

Housing

Ombudsman Service

REPORT

COMPLAINT 202202664

GreenSquareAccord Limited

19 April 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. This complaint is about:
 - a. The landlord charging the resident rent while repairs were outstanding.
 - b. The landlord assigning the resident a starter tenancy instead of a secure tenancy.
 - c. The landlord's handling of repairs during the void stage prior to the commencement of the resident's tenancy.
 - d. The landlord's subsequent handling of repairs.
 - e. The landlord's handling of the associated complaint.

Jurisdiction

2. When a complaint is brought to the Ombudsman, we must consider all the circumstances of the case as there are sometimes reasons why a complaint will not be investigated.
3. After carefully considering all the evidence, in accordance with paragraph 42(g) and 42(a) of the Scheme, it is determined that the following aspects of the complaint, as set out above, are not within the Ombudsman's jurisdiction:
 - a. The landlord charging the resident rent while repairs were outstanding.
 - b. The landlord assigning the resident a starter tenancy instead of a secure tenancy.

4. Paragraph 42(g) of the Scheme states that the Ombudsman may not consider complaints which, in the Ombudsman's opinion, concern matters where the Ombudsman considers it quicker, fairer, more reasonable or more effective to seek a remedy through the courts, other tribunal or procedure.
5. Complaints that relate to the level, reasonableness, or liability to pay rent or service charges are within the jurisdiction of the First-Tier Tribunal (Property Chamber) and the resident may wish to seek independent legal advice on how to proceed with a case.
6. Paragraph 42(a) of the Scheme states that the Ombudsman may not investigate complaints which are made prior to exhausting the landlord's complaints procedure. The resident expressed her dissatisfaction to the Ombudsman on 10 May 2022 with the landlord assigning her a starter tenancy instead of the "secure" tenancy she previously held. There was no evidence that this issue was raised as a formal complaint to the landlord and therefore this cannot be considered by this Service. The resident may wish to raise a formal complaint about this to the landlord and raise the matter to the Ombudsman if she remains dissatisfied following the conclusion of the landlord's formal complaints procedure.

Background

7. The resident is a tenant of the landlord and commenced her tenancy on 5 January 2022. The landlord was aware from 21 December 2021 that the resident had health vulnerabilities which affected her mobility and breathing, and which necessitated adaptations in the property, particularly for accessible sanitation facilities. The house has an oil-fuelled boiler.
8. The resident raised a complaint with the landlord on 24 and 26 January 2022 about the condition of the property. She felt it was not ready for her to move into and said that the landlord's surveyor had confirmed this. The resident attached a letter from her occupational therapist which stressed the importance of adaptations and repairs being completed before she moved in. The resident listed a significant number of repairs which included:
 - a. defects with the roof.
 - b. damaged skirting.
 - c. crack in external wall leading into the bedroom and windowsill.
 - d. radiator pipes not attached to the wall.
 - e. poor condition of ceilings.
 - f. no heating throughout.
 - g. she had paid for oil which was not in the oil tank.

- h. broken toilet and tiles in the wet room.
 - i. mould due to a lack of insulation.
 - j. the utility room was unfinished with no insulation, lighting, storage or worktop.
 - k. external asbestos soil pipe flaking paint and uncovered.
 - l. no locks on wet room and toilet doors.
 - m. blocked and damaged window vents.
 - n. unsafe stair banister.
9. The resident stressed that the kitchen and wet room were old and in need of repair to be suitable for use. She said not having full use of these rooms would impact her and her household's health. The resident highlighted that her previous tenancy expired on 6 February 2022 which did not leave sufficient time for the landlord to complete all the repairs before she moved in.
10. The landlord's surveyor inspected the property on 4 and 17 February 2022 and identified multiple repairs which they noted should have been addressed when the property was vacant. The landlord provided its stage one complaint response to the resident on 22 February 2022 which acknowledged that certain repairs should have been identified and completed during the void stage and provided appointment dates for some of these. It said that a board had been removed from the banister which was the resident's responsibility to replace. The landlord said that it had noted the roof work during the void stage but would not have picked up the absence of a light in the utility room and the condition of the kitchen walls. It partially upheld the complaint and offered £150 compensation to the resident for heating repair issues and £100 for failing to address the acknowledged repairs during the void period.
11. The resident escalated her complaint because she was unhappy that she was being charged rent for a property which she felt was uninhabitable and that the remedial work would not be complete until 24 March 2022. The landlord provided a further response to say that rent was payable on the commencement of the tenancy. The complaint was escalated to the final stage and it issued its final response, at "step three" of its procedure, to the resident on 4 March 2022. This provided updated appointment dates for the outstanding repairs and said that the findings of, and compensation offered in, its stage one response had been appropriate and fair.

