



EDEN HOUSING ASSOCIATION LIMITED

Compliments, Complaints and Feedback Policy

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1. Policy Statement

Providing excellent customer service is one of our main objectives. We aim to put the needs and aspirations of our customers at the heart of everything we do.

The Association views Compliments, Complaints and Feedback handling as a key element of its Customer Strategy and a means of monitoring, maintaining and improving the level and quality of service provided. In addition, we will use the feedback received to drive and deliver the improvements our customers want.

The Regulator of Social Housing's Consumer Standard "Tenant Involvement and Empowerment" clearly states, "*a registered provider shall have an approach to complaints that is clear, simple and ensures that complaints are resolved promptly, politely and fairly*". The main aim of this policy and associated procedure is to set out Eden Housing Association's (EHA) approach to resolving Compliments, Complaints, and Feedback, clearly demonstrating how we will meet this requirement.

2. References

Internal

Customer Strategy (STRAT 07)
Data Protection Policy (CORP 13)
Compliments, Complaints and Feedback Procedure
Feedback Manager User Guide
Feedback Manager Tutorial Video
Unacceptable Actions Policy
Financial Redress and Compensation – currently being reviewed/developed

External

Gov.UK Regulatory Standards – Consumer Standard
Housing Ombudsman Service – Housing Ombudsman's Complaint Handling Code/Guidance on determinations of Complaint Handling Failure and Orders
General Data Protection Regulation
Data Protection Act 2018
Housing Quality Network Complaints Tool Kit
Ministry of Housing Communities and Local Government - A New Deal for Social Housing

3. Policy Content

EHA sets out to provide a high quality of service and satisfaction to all of our customers however, we recognise that occasionally things do go wrong.

We believe that a positive complaint handling culture across the whole organisation is integral to the effectiveness with which we resolve disputes, the quality of service we provide and our ability to learn and improve.

This Policy provides a means by which customers can inform us when they are either satisfied or dissatisfied with the service they have received. We will always encourage

our staff to think creatively and use common sense when dealing with all complaints and feedback. In addition, we welcome praise when our staff do things well or go the extra mile.

4. Our Aim

- To deliver a seamless, high quality customer experience which is tailored to the individual's requirements
- To be fair, transparent and consistent in the way we manage Compliments, Complaints and Feedback
- To recognise teams/individuals and the services provided which have exceeded the expectations of our customers
- To ensure that all Compliments, Complaints and Feedback are assigned to the relevant member of staff
- To learn from Complaints/Feedback and commit to making appropriate changes to prevent a recurrence
- To put things right as quickly as possible
- To ensure that we keep the customer informed of progress whilst we are dealing with the Complaint/Feedback
- To inform our customers when they have influenced changes to policy, improvements to services and publish our findings.

5. Compliments, Complaints and Feedback

We define a complaint as:

'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting a individual resident or group of residents'

When dealing with Compliments, Complaints and Feedback we will always:

- **Show respect** – treating everyone with fairness and dignity, in addition all information shared with us will be dealt with in a confidential manner by an appropriate member of staff
- **Be open positive and flexible** - towards feedback and new ideas. We will encourage innovations and creativity that will improve outcomes for our customers.
- **Work in partnership** – develop open communications and equal relationships with our customers, staff and partners, valuing their contributions at all times enabling us to work together to resolve issues effectively and efficiently
- **Deliver** – we will do what we say we are going to and be held accountable for all of our actions

6. Who can make a Compliment, Complaint or provide Feedback?

Anyone receiving or requesting a service from EHA can make a Compliment, Complaint or provide Feedback for example

- EHA Tenants and Leaseholders
- Residents (owner occupiers and private tenants)

In addition, we will accept Compliments, Complaints and Feedback from family members, local Councillors or any other advocate acting in the best interests of our customer (providing they are authorised to do so).

7. How can a customer make a Compliment, Complaint or provide Feedback?

In order to encourage feedback from our customers we recognise that we must not put barriers in their way. Customers are able to make Compliments, Complaints and provide Feedback in a number of ways

- Telephone
- Letter
- E-mail
- Website
- Social Media
- Online self-service portal
- In person

Any complaints received via our social media platforms will be dealt with appropriately to ensure confidentiality and privacy is maintained at all times. If the complaint is raised via a public page we will contact the customer using an alternative secure medium to engage in a one to one dialogue about their areas of concern.

