

Housing

Ombudsman Service

REPORT

COMPLAINT 202112818

Clarion Housing Association Limited

7 August 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:
 - a. Handling of the resident's reports of noise nuisance.
 - b. Consideration of the resident's vulnerabilities.
2. The report also examines the landlord's record keeping.

Background and summary of events

Background

3. The resident occupied a one bedroom ground floor flat in a converted Victorian/Edwardian house with three floors. The two floors above his flat had been converted into a second flat and was occupied by a household who was also a tenant of the housing association landlord.
4. The resident held an assured tenancy at the property since 12 February 2007. The landlord had recorded vulnerabilities for the resident.
5. The resident contacted this Service on 3 September 2021, he explained that he had complained to the landlord about the noise from the property above his, which started in December 2020. He stated that although he had complained about the noise and completed noise reports the landlord had failed to take action. He explained that the landlord had installed sound monitoring equipment, but that it had been removed and no further action taken. The resident stated that he wanted the space between the two flats to be soundproofed. He added that whilst he could consider moving, that would be a last resort as the landlord would

not assist with this. He further stated that the situation was having a negative impact on his mental well-being.

6. Sadly, the resident died on 22 September 2021. His sister was appointed as the administrator of his estate, and she requested that this Service proceed with the investigation of his complaint.
7. As well as information and evidence from both parties in relation to the issue complained about, this Service has also been provided with a recording of the coroner's inquest, which has provided valuable contextual information.
8. The coroner concluded that the resident took his own life. He added that whilst he did not leave a note of intent, there was a history of overdose by medication in January 2021 because of the noise issue.

Scope of investigation

9. In line with paragraph 41c of the Housing Ombudsman Scheme, this Service is unable to consider matters that have been subject to a court process and where a judgement on its merit has been given. In addition, in accordance with paragraph 42 this Service cannot draw conclusions on causation or liability for, impacts on physical or mental health.

Summary of events

10. On 23 December 2020, the resident made the first report of noise nuisance from the property above his. This was dealt with by the landlord as a general enquiry.
11. The resident contacted the landlord again on 5 January 2021, to report further noise nuisance. On 6 January 2021, he contacted the landlord again and included a noise incident form dated 23 December 2020. The form covered the time period from 11am until 9pm. The resident explained that he could hear wood flooring being laid and that there was banging and hammering and children jumping and stamping on the floor. He explained that he suffered from poor mental health, anxiety and depression and that he was stressed and not eating or sleeping.
12. On 7 January 2021, the landlord sent a standard anti-social behaviour (ASB) letter to the resident thanking him for his recent report and explained that whilst it was committed to ensuring all estates and neighbourhoods were safe places to live, it could not investigate every incident reported as many prove to be a one off, particularly complaints involving noise. The letter added that if the problem continued, the resident should record the details of the incident and report it to the landlord so that it could take determine the best course of action. The letter also encouraged the resident to speak with his neighbour about the noise.

13. This Service has seen at least 18 completed noise reports submitted to the landlord between 6 January 2021 and 7 May 2021, all of which related to the noise that he could hear from the property above. In the forms, he described being able to hear running, banging stamping, loud music being played and people talking. He explained that it happened at various times throughout the day and lasted for varying amounts of time. The resident further explained that it was making him stressed, he had anxiety and depression and that it was impacting on his mental well-being.
14. On 13 January 2021, the landlord wrote to the resident explaining that his ASB complaint was being investigated in line with its ASB policy and procedure. It confirmed the action plan that it had agreed with the resident, which included the resident keeping an incident diary and the landlord getting an update on possible floor insulation in the block of flats. The landlord also confirmed that it would speak with the neighbour regarding the complaint.
15. On the same day, the landlord telephoned the resident's neighbour regarding the noise. The neighbour explained that her children were not deliberately making noise but that they would be mindful of noise they may create. The resident explained that she had laminate flooring due to allergies. The landlord asked her to consider putting rugs down to help soundproof against the noise, which she said she would try.
16. On 20 January 2021, the resident emailed a further incident log to the landlord. The landlord sent an acknowledgement of this, and told the resident his report had been logged under the landlord's general enquiry mechanism.
17. On 21 January 2021, the landlord called the resident to discuss the case. The landlord explained there was limited action it could take from a tenancy enforcement perspective. The staff member who spoke with the resident asked the resident to send digital recordings to them directly. The recording was received by the landlord that same day.
18. The evidence provided to this Service suggests that on 2 February 2021, the landlord closed the ASB case opened on 13 January 2021.
19. On 4 February 2021 the landlord received an email from the duty social worker at Hackney Mental Health Hospital informing it of a significant attempt the resident had made to end his life. This email from a medical professional detailed that the resident reported the attempt was due to the impact of the noise from his neighbour upstairs was having on him. The landlord has said that upon receipt of this email it started an Advice and Support process and arranged for a staff member to make contact with the resident on 12 February 2021. This Service has seen no evidence that the landlord followed up with the resident as promised on 12 February 2021.

