

Insight report



**Insight on data, individual complaints and learning
April to June 2020**

Issue 3

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Introduction

Welcome to the first of our Insight reports for 2020-21. It is part of our continuing series of reports looking at complaints data, individual cases and wider learning points from our work. We have now increased the frequency to quarterly in order to share more data and insight from our casework that promotes positive change, and for greater openness and transparency.



This report for the period April to June 2020 spans the strict lockdown due to Covid-19 and as those restrictions started to ease. We have been able to operate a full service over this period but the lockdown has impacted significantly on what we have seen in our work. The number of enquiries and complaints we received reduced by 41% compared to the same period last year but has picked up in June. Our front line service dealt with 4,944 calls in June, up from 2,933 in May but also a substantial increase from previous years, increasing by 10% from June 2019 and 33% from June 2018. It is also notable the proportion of enquiries we signposted to advice services such as Shelter and Citizens Advice during this period.

The issues residents have complained about has also changed. Although complaints about repairs continued to be the biggest category at 27% of the total, the proportion of complaints about tenant behaviour almost doubled compared to the same period last year. We recognise that dealing with unacceptable behaviour can be difficult so have included three cases on this topic to illustrate some of the challenges. This includes a case ruled outside our jurisdiction because of the repeated use of racist and homophobic language by the resident. The report also examines two cases – one concerning gas safety – which were successfully resolved through mediation, a part of our service we are seeking to expand.

Learning from complaints is a key part of our new [Complaint Handling Code](#) published earlier this month as part of our new powers. It provides a framework for effective complaint resolution by landlords. At its heart is supporting the right cultures for resolving complaints and active learning when things go wrong. It aims to promote more consistent practice across the sector, so publication is timely as many landlords are reviewing their approaches in the light of Covid-19.

I hope you find the report useful and, as before, would appreciate your feedback, which helps us to continue to develop them for greatest impact. Please let us know by completing this [short survey](#) or email consultations@housing-ombudsman.org.uk

I would also encourage you to [sign up to our enewsletter](#) in order to keep up to date with our news and service developments.

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

As at the end of March 2020



2,302 landlords, 4.7million households



**1,904
housing
associations
3.2m
households**

**325 local
authorities
1.5m
households**

**73 voluntary
members
20k
households**

Insight on data

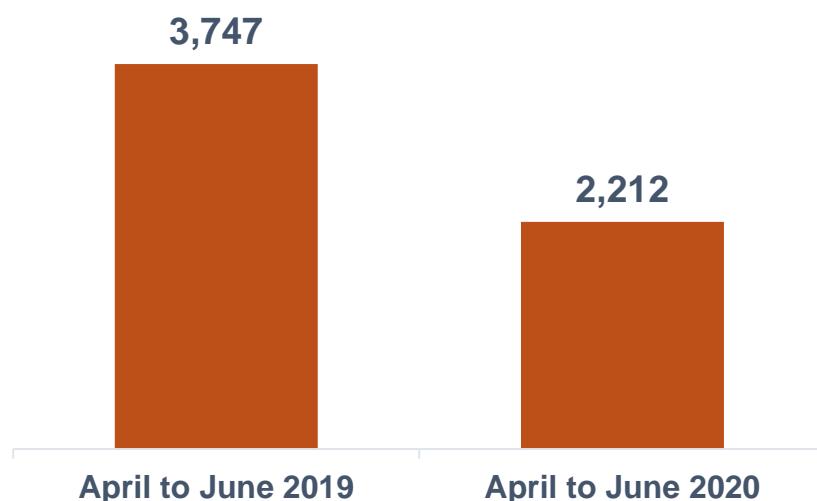
Key data* on complaints April to June 2020

Over the three-month period, we received 2,212 enquiries and complaints in total, made up of:



This is a significant reduction of 41% when compared to the same period last year, when we received 3,747 enquiries and complaints, but the number is rapidly increasing each month.

Enquiries and complaints received



This has clearly been impacted by the Covid-19 lockdown that started in mid-March. During much of this period landlords were mostly only dealing with emergency repairs. As restrictions begin to ease, the number of enquiries and complaints we receive is starting to rise as the table below shows.