If the customer requires assistance to use our service, we will do everything we reasonably can to assist by agreeing adjustments to how we deliver our service, this could include (but is not limited to)

- Providing advice and assistance about the process
- Providing information in appropriate alternative formats such as large print, braille and other languages
- Providing an interpreter
- Providing a same sex interview
- Extension of time limits (where it is lawful to do so)
- Use of email or telephone in preference to hard copy letters
- Rest or comfort breaks in any meeting

We will not make assumptions about whether a customer requires a reasonable adjustment or about what those adjustments might be. We will discuss the requirements of a reasonable adjustment with the individual customer and seek to reach agreement on what will be reasonable in the circumstances to best suit the customer's needs.

Many adjustments will be straight forward to make, and will be delivered with a minimum of delay. In some instances we may need to seek advice from expert disability organisations. When considering if we view a requested adjustment as 'reasonable', we will take account of:

- How *effective* the adjustment will be – will the adjustment fully address the disadvantage it is meant to overcome?
- How *practical* the adjustment will be – eg we may not be able to extend timeframes if there is a legal deadline to meet

- The availability of *resources* to make the adjustment - an adjustment that is effective may not be considered reasonable. How reasonable an adjustment is will be considered in light of the resources required to make it. If an adjustment costs a significant amount of money, it may not be reasonable. How much *disruption* the adjustment will make to the delivery of our services, eg it will not usually be reasonable for a member of staff to only deal with one person and their complaint – other customers and services will inevitably suffer.

8. Definitions

The definitions detailed below will ensure that the Policy and associated procedures are implemented consistently across the organisation

- **Service Request** – a request for service, such as a repair or the logging of an ASB incident, which has not previously been brought to our attention
- **Follow Up Request (FUR)**– these generally arise when the customer continues to have an outstanding query in relation to an earlier service request.
- **Compliment** - an expression of gratitude or praise for a member of staff or service area
- **Comment** – an area of strength or weakness, which can be used to continuously improve our services
- **Formal Complaint** – an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.

The customer does not have to use the word complaint for it to be treated as such. Our staff will be trained to recognise the difference between a Service Request, Follow Up Request and Formal Complaint taking appropriate steps to resolve the issues as early as possible.

9. Formal Complaints

A Formal Complaint is generally dissatisfaction with the actions, decisions or failure of our services after we have had the opportunity to put things right.

Formal Complaints can relate to one or more of the following areas (this list is not exhaustive)

- Failure to provide a service
- Failure to provide a service to a standard that could reasonably be expected
- Failure to follow EHA policy or procedure
- Unhelpful attitude of a member of staff and/or contractors
- Failure to provide information or the right information in a timely manner
- We gave poor or unsuitable advice
- We failed to respond to enquiries
- We missed agreed appointments
- Delay or neglect to administrative or other processes
- Failure to consider all relevant information before reaching a decision
- Failure to fulfil any contractual decisions
- Any examples of malice, bias, inequity or discrimination

Exclusions and requests to escalate a complaint

We will accept all complaints and requests to escalate a complaint from Stage 1 to Stage 2 unless there is a valid reason not to do so for example:

- A disagreement with, or refusal to accept a rule of law, which the Association is applying (unless the complaint relates specifically to the way the matter has been dealt with)
- Liability issue that is subject to an insurance claim (although any other elements of the complaint will be considered)
- The issue is, or has been subject to legal proceedings**
- The complaint has not been raised within a reasonable timeframe
- The complaint has been raised already
- The complaint is being pursued in an unreasonable manner
- Criticism of individual employees which arise directly from the customer's dissatisfaction with an Association Policy or decision, and where no other basis for the complaint exists

**The Ombudsman's view is that a matter does not become 'legal' until proceedings have been 'issued'. The issuing of proceedings involves filing details of the claim, such as the Claim Form and Particulars of Claim, at court. The court will then serve this on the respondent for them to answer to. See Appendix 5.

