

Housing

Ombudsman Service

REPORT

COMPLAINT 202102081

3CHA Ltd

21 October 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 regarding:
 - a. The landlord's handling of the resident's eviction.
 - b. The landlord's response to the resident's concerns about staff conduct and the level of support offered.
 - c. The landlord's response to the resident's request for compensation.
 - d. The landlord's handling of concerns raised regarding information security and confidentiality.
2. This Service has also made a separate finding regarding the landlord's handling of the resident's complaints.

Jurisdiction

3. What we can and cannot consider is called the Ombudsman's jurisdiction. This is governed by the Housing Ombudsman Scheme. When a complaint is brought to the Ombudsman, we must consider all the circumstances of the case as there are sometimes reasons why a complaint will not be investigated.
4. After carefully considering all the evidence, in accordance with paragraph 42 (m) of the Housing Ombudsman Scheme, the following aspect of the complaint is outside of the Ombudsman's jurisdiction:
 - a. The landlord's handling of concerns raised regarding information security and confidentiality.

5. Paragraph 42 (m) of the Housing Ombudsman Scheme states that the Ombudsman will not investigate complaints which, in its opinion, “fall properly within the jurisdiction of another Ombudsman, regulator or complaint-handling body”. As this part of the resident’s complaint specifically concerns how the landlord/managing agent handled her personal data, this Service considers this outside of our jurisdiction as it would be more appropriately responded to by the Information Commissioner’s Office (the ICO). If the resident wishes to pursue this aspect of her complaint further, she may wish to contact the ICO directly:
www.ico.org.uk

Scope of Investigation

6. For clarity, following the resident’s original complaint, she submitted further information and raised further concerns which the landlord ultimately treated as two separate complaints, both of which the resident ultimately brought to this Service. However, from the information provided, the complaints appeared to cross over and dealt with similar issues. This Service therefore made the decision to merge the two complaints and proceed with one investigation as this would provide a more comprehensive overview of the case and issues raised.
7. Within her complaint about staff conduct and the conduct of one former employee of the managing agent in particular, the resident has made a number of allegations of serious criminal behaviour. This Service cannot make any determination as to whether this conduct took place and the resident would need to pursue these allegations with the Police, if she had not done so already, and wishes for them to be investigated further. What the Ombudsman can investigate is how the landlord responded to her reports regarding staff conduct in general and whether it did so reasonably and fairly.
8. The same applies to the resident’s allegations that managing agency staff committed bank and benefit fraud by falsifying Housing Benefit claims in her name. This Service will not be able to determine whether this happened as this is a matter for the Police and/or Local Government and Social Care Ombudsman to investigate but will instead consider how the landlord responded to her reports.
9. It is also noted the resident has, within her complaints to the landlord and correspondence with this Service, made allegations about inappropriate behaviour from managing agency staff towards former and current residents at the property. While the resident’s comments have been noted, these aspects of her complaint will not be investigated due to third party data concerns and the fact the resident is not acting as the representative for any other party. If the resident remains in contact with former or current residents, she may wish to advise them to submit their own complaints with the landlord to allow it to investigate their concerns more fully.

10. The resident has advised the landlord and this Service that the events she reported affected her health and wellbeing and she has requested “damages” as a result. However, it is beyond the remit and expertise of the Ombudsman to determine whether there is any direct causal link between her reported health issues and the landlord’s actions. The resident may wish to seek independent advice on making a further personal injury claim if she considers that her health has been affected by any action, or lack thereof, by the landlord.

Background and summary of events

Background

11. The resident lived in supported accommodation between January 2020 and the end of December 2020/the beginning of January 2021 (the exact date she left the property is disputed). The resident held a licence agreement with the landlord, who in turn had a Service Level Agreement with a managing agent (“the managing agent”) to manage the accommodation on its behalf.

12. The landlord’s procedures for “Termination of a Licence” state that “residents should be given ‘reasonable notice’ that the licence to occupy is to be ended” and notes that “reasonable notice” is normally 28 days. It further notes that, if issuing notice of under 28 days, staff should “obtain permission from a senior manager” and that, after the decision to terminate is taken, this “MUST be confirmed (their emphasis) by a senior manager of the service and (the landlord’s) Operations Director should be advised of the intended course of action”.

13. In cases where notice is served due to arrears, the procedure states that “enforcement action...will only commence once all...reasonable options to tackle the debt have been taken”.

14. It also states residents have “the right to an internal review against a decision to terminate the licence”. It further notes “nothing in this procedure will prevent the licensee making a complaint under (the landlord’s) Complaints procedure”.

15. The landlord operates a two-stage complaints procedure, which states it will respond at both Stage One and Stage Two (Review) within 10 working days.

16. The landlord’s Service Level Agreement with the managing agent (dated October 2019) states the managing agent must keep “records of all payments made by Occupants and (provide) statements to them in an agreed format”.

Summary of Events

17. On 29 December 2020 the resident was served with an eviction notice by the managing agent for “failure to pay service charge – ARREARS” and “failure to

allow access to gas engineer". The notice advised the resident had received "verbal and written warnings" and was to leave the property "immediately".