12. The resident informed the Ombudsman on 1 June 2022 that she continued to be dissatisfied as some repairs remained outstanding and she had needed to report further repairs. She wanted reimbursement for eight weeks of rent and council tax paid at the property. This was because she had needed to extend her previous tenancy by a month to delay moving into the property while she awaited the completion of repairs.

Assessment and findings

The landlord's handling of the void process prior to the commencement of the resident's tenancy.

13. The resident has stated that the property was uninhabitable at the start of her tenancy. It is beyond the remit of the Ombudsman to determine whether this was the case or not. However, it will be considered whether the landlord acted reasonably and in line with its obligations in ensuring that the property was provided to the resident in reasonable standard.
14. The landlord's void process states that a supervisor will complete a survey report and a health and safety report which would be provided to a works planner. It will then complete any works required before confirming to its letting team that the property was ready to let. The landlord's tenancy agreement also confirms that it will keep in repair and working order the structure of the property and any installations within for space and water heating, sanitation and washing. It is also responsible for ensuring that electric wiring, including sockets and switches, were in repair and in working order.
15. As set out above, the landlord is therefore responsible for ensuring that a property is let in a reasonable condition. It would be expected to carry out repairs and confirm through an inspection, while the property was vacant, that any repairs it was responsible for were complete. If repairs were outstanding before the start of the tenancy then it would be reasonable for the landlord to inform the resident of this and provide a timeframe for completion of these. The landlord's stage one complaint response said that it had noted the roof repairs during the void period, but there was no evidence that it informed the resident about these and when they would be repaired.
16. The landlord provided no evidence to this Service of its inspections at the void stage, nor evidence of any works carried out prior to the resident moving into the property. While it may be reasonable that some repairs may be discovered after a resident commences their tenancy, there was a significant number of repairs reported, including a broken toilet cistern which overflowed and a boiler which did not work as intended. The Ombudsman can therefore only assume that an adequate inspection was not carried out by the landlord and it did not act in accordance with its voids process.

17. Numerous repairs were reported by the resident upon the commencement of her tenancy, including repairs to the heating system, toilet and wet room. The tenancy agreement above confirms that the landlord should ensure that sanitation and heating facilities are in working order and it was a failure by the landlord to not ensure these were in good repair. These facilities were especially important in this case because of the resident's specific health vulnerabilities, which the landlord was aware of.
18. The landlord's stage one complaint response on 24 January 2022 said that the condition of the kitchen walls and the absence of lighting in the utility room would not have been identified at the void stage. This was not a reasonable response; the Ombudsman would expect a landlord's void process to ensure that functioning lights sockets were present throughout the property, in line with its tenancy agreement. The unfinished condition of the walls and ceilings was corroborated by the landlord's surveyor's inspection which said that the walls and ceilings were not in a suitable condition for the resident to carry out decoration.
19. For the landlord's failure to carry out evidenced, adequate void checks on the property, resulting in significant inconvenience and distress to the resident upon moving in to chase repairs, it should pay compensation to her of £800. This is inclusive of the landlord's previous offer of £100 compensation for its acknowledged failure to address repairs during the void stage. Its offer did not proportionately address the detriment caused to the resident by the outstanding repairs in light of her health issues. This award is in accordance with the Ombudsman's remedies guidance, available to view online which provides for awards of compensation of between £600 and £1,000 where a failure has occurred which had a significant impact on the resident and which the landlord failed to appropriately put right, further undermining the landlord/resident relationship.

