

Housing

Ombudsman Service

REPORT

COMPLAINT 202008492

Spitalfields Housing Association Limited

30 June 2022

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:
 - a. Complaints handling.
 - b. Response to the resident's reports of leaks at the property and damage to belongings.

Background and summary of events

Background

2. The residents are tenants of the landlord, a housing association. The residents are represented in the complaint by their daughter, referred to as 'the representative' in this report, who this investigation understands also lives at the property. This investigation understands the property is a flat in a block.
3. The landlord's website and its tenant handbook confirms it is responsible for repairs to the structure of the building such as gutters, and that issues such as flooding and blocked drains are classified as emergency repairs to be attended within two to 24 hours.
4. The landlord operates a two stage complaints procedure. At stage one, it aims to provide a full written response in ten working days, and at stage two, it aims to respond within 15 working days. The landlord will investigate complaints about issues up to a year prior.
5. The landlord states in its policies that it is open to complaints; sees complaints as an opportunity to improve the landlord and tenant relationship and learn so its

services can improve; and aims to communicate effectively with residents in respect to repairs.

6. The landlord's tenant handbook advises that tenants may claim compensation of up to £50 under the 'Right to Repair' if repairs are not completed in a reasonable timescale, which relevant staff should be contacted to discuss. The handbook advises that tenants should report loss and damage to contractors, and to the landlord if these are not settled to their satisfaction. The handbook advises that the landlord is not responsible for paying for replacement goods if it is not responsible for the cause of a leak/flood which results in damage to carpet and other contents, so it is important for tenants to insure belongings.

Summary of events

7. The representative's account advises that in August 2020, she reported floods and leaks at the property. The landlord informed her that these were due to blocked gutter pipes which were cleaned and resolved. The representative advises that a few days later, floods and leaks were again reported, after which the landlord again said the issue had been investigated and gutter pipes had been cleaned.
8. The representative's account then advises that between 2 to 4 October 2020, further heavy floods and leaks were experienced, and a lightbulb 'busted' in close proximity to an individual. These were reported to the landlord on 5 October 2020 and its contractor attended the same day; cleaned the gutter; left a dehumidifier to absorb water from a carpet; and called the landlord to report the severity of the issue. The representative contacted the landlord to follow up and was informed the contractor's report needed to be reviewed; another dehumidifier would be provided; and she would be contacted. The representative's account advises that the contractor subsequently brought a second dehumidifier and took photographs of damaged walls, floors and ceiling to provide a report.
9. On 8 and 9 October 2020, the representative emailed the landlord after speaking to it around this time. In this correspondence:
 - a. The representative detailed that leaks had caused damage in respect to walls; ceilings; a wooden floor; a light bulb socket; a carpet; and unspecified personal belongings. The representative detailed that the leaks and consequent damp had resulted in inconvenience, overcrowding, and impacted mental and physical health. She detailed that belongings had to be moved and crammed into bedrooms, the living room and the boiler room; issues with a boiler had not been reported as the room was not accessible for repairs; and the 'emergency water' was having to be left on.

- b. The representative noted that the landlord could not confirm in a call when the gutter was last cleaned, despite it being stated this had been done on two previous occasions. It had said a neighbour's gutter was cleaned out recently and said it assumed the residents' was at the same time, but could not confirm this. The representative highlighted that reports and work needed to the property was separate to the neighbour's property, and said this should have been checked before assurances were provided for the reports in August 2020. The representative said that the landlord had been negligent and that it was obligated to repair and compensate for the resultant damages, including personal damages.
 - c. The representative noted that the landlord had said in a call that it would redecorate the walls and ceilings once these were completely dry; that it would not compensate, replace or repair damage to the carpet and wooden floor; and had not mentioned whether it would further investigate the electrics in relation to a light bulb that had shattered.
 - d. The representative noted the landlord had confirmed it would write by 13 October 2020 with an action plan of how it intended to resolve the situation and issues mentioned. The representative asked it to also detail its 'builders warranty provider;' confirm it would investigate the electrics; and evidence whether the gutter was cleaned and relevant works were completed when leaks were reported in August 2020.
10. The representative clarifies to this investigation that the damage entailed *"damage to the laminate flooring and the underlayer of the flooring (bubbles, unevenness as well), the carpet on the first floor is damaged (crinkling, odour, texture), the paint on walls on the ground and first floor, plaster board in said walls are damp, there are cracks on the wall and ceiling, the store room on the first floor where water was seeping through the wall and damage to the lighting on the ground floor passage. In terms of personal damages, everything that was stored in the store room and outside was damaged completely or to an extent, this included but is not limited to clothing, fabric, blankets/pillows, air beds, legal documents such as birth certificate, sentimental items etc."*
11. On 13 October 2020, the landlord's surveyor confirmed to the representative that they would investigate the issues and provide findings in ten days, after staff had returned from leave. They apologised for any inconvenience caused. In response, the representative expressed disappointment that the landlord had not met the 13 October 2020 deadline, and expressed concern about the waiting period due to the severity of the situation. She again requested the 'builders warranty provider' and also requested details for the data protection team.
12. The representative's account then advises that on 20 October 2020 she complained to the landlord via a webform. The landlord has said it was unable to