In relation to claims pursuant to the Pre-Action Protocol for Housing conditions claims we will remain committed to inspecting properties as soon as a claim is raised and to completing the repairs needed as soon as is practicable. Where a resident has been advised by a solicitor to deny access to complete the repairs, we may consider alternative methods of gaining access, such as seeking an injunction. **

We will not apply a 'one size fits all approach' when making these decisions. If a decision is made not to accept or allow the escalation of the complaint, a detailed explanation will be provided. The complainant has the right to challenge this decision by taking their complaint to the Housing Ombudsman.

Formal Complaints Process

We operate a 2 Stage customer focussed Formal Complaints process which ensures that the complainant is given the opportunity to explain their point of view and the outcome they are seeking before a final decision is reached.

Our aim is to manage the complainant's expectations from the outset, being clear where a desired outcome is unreasonable or unrealistic, in addition we will not make promises that cannot be delivered or would cause unfairness to other customers.

We will provide all complainants with a written acknowledgement including:

- the complaint stage and reference number
- our understanding of the complaint
- name of the investigating officer
- timescale for the response
- a copy of our Formal Complaints Service Standard

When dealing with Formal Complaints we:

- Recognise that putting things right is the first step to repairing and re-building trust with the complainant
- Believe that regular contact (whilst the complaint is open) allows the complainant a fair opportunity to comment on any adverse findings before a final decision is made (the frequency and method of communication to be agreed by both parties)
- Ensure that internal/and or independent support or advocacy is available for customers who need it
- Will conduct our investigations in an impartial manner, seeking sufficient reliable information from all parties so that fair and appropriate findings and recommendations can be made
- Ensure that all communications either verbal or written are customer friendly
- Allow for financial recompense, within defined corporate guidelines where service failure has occurred. We will take account of whether any statutory payments are due, if any quantifiable losses have been incurred as well as any distress and inconvenience caused. These will be considered on a case by case basis by the investigating officer.
- In instances where the complainant may have legal entitlement to redress we will still work to offer a resolution where possible (this may remove the need for the complainant to pursue legal remedies), we will seek legal advice as to how any offer of resolution should be worded.
- We will allow the complainant a period of 12 weeks (from the date the complaint was closed) to request an escalation from Stage 1 to Stage 2 however, we will not apply a 'one size fits all' approach when making these decisions with each request being considered separately.
- Where a key issue of a complaint relates to the parties' legal obligations we will clearly set out our understanding of the obligations of both parties.

When responding to formal complaints we will:

- address all points raised and provide clear reasons for any decisions, referencing relevant policy, law and good practice where appropriate
- acknowledge and apologise for any failures identified, inform of any changes made or actions taken to prevent the issues from happening again and provide full details of how the complaint can be escalated if the complainant remains dissatisfied

If the given timescales cannot be adhered to, we provide an explanation for the delay and agree a revised date for the response with the complainant.

The response provided by the investigating officer dealing with the Stage 2 Formal Complaint marks the end of the Eden Housing Association complaints process. A letter confirming the decision of the investigating officer will include details on how the complainant can take their complaint forward should they decide that they are dissatisfied with the process Eden Housing Association has followed.

Referring the complaint to the Housing Ombudsman

If the complainant decides not to contact a designated person, they can refer directly to the Housing Ombudsman after we have provided our final response to the complaint. The Housing Ombudsman will deal with each complaint to find the best outcome for the complainant's individual circumstances. We will co-operate with the Ombudsman's request for evidence and provide this within 15 working days.

Further information on the Housing Ombudsman's Complaint Handling Code and Guidance on determinations of Complaint Handling Failure and Orders can be obtained from Appendix 4 or by accessing their website www.housing-ombudsman.org.uk

10. Customer Responsibilities

We believe that our customers have the right to be heard, understood and respected, and that our staff should enjoy the same rights.

We recognise that when things go wrong our customers may be unhappy and show signs of stress and frustration when making a complaint. However, our customers have a responsibility not to engage in:

- Aggressive or abusive behaviour – for example verbal abuse and threats
- Making unreasonable demands – for example continual phone calls, letters, emails or visits to our offices repeatedly changing the content of a complaint or raising unrelated issues. We consider these demands as unacceptable and unreasonable if they start to substantially impact on our work, such as taking up an excessive amount of staff time to the disadvantage of other customers
- Making malicious complaints – for example making malicious comments or complaints, which are without foundation
- Unreasonable Persistence – for example persisting in pursuing a matter when they have already exhausted other statutory routes of appeal, making complaints in order to make life difficult for EHA rather than to genuinely resolve a problem

Our Unacceptable Actions Policy provides full details on our approach if a customer continuously behaves in a way that staff feel is unreasonable.

