

# Housing

## Ombudsman Service

# REPORT

*COMPLAINT 202125701*

*Birmingham City Council*

*12 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 water ingress into his property from the flat above.
  - b. The associated complaint.

## **Background**

2. The resident is a leaseholder of the property which is a flat within a block of similar properties. His lease began in February 2011. The landlord is a local authority and the freeholder of the building.
3. The resident reported a leak from the flat above his. The flat above was tenanted at the time of the resident's complaint and the landlord is responsible for repairs and maintenance of the upstairs property.

## **Summary of events**

4. The landlord's records show that the resident initially reported a leak into his property from the flat above his on 31 July 2019. On 6 August 2019, an operative established that the balcony door to the flat above did not close and seal properly. This let in rainwater which leaked into the resident's flat below. The repair notes at the time show that a window specialist was required as a new door and frame were thought to be needed.
5. The resident reported the same issue of a leak into his property on 19 February 2020. An appointment was arranged but there was no access to the upstairs property on the same day. The appointment was cancelled on 24 February 2020 as the landlord did not receive a response to the no access card it had left.

6. The resident reported the leak again on 5 March 2020. An appointment was raised as a same day emergency; however, the operative reported no access to either property. The resident reported the issue again on 11 May 2020. An appointment was arranged for 12 May 2020, but the neighbour in the upstairs flat did not let the operative in. A further appointment was arranged for 14 May 2020. The operative established that the leak was from the balcony sliding door of the flat above the resident's. The job notes show that a glazer was required to repair the window of the door in the flat above.
7. The resident reported the leak from the flat above again on 21 August 2020. The job notes show that the operative was unable to gain access to the building. The resident reported the issue again as an emergency on 27 August 2020. The landlord's repair records show that an appointment was reported as completed on 18 September 2020.
8. The landlord's records from 14 October 2020 show that the leak was identified to be caused by the glazing of the balcony doors of the property above. The notes stated that a repair was required as soon as possible as the leak was causing damage to the resident's property below.
9. A further work order was raised in relation to the leak from above on 16 November 2020 and reported as completed on the same day. The job notes show that the tenant of the property above had said that a repairs supervisor had arranged for works to be completed. A further visit took place on 23 November 2020; the job notes stated that the leak had yet to be rectified and that this needed to be completed urgently.
10. The evidence provided alludes to a complaint raised by the resident on 23 November 2020. The Ombudsman has not been provided with a copy of the communication at this stage.
11. The resident has provided a copy of the landlord's stage 1 complaint response which was issued on 7 December 2020. It explained that its contractors had informed it that the delay in carrying out the repair to rectify the leak was partly due to Covid-19 restrictions and partly due to their failure to chase up the repair. It apologised for the inconvenience caused to the resident. It confirmed that the repair to the upstairs flat had now been booked in for an initial appointment that day. During the appointment, the patio door would be measured, and a new door would be ordered. This would then be fitted as soon as the door was in stock. It believed that the new door would resolve the leak. It confirmed that the resident could escalate his complaint if he remained dissatisfied with its response. The Ombudsman has not seen evidence that the resident escalated his complaint at this stage.