locate this; the representative provides this Service with a screenshot that shows the landlord's website confirmed receipt of a complaint form on 20 October 2020. The copy of the complaint provided by the representative stated that since August 2020, flooding and leaks had caused severe damage, and the landlord had failed to resolve the matter. She said the issue had endangered family members, caused stress, inconvenience and personal damage. She said that she and her family continued to experience difficulties coping with the situation, which she said was ultimately the result of the landlord's negligence. The representative requested 'an adequate solution' and details of the builders warranty provider and the data protection team.

13. In November 2020, the representative contacted this Service to complain she had not heard from the landlord after its previous correspondence. She said works to gutters had resolved leaks at the property, but other works were outstanding and flooring and carpet had not been repaired; she had not been compensated for personal belongings; and there was concern about the property electrics.

14. In correspondence dated 9 November 2020, this Service contacted the landlord and asked it to provide a written response to the complaint in accordance with its complaints policy. The Ombudsman contacted the landlord again on two further occasions, 3 December 2020 and 22 December 2020, when the representative reported a lack of response. The landlord subsequently called the representative and summarised the call in an email to her on 23 December 2020:

- a. It noted that in August 2020, she had twice reported a leak which caused flooding, and she was informed these were due to the gutter and fixed. In October 2020, the leak and flooding happened again, and the gutter was accessed and attended through the residents' property. This led her to believe it was not fixed or addressed in August 2020 as no access through the home was made previously. She claimed if the issue had been fixed the issue would not have reoccurred.
- b. It noted that in October 2020, the contractor had visited and assessed the damage and works required, but nothing had been heard further. There had been some email exchanges, but no action plan was provided with a timeline to remedy the issue, apart from two dehumidifiers that it was confirmed were now not collecting as much water. The representative had emailed for compensation and damages, requested details of a General Data Protection Regulation (GDPR) person, and requested the building warranty provider, but these had not been provided.
- c. It acknowledged the representative wanted the builder's warranty provider and GDPR details before Christmas; and she wanted an action plan by 8 January 2021, with a timeline about when works would be carried out and when she would be compensated. It provided details of staff to contact in

respect to GDPR, and said details of its contractor warranty provider would be provided by staff when they returned from leave.

- d. It acknowledged that it was reported that the passage light bulb had exploded and had not yet been repaired, and it confirmed it had raised a repair to check and remedy the light.

15. On 3 January 2021, the representative responded to the landlord. She said that relevant information was in previous emails but that she wished to clarify:

- a. In August 2020, the first time the flood occurred, the landlord had said this was due to the gutter, and this was being dealt with. The second time the issue occurred the same month, the landlord had reiterated the floods had occurred due to the gutter, the issue had been resolved and no further flooding would be experienced.
- b. In October 2020, further flooding had been experienced and during a conversation, the landlord had confirmed it was mistaken and the gutter pipe that affected the property had not been investigated, nor had any works been carried out to it; which meant the October floods had occurred due to an error on the landlord's part. The landlord urgently arranged for contractors to visit and they rectified the issue by clearing out the gutter with access via the property. The representative emphasised that she did not draw her own conclusions, but rather the negligence was confirmed by landlord staff, and so this was not a 'claim.'
- c. The contractors had attended from around 23 October 2020 to collect the dehumidifiers but had noted they were still collecting water and decided to leave them. The last contact with them was on 6 November 2020, when the contractor had confirmed they had sent a report and photographs of all the damages to the landlord on 5 October 2020, after which there had been no update.
- d. The landlord had agreed that 8 January 2021 was a reasonable and realistic date to respond with an action plan for all points mentioned in her email along with a proposal on how it aimed to compensate for personal damages. The representative said this should reflect affected parts of the property not normally considered the landlord's responsibility; personal belongings; and time, trouble and inconvenience and impact on her and her family's health.

