

# Housing

## Ombudsman Service

# REPORT

*COMPLAINT 202216635*

*Redditch Borough Council*

*28 May 2024*

## **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 response to the resident's:
  - a. Reports of damp and mould.
  - b. Request for non-damp and mould related repairs.
  - c. Reports of a ticking noise.
  - d. Request for adaptations to her bathroom.
2. The Ombudsman has also considered the landlord's complaint handling.

## **Background**

3. The resident is the secure tenant of the landlord, which is a local authority. The landlord's records show that the resident suffers with her mental health and is supported by the mental health team.
4. The property is a 1 bedroom ground floor flat in a block of 4 properties. There is one flat above the property, no adjoining property to the left and one adjoining house to the right of the property. There is a metal staircase adjacent to the exterior of the hallway.
5. The resident contacted the landlord on several occasions during January 2022 to report damp and mould. On 22 October the resident emailed the landlord to report that the problem was ongoing. She also highlighted a number of non-damp and mould related repairs, including a missing kitchen cupboard and garden gate. In January 2023 the resident contacted the landlord to report a ticking noise which was occurring "every 10 minutes" causing her distress. On 1 August 2023 the resident told this Service that she had made a request for

disabled adaptations to her bathroom which the landlord had declined to carry out.

6. During November and December 2022 the landlord was put on notice that the resident had instructed solicitors regarding a disrepair claim. This investigation has not seen any evidence that a claim was made to the court. Furthermore, in an email to this Service on 25 April 2024 the landlord confirmed that proceedings in the matter had not been issued.
7. The landlord raised a stage 1 complaint on 12 December 2022. This was in response to an email it received from the resident's MP the day before, on 11 December, and to an email from the resident on 12 December. In her email, the resident said that following a cold weekend the mould had turned black. She attached a photo of the socket for her electric cooker which had droplets around it. She said her wall was "soaking" that morning.
8. The landlord provided its stage 1 complaint response on 23 December 2022 in which it confirmed that it had received communication from her solicitor regarding her disrepair claim. It had subsequently agreed to carry out a joint survey which took place on 14 December. It said a report would be compiled and both parties would then agree on what works would be undertaken. It confirmed that its mould specialist had visited the property and provided a report. It intended to approve works in the new year. Finally, it confirmed that following a recent inspection it had agreed to carry out electrical works to change the bathroom fan and install a Passive Input Ventilation (PIV) system.
9. The resident emailed her MP on 10 January 2023 who relayed her ongoing complaint to the landlord on her behalf on 16 January. The resident was dissatisfied that repairs had been delayed for 2 years. Furthermore, she felt the landlord had not acknowledged her phone calls or emails which had caused her to contact mental health services for help. There were so many operatives coming and going to the property, she felt a decant would be beneficial. She reported that her were possessions were "ruined" and her mental health was in a "terrible state." She said she had been without a cooker for 5 days in the run up to Christmas because of the damp around the socket which made it spark.
10. The landlord issued its stage 2 complaint response on 6 February 2022. It said it had received the report from its mould contractor and was aiming to start works on 20 February. It confirmed that works to install additional and new ventilation fans were complete. However, it was aware of the resident's concerns regarding installation which it said it would rectify. Works to box in pipes and install ducting were to be carried out 8 February. Once the work was complete it would engage a contractor to carry out the remaining works.

11. The resident contacted this Service on 29 October 2022 to report that issues with damp and mould was ongoing. She also reported that she was dissatisfied with the landlord's repairs service and wanted the landlord to complete all outstanding works.

## **Assessment and findings**

### *Jurisdiction*

12. What we can and cannot consider is called the Ombudsman's jurisdiction. This is governed by the Housing Ombudsman Scheme. 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, or part of a complaint, will not be investigated.
13. In accordance with paragraph 42(a) of the Housing Ombudsman Scheme, the Ombudsman may not consider complaints that "are made prior to having exhausted a member's complaints procedure, unless there is evidence of a complaint-handling failure and the Ombudsman is satisfied that the member has not taken action within a reasonable timescale".
14. After carefully considering all the evidence, the resident's complaint concerning the landlord's response to her request for adaptations sits outside of the Ombudsman's jurisdiction.
15. During her correspondence with this Service on 1 August and 16 November 2023 the resident said she was struggling to use her toilet and shower. She said she had contacted "numerous departments" to request to have a shower installed and had submitted medical evidence. However, the landlord had declined her request.
16. There is no evidence that the resident raised the issue as part of her formal complaint and the landlord has not provided a response on this point. Therefore, this investigation cannot assess whether its response was reasonable. The resident may wish to make a fresh complaint to the landlord if she remains dissatisfied.

