

**Case summary:**

**Severe maladministration finding**

**Landlord: London Borough of Ealing**

**Published: 11 January 2022**

## Landlord: London borough of Ealing

Case ref: 201910837

**Complaint category: Repairs including leaks, damp and mould; complaint handling**

### The complaint

Ms P complained about the landlord's response to reports about water ingress from the roof and repairs completed to address issues with the roof, chimney and windows. The landlord's complaints handling has also been investigated.

### Background and summary of events

Ms P is a leaseholder living in a first floor flat. The landlord is the freeholder to the building.

In early 2019, Ms P complained to the landlord about how she had been affected by 'extreme mould' throughout the property for a number of years. She said the landlord's works to resolve water ingress issues had been of a poor standard and plastering had to be repeated as water damage had re-occurred both in the property and communal areas.

Ms P said in 2015 the landlord had confirmed that the roof would be replaced within two years but was still awaiting these works to take place. She said that she had complained about these issues on multiple occasions, that her health had been impacted and she also questioned the management fees she paid to the landlord for a building she was unable to use.

The landlord sent its stage one complaint response in response to the delay in rectifying a leak from the roof. It said that 'various' jobs had been raised in relation to the roof dating back to 2012 and that it had informed her in 2015 that the entire roof needed replacing. At that point, however, it had limited works to repairs to the chimney stack as the roof replacement works were instead included on its next planned programme of works, which were currently delayed for procurement reasons. As it was unable to provide a definitive date for these works, the landlord agreed that it would inspect to identify whether any repair works were required immediately. The landlord also apologised for any inconvenience experienced.

There is no evidence that the inspection took place, however the landlord emailed Ms P in the summer of 2019 confirming that it would need to carry out testing to ascertain the possible cause for a leak.

Ms P responded to say that she was still awaiting works to the roof and said that its surveyor had previously confirmed that she would not be charged for the remedial works to resolve the issues within the property. She listed outstanding issues,

including resurfacing the flat roof area, making good the area around a window, re-doing works to the chimney and replacing missing tiles.

The landlord emailed Ms P and acknowledged that she wished her complaint to progress to stage two of its complaints process but said that there was no guarantee that it would accept this as it had followed through on the agreement at stage one response to inspect and assess any required roof repairs.

The landlord's roofing contractor inspected the property as scheduled in the summer of 2019. The landlord emailed Ms P to confirm that damp had been visible within the property when the testing was carried out but that the testing itself had not identified any water penetration. An email from the landlord's contractor confirmed that the required works to the roof of the property were the same as those identified in 2015.

Later in 2019, Ms P reported to the landlord that 'extreme dampness and water damage to our walls' had taken place during a recent period of heavy rainfall. She requested that this be passed on to the landlord's complaints team, though there is no evidence of her having received a response from the complaints team or otherwise.

Ms P made initial contact with the Ombudsman in late 2019, referring to poor repairs that had been completed to the roof and chimney area and 'ongoing dampness'. She said that she had requested escalation of her stage one complaint but had not received further contact from the landlord.

The Ombudsman asked the landlord to clarify its position and it responded to Ms P in early 2020 to say that it had no evidence of her request for escalation, though it noted her contact with its repairs team in which she had registered her dissatisfaction after the stage one response it had sent. With regards to the planned programme of works, the landlord provided an update and said that it expected to commence works 'in the summer'. The landlord also said that Ms P could request a stage two review of the case but that it was unlikely that this would result in a different outcome.

Ms P requested escalation of the complaint. She said that her dissatisfaction related to works that had already been completed and paid for through the service charge, for which she provided photos of her bedroom. She also said that a 'professional experienced roofer' had inspected the works completed by the landlord and had confirmed that these had been 'incorrectly carried out'; though this viewpoint was not evidenced. In a further email, Ms P said that it had not addressed her complaint about the standard of works that had been carried out and the ongoing 'dampness'. She also disputed the landlord's position that there was no evidence of her having requested escalation of her complaint.

In early 2020, Ms P emailed the landlord to say she had cleared her outstanding balance on her service charge account, though she considered her dispute with the landlord as 'far from resolved'. She questioned the calculations for major works that had been previously carried out and asked how it had identified the outstanding works for a recent major works notice she had received as she had no recollection of surveyors having inspected and she had been assured that remedial works would

not be recharged as 'this had already been charged to our accounts'. The landlord emailed Ms P and confirmed that these works included 'roof works, including soffit/fascia replacement'.

The landlord sent its stage two response, which summarised the complaint as relating to the delay in renewing the roof. It said that it had raised repair works to the roof following its stage one response and that its contractors had attended and identified damp within the property, though no water leak at the time. Its roofing contractor had reported loose cement over the roof and a lack of felt in the loft space. The landlord confirmed that it was yet to tender for the contract that included the roof replacement works (including the works identified by its roofing contractor) and that the impact of COVID-19 meant that there would likely be a further delay. The landlord again apologised for the continued delay in resolving 'this repair issue'.