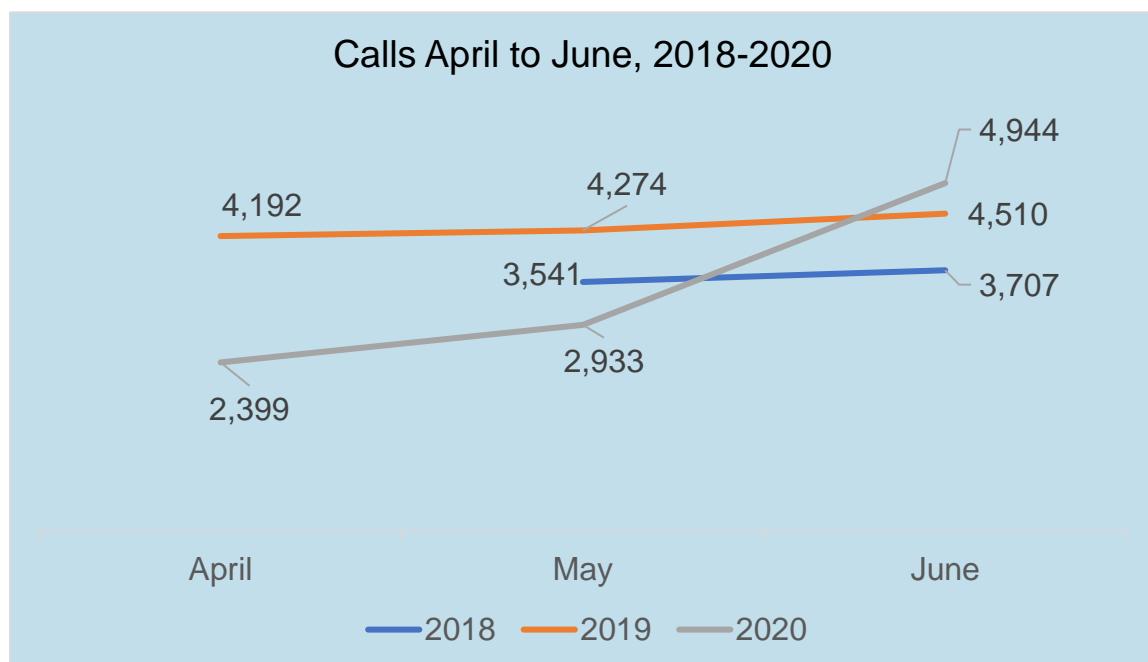
Complaints and enquiries received			
Year	April	May	June
2019-20	1,248	1,222	1,277
2020-21	628	700	884

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

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

Calls to our front line service

The number of calls to our service reduced noticeably in April and May 2020 compared to 2019 and 2018, as the graph below shows*. In June, however, the number increased by 10% from 2019 and by 33% compared to 2018.



*Note: the current service was not operation in April 2018 so no comparable data

Signposting

Where enquiries are about matters that are not within our remit, we will always try to direct residents to appropriate advice. There has also been a noticeable change in our signposting activity over this quarter. The organisation we directed residents to most in April 2020 was Shelter at 27% of the total and Citizens Advice in May at 23% of the total.

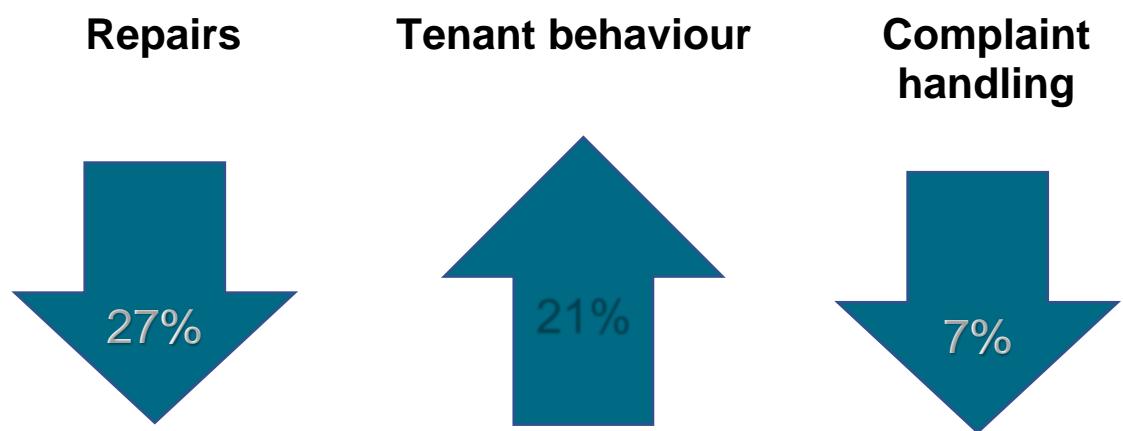
Generally the organisation we signpost to most is the Local Government and Social Care Ombudsman (LGSCO). From April to June 2019, 29% of all signposts were to the LGSCO followed by Shelter (22%), the Property Ombudsman (20%), Civil Legal Advice (14%) and Citizens' Advice (4%).

