

Arun District Council

REPORT TO:	HOUSING AND WELLBEING COMMITTEE - 6 DECEMBER 2022
SUBJECT:	HOUSING OMBUDSMAN DETERMINATIONS 2021-2022
LEAD OFFICER:	MOH HUSSEIN, INTERIM HEAD OF HOUSING
LEAD MEMBER:	COUNCILLOR JACKY PENDLETON
WARDS:	ALL WARDS
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: The report will support the following areas in the corporate vision Delivering the rights homes in the right places Support those in our community that need help, providing a safety net where necessary and working with people and organizations to meet different needs. <ul style="list-style-type: none">• Ensure the existing housing stock in the district (private sector and council owned) is maintained to a high standard• Support households with complex needs to secure suitable accommodation The report will share with members details of any determinations made against the council by the Housing Ombudsman, this will ensure that the council is being transparent with the decisions made and is acting on the orders made by the Ombudsman to ensure we continue to deliver a high standard of homes.	
DIRECTORATE POLICY CONTEXT: The Housing Ombudsman Complaint Handling Code sets out that landlords should provide their governing bodies with information on their performance on complaint handling, to include showing that we have complied with any orders made by the Ombudsman. As a landlord we have to ensure compliance with the Housing Ombudsman Complaint Handling Code as failure to do so could result in a complaint being referred to an appropriate regulator.	
FINANCIAL SUMMARY: As a result of the determinations made by the Housing Ombudsman between June 2021 and April 2022 the Council was ordered to pay £1250.00 in compensation. An additional £400 had already been made on one case and this figure was supported by the Ombudsman and referred to in their report.	

1. PURPOSE OF REPORT

- 1.1. The purpose of this report is to present to committee an overview of the determinations made by the Housing Ombudsman for the period 2021 to 2022

2. RECOMMENDATIONS

- 1.2. It is recommended that the Housing and Wellbeing Committee
- 1.3. Note the contents of the determination report.
- 1.4. Note that the Council has complied with the orders made by the Housing Ombudsman in their determinations
- 1.5. Note the improvements made to the service as a result of the determinations

2. EXECUTIVE SUMMARY

- 2.1. This report presents members with an overview of the complaints determined by the Housing Ombudsman for the period 2021 to 2022 the report also identifies areas for improvements in complaint handling and service areas. including the improvements, we have made as a result of these determinations.
- 3.2 The Housing Ombudsman set out that their approach to investigating and determining complaints is to decide what is fair in all the circumstances of the case. 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.
- 3.3 The Housing Ombudsman Complaint Handling Code sets out that landlords should report to their members regular updates on their complaint handling performance and their compliance with any Ombudsman orders.
- 3.4 For the period between June 2021 and April 2022 we received five determinations by the Housing Ombudsman. Of those determinations three found service failures, one found maladministration, and one found no maladministration. Of the five determinations four were in relation to our repairs service and one was in relation to noise.

3. DETAIL

- 3.1. During the period June 2021 and April 2022 the Housing Ombudsman made five determinations in relation to complaints made to the Council. These determinations are published on the Housing Ombudsman's website three months after the decision date to ensure our tenants can better hold us to account on the way we handle complaints.
- 4.2 The Housing Ombudsman may issue one of the following outcomes when making their determination.

- **Maladministration** – where the landlord has failed to comply with its legal obligations or its policies and procedures, or where the landlord has unreasonably delayed in dealing with the matter. This could be a finding of service failure, partial maladministration, maladministration, or severe maladministration, depending on the seriousness of the failure and the impact on the customer.
- **No maladministration** – where the landlord is found to have acted appropriately.
- **Redress** – where the landlord made redress to the customer which resolved the complaint satisfactorily in the Ombudsman’s opinion.
- **Resolved with intervention/early resolution** – where the complaint was resolved with the Ombudsman’s intervention
- **Outside jurisdiction (OSJ)** – where the Ombudsman did not have the authority to investigate. This could be for a variety of reasons including: the complaint had not been made within a reasonable timescale; the complaint did not meet the conditions of the scheme; or the matter was more appropriately dealt with by the courts, a tribunal, another complaint handling body or regulator.

4.3 When the Ombudsman issues their determination they may make an order, landlords are obliged to comply with any orders made in a determination where failures have been identified. We must then evidence to the Ombudsman that the orders have been complied with.

4.4 The Ombudsman may also make recommendations within their determinations and although they do not have enforceable compliance target dates we are expected to provide details updates to the Ombudsman within four weeks of the determination date.

