

# Housing

## Ombudsman Service

# REPORT

*COMPLAINT 202109579*

*Hammersmith and Fulham Council*

*16 January 2023*

## **Our approach**

The Housing Ombudsman’s approach to investigating and determining complaints is to decide what is fair in all the circumstances of the case. This is set out in the Housing Act 1996 and the Housing Ombudsman Scheme (the Scheme). The Ombudsman considers the evidence and looks to see if there has been any ‘maladministration’, for example whether the landlord has failed to keep to the law, followed proper procedure, followed good practice or behaved in a reasonable and competent manner.

Both the resident and the landlord have submitted information to the Ombudsman and this has been carefully considered. Their accounts of what has happened are summarised below. This report is not an exhaustive description of all the events that have occurred in relation to this case, but an outline of the key issues as a background to the investigation's findings.

## **The complaint**

1. The complaint is about the landlord’s:
  - a. Response to the resident’s reports of water ingress into his property from the flat above, and associated damage to his property;
  - b. Communication;
  - c. Complaint handling.
2. The reports also examines the landlord’s consideration of the resident’s vulnerabilities.

## **Background and summary of events**

### *Background*

3. The resident is a secure tenant of the landlord and resides in a one-bedroom first floor flat. The flat is within a converted Victorian house containing six flats over three storeys. The tenancy started in September 2015.
4. The flat above the resident’s property is also occupied by a tenant of the landlord.
5. The tenancy agreement obliges the landlord to:
  - a. repair and maintain the exterior and structure of the property
  - b. maintain water pipes and electrical wiring
  - c. conduct repairs within a “reasonable time”.
6. The tenancy agreement permits the landlord to force entry to a property where:

- a. it is an emergency; or
  - b. they have given the tenant 24 hours' notice and there is a risk of damage to its properties or that people could be injured.
7. The landlord's repairs policy states that it is responsible for plumbing repairs and leaks. It is responsible for repairing internal decorations only where they have been damaged by other repairs.
8. The policy categorises repairs as:
- a. emergency repairs – have a target response of two hours eg a major leak or burst pipe
  - b. urgent repairs – have a target response of three to five working days eg a minor leak or dropping pipe
  - c. routine repairs – have a target date of 20 working days.
9. The policy states that the landlord will carry out annual inspections of tenanted properties to pick up 'key outstanding repairs'.
10. The landlord operates a two-stage complaints process:
- a. Stage one complaints should be responded to within 15 working days.
  - b. Stage two complaints should be responded to within 20 working days.
11. The landlord stated in its submission to the Housing Ombudsman Service that it did not know of any vulnerabilities that the resident may have.

### *Summary of events*

12. On 6 November 2017, the landlord's repair records show that the resident reported a leak coming through his bedroom and bathroom ceiling. A repair was raised to inspect and report back. It is not evident from the records whether an inspection took place or works were carried out.
13. On 10 October 2018, the resident reported water running down the wall between his bedroom and bathroom. A repair was raised to make safe the electrics, but it is unclear whether any works were carried out. The repair log makes reference to there being a "live complaint" related to the repair however the landlord has not provided information related to this complaint.
14. In November 2018, an inspection was carried out which identified that operatives needed to remove the plaster in the resident's bedroom and bathroom ceiling and install new plasterboard. A repair was raised for the works to be completed however it is not evident that this was completed. A note is made on the repairs log that the property has high ceilings.