20. On 5 February the landlord acknowledged the social worker's report and said that its Customer Support Team would make contact with the social worker directly. This email did not provide a timescale within which the Customer Support Team would be in contact.
21. On the same day, the social worker requested further details of when she would expect to hear from the landlord again, and reiterated the urgency of the matter.
22. On 9 February, the landlord telephoned the resident to check-in with him following his discharge from hospital. The landlord's records show that at this stage the resident stated the noise had 'calmed down'. The landlord promised to check-in with the resident again in two weeks time.
23. Between 8 February 2021 and 11 February 2021, there was an email exchange between the landlord and a flooring contractor regarding a quote to supply and fit thicker underlay and carpet to two bedrooms, the lounge, three stairwells and landings in the property above the resident's. The landlord accepted the quote and discussed with the neighbour. The neighbour explained that although she wasn't happy with the suggestion due to allergies, she had previously documented, she would agree to the installation of carpets at her property.
24. On 22 February 2021, the resident's neighbour told the landlord that the resident had reported them to the police for having a loud party. Police attended but only found the resident and her children at the property. It is noted that they may have been using a karaoke machine.
25. On 23 February 2021, the landlord checked-in with the resident again, and he explained that the noise from his neighbour had gotten worse again. The resident informed the landlord of a loud party on 21 February 2021, and also said the neighbour's children had been making a lot of noise as well.
26. Following this telephone call, internal emails show that the landlord arranged for telephone support to be put in place for the resident.
27. On 26 February 2021, the landlord telephoned the resident who reported ongoing noise nuisance.
28. According to the resident's GP (as explained during the coroner's inquest), she wrote a letter of support to the landlord on 2 March 2021. In the letter the GP explained the extent of the impact of the noise on the resident and that it was such that he had made two attempts to take in his own life in January 2021. She explained that she was concerned about the impact on his mental health and asked the landlord to give priority to addressing the resident's concerns.
29. The landlord has been unable to locate a copy of the letter sent by the GP as it was addressed to a member of staff who has since left the organisation.

Therefore, it has not been able to confirm what action, if any, was taken as a result of the letter.

30. However, the landlord has provided a copy of a tenancy sustainment risk management plan dated 2 March 2021. The form identified that the resident suffered with mental health issues that were triggered by the noise from the flat above. It added that the resident had attempted to take his own life. The form listed actions, presumably for both the resident and the landlord, which included:
- a. Calling 999 if any risk.
 - b. Continue writing in the logbook for ASB.
 - c. Resident to call the tenant support officer when needed.
 - d. The tenant support officer to speak with the neighbourhood officer for support about the next step.
31. According to the completed form, the need was assessed as a high risk and was assessed as amber in its red, amber, green rating. The ratings were categorised as follows:
- a. Red = Starter tenants and tenants in crisis
 - b. Amber = Tenancy sustainment
 - c. Green = Information advice and guidance
- The form confirmed that the tenant had consented to support. Although the form is not showing as having been signed by the resident.
32. On 8 March 2021, the resident complained about the noise to the landlord. He explained that he had first alerted the landlord to the noise on 22 December 2020 and that since that date he had submitted around 22 noise reports. He noted that carpet had been fitted at the property but that it had made little difference to the noise levels.
33. The resident added that he had received an email from the landlord dated 11 January 2021, in which it stated that a surveyor would visit his property to investigate the cavity between the floor of the property above and his ceiling to establish if it could be sound-proofed. He stated that he had not received any further update on this. This Service has not seen evidence of the letter dated 11 January 2021. But notes that the landlord sent a letter dated 13 January 2021 in which it stated that it would follow up what was happening with regard floor insulation that the landlord was considering at the resident's block of flats.
34. As part of his complaint the resident commented that he had asked about noise recording equipment but had been advised that it could not be installed due to government lockdown restrictions.