### *Landlord's obligations, policies & procedures*

17. The landlord must ensure that homes it provides meet the Decent Homes Standard. This was updated in 2006 to take account of the Housing Health and Safety Rating System (HHSRS) which lists damp and mould as a potential hazard. According to the Standard, for a home to be considered 'decent' it must: be in a reasonable state of repair.

18. The Homes (Fitness for Habitation) Act 2018 ('The Homes Act 2018') requires the landlord to ensure that the property is fit for human habitation. Section 10(1) of the Landlord and Tenant Act 1985, as amended by the Homes Act, states that in determining whether a property is unfit for habitation, regard should be given to whether the property is so far defective in matters including repair, freedom from damp and ventilation, that it is not reasonably suitable for occupation in that condition.
19. The landlord's repairs and maintenance policy sets out its response times as follows:
  - a. Emergency repairs need to be carried out to avoid serious danger to the health and safety of the occupants or where a failure to carry out the repair could cause extensive damage to buildings and property - 2 hours.
  - b. Routine repairs will be assessed and prioritised and typically do not pose an immediate risk to health and safety and/or imminent danger to the structure - 20 working days
20. The landlord's complaints and enquiries standard (complaints policy) defines a complaint as "any expression of dissatisfaction, however made, about the standard of service, actions, or lack of action, by the Housing Service, its own staff, or those acting on its behalf, affecting an individual resident or group of residents and that requires a response."
21. It also says that it will log and acknowledge all complaints within 5 working days. It will provide a response to stage 1 complaints within 10 working days and to stage 2 complaints within 20 working days.

#### *Scope of the investigation*

22. While this service is an alternative to the courts, it is unable to establish legal liability or whether a landlord's actions or lack of action have had a detrimental impact on a resident's health. Nor can it calculate or award damages. The Ombudsman is therefore unable to consider the personal injury aspects of the resident's complaint. These matters are better suited to consideration by a court or via a personal injury claim. However, this investigation has taken into account the resident's vulnerabilities when considering her circumstances.
23. This investigation notes that the resident said she began reporting issues with damp and mould in early 2020. However, this investigation has primarily focussed on the landlord's handling of the resident's recent reports from January 2022 onwards that were considered during the landlord's recent complaint responses. This is because residents are expected to raise complaints with their landlords in a timely manner so that the landlord has a reasonable opportunity to consider the issues whilst they are still 'live,' and

while the evidence is available to reach an informed conclusion on the events that occurred.

24. During her complaint the resident raised concerns about a number of repairs raised as a result of damp and mould. Due to the volume of repairs these have been assessed together as remedial works as part of the landlord's response to damp and mould. Key issues have been highlighted where it was appropriate to do so as part of the assessment.
25. During the resident's communication with this Service on 1 August and 8 October 2023 the resident raised a number of issues including that the floor in the property was uneven, the external courtyard full of rubbish and weeds and that the internal doors were not fire doors. There is no evidence that the resident raised the issues as part of her formal complaint therefore, the landlord has not been given the opportunity to provide a formal response. There is no evidence that these complaints have exhausted the landlord's internal complaints process and therefore, they have not been assessed by this investigation.
26. During a telephone call with this Service on 17 May 2024 the resident said that she had made a formal complaint to the landlord about its response to reports of antisocial behaviour (ASB) and it provided a stage 1 response. This investigation has not seen a copy of the stage 1 response and this investigation has not been provided with any evidence in relation to ASB. Furthermore, this investigation cannot be certain that the complaint has exhausted the landlord's internal complaints process. Therefore, it has not been assessed by this investigation.
27. This is consistent with paragraph 42 (a) of the Housing Ombudsman's Scheme which says the Ombudsman may not consider complaints which, in the Ombudsman's opinion, are made prior to having exhausted a member's complaints procedure, unless there is evidence of a complaint-handling failure and the Ombudsman is satisfied that the member has not taken action within a reasonable timescale

#### *Damp and mould*

28. The Ombudsman's spotlight report on damp and mould says that residents living in homes with damp and mould may be more likely to have respiratory problems such as asthma. It notes there are also broader impacts on mental health which highlights the urgency for change and says landlords should adopt a zero-tolerance approach to damp and mould.
29. A medical professional emailed the landlord on the resident's behalf on 25 January 2022. They said that the resident suffered from mental health issues

and was under the care of the mental health team. They said the resident was feeling suicidal due to the condition of the property and felt “asthma symptoms frequently.” They also said the resident experienced joint pain due to the damp. The resident followed with her own email on 28 January saying her property was “full of damp” and the landlord was “pushing her to the brink.” In a further email of 31 January the resident said she was experiencing flare ups with her asthma and asked the landlord to “help me out of a bad situation.”