15. No evidence has been seen to demonstrate whether any further reports were made by the resident between November 2018 and September 2020.
16. On 5 September 2020 repairs records show that works were again raised to replace the plasterboard in the resident's bedroom and bathroom which the records state was "starting to come apart". It is apparent from later records that these works were not completed. Again a note is made that the property has high ceilings and that the correct tools are required to carry out the work required.
17. Records show that on 30 September 2020 and 19 November 2020 the resident cancelled the ceiling repair. The resident advised the landlord that this was because the leak from the flat above was still ongoing and needed to be fixed prior to his ceiling being plastered. There is no indication that works were raised to resolve the leak following the cancelled appointments.
18. On 2 January 2021, the resident raised a formal complaint regarding the leak and damage to his bedroom and bathroom ceilings, this was three years and two months since his first reporting of the leak. The resident stated that:
  - a. He had been trying to get the repairs resolved for months.
  - b. A plasterer had attended and removed part of his ceiling but could not reinstall it until the leak was stopped.
  - c. The leak was still ongoing.
19. The landlord responded to the stage one complaint on 8 February 2021, 25 working days after the complaint was raised, stating:
  - a. It apologised for the delay in responding to the complaint and that he had experienced the leak for an "extended period".
  - b. It had received his report of a leak on 5 September 2020 and raised a repair but this was cancelled by the resident.
  - c. A further repair was arranged but was also cancelled by the resident because the leak was ongoing.
  - d. Follow-on works should have been arranged at that time.
  - e. Two appointments had been booked to resolve the leak and reinstate the ceiling.
  - f. Feedback would be shared internally and with contractors to prevent the situation happening again.
20. In February 2021, two operatives attended unannounced at the resident's property. When contacted the resident stated he was unaware of the appointment and was on his way to work. An agreed appointment was then booked for 2

March 2021 and the resident advised that operatives would need to access the flat above his to trace the leak.

21. The landlord's records show that on 11 March 2021 operatives attended the resident's property, again unannounced, but he was not home. They telephoned him and he advised he had again not been made aware of the visit and advised that they needed to access the flat above where the leak was coming from.
22. The resident requested that his complaint be escalated on 15 March 2021 because:
  - a. The leak from the flat above was still ongoing.
  - b. His ceiling could not be repaired until the leak was fixed.
  - c. Operatives had attended without appointments, without the correct equipment, and on other occasions had not attended at all.
  - d. His mental health was suffering because of his living conditions.
23. On 12 April 2021, 19 working days after the stage two complaint was raised by the resident, the landlord apologised to him for their delayed response which it explained was due to a backlog of complaints due to COVID-19 lockdowns and a change of repairs contractor. It said that his complaint was being investigated and he would be updated as soon as possible.
24. On 30 April 2021, the resident received a phone call regarding the repair, it is not clear what the purpose of the call was, he again advised that the leak was coming from the flat above.
25. On 22 June 2021, 13 weeks after he raised a stage two complaint, the resident emailed the landlord for an update. He explained he was becoming frustrated and that his mental health was declining because of the failure to remedy the leak.
26. On 14 July 2021, the resident's next of kin advised the landlord that they were supporting him due to the severe impact the situation was having on his mental health. They stated:
  - a. The damage to the resident's property was "extreme".
  - b. The resident's son, who had additional needs, was unable to stay with him due to the condition of the property, this was negatively impacting on them both.
  - c. They were seeking legal advice regarding whether the property was fit for human habitation.
  - d. The landlord should be doing more to gain access to the flat above.

27. In the same communication, the resident's next of kin stated that the landlord had previously moved the resident permanently from another of its properties as a result of damp and mould and that he had made a suicide attempt due to his living conditions there. The Ombudsman Service has not been provided with further information in relation to the resident's previous tenancy so has been unable to confirm this information.
28. The landlord's repair records show that it attempted to access the flat above the resident without success on at least 12 occasions between November 2017 and February 2022. On 20 August 2021, three years and nine months after the leak was first reported, operatives were successful in accessing the flat above but found that there was no leak under the bath as had been presumed and that a leak from the tiles was suspected.
29. An email from the resident's rent officer to the repairs team on 13 September 2021 said that the resident was withholding rent payment due to the outstanding repairs.
30. On 14 October 2021, seven months after the resident raised the stage two complaint, this Service contacted the landlord and requested that it provide a response to the resident's stage two complaint. Internal communications show that on the same date, enquiries were made to determine what action could be taken to gain entry to the flat above the resident. These internal communications show that the landlord was aware the resident's property was in "really poor condition" due to the leak. Further delay having gained access on 20 August 2021 and established no bath leak.
31. Also on 14 October 2021 the landlord wrote to the tenant of the flat above the resident stating that urgent access to their property was required to resolve a leak from their property in the flat below. The letter warned that if the tenant did not allow access operatives may force entry into the property if necessary. The letter stated that the resident must provide access by 20 October 2021.
32. On 4 November 2021 the resident's next of kin emailed the landlord to advise that they had not received a response to their email sent 16 weeks previously on 14 July 2021.
33. The landlord contacted the resident on 26 November 2021. It apologised for the delay and stated that it had experienced issues in accessing the flat above but that this was now "in hand."
34. On 30 November 2021, the resident emailed the landlord advising that he had received a phone call from it stating that it would be forcing entry to his property on 1 December 2021. The resident stated he had explained that the leak was coming from the flat above, and that if entry was forced to his property, he would

take legal action. The next day the landlord apologised for providing misinformation and confirmed that it would not force entry to his property.