18. On 6 January 2021, the resident emailed the landlord to raise concerns over the actions of the managing agent. Issues she raised included:
 - a. The managing agent serving her with an eviction notice for failure to allow access, which she stated related to a gas company operative refusing to wear a face covering or mask when seeking to enter her room.
 - b. The managing agent had not responded to her request to return her pressure cooker, which a member of its staff had taken from the property.
 - c. Managing agency staff attended the property at unsociable hours, tried to enter her room without knocking and swore at her. She had also reported managing agent staff to the Local Authority for not wearing Personal Protective Equipment (PPE).
 - d. She wanted to lodge a formal complaint against the managing agent and intended to raise "a number of concerns" about the level of support offered and the accommodation. She stated staff members from the managing agent had relationships with residents and entered residents' rooms without permission, including her own.
 - e. The managing agent had allegedly fraudulently been claiming Housing Benefit for her at an address that was unknown to her. She had submitted a complaint regarding this to the Local Authority's benefits team.
 - f. The managing agent had not responded to any of her emails and had falsely claimed she only resided at the address since 9 November 2020 rather than from January 2020.
19. The landlord responded to the resident the following day. It acknowledged that, as landlord, it retained "overall responsibility for the safety of our residents" and advised it would investigate the issues raised further. It also asked the resident to provide further information to assist its investigation.
20. On 17 January 2021, the resident responded to the landlord with a lengthy complaint email. For reasons of space, this Service will not refer to each point raised. However, concerns she raised about the managing agent included:
 - a. Staff "harassing" residents under the guise of carrying out regular "heater checks" and requesting service charge payments at unsociable hours.
 - b. A failure to offer support around finance, employment and health issues.
 - c. Previous and "ongoing" benefit fraud, including submitting claims for residents at incorrect addresses and falsifying documents. This included asking the

resident to “lie” to the Local Authority’s benefits team and Universal Credit staff regarding claims that had been made in her name.

- d. A lack of “duty of care” to residents, including not compiling risk assessments, allowing former residents to retain keys to the property and staff members being employed on a “no contract” basis without appropriate DBS checks.
- e. The removal of residents’ personal property and failure to return it.
- f. Poor record keeping, including a failure to keep records of service charge payments made by residents.
- g. Allowing a resident to live in the accommodation with their children at weekends and hiding the fact from Local Authority inspectors.
- h. The resident provided a list of six people she stated could ask as witnesses to many of the issues she had raised, which included current and former residents at the property, her partner and a friend.

21. The landlord acknowledged the resident’s complaint the following day and stated it would attempt to provide an update by the end of the month. However, it also advised its “full investigation” was “likely to take longer” due to the amount of information it needed to consider. It provided a further update on 27 January 2021, when it advised it had identified nine separate “areas of concern” within the resident’s complaint, which it headed:

- a. HB claims, dates of licences etc.
- b. Failure to provide secure accommodation and right to “quiet enjoyment” of their home.
- c. Lack of appropriate support.
- d. Removal of personal items.
- e. Inappropriate relationships by staff with residents.
- f. Lack of financial clarity.
- g. Property condition.
- h. Safeguarding.
- i. Arrangements for managing post.

22. The landlord advised it had contacted the managing agent for its comments and would contact the resident again once it had completed its investigation.

23. On 23 February 2021, the landlord provided its Stage One complaint response. Addressing the nine areas of concern in turn, it made the following findings:

- a. Regarding “HB claims, dates of licences etc”, the landlord noted that Housing Benefit had been incorrectly claimed for the resident at a different address

from 30 January 2020 until 9 November 2020. It advised the Local Authority's Housing Benefit team were "being advised of the error".

- b. Addressing the reported "failure to provide secure accommodation", the landlord noted the managing agent disputed "that staff were harassing residents" and it had advised staff had acted "reasonably" when "challenging...residents over their behaviour". The landlord stated it was "impossible to identify the truth in this matter" but acknowledged "residents' perception is likely to be that (managing agency) staff were being heavy handed". It advised it had discussed the situation with the managing agent and asked it to "ensure staff are careful in their behaviour going forward". The landlord also noted it was "good practice for staff to visit properties outside of office hours" but that this "should not be routine" and "restricted to situations where residents are not around during daytime hours or in the prevention of (anti-social behaviour)".
- c. Regarding a "lack of appropriate support", the landlord advised the resident's support notes indicated "a good level of support" and while it acknowledged she "may have been unhappy" with the support received, "there (was) evidence of a reasonable level of support given the funding that is available". It noted that, following her complaint, it would be amending its resident feedback process to enable residents to "report any concerns as they occur".
- d. Regarding the removal of personal items, the landlord "confirmed (that) this had happened". It stated the managing agent had advised the resident was asked to collect her pressure cooker from its offices but "did not feel able to do so". The landlord confirmed the managing agent had agreed to refund the resident "for the value of this item" and requested details of how the resident could receive payment.
- e. In response to the resident's concerns over "inappropriate relationships by staff with residents", the landlord stated this was "not proven". It noted the managing agent had "adopted a staff code of conduct...which covers this and (has) discussed with staff what is appropriate and what it not". It referred again to how it had "improved access to (its) complaints policy" so residents would "feel more confident in reporting concerns as they occur".
- f. Regarding the reported "lack of financial clarity", the landlord stated this was also "not proven". It stated that staff "should provide receipts when they collect services charges" but acknowledged "this has not happened in your case".
- g. In response to the condition of the accommodation, the landlord stated this was "not proven" and advised an "independent property inspection" carried out on its behalf in December (although the year was not specified, it is assumed to be 2020) had "not identified any issues". It additionally noted the Local Authority had also inspected the property "earlier in the year" (again, which year is not specified) and "were satisfied". Addressing concerns over