Ms P responded to the stage two response, requesting escalation to stage three of the landlord's complaints process. She did not agree that her 'long term and ongoing' complaint related only to a delay in completing roof renewal works. Ms P said it also related to repairs that had been completed 'incorrectly and charged' and damp and mould issues which had been ongoing for more than five years. She said that roofing repairs had been completed in an attempt to resolve these issues on multiple occasions but the works had not been completed properly and she had been charged in any case.

The landlord maintained its position that the complaint related to roof repairs. It also said Ms P had raised concerns about the contractor completing temporary repairs when it had been identified that the roof required replacement. The landlord went on to relay its actions after the stage one complaint response. It acknowledged that it had not kept her updated on the challenges it had faced in resolving this issue.

The landlord said that it had summarised the complaint as relating to roof repair delays as this was the outcome that would resolve the issue once and for all. It said that any other works it had completed, other than the intended replacement of the roof, had been confirmed as temporary works. With regards to the request to escalate the complaint, the landlord asked that she confirm the exact outcomes she desired.

Ms P responded that the chimney stack and flat roof area was the focus of her complaint. She said that she had lived in 'damp conditions' for nearly eight years as a result of this issue, had reported this on numerous occasions and had also successfully put in an insurance claim for redecoration costs, though her insurance company had since informed her that further damage was no longer covered. She listed landlord job reference numbers that had been completed. Ms P requested escalation of the complaint and compensation for works that had been carried out unsuccessfully and for internal decoration. There is no evidence of the landlord having responded to this email and it subsequently confirmed that it had failed to address this contact upon receipt.

The Ombudsman made multiple attempts to encourage the landlord to issue a stage two complaint response, which had resulted in the stage two response being sent

four months after the initial request. In addition, the Ombudsman had contacted the landlord on four occasions for a final (stage three) response, with no such response having then been sent.

The landlord responded to the Ombudsman to confirm that it had received an escalation request from Ms P following its stage two response, and had apologised to her and would issue this response in the new year. There is no evidence of a stage three response having then been sent by the landlord on the complaint.

## Assessment and findings

It is not disputed that the landlord is responsible, under the terms of the lease, to repair and maintain the roof of the building and that Ms P is required to reimburse the landlord for costs reasonably incurred by the landlord in carrying out these responsibilities. It is also not disputed that the landlord identified back in 2015 that the roof required replacement as it was causing damp within the property. Though roof replacement works are complex and will typically take an extended period of time to complete, it remains a requirement that a landlord complete such works within a reasonable timeframe.

This is particularly important when the landlord has acknowledged that the issue is causing damp within the property, as was the case in this instance. Damp is also classified as a category one hazard under the Housing Health and Safety Rating System (HHSRS). Having acknowledged damp within the property as far back as 2015, it was essential that the landlord acted in a timely manner so that Ms P benefitted from a property free from such a hazard.

It is considered a reasonable course of action for a landlord to complete temporary repairs pending the completion of major works (in this case, the roof replacement) that will fully resolve the issue.

However, irrespective of the effectiveness of these temporary repairs, it is clear that Ms P experienced a significant detriment over an extended period as a result of the water ingress issues into the property. She reported mould growth, a requirement to re-decorate on multiple occasions, an impact upon her health, disruption whilst repairs took place and a requirement to make an insurance claim followed by complications when she intended to make further claims as the landlord had only completed temporary repairs. The degree of detriment she described is consistent with a property affected by damp related issues for a protracted period.

The landlord's response to Ms P's complaint focused on its difficulties on carrying out the renewal/replacement works to the roof, referring to procurement issues and then COVID-19 related issues. It is appreciated that arranging major works contracts is a timely and complex process for any landlord, with a requirement to survey and assess the property, tender to potential contractors, consult leaseholders and secure the contract itself. In addition, the works themselves will often provide unforeseen difficulties. However, despite these obstacles, in the Ombudsman's opinion, the delay in progressing the works to the building in this case was unacceptable. For Ms

P to be waiting for these works some six years later is not reasonable, particularly given the impact she had reported.

The landlord's decision to narrow the focus of the complaint to the standalone issue of the delay in its programme of works meant that, in its view, it was sufficient to relay the difficulties it was experiencing in arranging the works and confirming that Ms P would need to wait until they were completed. This demonstrated a lack of understanding about Ms P's overall dissatisfaction. She had complained about ongoing dampness and the impact on the property, her health and her finances. The landlord did not address these issues in its complaint responses, as would have been appropriate.

The landlord said that it would inspect the property following its stage one response, so that any immediate repair issues could be identified. It is not clear whether this inspection took place immediately after the stage one response, or whether the later testing that took place amounted to the inspection. In any case, roofing works were identified in 2019, though these were, according to the contractor, the same as those identified in 2015. The landlord later confirmed that these works would take place at the same time as the renewal/replacement works. The landlord also identified no water penetration issues from the testing it carried out in 2019.

Though it was reasonable to rely on the findings of this testing process to confirm that no further work was needed at that point, Ms P subsequently made further reports about water penetration during heavy rainfall, including her view that the earlier testing had not been fit for purpose. There was no evidence of the landlord having responded to these further reports from Ms P.