4.5 **Determinations**

4.6 In order to arrive at the determinations both the resident and us submit information to the Ombudsman for their considerations. Below is an overview of the determinations and the orders and recommendations made by the Ombudsman.

4.7 **Determination 1 (June 2021)**

This complaint was about our response to our residents concerns about the repair of a bedroom ceiling that contained asbestos.

The ombudsman’s findings in relation to our handling of the ceiling repair

Determination (decision)

The Housing Ombudsman found that there was service failure by us in respect to the residents concerns about asbestos at their property and the subsequent handling of the repairs.

There was service failure in our initial handling of the repair in that we failed to appoint a contractor within a reasonable time.

The Ombudsman notes within the decision that accepted responsibility for this failure and apologised for it and that thereafter our handling of the repair was reasonable and in line with our policies and procedures. However they stated that our acknowledgement and accompanying apology was insufficient redress and that we failed to consider appropriate compensation.

Orders

Pay the resident £100 compensation

Recommendations

There were no recommendations in this case

The full determination is attached as Appendix 1

4.8 Determination 2 (August 2021)

This complaint was about our handling of the residents

- Reports of leaks to their garage roof and shed downpipe
- Reports of overflowing gutters, and the wrong repair to their balcony
- Our complaint handling

Determination (decision)

The Housing Ombudsman found that there was service failure in our handling of the resident's reports of leaks to their garage roof and shed downpipe.

The Ombudsman found that we had provided reasonable redress for its handling of the reports of overflowing gutters, and the wrong repair being undertaken to the resident's balcony.

The Housing Ombudsman made a finding of maladministration in our handling of the subsequent complaint.

The Ombudsman noted that while some delays to the repairs were unavoidable, due to the coronavirus pandemic, there was an acknowledged failing in the wrong water sealant being used on the resident's balcony. We provided reasonable redress, in line with the Ombudsman's remedies guidance for this failing. However, the Ombudsman stated that we had failed to redress our poor complaints handling, and our poor communication when there were delays repairing the resident's garage roof and shed downpipe.

Orders

Pay the resident the following compensation

£200 for our poor communication about delays repairing their garage roof and shed downpipe.

£250 for our handling of the subsequent complaint. This amount was increased due to the Ombudsman noting our continued failure to ensure we deal with our complaints in line with our complaint handling guidelines.

These payments are in addition to the £400 already offered for the damage to the resident's carpet.

We were further ordered to ensure that formal complaints are responded to in line with the complaint's procedure and the Ombudsman's Complaint handling Code. This may include additional staff training or changes to processes.

Recommendations

There were no recommendations made in this case

The full determination is attached as Appendix 2

4.9 Determination 3 (November 2021)

This complaint was in relation to our response to

- The residents report in relation to their upstairs toilet
- The residents request for compensation for reported damage to their rugs
- The residents report of a damp kitchen floor

Determination (decision)

The Ombudsman found that there was no maladministration in our response to:

- The residents report in relation to their upstairs toilet
- The residents request for compensation for reported damages to the rugs

They also found that there was reasonable redress in relation to our response to the resident's report of a damp kitchen floor.

They noted that whilst we could have been more proactive at an earlier point, that we responded promptly to every report to unblock their toilet, carried out investigations and replaced the toilet. After it was replaced, we continued to respond to the resident's reports and promptly investigated and effected repairs.

They noted that we did not identify we were negligent and therefore we not pay compensation for damage to possessions. The Ombudsman was not able to identify clear evidence in that regard and therefore, in the circumstances, declining to pay compensation was not an unreasonable response by us.

They noted that we accepted that laying flooring on top of existing flooring was problematic, however we offered to rectify the matter. On receiving the

resident's report, we invited further information. We offered to replace the kitchen floor. We persisted in its offers to assist. We offered to pay for the costs if the resident chose to arrange the replacement floor herself. Had the resident accepted the offer, the matter would have been rectified within a short period of the resident's report. They notes that this was, in the circumstances, a reasonable response to the resident's report and complaint.

Orders

No orders were made in this determination

Recommendations

We should contact the resident to make arrangements for the works to the kitchen flooring, if it has not done so already.

We should ensure that repairs staff check the repairs history for a property when logging new reports and that staff are aware of the need to escalate a matter where there is a history of repeat or similar requests.

We, having noted that the contractor's records were not the clearest, should, if we have not done so already, work with our contractors to ensure their record-keeping is improved and monitor this through our contract management arrangements.