11. Staff Responsibility

The Director of Operations retains the overall responsibility for this Policy however all managers are responsible for the implementation ensuring that associated monitoring, staff awareness, training, policy development and communication to customers is undertaken.

12. Equality Impact Assessment (EIA)

Eden Housing Association is committed to ensuring that no person or group of persons will be treated less favorably than another person or group and will carry out its duty with positive regard to the following core strands of equality:

- Age

- Disability
- Gender
- Race
- Transgender
- Sexual Orientation
- Religion and or Belief
- Civil Partnership and Marriage
- Pregnancy and Maternity

A copy of the Equality Impact Assessment can be found in **Appendix 1**

13. Complaints Panel

From April 2021 we aim to establish a Complaints Panel made up of two Board Members, two Scrutiny Panel Members and two fellow elected tenants. The Panel supported by our Insight and Engagement Officer and Customer Service Manager will meet at least twice a year.

The role of the Panel will be to:

- Understand the impact of complaint handling on our customers
- Review issues and trends arising from complaint handling
- Ensure that learning is being used to drive service improvements including reviewing whether any reasonable adjustments requested can help us take wider steps to improve our services
- Support effective handling, prevention, learning and development
- Use the data to assess performance and risks
- Analyse the volume, category and outcome of complaints alongside timely compliance with published timeframes and any Ombudsman orders

The Panel **will not**

- hear complaints
- deal with appeals or
- have the ability to overturn the investigating officer's decision

14 Monitoring and Review

This Policy will be reviewed every 3 years, or in line with changes in regulation and/or legislation. Monitoring results will be used by the Association to inform future policy review in this area. All reviews will consider whether:

- the current Policy adheres to legislative and regulatory requirements and reflects current good practice
- the aims and objectives of the Policy are being met
- the current Policy outcomes meet the needs and aspirations of our customer base
- service users are aware of and understand the Policy and believe it to be consistent and fair
- the service offers value for money

Our policy and procedures aim to promote a positive approach from all employees. Regular training and updates will be provided to further enhance that approach.

Performance monitoring will be undertaken in the following areas to assess the impact of:

- The number of Compliments, Comments and Formal Complaints recorded
- The number of Formal Complaints where the timescale for a response has been extended
- The number of Complaints Upheld, Partially Upheld or Not Upheld
- Details of the service improvements implemented as a result of Formal Complaints
- The number of Stage 2 Formal Complaints referred to the Housing Ombudsman
- The number of Complaint Handling Orders issued by the Housing Ombudsman

Overall monitoring and review of the Policy will be undertaken in consultation with:

- Service Users
- Staff
- Board Members

We carry out an annual self-assessment against the Housing Ombudsman's Complaint Handling Code to ensure that our complaint handling remains in line with its requirements, in addition we will carry out a self-assessment following a significant restructure and/or change.

Question	Response
1. Name of the policy/practice/activity being assessed	Compliments, Complaints and Feedback Policy
2. Summary of aims and objectives of the policy/practice/activity	The policy and associated procedure sets out how EHA will deal with Compliments Complaints and Feedback and use the information collected as a means of maintaining and improving the level of quality and service we provide to our customers.
3. What involvement, consultation, engagement has taken place for the policy/practice/activity (e.g relevant groups/stakeholders)	<p>The policy and associated procedure has been written following consultation with:</p> <ul style="list-style-type: none"> • Housing Quality Network Complaints Toolkit • Housing Ombudsman Service • Gov.UK Consumer Standard • Ministry of Homes Communities and Local Govt (A new deal for Social Hsg) • Residents Focus Group • Input from current service user • EHA Scrutiny Panel Review recommendations •
4. Who is affected by the policy/practice/activity	The policy and procedure applies to all EHA customers.
5. What are the arrangements for monitoring and reviewing the impact of the policy/practice/activity	All Compliments, Complaints and Feedback are recorded on the Feedback Manager Module of Orchard (which includes appropriate retention timeframes). Cases are reviewed on a weekly basis by managers and included within quarterly KPI's. Policy and associated procedures are reviewed every 3 years, or in line with change in regulation and/or legislation.

