

UNACCEPTABLE BEHAVIOUR POLICY

1. Purpose

- 1.1 Red Kite is committed to dealing with all feedback, enquiries, and service requests fairly, efficiently, and in a timely manner. Dealing with a tenant about feedback, an enquiry or a service request should normally be a straightforward process, but in a minority of cases, some people may pursue their enquiries in a way which can impede our efforts to help or resolve them. This also includes placing unreasonable demands on the service which would impact the level of service that can be offered to other tenants or behaviour which can cause damage to our reputation or that of our partners.
- 1.2 This policy takes into account the Housing Ombudsman's new Complaint Handling Code published in July 2020. The Ombudsman recognises that in certain circumstances it may be appropriate for a landlord to go outside its complaints policy and close complaints early if a resident exhibits unacceptable behaviour.
- 1.3 The Ombudsman Code does not define what type of behaviour is unacceptable and does not specify how a landlord should manage it. Landlords are expected to have a separate policy to deal with how such cases should be managed, recognising that managing such behaviour is an important part of effective complaint-handling.
- 1.4 This policy therefore covers our approach to dealing with tenants whose actions or behaviours are considered by Red Kite to be unacceptable and may be taking up an unreasonable amount of time and resource to deal with. It explains what we consider to be unacceptable behaviour and the action we will take when confronted by such behaviour.
- 1.5 Where the actions of tenants meet our definition of unacceptable behaviour, we will seek to take appropriate action to protect our employees and services from such behaviour.
- 1.6 Red Kite is committed to dealing with all tenants fairly, honestly, consistently and appropriately, including those tenants whose actions and behaviour are considered to be unreasonable.
- 1.7 Though Red Kite has a duty to protect its employees from any form of unreasonable behaviour and maintains a zero-tolerance approach, it also has a duty to its tenants to ensure that they are heard, understood, and respected.

2. Definitions

- 2.1 Within this policy, the term "tenant" is used to refer to our tenants and any other person who contacts us in relation to the services we provide.

We define unacceptable behaviour as when a tenant, because of the frequency or nature of their contacts with Red Kite, hinders our consideration of their or other people's concerns and/or intentionally seeks to damage our reputation or credibility maliciously or without justification.

3. Scope

3.1 Red Kite does not view behaviour as unacceptable simply because someone is assertive or determined in pursuing a complaint or raising a service request. We expect employees to be sympathetic and understanding when a tenant has experienced an upsetting incident or have a vulnerability which may cause them to act out of character without malice

3.2 Behaviour may become unacceptable if it is so demanding or persistent that it places unreasonable demands on the service and impacts the level of service that we can offer to others.

3.3 Examples of this type of behaviour may include one or more of the following:

3.4 Aggressive or abusive behaviour

Red Kite Community Housing employees are expected to understand the difference between anger and aggression. A tenant may feel justifiably angry about an issue. However, it is not acceptable when anger escalates into aggression towards our employees. Aggression is not restricted to acts that may result in physical harm and may also include behaviour or language (whether oral or written) or gestures which may cause employees to feel afraid, threatened or abused.

Examples of aggressive or abusive behaviour includes, but is not limited to:

- threats
- physical violence
- using hostile, abusive or foul/offensive language through any channel of communication
- derogatory remarks
- inflammatory statements
- unsubstantiated allegations
- evidencing an unreasonable fixation on an individual member of staff

3.5 When this type of unacceptable behaviour is demonstrated, action may also be taken in line with our Staff Protection Policy and Anti-social Behaviour policy. Action taken may include injunctions, reports to the police or ultimately possession proceedings.

3.6 Unreasonable demands

Red Kite will consider demands unreasonable if they impact substantially and unreasonably on its resources through the amount of information sought, the nature and scale of service expected, or the regularity or number of approaches made.

Examples of unreasonable demands include, but is not limited to:

- making excessive demands on the time and resources of the business
- asking for responses within an unreasonable timescale and which is beyond the scope of our procedures
- insisting on only seeing or speaking to a particular member of staff
- repeatedly changing the substance of an issue or complaint or raising unrelated concerns
- repeatedly requesting services that are contrary to a Red Kite Community Housing policy or would place a disproportionate burden upon the organisation
- making unsubstantiated complaints
- trolling or acting inappropriately online in such a way that their actions may damage our reputation, credibility or trust within the community
- recording meetings and conversations or taking photographs without the prior knowledge and consent of the other person involved
- adopting an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with Red Kite, but at the same time with a local Councillor, the general public through social media the media, the police, solicitors, and the Housing Ombudsman Service, or contacting several members of staff about the same issue.
- Engaging in behaviour which amounts to or which customers should know amounts to harassment of staff or which puts staff in fear of violence.
- Engaging in behaviour which might amount to "stalking" of staff such as
 - following staff
 - watching or spying on staff
 - contacting staff or commenting about them on their personal social media

3.7 Unreasonable persistence

Tenants who continue to pursue a concern, issue, or complaint because they refuse to accept that Red Kite is unable to assist them further (or provide a level of service other than the service already provided).