It is noted that a blocked toilet is only deemed to be an emergency if there is only one toilet in the property whereas the Right to Repairs scheme does not so stipulate. The landlord should ensure that its repairs policy is in line with the statutory Right to Repair scheme. It is helpful that the repairs booklet is detailed as to the parties' respective responsibilities and contains home maintenance advice.

The landlord should ensure that it keeps a clear track of its complaints process, and its staff adhere to the timescales set out in its complaint's procedures.

It was noted that our complaints policy is under review, a response time of 25 working day (five weeks) is unduly lengthy. We were recommended to have regard for the Housing Ombudsman's Complaint Handling Guidance which sets out the response should be provided within 20 working days at stage two.

It was recommended that we review our compensations policy in order to provide a transparent and consistent scheme. We were referred to the Housing Ombudsman guidance.

While in the main, the provision of documents was helpful and complete, there were delays. We should ensure it responds fully and promptly to the request for documents by the Ombudsman.

The full determination is attached as Appendix 3

4.10 Determination 4 (January 2022)

The complaint was in relation to:

- Our response to the residents reports of noise nuisance
- Our complaint handling

Determination (decision)

The Housing Ombudsman found maladministration by is in respect of our:

- Response to the residents reports of noise nuisance
- Our complaint handling

The Ombudsman found that our handling of the resident's reports of noise was not appropriate. That we did not take all the action that would have been appropriate and reasonable to take, and we failed to refer the case to environmental health within a reasonable time so that the level of noise could be established with a view to reaching a view on whether or not it amounted to a statutory nuisance.

Our complaint handling was not appropriate. There were delays at several stages and we failed to provide full responses and follow its complaint procedure which meant that the resident had to submit three separate complaints before they went to the Ombudsman.

Orders

A senior manager to apologise to the resident for the failings identified in the Ombudsman's report – relating to both our response to noise and our complaint handling.

Pay the resident the sum of £600 to reflect the impact the distress and inconvenience these failings had on her.

Assess the sound insulation of the floor/ceiling between the property and the flat above and compare this to the sound insulation of other flats in the building to assess for a defect specific to the resident's property (as recommended by environmental health).

Provide training for staff dealing with ASB/noise complaints, so that staff are aware of when a referral to environmental health is appropriate to assess the level and extent of the noise.

Provide complaint handling staff with training to ensure that its findings within complaint responses are evidenced and, where further action is required, to set out that action.

Recommendations

It was recommended that we consider carrying out the other recommendations made by environmental health and give the resident an update on what action, if any, we decide to take.

The full determination is attached as Appendix 4

4.11 **Determination 5 (April 2022)**

The complaint was in relation to:

- Our response to a report of flooding in the property following a burst bathroom pipe and the amount of compensation offered.
- Our complaints handling.

Determination (decision)

The Ombudsman found that we offered the resident reasonable redress that satisfactorily resolved their complaint about its response to their report of flooding in the property following a burst bathroom pipe and the amount of compensation offered.

The Housing Ombudsman found that there was service failure in our complaints handling.

The Ombudsman stated that we had completed works to the property therefore bringing the resident to the position they would have been in had the leak not occurred. There were delays in completing the repairs and poor workmanship which exacerbated the inconvenience caused to the resident and their time and trouble in pursuing her complaint. However the Ombudsman found that our offer of compensation with its payment for new carpets constitutes redress which satisfactorily resolved the resident's complaint.

There were failings in our complaint handling insofar as:

We sought to resolve the complaint informally initially but did not confirm its understanding of the complaints being raised at the time nor explicitly make clear the approach we were taking, including why we would not be sending formal complaint responses at that time.

When we registered a formal complaint, we did not take the necessary steps to confirm our understanding of the resident's complaint and therefore to provide clarity in its complaints handling.

The resident was inconvenienced by having to wait for the completion of the window works before we investigated their formal complaint.

When responding to the resident's formal complaint we did not consider the particular details of the conduct of staff and contractors that had been complained of, thereby missing the opportunity to resolve this aspect of the resident's complaint. With regards to the resident's complaint that post had been opened and that her tumble dryer had been broken by operatives, these issues were not considered at any stage which was another omission.

Orders

Pay the resident £100 in respect of the distress and inconvenience, and time and trouble they experienced as a result of the failures in our complaints handling.

Write to the resident to confirm whether it considered their reports of their post being opened and their tumble dryer being broken by operatives at the time. We should also make clear our current position on these matters.

We were ordered to arrange a pipe survey/assessment to be carried out as soon as possible (within the next four weeks) and to arrange repair/replacement works according to the outcome.