16. The landlord confirmed it passed the clarification to its maintenance team, and on 7 January 2021 it then emailed the representative. It said the contractor that had last visited did not provide recommendations for further work, so another contractor would visit and remedial works would be based on their findings. It

apologised for the inconvenience and thanked her for her patience and cooperation. The representative responded the same day and acknowledged a contractor needed to be sent to assess damages, but noted this was done in October 2020. She also noted it had been agreed an action plan and compensation proposal would be provided by 8 January 2021, and that this was awaited.

17. The representative's account advises that the contractor attended on 8 January 2021, and on 10 January 2021 she then emailed the landlord and noted it had failed to provide an action plan or proposal by 8 January 2021 as agreed. She said she had hoped following their conversation that it would sympathise with the living conditions and resolve the issue with urgency.
18. On 14 January 2021, the representative emailed the landlord and noted she had received a call from the contractor about repairs as a result of leaks and flooding in the property. She noted the landlord had agreed she would be provided with an action plan by 8 January 2021 with all the repairs that needed to be carried out, and clarified that it needed to share this before it arranged for contractors to visit. She also requested the details that had been requested previously (the building warranty provider).
19. On 14 January 2021, the landlord emailed the representative that the contractor had viewed the property, and no issues with the laminate flooring and carpet had been noted, but its contractor had noted further works. It asked for its contractors to be allowed access to complete the works, which it noted were routine and non-urgent and could be subject to reschedule if government guidance changed.
20. On 19 January 2021, the representative emailed the landlord. She said:
 - a. There were differences in the flooring and carpet from before and after the floods, and contractors had said the flooring would need to be changed as soon as possible to avoid further damage. The laminate flooring had developed cracks in areas affected by the flood, and there was a clear difference in the texture of the carpet affected by the flood.
 - b. She had received a call from contractors about a paint job but she did not refuse work or access to the property. The landlord had agreed to provide an action plan and compensation proposal, but contractors had called instead, which was inappropriate given the situation.
 - c. There had been no response to the complaint she had made, and she requested details about how to escalate this further.
21. This Service then contacted the landlord on 22 January 2021 to ask it to respond to the complaint, and on 1 February 2021 the landlord sent a complaint acknowledgement. In this it noted that after a visit on 8 January 2021, its

contractor had identified remedial works which had been authorised, however access had been refused. It asked the representative to let it know when it could commence works.

22. The representative responded that she had submitted a complaint in October 2020 and had received no response. She clarified she did not refuse access to contractors but had told them she had not received an action plan she was assured she would receive. She noted that paintwork and electrics repairs she was contacted about did not match what was previously discussed with the landlord, and she asked it to clarify the work it would be doing to repair all the damage caused by the flooding. She expressed frustration about repeatedly requesting an action plan and compensation details, and restated a request for these along with other information she had asked for (the building warranty provider).
23. On 5 February 2021, the landlord provided what it has later referred to as its stage one response to the complaint. This simply said that it had previously confirmed that access was needed to carry out required remedial works, and requested when its contractor could attend. On 8 February 2021, the representative asked how and when the complaint made in October 2020 would be addressed. She raised concern about going back and forth, and contents of her emails not being addressed.
24. On 24 February 2021, the landlord said it was unable to locate the complaint from October 2020, and asked for this to be forwarded if it still required a response. It said that it required access to carry out remedial works, and noted this was a term of the tenancy agreement. It advised that the representative may be liable for further works and damages if it was unable to complete any required works. The representative responded the same day that contractors had not been denied access to the property, and she expressed concern with this repeated allegation. She attached the content of the October 2020 complaint, and said the landlord had failed to respond to the complaint logged in February 2021 within its advertised timeframes, and that the situation as a whole was yet to be resolved. She said she wished to escalate the issue as the landlord had not provided a positive outcome after two months' communication.
25. On 1 March 2021, the landlord emailed the representative, asking her to confirm when access would be provided to complete works. The same day, the representative referred to her previous email's request to escalate the issue. In a later email, she said Citizens Advice had informed her she should allow the landlord seven days to respond. On 2 March 2021, the landlord provided what it appears to later refer to as its stage two response to the complaint. This simply said the complaint was not being escalated as it had asked for access to carry out the remedial work; and it requested a date when contractors could attend.

