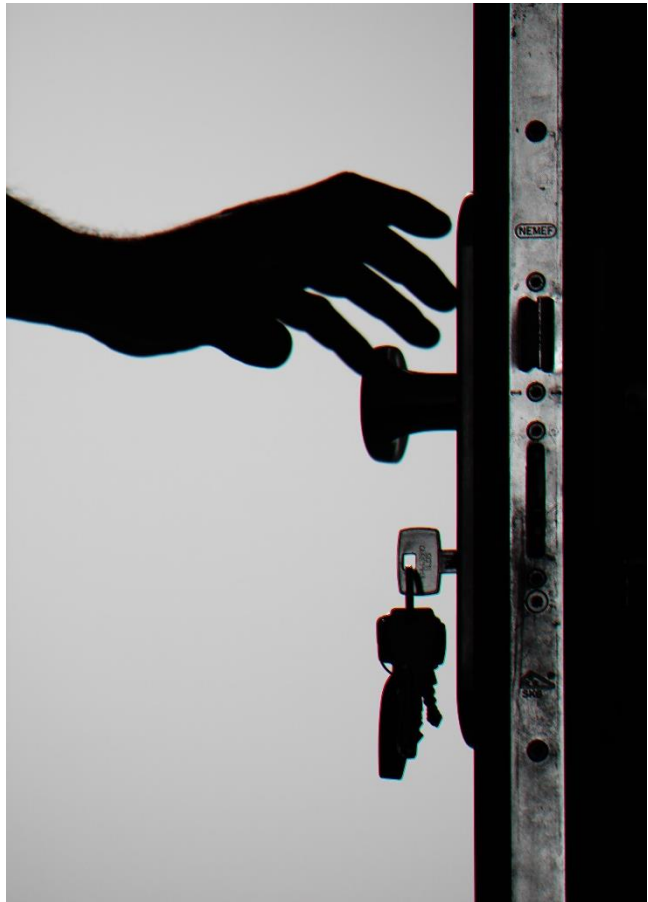


Housing

Ombudsman Service

Insight report



Insight on data, individual complaints and learning

Issue 2

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Introduction



Welcome to the second of our Insight reports looking at complaints data, individual cases and wider learning points from our work in the second half of 2019-20 (October 2019 to March 2020). It is part of our continuing progress towards being a more open and transparent service and promoting positive change by sharing knowledge and learning from our casework.

This report pre-dates the profound impact of Covid-19 on our work and lives. Understandably, the volume and type of complaints has changed significantly since the Covid-19 restrictions came into effect – something we will set out in detail in our next report. Whilst the period we are reporting feels like another world compared to our present circumstances, we believe it contains information of long-term value to landlords as they remobilise. We have also included a focus on anti-social behaviour as we know from landlords that handling these cases has presented challenges during Covid-19.

Overall, we've featured the stories of five residents to illustrate different points about the way we work, our findings and the lessons we can share from those. These start with the two complaints about anti-social behaviour to show where a landlord took reasonable action in the circumstances and one where we found multiple faults in the landlord's actions, and what can be learned from this. The particular needs of vulnerable residents are highlighted in another case, while a further one focuses on proportionate levels of compensation. We have also included a complaint with a number of elements and different findings for each to illustrate an overall finding of partial maladministration.

We had planned to launch each report with an event for residents and landlords across the country. These are now on hold due to Covid-19 but we hope to pick that up again at a point in the future when it is safe to do so.

Thank you to those who gave us feedback on the last report. The report was well received with the insight on individual cases particularly welcomed. In this issue, we've introduced a breakdown of some of the data by landlord type in response to the feedback. Over the next year we will be increasing the frequency of the reports from six-monthly to quarterly, building on the data and information we publish.