Recommendations

There were no recommendations

The full determination is attached as Appendix 5

4.12 Learning

All orders made by the Ombudsman have been complied with and evidence provided to the Ombudsman in line with their protocol

Recommendations have been actioned and following the investigations carried out by the Ombudsman we have taken the following actions to address the learning points.

- Implementation of a new Compensation Policy to ensure consistency when deciding on redress.
- All housing staff undertook the e-learning training provided by the Housing Ombudsman
- Our corporate complaint policy was updated in September 2022 to ensure compliance with the updated Complaint Handling Code. The

updated policy also ensures that the process for making a complaint is simpler by removing the service level stage.

- We have created a complaint feedback form to be sent to all residents when their complaint is closed, this gives us real time customer feedback on our complaint handling so we are continually working to improve the service we deliver.
- We have developed letter templates to ensure consistency across the housing service when complaints are responded to and to ensure continued compliance with the complaint handling code.
- An ongoing article is placed in our resident newsletter to highlight who the Housing Ombudsman are and how residents can contact them, and how they can assess our complaints process.

4.13 Future improvements

Following the recent approval of the updated corporate complaint policy we are developing an internal process for housing staff to ensure that the policy is fully implemented and complied with, and to ensure ongoing compliance with the complaint handling code

We are developing further training for complaint handlers to ensure consistency when responding to complaints and that they remain up to date with their requirements against the Complaint Handling Code

The implementation of our new housing management system will allow us to improve the ways we capture and report on complaints.

4. CONSULTATION

- 4.1. There is no requirement to consult, and residents will be made aware of our performance in relation to our complaints via our annual report and our residents' newsletters.

5. OPTIONS / ALTERNATIVES CONSIDERED

- 5.1. This report is for noting only

6. COMMENTS BY THE GROUP HEAD OF CORPORATE SUPPORT/SECTION 151 OFFICER

- 6.1. Nothing to report

7. RISK ASSESSMENT CONSIDERATIONS

- 7.1. This report is a review of previous cases and as such poses no future risks. Our continued review of previous and new complaints will continue to inform our risk assessments.

8. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

- 8.1. This report asks committee to (a) note the contents of the determination report(b)note that the council has complied with the orders made by the Housing Ombudsman in their determinations and (c)note the improvements made to the service as a result of the determinations
- 8.2. The Housing Ombudsman Scheme is approved by the Secretary of State under section 51 of, and Schedule 2 to, the Housing Act 1996 as amended by the Localism Act 2011 and the Building Safety Act 2022 (the Act). The Scheme came into effect on 1 October 2022 and replaces the previous Scheme which was in operation from 1 September 2020. The determinations in this report were made between June 2021 and April 2022 before the new complaints handling code was in place.
- 8.3. The Act requires social landlords, such as Arun District Council, to be members of an approved scheme. The purpose of the Housing Ombudsman Scheme is to enable tenants and other individuals to have complaints about members investigated by a Housing Ombudsman.
- 8.4. The role of the Ombudsman is to resolve disputes involving members of the Scheme, including making awards of compensation or other remedies when appropriate, as well as to support effective landlord and tenant dispute resolution by others.

When investigating, the Ombudsman is concerned to establish whether the Council has been responsible for maladministration (which includes findings of service failure, maladministration and severe maladministration). This may include, but not exclusively, circumstances where the Council:

- a. failed to comply with any relevant legal obligations;
- b. failed to comply with any relevant codes of practice;
- c. failed to apply its own policies and/or procedures;
- d. delayed unreasonably in dealing with the matter
- e. behaved unfairly, unreasonably or incompetently;
- f. treated the complainant personally in a heavy-handed, unsympathetic or inappropriate manner

9. HUMAN RESOURCES IMPACT

- 9.1. No human resources impact identified

10. HEALTH & SAFETY IMPACT

- 10.1. No health and safety impact identified

11. PROPERTY & ESTATES IMPACT

11.1. No property & estates impact

12. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

12.1. There are no specific EIA or social value implications

13. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

13.1. There are no specific climate change implications

14. CRIME AND DISORDER REDUCTION IMPACT

14.1. There are no specific crime and disorder implications

15. HUMAN RIGHTS IMPACT

15.1. There are no specific Human Rights implications

16. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1 There are no specific FOI or Data Protection implications

CONTACT OFFICER:

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BACKGROUND DOCUMENTS:

Appendix 1 Determination 202010488

Appendix 2 Determination 202009397

Appendix 3 Determination 202012616

Appendix 4 Determination 202001255

Appendix 5 Determination 201805246