The difference over this quarter may reflect a more general need for Covid-19 support and assistance. Our call handlers reported receiving calls about rent arrears, universal credit and private renting.

What complaints are about

For the complaints received from April to June 2020, repairs continues to be the largest category at 27% of the total number. When compared to the same period last year however, repairs complaints decreased and we received more complaints in relation to tenant behaviour.

The top three areas of complaint were the same over the three-month period April to June each year. The percentage of complaints about repairs decreased from 32% over April to June 2019 to 27% in April to June 2020; complaints about tenant behaviour increased from 12% to 21%, and complaints about landlords' complaint handling decreased from 17% to 7%.



In our engagement with landlords over this period, many have fed back that there has been an increase in reports of anti-social behaviour highlighting increases in reports of noise nuisance, fly-tipping and drug related incidents.

The split across type and size of landlord in the table below shows the same three top areas of complaint over the three month period.

Category of complaint			
Type of landlord	Repairs	Tenant behaviour	Complaints handling
Housing associations	27%	21%	7%
Local authorities	27%	19%	7%
Size of landlord			
More than 10,000 units	27%	20%	6%
Between 1,000 and 10,000 units	25%	24%	11%
Less than 1,000 units	27%	19%	5%

Cases in our formal remit

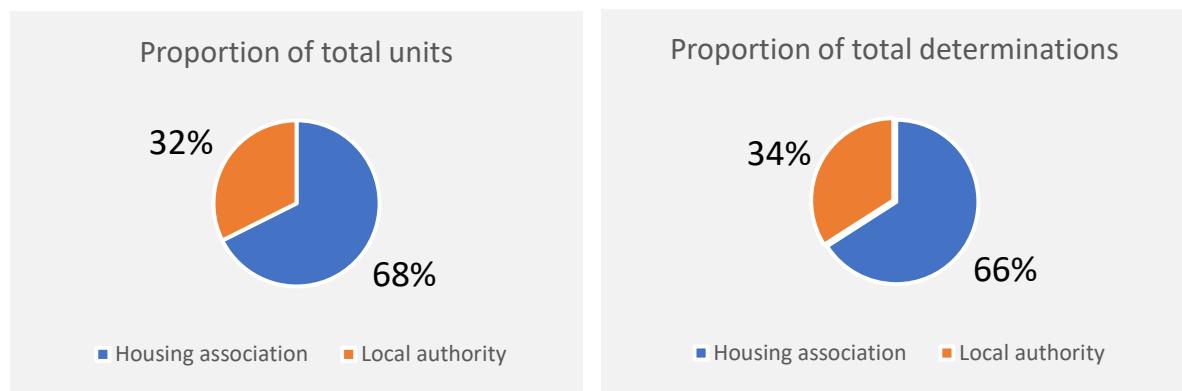
Cases come into our formal remit when a complaint has completed the landlord's procedure and either the designated persons requirements are met or eight weeks have passed. We issue determinations (decisions) on all cases that enter our formal remit.



For the three months April to June 2020, we made decisions on more cases than the number entering our formal remit, at 445 and 544. This compares to 538 entering our formal remit between April and June 2019 and 502 decisions, so we have been able to maintain our output over the lockdown period.

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 mediation, where we work with complainants and landlords to try to agree negotiated solutions within a