I hope you find the report useful and we would welcome your feedback. Please let us know by completing this [short survey](#) or email consultations@housing-ombudsman.org.uk

Richard Blakeway
Housing Ombudsman

Our work

Our role

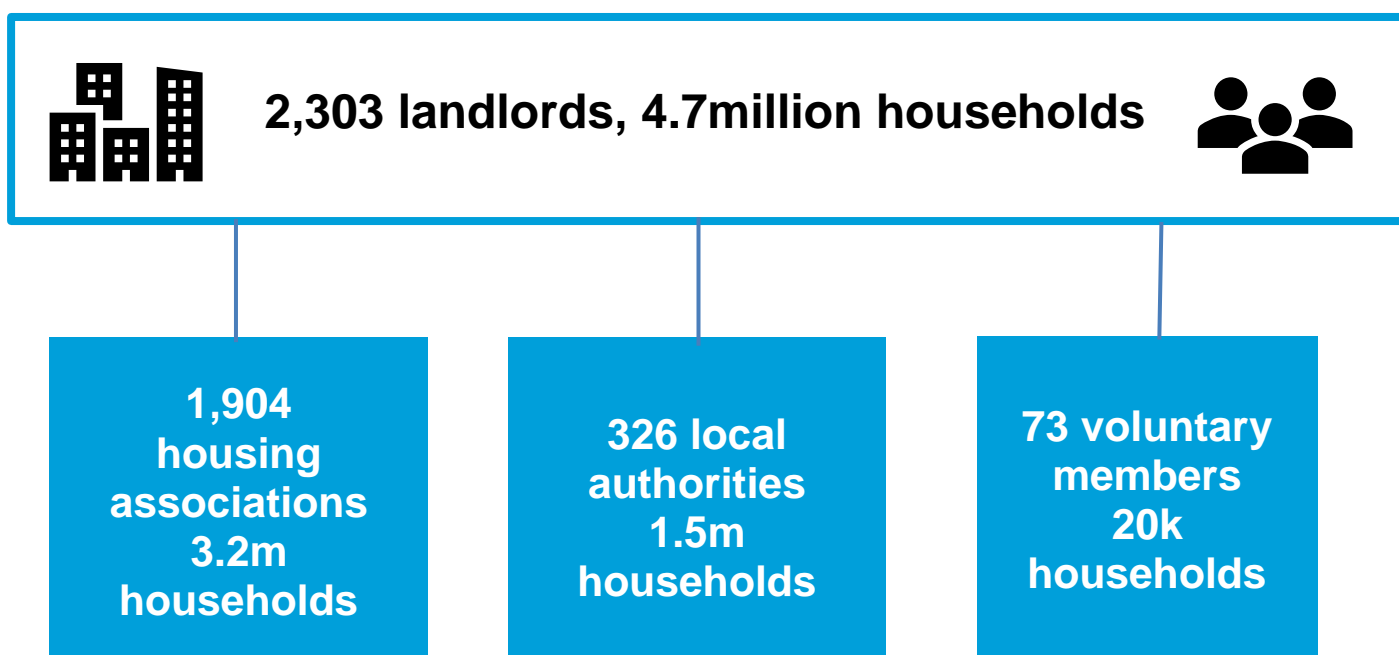
We make the final decision on disputes between residents and member landlords. Our decisions are independent, impartial and fair.

