

# Housing

## Ombudsman Service

# REPORT

*COMPLAINT 202118843*

*London Borough of Croydon*

*28 September 2023*

## **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 handling of:
  - a. The resident's reports of anti social behaviour (ASB).
  - b. The resident's management transfer request.
  - c. The associated complaint.

## **Jurisdiction**

2. What the Ombudsman can and cannot consider is called the Ombudsman's jurisdiction. This is governed by the Scheme. When a complaint is brought to this service, the Ombudsman must consider all the circumstances of the case, as there are sometimes reasons why a complaint will not be investigated.
3. Aspects of the resident's complaint relate to how the landlord handled her request for a management transfer. After carefully considering the evidence, correspondence has been provided which shows that the matter was investigated by the Local Government and Social Care Ombudsman (LGSCO) and a final decision made on 4 September 2023.
4. Paragraph 42(m) of the Housing Ombudsman Scheme states that the Ombudsman will not consider complaints which seek to raise again matters which the Housing Ombudsman, or any other Ombudsman has already decided upon. As a result, the Ombudsman will not consider the resident's complaint about how the landlord managed her request for a management transfer.

## **Background and summary of events**

5. The resident held a secure tenancy with the landlord for a 1 bedroom flat located on the first floor of a block of 4 flats, which was adjoined with other blocks of flats of a similar construction. The landlord had no recorded vulnerabilities for the resident, but records show that she suffered from depression.
6. The resident moved from the property via mutual exchange in February 2023.

### *Policies and procedures*

7. The landlord has an ASB policy which states that it will:
  - a. Give an opportunity to those causing problems to stop the behaviour being complained about. Where this proves ineffective, it will take formal enforcement action.
  - b. Acknowledge every complaint of ASB within 3 working days, and contact complainants regularly to inform them of progress.
  - c. Organise a “referral meeting” (case conference) if required to analyse specific ASB issues in great detail before taking any formal or legal enforcement action. It also has a ASB forum that meets monthly and a Joint Agency Action Group (JAG) that is responsible for “pulling together short term action plans using problem solving techniques”.
  - d. Be committed to working with the police and victim support and will do everything in its power to support witnesses to attend court, including arranging visits to the court before the hearing if necessary.
  - e. Consider reviewing cases for a community trigger. In doing so it will take into account the persistence of the ASB, the potential harm and the adequacy of the response to the reports.
  - f. Use a range of informal actions including warning letters and acceptable behaviour contracts (ABC) before considering a range of legal enforcement action such as possession, injunction and community protection notice (CPN)
  - g. Consider risk when taking any actions.
8. The landlord operates a 2 stage complaint policy. The target time for a response at either stage is 20 working days. It defines complaints as “an expression of dissatisfaction, however expressed, whether justified or not”.
9. The landlord has a compensation policy which states it will consider compensation for poor service, time and trouble. Financial awards are dependent upon the impact to the resident.

### *Summary of events*

10. The resident reports that she was the target of ASB from her neighbour from around 2018 onwards. She said that issues began when she witnessed the neighbour being verbally abusive towards a disabled resident. She told him to stop, and from that point forward he made a “beeline” for her, and began targeting her and her young daughter.
11. The landlord has provided records as far back as 2020. Within this investigation, it is noted that several other residents also complained about the neighbour over the same period of time. Incidents that were common amongst all reports were allegations of frequent loud music, taking unsolicited photographs and verbally abusive behaviour.
12. The landlord issued the neighbour with a “final warning” for his behaviour on 14 February 2020. The neighbour made counter allegations about several of his neighbours, including the resident. He also raised a complaint that he was being harassed by the landlord’s staff.
13. Records show that the neighbour obtained a without notice injunction against the resident on 26 February 2020. He alleged that the resident was taking photographs and harassing him. The following day, the resident contacted the landlord and said:
  - a. The neighbour had served her with court papers for an injunction based on false claims.
  - b. She had “lost count” of the amount of emails she had sent to the landlord informing it that her neighbour was taking photographs of her without her consent. The ASB had been perpetrated against her and her neighbours, not the other way around.
  - c. She had to report several incidents to the police. The police would tell her it was a landlord issue, and the landlord would say it’s a police matter. She asked “what will it take for you to listen? When does it stop?”.
14. On 3 occasions between 4 March and 15 April 2020, she reported to the landlord that her neighbour was taking photographs of her in and around her home. On one occasion, he had taken a photograph of her whilst she was stood inside her kitchen. She had to call the police.
15. The resident contacted the landlord on 29 April 2020. She said that:
  - a. She had no response to her email 2 weeks ago, and she had struggled to get hold of anyone on the phone. No one had spoken to her about the incident she had reported on 15 April 2020 which involved the police, but she

