

# Housing

## Ombudsman Service

# REPORT

*COMPLAINT 202122072*

*The Guinness Partnership Limited*

*14 July 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 response to:
  - a. The resident's report of a roof repair issue, and subsequent bird infestation.
  - b. The landlord's handling of a shower repair.

## **Background and summary of events**

### *Background*

2. The resident is an assured tenant of a four-bedroom detached house. The resident has children with vulnerabilities, one of whom requires oxygen therapy and another who is non-verbal.

### *Policy and legal framework*

3. Landlords are obliged to consider the condition of properties using a risk assessment approach called the Housing Health and Safety Rating System (HHSRS). The HHSRS does not have a minimum standard for properties, but it is concerned with minimising potential hazards. Landlords should be aware of their obligations under the HHSRS. They are expected to carry out monitoring of a property where potential hazards are identified. Hazards would include access into the dwelling for pests (including birds), inadequate repairs to the external fabric of the building allowing rain penetration, and inadequate personal hygiene facilities.
4. The Equality Act 2010 states that residents who rent from a landlord have a right to changes that will help them live in a rented property with their disability. The Equality Act 2010 calls these changes 'reasonable adjustments'. A

reasonable adjustment can be in the form of an “auxiliary aid” or equipment that can help residents with day to day living.

5. The landlord operates a two-stage complaint policy. It states where a resident expresses dissatisfaction with a service it will try to put things right at the earliest possible opportunity. The procedure shows the landlord aims to respond to complaints within ten working days at stage one. At stage two, it aims to respond within 20 working days.
6. The landlord’s compensation policy states that it will pay compensation in recognition of loss or damage and for distress and inconvenience caused when something has gone wrong, and where it is at fault. It provides the following guide:
  - a. Up to £250 - The issue was resolved within a reasonable time which resulted in minor inconvenience having some impact on the customer or the household.
  - b. £250-£700 - The issue took a long time to resolve which resulted in moderate inconvenience having a demonstrable impact on the customer or the household.
  - c. £700 + - The issue took a long time to resolve and resulted in significant inconvenience having significant impact on the customer or the household which is likely to caused longer-term distress

### *Summary of Events*

#### *Roof repair*

7. The resident first reported a roof and guttering issue on 14 August 2020. The landlord’s repair notes show that the guttering had become unattached and the fascia board needed repairing. The record showed these repairs as completed on 28 August 2020. While this repair was labelled as “fascia and roof repair” it is not clear from the information provided if any repairs were necessary, or made to the roof itself, or if this is related to the later roof repair issue.
8. The resident then reported a roof issue to the landlord in January 2021. The landlord’s records show that the resident discovered a hole in the roof in December 2020, no date was noted.
9. The repair log shows a job was raised for “roof leaking into attic” repairs on 7 January 2021, but was cancelled on 26 February 2021 with a note that states “unable to attend”. From the notes available, this appears to be because of a change in contractor, or because the job was passed to the wrong contractor. The note is not clear on this point.

10. A further repair was raised on 31 January 2021 to a different contractor for the same roof repair issue. There are no further notes on the repair log provided to suggest any action was taken.
11. On 8 November 2021, the repair log showed that the job was raised again and then marked as completed. There are no accompanying notes to describe why the job was closed as completed and there are no notes on this repair log between January 2021 and November 2021 to describe why no action was taken regarding the hole in the resident's roof.
12. The landlord received a complaint from the resident on 23 November 2021 about the roof issues (and a shower issue – details of this issue are covered in paragraph 26 onwards). The resident complained that there were still holes in the roof and birds were accessing the loft space through holes in the fascia and nesting, causing mess and faeces.
13. The report of 30 November 2021 read: "COMPLAINT - PLEASE PRIORTISE IF POSSIBLE - Customer needs all new fascias at top of property both ends and middle. Please also fill any cavities."
14. The landlord's notes stated that it was in the process of arranging pest control to resolve the issue with the birds. No dates or timelines were provided to the resident.
15. The landlord responded to the complaint on 12 December 2021. The landlord apologised for not being able to install the correct shower and for not being able to fix the roof and bird infestation issue. It said it was looking into both matters when the resident expressed dissatisfaction with the handling of the complaint and acknowledged that the resident had escalated the complaint on 12 December 2021. It confirmed a manager would be in touch within 20 days.
16. Throughout December 2021, the landlord's log of contact with the customer and the contractor was frequent. The landlord's notes demonstrated that the landlord and contractor were unable to get updates from each other and the information about the works was not conveyed clearly enough, for example; a contractor attended the property to assess roof works, but without a ladder. The resident requested that the landlord spoke to one person to stop "confusion" and stated that she had to keep making calls to correct information that had been relayed incorrectly to contractors.
17. On 14 February 2022, this Service sent a reminder to the landlord to contact the resident regarding the complaint as she had contacted us for assistance in progressing matters.
18. An internal email from the landlord sent on 15 February 2022 showed the landlord's concern that a complaint handling failure was likely if it did not

respond to the Ombudsman with adequate information. It noted that there were no planned or actual works dates for the repair and highlighted that it needed to be able to explain why this repair took more than 10 months.