35. The resident confirmed that he had tried to speak with his neighbours about the noise but that they had admitted being deliberately noisy. He explained that the situation had become unbearable and that he felt trapped. He said that the neighbour often used their kitchen late at night and early hours of the morning and its location above his bedroom impacted on him being able to sleep at night. He explained that he often moved from his bedroom in the middle of the night to sleep on an airbed on the kitchen floor. He further explained the types of noise he could hear as children jumping and stomping, chairs being dragged, doors slamming, pots on surfaces and loud music.
36. The resident explained that as a result of the stress from the noise, he had been hospitalised in February 2021 after having attempted suicide. He explained that he felt so overwhelmed that he did not see any way out. The resident confirmed that his GP had written to the landlord explaining how the noise was impacting on his health, he said that the GPs letter had been acknowledged by the landlord but that no action had been taken. He concluded his complaint by asking the landlord to investigate the noise and to find a remedy. He explained that he did not want to move as he was settled in the area and received mental health support from local specialists.
37. According to landlord notes dated 12 March 2021, the complaint had been classified as estate issues low level ASB (noise). The landlord confirmed that it kept in weekly contact with the resident. The notes also stated that the resident was being supported by a tenancy sustainment officer. The landlord recorded that it had raised a request for a surveyor to attend the property and followed up the request on 5 March 2021, but noted that whilst the request had been raised it had not been indexed. The landlord confirmed that sound monitoring equipment could not be installed until lockdown ended.
38. According to the landlord's notes dated 18 March 2021, it contacted the resident via telephone and he expressed feeling suicidal. In response the landlord asked the resident to complete further diary sheets detailing the noise nuisance. The resident responded stating he had already done so. The landlord agreed and said this was the reason for £2000 worth of carpet being put down, which the resident said had in fact made the noise worse. The landlord confirmed its plan to ask a surveyor to visit the property. The resident expressed that this was not happening fast enough.
39. The landlord responded to the complaint at stage one on 30 March 2021. It confirmed the nature of the complaint and acknowledged that the resident was seeking information regarding the handling of the noise issue as well as any information relating to the proposed soundproofing at his property. The response confirmed that there was an active ASB case in progress, and that a tenancy specialist officer was communicating with the resident directly on a weekly basis.

It stated that the weekly conversations were an opportunity for the landlord to update the resident on developments and vice versa.

40. It also confirmed the details of a conversation the landlord had with the resident the same day, in which the resident explained that he was waiting for a designated tenancy specialist officer to get in contact. The landlord confirmed that it would contact the relevant team and ask that they contact him.
41. The landlord acknowledged that the resident was also being supported by the tenancy sustainment team and that he had a designated tenancy sustainment officer. It noted that it had arranged for carpet to be installed in the neighbour's property and that it had made contact with the relevant team regarding an investigation into soundproofing. Although it also explained that, in line with the home visits guidance put in place as part of Government imposed restrictions as a result of the Covid-19 pandemic, a surveyor's visit could not take place until the restrictions were lifted. Likewise, it stated that it acknowledged the resident's request for the installation of noise monitoring equipment but that it would not be installed until lockdown restrictions were lifted.
42. The landlord reminded the resident to keep the incident diaries updated and to stay in contact with the tenancy specialist officer, who would continue to address his concerns until a resolution could be reached.
43. On 31 March 2021, a member of the landlord's staff telephoned the resident introducing themselves as the new case handler following the former tenancy sustainment officer leaving. During this call, the resident described the noise nuisance he had been experiencing. In response, the landlord said that this would not constitute ASB. The resident was told as he lived in London he should have no expectation of silence. The landlord confirmed that the surveyor visit had been delayed by lockdown measures, and told the resident this would be arranged as soon as possible, once restrictions were lifted. Internal emails provided by the landlord show that at this stage the landlord felt the resident was "whining".
44. Following the resident's submission of two noise incident reports on 2 April 2021 and 7 April 2021, the landlord sent the resident an automatically generated letter dated 13 April 2021 in which it explained that it could not investigate every noise incident and that it would only normally investigate if there were several incidents in one week. The wording in the letter was the same as the one sent on 7 January 2021.
45. Exactly the same letter was sent again on 15 April 2021.
46. After a failed attempt at visiting the resident's property on 7 April 2021, the landlord arranged another visit for 19 April 2021. The purpose of the visit was to

establish the level of noise transference between the two properties. The visit took place as planned and an internal email explained that there was considerable transmission of both noise and movement from the flat above into the resident's flat. In particular the landlord noted that there were some loose floorboards in the flat above, which would have added to the noise, and that even though the upstairs flat had thick wool carpet, the cavity in between the floor of the upstairs flat and the resident's ceiling was empty and therefore any noise from upstairs, including people talking could be heard in the resident's flat.

47. In addition, the ceiling light in the resident's flat shook when anyone walked above it. The visiting officer suggested that it would be helpful if the landlord establish a way of increasing insulation between the two floors and also suggested loaning the resident a sound recording device so that the landlord could monitor noise at night. The Officer said that there was no evidence that the neighbour was deliberately being noisy and therefore it would not be practical to pursue that line of complaint. In addition, it was noted that the resident's mental health was exacerbated by the noise and that it would be helpful if a surveyor could attend the property to assess how it could be better insulated or soundproofed.
48. Following the visit, an internal email was sent to the repairs team the same day to investigate what options there were for insulation between the two flats. The repairs team explained that it did not carry out work of this type but that perhaps the planned investment team could assist.
49. The landlord's internal records show that following day, 20 April 2021, the landlord's Sustainment Officer liaised with its Tenancy Sustainment Officer to obtain an update on the ASB case. The Tenancy Sustainment Officer clarified that there was presently no need for insulation as the neighbour had underlay and carpets fitted.
50. Evidence provided by the landlord showed that it sent an email to the planned investment team on 21 April 2021, asking if it could look at the issue of insulation in a property. The email stated that the resident had complained of noise nuisance from the property above. It had been established that the noise was normal household noise, but that there may have been a problem with insulation.
51. Evidence provided by the landlord shows it also telephoned the resident on 21 April 2021 and asked if he had visited his GP. In response, the resident advised he was under the care of the home team who were aware of how he was feeling. The landlord then discussed the outcome of the subjective noise test. The resident expressed he was unhappy with the conclusion that the landlord did not consider the household noise to amount to ASB. The landlord explained a referral had been sent to its Planned Investment team, and also that floor insulation was confirmed to be adequate in the property. The landlord encouraged the resident