30. There is no evidence that the landlord provided any form of response to the resident’s emails. Given the issues raised and the impact described this was insensitive and unreasonable, causing distress and frustration. Furthermore, it is evidence that the landlord failed to have regard to its duties under the Equality Act 2010, Human Rights Act 1998 and the decent Homes Standard and The Homes (Fitness for Habitation) Act 2018.
31. Due to the lack of response the resident was caused further inconvenience, time and trouble when she sought the assistance of another medical professional. A second medical letter, this time from her mental health worker, was submitted on 19 October 2022. It described that there was damp in every room which was impacting on the resident’s physical and mental health. Again, the landlord failed to respond which was inappropriate. This compounded the resident’s distress and further eroded the landlord/resident relationship. The resident was caused inconvenience, time and trouble when she emailed the landlord herself on 22 October, 16 and 20 November.
32. Due to the lack of response the resident sought legal assistance regarding a disrepair claim. The landlord tried to visit the property to carry out an inspection on 5 December 2022 but the resident declined to give access. She said this was because her solicitor had advised her not to.
33. It emailed the resident on 9 December 2022 to apologise for the number of outstanding repairs and said it was liaising with her solicitor to arrange to carry out a joint survey. It said it had also instructed its own contractor to carry out a mould survey as this had been reported to the landlord previously.
34. The resident emailed the landlord on 12 December 2022 to highlight ongoing issues with damp and mould in her property. The landlord replied on the same day to say that housing disrepair protocols were causing some delays in getting the survey carried out but it was confident collectively it would resolve the issues.
35. While this was a positive step it came late in the process. The landlord failed to acknowledge the significant delay in responding to the resident’s request for repairs and the impact this had on her physical and mental health. There is no evidence that it carried out a risk assessment taking into account its duties

under the Equality Act 2010 or that it considered what support it might offer while it assessed the situation. This was a failure.

36. The joint survey was carried out on 14 December 2022 and a 'scott schedule' produced accordingly. It set out works to be carried out including a misaligned gutter section on the rear elevation and damage to the concrete stair to the exterior of the downstairs hallway. The survey concluded that it was safe for the resident to remain in occupation while the recommended works were undertaken. It said, however, that it was clear the resident would "suffer some disruption."
37. Given what the landlord knew about the resident's vulnerabilities and its duties under the Equality Act 2010 it would have been appropriate for the landlord to have considered this advice in relation to her own individual circumstances. This is because some residents' circumstances mean that they are more affected by landlords' actions or inactions than others. In her email to her MP on 10 January 2023 the resident said she would rather be decanted during the works. There is no evidence that the landlord discussed the works with the resident and how it was best placed to support her which was a failure.
38. In her email to the landlord of 23 December 2022 the resident said her mattress was ruined and she was sleeping in the lounge. She said the situation was driving her "insane."
39. During January 2023 the landlord tried to arrange access to begin works to install fans in the property. On 17 January the resident emailed the landlord to confirm that her solicitor had advised her to stop communicating with it. Her solicitor had advised it should liaise directly with them. However, on 19 January the resident emailed the landlord to say she had decided not to follow the solicitor's advice and was prepared to give access for the repairs.
40. The landlord responded on 19 January 2023 and appropriately provided an update considering the resident's recent email. It confirmed it was able to proceed with works to install additional ventilation and for its specialist to carry out the mould clean. In an internal email dated 27 January the landlord confirmed that the PIV unit and fans had been installed.
41. The landlord provided a further update in its stage 2 complaint response of 6 February 2023 to say an appointment had been made for its mould cleaning specialist for 20 February. It said it was aware that the resident had raised concerns about installation of the PIV and fans which it intended to rectify.
42. On 21 February 2023 the resident emailed the landlord to raise concerns about the work it had carried out. She said the newly fitted unit was blowing cold air into the property. In an internal email dated 22 February the landlord said it



would inspect the property to do a “full” list of repairs. This was an appropriate step, ensuring that both the resident and landlord were satisfied that works carried out to date were acceptable, and that any outstanding works were remedied as soon as possible.

43. The property inspection took place on 3 March 2023. On 17 March the landlord emailed the resident to provide an update. It said it had authorised remedial works by its specialist contractor. It said it was aware the resident was in communication with them but had not yet agreed a start date and asked her to do so as soon as possible. Works were to include removal of the kitchen units and treatment of any mould found on the external wall before refixing the units. It said it would make good any damage caused by installation of the PIV ducting in the bathroom.
44. The landlord’s internal email of 14 March 2024 said that works carried out during 3 to 11 April 2023 included a mould treatment behind the kitchen cupboards, new vent covers fitted in the lounge and hallway, mould treatment to the hallway cupboard and around the front door. Groundwork was carried out to the front of the property to dig a trench filled with gravel. Guttering to the front and rear of the property was fixed.
45. The email also says that following a further property inspection on 13 February 2024 a radiator had been added to the hallway. A further works order was raised to carry out a mould treatment in the bedroom and hallway and to all the external bedroom walls. This is evidence that the previous attempts to eradicate damp and mould had failed and that the problem was ongoing.