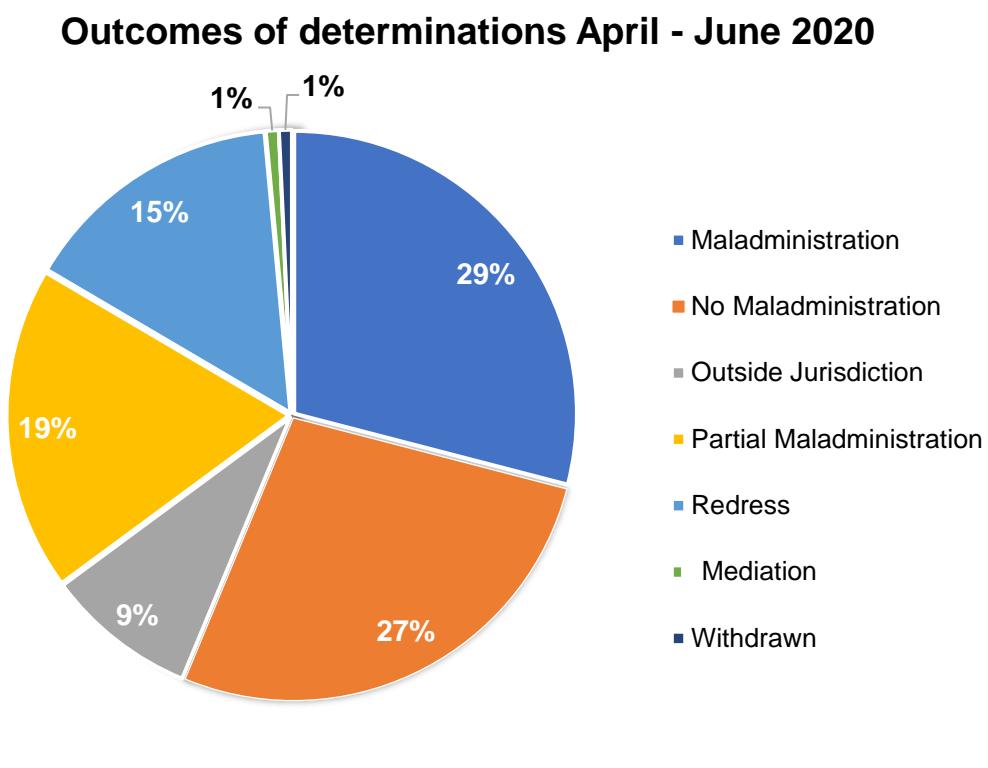
time limited procedure, or they will be investigated. Where our investigation finds evidence of failure, we will make one of the following findings:

- **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 fairly and in accordance with its obligations and there is no evidence of any significant failing or detriment to residents.

The chart below shows the split of determination outcomes. We found full or partial maladministration in 48% of cases for the three-month period, April to June 2020, which is substantially higher than previously. Although the decisions were made in this three-month period, the complaints pre-date and are unrelated to Covid-19. The figures provide a snapshot of the first part of the year 2020-21, but not yet the full year outcomes.



Orders and recommendations

We aim to provide fair and proportionate remedies to complaints through our orders and recommendations.



**We made 697 orders and recommendations
to put things right for residents between
April and June 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.

Between April and June 2020, we issued a total of 697 orders and recommendations, made up of 450 orders and 247 recommendations.

Recommendations can also be used in all cases, including where a finding of no maladministration or service failure has been made, particularly where the investigation has highlighted opportunities for service improvement.

Insight on individual complaints

Dealing with unacceptable behaviour can be difficult and the Ombudsman is frequently asked for advice in this area. The first three cases illustrate some of the challenges.

Service failure found in landlord's handling of a petition

Complaint category: Resident involvement

Outcome: Maladministration (service failure)

Mr N submitted a petition to his local authority landlord about its handling of water charges. The landlord had a policy on petitions which required acknowledgement within 10 working days but no response was provided. After several months of chasing a response Mr N submitted a complaint. The landlord explained that Mr N's contact had been restricted to a single point of contact and all correspondence should be through this contact. He was therefore asked to send the petition to the relevant contact.

Once this was received the landlord provided its response within six days. Mr N was dissatisfied due to the length of time it had taken to receive a response, and that not all points were addressed. He asked again that a complaint be registered.

The landlord repeated that the matter was being treated as a petition rather than a complaint, and confirmed that it would consider whether it could add to its original response to clarify the outstanding issues and would do so within 14 days. No response was sent within that timeframe, resulting in Mr N having to contact the landlord again. A final response was provided 3 months later but did not deal with the outstanding issues.

Outcome

Mr N failed to comply with the contact requirements in place on various occasions when corresponding about the petition. The landlord was entitled to rely on the contact restrictions in place, however once the right avenues for contact were followed there were some shortcomings in the landlord's response.

There was no evidence that the landlord considered whether it could add to its response or that it contacted Mrs N within 14 days, as promised. The landlord provided a final response almost three months after it told Mr N that it was considering whether a further response could be provided. This was an unreasonable delay. The response failed to address the queries that had been raised about its initial response to the petition.