The landlord's subsequent handling of repairs

20. As mentioned above, the tenancy agreement confirms that the landlord is responsible for the repair and maintenance of the structure of the property - including the walls, ceilings, windows and floors – and the installations in the property for the provision of heating, power and sanitation. The landlord's responsive repairs policy confirms that it is not responsible for floor coverings other than floor coverings it has installed in kitchens and bathrooms. This policy confirms that it will complete 95% of non-emergency repairs within 28 calendar days of the report but it will consider a resident's vulnerability when considering how quickly to proceed with a repair. This 28-calendar-day timeframe includes any time taken for an inspection of the repair.

21. The landlord's complaint responses failed to address all of the issues reported by the resident in her complaint. These were:
- a. crack in external wall leading to bedroom and windowsill.
 - b. damaged skirting.
 - c. radiator pipes not attached to the wall.
 - d. poor condition of ceilings – only the utility room ceiling was addressed.
 - e. locks on toilet and wet room doors.
 - f. external asbestos soil pipe flaking paint and uncovered.
22. The landlord's responsive repairs policy states that the resident is responsible for "minor cracks in plaster", internal painting and decoration, and "fitting extra locks and latches". It should have confirmed whether the reported crack in the external wall leading inside the property was considered a minor crack or not and, if not, this should have been its responsibility to repair. The fitting of locks on the bathroom and wet room doors should have been its responsibility as these were not "extra" fittings, but absent fittings. As the landlord was responsible for repairs to the structure of the property and installations for providing sanitation and heating, it should have addressed the damaged skirting boards, ceilings, loose pipes and the external soil pipe. Since this was an asbestos pipe, it was a particular failure by the landlord not to address this during the course of the complaint given the potential health risk.
23. The landlord's stage one complaint response stated that the resident's oil fuelled boiler was functioning at the commencement of her tenancy but it has not evidenced this. The landlord's communication log indicates that it received an email from the resident on 24 January 2022 that explained there was no heating throughout the property. The resident also called the landlord on 25 January 2022 to report that she was unable to get the boiler to work. The available evidence shows that the landlord attended on 26 January 2022 and the operative advised the resident that it required a new motor. It is not clear if the operative left the boiler working, but the resident reported to the landlord on 28 and 31 January 2022 that the boiler was still not providing hot water or heating. The repairs log shows that the landlord dropped off two temporary heaters on 28 January 2022, which was outside of its 24-hour timescale.
24. The landlord attended on 4 February 2022 and got the boiler working again. However, a new control box was required and the boiler needed manual restarting outside in the garden. The resident has stated that they were shown how to restart the boiler on this occasion. The repairs log shows that the landlord failed to order the new motor and control box until 17 February 2022. The repairs log confirms that the new parts were fitted on 2 March 2022 and the oil boiler no longer required manual restarting.

25. The repairs log indicates that the resident reported no heating and no hot water on 14 March 2022. The available evidence indicates that the resident moved into the property fully on 16 March 2022. It appears that the boiler was fixed again on 28 March 2022, but the resident reported no heating, hot water or shower facilities on 4 April 2022. The landlord decided that a new oil boiler was required and this was installed on 26 April 2022. While it left the heating working, this did not work as intended and required switching on from outside the property when needed. This was inconvenient for her as she was required to go outside each time she needed to use the boiler. In addition, given the resident's health vulnerabilities, it should have provided temporary heating promptly and carried out the repair and replacement as a priority. The delays the resident experienced were unreasonable.
26. The landlord also failed to address all of the repairs highlighted by its own surveyor's report on 17 February 2022. This report noted that the property had been left without a floor covering in the kitchen as none had been fitted by its voids team, leading to the resident laying floor covering at her own expense. The landlord did not address this in its responses to her. Its responsive repairs policy, above, states that it is responsible for the repair and maintenance of floor coverings it has provided in kitchens and bathrooms. Given that its surveyor had noted that its voids team should have provided a floor covering, it should have acted on this. It will be ordered to contact the resident to clarify this and consider reimbursement of her reasonable costs in laying kitchen flooring.
27. The repairs which the landlord acknowledged should have been dealt with during the void process were:
- a. door architrave.
 - b. broken toilet and tiles.
 - c. blocked and damaged window vents.
 - d. Mould.
 - e. the utility room ceiling.
28. The above repairs, and additional repairs for the kitchen shelving, extractor fan and wall plaster-boarding, were scheduled for completion on dates ranging between 1 and 24 March 2022. These were all outside of the 28-calendar-day timeframe specified in its responsive repairs policy. Given the resident's vulnerabilities and that these should have been completed during the void period prior to 5 January 2022, these repairs were excessively delayed and was an unreasonable response from the landlord in the circumstances. It was also unreasonable that after the landlord's attendance on 21 February 2022 to repair the window vents, the repair was found to be

