

## **In conversation with dispute resolution on responding to orders**

### **Victoria King**

Here with me today is Nic Andrews and we're going to be talking about a couple of cases that we've seen here at the Housing Ombudsman, but first to introduce myself - I'm Victoria King. I'm Sector Learning Development Lead here at the Housing Ombudsman and Nic, would you like to introduce yourself?

### **Nicola Andrews**

Yeah, of course, Vic. I'm Nicola Andrews. I'm an Adjudicator at the Housing Ombudsman Service.

I've been here since November 2022, so relatively new. And my role is to investigate complaints that residents bring to us after they've gone through the landlord's own internal complaint process.

So when they remain dissatisfied with the final response, they've received from their landlord.

So obviously the Housing Ombudsman is fair and impartial and I follow these principles by reviewing what's happened and looking at the landlord's own policy and procedures. Listening to any impact on the resident, as a result of the situation, and then basing my final determination on all the evidence provided.

If there are failings, I make orders and recommendations for redress for the resident and to resolve the issues. And for landlords also to learn from the case and improve any future service delivery.

### **Victoria King**

Brilliant, thank you, Nic. And that's why we're here today because we're sharing some good things that have been happening in the case that you've seen.

So you've got 2 cases. Would you like to share the background of the first case that we're talking about today?

### **Nic Andrews**

Yeah, sure. So the first case was a complaint about the landlord's handling of the resident reports of anti-social behaviour.

We also considered the landlord's complaint handling in this case as well.

So a bit of background really, the resident was in an assured tenant of the landlord and the landlord was a housing association.

The landlord was aware that the resident has a neurodiverse disorder and poor mental health. And the resident also acknowledged that he was or could be sensitive to noise.

So he started reporting issues with his neighbour back in 2013, and issues ranged from instances of dog muck and his garden and he didn't know who was doing it. It definitely wasn't him because he hasn't got a dog.

Some name calling by neighbours. A neighbour particularly doing DIY in the evening, which was disturbing him. And he heard quite often intermittent banging every day, he said, and every evening.

In 2020, the issues escalated quite a bit for him. And he did tell the landlord that he reported quite a lot of things to them.

In 2021, he told the landlord he was anxious whenever he spoke to them. And he also told that he felt that emails back to him were quite sharp. They were his words.

He did say that he was avoiding reporting things because he never knew what response he was going to get.

When he said he was sensitive to noise, he also did his own investigation into that. And he had family members come and listen to what he was experiencing. And they also said it was too loud. So he did do something himself to try and see if it was him being overly sensitive to the noise that was happening.

The landlord didn't respond particularly well to his reports. They didn't set an agreed action plan with him. So there was no expectations set for him.

They didn't give any realistic time scales for him. They didn't review the case regularly.

So he was having to chase them up all the time. Even though he said that was particularly triggering for him because he felt the emails were sharp.

And he felt he was always worried about what response was going to get.

He took the landlords word as you know they were definitely going to do something on this particular date. And sometimes if he didn't do it on that date, he would chase them up again, which resulted in it again and feeling anxious.

What he also did was reported his anti-social behaviour via a complaint. But it was clear from the information that I'd received back that there was a misunderstanding there because the landlord took the residents' communication as a report of anti-social behaviour and not complained about how they handled it.

And we quite often see that the Ombudsman during our case handling, and it is something that I think landlords need to be particularly aware of when they are responding to resident reports.

That clarity around 'are you making a complaint about how we've dealt with something or do you want to report something for us to deal with?'

Landlords really needs to consider that.

Because that misunderstanding led to a delay for him, it caused him additional distress and inconvenience, and of course it's time and trouble as well.

And the landlord had said in the stage 2 response that there was no impact on him and that was a fear of the failing because they didn't recognise the impact on him or actually they didn't ask him what the impact had been.

And that was despite a really explicit letter from his GP setting out what the impact was having on the residents and the residents saying on several occasions that his mental health was really affected by what was happening.

**Victoria King**

Thank you Nic.

So what did you find, what orders did we make? What recommendations did you give?

## **Nic Andrews**

So I found that there was maladministration for the landlord's response to his reports of anti-social behaviour and I found there was also maladministration with the complaint handling.

They were my determinations, and the orders that are made within 4 weeks of the date of this report. I said for a senior member of the landlord staff to write to the resident to apologise for the failings identified by the investigation. The report to be shared with the landlord senior management team. It's important that all the team involved recognise that the issues that he was having.

And to pay the residents compensation. We break down the compensation in terms of the time and trouble that he's experienced, the distress that he's being caused, and the complaint handling failures within 8 weeks of the report.