Mr N also raised concerns about the landlord's decision not to deal with the matter under its complaints procedure. The landlord did not address this. It failed to review its handling of the matter through either the review mechanism set out in its policy on petitions or the complaints procedure.

We made a finding of service failure, ordered the landlord to apologise to Mr N, pay compensation of £50 and review its response as set out in its petition policy.

No maladministration in landlord's handling of complaint

Complaint category: Complaint handling

Outcome: No maladministration

Ms B, a housing association assured tenant, complained about her landlord's supervision of its contractor and then its complaint handling.

When responding to the complaint the landlord noted that restrictions were placed on Ms B's contact which had been unduly frequent and time-consuming. Her emails were both lengthy and detailed and were often sent at frequent intervals that it was not reasonable to expect staff to deal with. The landlord had therefore provided a primary point of contact so that communications could be managed effectively, and requested that Ms B summarise her concerns in one short email so that its staff could quickly establish any concerns that needed to be acted on. This had not been adhered to.

The landlord noted Ms B's recent email correspondence and advised of new steps to manage this contact with emails to be sent to the complaints inbox (unless a personal wellbeing issue or repair report) and reviewed by a senior staff member who would identify any new issues. This arrangement was to be reviewed in six months' time.

Ms B remained unhappy with these arrangements and complained to the Ombudsman. The landlord's complaints procedure recognised that making complaints can be stressful for customers and stated that the landlord was committed to dealing with all complaints fairly and making the service as accessible as possible. According to the procedure, where "*a level of contact with [the landlord] is so high it makes managing the contact unreasonably time consuming*" the customer should be advised of this and given an opportunity to change their approach. If there is no change, the landlord can restrict "*contact to a single channel or person*" and agree "*specific timeframes for responses*". It stated that the customer should be advised of the action, why it has been taken and that it should be reviewed no more than six months later.

Outcome

The landlord did not always provide the level of detail the resident expected in its responses to Ms B but, on occasion, a high frequency of emails were sent to the landlord along with references to future/past emails and repetition of comments/concerns. This would potentially be time-consuming for staff to handle so it was not unreasonable for the landlord to take steps to manage Ms B's correspondence in line with its procedure. It was understandable that Ms B wanted to email staff members who had provided her with detailed responses in the past but, in order to manage her correspondence more effectively, it was reasonable for the landlord to request that issues be summarised and directed to the complaints inbox. We found no maladministration.

Complaint ruled outside jurisdiction due to resident's unacceptable behaviour

Complaint category: Tenant behaviour

Outcome: Outside jurisdiction

Mr B is the secure tenant of a local authority property. His complaint concerned allegations of neighbour nuisance in relation to dog fouling. The landlord's final response confirmed it was satisfied it had taken reasonable steps to investigate and take action where it was able to do so.

The Ombudsman began an investigation but raised concerns with Mr B about the content and volume of his correspondence which, in some weeks, amounted to more than 50 emails and contained very offensive and discriminatory language. Many of the emails were unrelated to the complaint or concerned with housing.

We gave warnings under our [Unacceptable Behaviour Policy](#) but that had limited impact on the continued offensive correspondence.. We gave a final warning that we would not proceed with the investigation if he continued to send emails using language which was designed to insult and was frequently racist or homophobic.

In the following four months Mr B continued to send excessive, offensive and irrelevant correspondence, copying our service into emails 15-20 times per month, often several in a single day. Many of the emails continued to concern matters which were not part of the Ombudsman's remit, including complaints about MPs and councillors, the general operation of the local authority, political parties and doctor's surgery staff. He continued to use offensive, racially prejudiced and homophobic language in these emails.

Outcome

Mr B continued to behave unreasonably after multiple, clear warnings from our service. We decided that he was pursuing the complaint in an unreasonable manner and therefore ruled the complaint outside the Ombudsman's jurisdiction to



investigate further under paragraph 23(n) of the Housing Ombudsman Scheme. This states: '*The Ombudsman will not investigate complaints which, in the Ombudsman's opinion are being pursued in an unreasonable manner including frivolous or vexatious complaints*'.

Partial maladministration found in joint tenancy case

Complaint category: Occupancy rights

Outcome: Partial maladministration

Ms J is listed as the sole secure tenant on the local authority tenancy agreement, with her mother named as an authorised occupant. The agreement states that there is no automatic right to a joint tenancy. If a request is made to change a sole tenancy to a joint tenancy, the landlord will normally only agree if the person to be added to the tenancy is the spouse or civil partner of the sole tenant who has been living with them for at least 12 months.