35. On 24 December 2021, the landlord apologised to the resident for the delay and advised that it was still waiting for the necessary details to respond to his stage two complaint.
36. The resident replied to the landlord on 13 January 2022. He said:
  - a. His mental health was suffering severely.
  - b. He had been told that entry would be forced to the flat above.
  - c. He felt he was having to fulfil the landlord's role in communicating with the tenant above.
  - d. He could not understand why the landlord had been unable to contact the tenant above for this length of time.
37. On 13 January 2022, the landlord hand delivered a letter to the flat above the resident advising that operatives would be attending on 25 January 2022 to complete works to resolve the leak. The landlord's records show that the tenant of the flat above the resident was not home when operatives attended and but do not clearly show whether access was forced.
38. A video recording made by the resident on 29 January 2022 shows water running in a steady stream down the bedroom wall from an open hole in the ceiling and pooling on the floor.
39. On 3 February 2022, 46 weeks after the resident's stage two complaint, the landlord wrote to him again apologising for the long delay in its response to his complaint and completing his repairs. It asked whether the contractor had attended as arranged at the end of January 2022 and enquired as to what the current position of the repairs was.
40. The resident replied to the landlord on 8 February 2022 advising that:
  - a. He had not been contacted by the contractors.
  - b. No appointments had been made to assess or fix the damage to his property.
  - c. The leak and associated damage was ongoing.
  - d. The situation was having a detrimental impact on his mental health.
  - e. He felt isolated because he was embarrassed about the state of his property.
  - f. He had been living with an open ceiling for years which was letting in cold, dust and debris.

41. The landlord provided its stage two complaint response on 16 February 2022 – 11 months after it was raised by the resident. In its response the landlord:
- a. apologised for the time taken to provide its response and for the level of service the resident had received
  - b. said it had tried to access the flat upstairs on a number of occasions but had been unable to do so
  - c. advised it had an appointment to attend the flat upstairs on 23 February 2022 and would force entry if required
  - d. assured the resident that once the leak was repaired, remedial works to his flat would be assessed
  - e. explained it had kept the complaint open and not sent a response so it could monitor the ongoing works that were needed
  - f. acknowledged it should have explained to the resident why he had not received a stage two response.
42. Within the stage two response the landlord offered the resident £850 as a goodwill gesture for the delay in completing his repairs. It acknowledged that as the repairs had not yet been completed this figure may need to be reviewed.
43. The resident has stated in subsequent communications with the landlord and this service that he is unhappy with the landlord's response because:
- a. The complaint response did not reflect how long he has suffered the leak and damage to his flat which remained unresolved.
  - b. He initially raised the repair in 2017 not September 2020 as stated in the landlord's stage one and stage two responses.
  - c. He had experienced issues with repairs operatives:
    - i. attending without appointment
    - ii. failing to understand that the leak was coming from the flat above
    - iii. booking appointments to fix the damage without first fixing the leak.
  - d. The situation had caused his mental health to suffer.
44. The landlord's records show that on 23 February 2022 operatives attended the flat above and forced entry to carry out an inspection however the leak continued.
45. The resident reports that he has subsequently started to experience leaks to his kitchen and living room. He has provided this service with video footage of the leak in which a steady stream of water can be seen coming through a smoke alarm and a light fitting. The resident states the leaks started in around February 2022. The landlord has provided information that shows that it is aware of the

leaks to the kitchen and living room, no information has been seen that states when these leaks were first reported.