12. The resident chased the outstanding works on 18 December 2020. The landlord's records show that he had been informed that work to the property above would be completed in January 2021 but asked that tarpaulin was put over the balcony to prevent ongoing damage. It remains unclear as to whether this was done.
13. The landlord's records from 19 December 2020 show that the door replacement had been approved for the upstairs property and the resident was informed. The resident has advised this Service that he was informed that works to the property above had been completed in January 2021. The Ombudsman has not seen repair records related to this work to confirm if and when work was completed.
14. The resident reported a leak from the property above again and a new work order was raised on 4 May 2021. The job notes show that an operative attended on the same day and established that a roofer was needed as the flashing on the balcony was badly fitted and was thought to be the cause of the leak. On 18 May 2021, the tenant of the property above was asked to book an appointment with the landlord's roofing contractors. An appointment was then arranged for 25 May 2021 and the records state that liquid waterproofing was applied to the back edge of the wall on the balcony.
15. The landlord's repair records show that the resident reported the leak again on 12 July 2021. An appointment was reported as completed on 13 July 2021 but there is no record of what this entailed or what was found. The Ombudsman has not seen evidence that further repairs were raised.
16. The resident reported the leak again and a work order was raised on 4 October 2021. This was reported as completed on 5 October 2021 and the job notes show that the balcony needed a resin coating and new flashing. This needed to be completed by a roofer.
17. The resident raised a formal complaint with the landlord on 6 October 2021 and explained the following:
  - a. He was dissatisfied that the leak into his property had been ongoing for 18 months despite multiple callouts. He confirmed that he had reported the issue in May 2020 and the fault was initially diagnosed as being related to the balcony doors of the flat above. The doors were replaced in January 2021. Between May 2020 and January 2021, he was left to suffer any time it rained which caused frustration and anxiety.
  - b. Water continued to leak through the ceiling in his lounge after the doors were replaced when it rained. It was then established that the issue related to the flashing around the doors. He was told in May 2021 that the flashing would be replaced but had informed the landlord in July 2021 that he continued to experience water entering his property.

- c. He had been given a number to call on 30 September 2021 for his housing officer. He had made multiple attempts to contact the landlord but had been passed between departments, told no housing officer was available, or left on hold before being cut off. He spoke to the landlord on 4 October 2021 and was told that the job was closed in September 2021 as it had not been able to arrange access with the neighbour in the flat above. He felt that this was unreasonable as the landlord had the ability to force entry to a property.
  - d. He said that an operative had attended his property on 5 October 2021 and witnessed the damage caused to his property. They had also been to the property before and expressed concern that the issue had not been resolved. They had attended the property above and established that the flat roof needed replacing (not repairing) as a matter of urgency.
  - e. He said that the issue was causing a great deal of distress and he had experienced additional expenses as a result of repairing the damage to the ceiling once he was initially told that the issue had been resolved. There had now been continued damage to his ceiling, walls and flooring. He was dissatisfied that the issue had not been correctly diagnosed or repaired by the landlord's contractors and wanted the issues resolved. He was also seeking compensation for the damaged ceiling, wall and flooring as well as the inconvenience caused.
18. The landlord acknowledged the resident's complaint on 7 October 2021 and said that it aimed to respond within 15 working days.
19. A new job to identify and repair the leak into the resident's property was raised on 7 October 2021. An appointment was arranged for 11 October 2021. The landlord's records show that the appointment was reported as completed and further works to repair the balcony were raised on the same day. A further appointment to the property above was reported as completed on 15 October 2021. The landlord's records show that contractors attended on 18 October 2021 to apply a waterproof coating to the balcony above.
20. The resident chased the repairs to the property above on 20 October 2021. The landlord's repair records show that an appointment was reported as completed on 27 October 2021. The Ombudsman has not been provided with a record to show what happened on this visit.
21. The landlord issued a stage 1 complaint response to the resident on 2 November 2021. It apologised for the delay in issuing its complaint response. It explained that no leak was identified during the initial works in 2020 and it received no response when it knocked on the door of the flat above his. A new job was raised following the resident's complaint and this was attended to on 18 October 2021 by a subcontractor. A new appointment to complete repairs had been arranged for 27 October 2021 which should stop the leaks into his property. It confirmed

that the resident could escalate his complaint if he remained dissatisfied with its response.