Ms J made a formal complaint to the landlord, advising that when she signed her tenancy agreement, its officer had refused to add her mother as a joint tenant, despite her medical condition being the reason the household qualified for the property. The rent was significantly higher than their previous home and they had been incorrectly advised by the landlord's staff that her mother would be eligible for housing benefit if included as an authorised occupant.

The landlord's stage one response explained that Ms J had applied as a sole applicant and that its officer had correctly signed her up as a sole tenant. It stated that it could not create a joint tenancy between her and her mother as it was prohibited by Section 113 of the Housing Act 1985.

In Ms J's complaint escalation request she explained that she and her mother were assessed to be rehoused separately, but it was later decided by the landlord's medical assessment team that the households should move together due to her mother's medical condition. The landlord's records confirmed this chain of events.

The landlord's final response explained that its decision had been made in accordance with its allocations policy and would not be altered. It repeated the previous advice that it would not normally grant a joint tenancy between a mother and daughter in the first instance. Additionally, it highlighted the section of the tenancy agreement which stated that there was "*no automatic or legal right to a joint tenancy*".

Outcome

We found that the landlord acted appropriately in response to Ms J's request that it add her mother to her tenancy as a joint tenant. The landlord's decision was made in line



with the tenancy agreement and its allocations policy. The landlord informed Ms J that it could not create a joint tenancy between her and her mother because it was prohibited under Section 113 of the Housing Act 1985. This section contains a definition of what is meant by a member of another person's family but does not in itself prohibit the creation of joint tenancies between a parent and child. It would have been more helpful if the landlord had provided Ms J with a more detailed explanation of its allocations policy in its stage one complaint response, rather than mentioning this statutory provision. However, as it provided a detailed explanation in its final complaint response, overall, its response to his request was reasonable.

The landlord did not, however, respond to Ms J's concerns about incorrect advice from its staff, missing an opportunity to rebuild trust and risking further damage to the landlord/tenant relationship.

We made a finding of no maladministration in relation to the complaint about the sole tenancy, and a finding of service failure in relation to complaint handling with a compensation payment of £50 ordered.

Gas safety complaint resolved through mediation

Complaint category: Gas safety

Outcome: Mediation

Mr S, a housing association assured tenant, received a final response on his complaint about the landlord's decision to cap his gas supply following unsuccessful attempts to carry out an annual gas safety inspection. The landlord explained it had followed its procedures prior to capping her gas supply and that the consequences of a landlord not having a current gas certificate for a property were substantial. The procedure enabled it to cap a gas supply as a last resort to meet its obligation of ensuring properties were gas safe.

After contacting the Ombudsman, Mr S agreed to participate in our mediation process, where we work with residents and landlords to try to agree negotiated solutions within a time limited procedure. He said he wanted the landlord to:

- Pay him compensation of £1,000 for the distress he experienced
- Apologise for not leaving a card advising that his gas had been capped
- Implement a policy to ensure vulnerable tenants are flagged on its system and assurances that similar issues could not happen again.

The landlord also agreed, and responded to Mr S, saying that:

- It apologised for the inconvenience caused to him
- It could not prove that a card was left when his gas was capped but it apologised for the subsequent inconvenience and upset
- His personal circumstances were not recorded on its systems, so the gas team were unaware of his disability and, had they known this, his gas supply would not have been capped
- It had now correctly updated its records and assured him that the situation would not happen again
- It offered compensation of £200.

After contact from our service, Mr S accepted the landlord's offer of £200 compensation and apology as resolution of the complaint. This was within a month of first contacting us about his complaint.

Outcome

Paragraph 32(b) of the Housing Ombudsman Scheme says that '*At any time the Ombudsman may suspend or stop the investigation of a complaint if the member makes redress to the complainant which, in the Ombudsman's opinion, resolves the complaint satisfactorily.*'

Following the intervention of this service and in accordance with paragraph 32(b), the landlord took action to remedy the matters raised which resolved the complaint satisfactorily.