to consider mutual exchange options, but the resident expressed that he **did** not want to be rehoused. The resident requested a 'noise box'. The landlord explained the equipment was presently out of service, prompting the resident to terminate the call.

52. This Service has not seen evidence of a response to the email sent to the planned investment team. However, on 22 April 2022 the landlord stated in an internal email exchange that soundproofing would not be available in this case as the noise was general household noise. It added that it had not booked a surveyor to visit the resident's property, as the landlord 'do not insulate'. The email stated that the resident had been given appropriate advice on the situation.
53. A landlord file note dated 27 April 2021, showed that the tenancy sustainment officer had a conversation with the resident regarding the noise. He confirmed that the resident had also sent a recording of the noise, which the tenancy sustainment officer described as loud. As a result, the tenancy sustainment officer sent an internal email expressing concern for the tenant. During the conversation with the tenancy sustainment officer the resident advised that he had been informed by the landlord that it would not proceed further, that carpet had been fitted in the flat upstairs and no insulation would be fitted.
54. On 27 April 2021, the landlord referred the resident to Engage Hackney and booked a further appointment with the resident for 28 May 2021. The landlord's internal records show it outlined its concerns for the resident, but took the decision that no further action would be take place, and it advised the resident to make a formal complaint, although he had previously done so already.
55. The resident escalated his complaint to stage two on 29 April 2021. He stated that despite having already complained and despite several months having passed, the landlord had failed to offer any support or solution regarding the noise. He explained that he had spoken with several of the landlord's employees regarding the impact the noise had on his mental health and had also been supported by the tenancy support team who had forwarded on the recordings he had made. He confirmed that he understood that the landlord had no intention of insulating or soundproofing as it had fitted carpets in the property above. He stated that his concerns were being ignored, he explained that social services had also contacted the landlord regarding his mental well-being, but the landlord had not offered any support. He reiterated that he had previously been hospitalised because of the impact of the noise on his mental health.
56. The complaint was acknowledged on 5 May 2021.
57. On 21 May 2021, the landlord telephoned the resident regarding his complaint. The resident explained that the noise was unbearable and that the sound transfer was so bad that he could even hear his neighbour's microwave buzzing. He

stated that he could hear the washing machine on at 11 pm and that his mental health was deteriorating because of the noise.

58. The landlord explained to the resident that there was a difference between day-to-day noise and malicious noise but that it would consider what actions it could take even if the noise is not classed as antisocial behaviour. The resident confirmed that he would like the noise insulation work done as soon as possible or he wanted to be moved to an alternative property. The landlord confirmed that it would respond to his stage two complaint within 20 working days.
59. On 11 June 2021, the resident emailed the landlord and attached noise recordings which were only available via download until 26 June 2021. The resident reiterated the issues he was experiencing regarding noise from the property above his. He stated that he had been told by the landlord on 11 January 2021, that it would be useful if a surveyor visited his property to investigate if the cavity between the two properties could be insulated to minimise noise transference. But that the landlord had since retracted this remedy as it was not considered a repair it could offer. The resident added that the landlord had suggested that the carpet that had been fitted in the upstairs property was adequate. Nevertheless, he stated that he had to sleep with ear plugs and watch television with headphones on. The resident confirmed that he had asked the landlord to provide noise monitoring equipment. The resident added that he would consider moving as a last resort, he stated that although the landlord had suggested a house swap, they had not offered any support with this and that he did not feel he had the capacity to carry out everything that a move to a different property would require. He asked the landlord for help with rehousing.
60. On the same day, the landlord contacted the resident by telephone. The resident advised he was “not doing too good”. The landlord said it was due to receive an update from its Planned Investment team. The resident expressed frustration that the landlord would not take formal action against his neighbour. The landlord clarified there were no grounds for tenancy enforcement action.
61. On 14 June 2021, an internal email exchange set out that the landlord was exploring the possibility of developing a programme of works within the area the resident lived in. The email confirmed that a property assessment had been undertaken at the neighbour’s property on 23 March 2021 and highlighted that the kitchen needing replacing. The landlord proposed an assessment of the resident’s property and to review any potential noise insulation works at the same time as the kitchen renewal. The landlord said it would notify the resident of the potential works.
62. An internal email dated 16 June 2021, containing information compiled as part of the stage two response showed that the landlord was aware that the resident had submitted video and audio recordings that were time limited and questioned

whether they had been viewed/listened to. The email recommended that having reviewed one recording it would be prudent to install sound monitoring equipment. The email acknowledged that the resident had submitted additional recordings, none of which had been listened to as the landlord did not have access to that particular piece of software. The email acknowledged the information the resident had previously shared regarding the impact on his mental health. In addition, it questioned whether a surveyor would be sent to the property as was originally promised and also questioned if the landlord would install sound monitoring equipment.

