

### 1.0 INTRODUCTION

- 1.1 This Policy sets out how SBHA will deal with complaints about the services provided in line with the Scottish Public Services Ombudsman (SPSO) guidelines and the most recent Model Complaints Handling Procedure (MCHP) for Registered Social Landlords (RSLs).
- 1.2 A complaint is:  
***‘..an expression of dissatisfaction by one or more members of the public about SBHA’s action or lack of action, or about the standard of service provided by or on behalf of SBHA.’***
- 1.3 Anyone who receives, requests or is affected by the services of SBHA can make a complaint. This obviously includes SBHA’s Tenants. However, this also includes a member of the public who has had access to or has been impacted by SBHA’s services. All these people are SBHA’s customers.
- 1.4 There will be occasions where a customer is unable or reluctant to make a complaint on their own. SBHA will accept complaints brought by a Third Party, as long as appropriate consent is obtained from the customer.

### 2.0 LEGISLATIVE BACKGROUND

- 2.1 The Public Services Reform (Scotland) Act 2010 (The Act) gave the SPSO the authority to lead the development of simplified and standardised complaints handling procedures across the public sector.
- 2.2 The Act provided the SPSO with powers in relation to the publication of and compliance with model Complaints Handling Procedures (MCHPs). The MCHP for RSLs was first published in April 2012 and reviewed in 2020. RSLs have a duty to comply with this.
- 2.3 The SPSO introduced an internal unit, the Complaints Standards Authority (CSA) to work in partnership with stakeholders across the public sector as they develop model complaints handling procedures in line with the framework of the SPSO’s ‘Statement of Complaints Handling Principles’ and published ‘Guidance on a Model Complaints Handling Procedure’.
- 2.4 Compliance with the MCHP is monitored by the Scottish Housing Regulator (SHR), in conjunction with the SPSO, through the Scottish Social Housing Charter (SSHC) and the Annual Return on the Charter (ARC). The monitoring of compliance feeds into the SHR’s risk-based approach to regulation.
- 2.5 The SHR has a duty to consider issues raised with them about ‘significant performance failures’. A significant performance failure is defined by the SHR as something that a landlord does or fails to do that puts the interests of its Tenants at risk, and which the landlord has not resolved. This is something that is a systemic problem that does, or could, affect all a landlord’s Tenants. A significant performance failure happens when:
- a landlord is not delivering the outcomes and standards in the SSHC over a period of time; or
  - a landlord is not achieving the regulatory standards on governance or financial management.

### 3.0 COMPLAINT HANDLING PRINCIPLES

3.1 The SPSO's Statement of Complaints Handling Principles, approved by the Scottish Parliament, forms the basis of SBHA's Complaints Handling Policy and Procedure. These Principles state that an effective complaints handling procedure is:

- a) **User-focused:** it puts the complainant at the heart of the process.
- b) **Accessible:** it is appropriately and clearly communicated, easily understood and available to all.
- c) **Simple and timely:** it has as few steps as necessary within an agreed and transparent timeframe.
- d) **Thorough, proportionate, and consistent:** it should provide quality outcomes in all complaints through robust but proportionate investigation and the use of clear quality standards.
- e) **Objective, impartial and fair:** it should be objective, evidence-based and driven by the facts and established circumstances, not assumptions, and this should be clearly demonstrated.

3.2 SBHA's Complaints Handling Procedure:

- a) **Seeks early resolution:** it aims to resolve complaints at the earliest opportunity, to the service user's satisfaction wherever possible and appropriate.
- b) **Delivers improvement:** it is driven by the search for improvement, using analysis of outcomes to support service delivery and drive service quality improvements.

### 4.0 WHAT IS A COMPLAINT?

4.1 A complaint may relate to:

- failure or refusal to provide a service
- the 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 SBHA's policies or its impact on the individual
- 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 team member 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).

These examples are given to provide some guidance and are not exhaustive.

4.2 There may be instances when a customer says they 'don't want to complain' but they go on to express dissatisfaction. This will be handled as a complaint.

4.3 A complaint is **not**:

- a routine first-time request for a service
- a request for compensation only
- issues that are in court or have already been heard by a court or a tribunal
- 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
- a request for information under the Data Protection or Freedom of Information (Scotland) Acts
- a grievance by a team member or a grievance relating to employment or staff recruitment
- a concern raised internally by a team member (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 SBHA has already given its final decision
- abuse or unsubstantiated allegations about SBHA or teams where such actions would be covered by SBHA's Unacceptable Behaviour protocol; or
- a concern about the actions or service of a different organisation, where SBHA has no involvement in the issue (**except** where the other organisation is delivering services on SBHA's behalf: see "**Complaints about contracted services**").

