

**Case summary:
Severe maladministration finding
Landlord: Thames Valley Housing
Association**

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Case reference: 202005385

Complaint category: Pest control

The complaint

Ms T complained about her landlord's response to leaks and damp as well as a silverfish infestation in her flat. The complaint also concerns the landlord's handling of her request to be rehoused.

Background

Ms T had an assured tenancy with the landlord that started in early 2014; she has since left the property. The property is a two-bedroom flat where Ms T lived with her two children.

The landlord's repairs guide says residents should contact the local authority for help dealing with infestations of pigeons, rats, insects etc. However, if the infestation is affecting multiple flats in a block, then this is the landlord's responsibility. The repairs guide says that the landlord aims to carry out repairs quickly and efficiently, and to provide residents with a quality repairs service at all times. Routine (non-emergency) repairs should be carried out within 28 calendar days and by appointment.

The Housing Health and Safety Rating System is concerned with avoiding or, at the very least, minimizing potential hazards. Under this rating system the landlord has a responsibility to keep a property free from category one hazards, including pest infestation where there is access into and harbourage within the dwelling for pests. The landlord has a responsibility to ensure properties are free of category one hazards and this duty extends to pest infestation.

The landlord's decant policy says that circumstances in which it might be necessary to require residents to vacate their permanent home include major structural repairs refurbishments or improvements; the property has been damaged or made structurally unsound owing to fire or flood; or major works are required as a result of an Environmental Health Order having been served which would be impossible to carry out if the residents remained in occupation.

The landlord has a two-stage complaints procedure. The landlord aims to respond within 28 days at stage one and, at stage two, complaints will be closed once the customer is satisfied that a plan of action is in place to resolve matters and this has been communicated to them.

The landlord's compensation and goodwill gestures policy gives a tariff for discretionary and goodwill payments. This takes into account the following factors when considering the impact: the severity; the length of time; the number of people affected; whether the person affected is vulnerable; and any distress and inconvenience caused. The compensation policy included the following:

- Service failure: £10 a week.
- Distress and inconvenience: most awards should be for less than £500 and only in a small number of cases should awards exceed £1,000.
- The time and trouble to pursue the complaint this is more than would routinely be required: between £25 and £150.

Ms T reported an infestation of insects (silverfish) in the property to the landlord. She said that they had been there for "quite a long time" and she was "killing lots every night" and her daughters were "scared". The landlord asked a pest control contractor to spray insecticide under the bath. It also asked it to check for leaks. The pest control contractor did so and also carried out an inspection of the property.

When Ms T reported that the infestation was continuing, the landlord noted the bath should be checked for leaks; there was no evidence in the repair log that this was carried out.

A few months later the landlord told Ms T it would not treat the silverfish infestation. Ms T then paid for a maintenance company to survey the property. They found silverfish in the bedrooms and the living room and bathroom. They also identified a leak under the bath, a historical leak from the boiler and a leak from the washing machine. Ms T contacted the landlord as soon as she received that report.

The following month the landlord asked its contractor to rectify these leaks which they did. Soon after Ms T contacted the landlord to say that the boiler engineer did not see the constant leak coming from the boiler and no-one had checked under the bath for leaks. She said, in the meantime, the silverfish had been breeding and were in clothing; she said she had had to "throw away all my girls keepsake items from when they were babies". She said they had had to move out of the property because her children were scared of the pests.

Following a report to the landlord of silverfish from the local authority's environmental health team, it asked the pest control contractor to treat the property. They inspected it and noted they had treated crevices around the whole property; they had found a few dead silverfish in the living room by the kitchen.

Two months later a contractor found there was no visible evidence of a leak but said that it was possible that excess water was under the flooring and that could be a source of moisture allowing the silverfish to survive.

At about this time the landlord received a letter from Citizens Advice. They gave the background to the pest infestation and said that they understood the silverfish had got “into clothing, children’s toys and books and in the beds. Every day there were 20-30 silverfish in each room and [Ms T] and her daughters had to check clothing and shoes before putting them on. They have to inspect food packets before eating. The girls are terrified of insects. They are frightened to go to the toilet at night to the extent that the nine-year-old was wetting the bed at night and had to go back into pull up [nappies]. The fourteen-year-old can’t sleep properly.” They concluded by saying that Ms T and her family were too “traumatised” to return to the flat and asked the landlord to move them to a suitable property. Citizens Advice attached various letters that supported this view including from the family’s GP, the local authority’s Children and Family Health Services and the children’s school.

A couple of months later the GP wrote again to the landlord saying that Ms T had reported being suicidal due to problems in the property and her daughters were staying with friends. The landlord noted it was trying to work out a plan so that, when normal services were resumed post-lockdown, it could give the pest infestation high priority.

The landlord explained to Ms T the options for a move (mutual exchange or bidding system). It said she would be expected to move back into the property once the issues had been fully rectified.