The landlord to complete a full case review to identify how he failed to deliver a response of service to the resident on that occasion.

And within 12 weeks of the days of the report, the landlord to develop an action plan based on the above case review to identify learning and necessary improvements.

I also recommended, and this was really important for the resident, and I'll come to a bit of a speed back in a minute, but I also recommended that the landlord seek advice from neurodiverse disorder specialists. To inform its communication and approach for its neurodiverse customers, particularly for circumstances involved in anti-social behavioural or legal proceedings.

I discussed that quite a bit with the resident before I made the order, and he was really pleased that we put that in because he felt a lot that his approach to things or his response to things was really determining his relationship with the landlord and they didn't understand how he would respond to things. Sometimes it was because of his disorder as opposed to he wasn't shouting, he wasn't aggressive.

He was quite blunt in his approach and they needed to understand that better so that was the order that he was particularly pleased to have put in place.

I also told the landlord to review a ASB policy and introduce a harm based risk assessment.

So to establish a first point of contact of the residents required any additional support because of their vulnerabilities.

So the assess that when they first approach the landlord but that assessment should be reviewed as the case progresses because things can happen as the case progresses which maybe they didn't need support or first but actually as things go on they might need things or as other things happen in their life they might need additional support.

I also asked the landlord to consider the findings of the Ombudsman's own Spotlight on noise complaints and to share the findings with relevant staff including training and to incorporate the findings into future management of cases.

So quite a hefty chunk of orders there really but I think all of them are resolution focused so all of them should go to some way to help and landlords to deal with instances of noise nuisance.

### **Victoria King**

Thanks Nic, so they have a lot to do. What did they do in response to our orders and our recommendations?

### **Nicola Andrews**

Very quickly a senior member of staff wrote to the residents and apologised.

So they also asked could they meet with them really quickly to give a personal apology as well which I think went a long way for the resident to try and reconcile the relationship with the landlord, which was obviously slightly fractured at that point.

So that went a long way for the residents and each of me each of me that's how he felt and the apology was really good in that it's set out very clearly the failings and didn't call them anything other than failings. So recognised that they had failed in on this instance and not that the Ombudsman said 'we've done this wrong' or the it was like no we have failed. It was that ownership of that came through on that list that was particularly important.

And it also set out what it was going to do to put things right. Which I think again was important for the resident to understand because he was very concerned particularly about all the residents who maybe have neurodiverse disorders, particularly about that group of residents. Thinking about how they be treated in future and how things would be put in place that maybe would help them as a result of the experience that he's had.

And what stood out for me was again the apology was sincere and well set out and acknowledged the failings. They reviewed the case and sent through a good lessons learned log. The home visit was really good and that confirmed its commitment to build on the relationship which again important for the landlord. The Ombudsman's there for a relatively short time for the resident and the landlord in trying to look at the investigation and put the orders in place, but the residents relationship of the landlord is very unique in that it lasts a long time. So it's important that we maybe put something in that might build on that relationship and try and build on it and repair it going forward.

Also the training and the involvement of the staff when they did the training they involved the staff in the case review on what good looks like and it was across the piece it was multi departments involved in that when they look we looked at the membership of who attended to do sharing good practice right across the organisation.

And of course that the big one for me was neurodiverse training to gain a better understanding of how the conditions affect people differently. And how situations affect people differently we all react differently to different things and just that people understand and can go a long way.

### **Victoria King**

Thank you Nic. So what are the I know you've talked there a little bit about that really sincere apology that lessons learned log that sharing what happened with other.

What learning could other landlords take from this example?

### **Nicola Andrews**

I think the big learning and obviously the sincerity and the empathy we've spoke about, but also look for the flags for me it's the GP it's sent a letter he sends 2 letters actually saying things were good for the residents at that time.

Look out for them and have something in place to make sure that they're not just in somebody's in tray somewhere. Make sure you respond to them because they're really good flags to say things are good, things need sorting. And the residents emails as well to say the tone of the emails was sharp, so think about if the landlords should be thinking about what quality checks they've got in place to monitor outgoing emails and things.

Very much sometimes letters quality checked but actually emails are they? If somebody saying the tone sharp so what have you got in place to have a style to the landlord have a style a particular way of responding and as residents for the feedback about the style and tone of their communication. Because if one person's finding it sharp then maybe others are as well and there might be something that you can do.

Also quick compliance. Quick compliance is always a good one I think when residents have gone through the complaints process, and they've come through the Ombudsman process as well, when a landlord really takes on board the comments and complies with the orders quickly that goes a long way to show that the really serious about resolve and the issues and they really want to build on that relationship with their residents again.

