

Complaints & Discretionary Compensation Policy



Lead Director: Executive Director of Communities and Regeneration

Reference: POL 06

Committee Review: Homes and Neighbourhoods 8th May 2024



1. Introduction & Aim

- 1.1 This Policy sets out the criteria and principles we follow when dealing with formal complaints and the award of associated discretionary compensation. The Policy supports Cobalt Housing's (Cobalt's) Governance Framework and corporate objective to provide excellent customer services.
- 1.2 Having a clear and effective complaint handling process underpins:
- Creating a positive complaint handling culture through continuous learning and improvement
 - Providing easy access to the complaint's procedure ensuring fairness in complaint handling with a resident-focused approach
 - Demonstrating learning in annual reports, shared with residents and reported to the relevant Committees and Boards.
 - Compliance with the Housing Ombudsman Scheme section 51 and Schedule 2 of the Housing Act 1996 as amended by the Localism Act 2011, the Building Safety Act 2022 and the Social Housing (Regulation) Act 2023 (the Act). under the Housing Act 1996, and Complaint Handling Code 1st April 2024.

2. Policy Statement

- 2.1 A complaint is defined 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 an individual resident or group of residents.
- 2.2 The responsible Head of Service and Manager are assigned to take responsibility for complaint handling, including liaison with the Ombudsman Service.
- 2.3 Officers will recognise the difference between a service request and a formal complaint for example offer to raise a repair or report Anti-Social Behaviour. However, failure to provide an effective service that has been requested and the resident remains dissatisfied, these may be dealt with as a formal complaint If a formal complaint is not logged or progressed, reasoning should be provided and signposting the resident to the Housing Ombudsman.
- 2.4 Cobalt will aim to resolve dissatisfaction at the earliest opportunity; therefore, Officers will initially support the resident. Officers will try to resolve matters without the need to log a formal complaint. If a resident remains dissatisfied residents should be given the choice to make complaint. Contacts will be held within the Housing Management System
- 2.5 Residents should report dissatisfaction to Cobalt as soon as is practicable. Cobalt may not be able to raise a formal complaint if the matter to be investigated occurred more than 12 months previous. This is in line with the Housing Ombudsman Handling code 1.8. However, Cobalt will consider appropriate historical information where necessary.
- 2.6 This Policy is not intended to investigate dissatisfaction about matters relating to the processes and decisions concerning Cobalt Housing's governance structures or policy detail outside of Cobalt's direct control or responsibility such as when we apply a Policy or process owned by another organisation, for example where Cobalt participates in wider community projects or sub regional allocations policy. Signposting or guidance will be provided.
- 2.7 In circumstances where there is an appeal procedure, such as tenancy breaches, the appeal will take

precedence. However, residents may request a formal complaint if they believe the appeal process has not been correctly handled. The complaint investigation is not intended to review or replace the outcome of the appeal.

- 2.8 This Policy is not intended to manage complaints where there is an alternative legal route, employment, or other personnel issues and /or if legal proceedings are underway, concluded and relate to the same subject matter, for example an insurance claim. Personnel issues will be dealt with in a confidential manner and in compliance with GDPR requirements. In the instances of disrepair cases there should be no restriction from accessing services, as it may be appropriate for a formal complaint to be logged to address other dissatisfaction, for example, repairs outside of the disrepair case.
- 2.9 Cobalt may choose not to investigate anonymous complaints including where dissatisfaction is communicated via a social media platform and identity cannot be established.
- 2.10 From time-to-time Cobalt may use different procedures and methods of communication to support residents, including the provision of reasonable adjustments in line with the Equality Act 2010. Cobalt will provide a range of ways in which to log a complaint. Adjustments may also include reporting a safeguarding concern and involve appropriate external agencies when investigating a formal complaint.
- 2.11 There are very few circumstances when a complaint cannot be amicably investigated. However, Cobalt will adjust the policy when a matter is pursued in an unreasonable manner by the resident or the resident's representative including, for example:
- a) There is refusal to reasonably engage to either enable an investigation or conclude matters.
 - b) complaints are deemed to be frivolous or vexatious.
 - c) Where dealing with the complaint or the complainant takes up a disproportionate amount of Cobalt's available resources (or is likely to do so).
 - d) Where communication has broken down, and or complainants repeatedly change the substance of a complaint or raising unrelated concerns or insisting on seeing or speaking to a particular member of staff, when that is not possible.

Guidance in these matters is detailed within POL 47 - Unacceptable Behaviour Policy and includes actions such as: one point of contact, declining to investigate repeat matters or restricting the frequency and/or volume of contact.

- 2.12 In the circumstances where Cobalt act as an advocate such as a Housing Benefit appeal or supporting tenants in a complaint case against DWP, it should be noted that Cobalt is not always able to influence the outcome of the decision.