46. On 1 September 2022, the resident advises that the property was visited by a surveyor who he states was concerned and found:
  - a. damp caused by water penetrating the external walls in all rooms
  - b. poorly insulated single glazed windows
  - c. subsidence and cracks in the property
  - d. flammable ceiling tiles in the living room.
47. The records do not indicate that any repairs have been ordered following the inspection.
48. The resident has advised this service that he was visited by an electrician in around September 2022 who stated that the fuse board in the property needed changing but that he could not carry out the works due to the open ceilings and loose electrical wiring in the bedroom. The resident says he was advised that the operative would be contacting the landlord as a matter of emergency. No information has been seen by this service that record this inspection was carried out or that works were raised as a result.
49. On 25 November 2022 following contact from this service the landlord attended the resident's property for an emergency appointment to disconnect the electrics in the kitchen and bathroom in order to make the property safe. The electrician advised there was no water leaking at the time but was unable to carry out the works as he did not have a ladder long enough to reach the property's 12ft high ceilings.
50. On 29 November 2022 an electrician attended the property and made safe the electrics in the kitchen and bathroom and provided temporary lighting.
51. At the time of writing this report the resident and landlord confirm that the leak has not been resolved and the associated damage has not been repaired. The resident describes the leak as intermittent but states that it occurs two or three times every day when the occupant of the flat above uses their bath or shower.

### **Assessment and findings**

52. It is recognised that this situation has caused the resident severe distress as he has experienced a leak to his property over a prolonged period of time. Aspects of the complaint relate to the impact of his living conditions on his health. Where the Ombudsman identifies failure on a landlord's part, we can consider the resulting distress and inconvenience. However, unlike a court, we cannot establish liability or calculate and award damages, this would usually be dealt

with as a personal injury claim through the courts. Though the Ombudsman is unable to evaluate medical evidence, it will be taken into account when considering the resident's circumstances.

53. It is noted as background context to this investigation that the resident initially reported the leak in 2017, and that repair logs indicate that he previously made a formal complaint regarding the issue in October 2018. This investigation has however primarily focussed on the landlord's handling of the resident's recent reports from September 2020 onwards that were considered during the landlord's recent complaint responses. However, the resident's repair reports and formal complaint of 2017-18 have been considered in respect of the landlord's handling of the issues raised from 2020 onwards.
54. Further repair issues in addition to the leak, that were identified in the survey of 1 September 2022 do not form part of this investigation. In the interests of fairness, the landlord must be given fair opportunity to investigate and respond through its formal complaint procedure prior to the involvement of this Service. The resident should address these further repairs directly with the landlord and progress as a new formal complaint if required.

*Landlord's response to reports of leaks and damage*

55. The landlord's own policy states that a 'minor' leak should be responded to within three to five working days. It is unacceptable that more than five years since reporting the leak, and almost two years after making a formal complaint, the resident is still living in a leaking and damaged property. The landlord has failed in its obligation to keep in good repair the structure of the premises and water installations. The leak and damage reported by the resident remain unresolved and have in fact worsened as photographs and videos provided by the resident demonstrate that every room in the property is now affected. This is unreasonable and amounts to severe failings.
56. The landlord failed to access to the flat above on at least 12 occasions between November 2017 and February 2022. There are no records outlining any extenuating circumstances than may explain such a long delay. The landlord was not proactive in imposing the terms of its tenancy agreement to force entry to the property above and complete the repairs. The landlord made no determined effort to force entry until contacted by this Service. Despite gaining entry in February 2022, it failed identify the source of – and carry out repairs to resolve – the leak into the resident's flat which continues at the date of this report. This is a severe failing and has caused unreasonable delay to repairing the leak and further damage to the resident's flat.
57. Following the landlord forcing entry to the property above the resident in February 2022, it failed to instruct a surveyor to carry out a full inspection of the property

until September 2022. This was more than 18 months after the resident raised a formal complaint. It is unclear what prompted the landlord to order this survey. It is of note that it was the resident, and not the landlord, that made this service aware that a survey had been carried out. Given that a leak over such an extended period could reasonably have caused structural concerns, this was unreasonable and amounts to a significant failing.

