

Housing

Ombudsman Service

REPORT

COMPLAINT 201715175

Sovereign Housing Association Limited

22 August 2023 (amended at review)

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's response to reports of pest infestation.
 - b. The associated complaint handling.

Background

2. The resident is an assured tenant of the landlord, a housing association. The resident occupies a two-bedroom house with a garden and loft space.
3. The resident has complained to the landlord, and this Service, that they have had repeated infestations of rats for "several years". They told us that the infestations tend to increase during the autumn and winter months and resulted in:
 - a. late night gnawing sounds in the loft
 - b. sleep disturbance
 - c. distress
 - d. damage to drywall and plaster
 - e. damaged roof tiles and insulation.
4. There were previous complaints to the landlord and this Service in 2016 and 2017 respectively. Issues covered in this report were first raised to the landlord in July 2017. At this time the rats returned following previous failed works. There were two further reports noted on the landlord's repair history in September 2017. The landlord used a contractor to lay bait in the loft and drains of the property. In October 2017, the landlord wrote to the resident to confirm that no further pest

activity was identified by their contractor and therefore no further investigations would take place.

5. On 25 March 2018, the resident raised their complaint to the Ombudsman. As the complaint had not yet completed the landlord's internal complaints procedure, we wrote to the landlord to ask that it log and respond to the complaint in line with their processes. The landlord responded to advise that it was the resident's responsibility to deal with pest infestations, although it would complete remedial work afterwards if required. On 18 May 2018, the landlord said that a rat infestation was confirmed, and they were seeking access to complete remedial works.
6. In October 2018, the resident contacted this Service to advise that the works from the previous communication had not been completed resulting in a further infestation. We wrote to the landlord in January 2019 to enquire about the status of the internal complaint. The landlord responded to us to confirm that the previous works had been completed and no further investigations had taken place as there was no evidence of further pest activity. It also said that the complaint had been dealt with "in line with their complaints procedure".
7. Between May 2019 and October 2019, the resident contacted the landlord on several occasions stating that the pest activity had returned. We have no record of any response to these attempts at contact until the landlord inspected the property in December 2019. In February 2020, this Service wrote to the landlord to enquire as to whether the matter was being dealt with, or if the previous complaint was now resolved. The landlord told us that they had no record of any complaint by the resident following the original complaint in 2017. It agreed to raise and investigate a new complaint. The resident stated that on 2 March 2020, the landlord agreed to investigate the infestation but did not contact them regarding a complaint. The landlord investigated the property and found that a previous mesh cover had fallen off a roof vent, potentially allowing rats access.
8. Around this time, the resident contracted a different pest controller on a private basis. That pest controller found dead rats in the loft, which the resident asked the landlord to remove. There is no further activity until July 2020 when the resident reported rats entering via the guttering at the back of the property. In November 2020, the resident wrote to this Service again to complain about the lack of contact from the landlord. The landlord contacted the resident and agreed to put in place some further pest control measures. In January 2021, the resident informed this Service that the landlord had still not responded to the complaint. In March 2021, we wrote to the landlord giving them five working days to respond.
9. Between March 2021 and October 2021 there is significant communication between the resident and the landlord. The resident stated she was still experiencing disturbance because of the rats, and that structural issues in the

property had not been rectified. Meanwhile, the landlord's view was that they had done everything they could to resolve the pest issue and that, without evidence of how the rats were entering the property, they could not complete any further repairs. During this period the level of pest activity was regarded as "low" by the resident.