63. The landlord's records showed that it wrote to the resident on 22 June 2021 to advise him of the programme of works that would include a review of any potential noise insulation works. It added that the noise nuisance he reported would be investigated further and any improvements identified would be included in that year's programme of works. The landlord advised that it had attempted to arrange an appointment to assess what works would be needed at his flat but that it had not been able to contact him. It advised that it would make contact again once any planned works were identified and reminded him to report any further issues.
64. The landlord states it closed the ASB case on 25 June 2021, however the evidence provided contradicts this, noting the case was closed on 2 February 2021, with no further case being opened.
65. The landlord responded to the stage two complaint on 26 June 2021. It confirmed that the purpose of the review was to establish if the response provided at stage one was accurate and reasonable and in line with its policies, and to determine if there was any more the landlord could do. The landlord acknowledged and confirmed the contents of the resident's complaint and reiterated what it had said at stage one. It stated that it had said that a surveyor would visit, and sound monitoring equipment installed but only once lockdown restrictions were relaxed.
66. The landlord apologised for its delay responding to the resident's stage two complaint and accepted that this would have been frustrating for the resident. It set out the findings of the visit on 19 April 2021 and the recommendation for a surveyor to visit the property and sound equipment to be installed. The landlord admitted that it had not been able to listen to all the recordings the resident sent but stated that the tenancy sustainment officer had heard the noise and confirmed that it was loud. It acknowledged that it was not acceptable that it had failed to listen to the recordings and accepted that it should have let the resident know that it could not listen to the recordings. The landlord said that it had learned from this, and relevant teams had been advised that they should be listening to all recordings or at least notifying residents if they could not access the recordings.

67. The landlord confirmed that further investigation by way of noise monitoring equipment was warranted, and whilst it was in a position to attend properties to install the relevant equipment there was a waiting list. It stated it would be in contact to make an appointment to install the equipment. In addition, it confirmed that it would also make arrangements for a surveyor to visit the property above to establish if any repairs would minimise noise transmission. It informed the resident it was limited in the types of works it could do.
68. The landlord concluded its response by awarding £25 compensation for the service failures it had identified.

Post internal complaints process.

69. On 5 July 2021, the landlord received a call from the mental health team expressing concerns for the resident's well-being as a result of the noise issues he had been experiencing. The landlord's internal emails of the same day show that although this was discussed, it was confirmed nothing could be done about the noise nuisance the resident was reporting.
70. On 22 July 2021, the tenancy sustainment officer sent a case closure letter to the resident confirming the summary of what it had agreed with the resident and the relevant outcomes between 30 March 2021 and 13 July 2021. In respect of the sustainment service, it stated that:
- a. On 30 March 2021, the tenancy sustainment officer and the resident discussed the complaint against the upstairs neighbour. It noted that the resident explained what had been happening and his concerns. The tenancy sustainment service liaised with the tenancy specialist team who stated that there was not much that could be done in regard to sound insulation until the lockdown was lifted. The tenancy sustainment officer advised the resident to continue writing in the logbook.
 - b. On 7 April 2021, an appointment was booked for two housing officers to visit the resident in regard to his complaint to test the noise for the two properties, the appointment did not go ahead on that day.
 - c. On 13 April 2021, the resident emailed a clear recording of the noise complaint which the tenancy sustainment officer forwarded to housing officers including the tenancy specialist team.
 - d. On 29 April 2021, the tenancy sustainment officer supported the resident with his letter of complaint after he was informed that the landlord would not be supporting in regard to his concerns.
 - e. On 5 May 2021, the resident emailed an audio of the noise in his living room and bedroom which was forwarded to the landlord.

- f. On 13 July 2021, the tenancy sustainment officer was informed by the landlord complaints team that the resident's case was being reviewed.

71. It advised that if the resident needed to access the sustainment service in the future, then he could do so.

72. Evidence provided by the landlord showed that following the stage two response, a surveyor attended the property in July 2021 and sound monitoring equipment was installed for two weeks in August 2021. The landlord has not stated what the outcome of these interventions were.

73. On 13 August 2021, in response to an incoming telephone call from the resident, seeking an update on the collection of the sound monitoring equipment, the landlord created a new ASB case. This decision was reviewed and it was confirmed a new ASB case would be opened given the installation of the sound monitoring equipment.

74. On 11 September 2021, the landlord notified the resident that in respect of the ASB issues he had reported no further action would be taken and the case would be closed.