heating in the property, it noted this was “often a point of concern in shared housing” as different residents had different expectations. It advised it expected its properties to be “heated to an ambient temperature” and would “continue to monitor this when carrying out our inspections”.

- h. Regarding safeguarding concerns, the landlord stated this was “not proven” and advised “staff have received safeguarding training and this will be reinforced”, although it did not specify if this was landlord staff or managing agency staff. It noted staff would be “asked to consider issues around having children in properties” and stated the managing agency was “clear that residents (with) children would not be allocated a property”. It noted some residents who have access to children who do not live with them “wish to use their home when spending time (with them)” and, where “short visits could be possible, a full risk assessment should be developed with the resident” and other residents should also be consulted.
- i. Responding to concerns over how resident’s post was managed, the landlord again stated this was “not proven” but noted staff would be “reminded to ensure that they deal with post appropriately” and, when post is received for former residents, either forward it on or return it to sender.

24. The landlord acknowledged its investigation had identified “some specific problems”. Where it had not “been able to confirm the facts” regarding other areas of concern, it stressed it was “one person’s word against another” but this did not mean it was “ignoring” the resident’s concerns and it would be “monitoring (the managing agent’s) performance, especially around these issues” going forward. It apologised “for the difficulties” the resident “experienced while staying (with the landlord). Clearly standards were not as we would have expected”. It reiterated that, following her complaint, it had reviewed its contact arrangements for residents to report concerns and that it had discussed its investigation into her complaint with the Local Authority and sent them a copy. The landlord advised the resident could request for her complaint to be escalated and reviewed by its Management Board, but she should do so by 1 March 2021.

25. The following day, the resident emailed the landlord and thanked it for “taking the time to respond” to her complaint. She also thanked it for its “help in this complaint” and “taking action” regarding her concerns. She provided her bank details to allow the landlord to reimburse her for the pressure cooker and, regarding her allegations about the lack of financial clarity, advised she believed that “HMRC will get to the bottom of that”.

26. The landlord responded the next day to advise it was “very sorry” about the resident’s eviction and acknowledge it had been “contrary to our policy”. It further advised the issue had been raised with the managing agent and they had been “told not to evict anyone without checking with (the landlord)”. It also clarified that

the resident had been within her rights to refuse access to “someone who did not have a (face) mask”.

27. On 26 April 2021, the resident contacted this Service regarding the landlord's response to her concerns over staff conduct, her “improper eviction” during the coronavirus lockdown and its failure to properly escalate her complaint through its complaints procedures. She noted she had advised the landlord in February 2021 she was unhappy with its Stage One complaint response but had so far not received any further response. She also advised the following:
 - a. The landlord had caused her “emotional distress”.
 - b. The managing agent had committed “bank fraud”, made false allegations against her and had not responded to her complaints of 29 December 2020 and 1 January 2021 regarding her eviction from the property.
 - c. She considered that an apology from the landlord along with compensation for “stress and distress” would resolve the complaint.
28. The Service wrote to the landlord the same day to request it completed its complaints procedure and provide a further complaint response.
29. On 21 May 2021, the landlord wrote to the resident. In its response the landlord advised that, in its Stage One complaint response, it had asked her to advise it by 1 March 2021 if she was “unhappy with the outcome”. It stated it had understood her to have “accepted” its response in her email of 24 February 2021 and therefore had not considered it necessary to escalate her complaint.
30. The landlord also stated it considered the resident's contact with this Service had raised new issues “about our provider (the managing agent)” which were “not previously made to us”. It advised it would be in contact regarding the new issues raised, while also “undertaking a Stage 2 response” in respect of her existing complaint. Additionally, it reiterated its Stage One response had “confirmed that your eviction had not been in line with our policy and (we) apologised for this”. In subsequent correspondence with the resident, the landlord confirmed it was happy to allow the resident more time to submit further information relevant to the complaint.
31. The resident responded to the landlord on 2 June 2021. She raised issues and concerns which included:
 - a. Where the landlord had found aspects of her complaint “not proven”, she requested this be looked at again in detail and that she be asked for “proof” as she would have some of it, that the witnesses she named were contacted along with ex-employees of the managing agent. She also alleged the managing agent continued to act inappropriately with current residents.