#### *Events post internal complaints process*

46. During a call with this Service on 16 November 2023 the resident said that the damp and mould had returned. She was not satisfied that the landlord had addressed the root cause of the problem hence it kept returning. She was also dissatisfied that certain works remained outstanding, including the external concrete stairs. She was also dissatisfied that the newly installed fans were not working correctly.
47. The landlord carried out a further property survey on 13 February 2024 which concluded that the external staircase was not causing water ingress into the property and the guttering system was not defective. The fans were found to be in good working order and were effective if left switched on by the resident. It noted there was evidence of mould in the hallway which was “likely caused by condensation due to the high humidity within the property.” It noted there was no radiator in the hallway and that it would be replaced.

48. It observed some mould around the windows in the living room, kitchen and bedroom which it said was caused by condensation. At the time of the survey the newly installed humidistat fan in the kitchen had been turned off at the wall. It raised orders to replace a number of vents in the property. There is evidence that the landlord had a conversation with the resident about how she may be able to reduce condensation within the property which was appropriate.
49. In its response to this Service on 9 April 2024 the landlord said it did not undertake an assessment against the Ombudsman's damp and mould recommendations for landlords. It said that "although it does note some mould and or damp, it was not considered excessive and in fact some of it could be cleaned off by the tenant and is noted as such, we did undertake a variety of work throughout and we used a mould eradication paint to good effect, to date the mould is in abeyance any mould found now is as a result of poor use of the building." It cited behaviour such as the following taping over air vents, using a tumble dryer in the lounge and turning off extractor fans and the PIV unit. The landlord's position is concerning and does not reflect a zero tolerance approach to damp and mould.
50. The spotlight report on damp and mould highlights the importance of effective communication in relation to customised advice to residents about how best to manage the environment within their home to help prevent damp and mould occurring. This investigation does not consider the landlord went far enough to try to engage meaningfully with the resident about the outcomes of the survey, works it undertook and how those works and steps taken by the resident could collectively reduce the impact of condensation, damp and mould within her home.
51. The Ombudsman's dispute resolution principles are to be fair, learn from outcomes and put things right. The landlord was not fair to the resident because it failed to respond to the resident's reports of damp and mould for 11 months, only taking action to put things right when she instructed solicitors to make a disrepair claim. When it did respond, it failed to acknowledge the serious detriment caused to the resident's mental and physical health. It failed to have due regard to its duties under the Equality Act 2010 and Human Rights Act 1998. It is not clear whether all the works have been carried out satisfactorily which is due in part to ineffective communication with the resident.
52. It also failed to engage in meaningful dialogue with the resident about how it could work with her to reduce the impact of condensation, damp and mould in the property. The landlord has not identified any learning from the complaint in terms of what went wrong, why and what it would do differently. While it tried to put things right by carrying out remedial works it failed to consider compensating the resident for distress and inconvenience. It has failed to

respond to and consider compensation for damage caused to her items, including her mattress.

53. For these reasons the landlord's failures amount to severe maladministration. This is because there have been serious failings which had a significant physical and emotional impact on the resident over a significant period.
54. During 2023/24 the rent was £81.10 per week. The Ombudsman considers it appropriate to require the landlord to provide financial redress which recognises the impact of the damp and mould on her enjoyment of her home. The period considered for this calculation is 25 January 2022 to 5 December, which is 45 weeks (rounded up).
55. In the circumstances, the Ombudsman considers it reasonable to require the landlord to pay the resident £364.95 compensation. This figure has been calculated at a 10% amenity loss calculation for the property  $£8.11 \times 45 = £364.95$ .
56. While the Ombudsman acknowledges that this is not a precise calculation, this is considered to be a fair and reasonable amount of compensation taking all of the circumstances into account.
57. This investigation also considers that the landlord's failings caused additional distress and inconvenience to the resident. The Ombudsman's remedies guidance sets out that compensation in the range of £600 to £1000 should be awarded where there was a failure which had a significant impact on the resident. Compensation may be higher where there was a severe long-term impact. Therefore, in line with the guidance the landlord has been ordered to pay the resident £1200 which is in line with the Ombudsman's remedies guidance where there was severe long term impact.

### **Non-damp and mould repairs**

58. On 12 December 2022 the resident emailed the landlord and provided photographic evidence of water droplets around the electrical socket for her cooker. The landlord offered to visit that same day and asked the resident to provide access. The landlord assessed the risk and acted appropriately in accordance with its repairs and maintenance policy.
59. On 19 October 2022 a mental health professional wrote to the landlord on the resident's behalf. She said that the garden gate and fence panel repairs were outstanding. There is no evidence that the landlord responded which was unreasonable. This caused inconvenience, time and trouble to the resident who completed another online report form on 21 February 2023 to follow up. She said she needed a gate to stop people walking onto her property from the street

and “ideally a new fence.” There is no evidence that the landlord replied which was a further failure.