58. This service has not seen any evidence to suggest that the landlord considered applying to court for an injunction compelling the tenant above to provide access to the property to inspect the leak and carry out repairs. Such action should not have been necessary as the tenancy conditions allow the landlord to force entry in such cases. However, as the landlord was evidently disinclined to do so it should have considered alternatives to speed up the process of accessing the property. This was a missed opportunity to resolve the issue.
59. The landlord failed to apply its own policy when it failed to carry out annual inspections of the resident's property or the flat above which would have observed "key outstanding repairs". These were again missed opportunities, for the landlord to observe the leak and the damage it had caused and identify and order the necessary repairs.
60. Video footage of the leak shows that it is substantial, a significant amount of water has entered the resident's property, and this has caused considerable damage. It is of very serious concern that the water ran through electrical fixtures which is a major health and safety hazard. We do not know whether the landlord received the video footage at the time it was filmed in February 2022 however, regardless of whether it was aware of the severity of the leaks, it has not made the property safe. This is a significant failure.
61. As a result of the failure to resolve the leak, it is unacceptable that the resident continues to be expected to live in a property which may be unsafe and is undoubtedly very uncomfortable given that it is wet and has open holes in the ceiling. The open ceiling will also make it cold and more difficult and expensive to heat – no small concern in the current climate of rising energy costs.
62. The resident experienced frustrations in his communication with operatives who on three occasions in February 2021 and March 2021 attended to repair the damage to his property without informing him of appointments, and without first resolving the leak from the flat above. In November 2022 an operative attended without the required equipment – a ladder long enough to reach the ceiling. This is despite there being notes on previous repair logs that the property has high ceilings. These issues caused delays to resolving the repairs and added to the time and trouble for the resident. It also indicates failings in the landlord's record keeping and that the landlord failed to examine its own records, apply the information contained within them, and ensure that its contractor fully understood

the works required. The landlord does not appear to have learned from its mistakes and changed its approach – this is not in line with the Ombudsman’s dispute resolution principle Learn from Outcomes.

63. There is evidence of the landlord repeatedly failing in its management and oversight of the investigation into, and repair of, the leak. Overall, the landlord made a number of serious failings over a significant period of time. It failed to resolve the leak which was having a severe detrimental impact on the resident’s physical, emotional, and financial wellbeing. The landlord failed to apply its own policies, enforce tenancy terms, and repeatedly made the same mistakes in attempting to access the upstairs property. This indicates that it did not learn from its mistakes. The leak continues at the date of this report and so the landlord has failed to put things right.
64. The landlord’s failings are serious, having caused significant distress, inconvenience, time and trouble to the resident over a prolonged period, and constitute severe maladministration.

### *Communication*

65. The landlord failed to respond promptly to communications from the resident and his next of kin. On one occasion the resident’s next of kin, having expressed very serious concerns about the resident’s safety due to mental health concerns, did not receive any response despite chasing the landlord three months later. This is of serious concern and is unreasonable. It is unclear from the information provided whether the resident had authorised the landlord to discuss his tenancy with his next of kin. Regardless, it should have acted on her grave concerns regarding his welfare and should have made contact directly with the resident if it was not authorised to share information with the next of kin.
66. The resident was not updated regularly and had to invest an unreasonable amount of his time chasing updates from the landlord. The landlord did not provide the resident with updates after he reported the leak in September 2020, this prompted him to raise a formal complaint four months later in January 2021. Following its initial response to his stage one complaint the landlord did not provide further updates, prompting the resident’s stage two complaint in March 2021. The resident and his next of kin chased the outstanding repair on five occasions between 22 June 2021 and 8 February 2022. During this time, the landlord contacted the resident to advise it was unable to provide a formal complaint response as it was still awaiting information, and asked him whether the repair had been completed. This indicates issues in record keeping which are explored further below.
67. The resident’s distress was exacerbated when he was contacted by the landlord who advised it would be forcing access to his property on 1 December 2021 to

stop the leak. Whilst the landlord apologised for this and confirmed it would not be forcing access to his property; it failed to acknowledge the distress that such a prospect may have had on the resident, especially given his known vulnerabilities. The landlord's heavy-handed approach towards the resident contrasts with its weak handling of failure to access the property above which it failed to address for a period of over four years between November 2017 and February 2022. This error is also indicative of serious failings in the landlord's record keeping and its application of recorded information.

