Housing Ombudsman Service

Severe maladministration findings 2019-20

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Introduction

This is our first report to be published focused on the few but most serious failings where we investigate and make a finding of severe maladministration.

Decisions on the five cases featured were made during 2019-20 and we have also taken the step of naming the landlords concerned. This is part of our ongoing process to increase our transparency by publishing more data and information about the cases we see and our findings. From now on, we will be highlighting cases where we find severe maladministration on an ongoing basis through the year, rather than one single report each year. Using our new powers in the Housing Ombudsman Scheme, we will also notify the Regulator of Social Housing of any severe maladministration findings.

Two of the cases in the report involve lengthy delays by councils in dealing with repairs so residents were left in poor living conditions over long periods of time. In one case, a council resident was unable to live safely in her home over periods spanning five years. In the second case, it took two years to fix a leak from an upstairs flat causing significant damage.

A group complaint from 29 residents living in supported housing followed the withdrawal of services by their housing association, despite contractual agreements in place for some residents, and failure to consult all residents on the changes as required by regulatory standards. Issues concerning preserved Right to Buy led to a resident believing for 15 years that she would be able to buy her property, but that was not possible. Another resident was unable to get a response to her enquiries about service charges for over eight months, despite repeated requests, and the housing association then failed to respond to our enquiries during the next four months.

In all cases there were issues with the landlord's complaint handling, in particular delays in dealing with the complaint effectively and not offering appropriate redress that reflected the impact on the resident. That includes the level of compensation initially offered by landlords in some cases. Poor record keeping practices was also a repeated issue.

We've been encouraged by the response from landlords on these findings, wishing to put things rights, ensure lessons are learned and prevent the same situation happening again.

Where we make findings of severe maladministration we will make an order that is proportionate to the severity of the case. The landlord is obliged to comply with the orders and we follow up to ensure they are implemented.

We may also make recommendations to help landlords improve their services. In some cases we will propose a single remedy and in others, depending on the complexity of the case and our overall findings, we will set out a list of remedies which taken all together we consider are appropriate in the circumstances. Further information on our approach to remedies is set out in our policy and guidance.

Shortly, we plan to publish reports on complaints data about individual landlords, followed by the regular publication of casework decisions next year, all part of our increasing transparency to demonstrate the difference dispute resolution can make. In the meantime, we hope the insight shared in this report will provide a useful learning resource.

Richard Blakeway
Housing Ombudsman

October 2020

Our role

We make the final decision on disputes between residents and member landlords. Our decisions are independent, impartial and fair.

We also support effective landlord-tenant dispute resolution by others, including landlords themselves, and promote positive change in the housing sector.

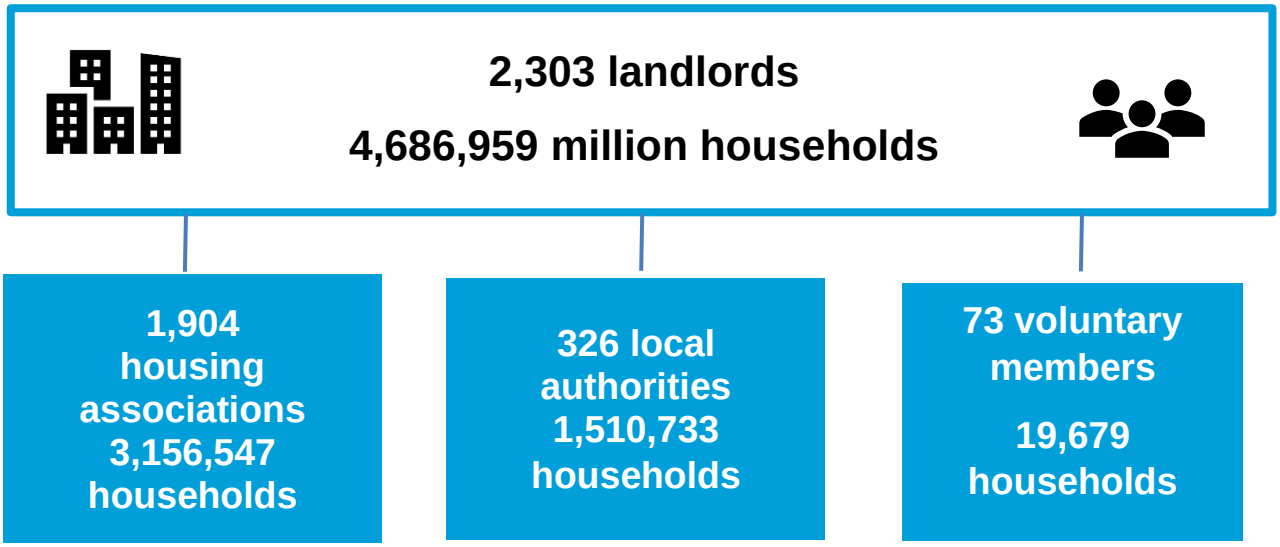
Our service is free to the 4.7 million households eligible to use it.