## 5.0 WHO CAN MAKE A COMPLAINT?

5.1 Anyone who receives, requests, or is affected by SBHA's services can make a complaint. This obviously includes Tenants. It also includes a member of the public who could have access to or be affected by SBHA services, including antisocial behaviour services. In this Policy these people are termed 'customers', regardless of whether they are or were using a service.

5.2 SBHA also accepts complaints from the representative of a person who is dissatisfied with its service.

5.3 All members of the community have the right to equal access to SBHA's complaints procedure. It is important to recognise the barriers that some customers may face in complaining. See Section 20 on how SBHA will provide support to Customers to overcome these barriers.

5.4 For clarity, where an employee also receives a service from SBHA as a member of the public, they may complain about that service.

## 6.0 HANDLING ANONYMOUS COMPLAINTS

6.1 SBHA values all complaints. This means all complaints, including anonymous complaints, will be treated seriously and action taken to consider them further, wherever this is appropriate. Generally, anonymous complaints will be considered if there is enough information in the complaint to enable further enquiries to be made. If, however, an anonymous complaint does not provide enough information to enable further action

to be taken, SBHA may decide not to pursue it. Any decision not to pursue an anonymous complaint must be authorised by a senior manager.

- 6.2 If an anonymous complaint makes serious allegations, it will be referred to a senior officer immediately.
- 6.3 If SBHA pursues an anonymous complaint further, the issues will be recorded as an anonymous complaint to help ensure the completeness of complaints records held and allow corrective action to be taken where appropriate.

## **7.0 WHAT IF THE CUSTOMER DOES NOT WANT TO COMPLAIN**

- 7.1 If a customer has expressed dissatisfaction in line with SBHA's definition of a complaint but does not want to complain, SBHA will advise them that all expressions of dissatisfaction are considered, and that customer complaints offer SBHA the opportunity to improve services where things have gone wrong. SBHA will encourage the customer to submit their complaint and allow SBHA to deal with it through the MCHP. This will ensure that the customer is updated on the action taken and receives a response.
- 7.2 If, however, the customer insists they do not wish to complain, SBHA will record the issue as an anonymous complaint. This will ensure that the customer's details are not recorded on the complaints database, and that they receive no further contact about the matter. It will also help to ensure the completeness of the complaints data recorded and will still allow SBHA to fully consider the matter and take corrective action where appropriate.

## **8.0 COMPLAINTS INVOLVING MORE THAN ONE SERVICE OR ORGANISATION**

- 8.1 Where a complaint relates to the actions of two or more of SBHA's services, SBHA will advise 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.
- 8.2 If a customer complains to SBHA about the service of another agency or public service provider, but SBHA has no involvement in the issue, SBHA will advise the customer to contact that organisation directly.
- 8.3 If the complaint relates to one of SBHA's services and includes one or more of SBHA's contractors, SBHA would normally deal with the complaint, however, depending on circumstances, SBHA may agree with the contractor who will take the lead. Where this happens SBHA will work together to investigate all the matters simultaneously.
- 8.4 However, if a complaint relates to an SBHA service and the service of another agency or public service provider (for example a local authority or a government department), and SBHA has a direct interest in the issue, SBHA will handle the complaint about its service through the MCHP.

## **9.0 COMPLAINTS ABOUT CONTRACTED SERVICES**

- 9.1 Where SBHA uses a contractor to deliver a service on its behalf, SBHA will remain responsible and accountable for ensuring that the services provided meet SBHA's standard (including in relation to complaints). SBHA will either do so by:
- ensuring the contractor complies with this Policy; or
  - ensuring the contractor has their own procedure in place, which fully meets the standards in this Policy. At the end of the investigation stage of any such complaints the contractor must ensure that the customer is signposted to the SPSO.

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

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

## **10.0 COMPLAINTS AND OTHER PROCESSES**

10.1 Complaints can sometimes be confused (or overlap) with other processes, such as disciplinary or whistleblowing processes. Guidance on how to handle these is available for team members dealing with complaints of this nature.

## **11.0 WHAT TO DO IF THIS POLICY DOES NOT APPLY?**

11.1 If the issue does not meet the definition of a complaint or if it is not appropriate to handle it under this Policy (for example, due to time limits), SBHA will explain to the customer why this decision has been made. SBHA will also tell them what action (if any) will be taken (for example, if another procedure applies), and advise them of their right to contact the SPSO if they disagree with SBHA's decision not to respond to the issue as a complaint.