Protected Group	Is there a potential for a positive or negative impact	Explain and provide evidence/data used	Action to address the negative impact
Disability	No	The policy /procedure ensures that EHA will not treat an individual less favorably if they possess a protected characteristic	

Gender reassignment	No	The policy /procedure ensures that EHA will not treat an individual less favorably if they possess a protected characteristic.	
Marriage or civil partnership	No	The policy /procedure ensures that EHA will not treat an individual less favorably if they possess a protected characteristic.	
Pregnancy or maternity	No	The policy /procedure ensures that EHA will not treat an individual less favorably if they possess a protected characteristic.	
Race	No	The policy /procedure ensures that EHA will not treat an individual less favorably if they possess a protected characteristic.	
Religion or belief	No	The policy /procedure ensures that EHA will not treat an individual less favorably if they possess a protected characteristic.	
Sexual orientation	No	The policy /procedure ensures that EHA will not treat an individual less favorably if they possess a protected characteristic.	
Sex (gender)	No	The policy /procedure ensures that EHA will not treat an individual less favorably if they possess a protected characteristic.	
Age	No	The policy /procedure ensures that EHA will not treat an individual less favorably if they possess a protected characteristic.	

Evaluation

Question	Explanation
Is it possible the proposed policy/practice/activity could	No – it is our overall aim to ensure that no

discriminate or unfairly disadvantage people	customer is discriminated against, or receives less favorable treatment because of a protected characteristic. In all “appropriate” circumstances, EHA will comply with a duty to provide a reasonable adjustment.	
Decision	Tick the relevant box	Include any justification required
1. No barriers identified – proceed		
2. Barriers identified towards one (or more) protected groups – stop	N/A	
3. Barriers identified towards one (or more) protected groups – adapt or change the policy/practice/activity	N/A	
4. Barriers identified towards one (or more) protected groups – no proportionate way to amend the policy/practice/activity so proceed with caution	N/A	

Completed by – and date	Heidi Ware – March 2021		
Reviewed by – and date	Executive Team – March 2021		
Review Date (if applicable)			
Will this EIA be published	Yes	No	Not Required

Action (To be completed as required)