- b. The landlord's previous complaint response was "not good enough" considered the stress and anxiety she had been caused by the managing agent, for which she had had to seek medical treatment.
 - c. She advised she was seeking "damages and compensation" to enable her to "find peace with the situation", the fact she had been labelled a criminal and liar by the managing agent and had "false things written about me" in her support notes. She did not specify an amount she was seeking.
32. On 7 June 2021, the resident sent a further lengthy email to the landlord. In her email, she drew attention to sections of her support notes, made by the managing agent, that she considered had been falsified or contained inaccurate information and which had "damaged (her) reputation". For reasons of space this report will not refer to each concern raised, but issues she highlighted included:
- a. After signing her licence agreement on moving into the property in January 2020 she stated she did not sign any further documents, which she alleged meant the managing agent had falsified her signature on contact notes, a new licence agreement dated November 2020 and other documents from November 2020 including a risk assessment and GP/next of kin details.
 - b. She stated the contact notes she had been shown only began in November 2020, with none existing from her original move in date of January 2020.
 - c. Further falsified signatures on a "nil income form" and a consent form sent to the Local Authority's Benefits Team.
 - d. Contact notes indicated a support review had been carried out on 11 January 2021, after she had already been evicted from the property.
 - e. Support notes falsely indicated that she smoked cannabis and drank alcohol and contained inaccurate information regarding other apparent support needs.
 - f. She found a support worker (the ex-employee) in her room, in the dark, when she returned home one day. He then left but let himself back in again, without knocking, while she was in the middle of changing.
 - g. The managing agent stated she owed service charge fees but she had an agreement in place whereby she undertook cleaning of communal areas in lieu of paying the £15 a week charge as she had been unable to afford it.
 - h. She reiterated that she sought a "proper apology" and an unspecified level of "damages", along with further investigation of the managing agent.
33. On 16 June 2021, the landlord issued its Stage Two complaint response. It advised it had "thoroughly reviewed (its) handling of your complaint", including "further information" the resident had submitted on 17 January 2021. It acknowledged that, following its initial response at Stage One sent on 23 February 2021, the resident had responded the following day but that there had

then been “no further contact from (the resident)” until 2 April 2021 when she requested assistance in obtaining her support notes and records from the managing agent. It provided a summary of the outcome of its Stage One investigation, listing the nine separate points it had responded to.

34. The landlord made the following findings:

- a. It reiterated it “could not establish facts where it was one person’s word against another” but that it was satisfied this did not mean the resident’s concerns had been “ignored”. It advised it could find “nothing in (our) investigation with (the managing agent) that the unproven complaints can be established without substantial further facts, which are not available”. It clarified that “lessons had been learned” from the complaint and that it would continue with “monitoring specific performance (by the managing agent) around the issues raised by you”. It concluded that its Stage One responses had been “full, appropriate and proportionate”, as had its offer of an apology and to reimburse the resident for her rice cooker.
- b. Regarding the resident’s email of 24 February 2021, which she stated had been an escalation request, it concluded it had been “reasonable” to not take her email as “disatisfaction with (the) investigation”. It acknowledged it “could have been clearer” about the fact it would not be contacting the witnesses the resident had put forward. It advised it had declined to do so as the resident did not “provide any specific information from them, and...there were no complaints to us from other residents at the property”.
- c. It acknowledged its initial response had not addressed the resident’s concern that her eviction notice cited her “failure to allow the (gas) engineer access” but clarified its subsequent reply to her on 25 February 2021 had agreed she was within her right to do so and it had “accepted that (the managing agent) had operated contrary to our eviction policy”.
- d. It again it had not heard further from the resident until 2 April 2021 regarding the complaint, until contacted by this Service. It advised it considered the complaint had been “taken very seriously and every effort (was) made to assist you...and learn lessons benefitting residents and our service for the future”. It “regretted” if the resident felt it had not “responded in the way you would like”. It confirmed the complaint procedure had now concluded, but it would be providing a further response regarding the resident’s additional complaints about the support contact notes.

35. The resident responded on 18 June 2021 and advised she remained unhappy with the landlord’s response. She advised the apology was “not enough” and that she considered the landlord had failed to acknowledge the effect the eviction had had on her.