And look listen to the feedback what the residents are given. You know if they if they come and back to us saying they're still not happy about saying things actually what else do we need to do I think that's really good messages for other landlords.

### **Victoria King**

So having that quality assurance that written correspondence regardless whether it's a letter or an email and maybe having that email etiquette.

### **Nicola Andrews**

Yeah I think I mean some organisations do have email etiquette or letter etiquette but actually sometimes a slip if forgotten on emails because they are a quick way of

message but actually we do a lot of correspondence now by email so there should be at least some monitoring of style and tone if people are flagging up that it's an issue.

### **Victoria King**

Yeah definitely thank you Nic. So you talked a little bit about what you've spoken to the resident throughout the case and you've given some of his feedback - is there anything else that he said that you'd want to share that particular stood out for him.

### **Nicola Andrews**

Yeah what he said to me, so he wrote, and I always it's so lovely for definitely for us you're for anyone's job I think but when somebody takes the time and trouble and effort to write and just thank you for the work that you've done it makes you feel like you know you've really tried to help and you've really done your best.

So he wrote and he thanked me for the report and the determination letter. He said I'd done a really good job which made me feel great, and he said I've shown understanding of his particular case and I've picked up on some very good points. So I think that was really important to him.

I discussed the case with him later, he was particularly pleased about the neurodiverse training as I said. He felt he was often misunderstood and hoped that the awareness raising training was help with that he didn't you know he didn't want to be misunderstood he didn't want to come across in that way and he hoped that you know by training and better awareness that it's just removed some of them barriers that he felt he was facing. And he was also really positive about the ongoing relationship with his landlord.

He said he didn't expect to get that the way what the way he did and he was really grateful for it.

### **Victoria King**

Thank you Nic.

So you've got another case as well. Would you like to share the background of this case?



## **Nicola Andrews**

Unsurprisingly it's another noise complaints but slightly different than the first one I discussed because this was a noise transference case due to laminate flooring in the flat above.

The resident in this case had reported noise from the flat above due to the laminate flooring.

We'd also looked at the landlord's response to reports that he made of discrimination and we looked at the landlord's complaint handling.

So the resident in this case he lived in a flat and conditions of the lease was that the landlord would provide a carpet or other such flooring.

He'd lived there for a while and the neighbours above had approached him about noise when he's at visitors and he's apologised and he said he'd stopped having visitors.

But a year later he could hear loud banging coming from the flat above and furniture being moved around and went on for over a week.

He approached his landlord who advised him to send a note to his neighbours. And he did, and he said I want to source it out amicably but you know the noise has been really bad.

Shortly after that time the neighbours had a baby and there was quite a lot of noise that he could hear.

But a year later when the child was a toddler he could hear running around and banging and he said he just couldn't cope with it anymore.

So the landlord told him that they couldn't get involved when he approached them.

They said in their words 'children are naturally exuberant' and 'carpet was not a requirement of the tenancy'.

So he also reported another 3 occasions when his neighbours approached him because he'd been banging on the floor up to them and he'd reported them to the landlord.

So he said they were aggressive and he felt they were harassing him.

Sometime later the neighbour reported to the landlord that the resident had banged on the ceiling and it frightened the child. The landlord spoke to him about this straight away and he said it made him feel reprimanded.

He said he begged his neighbour to install carpets but they'd refused.

In the short space of time he contacted his MP and he also contacted a solicitor asking for help. He paid himself for solicitors help to try and get some advice on what else he could do because he just didn't know which way to go.

The landlord asked him to appoint his own sound insulation person to investigate and to look at reducing the noise transfer and so maybe give him some advice about that.

The final response they sent to his complaint did acknowledge there was some failings and did acknowledge some compensation. But it failed to explain its decision to get involved when the neighbour made a report and not when he made reports.

And that was something that really irked him if you like. He had been reporting things for a long time including case claims that he was harassed and neighbours had been aggressive towards him, but when he banged on the ceiling the landlord approached him straight away although the landlord had said they couldn't get involved when he'd approached them.

He didn't feel that the landlord considered the impact the noise was having on him. And it also suggested he incur his own costs to check sound proof on the levels. That was their responsibility they could have helped him with that. He felt that was unfair. He said he wasn't making any noise at all. The neighbour was making the and he was the one going to incur the expense.

He also ultimately he said he was distressed and although the landlord did apologise in its complaint handling, it didn't acknowledge the impact of that its actions had on

the resident. And it also didn't demonstrate that it took the residents report of discrimination and bias seriously and investigate them thoroughly.