had received a warning letter about her own behaviour. The allegations were not true, and it was siding with the neighbour.

- b. She was trying to get the injunction against her over-turned. Other neighbours had come together to make a petition to the landlord to get it to take note of the neighbour's behaviour, but nothing had happened with it. She felt a "prisoner in her own home".
16. Throughout May 2020, the resident reported further incidences where her neighbour had been taking pictures of her and her daughter in the courtyard. He had also been verbally abusive. The landlord issued the neighbour with 3 warning letters, throughout May and June 2020 and included allegations of taking unsolicited photographs of his neighbours and harassing its staff. The second of the 3 warning letters was entitled "final warning".
17. The neighbour continued to make counter allegations about the resident around the same time. On July 2020 the landlord visited the resident to discuss what had been reported. During the visit, it noted that the resident was "really angry, upset and burst into tears as if she was being bullied, harassed and lied upon by her neighbour". She denied all of the allegations. The landlord did a walk around the block and noted that it was "impossible" that she could have been recording or monitoring the movements of the neighbour from where her property was situated. It also noted that she had frosted windows, and so could not have taken photos from inside the property, as had been alleged. It noted that the neighbour's allegations "cannot be proven and there is no evidence to support a breach of tenancy [for the resident]".
18. There is a gap of communication between the resident and the landlord from August to December 2020.
19. On 7 January 2021 the resident reported that as she went to take the bins out, her neighbour came out of his property and started taking photographs. When she asked him why he was doing so, he shouted expletives at her. She felt the landlord was not doing anything, and was allowing several residents to be verbally abused.
20. Internal correspondence noted that the landlord sent the neighbour a warning letter the same day.
21. Between 17 January and 27 April 2021 the resident reported that on at least 3 occasions the neighbour was playing loud music, and harassing her and her daughter by taking photographs. The incidents had been witnessed by other residents. She reported on 2 occasions that upon sight of her daughter who is mixed race, the neighbour changed his music to reggae, which she took to be indirect racism. On 12 April 2021, the landlord responded with a single line that said "I am surprised he still takes pictures of you".

22. Records show that in May and June 2021 the landlord sent the neighbour 2 further warning letters, and tried to arrange an appointment with him to discuss the allegations. On 24 June 2021 it wrote to the resident with a letter entitled “final warning letter”.
23. The resident contacted the landlord on 2 July 2021. She said she was at the bottom of the communal stairwell collecting a parcel and her neighbour started taking photographs of her. She believed that his CCTV must have been recording the communal area to know she was there. She felt harassed and intimidated, and wanted to know what action was being taken. The landlord responded and said “add this to your witness statement – as I have said, you need to be patient and give me time”.
24. On 20 July 2021 the landlord wrote to the neighbour and noted he had refused to meet with them. It said because of “non-engagement and non-cooperation” it was withdrawing permission for him to have CCTV.
25. Whilst the ASB Officer was on site at the block on 2 August 2021, he reported that the neighbour was taking photos and videos of him and his car. A further warning letter was issued to the neighbour on 5 August 2021.
26. There is a gap of communication between the landlord and resident until 15 October 2021, when she sent the landlord a recording of loud music coming from her neighbour’s property. She explained all her windows and doors were closed, but she could still hear everything word for word. Internal correspondence from a senior ASB officer noted “that is loud, I can hear the full news report”.
27. The resident contacted the landlord the following day and said that she found it “extremely rude” she was not getting a response to her concerns. Her “life was hell” and her mental health had been severely affected but the landlord did not seem to care. She wanted to take things further as she felt that “nothing had been done”.
28. On 21 October 2021 a multi-agency meeting took place between the landlord and the police. It was noted that the neighbour appeared to be targeting single women. He was playing loud music regularly that had been witnessed by staff, and when challenged he had threatened them. It had been difficult to meet with the neighbour. He had refused to allow access to discuss the allegations that had been made against him. The landlord noted that several other residents had reported a deterioration in their mental health and felt harassed. All parties agreed that an injunction with power of arrest was required. The landlord had actions to prepare the application and refer the matter to its legal team.