26. On 8 March 2021, the representative informed the landlord that she would seek legal advice, and contacted this Service in April 2021 after discussing matters with Citizens Advice and Shelter. She reported that the landlord was not willing to take responsibility for damage caused since August 2020; had disregarded contents of emails in responses; had not allowed her to speak to managers when she had telephoned; and the communication difficulties had caused anxiety and stress.
27. On 6 May 2021, this Service informed the landlord that a Complaint Handling Failure Order would be issued if a formal complaint response was not provided, as a complaint response had been requested on four occasions. This was in accordance with the Ombudsman's Scheme, that a landlord's failure to comply with the conditions of membership may result in a determination of complaint-handling failure and an order for the landlord to take action to rectify matters within a given timescale. More information about Complaint Handling Failure Orders and landlord obligations under the Scheme is provided in paragraph 35 onwards.
28. On 10 May 2021, the landlord informed this Service that its contractor had identified works but was not being allowed access to complete them. It noted an action plan was requested, but said it wanted to complete the works and look into additional issues later. This Service asked the landlord to respond as soon as possible with a formal complaint response, as informal correspondence did not constitute formal complaint responses. The landlord did not provide a formal complaint response to the resident in the timeframe requested, and instead supplied informal correspondence with the representative to this Service on 27 May 2021, which it said was to show 'the complaint status.'
29. In July 2021, the representative reported that no formal complaint response had been provided, and further leaks and flooding had been experienced which had caused more damage to the property and belongings. This investigation understands that for these further leaks, contractors attended; identified potential issues with the roof; and carried out interim repairs to the gutter outside the property.
30. The Ombudsman issued a Complaint Handling Failure Order to the landlord on 7 July 2021, and asked it to issue a stage one response to the complaint by 14 July 2021. The landlord queried this and the Ombudsman clarified that this Service's Complaint Handling Code did not provide for a landlord to delay in response to a complaint until works were completed, and a request from the landlord to withdraw the order was reviewed and rejected.
31. On 13 July 2021, the landlord provided its final complaint response:

- a. It detailed that following a complaint on 1 February 2021 and its stage one response on 5 February 2021, escalation was requested, and it provided its stage two response on 8 March 2021 (as noted at Paragraph 25 of this report, this appears to refer to correspondence on 2 March 2021).
- b. It said that, in summary, a repair had been reported which its contractors had not been provided access for. It said health and safety issues had been 'falsely claimed' and none had been discovered, so a callout fee would be recharged. It said that as access for the works had continued to not be allowed, further costs in remedying repairs would also be recharged, as it had been unable to maintain the property and remedy damage in a reasonable timeframe. It said it would consider further action if access was not provided, as this was a breach of the tenancy agreement.
- c. It stated that any damage to personal belongings should be claimed via contents insurance, as per the tenancy agreement.

Post complaint

32. On 13 September 2021, the representative informed this Service that the landlord had issued a Notice of Seeking Possession dated 6 August 2021, which this investigation has not seen a copy of. The representative said the stated grounds for this were breaching obligations other than rent, and allowing the property to deteriorate. The representative advises this Service that the residents remain in the property, and that the landlord informed her the notice would expire in twelve months if there were no issues.
33. The Ombudsman issued a further Complaint Handling Failure Order to the landlord on 4 March 2022, for a lack of response to requests for information to facilitate the Ombudsman's investigation of the case. The landlord failed to respond to the Ombudsman's request for information. When investigation commenced, the landlord was contacted to encourage it to supply repairs records for August and October 2020. It did not provide these and instead noted its understanding of the complaint; said that information on compensation was available on its website; and said this could be considered after access was granted and damage was repaired.
34. The representative has stated that she wanted the landlord to provide the scope and schedule of works to clarify what it planned to do. She noted the landlord had stated only paintwork needed to be done, but said there was much more than that do. She raised concern that leaks and floods continued to be experienced and that each time it rained, belongings and furniture had to be moved to prevent further damage. She said this was not an ideal living situation as this resulted in

there barely being space to move, and said the situation caused concern and anxiety.

Assessment and findings

The landlord's complaints handling

35. The obligations of a member landlord are set out in paragraphs 9 to 12 of the Housing Ombudsman Scheme. Paragraph 9 of the Scheme confirms that a member must manage complaints in accordance with its published procedure or within a reasonable timescale, while paragraph 10 of the Scheme confirms a member must provide copies of any information requested by the Ombudsman, that is, in the Ombudsman's opinion, relevant to the complaint.
36. The Ombudsman contacted the landlord from November 2020 and asked it to respond to the issues as a formal complaint on more than six occasions. The landlord did not do so for eight months, and therefore a Complaint Handling Failure Order (CHFO) was issued to the landlord in July 2021. This led to the landlord finally providing a response the same month.
37. The Ombudsman subsequently requested that the landlord provide information toward the formal investigation of the case. The landlord did not provide the information, and therefore a further CHFO was issued to the landlord. The CHFO included a requirement that the outstanding information be provided, however this investigation has had to proceed without this and is based upon the limited information available.
38. The necessity for two CHFOs to be issued is unsatisfactory, and there are further aspects of the landlord's complaint handling which are also unsatisfactory.
39. The Ombudsman's Complaint Handling [Code](#) was published in July 2020 to support and promote effective complaint handling and learning by a landlord to drive service improvement. The Code asked landlords to self-assess compliance with the Code by the end of December 2020, which this investigation notes the landlord did not do until 21 July 2021. The Code sets out a range of best practice, including that landlords should:
 - a. respond to complaints in line with their policies and in reasonable timescales.
 - b. address all points raised in a complaint and provide clear reasons for any decisions, referencing relevant policy where applicable.
 - c. investigate and consider all information and evidence fairly, and review what evidence is needed to fully consider issues.