At the same time a surveyor told the landlord that he had inspected the property and had seen no live silverfish; but there had been a few dead ones on the floor but there did not appear to have been any recent activity. He noted that a suspected breeding ground for these silverfish was beneath the floorboards, especially in the bathroom as there were damp conditions there. The surveyor identified works that were required in the bathroom and kitchen. He said that, in his opinion, the property was habitable as the dead creatures could be hoovered up every day if they were still active; he believed that since that leaks from the bath and boiler had been repaired, the silverfish would have died off as there was no food source or damp conditions in which to survive.

Later that month the repairs contractor told the landlord that they had completed the works in the kitchen and bathroom and did not find any silverfish, dead or alive. However Ms T then provided the landlord with photos of silverfish at the property. On the following day she said another flat in the block had reported seeing silverfish to them also.

The landlord confirmed that all repair work had been completed and there had been no silverfish (dead or alive) in the property. The landlord said that Ms T had since been in the property and sent photos of dead silverfish and an order had been raised to fix a leak in the flat below and it had asked its repairs team to arrange for either a surveyor or pest control to attend one day this week to do a final inspection and report back and would monitor any activity for up to 14 days to establish the level of infestation. It suggested that Ms T contact the council or look at private rented accommodation if she was unable to find a suitable exchange.

A few weeks later the pest control contractor told the landlord they had caught two silverfish in the bathroom after leaving traps in the property for a week. It said that it might be difficult to permanently eradicate the silverfish whilst humidity levels were high. They said they could try and measure humidity levels and then work out how to reduce these by increased ventilation etc.

Ms T made a formal complaint at this time. Soon after the landlord noted that someone had to make a final decision as to whether Ms T would be expected to move back into the property. It noted that the silverfish matter had not been completely resolved as there had been recent sightings so it would not be “easy for the family”; however, it was not in a position to move them as it had advised numerous times.

Following contact from us, the landlord escalated Ms T’s complaint to stage one of its formal complaints procedure.

Ms T told the landlord that the silverfish had “urinated on” clothing, bedding, paper and christening gowns. She added that the insects liked to “eat and hide in dried foods ... that is no way to live”. She said she could not force her older daughter back into the property and her younger daughter was still wearing nappies as they had become a habit for her.

A surveyor then inspected the property and found dead silverfish and one alive in the kitchen; damp readings showed damp was present in the bathroom and the surveyor suggested the flooring be lifted, and the pipework exposed for further investigation. No further work was carried out until the property was void. At this time Ms T told the landlord she was ending her tenancy agreement.

In its stage one complaints response, the landlord:

- a. Apologised that it was not able to resolve this matter within an acceptable timeframe and for the distress this caused Ms T and her family. It said the investigation was still ongoing. It upheld this aspect of the complaint.
- b. Advised that the property was habitable, as silverfish did not pose

any risk to humans. It had encouraged Ms T to move back to the property after she had left; however, Ms T said that, due to the emotional impact on her and her daughters, she would not do so even if the issue was resolved and that she wanted a permanent move.

c. Said it had provided details of how Ms T could apply to complete a mutual exchange and to register to bid for an alternative property. It said it was unable to move Ms T permanently as she did not meet the criteria.

d. Noted that Ms T had felt she had had no choice but to rent privately.

e. Apologised that, due to the pandemic and communication stopping with the repairs team, Ms T felt she had been left to try to resolve the issue with the silverfish herself. It apologised that she was made to feel that way. It explained that, due to the lockdown, it had had to put all non-emergency repairs on hold.

f. Offered compensation of £450 made up of £250 for the delay in resolving the presence of silverfish in the property; and £200 for the time and trouble this matter had caused.

Two months later the landlord issued its final complaint response. The main points were:

a. Having reviewed stage one response, it did not believe there was anything further it could provide. It had provided a detailed explanation and apologised for the distress caused to her.

b. It was satisfied that there was no leak causing any moisture within the property.

c. It would not normally provide a service to treat silverfish; however, due to her concerns treatments were carried out due to its delays. This part of the complaint had been upheld and compensation awarded in line with its policy.

d. It could see that Ms T had already made the decision to terminate her tenancy. It could not therefore consider the request made for rehousing in her complaint escalation request.

e. It confirmed the offer of compensation of £450.

When Ms T approached us, she described how “traumatic” the situation had been for her and her daughters. She said she had just wanted to be “treated right” by the landlord.

Assessment and findings

While the landlord is responsible for leaks within the property, it is not responsible for silverfish infestations unless there is more than one property affected. When Ms T first reported the silverfish, the landlord did not have an obligation to take action but used its discretion in asking the pest control contractor to spray insecticide in the

property at that time and asked them to take further action after contact from the environmental health team.