60. The landlord’s internal email of 14 March 2024 confirms that a new gate was fitted during works which took place 3 to 11 April 2023. The landlord did not comply with its repairs policy to complete non urgent repairs within 20 working days.
61. On 8 August 2022 the landlord wrote to the resident to confirm that it had booked an appointment for a surveyor to attend her home on 18 August as part of its composite front door replacement programme. On 22 October the resident completed an online report form and requested an update.
62. There is no evidence that the landlord provided a response before its update of 12 December 2022 in which it said the door was being manufactured. It said the target delivery date was 9 January 2023 after which it would arrange to fit it. The landlord did not communicate effectively with the resident around timescales. It failed to provide any further updates between the survey of 18 August and the update of 12 December, 4 months later, even after the resident chased on 22 October.
63. The resident was provided with a further update on 10 January 2023, via her MP, that the door was expected to be with the contractor the following week. On 13 January the resident emailed the landlord to ask to defer installation of the front door until the stairs and plastering around the front door had been carried out.
64. On 7 February 2023 the resident emailed the landlord to try to expedite matters as her front door was “hanging off.” The resident sent a further email on 21 February to say that her door handle was broken and it was difficult to get to get the key in the lock. She acknowledged that she had requested the new door be delayed while the damp was being remedied. However, she said if all the landlord was going to do was paint over it then she wanted it fitted. The landlord had initially said it would be 9 January and it was now 21 February.
65. Given that the resident requested to delay the installation of the new door it was not unreasonable that the landlord had not adhered to the original response target. However, there is no evidence that the landlord provided a response to the resident’s email which was inappropriate. The landlord’s internal email of 14 March 2024 says that a new front door was fitted during the works carried out between 3 and 11 April 2023.
66. In her online report form of 22 October 2022 the resident asked for an update on when the cupboard in her kitchen would be replaced. There is no evidence that the landlord responded which was unreasonable. This was because the

resident was caused inconvenience, time and trouble when she completed another online report form on 21 February 2023 by way of follow up. She said the cupboard was removed in 2021 due to mice and was never replaced.

67. In its email to the resident of 17 March 2023 the landlord said it would resolve the issue as part of its package of works to take place between 3 and 6 April. In her email to this Service on 1 August the resident said that the kitchen cupboard had not been replaced. There are no repair records relating to the kitchen unit which is a record keeping failure. Furthermore, it means there is no independent evidence on which this investigation can rely to make a determination on this point. This has been reflected in the orders made.
68. On 22 October 2022 the resident completed the landlord's online report form in which she said the toilet was leaking and there was water on the floor from condensation caused by the toilet being positioned "less than 30cm away from the radiator." There is no evidence that the landlord provided a response to the resident which was unreasonable. This caused inconvenience, time and trouble to the resident when she raised the issue again in her email to the landlord on 21 February 2023.
69. In an email to the resident dated 17 March 2023 the landlord said it would replace the porcelain cistern with a plastic one which would help reduce condensation. The landlord did not carry out works until 3 to 11 April 2023, 6 months after the issue was first reported. This was inappropriate because it did not comply with its repairs policy.
70. Also on 22 October 2022 the resident asked for an update on when her meter cupboard would be repaired. There is no evidence that the landlord responded, causing inconvenience, time and trouble to the resident because she had to chase during her email of 12 December. There is no evidence that the landlord responded to this further enquiry which compounded the resident's frustration.
71. In an email to the resident of 17 March 2023 the landlord said that it would repair any issues with or around the meter cupboards. However, in an online report form submitted to this Service on 18 October 2023 the resident said that works to the meter cupboard were outstanding.
72. The landlord failed to communicate effectively with the resident, failing to respond to the resident regarding several different repairs. This suggested it did not take her issues seriously which eroded the landlord/resident relationship further and caused distress. Except for its response to the electrical socket it did not carry out the repairs within the timescales set out in its complaints policy. There were also record keeping failures because information was missing from its repair logs.

73. These failures amount to maladministration because they adversely affected the resident. Furthermore the landlord did not acknowledge its failings or demonstrate learning from the complaint. It has completed some of the repairs in an attempt to restore the resident to the position she would have been in were it not for its failure. However, it has failed to consider redress for the distress, inconvenience, time and trouble caused.
74. The landlord has been ordered to pay the resident £400 which is in line with the Ombudsman's remedies guidance where there was no permanent impact. This reflects the number of repeat failures and the overall lack of an effective repairs service provided to the resident.