36. Records show that on 29 June 2021, the landlord completed a further investigation regarding concerns the resident raised about the contents of support contact notes, noting “a number of new complaints were received on 7 June 2021 which required investigation”. It made the following findings:
- a. Regarding reported falsified signatures, the landlord advised it was “unable to confirm that the signatures had been falsified”. It advised it had spoken to the support worker and they “confirmed the signatures were genuine”. The landlord noted it was “not an expert on handwriting” but considered the resident’s signatures on the support notes were “very similar” to the one seen on her original occupancy agreement, which she had confirmed was genuine.
 - b. There was “no evidence” medical information regarding the resident’s registration, or lack of, with a GP had been falsified in her support notes. It noted the support worker maintained they “did not make up the details...(and) that she had written down the details that (the resident) had given”.
 - c. Comments made in the support notes regarding cigarette use and self-neglect were “concerns that the support worker had discussed with you, and as a result it was reasonable for (these) to be included in the notes”. It also concluded it was reasonable to refer to cannabis use in the support notes as the support worker had advised she “smelt cannabis in your room on several occasions” and therefore “discussed misuse of drugs with you”.
 - d. Regarding the resident’s concerns about comments in the resident’s support plan, including regarding substance use and her needing help with employment, the landlord advised the form was “pre-populated” and that the ‘Yes/No’ answers had not indicated that it considered these were support needs for the resident. It apologised for any confusion this had caused and advised it would address this with the managing agent.
 - e. It acknowledged the support worker should have asked “additional questions” regarding other issues on the support form, but nevertheless concluded that comments regarding the resident’s reason for moving to the property and previous accommodation history were based on information she had provided.
 - f. Regarding contact notes from the support worker, and another ex-employee of the managing agent, the landlord noted it had already acknowledged the support worker had “wrongly completed new sign-up information” in November 2020 and written entries which falsely implied the resident had only just moved into the property. The landlord advised the support worker “understands how wrong” this was but that they were correcting errors made by other members of staff. Having re-read the resident’s contact notes, the support worker maintained this were the only entries that were inaccurate.
 - g. Regarding the notes made by the former employee, the landlord noted that as he no longer worked for the managing agent, it had been unable to discuss them with him. It nevertheless concluded that it believed the notes were

“reasonable” as it believed they related to “concerns that (he) had discussed with you”. The landlord was also unable to ask him about the allegation he had been in the resident’s room but advised “other staff have confirmed that he would have needed to go into the room for room inspections” and to check meters. It also reiterated it had “already agreed that then actions of (the managing agent’s) staff may have been considered intimidating” and it had agreed staff will be monitored to “ensure that tenants are not fearful of staff”.

- h. It advised there was no evidence of an agreement existing whereby the resident did not have to pay service charges at the property. It stated the support worker advised she had discussed this with the resident and given “at least one official notice to pay”.

37. Following further correspondence from the resident, on 14 July 2021, landlord records show it produced a summary of its Stage Two investigation regarding her second complaint and sent this to her via email. The landlord stated it had “re-examined” its responses and made the following comments:

- a. It could find “nothing in...the interview with (the resident’s) support worker to support the allegations made in the complaint” and considered the support worker had, when questioned, “answered to the best of her ability, and in good faith with honesty”.
- b. It “could not comment on the alleged false signature(s) other than without further specialist advice, no other conclusion can be considered”. It added that it did not “consider obtaining this advice to be reasonable”.
- c. The resident’s “allegations about personal conduct...cannot be substantiated and have been strongly repudiated by the person concerned”. It stated it had “seen no reason to doubt” the support worker’s version of events and did not consider it would be “appropriate or best practice to make further uninvited contact with third parties”, referring to the witnesses she had put forward.
- d. It concluded that it did “not believe compensation is appropriate for the confidential support note contents because they were reasonable to be recorded as they were. It acknowledged they were “not comprehensive” but considered they provided an “accurate” record of the support worker’s interaction with the resident. The landlord also referred to the “very substantial resources in time spent expended to date” investigating the resident’s complaints and advised this reflected how seriously they had been taken.

Assessment and findings

The landlord’s handling of the resident’s eviction

38. It is not in dispute that the managing agent did not follow the landlord’s stated procedures when it sought to terminate the resident’s licence at the property. The

managing agent, in its letter of 29 December 2020 headed “Official Eviction Notice”, advised the resident she was required to leave the accommodation “immediately” following “verbal and written warnings”. It advised that “failure to do so will result in further action being taken against you and authorities being involved”.

39. The landlord’s procedures state that such decisions “MUST be confirmed by a senior manager and (the landlord’s) Operations Director should be advised of the intended course of action”. It also notes that “reasonable notice is normally 28 days” and that permission should be obtained from a senior manager if notice of less than 28 days is ever issued. The approval of a senior manager should be attached to a resident’s file, and the landlord should be “advised by email of the intended course of action and a brief summary of reasons for the decision”. A Notice to Quit should also be completed. There is no evidence that any of these steps were completed by the managing agent. There is also no evidence to explain why the resident was not given reasonable notice, given the reasons for the eviction did not indicate she posed “a threat to property or people.”
40. In its responses to the resident and correspondence with this Service, the landlord apologised for the way the eviction had been handled, confirmed that it had been carried out contrary to its procedures and advised it had made clear to the managing agent that the final decisions on evictions should be taken by the landlord going forward. It also confirmed it considered the resident had been within her rights to refuse access to a gas operative who declined to wear a facemask, which was one of the two reasons given for her eviction. The landlord has therefore admitted that one of the two grounds for eviction given was clearly unreasonable and regarding the second, this Service has not seen any evidence relating to the resident’s alleged service charge arrears, or evidence of the “verbal and written warnings” the managing agent referred to in the eviction letter.
41. While the landlord acted appropriately by offering the resident an apology and giving assurances that the managing agent had been reminded of the requirement to follow published procedures, in the Ombudsman’s opinion, the landlord’s responses do not adequately reflect the seriousness of its failings. The resident would have been caused significant detriment by being evicted immediately from the property, without reasonable notice, and very clearly in breach of the landlord’s policies. From the information available and correspondence seen, the landlord does not appear to have given reasonable consideration of how it might “put things right” in accordance with the Ombudsman’s Dispute Resolution Principles. The fact the resident was asked to leave the accommodation immediately also would have hampered her ability to challenge the eviction and it is noted that her initial contact with the landlord in January 2021 cited the fact the managing agent had ignored her emails, which the landlord does not appear to have addressed in its responses.