22. The landlord's repair records show that a new work order was raised on 1 November 2021 as the resin coating and new flashing work had not been completed. On 3 November 2021, a new appointment was arranged for 11 November 2021.
23. The resident responded on 4 November 2021. He explained that the repair issue was first reported in May 2020. When operatives attended, it was not raining and the leak would not have been visible although the damage caused by the leak was. The flat above was owned and managed by the landlord and it had the power to gain entry to a property if a tenant was not complying. He did not believe this was an adequate excuse. He had spoken to the tenant in the property above who confirmed that someone had attended in mid October and completed some work, but no one attended on 27 October 2021 to complete any further work as indicated in the landlord's response. He said that on both 29 and 30 October 2021 after rainfall, he continued to experience leaks into his property. He attached a screenshot of the job notes from the operative who attended in August 2020 which identified that the landlord had been aware of the leak.
24. The landlord's records show that the operative had reported not being able to gain access to the property on 11 November 2021.
25. The landlord's records show that the resident asked for his complaint to be reviewed on 15 November 2021 as he had been informed that an operative would attend on 11 November 2021 to resolve the issue, but no one attended and the issue had been ongoing for 1 and a half years.
26. On 15 November 2021, the landlord acknowledged the resident's escalation request, which it said it received that day. It said it aimed to respond by 13 December 2021. The landlord's records indicate that it called the resident that day to confirm that the job was still open.
27. The landlord's records from 19 November 2021 noted comments left by a repairs supervisor following an inspection. The notes stated that the balcony had been resurfaced 6 weeks prior and that the balcony was directly above the leak into the resident's property. The roofing work was of a poor finish and the repairs supervisor was going to recall the works. The "tenant" had roofing paint over their doors and needed to take up their carpet due to roof paint stains. The balcony flashing was not sealed correctly against the UPVC window units or in the corners and the surface had bubbled up in areas. The repairs supervisor would book in work for stain blocking and anti-mould paint in the resident's property once they were satisfied that the balcony was watertight. The supervisor had discussed works with both tenants, and they were happy with the plan.

28. The landlord's repair records show that a further work order to repair the leak from the balcony was raised on 25 November 2021 and attended on 2 December 2021. The operative's notes show that they were unable to complete works due to the weather. They recommended that the flashings between the balcony and windows were moved higher as this was the only area in which they could see water getting in.
29. The landlord issued its stage 2 complaint response to the resident on 15 December 2021 and explained the following:
- a. It apologised for the delay in responding to the resident's review request.
  - b. Its contractors had informed it that the balcony of the property above was resurfaced 6 weeks prior but was of the opinion that the roofing work was of a poor finish and intended to recall the works. It understood that the resident had roofing paint over his doors and had needed to take up his carpet due to roof paint stains. In addition, the balcony flashing was not sealed correctly against the UPVC window units or in corners and the surfaces had bubbled up in areas.
  - c. It apologised for the quality of work previously undertaken and for any inconvenience caused. It had been informed that the contractor would book in work for stain blocking the resident's ceiling and for the application of anti-mould paint once they were satisfied that the balcony above was watertight. It had been advised that the works had been discussed with both him and the resident above who were satisfied with the proposed works.
  - d. In regard to compensation, it explained that compensation was only payable where there is evidence of negligence or legal liability was accepted. It asked the resident to complete an attached claim form so that a decision could be made regarding its liability. It said that the resident should first refer a claim to his own insurance company.
30. The resident initially referred his complaint to this Service in February 2022 as he was dissatisfied with the length of time the leak issue had been ongoing, the misdiagnosis, failed appointments and lack of communication. He said that the repair remained outstanding and there was ongoing damage to his property.
31. A further repair order was raised on 21 February 2022 in relation to the leak. An appointment was attended on 24 February 2022. There is no record of what happened during the visit.
32. The resident's MP contacted the landlord on 1 March 2022 in relation to the leak into his property. The resident had been informed that repairs to the balcony above were due to take place on 26 January 2022, but nothing had been done and was experiencing ongoing damage as a result of the poor weather conditions and lack of repairs.

33. The landlord's records show that there was no access to the property above in relation to the leak on 2 March 2022. A note was left asking that the tenant in the property above was contacted so an appointment could be arranged.
34. The landlord's repair records from 3 March 2022, in response to a new work order, stated that the leak was still from the balcony above and that there was nothing the plumbing contractors sent could do.
35. The landlord's email records show that extra flashings were installed to the balcony above and the surface of the balcony was touched up where needed on 24 March 2022.
36. The landlord responded to the resident's MP on 12 April 2022. It apologised for its delayed response and explained that the repairs were completed on 25 March 2022. It noted that extra flashings had been added to the seal on the windowsill to prevent leaks and the roof area had been cleared and touched up where needed. It apologised for the delay and inconvenience caused to the resident. It provided the details of its insurance provider, the policy number for its block policy and contact details for different types of claims, including liability and property damage claims.

