

Housing

Ombudsman Service

REPORT

COMPLAINT 202120954

Moat Homes Limited

29 June 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 handling of:
 - a. The resident's reports of damp and mould in their home; and
 - b. The way the landlord handled the associated complaint.

Background

2. The resident lives in a ground-floor flat. She is an assured tenant.
3. On 6 July 2020, the resident called her landlord. She said she had damp in the property since 2010 but that it was getting worse. The resident told the landlord the damp was affecting her living room and bedroom. She said she had purchased a dehumidifier to help control the damp. The landlord advised her it would attend the property in four to six weeks.
4. The landlord logged the resident's contact as a complaint and visited her property on 22 July 2020. In August 2020, the landlord informed the resident that condensation was causing the mould in her home. It offered her advice on reducing this. A condensation report recommended the landlord do a mould wash at the property in August 2020.
5. Between March and September 2021, the resident contacted her landlord several times to chase up some equipment to tackle the damp and mould. The landlord acknowledged the resident's complaint at stage one of its complaint process on 24 August 2021.
6. The landlord did not respond at stage one as it believed that it had resolved the complaint. It stated that it told the resident that it would not pay for a

dehumidifier and that it does not supply these for residents to keep. The landlord claimed that it provided a hydrometer by post and gave the resident instructions on how to use it. A hydrometer is used to measure moisture content and temperature of the air.

7. On 25 October 2021, a technical report commissioned by the landlord identified high levels of moisture at the resident's property and insufficient ventilation as the cause of the mould and damp. It recommended that the landlord consider installing new extractor fans to improve the flow rate of air and ventilation.
8. On 3 December 2021, the landlord issued a final response, in which it explained:
 - a. It had skipped stage one of the complaint procedure at the resident's request.
 - b. It visited the resident on 22 July 2020 and 18 August 2020. It identified that the mould present was caused by condensation. As the structure was dry, the most likely cause was drying clothes indoors.
 - c. the resident had purchased a dehumidifier which had helped reduce the air moisture. It had given her a hydrometer to help her measure humidity and temperature to help regulate condensation levels.
 - d. It accepted it could have supported the resident more. It would change how it approaches similar issues in the future. It offered £50 compensation for the resident's trouble.
 - e. It would upgrade the kitchen and bathroom extractor fans. This would offer a small improvement by giving the whole house ventilation.
9. The resident remained unhappy with the landlord's response and referred her complaint to this Service. The resident said she was trying to sort out a damp and mould problem and that the landlord had promised her a device to resolve this. She was unhappy that it only takes readings of moisture and temperature, so she went out and purchased a dehumidifier which resolved the problem. The resident wanted to be compensated for the cost of the dehumidifier.

Assessment and findings

Scope of investigation

10. The Ombudsman's investigation focuses on events from the resident's report of recurring damp and mould on 6 July 2020. This is because this Service cannot investigate complaints that were not brought to the landlord's attention as a formal complaint within a reasonable period, normally within six months

of the matters arising of her complaint to it. This is set out in paragraph 42(b) of the Housing Ombudsman Scheme.

11. The resident has expressed concerns regarding the impact the situation has caused to her health. Where claims are made that a person has been injured or a medical condition has worsened due to a landlord's actions or inactions, the Ombudsman must consider the available documentary evidence. When this type of dispute arises, the courts rely on expert evidence in the form of a medico-legal report. This will give an expert opinion of the cause of any injury or deterioration. Without that evidence, the Ombudsman is not able to draw any conclusions on whether the resident's health has been injured in the way in which the landlord handled her reports of mould or damp. This question may be better for the courts to decide.

The landlord's response to reports of mould and damp

12. Sections 9 and 10 of the Landlord and Tenant Act 1985 places an obligation on landlords to ensure properties are fit for human habitation and remain fit for the duration of the tenancy. When assessing fitness for human habitation landlords need to consider ventilation and whether any damp or mould is present.
13. The landlord inspected the resident's property for mould and damp on 22 July 2020 which was 16 days after she made contact. This was not an emergency repair. Therefore, the timescale in which the landlord responded was reasonable.
14. Nevertheless, it is of concern that while the landlord acknowledged the presence of damp within the resident's home in July and August 2020, it attributed the issue to condensation caused by the resident's lifestyle choices. It did not consider other possible causes. For example, the condensation report produced on 10 August 2020 states that the resident did not use the heater in her bedroom and only dried clothes in the kitchen.
15. The Housing Ombudsman's spotlight report on damp and mould ("It's Not Lifestyle") outlines that landlords should "review...their initial response to reports of damp and mould to ensure they avoid automatically apportioning blame or using language that leaves residents feeling blamed." Of significant importance, homes should be fit to allow residents to dry their clothes in doors in winter months. A property cannot fairly be said to be fit for human habitation if a resident cannot wash and dry their clothes in the home, during the winter months in British weather.
16. While not opening windows, limited heating or drying clothes inside a property may increase condensation, it was unfair of the landlord to only focus on

these issues. The landlord should have considered and ruled out other possible causes, for example a leak or penetrating damp. Given the resident had complained of damp since 2010, it would have been appropriate for the landlord to commission a more detailed report earlier than October 2021. Not having a detailed report sooner deprived the landlord of having a more comprehensive understanding of the nature of the property and possible causes of the damp.