68. The resident stopped paying his rent in an attempt to get the landlord to respond to his repairs. Despite communications in September 2021 from the rent team requesting an update from the repairs team – the leak remains outstanding 16 months later. This not only demonstrates a lack of collaboration between the landlord's departments, but a lack of any broader oversight of the resident's complaint and urgency to resolve the situation.
69. In February 2022, the landlord contacted the resident and asked whether its contractor had attended and if the repairs had been completed. The landlord should have been able to access this information in its own records and as such this indicates record keeping failures. On six occasions between February 2021 and November 2021 the landlord contacted the resident, either by telephone or by attending his property unannounced, in the mistaken belief that the source of the leak was in his property. This indicates further failings in record keeping and that the landlord was not actively monitoring the repairs and again that there were issues in its communication with and management of its contractor.
70. Clear record keeping and management is a core function of a repairs service, which assists the landlord in fulfilling its repair obligations. Accurate and complete records ensure that the landlord has a good understanding of the condition of the property, enable outstanding repairs to be monitored and managed, and enable the landlord to provide accurate information to residents. Landlord and contractor staff should be aware of a landlord's record management policy and procedures and adhere to these. The landlord's lack of clarity on the actions of its contractor and state of repairs also indicate that there were shortcomings in its record keeping.
71. The landlord has failed to communicate effectively with the resident or his upstairs neighbour over a significant period of time. Communication failings have exacerbated the situation, delaying resolution of the substantive issue of the leak and worsened the impact on the resident. This amounts to maladministration.

### *Complaint handling*

72. It took 25 working days to respond to the resident's stage one complaint which was ten working days longer than its policy. It provided the resident with no explanation for this, this is therefore unreasonable.
73. Where there has been failings, when dealing with a formal complaint a landlord must acknowledge this and set out the actions it has already taken, or intends to take, to put things right. However, the landlord's stage one complaint response:
- a. failed to acknowledge that it had been made aware of the leak in 2017 – instead, it focussed on reports from late 2020
  - b. failed to accept responsibility and instead attributed blame to the resident for cancelling appointments to complete work which could not be completed until the leak was resolved
  - c. acknowledged limited failings in not arranging follow on works
  - d. put in place appointments to resolve the leak but failed to monitor that they were completed successfully – they were not
  - e. did not make offer of any compensation to the resident.
74. The failings in the stage one complaint response had the impact of making the resident feel that the detrimental impact he was suffering, and the prolonged period of time he had been experiencing the detriment, was being glossed over or minimised by the landlord.
75. It took the landlord almost a year to respond to the resident's stage two complaint, its policy outlines a timescale of 20 working days. This is completely unacceptable. The Ombudsman's Complaint Handling Code explains that a complaint response should be provided when the answer to the complaint is known, not when the outstanding actions are completed. While this service understands that it is sometimes appropriate to delay a final response until works are completed, it is expected that the landlord would make this clear to the resident, provide an extended timeframe for its response, actively monitor the repairs, and provide regular holding responses. The landlord did not do this and so delayed unreasonably in providing a final complaint response causing uncertainty and distress to the resident. This was a significant failing.
76. The resident had to chase the landlord on at least six occasions between March 2021 and February 2022 for a response to his complaint and a resolution to the repair issues. This caused him to have to invest an unreasonable amount of time in the complaints process as well as causing him further distress.
77. The landlord's stage two complaint response:

- a. failed to acknowledge that the resident had been waiting a year for a response – instead, stating it had taken “longer...than we would have liked” - minimising the impact that this had on the resident
- b. as with the stage one response, failed to acknowledge that the leak had been ongoing for over four years
- c. did not acknowledge its failing to force access to the flat above – instead implying that it had done all that it could
- d. failed to acknowledge the impact of the ongoing disrepair and complaint handling failures on the resident
- e. made an offer of £850 as a goodwill gesture
- f. did not outline what it would do to prevent similar issues from happening again.

78. The landlord has advised this service that it does not have a compensation policy that can be referred to in calculating financial redress. This is of concern as it is accepted best practice for a landlord to have such a policy. Also of concern is that in its self-assessment against the Ombudsman’s Complaint Handling Code, the landlord makes specific reference to having a compensation policy. This is troubling and addressed in orders below.

79. The landlord has not provided an explanation or breakdown of how it calculated the amount of £850 offered to the resident as a goodwill gesture. As such, and with no compensation policy for staff to rely on, the amount was arbitrary. The landlord did, by stating that the figure may need to be reviewed when the resident’s repairs had been completed, acknowledge that the figure may not constitute sufficient redress to satisfactorily resolve the resident’s complaint.