Our role is set out in the Housing Act 1996 and the Housing Ombudsman Scheme approved by the Secretary of State.

Our membership

Membership of the Scheme is compulsory for social landlords (primarily housing associations who are or have been registered with the Regulator of Social Housing) and local authority landlords. Additionally, some private landlords are voluntary members.

Membership as at 31 March 2020



Landlord:	London Borough of Camden		
Complaint category:	• **Damp and mould** • **Complaint handling**	**Case reference:**	**201712753**

The complaint

Ms B complained about the length of time taken by her landlord, the London Borough of Camden, to rectify damp and repair at her home and the level of compensation provided.

Background and summary of events

Ms B is a secure tenant of the London Borough of Camden. She has significant health and disability issues and is reliant upon several council services.

She made a formal complaint about the damp conditions in 2014 with a final response sent by the landlord in December 2015. This confirmed that persistent or recurring damp had been present at the property for some time and was still present. The landlord accepted that the major works undertaken had been poorly executed and had been completed without the benefit of a damp survey. This was despite the need for a specialist damp report having been repeatedly identified.

Ms B was left for extended periods without safe bathing facilities or without a water supply to the kitchen. The decision letter set out that a programme of works would be agreed for the outstanding repairs, with one point of contact to keep her informed and up to date. The matter of financial compensation would be considered once the work was completed.

By February 2017 Ms B complained that works had not been completed and she was still paying rent for a property that she could not live in.

The landlord accepted that Ms B had been put to considerable time and trouble over a prolonged period. It awarded a payment of £250 stating that this was an initial payment and that settlement of compensation would be discussed with her within 30 days.

A dispute arose about the length of time the property was not habitable. Ms B made her own arrangements for alternative accommodation on the following dates:

- May - October 2014
- September 2015 - April 2017
- April 2017 - July 2017
- July 2017 onwards

The landlord's position was that Ms B could not live at the property on her own due to the limitations and restriction in relation to the width of the corridors and the wheelchair manoeuvres required to access the bathroom. It did not however accept that the property was uninhabitable apart from a short period from April - July 2017. On November 2018 the landlord confirmed that Ms B could move back into the property, however some of the works were ongoing.

Further works were required in 2019 and the landlord wrote to Ms B again in May stating that the property was ready for her move back home. It confirmed that an offer of compensation would be made following the landlord's compensation guidelines, the following week. No offer was made.

Assessment and findings

Works to remedy the problems were first requested in 2014 and continued to require rectification and repair into 2019. This was an unreasonable length of time.

Throughout the life of the complaint, there was a succession of promises that financial redress would be forthcoming once the works were completed but only a very limited offer was made. For the majority of the time between 2015 and 2019, Ms B was unable to safely live at the property and the landlord was aware of this.

We have not seen any offer of alternative accommodation. There were therefore significant failings in the council's handling of the repairs and adaptations at the property and its handling of the request for compensation.

Determination (decision)

We found severe maladministration by Camden in relation to the length of time taken in dealing with the repairs needed at the property and in making a fair offer of compensation.

We ordered the council to:

- pay Ms B for the distress, inconvenience and frustration for the delay in completing the works, calculated from 2015 to 2018 at £2,000 per year in accordance with the compensation policy
- pay Ms B £2,000 for the delays in providing its offer of financial redress
- refund the rent it promised previously.

We also recommended that the council should:

- refer the claim for damaged contents to its insurer for consideration
- review this case to determine what learning it can take from it.

Landlord:	Together Housing Association		
Complaint category:	• **Support services**	**Case reference:**	**201713690**

The complaint

Mr C complained on behalf of a group of residents about Together Housing Association's decision to reduce the level of support services at their block and then later to withdraw support services. The complaint was from 29 residents in supported accommodation for the elderly.

Background and summary of events

Following the withdrawal of local authority financing of support the landlord, Together Housing, withdrew the daily support visits to its residents, initially replacing these with weekly support visits. These weekly visits were later withdrawn, in 2017, leaving residents with an alarm service. It notified residents in writing and kept an unsigned copy of this letter on the housing file.

The residents concerned held one of two types of tenancy agreement, depending on when the tenancy commenced.

Group 1 held tenancies with terms originally specifying that the landlord would visit each day of the residency and would respond to any emergency alarm, and, that should the supporting people grant not be available, the residents would have to pay for the cost of the service. The daily visits were later changed to weekly visits by means of a deed of variation.

Group 2 had tenancies that did not include these terms, but included a charge for the alarm and intensive housing management.