#### *Post Complaint*

37. The landlord's repair records show that a work order was raised in relation to the resident's continued reports of a leak from the flat above on 9 September 2022; however, they show that this was cancelled following no access on 12 September 2022. The resident has provided evidence that he pursued the repairs with the landlord on 21 October 2022 as the issue had not been resolved. He added that he was disputing the service charge he paid towards repairs as these had not been undertaken. On 28 October 2022, the landlord forwarded the resident's email internally to ask that the necessary repairs were arranged. The Ombudsman has not seen further evidence of a response to the resident's concerns.
38. The landlord's repair records show that the resident continued to report a leak from the property above and new repair orders were raised as detailed below:
  - a. A repair order was raised on 25 October 2022, this was reported as completed on 26 October 2022.
  - b. A repair order was raised on 3 November 2022 and reported as completed on 4 November 2022.
  - c. A repair order was raised on 4 November 2022 but cancelled on 24 November 2022.



- d. A repair order was raised on 22 February 2023, but the records show that this was cancelled.
  - e. A repair order was raised on 3 March 2023 for both the leak and the resident's concern that water was leaking onto his electrics. The records show that the resident's property was attended but the job for the ongoing leak was cancelled.
  - f. A repair order was raised on 18 May 2023, but the records show that this was cancelled.
  - g. A work order was raised on 20 June 2023 and reported as completed on the same day.
39. The landlord's repair records do not provide additional information as to why several repair orders were cancelled, whether further issues were identified or whether further works were completed.
40. On 5 August 2023, the resident informed this Service that the landlord had yet to undertake necessary repairs to resolve the leak into his property. He emailed the landlord on the same day to seek an update as the leak issues were ongoing. He later confirmed to this Service that an operative had attended on 9 August 2023 but had been unable to gain access to the flat above. He said that he had not yet raised an insurance claim as the issue was ongoing and he had been asked to pay £350 excess to pursue a claim which he did not feel he was liable for. He said that the repairs had not been resolved and each time he raised the issue, the landlord sent a plumber who could not resolve the problem. He remained dissatisfied that the issue had been ongoing for 3 years. He confirmed that the landlord had not made contact with him to arrange stain blocking following his complaint and that there was ongoing damage to his ceiling and walls. He also said that the landlord's reference to roof paint on his doors and carpets was incorrect and that this was reported by the tenant in the flat above following works to the balcony.
41. The landlord's repair records show that a work order was raised on 31 August 2023 following reports that a blocked gully and the balcony of the upstairs flat was causing leaks into 2 flats below, including the resident's flat. The resident has said that he was informed by the tenant in the property above that operatives attended to inspect the balcony on 1 September 2023.

## **Assessment and findings**

### *Scope of Investigation*

42. In his communication, the resident has raised concerns about the level of his service charge in relation to repairs and maintenance and his liability to pay this. Complaints that relate to the level, reasonableness, or liability to pay rent or

service charges fall within the jurisdiction of the First Tier Tribunal (Property Chamber). The resident is able to seek free legal advice from the Leasehold Advisory Service should he require any advice in connection with this matter.

### *Policies and procedures*

43. The resident's lease states that the landlord is responsible for repairing and maintaining the external structure of the building, including roofs, floors and external walls.
44. The landlord's repairs policy provides expected timescales for completing different categories of repairs. Emergency repairs should be attended to within 2 hours. Urgent repairs should be attended to within 1, 3 or 7 days; examples of 3 or 7 day repairs include water leaks through a roof. Routine repairs should be completed within 30 days. Some larger and more complicated repairs may take longer or require special materials and arrangements. In these cases, the resident would be informed of the expected timescale for completion.
45. The landlord's leaseholder handbook confirms that it has a right to enter properties to carry out repairs if there is a danger to other residents. It also states that the landlord would be responsible for taking out buildings insurance and insuring the property against risks, including escaped water. This policy does not cover the contents of a property and the leaseholder should take out their own contents insurance. The handbook further states that internal decoration of the property would be the leaseholder's responsibility. Where damage to decorations is caused by water penetration as a result of a defect to the structure of the building, leaseholders may claim on the landlord's building insurance.
46. The landlord's complaints policy states that it has a 2 stage formal complaints process. At stage 1, the landlord aims to respond within 15 working days. If a resident is unhappy with the landlord's response, they can escalate the complaint to stage 2. At stage 2, the landlord aims to respond within 20 working days. If at any stage there is likely to be a delay, the landlord would be expected to contact the resident, explain the reason for the delay and provide a new complaint response timescale.
47. The landlord's compensation policy states that compensation would only be paid where there was liability. It further states that compensation would not be paid for inconvenience or distress.