#### *Ticking noise*

75. The landlord's records show that the resident emailed on 24 March 2022 to report that she was hearing a "ticking in her walls all the time, every 10 minutes." She said she was disabled because of mental health issues and the noise was detrimental to her. There is no evidence that the landlord responded which was inappropriate, particularly given the evidence of the impact it was having on the resident. Furthermore, the resident was caused inconvenience, time and trouble when she emailed the landlord again on 1 December 2022. She said she was hearing a constant ticking in the walls which was "driving me nuts."
76. On 14 December 2022 the landlord inspected the property as part of its investigation into the ticking noise. It said it was at the property for 30 minutes but could not hear the noise and was unable to find the source of any issue. There is no evidence that the landlord provided an update to the resident which was inappropriate. This is because it would have reassured the resident it was taking proactive steps to investigate her complaint and helped manage her expectations.
77. The resident emailed the landlord on 13 January 2023 to report that a ticking noise started shortly after it left following its visit to the property. She said it was occurring every 10 minutes or so and was driving her "insane." She felt the neighbour was doing something on purpose to cause the noise. She said the situation had escalated to the point where she had shouted at them.
78. The landlord failed to respond to the email which was inappropriate. It is noted that the resident also said the housing team had made an appointment to visit her to discuss the incident. However, a file note of the visit has not been provided for this investigation which is a record keeping failure. This is because it is unclear exactly what was discussed and/or agreed in relation to the noise itself.

79. The resident was caused time and trouble when she emailed the landlord again on 18 January 2023. In her email she said the problem, combined with the other issues, “was all too much.” The landlord replied on 19 January to confirm it was trying to resolve the noise but that it needed to access to the adjoining property as part of its investigation. Its response lacked empathy because it failed to respond to the impact on the resident’s mental health. Furthermore, there is no evidence that it considered how it could best support her while it tried to resolve the issue which was inappropriate.
80. There is no evidence that the landlord provided any further updates to the resident which was inappropriate, particularly given the detrimental impact caused to her and the need to proactively manage her expectations by providing regular updates.
81. The landlord’s stage 2 complaint response of 6 February 2023 confirmed that its housing and repairs teams would work together to identify the noise which it believed was located within a neighbouring property. It said that during its visit to her to discuss the incident with her neighbours they had agreed that she would continue to engage with support she was receiving from external providers. This investigation has not seen any evidence, such as a file note, to confirm what the support entailed and/or how the landlord could work jointly with providers to ensure the resident’s needs were being met.
82. In her email to the landlord of 7 February 2023 the resident said she had been kept awake by the noise since 3.00a.m. She told the landlord it needed to be “sorted out.” The landlord reiterated the content of its email to the resident of 19 January. It is concerning that it was still trying to gain access to inspect the property. There is no evidence to explain what steps it had taken and/or why it was unable to gain access which is a record keeping failure.
83. Given the impact described by the resident, and the landlord’s duties under the Equality Act 2010, it would have been appropriate for the landlord to take all reasonable steps to gain access. There is no evidence that it considered a more formal approach to its request for access at this stage. This would have been appropriate to expedite its investigation and bring relief to the resident.
84. On 9 February 2023 the resident emailed the landlord to say that she had taken an overdose the previous night when she heard the noise, adding that she “couldn’t take any more.” She said she would therefore not be able to make a repairs appointment booked for that day.
85. The landlord’s response was silent on the matter of the overdose which was insensitive and inappropriate. It asked for access to remedy the situation as there were a number of jobs to complete and a plan to complete them. It

acknowledged the lengthy delays but advised not allowing access would not allow them to improve the situation.

86. The resident replied to say she could not let anyone in because she was in hospital and asked the landlord to rearrange the appointment. The landlord did then say it was “sorry to hear that” and confirmed it would rearrange the visit accordingly. It also said it had visited the neighbour’s property the previous day regarding the ticking noise but could not gain access.
87. There is no evidence that the landlord followed up with the resident to check on her welfare and/or considered how it might best proceed given her vulnerabilities. There is also no evidence that the landlord provided any further updates until over a month later when it emailed the resident on 17 March 2023. This was particularly inappropriate given the resident’s vulnerability.
88. In its email to the resident of 17 March 2023 the landlord said that it had visited the property on 2 occasions and had not witnessed the ticking noise. However, having viewed videos taken by the resident it believed it was caused by noise transfer from the heating pipes in the adjoining property. It said it had tried to gain access to the neighbour’s property “several times” and would “keep trying.” It said it intended to send a formal access letter to ensure access was given and would update the resident accordingly. While this was a positive step it should have happened earlier in the process. This is because it was a year after the resident first reported the issue and 2 months after she confirmed the noise was ongoing and having a serious impact on her mental health.
89. In its email to this Service on 2 May 2023 the landlord said it was investigating the ‘ticking’ noise. It confirmed it had accessed the neighbouring property and identified an issue related to the expansion of pipework. It said that “whilst the solution is not obvious we are looking at all ways to resolve this.” There is no evidence as to what steps the landlord took following its discovery which is a failure.
90. Furthermore, in its response to this Service of 9 April 2024 the landlord said that an inspection of the neighbouring property took place on 17 November 2023. It ran the boiler on service mode for 30 minutes but its contractor could not hear a ticking. He advised the resident that he unfortunately did not hear a ticking noise and “therefore was unable to fix or do anything about this at the time.” It is concerning that 7 months after it emailed this Service to confirm it had discovered the source of the noise, it still had not resolved the issue and in fact had to carry out a further inspection.
91. There is no evidence that the landlord carried out a thorough investigation of the noise complaint. For example, there is no evidence that it provided the resident with diary sheets or considered offering her the use of recording