Assessment and findings

For the group 1 residents, the landlord had a contractual obligation to provide weekly welfare visits, as amended by the deed of variation. Further changes required individual agreement and a legally binding document to be signed by both parties. The landlord did not seek legal advice and there is no evidence that it followed an appropriate legal process when removing the contracted weekly support visits. It just kept a copy of a letter sent to all residents, unsigned, about the changes alongside their tenancy agreements.

This failure only applies to the group 1 residents as there was no similar contractual obligation on the landlord to provide support visits to tenants with the second agreement.

However, both tenancy agreements – group 1 and 2 – stated that they would be consulted on any plans affecting tenants. In addition the Regulator of Social Housing's Tenant Involvement and Empowerment Standard states that when making significant changes to services, the landlord must consult with affected tenants in a fair, timely, appropriate and effective manner.

The removal of weekly welfare visits and associated reduction in staffing levels represented a significant change in the management arrangements so the landlord was obliged to consult in line with the tenancy conditions and regulatory standard. There was no obligation for the landlord to pay for or subsidise the cost of providing the weekly welfare visits or other similar supported services but it would have been appropriate to consult on the various options available to residents for future support services and the additional costs, and to seek signed confirmation from individual residents on their preferences. There is no evidence that the landlord carried out consultation on this basis.

Following the group complaint, the landlord did then carry out a more thorough consultation process but it was 16 months after the weekly visits had been withdrawn and nearly two years after it first contacted residents about needing to review the support it provided.

Determination (decision)

We found severe maladministration for the residents in Group 1. The landlord had removed a contractual service from these residents without following an appropriate legal process.

We made a further finding of maladministration for all residents as the landlord had failed to appropriately consult residents about the changes to the service until 16 months after the change was implemented.

We ordered Together Housing to:

- pay all tenants who were part of the group complaints £250 for the distress and inconvenience caused
- pay an additional £250 for those in Group 1
- write to all residents apologising for its failure to appropriately consult before removing services
- seek legal advice on addressing the outstanding contractual issue for group 1 residents and to provide a summary to the Ombudsman of the advice and any proposed actions to all affected residents.

Landlord:	London Borough of Newham		
Complaint categories:	• **Repairs** • **Complaint handling**	**Case reference:**	**201709616**

The complaint

Ms A complained about the London Borough of Newham's handling of a leak from an upstairs leasehold flat into her kitchen and bathroom.

Background and summary of events

A water leak from an upstairs leasehold flat caused significant damage to Ms A's home, damaging her kitchen flooring and carpet. Newham did not have a specific policy in relation to leasehold obligations and when it would act. However, the lease did include obligations allowing the landlord inspection access. The lease also confirmed that the leaseholders were responsible for any pipes which solely served their property. Therefore, the leasehold neighbour was responsible for fixing the leak and not the council in the first instance. Finally, the lease also allowed the council to carry out repairs and recharge the leaseholder if the required works had not been completed within two months.

Despite these provisions, the landlord was slow to respond to Ms A's report about the leak, which she first made in February 2017, and did not initiate an inspection until three months later. Having inspected and identified the origin of the leak, there was no evidence that the landlord then took any action to ensure the leak was remedied or that it contacted the leaseholder to advise her of the repairs she needed to carry out until a further two and a half months later.

Due to the length of time the leak was allowed to continue, Ms A's walls became mouldy, tiles fell from the wall and door frames warped. Repairs were subsequently carried out, but these were not successful.

Assessment and findings

The leak was not fixed until nearly two years after Ms A first raised her formal complaint, despite the poor living conditions created for her as a result. In response to Ms A's complaint, the landlord acknowledged that it had taken too long to carry out the repairs but its compensation offer of £300 was inadequate.

The response failed to assess what went wrong and did not go far enough in terms of putting things right. There was no indication of any learning by the council or that actions had been taken to improve the service.

Determination (decision)

We made a finding of:

- severe maladministration in relation to the leak into the bathroom
- service failure on the kitchen floor repairs
- maladministration on the complaint handling.

We ordered the council to:

- pay Ms A £3,850 for the distress and inconvenience
- take action to deal with the outstanding repairs in Ms A's bathroom and the flat above
- review its handling of the repairs to identify what went wrong so the same issues do not recur.

We recommended that the council should:

- inspect Ms A's kitchen for any further repairs needed
- review its record keeping on property inspections to ensure it is adequate and accessible
- arrange for complaint handling staff to complete the Ombudsman's e-learning.

Landlord:	Cottsway Housing Association		
Complaint category:	• **Complaint handling**	**Case reference:**	**201806910**

The complaint

Ms T, a tenant of Cottsway Housing Association, complained about its handling of her complaint concerning a preserved Right to Buy (RTB) enquiry.

Background and summary of events

Ms T is a tenant of a property formerly owned by a local authority in which the previous tenant had a preserved RTB. Her main reason for moving into the property through mutual exchange was to exercise her RTB and the tenancy agreement she signed, incorrectly issued by the landlord, assigned preserved rights.