- d. acknowledge when something goes wrong, and set out actions to put things right that includes an apology, explanation and actions to prevent an issue happening again.
- e. rectify problems for which they are responsible, and where there are concerns legal liability is involved, still offer a resolution where possible to remove the need to pursue legal remedies.
- f. provide a remedy that reflect the extent of all service failures and the level of detriment caused, and consider the frequency that something occurred; the severity of a service failure or omission; any quantifiable loss; and any time and trouble and distress and inconvenience caused.
- g. not unreasonably refuse to escalate a complaint, and have clear and valid reasons when doing so.
- h. learn and consider improvements to processes and systems to benefit all their residents.
- i. cooperate with the Ombudsman's requests for evidence in a timely manner.

40. The Code itself consolidated best practice for landlords as well as learning in previous reports by this Service, such as our spotlight [report](#) on complaints about repairs published in March 2019. This emphasised that landlords should communicate effectively; keep and review accessible repairs records; provide clear, quality written complaint responses; comply with the timescales of complaints policies; address all issues raised in the original complaint; detail further actions with timescales; provide appropriate redress (or provide assurances this will be considered when works are completed); and detail lessons that had been learned.

41. The landlord fails to demonstrate that it handled matters in line with the above principles throughout.

42. The complaint was not responded to in a timely manner, and there were considerable issues in progressing the complaint. The landlord was in receipt of a complaint in October 2020 when submitted via webform by the representative; from November 2020 when referred by this Service; in December 2020 when it took and summarised the complaint from the representative; and again in February 2021 when it was sent a copy of the October 2020 complaint after it invited the representative to forward this. It was therefore inappropriate that the landlord failed to provide a response in accordance within the ten working days set out in its procedure, until July 2021 and a CHFO had been issued by the Ombudsman. In addition, the representative evidences a complaint was submitted via webform on 20 October 2020, and the landlord does not

demonstrate it investigated why this was not received and appropriately registered, which was also inappropriate.

43. The landlord informed this Service that it was delaying its complaint response until works it requested access for were completed. The landlord's policy; this Service's March 2019 spotlight report on repairs complaints; and the Ombudsman's July 2020 Complaint Handling Code did not provide for such an approach when the complaint was made from October 2020. This meant that the residents remained unaware of the landlord's position on the issues raised and lacked assurance that the issues were being taken seriously under the landlord's procedure. The landlord should have provided a complaint response in a timely manner, addressed all the concerns, and detailed any action it intended to take in respect to repairs and consideration of any compensation.
44. The landlord's final July 2021 response inappropriately noted the complaint was received in February 2021 (when it was received in October 2020) and inappropriately referred to informal correspondence as stage one and two responses. The response of 13 July 2021 can reasonably be considered to be its first and only formal response to the complaint. By only providing one response in reality, the landlord's procedure was also not in keeping with this Service's Dispute Resolution [Principles](#) to be fair, put things right, and learn from outcomes. The representative was not given fair opportunity to comment on or challenge the landlord's position and to have this formally responded to. The landlord's process therefore provided no scope to consider its oversights in its response. This and the eight or nine months the representative was required to wait for a response was inappropriate, excessive and unnecessary.
45. The July 2021 response did not address the substance of the complaint, which focused around an alleged lack of action for August 2020 reports of floods, and the consequent damages, distress and inconvenience caused by the recurrence of these in October 2020. There is a reasonable expectation the landlord should be able to demonstrate an evidence-based position in respect to issues raised. The landlord does not demonstrate that it sought to appropriately investigate and respond to the concerns at any point, and it inappropriately redefined the complaint as being about reported repairs that contractors were being denied access for, and 'falsely claimed' health and safety issues. The landlord failed to address repeated requests for a remedial action plan and compensation proposal, which it acknowledged was something the representative wanted and which it did not dissuade her from the expectation that it would address. The landlord's failure to demonstrate that it appropriately addressed all issues raised significantly undermines whether it appropriately investigated the complaint and arrived at an appropriate conclusion and resolution in its July 2021 response.
46. The landlord does not demonstrate that it acknowledged any failings or intended to take any steps to improve future service for its residents, in respect to the