11.2 Where a customer continues to contact SBHA about the same issue, SBHA will explain that they have already been given a final response on the matter and signpost them to the SPSO. SBHA may also consider whether it needs to take action under SBHA's Unacceptable Behaviour Policy.

## **.012.0 COMPLAINTS HANDLING PROCESS**

12.1 SBHA aims to provide a quick, simple, and streamlined process when dealing with complaints with a strong focus on local, early resolution by empowered and well-trained staff. Where possible, SBHA will **resolve** the complaint to the customer's satisfaction. Where this is not possible, SBHA will give the customer a clear and reasoned response to their complaint.

12.2 SBHA adopts the SPSO's Model Complaints Handling Procedures including two opportunities to resolve complaints internally:

- a) Stage 1: Frontline Resolution, and
- b) Stage 2: Investigation.

## **13.0 STAGE 1 - FRONTLINE RESOLUTION**

13.1 The purpose of the Frontline Resolution stage of this Complaints Handling Policy is to attempt to quickly resolve customer complaints which are straightforward and require little or no investigation. Complaints at this stage of the process may be addressed by any relevant team member.

13.2 This approach is driven by the principle of seeking early resolution and aims to resolve complaints at the earliest opportunity, and as close to the point of service delivery as possible. This may be through direct discussions with the customer, or by referring the complaint to a colleague involved in the service that is the focus of the complaint.

13.3 A customer can make a complaint:

- in writing
- in person
- by telephone

- electronically, or
  - by an advocate complaining on the customer's behalf.
- 13.4 Frontline Resolution should be completed within **five working days**. Action to resolve a complaint at the Frontline Resolution stage of the process will always be considered regardless of how the complaint is received from the customer.
- 13.5 If the timeline for the frontline response stage has been extended in line with this Policy (Section 15), the response will be provided (or the complaint escalated) on day ten, at the latest.

## STAGE 2 - INVESTIGATION

- 13.6 Complaints handled at this stage are those that may not have been resolved at Stage 1 or are so complex that they require further investigation before SBHA can provide a decision.
- 13.7 When dealing with complaints at this stage SBHA will acknowledge receipt of the complaint **within three working days**
- 13.8 SBHA will always aim to provide the customer with a full response to their complaint **within 20 working days** but there may be occasions where investigations will take longer than this to complete. Where this is the case, SBHA will agree revised limits with the customer and keep them updated on progress.

## 14.0 RESOLVING THE COMPLAINT

- 14.1 A complaint is **resolved** when both SBHA and the customer agree what action (if any) will be taken to provide full and final resolution for the customer, without making a decision about whether the complaint is upheld or not upheld.
- 14.2 SBHA will try to resolve complaints wherever possible, although accepts that this will not be possible in all cases.
- 14.3 A complaint may be resolved at any point in the complaint handling process, including during the investigation stage.
- 14.4 Where a complaint is resolved, SBHA does not normally need to continue looking into it or provide a response on all points of complaint. In all cases, SBHA will record the complaint outcome (resolved) and any action taken and signpost the customer to stage 2 (for stage 1 complaints) or to independent external review as usual (see "**Independent external review**").
- 14.5 If the customer and SBHA are not able to agree a resolution, SBHA will follow this Policy to provide a clear and reasoned response to each of the issues raised.

## 15.0 EXTENSIONS TO RESPONSE TIMELINES

- 15.1 **Stage 1: Frontline Response** In exceptional circumstances, a short extension of time may be necessary due to unforeseen circumstances (such as the availability of a key staff member). Extensions must be agreed with an appropriate manager. SBHA will [advise](#) the customer about the reasons for the extension, and when they can expect a response. The maximum extension that can be granted is five working days (that is, no more than **ten working days** in total from the date of receipt).
- 15.2 If a complaint will take more than five working days to look into, it should be handled at stage 2 immediately. The only exception to this is where the complaint is simple and

could normally be handled within five working days, but it is not possible to begin immediately (for example, due to the absence of a key staff member). In such cases, the complaint may still be handled at stage 1 if it is clear that it can be handled within the extended timeframe of up to ten working days.

- 15.3 If a complaint has not been closed within ten working days, it should be escalated to stage 2 for a final response.

#### **Closing the complaint at the frontline response stage**

- 15.4 If SBHA conveys the decision face-to-face or on the telephone, it is not required to write to the customer as well (although SBHA may choose to). SBHA will:

- tell the customer the outcome of the complaint (whether it is resolved, upheld, partially upheld, or not upheld)
- explain the reasons for its decision (or the agreed action taken to resolve the complaint (see **Resolving the complaint**)); and
- explain that the customer can escalate the complaint to stage 2 if they remain dissatisfied and how to do so.