The landlord also asked the pest control contractor to check for leaks while at the property. This was appropriate action so that it could take subsequent action to remedy in line with its responsibilities. We have not seen the report from the pest control company from this visit so have not seen evidence of what, if any, leaks it had identified at that time. The landlord noted that the bath should be checked for leaks but there is no evidence that this was done at the time.

After the maintenance company's report (which Ms T herself had commissioned) identified three leaks, there is conflicting evidence about when these were resolved – the repair log evidences that they were resolved the following month; however, Ms T continued to report leaks under the bath and said no-one had checked there.

While an inspection established no visible leaks, it would have been appropriate for the landlord to have acted on the advice of its contractor at that time by lifting the floorboards to check for excess water that might have remained from the previous leaks. This action remained outstanding and high damp levels were recorded at that time. The landlord's failure to investigate the issue fully meant it missed an opportunity to try to eliminate the damp conditions in which silverfish thrive.

It also meant that dampness caused by leaks that were brought to the attention of the landlord was still affecting the property a year later although it is recognised that the lockdown affected the repairs that the landlord was able to carry out in the first half of 2020. However, the lack of action by the landlord after it became aware that more than one property was affected was not appropriate; the failure to repair – in line with its obligations – is maladministration.

From that point on, the landlord had a responsibility to treat the infestation; by this time it was also able to carry out repairs again post-lockdown. While it asked the pest control contractor to take some action to try to establish the size of the infestation, they warned that it would be difficult to permanently eradicate the silverfish whilst humidity levels were high. The landlord should have been aware of its surveyor and contractor's previous suggestions to lift the flooring in the property to check for damp levels, which it had not acted upon.

It would have been reasonable at this time given the potential on-going damp, the infestation as well as the pandemic, for the landlord to have given consideration to the family itself. We acknowledge that, usually, relatively minor damp issues and a silverfish infestation would not be grounds for a decant. However, in this case the landlord by that time had lots of evidence as to the "traumatic" effect the infestation had had on the family by external agencies and Ms T herself. While the decant policy

gives examples of when it might consider a decant; the list is not finite and therefore suggests the landlord has discretion in such matters.

The focus of the landlord was to persuade Ms T to return to her home. While the dampness existed, the silverfish infestation was likely to continue as the pest control contractor had made clear. In these circumstances, Ms T had said she did not consider she was in a position to return with her family. A decant would have given the landlord time to have fully addressed the issues affecting the property and, in turn, might have persuaded Ms T to return to it. It would also have meant that the family had secure accommodation together during a pandemic and would likely have reduced the distress caused to them as various professional organisations had suggested.

While the landlord recognised a temporary decant might be required, it took no further action even six months later when the situation was more severe. Given all the circumstances, it would have been resolution and customer-focused for the landlord to have used the discretion available to it and considered a decant for the family; there is no evidence that this happened.

Taken together, these failures by the landlord – its delay in investigating, completing effective repairs and putting right the ongoing dampness at the property and its failure to use its discretion to consider a decant amount to severe maladministration. In its complaint handling, the landlord acknowledged that it had not resolved these matters “within an acceptable timeframe” and offered compensation. In relation to the failures identified, our role is to consider whether the redress offered by the landlord put things right and resolved the complainant’s complaint satisfactorily in the circumstances. In considering this, we take into account whether the landlord’s offer of redress was in line with our Dispute Resolution Principles: Be Fair, Put Things Right and Learn from Outcomes as well as our own guidance on remedies.

The compensation offered by the landlord did not reflect the significant impact on the family by its failure to carry out adequate repairs at the property to address the damp caused by the leaks which led to the continuing silverfish infestation. An order has been made for additional redress to be paid to Ms T to reflect the considerable inconvenience caused as well as by the landlord’s failure to consider a decant. This sum reflects that three people were affected by this failing.

Following Citizens Advice’s request that the landlord rehouse the family, it explained to Ms T the options for a move a few days later. It later repeated these options and agreed to reconsider her banding for a move once it had received a medical assessment for her daughter. While the landlord received information that the daughter was awaiting an assessment for ASD, without confirmation of any diagnosis it was reasonable that it did not reconsider re-banding at that stage.

The landlord's response to Ms T's request to be rehoused was appropriate. It was reasonable that the landlord did not consider a permanent move for the family, but as set out above, it would have been fair for it to have considered a temporary decant in the circumstances.

Determination

We found severe maladministration by the landlord for its response to a silverfish infestation at the property. We found no maladministration by the landlord in respect of its handling of Ms T's request to be rehoused.

We ordered the landlord to apologise to Ms T for the failings identified in this report and to pay her additional compensation of £1,800 for the distress and inconvenience caused. We also ordered it to review its response to the recommendations made by contractors that damp levels in the property should be investigated to establish why action was not taken sooner, and to review its response to the infestation that affected the other properties in the block under its wider obligations. The landlord must then write to Ms T and us with details of those reviews and its learning from this case as well as any further action it has identified to ensure similar failures are not repeated in the future.