3. Policy Principles

- 3.1 Formal complaints will be managed using a 2-stage approach, 10 working day for stage 1 and 20 working days for a stage 2 review. Cobalt will signpost residents throughout the process with information about the Housing Ombudsman Service
- 3.2 The complaint will be logged within 5 working days following the referral in line with 4.1 of the Housing Ombudsman Code. The point at which the complaint is logged is the 1st day of the investigation target.
- 3.3 When a complaint is logged at Stage 1 or escalated to Stage 2, understanding of the complaint and the outcomes the resident is seeking should be clarified. The Code will refer to this as "the complaint definition". If any aspect of the complaint is unclear, the resident must be asked for clarification.

- 3.4 Board Members, Executive Management Team, Heads of Service and involved residents play a role in signposting dissatisfaction, however, would not be directly involved in the formal investigation during the initial stages. They will refer to a case handler.
- 3.5 Where residents raise additional complaints during the investigation, these must be incorporated into the stage 1 response if they are related, and the stage 1 response has not been issued. Where the stage 1 response has been issued, the new issues are unrelated to the issues already being investigated or it would unreasonably delay the response, the new issues must be logged as a new complaint.
- 3.6 A complaint response must be provided to the resident when the answer to the complaint is known, not when the outstanding actions required to address the issue are completed. Outstanding actions must still be tracked and actioned promptly with appropriate updates provided to the resident.
- 3.7 Complaint targets may be extended by mutual agreement, where an extension to this timescale is needed when considering the complexity of the complaint and the resident should be informed of the expected timescale for response. Any extension must be no more than 10 working days for stage 1 or 20 working days for 2 without good reason, and the reason(s) must be clearly explained to the resident.
- 3.8 Case Handlers will be assigned to complaints who will facilitate the investigation and keep records of the communication and correspondence. If a complainant remains dissatisfied with the outcome, they will be asked to discuss the matter with the Case Handler or provide further evidence of their continued dissatisfaction within 10 working days of the outcome letter in order to progress a review stage 2 where possible or appropriate to do so.
- 3.9 Where a resident has repeatedly refused to allow access to inspect the property or assess the complaint subject including repair works needed, we reserve the right to close the complaint, or Cobalt will request access under the tenancy terms and conditions.
- 3.10 Cobalt will take ownership of the formal complaint investigation, however, may direct complaint matters or claims to its contractors, suppliers or partners, for example for claims of damage.
- 3.11 Cobalt is open to working alongside third-party representatives at the complainant's request such as elected members, friends, or family. Cobalt will require residents' explicit consent and mutual agreement where applicable.
- 3.12 Where a complainant requests a Subject Access Request (SAR) to support their case, complaint timelines and targets will be adjusted accordingly.
- 3.13 Where a complaint involves external services such as utilities, environmental health services or district valuers, Cobalt may deal with the matter outside of the formal complaint Policy and timeframes. The resident will be asked to support the investigation, if for example the resident has a contractual agreement with an external organisation outside of Cobalt's control. Complainants may be asked to contact Liverpool City Council Pest Control department to complete pre-works before Cobalt can investigate further.
- 3.14 Complainants may be required to report matters directly to the Police or Social Services in line with local safeguarding guidance and may be requested to support the investigation process.

4.0 Discretionary Compensation Awards

- 4.1 There are circumstances when compensation is payable by landlords as part of a statutory obligation. Examples include Home loss/Disturbance payments, Right to Compensation for Improvements or Right to Repair.
- 4.2 Where something has gone wrong the case handler should acknowledge this and set out the actions it has already taken, or intends to take, to put things right. These can include:
- Apologising.
 - Acknowledging where things have gone wrong.
 - Taking action if there has been a delay.
 - Reconsidering or changing a decision.
 - Amending a record or adding a correction or addendum.
 - Providing a financial remedy.
 - Changing policies, procedures, or practices.
- 4.3 Every effort will be made to deliver high quality, effective services, in line with Policies and Procedures. If a formal complaint investigation shows the resident has experienced unnecessary inconvenience, discretionary compensation can be awarded. In these circumstances, discretionary awards are limited to a maximum of £250 as indicated on the chart at 4.10 below.
- 4.4 Where there is significant impact and serious and long-term effect on the complainant, a Head of Service or Director may award a higher level of discretionary compensation. Decisions for such cases will be dealt with on a case-by-case basis.
- 4.5 Levels of compensation will be awarded as instructed by the Housing Ombudsman Service.
- 4.6 Claims for actual losses or damaged goods will be considered during the formal investigation. Any claims for loss or damage must be reported as soon as is practicable to Cobalt Housing and the complainant must aim to mitigate any further damage, *for example, moving items out of harm's way*. Damaged items must be retained until an assessment has been made by Cobalt or its representatives. Where appropriate, Cobalt may direct complaints or claims for damage to its contractors or suppliers.
- 4.7 Cobalt will not award out of pocket expenses without prior agreement and may not always provide an alternative contractor but will endeavor to mediate between both parties.
- 4.8 Discretionary compensation is not to replace the resident's responsibility to purchase home contents insurance.
- 4.9 Where awarded any compensation payments will initially be in the form of vouchers, and by agreement via a BACs payment. Tenants can also request their compensation to be awarded to Cobalt nominated charity. Cobalt reserves the right to credit any awards to rent arrears or outstanding debt owed to Cobalt Housing.