equipment, such as the noise app. Methods such as these would have been appropriate to help the landlord further establish the frequency and time of the noise, as well as identifying any emerging patterns.

92. There is also no evidence that the landlord considered the risk posed to the resident by the noise which was increased by her worsening mental health. It failed to have regard to its duties under the Equality Act 2010 and Human Rights Act 1998 which was a failure. There is no evidence that it sought to support her by working with the mental health practitioners that were already engaged with her. The landlord failed to give sufficient regard to the potential severity of the impact on the resident, even after she was admitted to hospital following an overdose. Had it done so it may have recognised the importance of regular, clear communication and the need to gain access to the neighbouring property as soon as reasonably possible.
93. This investigation was hampered by the poor quality of the landlord's records that were provided to this Service. In conducting its investigations, we rely on 'live' documentary evidence from the time of the complaint to ascertain what events took place and reach conclusions on whether the landlord's actions were reasonable in all the circumstances of the case.
94. This investigation has identified the following failures:
  - a. The landlord failed to respond to the resident's initial report of March 2022 and did not act until she chased again in December.
  - b. The landlord failed to take timely action to gain entry to the neighbouring property for the purposes of carrying out an inspection.
  - c. Its communication was not effective and was sometimes insensitive.
  - d. It failed to have regard to its duties under the Equality Act 2010 and Human Rights Act 1998.
  - e. There were record keeping failures.
95. These failures amount to severe maladministration because there were serious failings by the landlord which had a seriously detrimental impact on the resident over a prolonged period. Its response exacerbated the situation and further undermined the landlord/tenant relationship. The landlord is ordered to pay the resident £1000 which is consistent with the Ombudsman's remedies guidance where there was a severe long term impact.

### *Complaint handling*

96. The evidence provided by the landlord for this investigation shows that it logged the following complaints for the resident:

- a. 24 March 2022 – about damp and mould and repairs, resolved on 17 June.
  - b. 13 June 2022 – about damp and mould and repairs, resolved on 22 December.
  - c. 1 December 2022 – about damp and mould, resolved on 20 December.
  - d. 12 December 2022 - about damp and mould, resolved on 23 December.
  - e. 27 November 2023 – about damp and mould and the ticking noise, resolved on 14 December.
  - f. 30 November 2023 - about damp and mould and repairs, resolved 14 December.
97. The Housing Ombudsman’s Complaint Handling Code states that a full record must be kept of the complaint, including the original complaint and all correspondence with the resident (...). For the purposes of this investigation the landlord has provided a stage 1 response dated 23 December 2022 and a stage 2 response dated 6 February 2023. It has not responded to a request to provide further information on the remaining complaint responses for the purposes of this investigation which was inappropriate.
98. The Ombudsman’s investigation was hampered by the lack of records provided by the landlord to this Service. In conducting our investigations, we rely on ‘live’ documentary evidence from the time of the complaint to ascertain what events took place and reach conclusions on whether the landlord’s actions were reasonable in all the circumstances of the case. This was a record keeping failure which impacted on the landlord’s ability to provide an effective complaints service to the resident.
99. The landlord raised a stage 1 complaint on 12 December 2022 however, considering the landlord’s definition of ‘what is a complaint’ in its complaints policy it should have raised it earlier in the process.
100. The resident completed an online report on 22 October 2022 where she clearly expressed her dissatisfaction on the landlord’s response on a number of issues. The landlord failed to provide a response until the resident contacted her MP who in turn contacted the landlord on 11 December.
101. It was unreasonable that it took the landlord over a month to acknowledge and raise the resident’s complaint which far exceeded its target of 5 working days. This delayed the resident’s ability to resolve her complaint through the internal complaints process. Furthermore, it undermined the landlord/tenant relationship from the outset and caused distress and inconvenience to the resident.