10. On 14 October 2021, the Ombudsman issued a final warning to the landlord to respond to the complaint within 14 days. The landlord did not issue a response to the resident, and so the Ombudsman issued a Complaint Handling Failure Order. The landlord was given five further days to respond to the complaint.
11. On 5 November 2021, the landlord wrote its final response to the resident stating:
 - a. It had completed repairs to the guttering and fascia at the property.
 - b. It could not find any further entry points.
 - c. There was no evidence of a current infestation.
 - d. It thanked the resident for clearing ivy at the property and advised that feeding birds in the garden was known to attract pests. It also asked the resident to clear the loft space where the rats were based.
 - e. It would now close the complaint and provided escalation rights for bringing the complaint to the Ombudsman.
12. On 7 November 2021, the resident wrote to the Ombudsman and the landlord disagreeing with the decision to close the complaint. The resident said:
 - a. The pest controller had not visited the property when the landlord said it did and therefore could not verify that there was no infestation.
 - b. The repairs had only recently been completed and the resident was not convinced that they would be effective.
 - c. The resident never had any ivy on the property and the loft space where the rats were based was clear. They also stated that the bird feeder in the garden was pest-proof.
13. The resident continued to report infestations to the landlord after the complaint was closed. More recently, in December 2022, the landlord instructed a new pest controller to investigate the reports. That pest controller put in place a five-point treatment plan initially, followed by a recommendation for eight annual visits to the property for further treatment. The resident does not believe the issue is resolved and says that they still experience regular infestations. They want the landlord to undertake more extensive investigations to find the routes into the property and repair any possible entry points.

Assessment and findings

Scope

14. This complaint has been ongoing for some time, and continued to be investigated after the final response was issued. The Ombudsman can only look at what the landlord did during the complaint and the remedies resulting from the complaint. In this case, this means that we will not look at anything the landlord did prior to June 2017. This is the first report of rats which we consider was part of this complaint. The landlord did not log a complaint until April 2018, but we consider that the complaint should have been logged earlier, as explained below.

Pest infestation

15. The landlord provided a factsheet for residents entitled “Dealing with pests” which contains its policy on handling pest infestations. This states:

“In most cases, it’s your responsibility to deal with a pest problem in your home or garden. It’s also important that you to let us know of any situation that might cause pests to enter your home such as

- external walls
- broken vents or air bricks
- damaged doors or windows
- other cracks and gaps that pests can get in through

If it’s obvious that the pest problem has been caused due to our neglect or disrepair, such as mice entering through a hole in the wall, we’ll deal with the problem and treat the infestation.”

16. Generally speaking, we consider that residents are required to deal with pest infestations as part of behaving in a tenant-like manner. However, where the infestation is caused by a structural defect, a landlord would be expected to treat the infestation and repair the defects. In cases where it is unclear how pests are entering the property, but a defect is suspected; the landlord should investigate the reports of a defect and respond accordingly. As structural defects, including damage caused by pests, are the responsibility of the landlord, it has an obligation to investigate such reports. There is no reasonable requirement for a defect to be “obvious” before it accepts responsibility for investigating. Rats are considered an environmental hazard which can have detriment on the health of residents.

17. It is clear from the landlord’s records that the pest problems have been ongoing for a significant amount of time. Several complaints have been raised since at least 2015. We can see that the landlord raised a number of jobs related to pest

control between 2017 and 2018. However, we have not been given evidence related to these jobs so are only able to determine what happened from the emails being sent at the time.

18. Based on the evidence provided, the landlord's pest controller attended on at least three occasions between June and October 2017. On the last of these visits, it was determined that the pests were no longer present as the bait left was untouched. The resident did not agree with this assessment and believed rats were still gaining access to the loft. There is no reference to any remedial works completed at this time.
19. After the resident raised their complaint to this Service a different contractor was asked to investigate the property. That contractor determined that the rats were still present in the property and that remedial works were required to prevent access. With the agreement of the resident, access was arranged for July 2018. The works were then not properly completed causing further disruption to the resident. According to internal emails in August and November 2018 the landlord referred to the ceiling having "completely turned grey" due to the unfinished work and that one of the contractors had "fallen through the ceiling".
20. It is evident that the landlord was concerned that work had not been completed, seven months after it had been agreed. It is also apparent that the landlord did not have access to relevant reports regarding the repairs. This could suggest a lack of professionalism on the part of the landlord and its contractor. The resident continued to raise concerns about unfinished works at the property up until October 2019, after which the landlord agreed to inspect the property. The landlord has not provided any evidence as to how much work was incomplete up to this point.
21. Further inspections were completed in February and March 2020. These identified that some works to prevent rodent access had become dislodged but there is no clear indication from the landlord's records that it found any current infestation. Not satisfied with this, the resident ordered a private pest controller to complete an inspection. Less than two weeks later, that pest controller found dead rats in the loft. It seems unlikely that such an infestation developed in such a short space of time. This could be interpreted to be a disconnect between the landlord's preferred contractors and those arranged by the resident.
22. Around this time, it appears that the landlord's pest controller advised the landlord to complete monthly inspections of the property. These inspections were never carried out. The landlord has also referred to "washing their hands" of the matter as it did not think there was anything it could do to prevent further infestations. In November 2020, the landlord sent emails internally which suggest it had agreed to complete the monthly inspections. It is not clear whether these