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 members

Membership as at 31 March 2020



Insight on data

Key data* on complaints October 2019 to March 2020

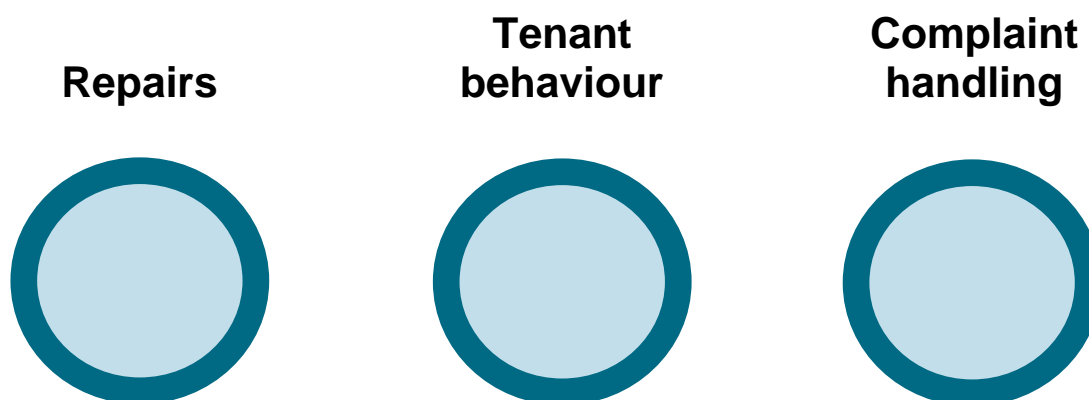
We received 7,121 enquiries and complaints in total:



An enquiry may not lead to a complaint and a complaint could be resolved by a landlord without a formal investigation by us.

What complaints are about

For the complaints received from October 2019 to March 2020, repairs continues to be the largest category at 43% of the total number. Year on year repairs has remained the biggest area of complaint we deal with both while complaints are going through a landlord's own complaint process and for those that come into our formal remit for determination. The top three areas of complaint over the six months were:



The split across type of landlord shows the same three top areas of complaint over the six month period, with very similar percentages.

Type of landlord	Category of complaint		
	Repairs	Tenant behaviour	Complaints handling
Housing associations	43%	11%	9%
Local authorities	44%	14%	9%

* All data is provisional and subject to confirmation in the final end year figures to be published in the annual report.

Cases in our formal remit

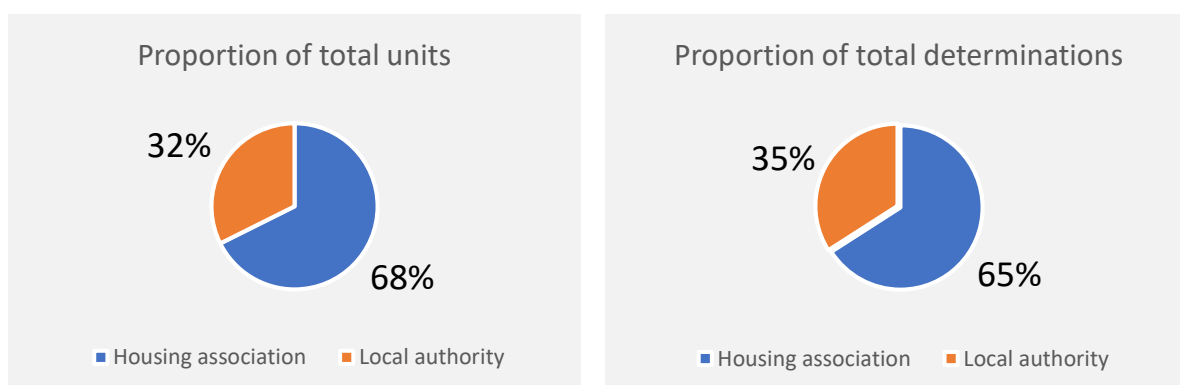
Cases come into our formal remit when a complaint has completed the landlord's procedure and either the designated persons requirements are met or eight weeks have passed. We issue determinations on all cases that enter our formal remit.



In the first six months, 1,017 cases came into our formal remit and we made determinations on 1,079 determinations. In both six month periods we have determined more cases than the number entering our formal remit.

Breakdown by type of landlord

The percentage of determinations split by housing associations and local authorities shows that we determine slightly more from local housing authorities relative to the number of units they hold.