- 15.5 SBHA will keep a full and accurate record of the decision given to the customer. If SBHA is not able to contact the customer by phone, or speak to them in person, SBHA will provide a written response to the complaint where an email or postal address is provided, covering the points above.

- 15.6 If the complaint is about the actions of a particular team member/s, SBHA will share with them any part of the complaint response which relates to them, (unless there are compelling reasons not to).

- 15.7 The complaint will then be closed, and the complaints system updated accordingly.

- 15.8 At the earliest opportunity after the closure of the complaint, the team member handling the complaint will consider whether any learning has been identified. See **Learning from complaints**.

#### **Stage 2: Investigation**

- 15.9 Not all investigations will be able to meet this **20 working days deadline**. For example, some complaints are so complex that they require careful consideration and detailed investigation beyond the 20-working day timeline. It is important to be realistic and clear with the customer about timeframes, and to advise them early if SBHA thinks it will not be possible to meet the 20-day timeframe, and why. SBHA should bear in mind that extended delays may have a detrimental effect on the customer.

- 15.10 Any extension will be approved by an appropriate manager. SBHA will keep the customer and any member/s of staff complained about updated on the reason for the delay and give them a revised timescale for completion. SBHA will contact the customer and any member/s of staff complained about at least once every 20 working days to update them on the progress of the investigation.

#### **Closing the complaint at the investigation stage**

- 15.11 The response to the complaint will be in writing (or by the customer's preferred method of contact) and will be signed off by a manager or officer who is empowered to provide the final response on behalf of SBHA.

- 15.12 SBHA will advise the customer the outcome of the complaint (whether it is resolved, upheld, partially upheld, or not upheld).
- 15.13 Where a complaint has been **resolved**, the response may not provide a decision on all points of complaint but will instead confirm the resolution agreed.
- 15.14 If the complaint is about the actions of a particular team member/s, SBHA will share with them any part of the complaint response which relates to them, (unless there are compelling reasons not to).
- 15.15 SBHA will record the decision, and details of how it was communicated to the customer, on the complaints system.
- 15.16 At the earliest opportunity after the closure of the complaint, the team member handling the complaint will consider whether any learning has been identified.

## **16.0 MEDIATION**

- 16.1 Where appropriate, SBHA will consider using services such as mediation or conciliation for complex complaints, or complaints where customers and other interested parties have become entrenched in their position to try to resolve the matter, and to reduce the risk of the complaint escalating further.
- 16.2 In such instances revised timescales for resolution of the customer's complaint will be agreed.

## **17.0 INDEPENDENT EXTERNAL REVIEW (SPSO)**

- 17.1 The SPSO is the final stage for complaints about public services in Scotland. This includes complaints about housing associations and co-operatives. If a customer remains dissatisfied with SBHA after following its complaints handling process, the customer can ask the SPSO to consider their complaint.
- 17.2 The SPSO cannot normally look at complaints:
- where the complaints handling procedure of SBHA has not been exhausted
  - more than 12 months after the customer became aware of the matter they want to complain about, or
  - that have been or are being considered in court.

## **18.0 MAINTAINING CONFIDENTIALITY**

- 18.1 Confidentiality is important in complaints handling This includes maintaining the customer's confidentiality and explaining to customers the importance of confidentiality generally. SBHA will always have regard to any legal requirements, for example, data protection legislation, together with internal policies on confidentiality and the use of customer's information.
- 18.2 Any third party will not be told any more about the complaint than is strictly necessary to obtain the required information. Likewise, witnesses will be advised of their obligation to keep details of the investigation confidential wherever possible. This includes circumstances where any third party is permitted to be present as part of the investigation. In such an event they will be advised of the need to respect the confidentiality of any information learned during complaints investigation.
- 18.3 All information received in connection with a complaint is confidential to SBHA. This means that the information will only be shared with or passed on to other individuals and agencies with the prior written consent of the person providing the information.

## **19.0 MANAGING UNACCEPTABLE BEHAVIOUR**

19.1 SBHA recognises that a customer's reasons for complaining may contribute to the way in which they present their complaint. Regardless of this, SBHA will treat all complaints seriously and properly assess them. However, SBHA also recognises that the action of customers who are angry, demanding, or persistent may result in unreasonable demands on time and resources or unacceptable behaviour towards SBHA team members. In such instances SBHA will apply SBHA's Unacceptable Behaviour procedures to protect staff from unacceptable behaviour such as unreasonable persistence, threats, or offensive behaviour from customers.