Examples of unreasonable persistence include, but is not limited to:

- refusal to accept a decision made in relation to a complaint or enquiry, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- continuing to pursue a case without presenting any new information
- refusing to specify the grounds of a complaint or concern, despite offers of assistance to do so or to engage in processes designed to assist them in resolving the issue
- refusal to accept that issues are not within the power of Red Kite to investigate, change or influence

3.8 To help avoid any ambiguity about the scope of this policy, examples of areas where this Policy does not apply include, but is not limited to:

- raising legitimate queries or criticisms about the way in which a complaint or any other procedure has been progressed
- if a complainant is unhappy with the outcome of a complaint and seeks to challenge it in accordance with our policies and procedures
- making more than one call or contact about an enquiry in a short space of time because we have failed to communicate new information, updates, next steps, or outcomes in a timely manner
- Having a determined or reasonably assertive approach
- sending regular updates when things change
- Raising dissatisfaction about the service received

(Note: The above may become 'unreasonable' depending on the way a tenant decides to pursue their actions).

4. Managing Unacceptable Behaviour

- 4.1 In the first instance any staff member noting such behaviour will raise concerns with the tenant and where necessary challenge any behaviour or actions deemed to be unacceptable in a constructive manner in line with our customer focused approach. Staff will also use their best endeavours to deescalate the situation at hand. This will allow the tenant time to consider and adjust their behaviour. Hopefully this will resolve any outstanding behavioural concerns.
- 4.2 Red Kite employees are expected to exercise their judgement in responding to unreasonable behaviour and take immediate action they deem appropriate.
- 4.3 Such action may include, but it not limited to:
- informing the perpetrator that their behaviour is unacceptable, and asking them to cease acting in such a way
 - giving advance notice that the communication will be terminated if the behaviour continues.
 - immediately removing themselves from the situation, where the contact is considered aggressive, abusive, or offensive.

In the event such informal approach fails, Red Kite will issue a written warning to the tenant setting out examples of the tenant's unacceptable behaviour and to set out the formal actions available to Red Kite in the event the unreasonable behaviour continues.

- 4.4 Any restrictions placed on a resident's contact due to unacceptable behaviour will be appropriate to their needs and will demonstrate regard for the provisions of the Equality Act 2010.
- 4.5 Formal actions can include but are not limited to:
- providing a single point of contact

limiting contact to a single form i.e. to writing, email or telephone only

- providing an authorised communication channel
 - limiting contact to certain times or to a limited number of times per week or month
 - only taking telephone calls at prearranged times
 - requiring the tenant to make an appointment to see a named member of staff before visiting the office
 - declining to give any further consideration to an issue unless any additional evidence or information is provided
 - only considering a certain number of issues in a specific period.
 - prohibiting of direct contact with a specific employee or employees through all communication channels
 - restricting all access with the perpetrator and communicating with a third party such as a joint tenant or advocate
 - advising the tenant that repeated contact on a matter we consider closed will not be responded to
 - prohibiting the tenant from attending Red Kite Community Housing events which are open to our tenants or the wider community
- other action that Red Kite consider appropriate, giving reasons e.g. taking legal action against the tenancy for defamatory or abusive comments on social media.

4.6 In extreme cases such as threats, physical violence or harassment towards an employee, actions could include involving the police, taking injunction action in court and ending direct contact with the tenant, and this would be managed through our ASB and Staff Protection Policies.

5. Right to Appeal

5.1 Where formal action has been taken for unreasonable behaviour, tenants will have the right to appeal that decision.

5.2 You can appeal our decision for the following reasons

- You believe that we haven't taken into account a key piece of evidence already provided
- You believe that reasonable adjustments have not been considered in relation to any disability or medical condition
- There is additional evidence that you consider to be important in making a decision and you want to send it to us
- The formal action will have such serious and life changing impact on you that it outweighs the need to take it – you will need to provide evidence of this

5.3 We cannot accept an appeal for any other reason – we know you may not be happy with a decision but unless your appeal is for one of the reasons here, we will be unable to consider it.