42. The landlord acknowledged to the resident it retained ultimate “responsibility” towards its residents, regardless of the fact the property was managed by the agent. The landlord is therefore responsible for the significant failure of the managing agent to treat the resident fairly.
43. In correspondence with this Service, the landlord advised the resident “decided to leave the property before the formal eviction letter – which would have come from (the landlord) was given to her”. While it acknowledged the “wording of the letter...obviously caused confusion...and (the resident) believed that this was formal eviction advice”, in the Ombudsman’s opinion this places an unfair onus on the resident, and effectively apports blame on her for leaving the property before she had received a valid notice. This is an unreasonable position for the landlord to take and does not treat the resident fairly. Rather than containing “confusing wording”, the eviction notice served by the managing agent is unambiguous in asking the resident to immediately vacate the property, while also threatening “further action” from “authorities” if she did not do so. The resident should not be expected to have known the notice was invalid and to place any kind of blame on her for leaving the property is not appropriate.
44. In the Ombudsman’s opinion, the failings by the managing agent surrounding the eviction, and the landlord’s failure to consider an appropriate remedy for those failings amounts to severe maladministration and an Order has been made at the end of this report for the landlord to pay compensation to the resident.

The landlord’s response to the resident’s concerns about staff conduct

45. In her complaints, the resident raised a number of concerns regarding the conduct of managing agency staff, some of which has been ruled outside the scope of this investigation (such as the allegations of benefit fraud and other criminal activity). With the other aspects of her complaint, the Ombudsman is not able to determine whether certain events took place or not but will assess whether the landlord’s responses to the resident’s reports were reasonable and treated her fairly.
46. In the Ombudsman’s opinion, records available and correspondence seen between the resident and landlord indicates it took the concerns she raised seriously and sought to respond to the issues she brought to it. Its complaint responses addressed the issues she raised, including staff forging signatures and falsifying support contact notes and records show it carried out its own investigations, interviewing one of the relevant staff members. It was also positive that it shared its investigation with the Local Authority, with whom it had discussed the allegations made against the managing agent. This showed the landlord tried to be transparent about its findings, particularly where it had acknowledged the service the resident had received was “not what we would have expected”.

47. While the resident's frustration with some of the landlord's findings is acknowledged, particularly where her allegations were found to be "not proven", this was not an unreasonable position for the landlord to take. It had interviewed one of the support workers and records show that, aside from one instance of falsifying support contact notes to allegedly cover up others' mistakes, she denied doing so elsewhere and also denied falsifying the resident's signatures. In the absence of any firm evidence to the contrary and noting that the landlord itself was not present during each incident, the landlord was entitled to find the allegations unproven and it acted reasonably by advising the resident it would monitor the managing agent's performance going forward. It also provided reasonable explanations to the resident regarding the use of a pre-populated form which may have caused confusion over whether certain issues had been identified as support needs, and it was reasonable that it advised it would be addressing this with the managing agent.
48. However, while it may not have been able to prove the resident's allegations, it is noted that the support worker did admit to falsifying part of the resident's support notes. In November 2020 she noted the resident had just moved into the property and made reference to her needs in relation to taking up new accommodation, when the resident had lived at the property since January 2020 and had already worked with the support worker for a few months. While it advised the support worker had realised she should not have done this, the landlord does not appear to have apologised for the incident, which also raises further concerns regarding the overall accuracy of the managing agent's support notes and the support it was offering to residents which the landlord does not appear to have considered.
49. Additionally, in the Ombudsman's opinion, it is not clear why it was satisfied no other notes had been altered, particularly as from the information seen by this Service, other entries appear to have been backdated or entered in error, including for events that took place after the resident had already left the property. In the Ombudsman's opinion, there are concerns over the accuracy of the support contact notes and based on the evidence available, it was unreasonable of the landlord to firmly conclude that there was only one incident of the records being falsified.
50. It was also confusing that the landlord advised the resident's complaint regarding not being provided with receipts was "not proven" before acknowledging that staff had not provided receipts "in your case". This finding will have likely caused the resident confusion as to whether the landlord had established receipts were being provided or not and whether this aspect of her complaint was upheld.
51. The landlord's position that it was unwilling to commit further time and resources to further investigate whether the resident's signature had been falsified was not in itself unreasonable. As a Housing Association the landlord has to be mindful of allocating its limited resources appropriately and it did appear to have committed

a reasonable amount of time and effort investigating and responding to the resident's complaint. However, its assessment that the signatures "looked similar" to one the resident had confirmed was genuine was unhelpful, given that a forged signature would presumably need to look like an original. Given the fact a new licence agreement had been produced by the managing agent in November 2020, apparently signed by the resident even though she denied doing so, the landlord could have reasonably concluded that there was a case for the managing agent to answer but it did not do so.

