

Case summary:
Severe maladministration finding

**Landlord: Habinteg Housing
Association Limited**

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Case reference: 202016889

Complaint category: Anti-social behaviour, staff conduct, parking, complaint handling, personal (eg harassment/discrimination)

The complaint

The complaint is about the landlord's response to Ms F's reports of anti-social behaviour, a hate crime incident, staff conduct, inappropriate behaviour from a tenant representative, disabled parking and its complaint handling.

Background and summary of events

Ms F made several reports of noise from a neighbour in early summer 2020. The landlord noted that it had tried to contact the resident and then that the neighbourhood coordinator should respond to Ms F. She then provided details of another 10 incidents in which she described various anti-social behaviour by the neighbour including banging doors, shouting and playing loud music.

Ms F also told the landlord that disabled parking spaces were being used inconsiderately and suggested that additional disabled parking spaces were made available.

The landlord responded to Ms F saying it would clear grass from the car park which would give another couple of parking spaces. It also said it had asked the neighbours to be mindful of the noise in the flat and other tenants. It suggested that Ms F contact the local authority's environmental health team as they could provide noise monitoring equipment.

Later the same month, Ms F called the landlord to report an incident where the neighbour had physically and verbally assaulted her, threatened her and used a racist slur against her. The landlord took a statement from the resident; she said she was unhappy the incident was not being treated as a racist attack. The landlord also spoke to the neighbour that day and noted that she had denied making racist comments to Ms F.

The landlord spoke to Ms F saying it was now waiting for a police report and/or confirmation of what or how the police intend do next following the incident. Ms F said she wanted a response from the landlord in writing once the police had responded.

A couple of weeks later the neighbour told the landlord that the police were not taking any further action due to a lack of evidence. The landlord noted it would write to Ms F to advise her of this and that it would also not be taking further action. Shortly after Ms F contacted the landlord seeking further information about its investigation into the incident.

The following month, Ms F made a complaint about several issues. She said that:

- a staff member had made racist remarks to her in a phone call
- she disputed what the landlord had said about the police not bringing any charges on the incident with her neighbour
- the disabled parking spaces issue had not been resolved
- a tenancy representative had behaved inappropriately
- the landlord's staff and the neighbour were racist, and she wanted the neighbour evicted.

The landlord spoke to the police who confirmed that the incident was still ongoing and was with the Crown Prosecution Service (CPS) to decide on the progression of the case but there had been delay due to the pandemic.

Later that month, the landlord wrote to the resident at stage one of its formal complaints procedure. It said the staff member had denied making racist comments but accepted that Ms F may have come away feeling upset as the landlord was not in a position at the time to do anything more about the neighbour incident until the police had concluded their investigation. It had also given the neighbour a verbal warning that should it or the police find evidence to support Ms F's allegation then it would consider taking further action for breach of tenancy. It said communication with the police and Ms F "could and should" have been improved in respect of her allegation of racial, physical and verbal abuse by the neighbour. Her complaint had not been logged correctly on its system as a hate crime and given the priority in line with its policy and procedures. The landlord apologised to the resident and assured her that it was committed to investigating, and resolving, ASB. However, it said, without any independent witness evidence to support her allegation it was not able to take this complaint further.

Ms F asked the landlord to escalate her complaint. She said that two staff members had been consciously racist towards her and the landlord should carry out their own investigations, rather than wait for the outcome of the police investigation.

The landlord issued a stage two response under its formal complaints procedure. It could not investigate whether the staff member had acted in a racist way towards the resident without evidence, therefore it could not take action at that time. It said there was no corroborating evidence to support Ms F's reports of ASB and hate crime and therefore it could not take action at that time.

Later on in the year, the landlord wrote to Ms F saying that the incident with her neighbour was awaiting a decision by the CPS as to whether the case could progress to court. It said it would continue to chase the police for further information.

In response to Ms F's further reports of noise, the landlord wrote to the resident saying it had interviewed all surrounding residents to the neighbour within 24 hours of her report and took statements; however, all four neighbours said they had not witnessed or heard instances of loud noise, either by banging, shouting or music coming from or around the neighbour's flat. The landlord said that, as it had no evidence, there was no further action it could take. It suggested she contact the environmental health team for noise monitoring equipment.

Ms F then asked the landlord to escalate her complaint to the panel (stage three of the complaint process). Following the panel meeting, Ms F was contacted by the landlord and told:

- As it had been advised that no criminal charges were being taken against the neighbour, no further action was needed.
- The panel acknowledged that the reporting of ASB had been incorrectly recorded and not given priority in line with procedure. There had been an over-reliance on the police investigation as opposed to the landlord's own internal investigations. It apologised and said it would learn from it.
- The panel offered mediation to the resident with the aim of resolving the disputes between her and the neighbour.
- There was insufficient evidence to support Ms F's claims that the staff member had been racist and offered mediation to rebuild trust, and insufficient evidence to corroborate her complaint about the tenant representative.
- The landlord did not allocate parking spaces and disabled parking bays were on a first-come, first-serve basis. The panel signposted Ms F to the Ombudsman.

Assessment and findings

The landlord's response to reports of antisocial behaviour (ASB)

The Ombudsman's investigation found that the landlord's initial response to Ms F's reports of noise was appropriate by meeting her, speaking to the neighbour, setting out its actions and explaining that she could obtain noise monitoring equipment from the local authority if the noise continued.