repairs issues or its complaint handling, in line with the Dispute Resolution Principles to put things right and learn from outcomes. The landlord and this Service received many contacts from the representative, while the Ombudsman asked the landlord to provide a formal response on more than six occasions, and issued a CHFO, before the landlord finally provided a response in July 2021. The complaint should not have required repeated contact from the representative and the Ombudsman's intervention to progress; and it is therefore unsatisfactory that the landlord did not acknowledge and apologise for the time and trouble the representative had gone to in order to obtain a formal complaint response.

47. This investigation notes that the landlord states in its self-assessment against the Ombudsman's Complaint Handling Code that "most complaints are resolved informally," and also notes that parts of the self-assessment done in July 2021 are still pending review. While it is very positive for a landlord to satisfactorily resolve matters for a resident without the need to make a formal complaint, the insight provided by this case raises significant concern as to whether the mainly informal resolution of complaints may be due to a complaints procedure not being appropriately followed.
48. This investigation understands that the landlord subsequently issued a Notice of Seeking Possession to the residents. It is not in this Service's jurisdiction to make definitive decisions in respect to breaches of the tenancy, which it is important that tenants adhere to. This investigation however notes the expectations for a landlord to communicate effectively in respect to repairs. This investigation would comment that the landlord could have done much more and communicated in a more customer focused and effective way to potentially avoid the circumstances that led to the Notice of Seeking Possession, in light of which the Notice of Seeking Possession appears heavy handed and, in the Ombudsman's view, caused further unnecessary distress.
49. Finally, this investigation notes that the landlord's approach to the resident has not always come across in a helpful, customer and resolution focused way. The Ombudsman's role in trying to ensure landlords follow their procedures and respond in a timely manner is ultimately to encourage residents and landlords to work to resolve complaints together, in order to reach the appropriate outcome for both the resident and landlord. The Ombudsman would encourage the landlord to better recognise the important role the landlord can play in doing what it can to resolve disputes, prevent unnecessary escalation and be receptive to the valuable opportunities for learning that complaints can provide.
50. Overall, it is clear that the residents went to significant time and trouble in order to even obtain a response that then did not address the issues raised. It is understandable that the landlord's complaints handling will have caused additional frustration and distress and inconvenience to the representative and the residents; led them to feel issues raised were being ignored and

unaddressed; and undermined confidence in the landlord. This is wholly inappropriate and means that this Service considers it appropriate to make a finding of severe maladministration for the landlord's complaint handling.

51. In light of the issues evidenced in the case and the two CHFOs that were issued, this investigation has made an order for the landlord to take steps to review its handling in respect to complaints and provision of information to the Ombudsman.

52. In its Remedies Guidance, the Housing Ombudsman Service sets out three compensation ranges which this Service takes into account when determining cases. The categories for maladministration / severe maladministration include multiple examples applicable to this case, such as repeatedly having to chase responses; lack of responsibility being taken; failure over a considerable period of time to act in accordance with policy; repeated failure to meaningfully engage with the substance of a complaint, leading to considerable delay in resolution; significant failures to follow complaint procedure and escalate the matter; and premature threat of eviction. The cumulation of the failings in the case confirm a significant compensation award is applicable.

The landlord's response to the resident's reports of a leak at the property and damage to her belongings

53. The Ombudsman's remit in relation to complaints is limited by its Scheme, and Paragraph 39(i) of the Scheme states that the Ombudsman will not investigate complaints which in the Ombudsman's opinion "concern matters where the Ombudsman considers it quicker, fairer, more reasonable or more effective to seek a remedy through the courts, a designated person, other tribunal or procedure." This means it is not within the Ombudsman's authority or expertise to definitively determine cause, liability or negligence, and to award damages in the way an insurance procedure or court might, but it can assess whether the landlord has followed proper procedure, followed good practice, and behaved reasonably, taking account of all the circumstances of the case.

54. In accordance with the Landlord and Tenant Act 1985 and its policy, the landlord is responsible for the repair of the structure of the property, which includes gutters. As a result, it is necessary for it to investigate reports of issues which affect living in the property, and to take appropriate steps to resolve any issues in a reasonable and timely manner. In addition, this Service's spotlight report on complaints about repairs details good practice landlords should follow in respect to repairs, such as keep and review records in respect to resident reports, contractors' repairs and inspection outcomes.