Assessment and findings

Landlord's obligations and policies

75. The Equality Act 2010 provides a legislative framework to protect the rights of individuals and to advance equality of opportunity for all. The landlord would be required to comply with the provisions for public bodies under the Act. Under the Act the landlord had a legal duty to make reasonable adjustments where there is a provision, criterion or practice which puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled.

76. The Social Housing Regulator's Tenant Involvement and Empowerment Standard requires registered providers to "treat all tenants with fairness and respect" and "demonstrate that they understand the different needs of tenants, including in relation to the equality strands and tenants with additional support needs" with a specific expectation that providers will "demonstrate how they respond to those needs in the way they provide services and communicate with tenants".

77. The landlord has a vulnerable resident's policy which sets out its commitment to assisting vulnerable customers and residents to ensure they can access its services, and to its vulnerable tenants to ensure they receive the assistance they need to sustain their tenancy. In its policy objectives the landlord states that it will assist vulnerable residents in accessing additional services that they may need and that it will vary its service delivery to ensure vulnerable residents still receive

the same level of service. With regard reports of ASB, the landlord states that it is not able to investigate every report of ASB, but that it will investigate those classed as priority one. In addition, Section 7.8.2 of the vulnerable resident's policy states that In line with its ASB Policy, for Priority 2 and 3 ASB complaints the landlord will still investigate these for residents who are:

- a. Over 75 years old and/or
- b. Receive support from another organisation and/or
- c. Receive a Personal Budget for care and support needs.

78. The landlord's ASB policy describes ASB as taking many forms, ranging from noise nuisance, criminal damage, verbal abuse and other types of criminality. Section 3.5.3 of its policy states that it does not consider children playing, household noise due to everyday living as ASB as long as it's proportionate and during reasonable hours.

79. Section 5.1 of the landlord's ASB policy sets out the various categories for ASB complaints. It classifies noise in category 2 and states that it will investigate noise complaints within 5 working days when the threshold is met. The policy states that the landlord encourages residents to resolve noise nuisance from neighbours between themselves and advise customers to report excessive noise to the local authority's environmental health team.

80. The policy states that the landlord will not conduct full investigations in every report of ASB as often noise is a one-off event, and it would expect the resident to resolve the problem themselves with the neighbour. The landlord will investigate, if its threshold is met. Which for noise complaints is:

- a. Three separate incidents reported in the last 7 days by the same person or a member of the same household.
- b. Five separate incidents reported in the past 28 days by the same person or member of the same household.
- c. Two separate incidents reported in the past 28 days by two or more people from different households.

81. In addition, the policy states that the landlord will record noise complaints to establish the frequency, severity and duration of the problem. Once it is clear that the problem was persistent and the thresholds met, it will start its investigation within 5 working days.

82. The landlord's management transfer policy confirms that it allocates its homes in accordance with its allocations policy. However, it also sets out that in exceptional circumstances it may be necessary to try and urgently rehouse an existing tenant outside of the allocations criteria due to a serious threat to their

personal safety. It confirms that it expects to rely on a management transfer in a small number of circumstances where a tenant is experiencing:

- a. Serious anti-social behaviour or harassment that puts their life at risk or
- b. Domestic abuse that is putting or is likely to put the tenant or a member of their households' life at risk.

83. The landlord's allocations policy describes how the landlord assesses and categorises residents requesting a transfer. The landlord categorises transfer requests as: urgent; high priority; priority and no priority dependant on the residents housing need. The policy states that if there are other exceptional circumstances that prevent a tenant from remaining in their home, urgent priority must be approved by the regional Head of Operations as a management transfer.

84. In addition, the policy states that if a resident or a member of the household has a medical condition or disability which means that their current home is unsuitable for them i.e. they cannot leave the home without help; cannot access washing or cooking facilities but could do so if they lived in a more suitable property, or where the current property is having a significant detrimental effect on a medical condition that would cause their health to seriously deteriorate, they will be placed in the high priority category.

The landlord's handling of the resident's reports of noise nuisance.

85. The resident formally reported the noise using the landlords noise incident forms and also followed the landlord's suggestion and spoke with the neighbour directly.

86. The landlord initially sent a standard automated letter to the resident explaining that it could not investigate all noise incidents. It subsequently opened an ASB case, recommending that the resident keep a diary of the noise and also advised that it would establish what work could be done to improve sound insulation. This Service acknowledges that the landlord opened the ASB case on 13 January 2021, which was within its published timescales. However, there is no evidence that a risk assessment was carried out before 2 March 2021. Whilst this Service notes that the resident was away from the property for some time between January and February, it also notes that the landlord has not provided any evidence that it attempted to carry out a risk assessment as part of having opened an ASB case, before 2 March 2021. Additionally, there is contradictory evidence to suggest the ASB case opened on 13 January 2021 was closed on 2 February 2021.