If the Evaluation has resulted in Decision 4, complete a risk assessment and record on Operational Risk Register	Date Completed:
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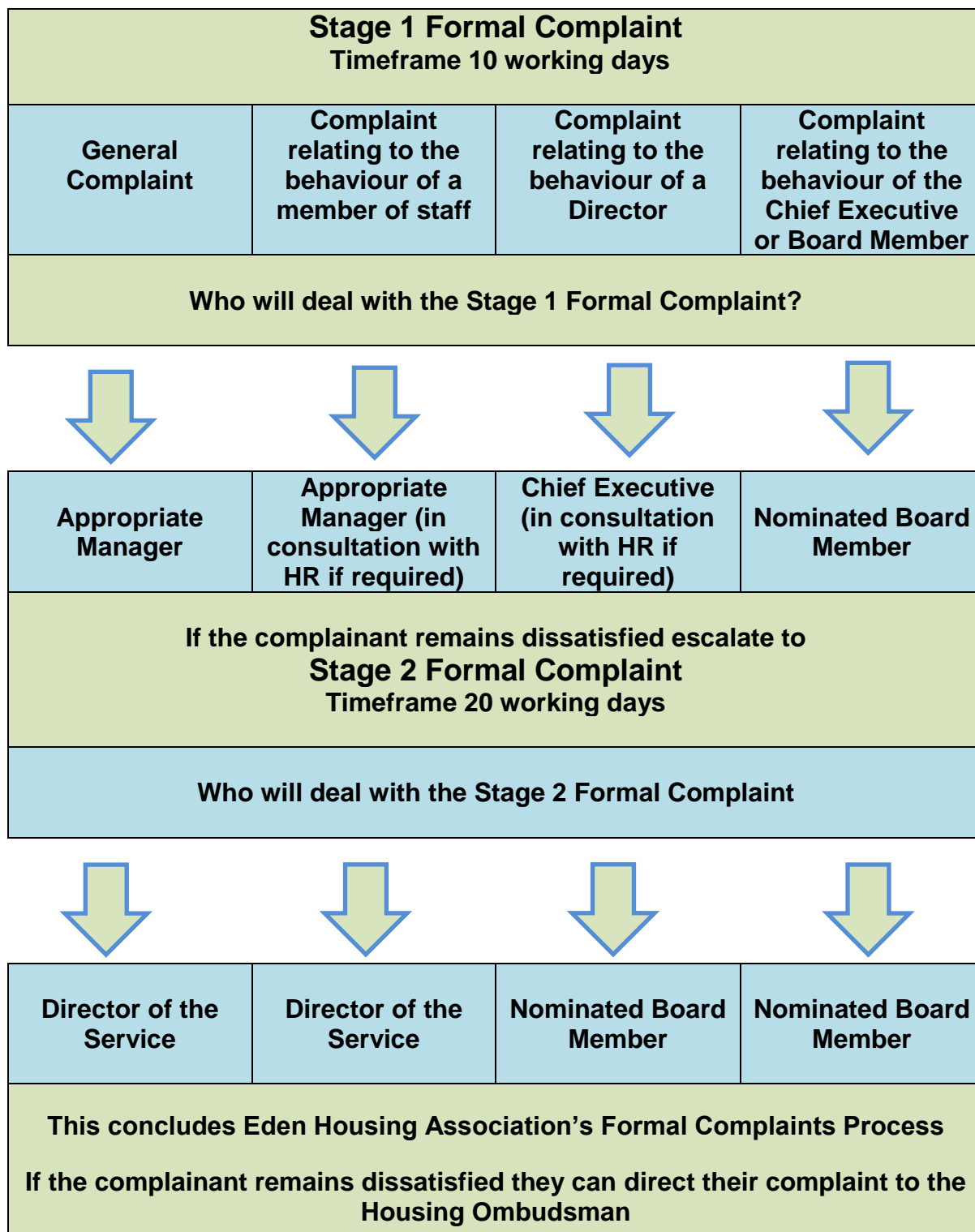
Change Log

Name	Date	Version	Change
	When published		

Feedback Method	Responsible for registering on Feedback Manager	Officer Assigned to for investigation and closure	<i>Appendix 2</i> Timescale for completion
Compliment	Any member of EHA staff	Manager of individual/service area	No completion timescale set. Compliment is assigned to the relevant manager as soon as it has been logged. Manager then responsible to raise with individual or team. Good practice to do this within 14 working days.
Comment	Any member of EHA staff	Relevant member of staff/manager	No completion timescale set. Comment is assigned to the relevant member of staff/manager as soon as it has been logged. Good practice to investigate within 14 working days and update the customer/Feedback Manager.
Follow Up Request	Any member of EHA staff	Relevant member of staff/team	Completion timescale set at 5 working days. Officers will receive a daily reminder/alert if FUR is not closed within 5 working days.
Stage 1 Formal Complaint	Any member of EHA staff	Relevant Manager	Completion timescale set at 10 working days.
Stage 2 Formal Complaint	Any member of EHA staff	Relevant Director, Chief Executive or nominated Board Member	Completion timescale set at 20 working days.
Contract Disputes	Any member of EHA staff	Relevant member of Management or Executive Team	Dependant on details within the individual Contract or Service Level Agreement

Appendix 3

Formal Complaints Process – Who deals with Formal Complaints and where the customer can direct their complaint if they remain dissatisfied and have exhausted the internal complaints process.



Housing Ombudsman – If the complainant remains dissatisfied, they can refer to the Housing Ombudsman. Their aim is to deal with each complaint to find the best outcome for the individual circumstances.