incomplete and required further repair, a date for which was not provided to the resident.

29. The landlord confirmed in its stage one complaint response on 22 February 2022 that the resident had paid for oil prior to the start of her tenancy which was not delivered and said it would refund this. This had not been done by the time of its final complaint response on 4 March 2022. Given that there was no dispute that this was its error, it should have carried this out promptly and it will be ordered to do so.
30. The landlord said that it had identified defects with the roof and loose cabling during the void process. Given that the surveyor's inspection had noted that these defects allowed for leaks to occur, it was unreasonable that these issues were scheduled for repair on 10 March 2022, two months after the resident commenced her tenancy and more than six weeks after her report of the issues on 24 January 2022. This was outside of the timeframe specified in its responsive repairs policy and did not indicate that it took the resident's vulnerabilities into account when prioritising the repair.
31. The landlord stated that boarding had been removed from the bannister which made it non-compliant with landlord's regulations and it was the resident's responsibility to repair this. This was unreasonable as, in the absence of a void inspection report, there was no evidence that this was done by the resident. In this situation, as it could not evidence that this was done by the resident, it should have carried out this repair.
32. The landlord's stage one complaint response acknowledged that several repairs should have been identified at the void stage and completed, saying that it had "identified several learnings". It did not explain what these were and the Ombudsman would expect a landlord to explicitly explain the failings it had identified and how it would tackle these in future, particularly where the failings had a significant impact on a vulnerable resident.
33. For the landlord's failure to address all the repairs reported by the resident and its delay in dealing with repairs, it is to pay the resident £1,000 compensation, inclusive of the £150 already offered. This is for the distress and inconvenience experienced as a result of those failures, the particularly poor response to the boiler issues and the particular impact on the resident given her vulnerabilities.
34. Whilst not forming part of the resident's complaint, this service has had sight of correspondence from the resident's MP to the landlord in January 2023 raising concerns about a number of current repairs issues, including that the resident is unable to use her wet room as it leaks and has not been repaired.

35. It has been noted from additional correspondence provided by the resident that the resident submitted a Disrepair Claim to the landlord in November 2022. Nevertheless, a further recommendation has been made that the landlord carry out a new inspection of the property to identify any additional repairs for which it is responsible and to provide the resident with a summary of the works it intends to carry out together with timescales as to when it expects those repairs to be completed.

The landlord's handling of the associated complaint.

36. The landlord's complaint policy that was in use at the time of the complaint provided for a two-stage internal complaints procedure. At stage one it should respond to the complaint within ten working days of receipt of the complaint; no timeframe is specified for the final stage complaint response.

37. The resident raised her complaint on 24 January 2022 and the landlord responded to this on 22 February 2022. This was a period of 21 working days and was an excessive delay. It may be reasonable for a landlord to extend the response time for a complaint where it is awaiting the outcome of an inspection. This may have been the case here; however, it would be expected to explain this to the resident and provide an updated timeframe, but there was no evidence of this.

38. The landlord issued its final complaint response to the resident on 4 March 2022, identifying this as its response at the third and final stage of its complaints procedure. This noted that it had already provided a stage two response to her. This was not in accordance with the landlord's current complaints procedure. Its previous complaint policy provided for a three-stage complaints procedure and, at stage two of this, the complaint should have been responded to by a different member of staff than at stage one. The landlord's issue of a "step three" complaint response may have led to confusion; however, the final response was provided within ten working days of the resident raising her dissatisfaction with its stage one response and therefore there was no excess delay caused by this.