Determinations issued

Cases that enter our formal remit may be resolved through early resolution, where we work with complainants and landlords to try to agree negotiated solutions within a time limited procedure, or investigated. Where our investigation finds evidence of failure, we will make one of the following findings:

- **Maladministration** – this could be a finding of service failure, maladministration or severe maladministration, depending upon the seriousness of the failure and the impact on the resident

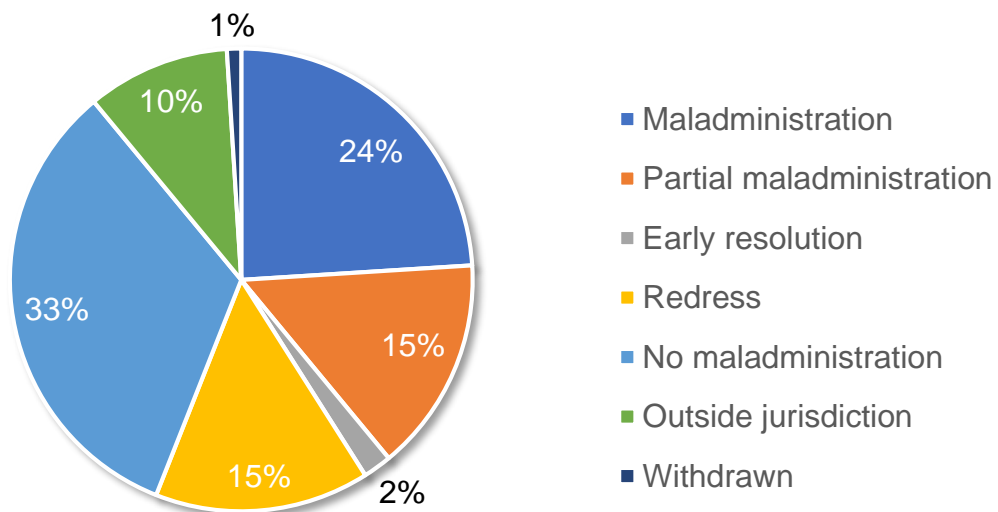
- **Reasonable redress** – where there is evidence of service failure or maladministration, however the landlord has identified and acknowledged this. It has taken steps, and/or made an offer of compensation, that puts things right.

If a number of issues are raised within one complaint, we will investigate and make a finding for each issue. This may mean that there is **partial maladministration**, where maladministration is found in relation to one or more element of the complaint, but not all.

A finding of **no maladministration** is made where the evidence demonstrates that the landlord acted in accordance with its obligations and there is no evidence of any significant failing or detriment to residents.

Full or partial maladministration was found in 39% of cases for the period, October 2019 to March 2020, which is very similar to the first six months when it was 38%.

Outcomes of determinations October 2019 to March 2020



Orders and recommendations

Our orders and recommendations made improvements for residents on 1,405 occasions between October 2019 and March 2020

This is made up of 525 recommendations and 880 orders that were implemented between October 2019 and March 2020. Following a finding of maladministration, we

may ask the landlord to put things right which will be reflected in an order. These may include:

- ensuring that repairs are done
- providing individual redress for complainants, for example, an apology is made or compensation is paid by the landlord
- taking action to prevent reoccurrence such as requiring changes to landlords' policies and procedures to improve services for all residents.

Recommendations can also be used where no maladministration or service failure has been identified, but the investigation has highlighted opportunities for service improvement.

Insight on individual complaints

No maladministration found in landlord's handling of noisy neighbour complaint

Complaint category: Tenant behaviour

Outcome: No maladministration

A new neighbour (Ms A) moved in and almost immediately Ms K began to be disturbed by noise nuisance and anti-social behaviour (ASB) which she reported to her landlord, a housing association. Ms K completed diary sheets for more than 12 months, detailing the ASB experienced. This included children swearing, fighting and crying while left unsupervised, alleged drug use, loud music, smashed windows, verbal abuse and multiple visitors to the property, often late at night. Ms K raised a formal complaint about the landlord's handling of her reports of ASB. She was unhappy with the length of time she had been reporting the issues and the impact this was having on her.