### *The resident's reports of water ingress into his property from the flat above*

48. In this case, it is evident that the resident began reporting a leak into his property from the flat above in July 2019. For completeness and given the length of time the resident has been reporting the same issue, the Ombudsman has considered the landlord's handling of the resident's reports of a leak from the outset. The

Ombudsman has also considered events following the landlord's final response as the issue remains unresolved.

49. It should be noted that it can take more than one attempt to resolve issues such as leaks as it can be difficult to identify the cause at the outset, especially where it is only fully apparent when it rains, and in some cases different repairs may need to be attempted before the matter is resolved. This would not necessarily constitute a service failure by the landlord.
50. However, the landlord would be expected to act proactively in response to water ingress due to the potential risks and damage that can be caused over a prolonged period. In this case, it is evident that there were significant delays and the landlord failed to act proactively in its handling of the matter which resulted in unnecessary time and trouble being spent by the resident in pursuing a resolution over a prolonged period.
51. Following the resident's initial report of a leak in July 2019, the landlord acted appropriately by arranging an inspection within a reasonable timeframe. However, despite the operative advising that a window specialist would be required, there is no evidence to suggest that this was arranged. The landlord's records suggest that work to replace the door in the flat above was completed in January 2021, although the Ombudsman has not seen evidence to confirm this.
52. There are no further records to confirm that any temporary repairs were carried out between July 2019 and January 2021 which would have been appropriate in order to prevent ongoing damage to the resident's property. The delay of approximately 18 months in carrying out work following the resident's initial report was unreasonable and likely to cause significant distress to the resident who continued to report ongoing damage to his property.
53. During this period, the resident pursued his concerns regarding the leak into his property on at least 8 occasions between 19 February 2020 and 23 November 2020. It is of concern that during this period multiple appointments were cancelled following no access to the property above. Some delays as a result of the tenant in the property above refusing access may have been outside of the landlord's control. However, the Ombudsman would have expected to see evidence that the landlord had communicated with the tenant above to facilitate access or to have considered alternatives, such as formal action, to gain access where the tenant was not cooperative, particularly given the resident's ongoing reports that the leak was damaging his property. There is no evidence to suggest that the landlord did so. This was likely to have caused significant inconvenience to the resident who needed to continually report the leak.

54. In addition, the evidence shows that the issue was identified to be caused by the window/door of the flat above on at least 2 occasions during this period, despite this initially being identified in August 2019.
55. While the landlord explained that the delay was partly due to the contractor's failure to chase up the repair, which it apologised for, and partly impact of Covid-19, which was outside of its control, there is no evidence to suggest that the landlord had taken ownership over the repair issue or acted proactively in its handling of the matter. There is also no evidence that the landlord had communicated effectively with the resident during this period or kept him adequately updated on its progress – this was again likely to have caused significant inconvenience and concern to him and left him uncertain as to if, and how, the landlord would stop water ingress into his property.
56. Works to replace the patio door were evidently unsuccessful and the resident continued to report the leak on 4 May 2021. The landlord acted appropriately by attending the property on the same day in line with its urgent repair timescales and carrying out work to apply liquid waterproofing to the balcony of the flat above. It did so on 18 May 2021 which was within a reasonable timeframe. However, there is a lack of evidence to confirm that the resident was updated following the work and it remains unclear as to how the landlord satisfied itself that the issue had been resolved.
57. Ultimately, this work was also unsuccessful, and the resident continued to report the leak on 12 July 2021. While an appointment was reported as completed on 13 July 2021, the landlord has not provided evidence to demonstrate that it had taken steps to diagnose the cause of the issue or resolve it at the time. Within his complaint, the resident informed the landlord that he had been told that works booked in September 2021 had been cancelled due to no access to the property above. The landlord has not provided this Service with records for works or appointments during September 2021. However, as above, it was unreasonable for the landlord to cancel the works following no access to the property above and it has not provided evidence to show that it proactively sought to resolve the issue or that the reason for any delay at this stage was outside of its control – this amounts to a significant failing.
58. The landlord's records show that operatives had identified that the balcony above needed resurfacing and new flashing on 5 October 2021. Following this, there were further delays and poor records to show as to whether repairs had been completed. Despite the landlord's records stating that work to apply a waterproof coating was completed on 18 October 2021 and further works were reported as completed on 27 October 2021, it was found on 1 November 2021 that the coating and flashing had not been completed and a new work order was raised. On 19 November 2021, the landlord's records suggest that the work had been completed previously but this was to a poor standard and needed to be re-done.