- a. It is the view of this service that the landlord’s offer of compensation does not provide proportionate redress for the significant detriment suffered by the resident for a prolonged period of time. The Ombudsman has therefore made an award of compensation taking into account the circumstances of the resident’s complaint, the resident’s rental liability, and this Service’s Remedies Guidance.
- b. The resident’s current rent is £143.88pw. The property comprises four rooms – the bedroom, bathroom, living room, and kitchen – plus a hallway. Whilst these rooms were not uninhabitable, the resident’s enjoyment of these rooms was severely curtailed.

80. In relation to the leak to the bathroom, bedroom, and hallway:

- a. The landlord should pay the resident 50% of the rental amount on 2/4 of the rent for the period that the repair has remained outstanding following his

formal complaint. This is because two of the four rooms of the property were affected.

- b. At the date of this report this amounts to 106 weeks.
- c. Therefore, the compensation for the delayed repair to the bathroom, bedroom and hallway stands at £3,812.82.

81. In relation to the leak to the kitchen and living room this service finds:

- a. The landlord should pay the resident a further 50% of the rental amount on 2/4 of the rent for the period that he has experienced distress and inconvenience. This is because the remaining two of the four rooms of the property were now affected.
- b. At the date of this report the repair has remained outstanding for approximately 44 weeks.
- c. Therefore, the compensation for the delayed repair to the kitchen and living room stands at £1,582.68.

82. As the landlord has failed to provide a breakdown of what its goodwill payment was for, this service is unable to identify how much was to provide redress for the delay in complaint handling. Therefore, a calculation has been carried out based on £10 per week for each of the 44 weeks that the stage two complaint was out of time scale. This was a significant and unnecessary delay that compounded the resident's distress, and this service therefore calculates the compensation at £440.

83. Overall, there were significant failings in the landlord's handling of the resident's complaint. The complaints procedure was not an effective tool in resolving the substantive issues but instead compounded the serious adverse impact of the failings on the resident. The landlord's failings in its complaint handling constitute severe maladministration. As such, appropriate orders are made below.

*Regard for the resident's vulnerabilities*

84. Of particular concern is the lack of consideration given to the resident's reports of his mental health vulnerability and the impact that the leak and associated damage was having on this. When a landlord is made aware of household vulnerabilities, it would be appropriate to take these into account and prioritise a repair if necessary. There is no indication of the landlord making any efforts to consider the household vulnerabilities in this case.

85. In May 2022, the landlord advised this service that it was not aware that the resident had any vulnerabilities. It is clear from its own records that this is not the case. In at least six emails to the landlord between March 2021 and February 2022, at a time he was pursuing repairs to his property, the resident stated that

his mental health was deteriorating. His next of kin also stated that the landlord was aware of his vulnerabilities as it had moved him to his current property following a suicide attempt due to poor living conditions. It is of further significant concern that the landlord does not hold this information in its records indicating further failings in the landlord's record keeping.

86. The resident's next of kin contacted the landlord in July 2021 stating that they were extremely concerned about the resident's wellbeing. They chased the landlord when they had not received a response more than three months later. This service has seen no evidence to demonstrate that the landlord acknowledged the resident's mental health concerns, offered him any additional support, or made any referrals to appropriate specialist safeguarding services.
87. The landlord, both in its capacity as a social landlord and as a local authority, has important safeguarding duties towards vulnerable adults. Given that it had been aware of such substantial concerns, it is a significant failure of the landlord not to undertake appropriate safeguarding enquiries.
88. When the landlord did contact the resident it stated that the matter of access was "in hand". It did not acknowledge the concerns about his mental health. This approach was unsympathetic and unreasonable.
89. The landlord has failed to consider the impact that living with the leak and associated damage would have had on the resident and the additional risks associated with the resident's vulnerabilities. The Ombudsman expects landlords to take into account a resident's particular circumstances or vulnerabilities and the cumulative impact when dealing with complaints; however, this was not the case here. The landlord's lack of consideration of the resident's vulnerability and associated risks constitute severe maladministration.

### **Determination (decision)**

90. In accordance with paragraph 52 of the Housing Ombudsman Scheme there was:
- a. severe maladministration by the landlord in its response to the residents reports of leaks from the flat above and associated damage to the property
  - b. maladministration by the landlord in its communications
  - c. severe maladministration by the landlord in its complaint handling
  - d. severe maladministration by the landlord in its consideration of the resident's vulnerabilities.