- 5.4 To appeal our decision, you should contact us and tell us which reason you are using to appeal and provide us with any supporting information. There is a deadline for this - you will need to contact us within 10 working days of our decision
- 5.5 We accept an appeal in all the following ways:
- **Emailing** feedback@redkitehousing.org.uk with the title – Request to Appeal Decision; or
 - **Telephoning** us on [01494 476100](tel:01494476100) advising us you are appealing a decision. We will ask for you to provide the information above and may need you to send further information in by email or post.
 - **In person** – you can advise any member of staff that you wish to appeal a decision. We will ask for you to provide the information above and may need you to send further information in by email or post.
 - **By post** to Red Kite Community Housing, Windsor Court Kingsmead Business Park, Frederick Place, London Road, High Wycombe HP11 1JU – please title your letter Request to Appeal Decision.
- 5.6 The appeal will be heard by a Head of Service not involved in the original decision our response to your appeal will be sent within 10 working days. In exceptional cases it may take us a little longer to consider the appeal. If this is the case, we will let you know and agree a date when you will have a decision.
- 5.7 As part of dealing with the appeal, we may contact you to ask questions and ensure we have all the right information.
- 5.8 Once the appeal decision has been made there will be no further appeal.
- 5.9 If you are unhappy with how we have managed your case, you can make a complaint via our Feedback Policy which is available on our website or on request. However, this will not form an appeal of the decision made.

6. Periodic Review

- 6.1. Any case where a tenant has been placed under a form of restricted contact due to unreasonable behaviour will be subject to a periodic review. This review will usually take place every 3 to 6 months from the date of the sanction or at the end of any individual sanction (i.e. if banned from contact for 3 months, at the 3-month point).
- 6.2. From time to time, it may be necessary for Red Kite to review a case beyond the 3 to 6 month timeframe. Where this is the case, Red Kite will contact the tenant in writing to inform them of the decision made, reasons for this and when the tenant can expect a review to be carried out.

- 6.3. The tenant will be informed of the result of a review if our decision has been changed or extended, including whether the sanctions originally put in place are to be continued or not.
- 6.4. Reviews will not be carried out if court orders have been obtained however e.g, injunctions as the court will have considered the length of any order and the customer has the right to apply to the court directly to revoke or vary the order.

7. Unacceptable behaviour register

- 7.1. We will inform our tenants who are placed on the Unacceptable Behaviour Register that we have made the decision to place them on the register, the reasons why, and when we will review this. This will be reviewed regularly in accordance with section 6 above to ensure that inclusion on the list remains relevant and fair.
- 7.2. We will advise individuals placed on the register that we will share the information with our contractors when attending the property and live restrictions will be referred to in any tenancy reference checks for future landlords where we consider this to be justified and not unfair.
- 7.3. We will store the information relating to the register securely on our customer database.

8. Responsibilities

- 8.1. The Head of Relationships is the lead on this policy and will exercise authority to implement proposed sanctions and considering sanctions recommended by the service area to address unacceptable behaviour within the guidance of this Policy.
- 8.2. In the absence of the Head of Relationships, any other member of our Senior Leadership team can authorise proposed sanctions.
- 8.3. The Relationship Team Leaders will be responsible for maintaining the Unacceptable Behaviour Register. This will include recording all requests for someone to be added to the list, informing the tenant of any limited contact action agreed, and adding the relevant indicator to their file. They will also ensure that everyone on the list is reviewed on a regular basis to ensure that the indicator remains relevant.
- 8.4. Any Head of Service may hear an appeal against a decision made to add someone to the register.
- 8.5. All staff have a responsibility to ensure they take the action necessary to protect their safety and that of their colleagues. This includes:
 - ensuring familiarity with the Policy and Procedure.
 - checking unacceptable behaviour indicators before any communication

with tenants.

- Filing a request to add someone to the register where appropriate

9. Legal Framework

9.1 Equality Act 2010

9.2 General Data Protection Regulations (GDPR) – this came into force on 25th May 2018 and replaces the Data Protection Act 1998. This is an EU regulation, which means it is automatically adopted by each member of the EU. The GDPR sets out the main requirements for data protection across the EU but did leave some areas for local determination by member states.

9.3 Data Protection Act (2018) covers the areas in the GDPR for member states to determine locally.

Red Kite will process personal and sensitive personal data in line with the Data Protection Act (specifically Schedule 2 and Schedule 3) in order to meet our duty of care towards our staff, and to comply with the legal obligations imposed on us as Data Controllers in connection with employment. We recognise that Section 10 of the Act gives individuals the right to require us to stop processing their personal information if this is likely to cause them substantial and unwarranted damage or distress. If an individual serves us with a Section 10 notice in relation to the warning marker, we recognise that we may ultimately have to justify creating the marker to a court.

10. References

10.1 This policy is guided by the Housing Ombudsman Service's Managing unacceptable behaviour policy – Guidance for landlords.

11. Related Policies & Procedures

Feedback Policy and Procedure
Anti-Social Behaviour Policy and Procedure
Staff Protection Policy and Procedure
Privacy and Data Protection Policy
Equality Policy

| Document Controls | | | |
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