The landlord's records show that it visited Ms K every three weeks to collect diary sheets and provide an update on the actions being taken against Ms A. The diary sheets set out the impact the ASB had on Ms K and her mental health. The landlord's complaint responses acknowledged that the resident had provided over 200 diary sheets and over 100 recordings in relation to noise. In its final response the landlord acknowledged the situation and the impact it was having on Ms K and apologised. It agreed Ms K had been subject to ASB and explained that it had worked in partnership with other agencies to try and resolve the problems. It also explained that it had to balance the impact on Ms K's household with the needs of the neighbour's children, due to their age and other vulnerabilities in the family, so was therefore unable to make a decision alone to take possession action against the neighbour. The landlord offered to move Ms K which she took up.

Findings and outcome

We found no evidence of maladministration. The landlord's actions in response to the reports of ASB were reasonable taking account of the complex nature of the



reports, that action had to be taken in conjunction with other agencies involved and the vulnerabilities of Ms A's family. The ASB had continued for a sustained period and had a significant impact on Ms K but the evidence demonstrated that the actions the landlord took throughout were reasonable and appropriate and that throughout it kept the resident informed.

Multiple faults found in landlord's response to an anti-social behaviour case involving vulnerable resident

Complaint category: Tenant behaviour

Outcome: Maladministration

Ms J, a secure tenant, reported problems caused by her neighbour (Mr X) in the flat above, who was also a tenant of the housing association. In particular, it concerned noise, aggressive behaviour, general nuisance and numerous instances of water penetration into her flat from above.

The landlord took steps to visit Mr X and undertook repairs to the bathroom. The leaks continued and Ms J continued to report abusive and noisy behaviour. She raised concerns about Mr X's mental health and advised the landlord that the situation was severely affecting her and she was on sick leave from work as a result. She provided a letter from her GP setting out the impact of the situation on her health.

In its initial response the landlord said it was taking the necessary steps but could not provide details due to data protection and closed the complaint. Ms J continued to experience noise and leaks and requested escalation of the complaint. After a number of months the landlord issued a further response apologising for the delay and accepted that its previous response had fallen short of the service it aimed to provide. However, the landlord was satisfied it had followed its anti-social behaviour policies to address the behaviour and set out the repair works it had undertaken to prevent flooding from the flat above.



Ms J escalated the complaint and three months later the landlord again said it had followed its policies and procedures but did not find the complaint should have been reopened and escalated more swiftly. It offered £100 compensation for this failing along with £50 to acknowledge that the repairs undertaken had not always been effective.

(contd)

Findings and outcome

This was a challenging case for the landlord to manage due to the vulnerability and support needs of Mr X. The landlord had been required to balance its obligations towards the resident against its obligations to support Mr X.

Although the landlord took a number of actions in response to Ms J's reports of ASB, there were significant shortcomings. The actions it took were not effective in reducing the level of ASB, failed to recognise the distress and inconvenience caused to Ms J and were not always carried out in a timely manner. Ms J was asked by the landlord to keep a record of the incidents, which she did on a regular basis and provided these to the landlord, often with little or no response.

There was also a lack of evidence that the landlord adequately, or in a timely manner, pursued options for enabling either resident to move to more appropriate accommodation. The landlord did communicate with Ms J, but its responses were often intermittent or delayed and the information provided about the cause of the leak was inconsistent and confusing. The level of compensation offered was inadequate in the light of the number of incidents and the length of time involved.

We found maladministration and ordered the landlord to:

- apologise to Ms J
- pay her an additional £600 for the distress and inconvenience caused by the time taken to adequately respond to her reports of ASB
- pay Ms J an additional £100 for the distress and inconvenience caused by failures in its complaint handling
- provide Ms J with an update and an action plan of the steps it is planning to take to address the reports of ASB.
- arrange for further inspections of the neighbour's property and Ms J's property to ensure that all essential and remedial works (in connection with water penetration) are carried out.