87. In addition, in response to the resident's concerns the landlord arranged for underlay and carpets to be fitted in the neighbour's property. Whilst the resident acknowledged that it had somewhat reduced the noise transference, he stated

that it was still impacting on him. The resident was very clear throughout his communication with the landlord exactly how the noise was affecting him on a

88. In its stage one response on 30 March 2021, the landlord stated that it would not be able to arrange a surveyor's visit or for installation of noise monitoring equipment until the government imposed Covid restrictions ended. Whilst this Service acknowledges that there were still some Government restrictions in place at that time, it is noted that Government guidance for landlords and tenants dated 26 February 2021 stated that Landlords could take steps to carry out repairs and safety inspections, including routine and essential inspections and repairs, as well as any planned internal works to properties under the national lockdown which was in force in England, provided these were undertaken in line with public health advice and the relevant coronavirus (COVID-19) legislation.
89. In addition, the landlord's own Coronavirus risk assessment dated 12 January 2021 allowed for its employees to enter a resident's home to complete an inspection, repair or conversation provided Covid safe controls were in place. It is also noted that the landlord attended the resident's property on 19 April 2021 in order to carry out a transmission test. Given that the Government guidelines allowed landlords to carry out inspections and repairs from at least 26 February 2021, it is unclear why the landlord advised the resident that a surveyor could not visit his home until restrictions were lifted or indeed why noise monitoring equipment could not be installed at that time. This was not a reasonable approach to take, and it is clear that this delay contributed to further detriment to the resident, as no clear way could be established until the landlord understood the extent and cause of the noise transference.
90. Following its stage one response the landlord appeared to retract its offer to install noise monitoring equipment and to instruct a surveyor. This would have caused frustration for the resident adding to his distress and exacerbating his mental health.
91. In its stage two response dated 26 June 2021, the landlord advised that it was able to attend properties and could therefore install the noise monitoring equipment in the resident's home. But there was a waiting list, and he would be contacted shortly to arrange an appointment. This Service notes that the resident waited a further two months for the landlord to install the equipment. The resident had been clear in his communications regarding the impact the noise was having on his mental well-being and the level of distress it was causing him. It would have been appropriate for the landlord to re-assess the risk and consider if any further support was required and also seek assistance from the local authority for priority to be given to his referral.
92. The landlord acknowledged that the noise reported by the resident was household noise rather than antisocial behaviour, yet it handled the complaint

under its ASB policy, and the resident completed countless diary sheets to no avail. During the visit on 19 April 2021 the attending officer advised that the noise was not ASB and could not be managed in that way. However, the landlord continued to progress the case through its ASB process, asking for incident records, whilst aware that it would not provide any interventions in relation to that evidence. The landlord also continued to send auto-generated letters and eventually closed the ASB case two and a half months after its stage two response and almost five months after it had established that the matter did not constitute ASB. This would have left the resident feeling that his noise reports were not being taken seriously, as well as feeling confused, frustrated and not listened to.

93. The Ombudsman's Spotlight on noise report published in October 2022 sets out that landlords should have a clear distinction between noise transference due to the fabric of the building and noise caused intentionally. Once the cause of the noise has been confirmed the landlord should have clear and distinct processes for dealing with the noise. This Service expects the landlord to adopt a separate neighbour management policy alongside an ASB policy in order to manage a case of this type.
94. The information provided by the landlord was often confusing and contradictory and it was not made clear to the resident how the issue would be resolved. The resident repeatedly expressed to the landlord that his mental health was suffering as a result of the noise and his request for the landlord to support him to make a rehousing application was ignored.
95. Given the resident's known vulnerabilities and concerns highlighted by medical professionals and the landlord's own staff regarding the resident's mental well-being. This Service finds maladministration in the landlord's handling of the residents reports of noise nuisance.

The landlord's consideration of the resident's vulnerabilities

96. It is evident from the information presented that the noise transference was due to the fabric of the building as opposed to any deliberate act by the neighbour. It is also clear that the noise from the property above was having a significant negative impact on the resident's mental well-being.
97. The landlord was aware of the resident's vulnerabilities and consequently should have varied its service delivery as set out in its vulnerable residents policy. However, on three separate occasions it sent the resident standard automated letters advising that it would not be investigating his concerns. This would have proven particularly frustrating and confusing for the resident. Especially since the resident had been in regular contact with the landlord regarding the noise and

had received a stage one complaint response in which the landlord advised him to continue reporting the noise.