The lack of clear records and management of the repairs caused the resident further inconvenience, and the evidence shows that he spent further time and trouble chasing the repairs and correcting the landlord's mistakes.

59. The landlord did not keep in communication with the resident, it did not explain the reason for delays prior to the stage two complaint response, and it did not provide any timescales after the stage two response was provided, for when work would commence. The landlord's records show that the flashing works were completed on 24 March 2022, almost 6 months following the operatives' report that resurfacing and new flashings were needed, and significantly outside of the landlord's repair timescales. Some delay, due to poor weather, was outside of the landlord's control but it would have been appropriate for it to have kept him informed.
60. Given the length of time the issue had been ongoing, it would have been appropriate for the landlord to have carried out a post inspection of the works to ensure that the water ingress into the resident's property had been resolved. Despite advising within its stage 2 complaint response that the contractor would book in work for stain blocking the resident's ceiling and for the application of anti-mould paint once they were satisfied that the balcony above was watertight, the landlord failed to monitor the agreed actions through to completion and there is no evidence to suggest that these works were arranged.
61. Following the landlord's stage 2 complaint response and the completion of the balcony works in March 2022, there is evidence of repeated failures by the landlord to put things right for the resident which continues to cause inconvenience to him. While the evidence shows that multiple repair jobs had been raised between September 2022 to June 2023 (following the resident's continued reports of water ingress), many repairs were again cancelled following no access to the flat above and the landlord's records in relation to completed repairs provide no additional information related to the suspected cause of the water ingress or the landlord's plan to resolve it. There is also no evidence to confirm that the resident has been adequately updated on the progress of the repairs by the landlord and the issue remains outstanding at the time of this report.
62. The landlord would not be obligated to compensate the resident for the damage caused to his property through its complaints process, as damage to property or belongings are usually best suited to an insurance claim. It was reasonable in the circumstances for the landlord to provide a claim form to the resident within its final response so that it could determine liability. However, it is noted that the landlord told the resident to claim via his own insurers in the first instance which was not appropriate as the resident clearly believed that the landlord was liable for the worsening damage to his walls and ceiling. The landlord also provided the resident with details of its insurer on 12 April 2022.

63. The resident has informed this Service that he has not yet raised a claim as the issues are ongoing and he was informed that he would need to pay an excess of £350, which he did not believe he was liable for. Given the length of time the water ingress has been ongoing, it is the Ombudsman's view that the landlord should consider what internal remedial works it is willing to complete, or fund, to put right the damage to the resident's property that was contributed to by its delays, including its previous offer to stain block and apply anti-mould paint. It should write to the resident to confirm its decision, giving a full explanation. If it decides not to complete any internal works, it should provide assistance with making a claim via the landlord's liability insurers should the resident wish to do so. It must complete these actions within 4 weeks of the date of this report.
64. In summary, the Ombudsman has found that there was severe maladministration by the landlord in its handling of the resident's reports of water ingress into his property. There were significant unexplained delays over a period of more than three years and a lack of clear communication from the landlord, along with poor records which contributed to a lack of oversight of the issue. The delays and lack of proactive management of the repair caused significant inconvenience and distress to the resident over a prolonged and unreasonable period. He also spent time and trouble reporting the repair issues due to a lack of ownership by the landlord and its failure to communicate with him. The landlord also failed to offer any form of suitable redress to the resident in an attempt to put things right for him.
65. In line with the Ombudsman's remedies guidance (available on our website), it is the Ombudsman's opinion that a significant level of compensation is warranted to be paid to the resident in order to put right the inconvenience and time and trouble caused to him. Several orders have been made below.