52. The landlord was reasonable when it advised the resident it "could have been clearer" in correspondence with her over the fact it would not be contacting the witnesses she put forward. However, its decision not to do so as "there were no complaints to us from other residents at the property" is concerning. The landlord should not have declined to contact potential witnesses, who may have been able to provide further context or evidence (which the landlord had said was needed to prove some of the resident's allegations) simply because it had not received any other complaints, and this did not treat the resident fairly.
53. There are also concerns regarding the landlord's response to the resident's concern that an ex-employee of the managing agent had been found in her room "in the dark". While it is acknowledged the landlord may not have been able to interview a former member of staff, its enquiries suggest that other managing agency staff members advised he would have had a legitimate reason to be in the resident's room such as checking meters.
54. This position does not seem to consider the distress that a woman finding a male support worker in her room in these circumstances may have caused. Considering the landlord acknowledged in its complaint responses that some behaviour by managing agency staff may have been "intimidating" and it would be monitoring this going forward, while it would of course not be possible for the landlord to prove what had happened either way, it did not appear to give appropriate consideration to this particular report.
55. It is also noted that the landlord acknowledged that, following its investigations, residents at the property were "likely" to perceive managing agency staff were being "heavy handed". In the Ombudsman's opinion, this is a significant finding which the landlord then fails to provide further context or information about. The use of a term such as "heavy handed" raises concerns about how residents at the property were treated but the landlord does not make clear how it reached that conclusion and whether it was based on evidence other than that provided within the resident's complaint. This was not appropriate, and the landlord should have given further explanation regarding this finding, either within its complaint response, or to this Service as part of this investigation.

56. Overall, while it is recognised that many of the incidents reported by the resident would be difficult to prove, as noted above, the landlord retains overall responsibility for the actions of the managing agent. It has acknowledged that staff behaviour might have been “intimidating” and also that some contact notes were falsified (and in the Ombudsman’s opinion, it is probable that one incident was not the extent of it) and this amounts to service failure.

The landlord’s response to the resident’s request for compensation

57. In correspondence with both the landlord and this Service, the resident has requested “damages” for the distress and stress caused by the actions of the managing agent. In its final response to the resident, the landlord confirmed it did not consider any compensation was due regarding the concerns the resident raised about the contents of the support contact notes, despite acknowledging at least one entry had been falsified. The resident has inferred that misleading notes may have caused reputational damage, in circumstances such as family members seeing the notes in the case of her demise. As this was a hypothetical scenario, this Service has not seen evidence she would have been caused detriment through inaccurate notes, but it is also the case that the landlord does not appear to have given this consideration. This was inappropriate and means the landlord cannot evidence it gave proper consideration to her request.

58. Although the resident did not specify an amount she was seeking, in the Ombudsman’s opinion, the landlord should have contacted her to clarify this and further discuss her desired outcome. It should also have considered offering further redress to the resident for the distress she had been caused by the incidents she reported, including her eviction, apparent “intimidation” from the managing agency staff and the falsifying of support contact notes. The landlord did not treat the resident fairly, or act in accordance with the Ombudsman’s Dispute Resolution Principles, and this amounts to service failure. A further Order for compensation has been made regarding this at the end of this report.

The landlord’s handling of the resident’s complaint

59. Records show the landlord responded promptly to the resident when she initially contacted it in January 2021 to raise concerns about the managing agent. From the information available, the landlord acted appropriately by acknowledging the complaint, requesting further information and providing a complaint response in February 2021. Although this was slightly outside the 10 working day target in its complaint procedures, there is no evidence of significant detriment to the resident by this small delay and it is acknowledged that the resident submitted a large amount of correspondence for the landlord to consider.

60. Generally, the landlord handled the resident’s complaints well, responding to her regularly to provide updates or request further information, and it aimed to

respond to all the concerns she raised. While it did miss some of the issues the resident brought up, it is again acknowledged that the resident's emails were lengthy and contained a lot of information and it would have been a challenge for the landlord to respond to each individual concern. It also acknowledged where it had missed issues raised in later responses, which was appropriate.

61. It also communicated clearly with the resident regarding how it was progressing her complaint, explaining at which stage her two respective complaints were at and appearing to handle the crossover between the two complaints well, when it would have been easy to have become confused. It progressed the resident's initial complaint through its procedures when requested to do so by this Service. It also explained to the resident that it did not do so before because it did not consider her email of 24 February 2021 to be an escalation request. This was a reasonable position for it to take as, from the wording of the resident's email, this Service agrees it was not a clear escalation request and appeared to accept the landlord's Stage One findings and thanked it for its investigation. That the landlord did not escalate the complaint at this stage was not a service failure.