19. The reply to the internal email on 15 February 2022 noted that the roof issue was first noticed by the resident in December 2020 when the resident saw a puddle of water and noticed a bird infestation issue. The reply goes on to detail the reference number for an inspection raised in relation to the roof and shower issue. The date for the inspection was 8 November 2021, 10 months after the initial report of the roof issue. No reason was given for the delay from report to inspection. The reply noted from a conversation with the resident that a “big hole” in the roof was fixed at the beginning of January 2022.
20. The same email goes on to detail how further repairs were made to the roof and fascia boards in early February 2022. It notes that there were 11 holes that had allowed birds to access the loft space. The landlord noted that the contractor filled the holes with expanding foam and repainted the fascia boards to match. However, the landlord described this as a “temporary fix”. The landlord stated that the temporary fix was ineffective as the birds were pecking the foam. It further noted that a different contractor had attended to clean bird droppings mess.
21. On 18 February 2022 the landlord issued the resident a stage two complaint response, 10 weeks after the complaint was escalated. It apologised for the response being outside of its timescales.
22. The stage two complaint response also apologised for the delays in response to the resident’s initial report of the roof hole on 7 January 2021. The landlord explained that the process of changing repair contractors resulted in the delay between January 2021 and November 2021. The landlord noted that it had a record of the numerous times the resident chased updates on the repair. The landlord said “We have failed to contact you back on numerous occasions and this isn’t good enough. I am sorry for any stress or inconvenience this has caused you.”
23. The response went on to confirm that repairs had taken place in the week commencing 7 February 2022. The landlord stated that the roof repair was complete and a temporary fix for the fascia had been made, but that a further appointment would be needed to complete the fascia repairs. The landlord apologised again.
24. On 18 February, and noted within the stage two response, the landlord called the resident to offer compensation of: £250 for the delay in completing the required repairs, £250 for the stress and inconvenience caused and £50 for her

time and trouble spent pursuing this complaint. The resident accepted the total amount of £550.

25. On 10 March 2022, the resident contacted the landlord to tell it that the birds were pecking at the foam, that there was still bird mess and that while she had provided photographs to evidence the concerns, she was still waiting for a further inspection.
26. On 9 May 2022 the resident sent an email stating that birds were still able to access the loft space of her home. She stated that the roof repair had been ongoing for 3 years and that the stress of the ongoing situation was affecting her health. The resident said that she felt “fobbed off” and that she was still waiting on the repairs that the landlord said would be carried out in the stage two response. She added that she only accepted compensation because she was promised that the situation would be resolved.
27. On 27 September 2022, the landlord completed repairs to the fascia. To acknowledge the further delays with the roof repair and the stress and inconvenience experienced by the resident, the landlord offered an additional £275 (a total of £825) in compensation on 14 October 2022.

#### *Shower repair*

28. On 19 March 2021 the resident raised a repair issue with the landlord regarding her shower. The landlord attended the property the same day. The landlord confirmed that a new shower was needed, but did not take any action until the resident chased the landlord on 22 and 23 March 2021. On 24 March 2021 a new shower was fitted.
29. On 8 November 2021, the resident contacted the landlord to say that the shower was not suitable due to her family’s needs. The landlord raised a job to inspect the property regarding the shower issue (and the roof repair).
30. On 23 November 2021 the resident complained about the shower because her son was not able to use it due to his vulnerabilities. The shower was fitted in the wet room installed for him.
31. The landlord’s notes of 24 November 2021 stated it was aware that the shower fitted did not work correctly with the adaptations present in the wet room.
32. On 12 December 2021 the landlord’s stage one complaint apologised for not being able to fit a shower that her son would be able to use. No reason or explanation was given regarding the delay in providing the correct shower. No timescales or updates were provided regarding the shower fitting. The resident escalated the complaint the same day as the response.

