

**Case summary:**

**Severe maladministration finding**

**Landlord: Woking Borough Council**

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### Complaint categories:

- **Gas safety**
- **Repairs**
- **Anti-social behaviour**
- **Complaint handling**

**Case reference: 201801485**

## The complaint

Ms J complained about her faulty boiler and the landlord's decision to cap her gas supply, mould and damp in the property and its response to reports of anti-social behaviour. Ms J also complained about the landlord's complaint handling.

## Background and summary of events

In September 2017 Ms J, an 83 year old tenant, reported having no heating or hot water supply. An engineer visited but could not gain access and left a card. Six weeks later the landlord forced entry to the property and capped the gas supply. There was no evidence of further action by the landlord until September 2018 when an engineer made an annual gas servicing visit and placed a 'danger notice' on the boiler. In advance of this appointment the landlord tried to contact the resident by telephone but noted it did not hold a 'phone number for her. The gas supply remained capped and there was no evidence of further action by the landlord.

Ms J refused access for gas safety inspections in 2019 and 2020 and so the gas supply remained capped. In June 2019 the landlord wrote to Ms J about the gas supply and boiler and said it wanted to help resolve these issues and carry out repairs so that she had suitable facilities in her home. It asked her to contact it and gave a direct telephone number for the housing team, despite already having acknowledged that it did not have a telephone number for her.

In her complaint to the Ombudsman, Ms J said that her flat was very cold in winter and she had to wash using a kettle for hot water. She said a relative had sometimes paid for her to stay in hotels so that she could be warm.

Ms J made a formal complaint to the landlord in early 2018. In its stage one response, the landlord said it had been trying to access the property to carry out repairs to the heating system and, as a result of the difficulties it had making appointments and gaining access, it was necessary to stop the gas supply to the property. The landlord explained to Ms J that it was legally obliged to ensure the property was gas safe and, as it had not been possible to arrange works, it had to take this step to ensure she was safe. The landlord said that Ms J should have been provided with temporary heaters. Following contact from Ms J in late 2018, the

Ombudsman made several attempts with the landlord to escalate her complaint through its process.

The issues relating to damp and mould and anti-social behaviour pre-date the gas being capped. The landlord noted that the property had been affected by a leak and it was undertaking action to assist with the drying process and mould wash. The landlord's repairs log did not give details of this work being completed and there is no evidence of any later reports of damp or mould on the repairs log. The landlord closed the anti-social behaviour cases as there was insufficient evidence to keep them open.

## Assessment and findings

While the landlord may have found this case difficult due to problems accessing the property, its lack of action was extremely concerning. It left an elderly, potentially vulnerable, resident in need of assistance. The lack of heating and hot water in the property over an extensive period caused the resident severe distress and inconvenience. Despite the landlord's obligations, the Ombudsman was provided with no evidence during the investigation that it had taken reasonable or fair action to bring an end to its resident living in a property without heating or hot water for almost three years.

While the annual gas checks were in line with its obligations, it was not appropriate for the landlord to comply with these alone. It also had an obligation to ensure it was complying with its repair obligations. The evidence does not explain why the gas was capped rather than a boiler repair carried out. Nor did the landlord provide evidence to show what action it took after the gas had been capped given that it knew Ms J was without heating and hot water.

Despite being aware Ms J had been without a boiler for almost a year when a gas engineer gained access to the property in 2018, there is no evidence that the landlord made any attempt to investigate what repairs might be necessary. This was a missed opportunity to try to resolve matters.

The landlord provided no evidence of its housing management attempting to visit Ms J to try to resolve the matter or undertake checks into her welfare, only making contact when an annual gas inspection was due. The Ombudsman would expect the landlord to be proactive by making contact with its resident and ensuring that it restored the heating and hot water within a reasonable timeframe. Where a landlord experiences difficulties in obtaining access, the Ombudsman would expect to see clear records setting out what action it would and would not take along with the reasons for those decisions.

The landlord advised the Ombudsman that, whilst there were no known vulnerabilities recorded for Ms J, it did initiate a multi-agency referral process to Adult Social Care but said that had been unsuccessful. The referral demonstrates that the landlord considered its resident might require additional support. Given this, the landlord's lack of action to reduce any risk and ensure she had a warm home, in line with the Decent Homes Standard, was not appropriate.

Nor was there evidence that it considered, or took, legal action to gain access to carry out gas servicing or repairs or provided any alternative source of heating and hot water. It would have been reasonable for the landlord to have taken this action given its responsibilities as well as the implications to the health and safety of Ms J.

The Ombudsman considered the landlord's responses to mould and damp and anti-social behaviour reasonable based on the evidence available. However, given the landlord's poor record keeping, including evidence from a recent visit that recorded significant damp and mould issues, the Ombudsman recommended further investigation by the landlord to ensure no reports had been missed.

The landlord's handling of the complaint was poor. Whilst it responded to the formal complaint at stage one within its policy timescales, the Ombudsman had to contact the landlord three times before it issued the final response in 2019. There was a delay of over one year which meant that the landlord failed to resolve matters at the earliest opportunity and missed the opportunity to improve the tenant-landlord relationship.

Overall, while there were access issues, the landlord left an elderly resident, without heating and hot water for almost three years. The landlord failed to follow its policies and procedures in dealing with the repair and subsequent gas capping. The landlord also failed to take action to try to resolve matters by way of legal action to gain an injunction to gain access. These failings demonstrated a lack of regard to the landlord's obligations towards the resident as well as a lack of concern for any health and safety risks. The lack of evidence in this case raises concerns about the level of oversight and management the landlord had in relation to the managing company.

## Determination

We found severe maladministration by the landlord in respect of the complaint about the faulty boiler and decision to cut off the resident's gas supply and maladministration in respect of complaint handling.

We found no maladministration by the landlord in respect of the complaint about mould and damp and anti-social behaviour.

We ordered the landlord to:

- pay Ms J £6,000 compensation for the distress and inconvenience caused and apologise
- offer Ms J sufficient alternative heating to heat the property
- offer to provide a safe way for Ms J to make herself hot food in the short term
- demonstrate to the Ombudsman that it has a robust plan in place to repair the boiler and reinstate the gas at the property.

We also recommended the landlord:

- check its records for reports of damp, mould and anti-social behaviour and ensure that any such reports have been actioned appropriately.

- review its managing annual gas safety inspections policy to ensure that its approach to elderly and vulnerable residents is appropriate and that it has satisfactory oversight of properties with a capped gas supply
- consider the learning from this complaint and identify where staff may benefit from additional training
- review the relationship between the landlord and the managing agent to identify the lessons learned from this complaint where action can be taken to ensure similar failings do not reoccur
- report back to the Ombudsman on any lessons learned from this case.