39. The landlord should pay compensation of £100 to the resident for the delays and inconsistency in the handling of the complaint to recognise the inconvenience caused.

Determination

40. In accordance with paragraph 42(g) and 42(p) of the Scheme, the landlord charging the resident rent while repairs were outstanding is not within the Ombudsman's jurisdiction.

41. In accordance with paragraph 42(a) of the Scheme, the landlord assigning the resident a starter tenancy instead of a secure tenancy is not within the Ombudsman's jurisdiction.
42. In accordance with paragraph 52 of the Scheme, there was severe maladministration by the landlord in:
- a. Its handling of repairs during the void stage prior to the commencement of the resident's tenancy.
 - b. Its subsequent handling of repairs.
43. In accordance with paragraph 52 of the Scheme, there was maladministration by the landlord in its handling of the associated complaint.

Orders and Recommendations

Orders

44. That within 28 calendar days of the date of this determination, the landlord is to:
- a. Provide the resident with a written apology from its Chief Executive for its handling of the void process, repairs and the complaint.
 - b. Pay the resident a total of £2,994.87 in compensation. This amount includes the £1,900 already paid by the landlord in relation to this complaint and is made up as follows:
 - i. £800 for its failures with regards to its handling of repairs during the void stage and the distress and inconvenience this caused.
 - ii. £1,194.87 for loss of use of the boiler and the distress and inconvenience caused (calculated as 75% of the weekly rent rate for the period 24 January 2022 to 26 April 2022).
 - iii. £500 for its failures with regards to its handling of subsequent repairs and the distress and inconvenience this caused.
 - iv. £500 for its complaint handling failures.
 - c. Complete the refund of the resident's costs in purchasing oil, if it has not done so already.
 - d. Confirm to the resident its position on the provision of the kitchen floor covering and consider reimbursement of her reasonable costs in this if it should have provided the floor covering.

- e. Conduct a senior management review into the case to identify any additional learning and improvement, and report to the appropriate governing body the outcome. As part of this review the landlord is to:
 - i. Review its procedures for the handling of void period repairs and confirm to the Ombudsman what steps it will take to ensure that its properties are inspected, and repairs handled adequately at the void stage.
 - ii. Review its procedures for the handling of repairs and inform the Ombudsman what steps it will take to ensure that repairs are prioritised appropriately for residents with vulnerabilities.
 - iii. Review its procedures for the handling of tenancy changes to minimise the likelihood that a single household will pay rent on two properties for more than four weeks.
- f. Review its procedures for the handling of complaints and confirm to the Ombudsman what changes it will make to ensure that complaints are handled effectively and in accordance with its current policy and this service's Complaint Handling Code.
- g. Review its process for identifying and responding to disability adjustment requests to ensure future requests are responded to within 42 days.
- h. Commit to implementing a vulnerable person policy with a particular focus on addressing how it identifies and records vulnerability. The landlord should review the BSI's consumer vulnerability standard: 'Requirements and guidelines for the design and delivery of inclusive service' (BS ISO 22458).

Recommendations

45. The landlord is to:

- a. Arrange a face-to-face meeting with the resident (and at least one representative) to talk them through the actions it intends to take based on the repairs recommended within the December 2022 (completed by RS Goodman) and February 2023 surveys and the remedial work noted in the environmental health hazard awareness notice. Given the previous distress experienced by the resident during the meeting on 9 March 2023 and the findings of severe maladministration, the landlord should think carefully about who attends this meeting.
- b. Follow-up the meeting with a written summary of the works it intends to carry out together with timescales as to when it expects those repairs to be completed.

- c. Confirm it has a named officer to lead on adaptation cases and that it will refer the resident's previous home adaptation requests to that officer for review.
- d. Provide the resident with a written response once the landlord's officer has completed the reassessment of the resident's adaptation requests.