There then followed a protracted delay before the landlord sent its stage two response, which again limited its response to the renewal/replacement works to the roof. It clarified the reasons for the further delay (including the impact of COVID-19) and outlined the steps that it had taken since its earlier stage one response, including the inspection and testing that it had carried out. Whilst its actions were consistent with its stage one response, it remained that it had limited the scope of the complaint and not addressed Ms P's reports about previous works it had completed and damage to the property from the water ingress. Ms P had been explicit in her contact; however, the landlord again chose not to address her concerns in full.

As no stage three response was ever sent, it is reasonable to conclude that the landlord's final position was that stated in its stage two response, i.e. that it was working towards arranging and completing the programme of works and that this was the outcome that would provide Ms P's desired resolution. It is evident that the roof replacement works remain outstanding at the time of this investigation.

Having identified back in 2015 that the work required replacement, it would have been appropriate to ensure that such works would complete within a reasonable timeframe. In the Ombudsman's view, this would amount to completing the works by the end of the 2018/2019 financial year as this would give at least three full financial years to go through the entire process. This would also mean that the expected

timeframe was at, or close to, that identified by the landlord itself. Whilst such a timeline would have undoubtedly resulted in some inconvenience to Ms P, this would have been expected and understandable given the difficulty in completing such complex works.

It is appreciated that the landlord could not have foreseen the impact of COVID-19 upon its service delivery. It is understandable that it has encountered additional difficulties in scheduling major works given the restrictions placed upon all service industries. However, the impact upon Ms P must also be considered. The landlord had reasonable opportunity to resolve the issue in advance of the pandemic and the further delays experienced will only have increased her sense of frustration.

### **Repairs**

Ms P's complaint outlined her dissatisfaction with the quality of works that had been completed in its attempts to meet its repair/maintenance obligations. Having raised her concerns, she would have had a reasonable expectation that the landlord would address them through its complaints process.

Ms P said that she had been informed, during a previous inspection of the property, that works would not be recharged to her. There is no evidence of this however and this would not have been in accordance with the terms of her lease, which require the leaseholder to reimburse the landlord for costs incurred for works, whether temporary or permanent.

Whilst this investigation can therefore not consider whether Ms P received value for money for the works carried out by the landlord, it can consider whether the landlord has responded to her reports about the standard of works that were completed. In this respect, it is clear that it did not.

Though the landlord had confirmed to the Ombudsman that it would need more time to consider and respond to the repair issues raised by Ms P, it failed to do so. Having had the opportunity to respond, and having acknowledged the requirement for it to do so, it is reasonable to conclude that the landlord has missed the opportunity to dispute the viewpoint of the resident in relation to the repairs that had been charged to her, but either not completed, or not completed effectively.

### **Complaint handling**

It is of significant concern that the landlord chose to narrow the focus of the complaint in such a way that only the delay in the programme of works was responded to. This meant that the landlord missed the opportunity to address Ms P's points of dissatisfaction and resulted in a deterioration in the landlord/resident relationship. Taking time to discuss and understand a complaint is an essential aspect of a landlord's complaints handling as doing so renders it more likely that a case will be resolved to the mutual satisfaction of all involved.

The landlord was also reluctant to escalate the complaint, referring to the narrow focus of its complaint definition in stating she would need to wait for the programme of works to complete and that escalation to a senior level would be unlikely to offer a different viewpoint. Taking this approach effectively amounted to the landlord

fettering its discretion as it presupposed the outcome of a further review of the case. Furthermore, in response to the Ombudsman, the landlord said that it had not received Ms P's 'formal' request for escalation. However, there is evidence that it was aware that she remained dissatisfied and wanted her case progressed. The Ombudsman requires a complaints process to have multiple stages so that further review can identify potential issues that were not identified during an initial investigation.

In this case, Ms P, even with the Ombudsman's assistance, encountered significant difficulty in progressing her complaint and did not receive a stage three (final) response at any point. It is also of significant concern that the landlord failed to address Ms P's response to its stage two response or the report she made about further water ingress, which she specifically requested to be passed on to its complaints team.

The landlord's complaints handling failures led to a lengthy, frustrating and ultimately unsatisfactory experience for Ms P, who was required to correspond with both the landlord and the Ombudsman over a protracted period, only to not have her complaint responded to. The landlord's consideration of her complaint presents as lacking in customer focus, with poor standards of communication throughout.

## **Determination**

We found there was maladministration in response to reports about water ingress and maladministration in response to reports about repairs completed.

We also found severe maladministration with respect to the landlord's complaints handling.

We ordered the landlord to pay Ms P compensation of £3,600, comprising of £1,500 for the two and a half years of unreasonable delay in completing major works to the building, £1,500 for the standard of temporary works it completed to resolve water ingress issues and £600 for complaints handling.

We also ordered the landlord to confirm its position regarding the major works programme and to confirm how the works will fully resolve the water ingress issues experienced.

We also ordered the landlord to review the failures identified on this case and to include a review about how the landlord's major works procedures account for water ingress issues for residents. This review will also report back on its communication with residents and how it identifies interim works and monitors their effectiveness.