29. Internal correspondence on 5 November 2021 noted that the ASB officer had been aware of issues with the neighbour since taking over the case in February 2020. They were in the process of applying for an injunction against the neighbour for “picking on” the resident – taking photos and videos, verbal abuse with an indirect racial undertone, harassment, intimidation and playing music at high volume. They noted that moving the resident would “strengthen the application”.
30. On 9 November 2021 the resident attended court for a return injunction hearing that was brought by her neighbour. The judge heard the evidence that had been provided and dismissed the neighbour’s claim. The resident informed the landlord the next day and said she was worried that her neighbour would try “other ways” to intimidate, harass and bully her. She reported that the judge said if she had brought the injunction herself, it would have been granted in her favour. She had asked the court to provide her with a transcript of the hearing.
31. On 7 December 2021 the landlord applied for an injunction order against the neighbour, for behaviour which included taking photographs, playing loud music and being verbally abusive.
32. On 4 January 2022 the resident informed the landlord that she was in the local area having a coffee with her daughter. Her neighbour passed her on his bike, stared at her and was verbally abusive. She recognised that the incident did not happen in the block, but she still felt intimidated in the locality of her home. She wanted an update of what actions the landlord was taking.
33. An internal email seen between the landlord’s ASB and its complaints team on 24 January 2022 noted that:
  - a. The neighbour had been sent several warnings but had continued with ASB. An application had been submitted for an injunction and the hearing was 25 January 2022.
  - b. The resident had been fully updated throughout the process and “knew what action [we] had taken”. It had supported a management transfer for her.
34. The resident contacted the landlord on 26 January 2022. She said that:
  - a. Her neighbour was playing music “all hours”, from morning to night, at a level that could be heard from her front room. She lived on the other side of the block
  - b. His behaviour was intimidating to her and a number of residents. She was having a general conversation with another resident when he shouted “you aren’t getting me out, you can try as hard as you want”. At no point in the conversation had she mentioned or addressed him

- c. The landlord had allocated the same neighbour as a contact for the whole block. She had been chasing some repair works and she was told that all the updates were with the neighbour.
35. On 28 January 2022 the resident informed the landlord that her neighbour was “blaring out reggae music”, which she took to be a racist act. She attached a video of the music that was playing. On 2 February 2022 the landlord visited the block and witnessed loud music itself. It spoke to the neighbour, and he refused to turn it down.
36. On 2 occasions in March 2022, the resident reported that:
- a. She had to call the police as the neighbour had opened his bathroom window and was taking photographs of her daughter from the other side of the courtyard. She felt like a “prisoner in her own home” and could not continue to “live here like this”.
  - b. The situation was affecting her day-to-day life and mental health. She felt “extreme stress and anxiety”. She wanted confirmation of what the landlord intended to do for her. Due to the stress and strain, she felt that she could not go through another court case without assurances her needs were being taken care of.
37. On 14 April 2022 the landlord sent the neighbour a “CPN warning”. It asked him to stop causing ASB, taking photographs of his neighbours and playing loud music.
38. The resident wrote to the landlord on 3 May 2022, stating she wanted to make a “formal complaint”:
- a. She said she had sent several emails and was not getting a response. She felt “extremely upset” with the lack of contact. She had to approach the Ombudsman support
  - b. No one had responded to her email in March 2022 and she wanted to know what was happening with her ASB case. She was informed by the landlord that she was due to stand in court against her neighbour and she could expect “urgent contact” in January, but no one had spoken to her.
39. The landlord wrote to the resident at stage 1 of its complaints process on 6 June 2022. It said that:
- a. It was sorry she had cause to complain. She had already been informed that it was seeking an injunction against the resident which would include information from residents in the block, officer reports and use of CCTV. The application was submitted on the 19 February 2022 and a directions hearing was due to take place in July 2022.