## Reasons

91. The landlord has failed to put right the leak that has been causing a significant detriment to the resident for a prolonged period of time. Following the involvement of this service the landlord made assurances that it would address the repairs however it has failed to do so. The landlord has repeatedly failed in its management and oversight of the repair. It has failed to apply its own policy, enforce tenancy terms, and has repeatedly failed to learn from its mistakes in failing to gain access to the property where the source of the leak was. The landlord has not put things right and the leak continues at the date of this report. The landlord's failings are serious, having caused significant distress, inconvenience, time and trouble to the resident over a prolonged period.
92. The landlord's failures in communication with the resident, his next of kin, and its operatives have exacerbated the situation, causing further unnecessary distress to the resident and causing him to have to invest considerable time and effort above what should reasonably be required of a tenant in resolving repairs. The communication failures are indicative of concerning failings in the landlord's ability to record and apply information.
93. The landlord's complaint handling was severely inadequate, and the resident has had to chase it for a response on many occasions which has caused distress, and time and trouble in addition to that suffered as a result of the outstanding repairs. The complaint handling failures contributed to the already lengthy delays in resolving the repair and it was not until the resident referred his case to this service that the landlord responded to the resident's stage two complaint and began to proactively progress the issue. The resident should not have to resort to making a referral to this service to get a resolution. The landlord has not acknowledged where it went wrong, identified areas of improvement, or provided evidence that it can prevent similar failures happening again.
94. There were significant failings in the landlord's lack of consideration of the resident's vulnerabilities. The landlord has not acknowledged the resident's vulnerabilities or the severely detrimental impact that living in a leaking and damaged flat for five years has had on him. It failed to offer any support or make appropriate safeguarding referrals which could have reduced the impact on the resident.

## Orders and recommendations

### *Orders*

95. The landlord's chief executive to apologise to the resident in person.
96. The landlord to pay the resident £7,185.50 comprising:

- a. £5,395.50 for its delay in resolving the leak and repairing the associated damage to the resident's flat
  - b. £350 for its communication failures
  - c. £440 for its delay in responding to the resident's formal complaint
  - d. £1,000 for the landlord's failure to consider the resident's vulnerabilities
  - e. This amount replaces the landlord's previous offer of £850. If the landlord has already paid the resident £850 this should be deducted from the £7,185.50 ordered. The landlord should provide evidence of compliance with the above to this Service within four weeks of this report.
97. The landlord to arrange for an electrician to attend the resident's property to make safe within one week of this report.
98. The landlord to arrange for a surveyor to assess the resident's property and the property above within two weeks of this report. The landlord must share the findings of the surveyor's assessment with the resident and this service in writing within two weeks of the survey being completed.
99. The landlord to arrange for all identified works to be satisfactorily completed out within four weeks of the surveyor's report.
100. The landlord to carry out an assessment of the resident's property to assess habitability. The landlord should determine whether the resident is eligible under its policies to be offered suitable decant accommodation until the leak and damage are fully resolved. The results of this assessment should be shared with this service within four weeks of this report.
101. The landlord to provide the resident with advice and support in addressing any outstanding rent arrears that accrued whilst he was withholding rent due to his outstanding repairs. The landlord must do this within two weeks of the date of this report.
102. Within four weeks, the landlord to provide this service with an explanation of why it does not have a compensation policy and carry out a review of its approach to compensation and goodwill payments and consider implementing changes to provide:
- a. tenants with an explanation of how the offer has been calculated
  - b. staff with guidelines of how to calculate compensation awards to ensure offers are not arbitrary
  - c. consistency across the handling of all complaints and ensure fairness

103. The landlord to carry out a review of its procedures in relation to recording resident vulnerabilities, actively utilising vulnerability information in its day-to-day operations, and ensuring additional support is offered when required. The outcome of the review should be shared with this service within six weeks of this report.
104. The landlord to carry out a review of its procedures in relation to forcing entry to properties in order to carry out emergency repairs. The outcome of the review is to be shared with this service within four weeks of the date of this report.
105. Considering the failings identified in this report, the landlord is to complete a review of its overall management of this case and identify any lessons learned following the Ombudsman's investigation. It must also complete an action plan regarding how it can improve its service to its residents. The outcome of the review is to be shared with this service within six weeks of this report.