33. An internal email from the landlord sent on 15 February 2022 showed that the landlord acknowledged that the contractor in March 2021 had not fitted a like-for-like shower replacement. Instead of fitting a thermostatically controlled shower, the landlord had fitted a standard, less powerful model which meant that the resident's son was not able to use it.
34. The reply internally also noted the household's vulnerabilities and stated that the resident's son who has medical issues and is non-verbal was unable to use the shower because it was only letting out "boiling hot water" and they were not able to control the temperature. The landlord's record noted that the resident reported she was only able to wash him with baby wipes over a seven-month period. The reply notes that an inspection took place on 8 November 2021 to assess the shower issue and subsequently a like for like temperature controlled shower was fitted on 7 January 2022.
35. As part of the complaint response on 18 February 2022, the landlord also addressed the delay in fitting the shower. The landlord said "We again failed to re-attend your home in a reasonable timeframe and can see you had contacted us on numerous occasions chasing this up. I am so sorry for any stress or inconvenience this has caused. This level of service is not good enough and we must do better."
36. As noted in the roof repair section of this report, compensation of £550 was offered to the resident and accepted.

## **Assessment and findings**

### *Roof repair*

37. The matter of the roof repair went unresolved over an unreasonably long period of time; a total of approximately 21 months. Up to May 2022, despite the landlord's commitment in its stage two response to complete repairs to the fascia, the resident was still experiencing bird infestation issues.
38. Unresolved repair issues that require residents to chase responses and repairs can become stressful to handle. The burden of following up responses from the landlord should not fall upon the resident. The Ombudsman notes that the landlord recognised this and apologised in its stage two complaint response. However, it did not follow through with the completion of the repairs and therefore the situation remained unresolved until 27 September 2022 and the resident continued to experience the bird infestation related issue due to the incomplete roof repairs.
39. The landlord has not provided sufficient evidence to demonstrate that it had acted in line with its obligations or policies. There has been little evidence or

reasoning supplied regarding the delay. There is no evidence of actions taken in an attempt to progress the repair between January 2021 and November 2021.

40. The landlord did note in its stage two response that the delays were attributed to a change of contractor, but in the Ombudsman's opinion, this is not an acceptable reason for delay. Landlords should ensure that any change in their contractors or suppliers are sufficiently planned to minimise impacts on residents and this Service would not expect to see a delay of approximately 10 months attributed to such changes.
41. The landlord failed to adhere to the HHSRS, which states that "Holes through roof coverings, eaves and verges should be blocked to deny ingress to rats/mice/squirrels/birds. Necessary holes to be covered by grilles;"
42. The landlord failed its contractual obligations within the tenancy and its own repairs policy which states that: "We must maintain the outside and the structure of your home. This includes: the roof, rains, gutters and external pipes"
43. Given the landlord failed a number of its obligations towards the resident, failed to apply its own policy and delayed unreasonably in dealing with the matter, there was severe maladministration in the landlord's handling of the roof repair. The impact upon the resident was significant due to the lack of communication from the landlord around timescales and updates. The landlord made inadequate attempts to repair the essential external fabric of the resident's home and left her to cope with the impact of a bird infestation. This would have greatly affected the resident and her family's ability to enjoy her home.

#### *Shower repair*

44. In tandem with the roof repair issue, the resident also waited two months to have a shower replaced with a like for like piece of equipment that was suitable for the wet room installed at the property for the resident's disabled son.
45. The Equality Act 2010 requires landlords to make adjustments if a resident makes a request, and if that request is reasonable. The Act also covers anyone that lives with the resident. The request from the resident to make a reasonable adjustment to the shower fitting was acceptable under the terms of the Equality Act 2010. Especially as in this case, the resident was requesting a replacement of a like for like feature and not a specialised fitting. Not replying to the resident's request may be interpreted as refusing to make the adjustment which may be considered discriminatory.
46. Given that the landlord is aware of the vulnerabilities within the household, the Ombudsman finds it unreasonable that the landlord took two months to replace the shower following notification that the replacement fitted in March 2021 was unsuitable. The resident reported to the landlord that her son had used baby



wipes to wash. The resident told this service on 23 May 2023 that she had needed to bathe her son's body and feet using a washing up bowl and cloth as he had surgery on his torso and feet during the period they were without the shower, and that, following surgery, bodily hygiene to prevent infection was particularly important. The resident also told us that her son uses incontinence products due to his disabilities; the lack of specialist washing facilities would have been distressing and potentially impacted upon his health further. The resident had no other facilities as her disabled son is not able to access the bathroom that is upstairs due to his disabilities and the resident is not able to, nor should be expected to, carry her adult son upstairs.