- b. If she were to seek her own injunction, then she would have to do so at her own cost. In the meantime, she should continue to report any further ASB from her neighbour. She had been accepted for a management transfer but it could not give a date for a move as it was dependent upon properties becoming available.
  - c. If she remained unhappy then she could request that it reviews her complaint again at the next stage of its process.
40. On 19 June 2022 the resident said she wanted to escalate her complaint:
- a. She had struggled to get a response from anyone when she had requested for someone to explain what the process was for management transfers. She felt like she was “going around in circles”.
  - b. She had spoken to several of the landlord’s staff on the phone. They had expressed that they were “astonished” at the extent of abuse she had suffered from her neighbour, but no action seemed to have been taken. She wanted to know if the calls were recorded.
  - c. The situation was affecting her mental health and her day-to-day life. She could not open her front door without checking her spy hole to see if her neighbour was there. Her daughter was unable to use the courtyard to play in, and she could not hang out her washing without feeling watched or intimidated.
  - d. She wanted to know what steps the landlord had taken to address the issue over the past 4 years. The neighbour had made false accusations to the police and the courts about her, and the landlord had stood by and “done nothing”. On 13 May 2020 she was informed that her neighbour had been given a “final warning” but 2 years on, nothing had changed.
  - e. She had “reached the end of her tether” and did not want to be “fobbed off” with any more excuses. She wanted to be kept informed on her move, what to expect and what it was going to do to address the ASB.
  - f. She did not want to receive further calls from the landlord unless they were recorded. She wanted to know how she could withdraw the statement she had given against her neighbour as she wanted to pursue her own legal action.
41. Records show that the resident chased the landlord on at least 4 occasions throughout June 2022, asking again if she could formally withdraw the statement she had made. The landlord responded on 4 July 2022 and said it would need to ask its legal team if she could withdraw her statement.
42. On 20 July 2022 the resident chased the landlord for an update to her concerns. It responded on 25 July 2022 and asked if she could reconsider her

request to withdraw her witness statement and attend court. It explained her statement was “very powerful and good evidence”.

43. On 26 July 2022 the resident emailed the landlord and said that she did not want it to use her statement in court. She said:
  - a. The situation had gone on for so long and caused her so much stress, that she did not feel that the landlord had her best interests in mind. She struggled to get “something as simple as a reply” from it
  - b. Her biggest fear was that the landlord would use her statement and she would become subject to more abuse from her neighbour. She had no faith that the landlord was willing to protect her from what were to come next
  - c. She and her daughter felt like “prisoners” and she needed to protect her family “at all costs”.
44. The resident emailed the landlord on 11 August 2022. She said:
  - a. She was sat in the reception of the landlord’s offices, trying to get in contact with someone who was dealing with her case
  - b. It had been 5 years since her first complaint and she “could no longer live like this”. She had put in several complaints but had been ignored
  - c. She was awaiting a response from a particular officer, only to find out she left the company some months ago. She wanted to set up a meeting with everyone who had been involved in her case to discuss the next steps.
45. On 15 August 2022 the landlord’s ASB officer responded and said “this is a matter for tenancy and allocations, I cannot see a reason why the ASB team should be involved. Action has been taken and you have been updated about this action”.
46. The landlord responded to the resident at stage 2 of its complaint process on 19 August 2022. It said that:
  - a. It recognised that she had requested an escalation of her complaint on 19 June 2022, and was sorry that it had taken so long to respond to her.
  - b. A directions hearing took place on 18 July 2022 in relation to the injunction it had sought against her neighbour. It appreciated that the situation had been ongoing for a significant length of time, but wanted to reassure her that it was doing “everything in its power” to address the matter for all residents.
  - c. Calls made from mobile phones were not recorded and therefore it was unable to comment on conversations she said she had with its ASB team. A meeting had been arranged to meet with her on 23 August 2022 to discuss

her management transfer, and it was hoped it would answer any remaining concerns she had.