On the later reports, the landlord spoke to the neighbour and other neighbours who reported that they had not experienced noise. It again suggested obtaining noise monitoring equipment from the local authority. While the suggestion of noise monitoring equipment was appropriate, it would have been reasonable for the landlord to have considered other ways of evidencing the noise such as the use of a noise app.

Overall, the landlord's responses to the reports of noise were appropriate by investigating the reports, by speaking to the neighbour and other neighbours in the block and suggesting an independent way of assessing the level of noise.

The landlord's response to the report of a hate-crime incident

The landlord acknowledged that there had been failures in its handling of the race hate incident and apologised. The Ombudsman identified further, serious failings by the landlord.

The evidence suggests that the landlord closed the incident as a result of a conversation with the neighbour who said that the police were not taking further action due to a lack of evidence. That was not appropriate. The landlord should not have relied on the word of the alleged perpetrator in deciding its course of action in a case. It gave the impression of bias towards the neighbour; the landlord did not act

fairly towards Ms F. It would have been appropriate for the landlord to have relied upon information from the police themselves but there is no evidence of contact with the police until a later date when the landlord noted its investigation was ongoing and with the CPS.

The evidence suggests that the landlord restarted its investigation once it was aware the police's action was still ongoing by interviewing an unnamed witness. It was not reasonable that there was such a long gap between the incident and this interview because individuals' recollections of events may not be as accurate the more time that had passed.

There was no evidence of why the landlord reached the decisions it did in relation to the incident. This lack of evidence of clear decision-making was not appropriate; the landlord should clearly record its decisions in such cases and the reasons for them. That would assist its progression of cases as well as its complaint handling.

The landlord's handling of the report of the incident was not appropriate. While the landlord recognised some of its failings in the panel response, it missed an opportunity at that point to properly consider the impact of those errors on Ms F and offer financial redress. The apology offered did not reflect the seriousness of its mishandling of the incident.

The landlord has apologised for the failings it identified, but the failings identified in the Ombudsman's investigation, particularly in relation to the impartiality of the landlord, had a detrimental impact on Ms F. That caused her a great deal of distress, frustration and inconvenience. It meant that an apology alone was not a proportionate way to put the failures right. Compensation of £500 would be proportionate redress to the impact these many failings evidently had on Ms F.

The landlord's response to reports that a member of staff was racist to the resident during a telephone call

It is outside the Ombudsman's remit to establish whether the landlord's staff members were racist in their telephone call with Ms F because matters of discrimination, including racism, are legal issues which are better suited to a court to decide. However, the Ombudsman has assessed whether the landlord's correspondence with Ms F was appropriate, fair and reasonable including assessing its response to her concerns about the conduct of its staff.

In the absence of a recording of the call, the landlord acted appropriately by interviewing the staff member concerned as part of its complaint handling and explaining to Ms F what the staff member was trying to convey. A note of the call made at the time makes clear that the staff member was explaining that the landlord needed evidence to take tenancy action against a tenant; length of tenancy was not enough to take eviction action, which the ASB policy makes clear is used as a last resort. The landlord's response was reasonable.

The landlord's response to reports of inappropriate behaviour from the tenant representative

The landlord's response to Ms F's concerns was reasonable: at stage one by saying there was insufficient evidence and later considering the information she provided. The landlord subsequently decided that there was insufficient evidence to take action against the tenant representative. Where there is one person's word against another and no contemporaneous evidence to support either person, it is reasonable to reach the conclusion that a finding cannot be made.

The landlord's response to concerns about disabled parking for residents

In response to Ms F's concerns about disabled parking, the landlord confirmed that there were no reserved or allocated parking spaces and disabled parking spaces were available on a first-come, first-served basis. This is in line with the tenancy agreement.

The landlord does not have a statutory obligation to enforce parking. However, by having disabled parking bays in the car park, it would be fair for the landlord to try to ensure that residents are aware that only blue-badge holders should use these spaces and investigate and take action, as appropriate, when concerns are raised.

While it cannot enforce parking, it would have been reasonable for it to have at least investigated Ms F's concerns and spoken to, or wrote to, residents who were using the disabled car parking spaces inappropriately.

Complaint handling

The landlord's complaint handling was appropriate. There were some delays in issuing the stage one response and convening the panel. However, the delay at stage one was very small and the delay in convening the panel was at least in part due to liaison with Ms F about her attendance at the panel. These delays do not amount to a service failure.

Determination

We found severe maladministration by the landlord for its response to Ms F's report of a hate-crime incident. We found service failure for its response to the Ms F's concerns about disabled parking for residents.

We found no maladministration for the landlord's response to Ms F's reports of ASB, her report that a member of staff was racist to her during a telephone call, her reports of inappropriate behaviour from the tenant representative and complaint handling.

We ordered the landlord to pay £500 compensation for its handling of the report of the hate-crime incident and to apologise to Ms F for the failings identified in the case. We also ordered the landlord to carry out a review of its handling of the incident and then to write to Ms F with details of what action it has taken as a result of its learning from the case.

We also recommended that it revisit its ASB policy to include details of what action to take when it receives reports of a hate-crime incident.