### **Victoria King**

Thanks Nic. Really good overview there again. So what did you find what recommendations did you make? What orders did you make?

### **Nicola Andrews**

I found maladministration for the landlord's response to his noise reports.

Maladministration for the landlord's response to his allegations of discrimination and bias, and service failing for its complaints handling.

The maladministration for the noise complaints. They just didn't investigate his side of it. They asked him to deal with things themselves and they gave mixed messages.

They asked him to deal with things. They said they would deal with things if he got his own sound insulation. They said there was a problem with the floor. But they weren't proactive in trying to get that assessment done themselves.

They also responded really quickly to the neighbours report when the residents had done something, but it wasn't consistent in their approach to him. So it was maladministration for that.

Their values on all their letters and on the website and everything, one of their values was inclusion.

And they had a really robust equality to diversity and inclusion policy.

But they didn't seem to investigate the reports that the resident clearly made that he felt he was being discriminated against and he felt that the landlords were shown clear bias towards him.

So I found maladministration for that and service failings for the complaint handling.

The orders are made. I asked a senior member of the landlord staff to apologise in writing to the resident for the failings identified. The resident was paid an element of compensation.

I instructed them to order a specialist acoustic surveyor to assess the current sound proof levels and if any failings are identified to then provide any appropriate recommendations to improve noise transference. And I told the landlord to share the findings with the resident and the Ombudsman as well.

I asked the landlord to review its process for managing allegations of discrimination and bias to ensure that all allegations are recorded, investigated thoroughly and the complainants has given a comprehensive response.

So just to be clear Victoria, whilst I had made the maladministration findings for the discrimination allegations. That's not to say that I found that discrimination occurred. That's not our role as the Ombudsman. We don't say if something occurred, we just assess the landlord's response to the reports.

So in this case the landlord has been followed its own policy by fully investigating it and giving a comprehensive response to the resident when he made the reports.

The landlord to review the case to fully understand the failings and develop an action plan to ensure situations are managed effectively going forward and the landlord to review its domestic noise and neighbourhood nuisance policy. Considering the learning from this case and ensure its fit for purpose and staff are trained to use it effectively.

### **Victoria King**

So what did the landlord do in response to those orders and recommendations what were its next steps?

### **Nicola Andrews**

So again the letter of apology and what really likes about this letter of apology it was very clear. And it was entitled 'letter of apology' there was no mistake in what it was.

There was no way resident could receive it and think I was just to follow up to me complain to something in big letters at the top it was letter of apology and I think that was really that stood out for me because I hadn't seen one like that before and other

residents or the landlord sorry could maybe learn from that and just being a little bit clearer.

I've seen some letters of apology and you would struggle to understand if it wasn't apology or just an update.

So I think that was a really good one and the again the lessons learned log. It was that was to be made was really good example of shared work again across departments.

The clearly identified the issues that we said that they'd failed on, then they assessed issue, and you could see it was you know the minutes of who was there and what they said so how they thought an interactive.

Interacted because complaints of noise cross over all the department so you've got your housing management teams you've got your repairs and maintenance teams maybe your property investment teams and your ASB teams sometimes. So actually to have them all involved in the same room it just gave that shared learning if you like so for us it was a really good approach.

And it also demonstrated the reconsidering good practice because they brought some good practice examples to the forum as well to look at how they were going to incorporate that in their policies and procedures.

And then they self-assessed against our Ombudsman Spotlight on noise so they sent us that.

And they also sent a link to one of their policies that the reviewed on the basis of this case. They sent that link to the residents so that was just an additional level of reassurance that actually they've reviewed the policy and here's a copy for your reference to see that the bits that you complained about have now been in corporations in our policy on how we deal with things. So that was really good example. And one that other landlords could learn from.

### **Victoria King**

It just shows that importance of reviewing complaints that landlords are getting themselves and digging down into the issues because things are evolving and

changing all the time and that policy obviously needed updating so it makes you think if you're not digging into all of those complaints how do you know that your policies still relevant and it's impactful for residents.

### **Nicola Andrews**

Absolutely you don't know sometimes what you don't know do you? So it is really good when you see something kind of think that was why I was particularly keen to do this because we do have we do have findings of maladministration and severe maladministration but we also get some really good compliance from landlords. And I think it's not always an easy job, we know that in house and management so sometimes when we get some good practice it's really important for us to flag up that good practice and say if you thought about maybe doing it this way so that that was why I was keen say to try and get some of their messages out.