- d. Her complaint was closed, but she could refer the matter to the Ombudsman or the LGSCO.
47. The next day, the resident told the landlord that she was sitting on her balcony with her daughter, having a conversation with another neighbour. At 6.51pm the neighbour opened his bathroom window and took pictures of them from the courtyard. She had avoided the balcony for months because of the neighbour and felt she was unable to leave her house without being harassed.
  48. The landlord noted that on 4 December 2022 and 18 January 2023 it visited the block. The outcome of the visits were not recorded.
  49. The resident informed the Ombudsman that:
    - a. She stopped reporting ASB to the landlord from around August 2022. This was because as autumn and winter drew in, she tried to keep inside as much as possible to avoid the neighbour, and focussed on moving rather than engaging further with the landlord. In February 2023 she left the property via mutual exchange.
    - b. She had 3 different officers who had been dealing with the ASB she had reported as far back as 2018. The landlord would inform her it was a police issue, and vice versa. At one point, it told her to keep diary sheets but she gave up completing them as she felt the landlord was not taking her seriously
    - c. Her neighbour had accused her of some “terrible things” and had taken out 2 injunctions against her. She had never been to court and found it intimidating. She did not challenge the first injunction because she thought it would “go away” but when paperwork came through for another injunction, friends and family helped her to contest it and it was dismissed.
    - d. She did not recall that the landlord ever completed a risk assessment with her. She advised it knew she was on medication for depression, and would often call it crying and asking for help. It would call her “every now and then” to check in with her, but it did not maintain regular contact.
    - e. She received no support, particularly around the time it suggested that her statement be used in court. This left her feeling vulnerable and fearful of what would happen, so she withdrew her statement. As soon as she did, she felt that the landlord completely disengaged with her, as she was “no use to it”.
  50. In recent correspondence with the Ombudsman, the landlord said that:

- a. A number of residents had complained about the neighbour, and he had made counter allegations against them. The neighbour had been invited to discuss the issues with the landlord on several occasions but he did not attend the appointments.
- b. It was not possible to offer mediation to all parties given the circumstances of the case.
- c. After it was unsuccessful in obtaining an injunction against the neighbour, it entered into a “mediation agreement”. The agreement included terms about how the neighbour should generally behave on the estate, and how the landlord would communicate with him. It reports that the agreement has been breached several times.

## **Assessment and findings**

### *The landlord’s handling of the resident’s reports of anti social behaviour (ASB).*

51. The resident has informed this Service that she started to report ASB in 2018 and the landlord told her to complete diary sheets. This was a reasonable request of the landlord in the initial stages of its investigations so it could have an understanding of how often she was experiencing issues. However there is no record of the landlord’s contact with the resident around this time. It has made reference to historic issues but has only provided this Service with ASB reports from 2020. An order has been made in relation to the landlord’s record keeping.
52. Key to the ASB, Crime and Policing Act 2014 is multi-agency working between local authorities, support agencies and the police. Where the landlord is a local authority, it has separate teams responsible for tenancy management, allocations and ASB. This is a common approach, however landlords must ensure that their teams do not work in silos and there is co-ordination across specialisms who work closely with each other and with partnership agencies, to tackle issues.
53. The landlord’s ASB policy states that it holds ASB meetings once a month and has the option to refer more complex cases to “referral meetings” or the JAG. In this case, a number of residents were affected by the neighbour’s behaviour and input was required from different agencies including the police. However, no record of a multi-agency meeting took place until 21 October 2021. The delay in arranging a meeting so that agencies could discuss how they could support the victims of ASB was unreasonable and contributed to the resident’s feeling that her concerns were not being taken seriously.
54. The landlord’s ASB policy makes reference to referring repeated reports of ASB for a community trigger review (since known as an ASB case review). Given the

volume and frequency of the resident's complaints, it would have been reasonable for the landlord to have suggested a full case review to ensure that all appropriate actions were being taken on the case. There is no evidence that it did this, which was a missed opportunity for it to be confident that all relevant agencies were taking appropriate action.