98. The report from the duty social worker appears to only have resulted in the landlord placing a telephone call to the resident. When in receipt of information informing the landlord of a mental health crisis and/or suicide attempt, the Ombudsman would expect a landlord to take action in line with its vulnerable resident policy.
99. Further, there is evidence that when the resident tried to explain the impact of the noise on him, the landlord believed the resident was 'whining', and did not fully appreciate the impact the noise nuisance was having on him. This is not an appropriate phrase for the landlord to have used, and may be an explicit demonstration of the general attitude the landlord displayed to the resident throughout this matter.
100. Although the resident initially stated that he did not want to move from the property. In May 2021, in a telephone conversation with the landlord, he stated that as a resolution he either wanted the insulation work done or a move to an alternative property. He reiterated this request the following month, asking the landlord for help and support with rehousing or a mutual exchange, he stated that due to his mental health condition he did not feel able to do this alone. Given that the landlord operates a vulnerable residents policy in which it states that it will vary the service it provides to vulnerable residents, it is reasonable to expect that the landlord should have offered advice and assistance regarding rehousing.
101. This Service has not seen any evidence that the landlord provided any information or support to the resident in respect of his rehousing request. Whilst it is noted that the management transfer policy only allows for transfers in serious cases of ASB and domestic abuse it is noted that the allocation policy states that If there are other exceptional circumstances that prevent a tenant from remaining in their home, urgent priority must be approved by the regional Head of Operations as a management transfer. The landlord failed to consider a management transfer for the resident and failed to apply its vulnerable resident's policy.
102. This Service notes that at the end of the internal complaints process the ASB case remained open, despite the landlord having advised that the matter did not constitute ASB. The landlord eventually closed the ASB case on 11 September 2021 and notified the resident accordingly.

The landlord's record keeping.

103. Strong record keeping is a prerequisite for good services.

104. The evidence shows that there was disconnect between the various different internal teams and their communication with the resident. Often providing contradictory information in respect of the resident's concerns. Shortly after having sent out a stage one response explaining that it would request that a surveyor make contact with the resident to address the issues at hand, the landlord sent two separate automatically generated letters explaining that the resident's noise reports would not be investigated. Then on 22 April 2021 an internal email confirmed that the noise had been classed as general household noise and the landlord had decided not to request a surveyor's visit, as it would not insulate. The resident was advised of this sometime between 22 April 2021 and 27 April 2021. Two months later, on 22 June 2021, the landlord wrote to the resident to advise that it was undertaking a programme of works that would include a review of any potential noise insulation works. This level of poorly managed communication with the resident would have been damaging to the resident's mental health.

105. The landlord's stage one response included reference to weekly conversations with the resident. Whilst these conversations may have taken place and whilst it is noted that the landlord has provided some records referring to a conversation with the resident, they do not appear to equal the number of weeks the complaint was open.

106. In addition, it is clear that the landlord failed to maintain full records regarding the impact the noise was having on the resident. Of significance is the fact that the landlord mislaid the GP letter sent in March 2021. Whilst this Service acknowledges that a risk assessment was carried out for the resident on the same day that the GP sent her supporting letter, as there was no record of the letter on the landlord's systems, the landlord could not reasonably demonstrate whether it took into consideration any of the GP's recommendations. This service finds that the landlord has failed in its record keeping responsibilities.

Determination (decision)

107. In accordance with paragraph 52 of the Housing Ombudsman Scheme there was maladministration in respect of the landlord's handling of the resident's reports of noise nuisance.

108. In accordance with paragraph 52 of the Housing Ombudsman Scheme there was severe maladministration in respect of the landlord's consideration of the resident's vulnerabilities.

109. In accordance with paragraph 52 of the Housing Ombudsman Scheme, there was a service failure in respect of the landlord's record keeping.

Reasons

110. Whilst the landlord initially arranged for underlay and carpet to be fitted in the property above as a means of minimising the sound transference, it's subsequent interactions with the resident were confusing and contradictory and, in some respects, dismissive. In addition, the landlord continued to manage the matter through its ASB policy, and this was not appropriate.
111. The landlord was aware of the resident's vulnerabilities but failed to fully acknowledge them in the context of the issues he was experiencing and failed to vary its responses accordingly.
112. The landlord failed to maintain full records of all interactions with the resident and/or professionals supporting him.

Orders and recommendations

Orders

113. The landlord is ordered to issue a letter of apology from an appropriate member of the senior leadership team to the resident's representative for the failings highlighted in this report.
114. The landlord is ordered to self-assess against the Ombudsman's Spotlight on Noise complaints report and demonstrate to this Service how it will comply with the recommendations in the report.
115. The landlord is ordered to provide evidence that automated letters for such cases have been removed from its processes, as per its previous suggestion.
116. The landlord is ordered to review its record keeping in line with the Ombudsman's Spotlight report on Knowledge and Information Management published in May 2023, and provide this Service with evidence of how it has considered the recommendations set out in the report.
117. The landlord is ordered to review its vulnerable resident's policy paying regard to how it manages reports of non-statutory noise nuisance and ensure that it meets the needs of its vulnerable residents by making appropriate reasonable adjustments.
118. The landlord is ordered to show compliance with the above orders within four weeks of the date of this determination.

Recommendations

119. The landlord should review the IT solution it provides to its residents in respect of noise recording. This Service notes that there are IT solutions available that allow the simple collection and storage of noise data so that it can

be reviewed by landlords without risk of it being deleted within a short space of time.