

Case summary:

Severe maladministration finding

Landlord: Birmingham City Council

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Case reference: 202109631

Complaint category: Responsive repairs – leaks/damp/mould, complaint handling

The complaint

The complaint is about the landlord's handling of Ms D's reports about an external water leak. The investigation also considered the landlord's complaint handling.

Background

Ms D is a leaseholder and lives in a flat. She reported to the landlord that there was flooding outside the front door of her property. The landlord raised various repair orders following this, but the repairs were not completed. Ms D informed the landlord that her water supplier had confirmed the water was leaking at high volume and that it would complete the repairs and bill those responsible if the repairs were not completed. The water supplier completed the repairs four months after Ms D initially reported the leak to the landlord.

Ms D raised a formal complaint with the landlord. She was dissatisfied with how long the landlord took to repair the leak, the internal damage caused to her property and the impact the damp and mould was having on her and her son's health. The landlord concluded that its contractor had attended on several occasions and that it had been difficult to locate where the leak was coming from. It said that Ms D would have to claim for the internal damage to her property on her insurance.

Assessment and findings

Handling of the leak

The landlord's records showed that a total of five repair orders had been raised to repair the leak, one of which had a completion date. However, Ms D provided us with a settlement letter from the landlord's insurer, confirming that the insurer agreed to cover the invoice from the water supplier to fix the leak. Therefore, the evidence showed that the landlord failed to complete the repair. This was of serious concern given the extent of the leak, how long it was ongoing and the potential damage that was being caused to the building, including Ms D's property.

While the landlord acknowledged that there had been a delay in completing the repair and offered an apology for this, it failed to offer any compensation for the resulting distress and inconvenience caused to Ms D. In its response to the complaint, the landlord stated that compensation was only payable if there was

evidence of negligence or if legal liability was accepted. This approach was in contravention of the Ombudsman's Complaint Handling Code which requires member landlords to consider the time and trouble a resident has been put to as well as any distress and inconvenience caused, when awarding compensation in response to a complaint.

It was also of concern that the landlord told Ms D that she would need to claim for any internal damage to her property on her own insurance. This was inappropriate because damage to the structure of the property from a water leak should be claimed for under the buildings insurance policy, which in this case is arranged by the landlord as freeholder of the property.

Furthermore, the landlord should have considered whether it was appropriate to arrange the internal remedial works itself or at the least, meet the cost of any insurance excess for a claim under the buildings insurance policy. This is because it failed to repair the leak within a reasonable timescale. Ms D told us that the internal remedial repairs remained outstanding and it was reasonable to conclude that this was a consequence of the landlord's poor handling of the matter, including the incorrect advice it gave to Ms D about claiming on her own insurance. This was of concern given that Ms D reported that there was damp and mould in the property and that she and her young son suffer from asthma.

Complaint handling

Our Complaint Handling Code sets out that landlords should acknowledge and apologise for any failure identified, give an explanation and, where possible, inform the resident of the changes made or actions taken to prevent the issue from happening again.

The landlord's complaint responses failed to assess in enough detail what had gone wrong and why, therefore indicating that the investigation into the issues complained about was inadequate. The initial complaint response only referred to some of the repair delays. The final response, sent after the leak was repaired, failed to identify that the leak had been repaired by the water supplier and not the landlord's contractor. This response also stated that the landlord's contractor had attended on a number of occasions but it was difficult to locate where the leak was coming from. The response did not explore the adequacy of the contractor's response any further, and there was no indication of any learning from the complaint to ensure that the same service failures did not arise again. The complaint responses also lacked proper consideration of the impact the outstanding repair was having on Ms D.

During the investigation, we also identified that we had other cases awaiting investigation which raised complaints about the landlord's complaint handling and compensation. It was therefore decided that we would conduct a further investigation

beyond this complaint, to establish whether there was any evidence of systemic failings in the landlord's handling of these issues.

Determination

We found severe maladministration by the landlord for its handling of Ms D's reports about the leak, and maladministration for its handling of the formal complaint.

Regarding the issues raised around complaint handling and compensation, we found that there was presenting evidence of service failure that may be indicative of a systemic failing.

We ordered the landlord to apologise to Ms D and to pay her £800 compensation for its poor handling of the reports about the leak and the formal complaint. We also ordered the landlord to either arrange for the internal damage to Ms D's property to be repaired, or to refer Ms D's claim for the damage to the building insurer for assessment and pay any policy excess.

We recommended that the landlord engages with us in conducting a further investigation into issues relating to complaint handling and compensation.