55. The resident advised the landlord on several occasions that her mental health was suffering as a result of the harassment. The landlord's ASB policy makes reference to considering risk when making decisions about what actions it will take. In order to effectively consider risk, the government's statutory guidance for frontline professionals says that relevant agencies should use a risk assessment matrix (RAM) to judge an appropriate response to ASB. Whilst a RAM cannot provide a definitive assessment of someone's needs, it can guide professionals to consider what further support could be offered. There is no evidence that the landlord conducted a RAM for the resident at any time during its investigations. By failing to do so, it did not adequately identify the risk posed to her, and it did not give consideration as to how it could help make her feel safe in her home.
56. The landlord failed to refer the resident to appropriate agencies, including victim support. This was particularly important around the time it said it would be using her statement to support a court application for an injunction against the neighbour. It is recognised that the resident found the prospect of attending court to give evidence daunting. The landlord's ASB policy states that it will support witnesses to attend court, including arranging a visit to a court room in advance if necessary. There is no evidence that it did this. It would have been reasonable for the landlord to have spoken to the resident to alleviate her concerns and give her confidence that it would work closely with her throughout the process. As a result of not providing the resident with this support, it lost her commitment to be a witness, despite the "very powerful and good evidence" it acknowledged she had provided to assist its application.
57. The landlord failed to maintain regular contact with the resident. Its ASB policy states that it will acknowledge reports of ASB within 3 working days. However it regularly failed to do this and the resident had to chase the landlord on several occasions to ask what actions it was taking. It would have been reasonable for the landlord to have completed an action plan with the resident to manage her expectations and be clear on what steps it was taking to address the issue.
58. The resident complained that she felt that some of the noise nuisance created by her neighbour was indirect racial harassment. It would be appropriate for the landlord to have treated allegations of a hate crime as a priority. However it failed to do this, treating it no differently to other noise reports. Its lack of action contributed to the resident's feelings of being unsafe and that her concerns were not being taken seriously.

59. It is recognised that the neighbour made counter allegations against the resident. In this scenario, it is imperative that the landlord takes steps to address both parties concerns and seeks to speak to any available witnesses. There is no evidence that the landlord did this following the incident that took place on 15 April 2020 and issued the resident with a warning letter before speaking to her. During its visit in July 2020, the landlord was able to confirm there was “no evidence to support a breach of [her] tenancy agreement”. Failure to have appropriately investigated the allegations before warning the resident about her behaviour caused her evident distress and damaged the landlord tenant relationship.
60. From correspondence seen, the landlord lacked empathy towards the resident, and at times its tone was heavy handed and unsympathetic. For example, on 2 July 2021 in response to the resident stating she felt “harassed and intimidated”, it responded “add this to your witness statement – as I have said, you need to be patient and give me time”. This was inappropriate and did not show that it had considered the negative impact the repeated incidents were having on the resident.
61. The resident reported that she felt that she was “at the end of her tether” because she was not being communicated with. This prompted her to visit the landlord’s offices on 11 August 2022 in the hope that she would get a better response face to face. She requested that a meeting took place with all those involved in her case to discuss next the steps. This was a reasonable request, but the landlord’s response “I cannot see a reason why the ASB team should be involved” was inappropriate, and there is no evidence that the meeting she requested took place.
62. The landlord’s ASB policy states that it will use a range of informal actions before it considers enforcement action. It is clear from the evidence seen that the landlord tried to engage with the neighbour about the allegations and in doing so issued several warning letters, at least 3 of which were entitled “final warning”. There is no evidence that it offered mediation at an early stage or attempted to create a ABC before referring the matter to court for an injunction.
63. It would have been reasonable for the landlord to have sought legal advice at an earlier stage to discuss what options were available to it. Whilst it is recognised that the landlord applied to court in December 2021, no evidence was seen that it engaged with its legal team and considered the pre-action protocol. It is reasonable to conclude that this contributed in its failure to obtain an injunction against the neighbour.
64. Overall there were significant failures in the landlord’s handling of the resident’s ASB case. The landlord failed to adhere to its ASB policy and adequately support the resident. It did not respond to her concerns in a timely manner and

failed to identify any risks through use of a RAM. The landlord did not engage with partner agencies or consult with its legal team at the earliest opportunity. It's communication was poor, and at times unsympathetic towards the resident.