55. The residents' representative states that after reports of leaks and floods on two occasions in August 2020, the landlord said these were investigated and gutters

were cleaned, which she later queried the evidence for. The representative then confirms that after a report in October 2020, the landlord's contractor attended the same day, resolved the issue by cleaning the gutter via the residents' property, and supplied dehumidifiers. The landlord then confirmed that redecoration would be carried out when the property was dry.

56. The information available suggests that the landlord took action in response to the reports of floods in October 2020, however the landlord has not disputed, addressed or provided any information in respect to the concern that no action was taken in August 2020. It is unsatisfactory that, despite the Ombudsman's request and CHFOs, the landlord has supplied no records to demonstrate how it met its repairs obligations in August 2020, prior to the recurrence of floods and leaks in October 2020. The landlord should be able to show what specific action was taken following a specific report about a specific property, in order to demonstrate to the Ombudsman (and itself) that it has met its repairs obligations.
57. The lack of information means it is not possible to make definitive conclusions about the action taken for the August 2020 reports, however available information about these is unsatisfactory. The second report of floods in August 2020, and their recurrence in October 2020, reasonably suggests that any action taken in August 2020 in respect to the property did not provide the more lasting solution it should have. The stated action taken to resolve the floods in October 2020 (cleaning of the gutters) was action allegedly taken previously in August 2020, which again raises concerns about the response to the August 2020 reports. Finally, the information the landlord reportedly detailed about previous action taken in respect to the residents' reports and property was vague and inconclusive.
58. The landlord has not demonstrated that it took any of the multiple opportunities presented to clarify this, and it is unsatisfactory that the landlord does not demonstrate that it took the opportunity to appropriately review the concerning claim that there may have been a failure in its service. This shows an inappropriate lack of consideration of detriment caused its residents as a result of any potential failings. The representative's reports about two dehumidifiers being required; rooms having to be crammed with belongings; and the reported disruption, distress and inconvenience as a result of claimed failings, reasonably merited more focus than these were given.
59. The information available advises that the landlord arranged for its contractors to attend in October 2020 and January 2021, however it is unclear what remit the contractors had to consider the claims being made, and no information is provided for these to understand the landlord's subsequent decision-making. The landlord fails to demonstrate that it took an appropriate and customer focused approach to directly assess disruption experienced by the residents, and to consider this in conjunction with records and evidence for actions in August 2020.

Given the concerns were being raised two months later, it should not have been difficult to review records and liaise with contractors to effectively investigate the response to the August 2020 reports.

60. The landlord eventually stated in July 2021 that any damage to personal belongings should be claimed via contents insurance, as per the tenancy agreement. This was nine months after fault on the landlord's part was suggested in October 2020, an excessive length of time, and accompanied by no reasonable explanation behind the decision, which is unsatisfactory given the circumstances. The Ombudsman's guidance and the landlord's own policies confirm there are considerations which a landlord should have for reports that involve insurance, and that it is not always necessarily reasonable to refer a resident to their own insurance.
61. The landlord's tenant handbook confirms that its tenants should report damages to its contractors and to the landlord, and advises that it is not responsible for compensation if it is not responsible for the cause of a leak that results in damage. This creates the reasonable expectation that the landlord will investigate reports of damage arising from its own or its contractor's actions; and that it will accept responsibility if it is responsible for the cause of a leak that results in damage.
62. This Service's [guidance](#) in respect to insurance also confirms that a landlord is reasonably responsible for any damage caused by issues such as a leak if it has failed to carry out repairs obligations, and has responsibility to put right damage to affected parties' property and belongings, be this directly or via its insurer. A landlord should therefore consider what is a fair and reasonable response to complaints involving insurance, and initially consider if there is any evidence that it is at fault for claimed damage to property and belongings, rather than refer residents straight to an insurer. If a landlord disputes fault or a complainant is unable to evidence the level of claimed damages, it may be reasonable to refer a complainant to their or the landlord's own insurer to establish negligence and liability. However, if a landlord accepts that it was or may have been at fault, it may not be reasonable to ask complainants to claim on their own insurance, since this may affect future premiums and require them to pay an excess. If liability is denied, a landlord should still investigate and respond as a formal complaint to reports that its actions or inactions have caused distress and inconvenience, consider if there was any service failure, and consider if any compensation is applicable.
63. It is unsatisfactory therefore that in its decision to refer the residents to their own insurance, the landlord did not demonstrate that it did this after adequate investigation, consideration and setting out of its position in respect to the concerns raised about its response to the August 2020 reports of floods. The landlord should be able to demonstrate that it reviewed the August 2020 reports

and its response to them; considered whether it was or may be at fault; and provided clear explanation about the reasons for its decision to refer the representative to their own insurance. The fact that the landlord does not demonstrate it has ever sought to appropriately investigate and formally address whether its service failings led to detriment is considerably unfair to the affected residents.

