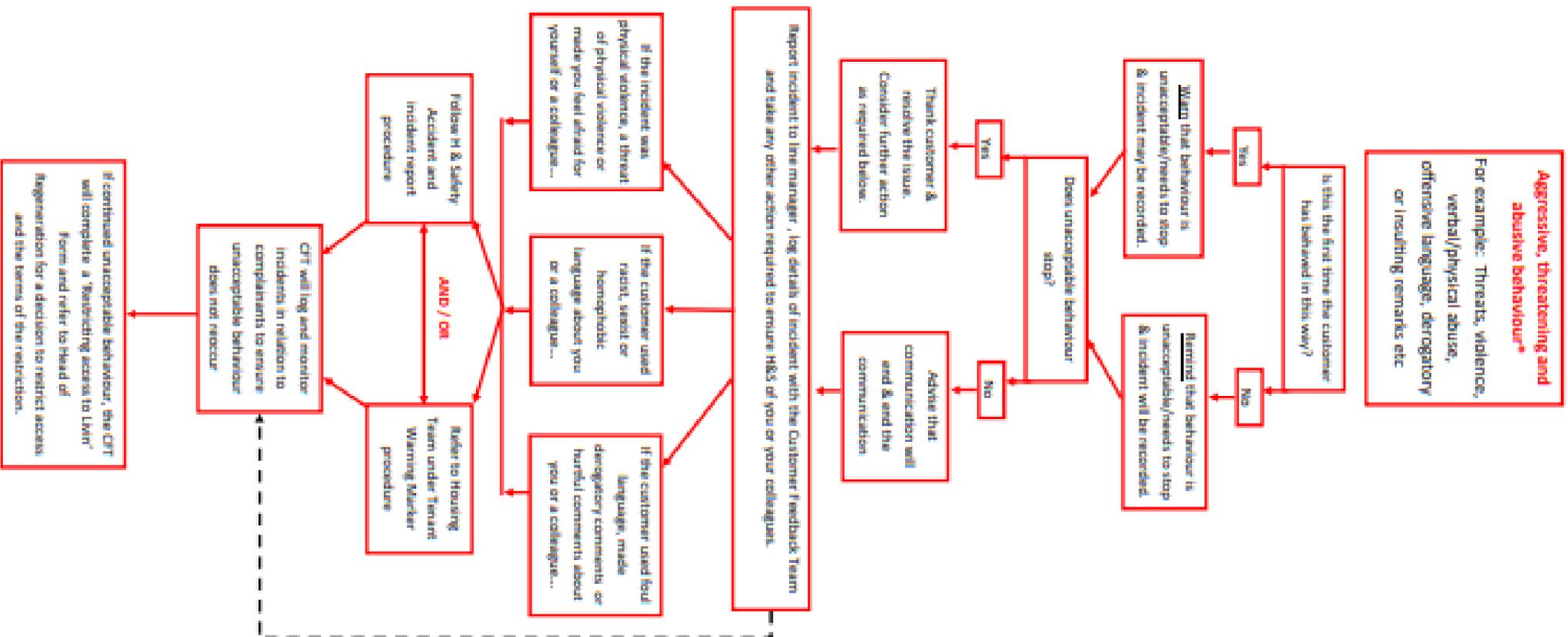
- 7.5 We record all incidents of unacceptable actions by complainants. Where it is decided to restrict complainant contact, a User Defined Code will be placed on the Orchard Housing System to advise authorised employees of this arrangement.
- 7.6 The CFT will email relevant service managers to advise of the restriction and ensure that instructions for contact are managed and monitored for breaches. Where there are continued breaches by the customer, the Customer Voice and Complaints Manager may revisit the arrangements and restrict these further if required.
- 7.7 Our Customer Feedback Team will note the timescales for restricted access and advise the customer in writing if, or when, the restricted access has expired.

8. Relevant Livin policies and procedures

- Procedure for handling customer complaints and feedback
- ASB Procedure
- Accident and Incident Reporting Procedure
- Complaints, Compliments and Feedback Policy
- Confidentiality, Privacy and Data Protection Policy and Procedure

9. Appendices

Appendix 1 – Process map for handling frivolous, vexatious, persistent or unreasonable behaviour.
Appendix 2 – Process map for handling aggressive or abusive behaviour



* In all instances—consider any reasonable adjustments due to health or medical conditions and make necessary adjustments.
This does not excuse the behaviour but may help us to come up with a mutually beneficial solution to prevent the behaviour continuing.