65. In considering compensation in this case, it is important to note that the Ombudsman does not award payment for damages in a way a court might. However, it is recognised that the resident was likely to have been feeling distressed, anxious and upset during the period of time the harassment was ongoing. Her concerns about the impact on her and her daughter were valid, and she suffered distress on a regular basis where she felt the landlord was not taking her reports seriously. Had the landlord been more proactive in its approach and identified the risks, the impact on the resident could have been reduced.
66. Therefore to remedy the cumulative failures highlighted in this report, compensation has been ordered as follows:
  - a. £75 for every month for a period of 36 months, which broadly covers the timeline of this investigation, from February 2020 to February 2023.
  - b. The amount totalling £2,700 to be paid directly to the resident.

*The landlord's complaint handling.*

67. There were failures in the landlord's complaint handling. It is evident that the resident made several expressions of dissatisfaction with the handling of her ASB case. When receiving a complaint about ASB, it is important that the landlord is able to distinguish whether the resident is complaining about the ASB itself, or the handling of the ASB case. The danger of not recognising the difference can lead to delays in the matter being formally investigated in line with the landlord's complaint policy, as was seen in the handling of this case.
68. It is clear that there were missed opportunities for the landlord to investigate the resident's concerns as a formal complaint at an earlier stage. The resident's email of 26 February 2020 was a clear expression of dissatisfaction, as she stated she had sent several emails and asked "what will it take for you to listen?". The landlord did not acknowledge this correspondence as a complaint and she experienced difficulty in getting it to acknowledge her concerns over a prolonged period of time. She had to contact the Ombudsman on several occasions to support her.
69. The landlord's complaints policy defines complaints as "an expression of dissatisfaction, however expressed, whether justified or not". However it was not until the resident used the words "formal complaint" on 3 May 2022 that the landlord accepted an investigation into her complaint. The delay was unreasonable.

70. The landlord's stage 1 response was an opportunity for it to identify what went wrong and consider how it could put matters right. It would have been reasonable for the landlord to have contacted the resident to discuss all of her concerns prior to responding in writing, but there was no evidence it did this. By failing to do so, its response did not address the resident's concerns about the landlord's general lack of contact and her worries about attending court. This contributed to the resident's feelings of distress and she experienced further difficulty in escalating her complaint.
71. On 19 June 2022 the resident made it clear that she was unhappy with the lack of contact and expressed concerns about the impact the situation was having on her health. She reported receiving mixed messages from the landlord and she was unclear about what to expect if the case was to go to court. There is no evidence that the landlord responded in a timely manner to acknowledge her concerns. She had to chase it on several occasions, and in her frustration attended the landlord's office to request a meeting. The meeting did not take place and records do not demonstrate that the landlord sought to contact the resident prior to issuing its stage 2 response.
72. The stage 2 response was issued 45 working days after the resident's requested an escalation to her complaint. The delay was significantly outside of the timescale that could be expected within the landlord's complaint policy. The landlord apologised for this which was appropriate, however it failed to address all elements of her complaint. For example, there is no evidence that it addressed her concerns about support when appearing as a witness.
73. The landlord did not reasonably investigate the resident's concerns about the lack of contact in the handling of her ASB case. It said that it could not comment on conversations that had taken place between the resident and its ASB team, which was inappropriate. Although calls from mobiles were not recorded, the landlord should still have sufficient mechanisms in place for staff to record details of interactions with residents and outcomes. By failing to keep accurate records, the landlord was unable to effectively investigate what advice it had given in terms of her ASB reports.
74. When investigating complaints, the Housing Ombudsman's Complaint Handling Code (the Code) explains that landlord's should adopt the key dispute resolution principles of "Be fair, put things right, learn from outcomes". The landlord failed to put matters right for the resident. Its final response did not address all that the resident remained dissatisfied with and in doing so failed to identify that there was more it could have done to support her. The resident experienced time and trouble in bringing her complaint, and the landlord's lack of contact had a significant impact on her. However the landlord did not refer to its compensation policy and consider whether a financial payment would have



been appropriate given the amount of times she had to contact it for a response.