*The landlord's handling of the associated complaint.*

66. The resident initially raised his most recent formal complaint on 6 October 2021. The landlord responded at stage 1 on 2 November 2021, which was outside of its policy timescale for response. He expressed dissatisfaction with the landlord's response on 4 November 2021 and specifically asked for his complaint to be escalated on 15 November 2021. The landlord issued its stage 2 complaint response on 15 December 2021, which was again outside of its policy timescales for response.
67. The landlord acted fairly by apologising for its delayed response at each stage but it is inappropriate that there is no evidence to suggest that it kept the resident adequately updated as to when he would receive a response or explained the reason for the delay.

68. The landlord's responses to the resident's complaint at both stages were inadequate. It failed to demonstrate that it had taken the opportunity of the complaints process to fully investigate the resident's concerns or meaningfully engage with the issues raised. The landlord also failed to acknowledge or address the issues the resident had raised in relation to:
- a. The length of time the issue had been ongoing and the number of callouts.
  - b. The landlord's communication and difficulties making contact.
  - c. The misdiagnosis of the cause of the leak.
  - d. The landlord's failure to take measures to gain access to the flat above where the tenant had not provided access.
  - e. Failed appointments and its assertion that works had taken place when he believed they had not.
  - f. Inaccuracies within its stage 1 complaint response.
69. The landlord did not explore the adequacy of its communication or handling of the repair issues, and there was no indication of any learning from the complaint to ensure that the same service failures did not arise again. The complaint responses also lacked proper consideration of the impact the outstanding repair was having on the resident, including the time and trouble he had spent pursuing a resolution or the distress likely to have been caused by the ongoing issues.
70. It is of concern that the landlord's responses at both stages of its complaint process were a direct reiteration of contractors notes on its system. There is no evidence to suggest that a wider investigation into the complaint was completed or that the full repairs and contact history were reviewed by the landlord as part of its investigation at either stage.
71. This led to its responses at both stage 1 and 2 containing inaccuracies, including that no leak was identified during initial works in 2020 when the landlord's records show that work was identified as being needed to resolve the leak at the time. This was likely to have caused significant frustration for the resident who had repeatedly raised the issue of a leak, resulting in multiple appointments.
72. In its stage 2 complaint response, the landlord also said that the resident had reported roof paint on his door and carpeting following works, when this was not the case. These reports appear to have been related to the tenanted property above rather than the resident's flat. The incomplete and inaccurate responses from the landlord would have caused the resident additional inconvenience and further undermined the landlord/resident relationship.
73. The landlord's responses were also not in line with the Ombudsman's Complaint Handling Code (published on our website) which sets out requirements for

landlords on how to address complaints. The Code sets out that landlords should acknowledge and apologise for any failure identified, give an explanation and, where possible, inform the resident of the changes made or actions taken to prevent the issue from happening again within complaint responses.

74. The landlord failed to demonstrate that it had fully identified its service failures or taken points of learning from the complaint to prevent similar failings happening again. This is evident in its handling of the resident's ongoing reports of a leak following its stage 2 complaint response. This was a missed opportunity by the landlord to take steps to prevent ongoing inconvenience being caused to the resident.
75. While the landlord apologised for the inconvenience caused to the resident within its responses, this failed to have a meaningful impact as it had not identified or acknowledged its specific failings. At the time of the resident's complaint, the landlord's compensation policy stated that compensation would only be paid where there was liability. It further stated that compensation would not be paid for inconvenience or distress.
76. The Ombudsman has previously determined that this is not in line with the Ombudsman's Code as redress and compensation should be routinely considered by the landlord through its complaints process where there has been a service failure. While the Ombudsman is aware that the landlord's policies are currently being reviewed, it is the Ombudsman's view that redress in the form of financial compensation is warranted in recognition of the impact on the resident as a result of the landlord's failings in this case.
77. The resident experienced significant inconvenience as a result of the landlord's failure to meaningfully engage with the subject of his complaint, address each aspect of the complaint, take adequate points of learning from the complaint and fully consider the impact its failures had on him. Altogether, these failings amount to severe maladministration by the landlord in its handling of the resident's complaint. In view of this, several orders have been made below.