62. However, there was subsequently a delay in providing the Stage Two response. Having been contacted by this Service on 26 April 2021 and asked to escalate the complaint, the response was not issued until 16 June 2021, outside its 10 working day target by 35 working days. This is not appropriate, however it is acknowledged the landlord remained in communication with the resident during this period and she again provided some lengthy emails which would have required time to respond to.

63. While the landlord clearly made an attempt to provide thorough responses, and there is evidence of it making appropriate enquiries when considering the complaint, some of the conclusions it made appear to give undue weight to the version of events provided by the managing agent and further enquiries could have been made regarding the apparent inconsistencies within the resident's contact notes, allegedly falsified signatures and the new licence agreement. Its responses appeared to show genuine empathy for the resident regarding how the eviction and alleged behaviour of the managing agency staff may have affected her, but overall the landlord should have given further consideration of the detriment caused to the resident and how it could "put things right". That it did not do so did not treat the resident fairly and amounts to service failure.

Determination (decision)

64. In accordance with Paragraph 52 of the Housing Ombudsman Scheme, there was:

- a. *Severe maladministration* regarding the landlord's handling of the resident's eviction.

- b. *Service failure* regarding the landlord's response to the resident's concerns about staff conduct and the level of support offered.
- c. *Service failure* regarding the landlord's response to the resident's request for compensation.
- d. *Service failure* regarding the landlord's handling of the resident's complaint.

65. In accordance with Paragraph 42 (m) of the Housing Ombudsman Scheme, the complaint regarding the landlord's handling of concerns raised regarding information security and confidentiality is *outside of jurisdiction*.

Reasons

66. The resident was evicted from the property by the managing agent without being given reasonable notice and contrary to the landlord's termination of licence procedures. The landlord has confirmed that one of the reasons given for the eviction should not have stood and this Service has seen no evidence regarding the cited arrears, or any evidence the resident was provided with warnings, as per the procedures. The resident was treated unfairly, and the landlord does not appear to have considered the seriousness of the situation in its responses or the detriment the resident would likely have been caused. Furthermore, it has not demonstrated that it sought to "put things right".

67. The landlord was reasonable in advising that many of the resident's allegations about staff conduct were unable to be proven as it was effectively one person's word against the other's, but it could have done more to investigate the apparent discrepancies within the resident's support notes. Some of its findings were also unhelpful, such as suggesting the allegedly falsified signatures "looked similar" to the resident's original handwriting and advising that, after interviewing the support worker, there was no reason to doubt their version of events, despite the admission that some records had been falsified and other evidence indicating other records had, at the very least, been inaccurately backdated.

68. The resident's request for compensation did not stipulate how much she considered to be reasonable redress, and there does not appear to be evidence that she was caused "reputational damage". However, while the landlord determined that compensation was not due regarding the concerns raised about the support contact notes, it did not appear to give further consideration to whether any redress was appropriate considering the likely distress caused by other incidents, including behaviour it acknowledged "may have been intimidating", the illegal eviction, and the fact the resident had "not received the service we would have expected" during her time at the property.

69. While her disappointment at the outcomes is noted, the landlord generally handled the resident's complaints well, handling a large amount of information

and attempting to respond to her concerns in full. However, it could have given further consideration to some issues she raised and it at times appeared to give undue weight to information provided by the managing agent, despite evidence casting doubt on some of their assertions. As above, it also should have given further consideration to how it could “put things right” following identified failings and whether a form of redress above an apology was reasonable.

Orders and recommendations

Orders

70. The landlord is ordered to pay the resident £1700 compensation, consisting of:

- a. £1000 for its failure to follow its licence termination procedures.
- b. £400 regarding the conduct of managing agency staff.
- c. £200 for its failure to appropriately consider the resident’s compensation request.
- d. £100 for failings in its complaint response.

71. The landlord should write to the resident to provide a further apology for the circumstances which led to her eviction from the property.

72. The landlord should confirm compliance with the above orders within four weeks of the date of this determination.

73. The landlord should write to this Service to outline the “reinforced” training it stated would be provided to managing agency staff and advise how it has monitored the performance of the managing agent in the period following the resident’s complaint. It should summarise any findings it has made and outline any actions it has taken. It should provide an update to this Service within eight weeks of the date of this determination.

Recommendations

74. The landlord should consider ensuring further staff training is arranged for managing agency staff regarding the importance of completing accurate support contact notes, both for the purposes of audit trails and to ensure it provides and appropriate service and relevant support to its residents.

75. The landlord should review the Ombudsman’s Spotlight report “Landlords’ engagement with private freeholders and managing agents” and the recommendations it contains (published in March 2022).

76. The landlord should, if it has not done so already, process the refund for the resident’s rice cooker.