64. The evidence overall shows that there has been a repeated failure on the part of the landlord to meaningfully engage with, investigate and respond appropriately in respect to the reports of the leaks and damages, from October 2020 to the present. Given the protracted period of time, the representative's repeated attempts to resolve matters, and the landlord's repeated opportunities since October 2020, this is unsatisfactory. The inappropriate handling of the issues, actual and potential impact on the residents, and the extent and cumulation of failings, means this Service considers it appropriate to make a finding of severe maladministration in the landlord's response to reports of a leak at the property and damage to belongings.

Determination (decision)

65. In accordance with paragraph 54 of the Scheme, there was severe maladministration in the landlord's complaints handling.

66. In accordance with paragraph 54 of the Scheme, there was severe maladministration in the landlord's response to reports of a leak at the property and damage to belongings.

Reasons

67. The Ombudsman issued the landlord with two Complaints Handling Failure Orders, one for a lack of response to the complaint and one for not providing all information necessary to carry out an investigation of the case. The landlord delayed unreasonably in progressing the case through its complaints procedure, failed to appropriately address the issues raised, and failed to provide any acknowledgement, apology and lessons learned in respect to the case.

68. Following the repeated attempts to resolve the matter, the landlord fails to demonstrate that it met repairs obligations for reports of floods in August 2020; fails to demonstrate that it appropriately investigated concerns that it had not met its repairs obligations; and fails to demonstrate that it considered and responded to the potential impact of this in an appropriate way.

Orders and recommendations

Orders

69. The landlord to apologise to the residents, in line with this Service's [guidance](#) that:

- a. an apology should be made by the landlord as a body, rather than an identified member of staff.
- b. an apology should acknowledge the maladministration or service failure; accept responsibility for it; explain clearly why it happened; and express sincere regret.
- c. where appropriate, an apology should include assurances that the same maladministration or service failure should not occur again and set out what steps have been taken to try to ensure this.

70. The landlord to pay the residents the following compensation:

- a. £600 for its complaint handling.
- b. £400 for its handling of the reports of the leaks and damage to belongings.

71. The landlord to carry out a co-inspection of the property with its contractor and to review internal damage the residents raise. The landlord should then write to the residents with its position on each issue and detail works it intends to carry out.

72. The landlord to confirm its position to the residents on the Notice of Seeking Possession in the light of the findings of this report, and to confirm to the residents whether this remains in place.

73. The landlord to take steps to consider the claim of damages, from recurrence of floods in October 2020 as a result of lack of action in August 2020:

- a. by directly inspecting the property, discussing the claim with the residents, and reviewing its repairs records;
- b. or, by providing the residents with details of its insurance provider, and ensuring that the insurance provider considers the claim.
- c. If the landlord directly assesses and refuses the claim, it should provide the residents with details of its insurance provider to further consider the claim, and ensure that the insurance provider considers the claim.

74. The landlord should provide evidence to this Service that it has complied with the above first set of orders, within six weeks of this decision.

75. The landlord to review the case and the complaints handling failures identified to identify lessons it can learn from the case. Particularly:

- a. The landlord should consider its staff training and system needs, in regard to how it arranges repairs for a specific property and issue, and how it maintains repairs records that reflect its own and contractor actions for that issue.
- b. The landlord should consider how it will handle complaints; how it will escalate complaints; and how it will ensure it responds to formal complaints in a timely manner, in accordance with its policy and the Complaint Handling Code.
- c. The landlord should consider how it will investigate and handle reports about repairs service failures and claims that relate to this, in accordance with its policy and the Ombudsman's guidance on insurance.
- d. The landlord should consider how it will ensure it responds to evidence requests from the Ombudsman in a timely manner.

76. The landlord to:

- a. review and update its Complaint Handling Code self-assessment, including sections that were left incomplete in July 2021 due to being the subject of ongoing review;
- b. report its self-assessment to its governing body (e.g. board);
- c. and publish the outcome on its website.

77. The landlord to provide a copy of this report to its governing body (e.g. board).

78. The landlord should report back to the Ombudsman and provide evidence that it has complied with the above second set of orders, within eight weeks of this decision.