17. Once the landlord had completed a more detailed report in October 2021, it was able to establish that the structure of the property was dry and that the overall ventilation in the property was lower than it should be. Based on the content of the technical report from October 2021, it was reasonable to conclude there were no structural causes for the condensation within the resident's property or evidence of other factors.
18. However, after the survey report was provided recommending upgrading the extractor fans there is no evidence if or when this was completed. The evidence shows the landlord was seeking a quote for this work in February 2022, over three months after the report. It is also noted that although the condensation report of 10 August 2020 recommended a mould wash it is unclear when or if this was done. This Service has seen evidence that the landlord requested a quote for a mould wash on 11 May 2021. This suggests that the mould wash was not done for nine months.
19. Having considered the landlord's acknowledgement that it could have done more to help and that a dehumidifier would help manage the condensation a further order has been made at the end of this report to reimburse the resident the cost of this.
20. The landlord provided a list of the dates it attended the property and the date and length of calls with the resident. It also provided a summary of calls the resident made in 2021 between March and October 2021. These reveal the resident's confusion and expectation of additional support and equipment from the landlord.
21. The landlord has not evidenced that it responded to the resident's queries about the works and the hydrometer. The fact that the resident chased some equipment between March and August 2021, having been given the hygrometer, suggests she did not know the purpose of this and was confused about what had been promised.
22. It is not clear whether the landlord simply failed to do this or failed to create and maintain adequate records of the conversations it had. An accurate audit trail is a crucial part of a landlord's service delivery. Records are required to demonstrate a landlord has complied with its legal and regulatory obligations.

23. Moreover, the evidence provided by the landlord does not reveal what it established or agreed on each visit or contact. In the absence of any formal repair records being made available, this Service has not seen evidence that the landlord ultimately proceeded with arranging the recommended mould wash or fan upgrades. The landlord has not provided any explanation for this. This is not appropriate – given the effects of mould on physical and mental wellbeing.

24. Taken together, the Ombudsman has identified the following failures:

- a. The property was in a condition affected by damp and mould and could have been uninhabitable.
- b. There was a delay by the landlord in obtaining a suitable report in assessing the cause of the damp and mould.
- c. There were delays in upgrading the extractor fans.
- d. There were delays in completing the mould wash.
- e. The landlord unreasonably used language that encouraged tenant-blaming.
- f. The landlord failed to demonstrate it explained how the hydrometer would work.
- g. The landlord failed to demonstrate it effectively communicated with the resident about her expectations.

25. These failures amount to maladministration.

Complaint handling

26. Paragraph 9 of the Scheme requires landlords to manage complaints from residents in accordance with its published procedure or, where this is not possible, within a reasonable timescale.

27. The landlord's complaint policy requires it to respond to complaints at stage 1 within 10 working days and to respond to complaints at stage 2 within 20 working days. If this is not possible, the landlord must explain why and offer another timeframe not exceeding another 10 working days. The landlord can only close a complaint if the resident agrees and there is no evidence the resident had agreed in this case.

28. It is of concern that the landlord delayed accepting the resident's dissatisfaction with its handling of her damp and mould reports as a stage 1 complaint under its complaints process by over a year. It is also deeply concerning that it failed to respond to the complaint at stage one and issued a response at stage two. The evidence is that the resident was unaware it had closed her complaint at stage one.

29. In the landlord's stage two response it awarded the resident £50 for the resident's "time and trouble". The landlord did not offer any redress for the significant delay in arranging the mould wash or installing new extractor fans, or for its failure to investigate the cause of the damp more fully at an earlier opportunity. The overall offer of compensation does not, in the Ombudsman's opinion, adequately reflect the failings in this case and the inconvenience and detriment caused to the resident. The landlord has therefore been ordered to pay more compensation. It is further recommended that the landlord review its staff training needs because of the delay experienced by the resident during her complaint.

Determination

30. The Ombudsman has found that, in accordance with paragraph 52 of the Scheme:

- a. there was maladministration in the landlord's handling of reports of damp and mould at the resident's property.
- b. there was maladministration by the landlord in the way it handled the complaint.

Orders

31. Within 28 days of the date of this determination, the landlord must:

- a. pay the resident the sum of £1,000 compensation for time, trouble, and distress caused to the resident by its handling of her reports.
- b. pay the resident the sum of £135 to cover the cost of the dehumidifier she purchased. The Ombudsman concludes that the purchase of the item was necessary to reduce the effects of the damp and mould, which the landlord delayed rectifying.
- c. pay the resident £100 compensation for the poor handling of the complaint and the distress and inconvenience caused.

32. Within 56 days of the date of this determination, the landlord must complete a self-assessment against the recommendations set out in the Ombudsman's spotlight report on damp and mould. It must provide a copy to this Service within 56 days. The assessment must include:

- a. What is the landlord's current approach to condensation related damp and mould.
- b. The steps it has taken to ensure it meets the outcomes in the spotlight report.

- c. What else is the landlord intending to do to ensure that its properties are free from damp and mould.

Recommendations

33. The landlord should consider making contributions to any increased costs in electricity involved in the running of the dehumidifier on receiving evidence from the resident. The evidence should be a statement showing the usual electricity costs before she had a dehumidifier along with evidence of the increased costs.
34. The landlord should review its staff training needs concerning complaint handling.