Partial maladministration found in complaint about tenant succession rights

Complaint category: Occupancy rights and complaint handling

Outcome: Partial maladministration

Ms C's parents became joint tenants of a three-bedroom local authority property several decades ago. Ms C was listed as a family member on the tenancy agreement and in 2012 Ms C's mother passed away. In 2019 the landlord sent a letter about rent payment addressed to Ms C's mother and father (as joint tenants). Ms C complained to the landlord and also raised concerns about succeeding the tenancy upon the death of her father, who had a terminal medical condition.

The landlord met Ms C to discuss her query and confirmed that after her mother had passed away her father succeeded to the tenancy and became the sole tenant. The landlord then updated its records and later set that out in a formal response to the complaint. Ms C was dissatisfied as the landlord had not explained why this had happened and that her query regarding succession had not been answered. She pointed out that she had been paying the rent on the property since her mother died in 2012 and that she believed this created a legal relationship.

Findings and outcome

We found that in responding to the letter being addressed to Ms C's late mother and inaccurate records, the landlord had taken sufficient steps to put things right by apologising, providing an explanation of why the error occurred and updating its records accordingly. This was reasonable redress.

The landlord had given accurate information about the survivorship and succession rights. Although it had failed to update its records, the tenancy was vested in Ms C's father and he had been the sole tenant since his wife passed away.

However, we found service failure by the landlord in relation to complaint handling as it failed to address Ms C's point that her payment of the rent had created a legal relationship between her and the landlord. We ordered the landlord to pay compensation of £50 in recognition of the failure to respond to the point raised by Ms C.



Landlord's complaint response fails to consider resident's vulnerability

Complaint category: Repairs

Outcome: Maladministration

Mr D is an assured tenant of a housing association. He is 89 years old and lives alone. He complained about the way the landlord handled his reports of faults to the boiler and his request for a new boiler.

Following historic reports of no hot water and heating over two years, Mr D again reported he was without heating or hot water. Some action was taken by the landlord, but a relative of Mr D's reported a series of failed repairs action and missed appointments. In the formal complaint she set out the difficulties caused to Mr D, particularly that he was unable to safely transfer hot water from the kettle for use in washing, and that the two fan heaters provided by the landlord were inadequate. There were some inconsistencies between the landlord's records and Mr D's description of events but the landlord accepted that there were shortcomings in its response, particularly in relation to a number of missed appointments, the continued requirements for further repairs and poor communication. Further repairs failed to resolve the issue and after additional missed appointments Mr D requested that the complaint be escalated.

In the landlord's final response it offered to arrange for a new central heating system and a complete flush of the system. It apologised for the inconvenience and offered £214 in compensation.

Findings and outcome

While the landlord acted appropriately in offering compensation, the amount offered was not proportionate to the length of time that the repairs extended and the distress and inconvenience caused. In addition, it was not in line with the landlord's policy commitments. Under its compensation policy it should have been treated as high impact and its maintenance policy states that it will ensure that its maintenance services are flexible to the needs of vulnerable tenants, including those over the age of 65. The landlord had not acknowledged Mr D's vulnerability or the relevance of this in its complaint responses.

We found maladministration and ordered the landlord to:

- apologise to Mr D
- pay Mr D £600 compensation (includes the £214 previously offered by the landlord) for the distress and inconvenience caused by its failures in handling the boiler repairs
- provide Mr D with a date for the boiler replacement and confirm the details of the other works it is proposing under its offer of a "new central heating system and a complete flush of the system" and a date for this work.

We also recommended that the landlord take steps to ensure that its repair staff and contractors maintain detailed records of the results of inspections and repair appointments.

Service failure found in landlord's slow response to reports of sewage smells

Complaint category: Compensation

Outcome: Maladministration (service failure)

Ms M is a shared ownership leaseholder. The terms of her lease confirm that the housing association is responsible for the repair and maintenance of the structure and exterior of the property, including pipework/drainage/water servicing apparatus that is not exclusively servicing the property.

Ms M reported a strong sewage smell in her property to the landlord that still persisted six months later despite using drain cleaner. The landlord did some repair work but the next month Ms M submitted a complaint that the smell had become unbearable and expressed her frustration that the issue was still ongoing.