75. It has been noted that the complaint policy provided by the landlord does not comply with the Code. The Code states that Stage 1 responses should be provided within 10 working days, and stage 2 responses should be provided within 20 working days. The landlord's policy sets a 20 day timescale at both stages, which is not consistent with the Code. An order has been made for the landlord to review its complaints policy against the Code to ensure that it complies going forward.
76. Overall, there was maladministration in the landlord's complaint handling. It failed to identify that the resident was dissatisfied with the handling of her ASB case at an earlier opportunity and she experienced considerable difficulties in obtaining a final response to her complaint. The landlord did not go far enough to put matters right for the resident and it failed to appropriately investigate and acknowledge there had been significant failures in the handling of her ASB reports. This impacted the landlord and tenant relationship and caused the resident distress and inconvenience over a prolonged period of time.

### **Determination (decision)**

77. In accordance with paragraph 52 of the Housing Ombudsman Scheme there was severe maladministration in respect of the landlord's response to the resident's reports of anti social behaviour (ASB).
78. In accordance with paragraph 52 of the Housing Ombudsman Scheme there was maladministration in respect of the landlord's complaint handling.
79. In accordance with paragraph 42(m) of the Housing Ombudsman Scheme the resident's complaint about the landlord's handling of her management transfer request is outside of jurisdiction.

### **Reasons**

80. The landlord failed to adopt a victim-centred approach and did not respond to the resident's allegations of ASB, including indirect racial harassment. It failed to regularly communicate with the resident to support her and there is no evidence that it liaised closely with partner agencies at the earliest opportunity. It failed to assess the risk posed to the resident and it was unsympathetic to her concerns about attending court as a witness.
81. The landlord failed to recognise the resident was dissatisfied at an earlier opportunity. It did not seek to speak to the resident before issuing its response and therefore failed to address all of her concerns. The stage 2 response was sent late and did not recognise that there had been significant failings in the

way it had handled her ASB case. It failed to consider its compensation policy in doing so did not put matters right for the resident.

## **Orders and recommendations**

### *Orders*

82. The landlord's director responsible for housing to write to the resident and apologise for the failures noted in the handling of this case, within 4 weeks.
83. The landlord to pay directly to the resident a total of £2,900 in compensation within 4 weeks. The compensation should be paid directly to the resident and not offset against any arrears. The compensation is comprised of:
  - a. £2,700 for the distress and inconvenience caused in the handling of the resident's reports of ASB.
  - b. £200 for the inconvenience, time and trouble caused to the resident by failures found in the landlord's complaint handling.
84. The landlord carry out a full senior management review of this case to identify learning and improve its working practices, within 6 weeks. The review must include:
  - a. A full review of its ASB policy and procedure, with particular focus on the use of the RAM and action plans. It should also include a review of its collaboration with partner agencies, with particular focus on how it intends to refer cases for a ASB case review (formerly the community trigger).
  - b. A full review of its training and information available to staff specifically around high priority ASB including harassment and hate crime, to ensure that staff are confident in dealing with reports of a similar nature in the future.
  - c. A review of its management oversight on ASB cases, with particular focus on recording contact with residents, actions and outcomes. In doing so, it should consider the recommendations within the Spotlight on Knowledge and Information Management.
  - d. A review of its process for referring cases for legal consideration, ensuring that staff have followed pre-action protocol correctly. It should include a review of its training for staff around supporting witnesses during the court process.
  - e. A review of its procedures in relation to resident's vulnerabilities. In doing so, demonstrate how it will actively use its vulnerability information to provide any additional support that may be required.

- f. A review of its complaint policy against the Housing Ombudsman's Complaint Handling Code.