Once the complaint has been received the Housing Ombudsman may:

- Work with the complainant and the landlord to resolve the dispute under their early resolution procedure. For example using their experience of resolving complaints to make suggestions to the landlord and/or the customer
- Carry out an investigation - this generally takes place when the Housing Ombudsman decide an investigation is proportionate to the circumstances and evidence presented
- Refer the case to a different organisation if it is an issue that does not fall within the Housing Ombudsman's jurisdiction

Further information relating to the Housing Ombudsman can be obtained by contacting the Housing Ombudsman:

- Tel: 0300 111 3000
- Email: info@housing-ombudsman.org.uk
- Post: Housing Ombudsman Service, PO Box 152, Liverpool L33 7WQ
- Online www.housing-ombudsman.org.uk

Phones lines are open 9.15 am – 5.15pm Monday to Friday (except public holidays).

Calls to and from 0300 111 3000 and direct dial lines of the Dispute Resolution Team are recorded for training and monitoring purposes.

Housing Ombudsman Scheme

The Housing Act 1996 requires all social landlords to be members of an approved scheme. The Housing Ombudsman Scheme enables tenants and other individuals to raise complaints about members and have them independently investigated.

The role of the Housing Ombudsman is to resolve disputes, this may include making awards of compensation or other remedies when appropriate, in addition they aim to support and encourage effective landlord-tenant dispute resolution.

Complaint Handling Code

During 2020 the Housing Ombudsman published a new Complaint Handling Code in response to concerns about the consistency and accessibility of complaint procedures. The Code also takes account of findings from the 2018 Social Housing Green Paper and issues previously experienced by the Ombudsman when dealing with complaints, these included:

- Difficulties raising a complaint (access)
- Lack of available information on the process
- Processes that were difficult to navigate
- Lack of consistency between landlords
- Lengthy processes (often more than two stages)
- Little opportunity to hold the landlord to account
- Delays in landlords engaging with residents
- Landlords not accepting or refusing to escalate complaints
- Delays in landlords engaging with the Housing Ombudsman

Determination of Complaint Handling Failure Orders

The revised Housing Ombudsman scheme allows the Ombudsman to issue a determination of complaint handling failure (a complaint handling failure order) where a landlord is failing to comply with its membership obligations. Examples of where this may happen includes, but is not restricted to:

- Non-compliance with the Code
- Failure to accept a Formal Complaint in a timely manner or to exclude a complaint from the process without good reason
- Inaccessible complaints process and procedures or unreasonable restrictions as to how a complaint can be made
- Not managing complaints in accordance with our Policy
- Failure to progress a complaint through the procedure
- Failure to keep the resident updated
- Failure to notify the resident of the right to refer the complaint to the Ombudsman
- Failure to provide evidence to support investigation by the Ombudsman

In all cases the Ombudsman will provide the landlord with details of the presenting issue and provide an opportunity for the landlord to rectify this before a complaint handling failure order is made.

Performance Reports

The Housing Ombudsman is committed to openness and transparency, they plan to publish quarterly reports detailing the total number of complaint handling orders issued, names of the landlord and reason for the orders, this information will be shared with the Regulator for Social Housing.

Complaint Handling Code Self-Assessment

As part of the Complaint Handling Code, the Ombudsman expects landlords to carry out regular self-assessments against the Code, take appropriate action to ensure compliance and to publish findings on their website. Eden Housing Association's first self-assessment was published on 31 December 2020 with all associated actions to be complete by 31 March 2021. Thereafter the self-assessment will be reviewed annually.

Appendix 5

This guidance note from the Housing Ombudsman is particularly concerned with claims pursuant to the Pre-Action Protocol for Housing Conditions Claims (the protocol) but can be applied to any relevant legal action

Issue

There will always be some matters of disrepair that will be more complex and difficult to resolve than others. Residents may consider resorting to legal claims to get these issues resolved, and landlords are concerned about the increase in the number of legal firms seeking out disrepair claims. This guidance note is particularly concerned with claims made pursuant to the Pre-Action Protocol for Housing Conditions Claims (the protocol) but can be applied to **any relevant legal action**.

Legal action can be stressful, costly and time-consuming for residents and, for landlords, it can divert much needed funds away from investment programmes. It is, therefore, particularly important that these cases are handled with care to maintain the relationship between the resident and the landlord and to minimise the risk of them becoming protracted and contentious.

Background

In order to effectively manage these cases, landlords should ensure that they are equipped to identify cases at risk of becoming legal issues at an early stage and have appropriate strategies in place to progress them accordingly. These processes should have continuing emphasis on ensuring that the resident: is kept informed; feels that the landlord is taking the issue seriously; and is assured that the matter is progressing.