Correspondence continued to be exchanged and the landlord then agreed to investigate the shared sewer pipe, identified a problem and carried out works. The smell returned so the landlord did further repairs. Ultimately it was identified that the issue fell within the landlord's repairs and maintenance responsibility. Ms M then confirmed that the smell had gone which was 14 months since she originally reported it. She requested compensation for the delay in resolving the issue and the inconvenience and distress caused.

The landlord acknowledged its service failures in resolving the issue and agreed that it should award compensation to reflect the inconvenience. It identified that the maximum payable under its compensation policy (£50) was not proportionate to the inconvenience and asked Ms M for her view on what would be an appropriate amount. There is no evidence that the landlord received a response to its request from Ms M or that the landlord took any further action.

Findings and outcome

In such circumstances, we would expect a landlord to assess the case on its merits and offer an amount that it considered proportionate to the service failure and inconvenience experienced. It can also refer to our [guidance on remedies](#). In this case, the landlord's service failures led to the issue taking a considerable period of



approximately 14 months to resolve, during which time the resident endured an 'unbearable' smell in her property.

We found service failure by the landlord in its attempts to offer redress for the failures with its handling of the reports about smells within the property. We ordered the landlord to pay Ms M £350 in compensation for the distress and inconvenience experienced as a result.

Insight on learning

The case studies featured have been selected to illustrate the range of findings and outcomes in our work and how lessons can be drawn from those to share more widely.

Acting reasonably when dealing with anti-social behaviour complaints

When considering complaints about anti-social behaviour the role of the Housing Ombudsman is to assess whether the landlord has acted reasonably and in line with its obligations towards the resident reporting the problem, while taking account of its obligations towards the neighbour causing the problem. In the first ASB case featured the landlord was able to provide thorough records with details of the reports made and the actions it took in response which were found to be reasonable and appropriate, taking into account the complex nature of the case. In the second case, while we recognised that it was a challenging case, there were significant shortcomings in the landlord's response including a lack of evidence, delays and failing to follow its ASB policy.

Consider the needs of vulnerable residents

Landlords should ensure that a resident's vulnerabilities are considered when responding to complaints. In the case concerning an 89 year old resident, the landlord's maintenance policy stated that it would ensure that its maintenance services are flexible to the needs of vulnerable tenants, including those over the age of 65. The compensation policy stated that it would take into account the personal impact of service failures. The landlord had not acknowledged the resident's vulnerability or the relevance of his age in its complaint responses.

Compensation should be proportionate

In terms of compensation, we expect landlords to assess each case on its merits and offer an amount that it considers proportionate to the service failure and inconvenience experienced. For reference, our own policy and guidance on remedies are available on our [website](#). The policy sets out our approach to remedies, including the type of remedies and financial compensation. We use the guidance when deciding on appropriate remedies for individual cases that we have investigated, including calculating financial redress. The case on page 12 illustrates where a landlord did not offer a proportionate level of compensation and how we applied our remedies guidance in the order to pay compensation.

Address all elements of a complaint

Landlords should ensure that all parts of a complaint are addressed and covered in the response to the resident. If a number of issues are raised within one complaint, we will investigate and make a finding for each issue. We may make different findings for each issue. Where maladministration is found in relation to one or more elements of the complaint but not all, this would mean there is partial maladministration. This is illustrated by the case on page 10.

Guidance for landlords on Covid-19

We developed best practice guidance for landlords on complaint handling during the Covid-19 situation. The guidance together with a range of other helpful information is available on our [website](#).

Further guidance and case studies

Since the last Insight report we've added more [guidance for landlords](#) on our website. It covers the elements we would expect to see in a range of policies to help landlords develop their own policies to reflect what we consider to be best practice.

More [case studies](#) can be seen on our website, which we will continue to update.

Feedback

We would welcome your feedback on this report. Please let us know by completing [this short survey](#) or you can email consultations@housing-ombudsman.org.uk.

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