Fifteen years later, Ms T made an enquiry about buying the property but was told she did not qualify as she had not been a tenant of the local authority when it transferred to the housing association.

Ms T made a formal complaint to the landlord in 2018 asking it to uphold the preserved RTB which she believed she had held for 15 years. It apologised that she had been asked to sign the incorrect tenancy agreement but said it was unable to award her the preserved RTB. It advised her to sign a new agreement backdated to when she originally moved in, which she did not agree to and contacted her MP.

The landlord carried out a further review and again said it could not offer Ms T the RTB the property as that cannot be acquired by signing a tenancy agreement and it had no legal mechanism to do so. It accepted that it had made a mistake, apologised and offered £550 in recognition of the inconvenience.

Assessment and findings

It was reasonable for Ms T to believe that the tenancy gave her preserved RTB. During the tenancy, the landlord took actions which reinforced this belief, such as sending out RTB forms to Ms T.

As she does not meet the criteria for RTB set out in legislation neither the landlord or the Ombudsman has the power to grant her eligibility. Ms T is likely to have experienced significant distress and inconvenience as a result of the landlord's failures as she had believed for many years that she was progressing towards being able to buy her home. Although the landlord could not put her in a position to buy the

property, it would have been appropriate for the landlord to offer a remedy such as compensation which it only did after Ms T's MP was involved, eleven months later.

It was entirely inappropriate for the landlord to seek to resolve the issue by asking Ms T to sign a new copy of the tenancy agreement, backdated to when she took up her tenancy. This was not of any benefit to her but potentially of significant benefit to the landlord. This disparity should have been recognised with an appropriate offer or the proposal should not have been made.

In addition it is good practice to advise tenants to seek independent advice if they are being asked to make any decision that could significantly affect their legal rights. The landlord did not offer any such suggestion.

The landlord's complaints procedure has two stages but the Ms T was not informed of her right to escalate her complaint to stage two (when it is passed to a senior manager) even after her MP was involved. The landlord failed to take the opportunity available in its two-stage complaints process to ensure that decisions are scrutinised and quality checked, and where mistakes have been made, to remedy them.

Determination (decision)

We found severe maladministration and ordered Cottsway Housing to pay Ms T £2,500 in recognition of the significant distress and inconvenience caused by the cumulative impact of its errors and complaint handling.

We also recommended that the landlord should consider the findings in the investigation report to improve practice and avoid similar failings. This should include the landlord's complaint handling practice to ensure that serious complaints are reviewed by a manager.

Landlord:	The Hyde Group		
Complaint categories:	• **Service charges** • **Complaint handling**	**Case reference:**	**201816759**

The complaint

Ms S complained about how her landlord, The Hyde Group, communicated with her on service charges, how it handled her formal complaint and its record keeping.

Background and summary of events

Ms S is a leaseholder of a two-bedroom flat and the landlord is the freeholder.

For eight months during 2018-19, Ms S made regular enquiries to her landlord about the service charges for her property. This included how it was handling credit to her account and contributions to the buildings insurance. The landlord could provide no evidence it had responded to these enquiries other than a single letter in relation to buildings insurance. This led to Ms S making a formal complaint to her landlord.

Over the next four months the Ombudsman contacted the landlord on six occasions, requesting it respond to the formal complaint. However, the landlord failed to do so. Nor did the landlord provide a copy of the lease or copies of relevant written communication during the Ombudsman's investigation, despite several requests.

Assessment and findings

There was a significant failing in the landlord's communication about service charges, as it did not respond to Ms S's queries. This led her to chasing the landlord on several occasions and pursuing the formal complaint. A response appears to have been drafted but there is no evidence that it was sent and it did not address all of Ms S's queries.

This was a serious failing in the landlord's complaint handling. By not responding to the complaint, the landlord failed to comply with its own complaints policy, missing an opportunity to resolve the complaint at an earlier stage and restricting the Ombudsman's investigation.

There was also failure in terms of the landlord's record keeping practices. It has not provided copies of relevant written communication to and from Ms S, despite several requests by the Ombudsman. This is of concern and to an extent limited the Ombudsman's investigation. It is unclear whether this is a failure in keeping adequate records or a failure to supply these to the Ombudsman when requested.

Determination (decision)

We found:

- maladministration regarding the landlord's communication about service charges
- severe maladministration for its formal handling of the complaint
- service failure in relation to its record keeping.

We ordered Hyde Housing to:

- apologise to Ms S and pay her £450 for the distress and inconvenience caused by its failings
- give Ms S the opportunity to raise all outstanding queries so the landlord can provide her with a written response, addressing each query individually and providing relevant evidence
- review the failings identified and report back to the Ombudsman with an action plan to prevent them happening again.