102. The Code says that where a resident raises additional complaints during the investigation, and the stage one response has been issued, the complaint should be logged as a new complaint.
103. The resident raised the issue of the 'ticking' noise on 13 January 2023, after the stage 1 complaint response was issued. The landlord failed to raise a new complaint and provided a response as part of its stage 2 response of 6 February. This was inappropriate because the resident did not benefit from a 2 stage internal complaints process to resolve her complaint.
104. The landlord raised a stage 2 complaint on 16 January 2023 following further contact from the MP. However, it is noted that the letter refers to the complaint dated 12 December. This appears to be a typographical error as this was also the date of the complaint the landlord responded to at stage 1. The landlord should take care to ensure that its complaint responses are accurate.
105. The landlord failed to keep adequate records of its complaints process, it delayed raising a stage 1 complaint and failed to raise a separate stage 1 complaint for the ticking noise. These failures amount to maladministration because there were failures which adversely affected the resident and it did not appropriately acknowledge or put right. The landlord has been ordered to pay the resident £150 which is consistent with the Ombudsman's remedies guidance where there was no permanent impact.

### **Determination (decision)**

106. In accordance with paragraph 52 of the Housing Ombudsman Scheme there was severe maladministration in the landlord's response to the resident's reports of damp and mould.
107. In accordance with paragraph 52 of the Housing Ombudsman Scheme there was severe maladministration in the landlord's response to the resident's reports of a ticking noise.
108. In accordance with paragraph 52 of the Housing Ombudsman Scheme there was maladministration in the landlord's response to the resident's request for non-damp and mould repairs.
109. In accordance with paragraph 52 of the Housing Ombudsman Scheme there was maladministration in the landlord's complaint handling.
110. In accordance with paragraph 42 (a) of the Housing Ombudsman Scheme the resident's complaint about the landlord's response to her request for disabled adaptations is outside of the Ombudsman's jurisdiction.

## Orders

111. Within 4 weeks of the date of the determination the landlord is ordered to:

- a. Pay the resident £3114.95 compensation, comprised of:
  - i. £364.95 for the impact of its response to the resident's reports of damp and mould on her enjoyment of her home.
  - ii. £1200 for the distress, inconvenience, time and trouble caused by the landlord's failures in its response to the resident's reports of damp and mould.
  - iii. £400 for the distress, inconvenience, time and trouble caused by the landlord's failures in its response to the resident's request for non-damp and mould related repairs.
  - iv. £1000 for the distress, inconvenience, time and trouble caused by the landlord's response to the resident's reports of a ticking noise.
  - v. £150 for the distress caused by the landlord's complaint handling failures.
- b. Arrange for the Chief Executive to apologise for the failings in the case. The resident should be given the option to receive her apology in person, over the phone or by letter. If the resident opts for a verbal apology the landlord should write to the resident to confirm the outcome of their discussion. A copy should be provided to the Ombudsman, also within 4 weeks.
- c. Offer to visit the resident to:
  - i. Discuss the outcomes of the survey reports with her.
  - ii. Satisfy itself that all repairs have been carried out to an acceptable standard.
  - iii. Agree an action plan for any outstanding works, including what will be done, when and by whom.
  - iv. Discuss how it might support and work with her to reduce condensation, damp and mould.
  - v. Discuss her request for compensation for items damaged by damp and mould, including her mattress. It should then review the evidence and write to the resident to set out its decision and reasons in line with its policies and procedures.

A detailed summary of the visit, including any action plans, should be provided to the resident in writing. A copy should be provided to the Ombudsman, also within 4 weeks.

112. In accordance with paragraph 54 (g) of the Housing Ombudsman Scheme, the landlord is ordered to carry out a senior management review of the case to identify what went wrong and what it would do differently. This should be presented to the senior leadership team and the Ombudsman within 8 weeks. It should include assessment against the spotlight reports, unless the landlord can demonstrate it has done these within the last 12 months, on:
- a. Damp and mould.
  - b. Noise complaints.
  - c. Attitudes, respect and rights.
  - d. Knowledge Information Management (KIM).
113. As part of the review the landlord should also consider developing a policy and procedure on compensation and noise complaints.
114. Within 8 weeks of the date of the determination the landlord is ordered to arrange training for relevant staff to ensure that they are equipped to respond to queries from vulnerable residents. This should include having difficult and delicate conversations with residents about matters such as mental health. The date and content of the training should be provided to the Ombudsman, also within 8 weeks.
115. Within 12 weeks of the date of the determination the landlord is ordered to arrange for relevant staff involved in this case to complete the learning modules on the Ombudsman's Landlord Learning Hub for noise complaints, KIM and attitudes, respect and rights. Confirmation that training has been completed should be provided to the Ombudsman, also within 12 weeks.