## **20.0 SUPPORTING THE CUSTOMER**

20.1 All members of the community have the right to equal access to SBHA's 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.

20.2 SBHA will always consider its commitment and responsibilities to equality and will make reasonable adjustments to its service to help the customer where appropriate. SBHA will seek to ensure easy access to this Complaints Handling Policy for customers who do not have English as a first language and may need help with interpretation and translation services, and other customers who may have specific needs.

20.3 Several support and advocacy groups are available to support customers in pursuing a complaint and customers will be signposted to these as appropriate.

## **21.0 TIME LIMIT FOR MAKING COMPLAINTS**

21.1 The MCHP sets a time limit of six months from when the customer first knew of the problem, within which time they may ask SBHA to consider the complaint, unless there are special circumstances for considering complaints beyond this time.

21.2 SBHA will apply this time limit with discretion. In decision making SBHA will take account of the Scottish Public Services Ombudsman Act 2002 (Section 10(1)), which sets out the time limit within which a member of the public can normally ask the SPSO to consider complaints. The limit is one year from when the person first knew of the problem they are complaining about unless there are special circumstances for considering complaints beyond this time.

## **22.0 MONITORING AND REVIEW**

22.1 SBHA will maintain a register of complaints and use this to help audit performance and provide feedback to help to ensure that services are continuously improved. SBHA will use the complaint data for analysis and management reporting. By recording and using complaints information in this way, the causes of complaints can be identified, addressed and, where appropriate, training opportunities can be identified, and service improvements can be introduced.

22.2 SBHA complies with the SPSO's standardised approach for the recording and reporting of complaints developed by the SPSO to allow all RSLs to compare performance over time, engage in benchmarking activities and share best practice.

22.3 SBHA's Board of Management or relevant Sub-Committee will receive quarterly reports on complaints, showing volume, outcomes and trends, to assist in identifying areas of the SBHA's business and services which need to improve.

22.4 In addition, complaints performance and outcomes (anonymised where required) will be reported quarterly on SBHA's website and in newsletters and the annual report.

## **23.0 ROLES AND RESPONSIBILITIES**

23.1 The Director of Customer Services is the strategic lead for Complaints within SBHA and is responsible for developing strategies for improvement of the customer journey and reporting to Board and Customer Board on complaints handling performance and policy changes.

23.2 The Customer Services Manager leads operational management responsibility for Complaints within SBHA. This includes overseeing the handling of customer complaints, ensuring these are dealt with in a transparent, efficient and effective manner, seeking resolution agreeable to the customer and within timescales set in SBHA's Complaints Handling Procedure. Where necessary, assume responsibility for investigating and resolving complex and escalated customer services issues. The Customer Services Coordinator and Customer Services Team Leader are responsible for supporting and assisting the Customer Services Manager with these duties.

23.3 The Customer Services Manager is also responsible for:

- reviewing and monitoring Complaints performance and collating information for management and governance purposes.
- ensuring that feedback on Complaints responded to is published on SBHA's website, and lessons learned from Complaints are disseminated accordingly.
- liaising with the Scottish Public Services Ombudsman (SPSO), including regular requests for information received and consulting with them in the event of a complaint investigation.

23.4 Each Strategic Leader within SBHA has responsibility for ensuring their teams are aware of the Complaints Policy and Procedure. On receipt of a Complaint, they are responsible for ensuring suitable response at stage 1 and stage 2 are completed within SPSO timescales and according to the Policy and Procedures.

23.5 All SBHA employees are responsible for:

- familiarising themselves with this Policy;
- responding to Complaints efficiently and effectively, as per SBHA's Complaints Handling Procedures.

23.6 Everyone involved in the delivery of the complaints handling has a responsibility to ensure that they read, understand, and implement this Policy. All contractors, consultants and partner organisations are responsible for operating in accordance with this Policy when delivering services on behalf of SBHA.

23.6 All SBHA employees will receive complaints handling training, both at induction and regular intervals throughout employment. The Customer Service Manager is responsible for the delivery of this training with support from Human Resources.

## **25.0 NOTIFIABLE EVENTS**

25.1 A breach of this Policy or in the event of serious, significant or material incident relating to matters covered by the Policy, SBHA may be required to alert the Scottish Housing Regulator of the incident under Notifiable Events in accordance with the SHR's guidance.

## **26.0 POLICY REVIEW**

26.1 This Policy will be reviewed in 3 years or earlier if trends in complaints, customer feedback, or legislative changes necessitate this.