### **Determination (decision)**

78. In accordance with paragraph 52 of the Housing Ombudsman Scheme, there was *severe maladministration* by the landlord in respect of its handling of the resident's reports of water ingress into his property from the flat above.
79. In accordance with paragraph 52 of the Housing Ombudsman Scheme, there was *severe maladministration* by the landlord in respect of its handling of the associated complaint.

### **Reasons**



80. The landlord's failure to successfully diagnose and repair the cause of the water ingress into the resident's property over a prolonged period and its lack of communication was likely to have caused the resident a significant level of frustration, inconvenience and time and trouble. The landlord has not offered suitable redress to the resident to put right its failures and the impact on him.
81. While the landlord acted fairly by acknowledging delays in its complaint responses, its responses were inadequate and did not demonstrate that it had utilised its complaints process to put things right or learn from outcomes to improve its service. The landlord's failure to fully address the resident's concerns, and its provision of inaccurate information, was likely to have caused significant frustration and inconvenience to the resident.

## **Orders**

82. Within 4 weeks of the date of this report, the landlord is to write to the resident to apologise for the failings identified; this apology should be sent to him by the landlord's chief executive.
83. Within 4 weeks of the date of this report, the landlord is to pay the resident compensation of £1400, made up of:
- a. £1000 in recognition of the inconvenience, distress and time and trouble experienced by the resident as a result of its failings over a prolonged period in its handling of reports of water ingress into his property from the flat above.
  - b. £400 in recognition of the inconvenience caused by its poor complaint handling.
84. Within 4 weeks of the date of this report, the landlord is to:
- a. Assign, and provide the resident with details for, a member of staff to be a point of contact for him and to monitor the ongoing works through to completion.
  - b. Carry out a survey to diagnose the cause of continued water ingress into the resident's property. This should include a water test where necessary to determine the exact location of the fault if this has not yet been determined.
85. Within 2 weeks of the survey, the landlord is ordered to write to the resident to confirm its conclusions, outline the scope of any works required and provide an expected completion date.
86. Within 4 weeks of the date of this report, the landlord should consider what internal remedial works it is willing to complete, or fund, to put right the damage to the resident's property that was contributed to by its delays. It should write to the resident to confirm its decision, giving a full explanation. If it decides not to

complete any internal works, it should provide assistance to him with making a claim via the landlord's liability insurers should the resident wish to do so.

87. Within 8 weeks of the date of this report, the landlord is ordered to carry out a management review of the resident's case and provide a copy of the review to the resident and this Service. This should consider the evidence that was available (or may have been available at the time) in relation to the resident's reports, any missed opportunities there were to resolve the repair issues at an earlier date, points of learning that can be taken from the case, and actions it could take to improve its future response to similar cases.

88. The landlord is to provide evidence of compliance with the above orders within the specified timescales.

### **Recommendations**

89. It is recommended that:

- a. The landlord carries out a post inspection following the completion of the works to ensure that the issue has been fully resolved.
- b. The landlord upholds its offer to apply stain blocker and anti-mould paint should this be needed in the resident's property.
- c. The landlord considers carrying out staff training for complaint handlers to ensure that residents are informed where there is likely to be a delay in issuing a complaint response, responses clearly detail where service failures have occurred and there are mechanism in place to establish points of learning from complaints.
- d. The landlord should review the findings of the report alongside the Ombudsman's special report (January 2023) and consider whether there are any additional actions it should take in response to the report's recommendations.

90. The landlord is to confirm its intentions in respect of the recommendations made above within 4 weeks of the date of this report.