were carried out, but in March 2021 it told this Service there was no further work required.

23. Between March 2021 and October 2021, the resident raised further concerns to the landlord that rats were returning, and structural issues remained. On the other hand, the landlord stated that there was no current infestation and therefore nothing more it could do. It did, however, acknowledge that it could not locate the most recent report from its pest controller. The landlord issued its final response on 5 November 2021 and told the resident that its contractor had informed it that there was no infestation and no structural issues remained. No report was provided to either this Service or the resident confirming these findings.
24. From the communication we have seen it could be considered that the landlord did not believe the problem was present to the extent explained by the resident. For example, the landlord occasionally attributed the noise to wind, or the resident hearing things. The resident reported noise disruptions every night for extended periods. There is also evidence that the resident emailed the landlord on some occasions in the very early morning when the pest activity was particularly bad.
25. There also seemed to be a complete loss of trust between the resident and the landlord's contractors. The resident reported that the contractors told them that work was not being completed because the landlord refused to approve them. The resident also felt that they were receiving different outcomes from the landlord's contractors and the private contractors they hired. We are critical that the landlord failed to acknowledge this lack of trust. Had the landlord clearly explained how it was tackling the infestation, it is likely the resident would not have felt it was necessary to continually report noises or instruct their own pest controller. The landlord may also have resolved matters sooner had they acknowledged the extent of the issues reported by the resident.
26. In December 2022, the landlord instructed a private contractor to inspect the resident's property. This was over a year after it issued its final response. The contractor found evidence of dead rats and structural issues which needed to be remedied. These reports were made available to this Service. A plan for remedial works and ongoing inspections was agreed by the landlord. We are pleased that the landlord has now taken this action, but we are critical that it did not happen until many years after the complaint was first raised.
27. The landlord made repeated failures in handling the reports of infestation from the resident. In the initial stages of the complaint, it told the resident it was their responsibility in all cases to address the infestation (although it would complete repairs afterwards). It then told the resident that there was no infestation and the noises they were hearing was wind in the vents, only to find dead rats during the next inspection.

28. When the property was inspected by a different set of contractors, it recommended repairs, including replacing insulation and blocking vents. When the landlord agreed these repairs, it took four months to arrange them. The repairs were then left incomplete and the contractors, in at least one case, caused more damage. Nine months later, there were still incomplete repairs in the property. The landlord then told this Service and the resident that there was no further work to do. Later reports were left completely unanswered.
29. As late as November 2021, four years after the complaint was raised, the landlord was still making findings that there was no current infestation and therefore it would not inspect the alleged structural defects. It declined requests to install infrared cameras to see where they were getting in. While it is understood that the landlord relied on the pest controller it had appointed, there was more than enough evidence to suggest that the underlying issue was not being addressed and the rats were still re-entering the property. These responsibilities remained the landlord's, regardless of the appointment of a third-party pest controller.
30. The landlord did not consider that the infestation was a problem that it was responsible for, but this was not reasonable. Infestations of rats are an environmental hazard which can make a home unsuitable to live in. The landlord did not take its responsibility seriously for many years before the latest efforts to deal with the infestation. This caused significant distress for the resident. It also led to the resident being unable to use the bedroom fully as they were unable to sleep on a regular basis. Considering these responsibilities and the lack of action on the part of the landlord, has led to a finding of severe maladministration.