The Ombudsman's approach

Under the Housing Act 1996, where the Housing Ombudsman investigate a complaint, they must determine it by reference to what is, in the Ombudsman's opinion, fair in all the circumstances. When assessing cases involving potential legal claims, they will often consider how the landlord handled both the substantive repairs complained of and the associated formal complaint.

Managing legal cases

Whilst it is a resident's prerogative to follow the protocol and make a claim, they should first consider whether following alternative dispute resolution (ADR) avenues, such as the landlord's internal complaints process (ICP) and the Housing Ombudsman's investigation process, might be more beneficial. Both the Ombudsman and the courts will look to see that ADR has been attempted in the first instance. Making use of ADR will usually mean:

- More timely resolution of the issues
- A more simple and flexible approach to redress
- No legal costs incurred by the resident
- Reduced costs for the landlord allowing greater expenditure on investment programmes

- The investigation and resolution will not be limited in scope in the way that a disrepair claim would be
- The potential to benefit other residents in similar circumstances through resolution and proactive learning
- There is an impartial and independent assessment of the landlord's actions by the Ombudsman.

Even when a landlord receives correspondence initiating the protocol, it is important that they do not disengage from either the ICP **or the repair issue itself**. Commencing the protocol does not constitute legal proceedings and ADR can be pursued at any stage of the protocol.

The Ombudsman's view is that a matter does not become 'legal' until proceedings have been 'issued'. The issuing of proceedings involves filing details of the claim, such as the Claim Form and Particulars of Claim, at court. The court will then serve this on the respondent for them to answer to.

The Ombudsman also stresses the importance of landlords remaining committed to inspecting properties as soon as a claim is raised and to completing the repairs needed as soon as is practicable. Where a resident has been advised by a solicitor to deny access to complete the repairs, the landlord should consider alternative methods of gaining access, such as seeking an injunction.

In the interests of effectively managing legal claims and promoting ADR, landlords should consider taking the following steps:

- Being clear with the resident on how it is handling correspondence – whether under the ICP or the protocol or both.
- Clearly communicating to the resident when a complaint has exhausted the ICP, and which correspondence constitutes the final complaint response (this can be from the landlord's complaints team or legal team/representative and can include a landlord's response to a letter of claim under the protocol).
- Directing residents who have completed the ICP to the Ombudsman, for a free, independent and impartial assessment of the case. Whilst landlords may manage residents' expectations around our jurisdiction, it is ultimately for us to decide whether we will investigate a complaint.
- Even when proceedings have been issued, ensuring that all matters raised in subsequent correspondence form part of those proceedings and do not need addressing via another route, such as the ICP. Landlords should make use of the full effect of their ICP wherever possible and not prematurely close complaints because of existing unrelated proceedings.
- Using intelligence from these cases to identify potentially systemic issues (which might be replicated across a building or estate) and feed into their long-term asset management strategy and/or proactive actions to prevent similar cases.

Spotlight on Damp and Mould

Whilst claims under the protocol or complaints about repairs may concern issues other than damp and mould, this section of the guidance focuses on complaints relating to this issue.

When investigating an unresolved complaint in relation to Damp and Mould the Ombudsman's assessment will include:

- Whether the landlord has fully and fairly investigated the issues, including engaging independent expertise where appropriate, and communicated this effectively with the resident?
- Where the issues are structural, has the landlord taken appropriate and reasonable steps to undertake repairs and address them?
- Where the issues are non-structural, has the landlord done all it can to mitigate the impact and provide appropriate support to the resident?
- Throughout its response, has the landlord considered the individual circumstances of the resident, including any vulnerabilities or health issues?
- Where significant works are required, has the landlord appropriately managed the resident's expectations regarding timescales, considered whether a decant might be necessary, and/or completed smaller remedial works to improve the resident's living environment pending completion of the works?
- Has the landlord taken appropriate steps to ensure the effective operation of communication channels between its own teams and the resident throughout the repairs and complaints processes?

Each case will be considered on its own individual facts and circumstances. This guidance note is not intended to restrict the Ombudsman's investigations or fetter their discretion.