

# Unacceptable user actions and behaviour

## 1. Introduction

This guidance sets out the approach of the Housing Ombudsman Service (HOS) to the very few users whose actions or behaviour we consider unacceptable. The term *user* includes anyone who contacts our office in connection with complaints and disputes.

## 2. Guidance aims

- 2.1 To make it clear to all users, both at initial contact and throughout their dealings with our office, what HOS can or cannot do in relation to their case. In doing so, we aim to be open and not raise hopes or expectations that we cannot meet.
- 2.2 To deal fairly, honestly, consistently and appropriately with all users, including those whose actions we consider unacceptable. We believe that everyone who approaches us has the right to be heard, understood and respected. We also consider that HOS staff have the same rights.
- 2.3 To provide a service that is accessible to everyone who is entitled to it. However, the Ombudsman retains the right, where he considers user actions to be unacceptable, to restrict or change such access.
- 2.4 To ensure that other users and HOS staff do not suffer any disadvantage from users who act in an unacceptable manner.

## 3. Defining unacceptable actions by complainants

- 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 a complaint approaching the Ombudsman. We do not view behaviour as unacceptable just because someone is forceful or determined. In fact, we accept that being persistent can be a positive advantage when pursuing a complaint.
- 3.2 However, the actions of users who are angry, demanding, or persistent may result in unreasonable demands on, or unacceptable behaviour towards, HOS staff. It is these actions that we consider unacceptable and aim to manage under this guidance. We have grouped these actions under three broad headings:

### Aggressive or abusive behaviour

- a. Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened, or abused.
- b. Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory remarks, and rudeness. We also consider that inflammatory statements and unsubstantiated allegations can be abusive behaviour.
- c. We expect our staff to be treated courteously and with respect. Violence or abuse towards staff is unacceptable. HOS staff understand the difference between anger and aggression. The anger felt by many complainants, for example, involves the subject matter of their complaint. However, it is not acceptable when anger escalates into aggression directed towards HOS staff.

### Unreasonable demands

- a. Users may make what we consider unreasonable demands on HOS through the amount of information they seek or provide, the nature and scale of service they expect, or the number of approaches they make. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the user.
- b. Examples of actions grouped under this heading include demanding responses within an unreasonable timescale, insisting on seeing or speaking to a particular member of staff, continual phone calls, emails, or letters, repeatedly changing the substance of the complaint or raising unrelated concerns.

- c. We consider these demands as unacceptable and unreasonable if they start to impact substantially on our work, such as taking up an excessive amount of staff time to the disadvantage of other users or functions.

#### Unreasonable persistence

- a. We recognise that some users will not or cannot accept that HOS 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 HOS persistently about the same issue.
- b. 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 this office can or cannot do, and continuing to pursue a case without presenting any new information. The way in which these users approach HOS may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.
- c. We consider the actions of persistent complainants and other users to be unacceptable when they take up what the Ombudsman regards as being a disproportionate amount of time and resources.

#### **4. Managing unacceptable actions by users**

- 4.1 There are very few users whose actions we consider unacceptable. How we aim to manage these actions depends on their nature and extent. If it adversely affects our ability to do our work and provide a service to others, we may need to restrict a person's contact with our office in order to manage the unacceptable action. We aim to do this in a way, wherever possible, which will still allow a case to progress through our casework processes. We may restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. We will try to maintain at least one form of contact. In extreme situations, we will tell the user in writing that their name is on a 'no personal contact' list. This means that they must restrict contact with our office to either written communication or through a third party.
- 4.2 The threat or use of physical violence, verbal abuse, or harassment towards the Ombudsman or his staff is likely to result in the ending of all direct contact with the perpetrator. Incidents may be reported to the Police. This will always be the case if physical violence is used or threatened.
- 4.3 We do not deal with correspondence or other forms of communication which is abusive to staff or contains allegations that lack substantive evidence. When this happens we will tell the sender that we consider their language offensive, unnecessary, and unhelpful. Whenever possible we will ask them to stop using such language and state that we will not respond to them if they do not stop. We may require future contact to be through a third party, and if they do not agree we will no longer deal with them.
- 4.4 HOS staff will end telephone calls if the caller is considered aggressive, abusive, or offensive. The staff member taking the call has the right to make this decision, tell the caller that the behaviour is unacceptable, and end the call if the behaviour does not stop.
- 4.5 When someone repeatedly telephones, visits the office without appointment, sends irrelevant or duplicate documents, or raises the same issues already considered, we may decide to:
- only take telephone calls from the user 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 member of staff before visiting the office, or that the user only contacts the office in writing;
  - return the documents to the person or, in extreme cases, advise them that further irrelevant documents will be destroyed;
  - take other action that we consider appropriate. We will, however, always say what action we are taking and why.

- 4.6 When a user continues to correspond on a wide range of issues, and this action is considered excessive, then we will tell them that only a certain number of issues will be considered in a given period, and ask them to limit or focus their requests accordingly.
- 4.7 User action may be considered unreasonably persistent if all internal review mechanisms have been exhausted and the user continues to dispute the decision we made – be it the determination of a complaint or the manner in which the case was handled. We will tell the user that no future communications concerning the case will be accepted. If the user insists in contacting us about the same issue, their communication will be read and filed, but only acknowledged or responded to if it provides significant new information relating to the case. There is no appeal against the decisions of HOS, and it is only for the Ombudsman to exercise discretion as to whether anything else can be done after we close a file – such as referring the case to another agency.

## 5. Deciding to restrict user contact

- 5.1 HOS staff who directly experience aggressive or abusive behaviour from a user when a case is still under consideration have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this guidance.
- 5.2 With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with HOS are only taken after careful consideration of the situation by a senior member of staff. Wherever possible, we will give a user the opportunity to modify their behaviour or action before this decision is taken. Users 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.
- 5.3 A user can appeal a decision to restrict contact. A senior member of staff who was not involved in the original decision will consider the appeal. They will advise the user in writing either that the restricted contact arrangements still apply or that a different course of action has been adopted.
- 5.4 We record all incidents of unacceptable actions by users. Where it is decided to restrict user contact, an entry noting this is made in the relevant file and on appropriate computer records.
- 5.5 A decision to restrict user contact may be reconsidered if the user demonstrates a more acceptable behaviour. The Deputy Ombudsman will review the status of all users with restricted contact arrangements as necessary.
- 5.6 When the behaviour of a user continues to be unacceptable, the Ombudsman or a senior staff member on his authority may decide that HOS will no longer deal with the user even if the case has not yet exhausted the internal processes. The Approved Scheme, which contains the terms of reference underpinning the statutory jurisdiction for the Ombudsman, enables him not to consider cases when they are *“being pursued in an unreasonable manner or are frivolous, vexatious or seek to raise again and unreasonably, in the opinion of the Ombudsman, matters which he has already decided upon”*.



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