Complaint handling

31. The Ombudsman's expectations of a landlord's complaint handling process are outlined in the Complaint Handling Code. This expresses minimum standards across a number of complaint handling functions including:
- a. identifying a complaint
 - b. accessibility
 - c. communication
 - d. decision making
 - e. recognising mistakes
 - f. putting things right.
32. The Complaint Handling Code is underpinned and supported by the Ombudsman's principles:

- a. Be fair – treat people fairly and follow fair processes.
 - b. Put things right.
 - c. Learn from outcomes.
33. The landlord has a complaints policy, however that policy does not offer much of the detail we would normally expect to see, for example there is no indication of how communication is managed within a complaint context. It also has some elements which either do not align with the Complaint Handling Code or otherwise raises concerns.
34. The resident clearly raised concerns for some time. As explained, we have considered the complaint to have been logged some time before it was actually logged by the landlord. The landlord's policy states that when something goes wrong it would "be reasonable and try to make sure it doesn't end up in a complaint". In our view that undermines the purpose of a complaints policy. The Complaint Handling Code sets out the positive nature of an effective complaints policy, including allowing an issue to be resolved before it becomes worse.
35. Based on the information provided, the landlord considered that two complaints were raised internally during the events mentioned above. However, there is no indication that the resident was ever informed that a complaint was logged until they received a final response. Despite numerous communications from both this Service and the resident, the landlord did not acknowledge or issue a response to the complaint until it received a Complaint Handling Failure Order, four years after the complaint was first raised.
36. When the landlord did issue its response, it offered no detail on investigation. It provided no decision on the substance of the complaint raised or any consideration of compensation for the disruption caused. The response did not reflect events that had taken place over the previous four years. This is exceptionally poor practice. Due to the delay, lack of written response, and failure to provide a meaningful decision, it is our view that the landlord's actions represent severe maladministration.

Determination

37. In accordance with paragraph 52 of the Housing Ombudsman Scheme, there has been severe maladministration in respect of the landlord's handling of reports of pest infestation. This is because it repeatedly failed to acknowledge the seriousness of the reports and take appropriate remedial action to prevent further infestation.

38. In accordance with paragraph 52 of the Housing Ombudsman Scheme, there has been severe maladministration in respect of the landlord's handling of the complaint. This is because it failed to conduct any meaningful investigation or decision making activity or issue any response to the resident.

Orders and recommendations

Order

39. It is hereby ordered that the landlord should pay £2,800 in respect of this complaint. This is calculated based on:

- a. £1,800 for the loss of enjoyment of the home, calculated at £8 weekly for the period October 2017 to November 2021. There was a significant failure in service. The landlord's response undermined the landlord/resident relationship and the resident expressed she was on occasion unable to sleep in her bedroom.
- b. £500 in recognition of the disruption, distress and inconvenience caused to the resident in reporting the infestations on a regular basis.
- c. £500 in respect of the distress and inconvenience caused to the resident by failing to acknowledge or respond to their complaint over an extended period.

40. The landlord should apologise to the resident for the exceptionally poor handling of the reports of pest infestations and the associated complaint. The landlord should consider issuing this apology directly from its Chief Executive Officer.

41. The landlord should follow the recommendations made by the pest controller in its most recent report and communicate the details of this report to the resident.

- a. Where the report recommends inspections or remedial works over a period of time, the landlord should ensure that this is also communicated properly to the resident and regular updates are provided. There is no need to provide evidence of compliance with this aspect of the order.

42. The landlord should provide evidence of compliance with these orders within four weeks of the date of this report.

Recommendations

43. The landlord should review its policies and processes for handling reports of pest infestations. It should ensure it is satisfied with the work of any contractors or third parties who complete inspections or repairs on its behalf. It should also ensure it provides adequate information to residents on how to handle pest infestations for which it is not responsible.

44. It is recommended that the landlord review its complaint handling policy and compare it to the Complaint Handling Code. It should:
- a. Ensure the policy allows for full investigation and reasonable discretion in determining adequate redress.
 - b. Ensure accurate record keeping and transparent communication with residents in relation to complaints.
 - c. Complete and publish a self-assessment of its performance against the Complaint Handling Code.