Neighbour dispute resolved through mediation

Complaint category: Neighbour dispute, pest control

Outcome: Mediation

Mr D, a housing association assured tenant, complained to his landlord about pigeons causing a nuisance and an overgrown tree in a neighbour's garden. The landlord's final response, in February 2020, said that:

- It had instructed its pest control contractor to inspect the area where pigeons were nesting and to take appropriate action.
- The tree was on a 'third party property' and not causing a health and safety issue
- It had contacted the property management company of the neighbouring property who had agreed to inspect the overhanging tree.

In May Mr D agreed to use our mediation process and explained that, as an outcome from his complaint, he wanted the landlord to:

- Install more spikes on her property to prevent pigeons nesting
- Wash the pigeon droppings from the roof, walls and windows
- Trim back the overhanging tree.

The landlord also agreed to the mediation process and said that:

- Its pest control contractor had surveyed the property and the landlord had approved the recommended works which it hoped would be completed within two weeks
- It had given a 'final ultimatum' to the owner of the neighbouring property for the tree to be cut back
- If this was not done within two weeks, it would arrange for the limbs to be cut back as a 'one off measure' and would chase the property owner for the cost.

Outcome

Following further conversations with the parties the landlord confirmed that the proposed works in regard to the pigeon issue would also include the washing down of areas affected by pigeon droppings. In June 2020, Mr D confirmed to this service that he was happy with the landlord's proposed actions and that they were sufficient to resolve the outstanding issues of his complaint.

Following the intervention of this service and in accordance with paragraph 32(b), the landlord took action to remedy the matters raised which resolved the complaint satisfactorily.



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.

Dealing with unacceptable behaviour

Occasionally, the behaviour or actions of individuals complaining to a landlord makes it very difficult for the landlord to deal with their complaint. This may be due to unreasonable demands or in a small number of cases the actions of individuals become unacceptable because they involve abuse of staff. We have a number of tools on our website to assist including [videos](#) and [guidance notes on policies](#).

Finding the balance between dealing with the complaint and dealing with the behaviour can be challenging as the first three case studies show.

Resolving disputes through mediation

Resolving cases at the earliest opportunity benefits both residents and landlords. One of the options for resolving a complaint is our mediation process which is an alternative to formal investigation and aims to speed up the process. We work with the resident and landlord to explore the issues in dispute, identify the matters that remain outstanding and assist in reaching an agreed settlement within a time limited procedure.

Ensure complaint response covers all issues raised

Landlords should ensure that all parts of a complaint are addressed and covered in the response to the resident. This is set out in the Complaint Handling Code (paragraph 3.14): *Landlords shall address all points raised in the complaint and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.* 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 12.

Ensure issues are dealt with through the complaints process

As set out in the Complaint Handling Code (paragraph 3.16) residents should be given a fair opportunity to set out their position and comment on any adverse findings before a final decision is made. This is generally provided by the opportunity to escalate a complaint for review. Failure to allow this poses a number of risks and is not in keeping with our dispute resolution principles, or the rules of natural justice. Only allowing one response to a complaint does not allow sufficient opportunity for residents to respond to a landlord's findings, correct any errors or comment on any new evidence. Having a review stage at a more senior level also brings benefits to a landlord. It brings a wider perspective and level of expertise to a complaint and can ensure full consideration of both sides of a complaint. Reviews also provide an opportunity for landlords to spot patterns, nip issues in the bud and to learn from outcomes of complaints. Landlords should not therefore unreasonably refuse to escalate a complaint through all stages of a complaints procedure and must have clear and valid reasons for taking such action.

Guidance for landlords on Covid-19

We have updated our best practice guidance for landlords on complaint handling during the Covid-19 situation. It reflects more recent feedback from landlords who have indicated that they are almost all operating complaint handling largely as normal at this time. Many had interim policies and procedures in service areas such as repairs, for example, during lockdown and were now planning the transition to resuming a normal service in a manner that works for them and their residents. The guidance is available on our [website](#).

New Complaint Handling Code

In July 2020 we published our new Complaint Handling Code setting out good practice that will allow landlords to respond to complaints effectively and fairly. The Code provides a framework for high-quality complaint handling and greater consistency across landlords' complaint procedures. It will enable landlords to resolve complaints raised by their residents quickly and to use the learning from complaints to drive service improvements.

Landlords will be asked to self-assess against the Code by 31 December 2020 and publish the results. Non-compliance could result in the Ombudsman issuing complaint handling failure orders. Guidance on these new orders has also been published and these will be implemented from 1 January 2021.

For full details on the [new page for landlords](#) on our website.

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.

*The cases featured were determined in the first quarter of 2020-21 and could be subject to review.