4.10 Discretionary Compensation

Area	Detail	Payment Limit
Failure to meet a service standard or communication	<p>If we have failed to deliver a service or have provided incorrect information, we would normally apologise and do our best to put things right as soon as possible.</p> <p>If the complainant has been particularly inconvenienced or we have taken excessive time to rectify an issue the Complaint Case Handler can award a discretionary payment.</p>	<p>Up to a maximum of £50 for each service failure.</p> <p>Total maximum of £100</p>
Where there have been multiple instances of service failure connected with a matter and /or loss	<p>In some cases, loss will be dealt with by insurance companies, however if Cobalt identifies a failure of service that has caused the loss/cost, Cobalt will endeavour to make good any loss or direct costs.</p> <p>There is an understanding that some repair matters will require several diagnostic visits and multiple trades to attend. However, where multiple visits have been unnecessary and cause inconvenience and/or loss. The Case Handler will consider each case on its own merit.</p>	<p>Up to a maximum of £250. We may require all information and evidence to support any payment.</p>
Where there is significant impact and serious long-term effect on the complainant	<p>The complainant will be asked to support the investigation and provide details of significant impact and long-term impact.</p>	<p>Discretionary compensation, higher than the value of £250. Approval required by Senior Manager</p>

Risk Management

The key risk associated with non-delivery of this Policy is:

Risk Register Ref:	Risk:
GOV 18 Complaints and Discretionary Compensation	Failure to implement a formal Complaints and Discretionary Compensation Policy
Risk Consequences:	Management and Mitigation:

Reputational	Media and communications support for in the event of an incident.
Regulatory - Housing Ombudsman Service (HOS) investigation, resulting in mal administration and compensation	Agreed targets for timely response to complaints. Staff training and guidance available.
Regulatory - Regulator of Social Housing (RSH) investigation, e.g. failure to adhere to the Consumer Standards.	Annual regulatory and Ombudsman self-assessment and audit of Complaints process and outcomes completed.
Loss of ISO accreditation	Analysis and reporting of root causes, implementation of corrective and preventative actions and monitoring of effectiveness of actions
Financial - Potential claims	Insurance guidelines and specialist staff to deal with insurance claims.

Key Performance Indicators

90% of complainants to be satisfied with handling of the investigation
90% of complainants satisfied with the outcome of the investigation
100% of complaints closed within target time.

5. Regulatory & Legislative Compliance

- Equality Act 2010
- Housing Ombudsman scheme and Handling Code 2024
- General Data Protection Regulation (GDPR)
- Right to Repair (Introduced as part of the Citizens Charter Scheme on 1st April 1994)
- Right to Compensation for Improvements (introduced as part of the Citizens Charter Scheme on the 1st April 1994)
- Home Loss and Disturbance Payments (under the terms of the Land Compensation Act 1973 as amended).
- Regulator of Social Housing (RSH) Consumer Standards
- Localism Act 2011

6. Links to Other Key Documents

Unreasonable Behaviour Policy
Equality and Diversity Policy and access to services guidance

7. Governance of this Policy

Equality and Diversity	We aim to provide a tailored approach. Case Handlers will, where appropriate, discuss requests for a reasonable adjustment under the Equality Act 2010. Adjustments could include an assigned point of contact, extended timelines, alternative formats, and communication plans. These will be managed on a case-by-case basis. The organisation has trained mental Health first aiders to help provide guidance and support to Complaint Handlers. Officers may refer to the safeguarding policy if they have concerns connected with the resident's welfare whether this be directly or indirectly connected with the complaint subject. An EQIA found that there are no restrictions to how a complaint can be submitted.
Financial and Links to VFM	Dealing effectively with complaints and root causes delivers VFM and in addition early resolution reduces the risk of escalated matters and further resources required to manage a complaint. Effective management of formal complaints will support the reduction of disrepair cases.
Privacy and Data Protection	Personal sensitive data is protected within the Orchard Housing Management systems and assigned users. Policy and procedures in line with the General Data Protection Regulation (GDPR).
Health and Safety	Dealing effectively with complaints can protect the business by assessing any trends and ensuring preventive action is in place. In addition, the process allows staff to deal with complainants outside of the policy if their behaviour is deemed unreasonable.
Development and Consultation	The Policy has been developed using historical data associated with complaints and feedback. Benchmarking has been conducted across several sectors and consideration given to regulatory and legislative requirements. Tenants and staff have been approached to provide direct feedback.
Accessing Services	Complaints and feedback data were used for the development of this Policy. Protected Characteristics have been considered during the development of this policy
Monitoring and Review	KPIs are agreed and monitored to enable the business to continually improve services as a result of feedback. Learning and improvements arising from complaints are shared with residents, Officers and reported to relevant Committees and Boards