### *Compensation*

47. The landlord acknowledged its failings and poor service and apologised to the resident. It also acknowledged that it needed to learn from the failings and it was positive to hear that the landlord would be delivering staff training to prevent future failings. However, the Ombudsman does not find the landlord went far enough in its offer of compensation. The landlord did not separate the offer of compensation to address the separate matters of the shower repair and the roof repair, but offered an overall total for delay, stress and inconvenience and time and trouble. In order to ensure redress for the respective matters is of the appropriate level and reflects each complaints specific issues, compensation offers should, where possible, be specific to each issue.
48. Whilst in many instances a tenant would be expected to continue to pay rent while repairs are undertaken, in this case the Ombudsman considers it unreasonable that the landlord did not consider a rent discount or a compensation amount to reflect the loss of use of the shower in the wet room. The Ombudsman has taken into account that the landlord does not appear to have been able to provide a reason for the delay in fitting the appropriate shower for this family and that there was not an alternative bathroom or other means of showering the resident's disabled son. In addition, the Ombudsman has considered that the landlord was also aware of the vulnerabilities present within the household and would have been aware of the challenges and detrimental impact the loss of these bathroom facilities would have.
49. In the circumstances relating to the shower repair, the Ombudsman considers it reasonable to require the landlord to pay the resident a further £260 compensation. This in recognition of the loss of full use of the shower during this period. This figure has been calculated on the basis of £130 per month for the period of two months, the length of time the resident was without the wet room shower. The figure of £130 per month has been based on approximately 25% of the resident's current rent. Whilst the Ombudsman acknowledges that this is not a precise calculation, this is considered to be a fair and reasonable amount of compensation taking all of the circumstances into account.

50. The shower repair also caused additional distress to the resident. The Ombudsman considers it appropriate to require the landlord to pay the resident an additional £50 in compensation (a total of £300) for the distress and inconvenience in relation to its handling of the shower repair.

51. In addition, the Ombudsman considers that the inadequacies of the repairs and the 21 month timescale in relation to the roof repair caused additional and unnecessary distress and inconvenience and therefore considers a compensation amount of a further £500 (a total of £750) should be paid to the resident in relation to this matter.

### **Determination (decision)**

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

- a. Severe maladministration in respect of the landlord's handling of the roof repair.
- b. Maladministration in respect of the landlord's handling of the shower repair.

### **Reasons**

53. The landlord failed to repair the roof and fascia in line with HHSRS and its own repair policy obligations. The evidence suggests it also failed to effectively manage its changeover of contractor, resulting in long delays. The timeline points to total delays of around 10 months. The landlord's temporary measures were insufficient, as was its overall offer of compensation which did not fully take into account the failings in this case.

54. The resident and wider household suffered as a result of the landlord's delay in replacing the shower. Although the landlord acknowledged its failings, its offer was not sufficient taking into account the resulting impact on the family.

### **Orders and recommendations**

#### *Orders*

55. The Ombudsman orders the landlord to pay the resident a total of £1,360 in compensation (this amount includes the £825 already offered by the landlord) comprising of:

- a. £750 for the distress and inconvenience the resident was caused by the landlord's handling of the roof repair.
- b. £300 for the distress and inconvenience the resident was caused by the landlord's handling of the shower replacement.

- c. £260 in recognition of the loss of use of the shower in the wet room between November 2021 and January 2022.
  - d. £50 for its complaint handling failures.
56. Contact the resident to offer the option of a further inspection of the roof and loft space. If the resident asks for an inspection, the landlord should use a specialist bird control contractor to obtain advice about prevention of further infestations and take appropriate action.
59. The Ombudsman requires that a written apology is given to the resident from the landlord's Chief Executive. A copy should be provided to this Service, within four weeks of the date of this determination.
60. The landlord should confirm compliance with the above orders to the Housing Ombudsman Service within 4 weeks of this report.

### *Recommendations*

61. The landlord should ensure any future changes to contractors and suppliers do not affect the delivery of services to its residents and should implement a service delivery contingency plan to eliminate any future delays due to contractor related issues.
62. The landlord should remind itself of its obligations under the Equalities Act and ensure that the needs of residents with vulnerabilities are considered when addressing repair issues. This should form part of the landlord's repair policy and be shared with all relevant members of staff, within 6 months of the date of this report.
63. Training should be provided within 6 months of the date of this report to relevant members of staff around both the Equalities Act and the HHSRS and the landlord's obligations in regard of this.
64. The landlord should notify the Ombudsman of its intentions regarding these recommendations within 4 weeks of this report.