

REPORT

COMPLAINT 202001255

Arun District Council

10 August 2021

Our approach

The Housing Ombudsman's approach to investigating and determining complaints is to decide what is fair in all the circumstances of the case. This is set out in the Housing Act 1996 and the Housing Ombudsman Scheme (the Scheme). The Ombudsman considers the evidence and looks to see if there has been any 'maladministration', for example whether the landlord has failed to keep to the law, followed proper procedure, followed good practice or behaved in a reasonable and competent manner.

Both the resident and the landlord have submitted information to the Ombudsman and this has been carefully considered. Their accounts of what has happened are summarised below. This report is not an exhaustive description of all the events that have occurred in relation to this case, but an outline of the key issues as a background to the investigation's findings.

The complaint

1. The complaint is about the landlord's handling of the resident's:
 - a. Reports of leaks to his garage roof and shed downpipe.
 - b. Reports of overflowing gutters, and the wrong repair to his balcony.
 - c. Subsequent complaint handling.

Background and summary of events

2. The tenant's handbook explains that the landlord is obligated to repair the structure and exterior of the property including drains, gutters, and external pipes. The resident is responsible for clearing blocked sinks, gullies, wash hand basins, and bath outlets. There is no specific mention of a shed in the resident's tenancy agreement with the landlord, nor is it detailed on the mutual exchange property acceptance order as being the resident's

responsibility. The shed appears to be part of the structure of the property, and therefore any leaks to this would be the landlord's responsibility to repair. The landlord accepted responsibility for the shed repairs.

3. On 10 May 2019, the landlord raised a repair for a downpipe by the resident's porch (based on the resident's correspondence to this Service, this actually relates to the resident's shed). A follow-on repair was raised on 16 May 2019 to attempt to clear the blockage to the guttering. Both were marked on the landlord's repair records as completed on 29 May 2019.
4. The landlord raised a repair on 8 October 2019 for a leak to the shed downpipe. Another follow-on repair was raised on 24 October 2019 for the drain.
5. On 2 November 2019, the resident reported to the landlord that there was a leak coming through the garage ceiling. On 5 November 2019, the landlord attended to complete a repair to the downpipe. The landlord raised an inspection for the garage leak on 13 November 2019, noting that this was possibly coming from the balcony walkway above. On 29 November 2019, it was reported back that the garage roof had been treated with a water sealant, but this was peeling away, and needed drying out, reapplying, the flashing repointed, and a water sealant applied to both walls.
6. The inspection for the garage leak was marked as complete on 2 December 2019.
7. The resident asked the landlord for an update on 17 December 2019 and expressed dissatisfaction that it had not yet repaired the shed roof and leaking garage, nor updated him.
8. The landlord's contractor informed the landlord on 19 December 2019 that the resident asked to rearrange an appointment for 24 December 2019, and so this was rebooked for 10 February 2020.
9. On 3 February 2020, following the landlord confirming the new appointment date, the resident advised that he had only been given a day's notice for the appointment on 24 December 2020. He also said that he had asked a manager to contact him after the allotted 20-day time scale to complete the repairs expired, before 24 December 2019.
10. In the resident's complaint to the landlord, dated 10 February 2020, the resident expressed dissatisfaction with the repairs delay; that the landlord cancelled an appointment for 10 February 2020 due to rain; and that he did not receive a response to his email of 17 December 2019. The resident asked for compensation for damaged items stored in the shed, and for the day he took off work.
11. The landlord replied on 18 February 2020. It said that it had passed the resident's complaint to a manager. It also advised that its roofing

contractor attempted to call the resident on several occasions in the past week, but there had been no response. The landlord advised that it had booked a provisional appointment for 20 February 2020. The resident asked for all repairs to be confirmed in writing or email, as he had had problems with appointments not being kept or changed without letting him know. He added that he could not always answer the phone while working, and a previous manager had confirmed he could communicate via email.

12. On 20 or 21 February 2020 (this is not entirely clear from the information provided to this Service) the landlord carried out works to the balcony walkway/garage roof area.
13. On 20 February 2020, the resident chased a complaint response or acknowledgment, and asked to escalate his complaint. On 21 February 2020 he said that he had cleared the shed and noticed that it was leaking from several places, and some parts felt saturated. Also, he reported that the guttering was regularly overflowing.
14. The repair to the shed downpipe was marked as complete on 24 February 2020.
15. Between 24 and 26 February 2020 the resident reported that the drain under his kitchen window was blocked, and therefore flooding his porch. This was exacerbated by the gutters overflowing directly above the drain. The resident also reported that the water sealant the landlord applied to his balcony walkway was still wet, and he believed that the product used was not designed to be walked on.
16. On 26 February 2020, the resident expressed his dissatisfaction with the repair delays and lack of response to his complaint. On 27 February 2020, the landlord raised a repair to carry out a camera survey of pipes. The was completed on 28 February 2020, according to the landlord's repair records.
17. The resident pursued an update on 5 March 2020 regarding the outstanding shed repair. On 9 March 2020, the landlord raised a repair to the drainage, and, on 10 March 2020, it noted that its contractor attended and recommended that a roofer complete the shed roof repair.
18. On 10 March 2020 the resident pursued an update regarding the repairs, highlighting that he was unable to use the balcony. The landlord responded that it had been unable to contact the resident on 26 February 2020 to give an update. It confirmed that the product used on the balcony may not have been suitable for the area, and so it was arranging to visit again. In the meantime, it said that it would be in touch to carry out the works to the drain and 'flat roof'.
19. On 12 March 2020, the landlord's contractor wrote to the resident to confirm that it would attend on 16 March 2020, weather permitting, to carry out repairs to the drains and guttering. This repair was successfully

completed. The landlord approved a quote on 17 March 2020 to replace the existing shed felt roof.

20. In an update to the resident, on 18 March 2020, the landlord explained that its contractor proposed to fit tiles to the balcony walkway, to resolve the problem with the wrong water sealant being used.
21. From 16 March 2020 people across the UK were advised to work from home and avoid contact with others, with 'lockdown regulations' coming into effect on 26 March 2020. Guidance for landlords, tenants and local authorities was published on 28 March 2020, recommending that "access to a property is only proposed for serious and urgent issues" and acknowledging that "current restrictions may prevent routine and obligatory inspections. While resources are stretched, we are recommending a pragmatic approach to enforcement from local authorities. Landlords should also know they should not be unfairly penalised where COVID-19 restrictions prevent them from meeting some routine obligations".
22. On 15 April 2020 the landlord wrote to the resident to confirm that a quotation to re-felt the shed at the property had been approved and its contractor would soon arrange an appointment. It advised him that this, however, may not take place until after the coronavirus restrictions were eased.
23. In a letter to the resident, dated 16 April 2020, the landlord apologised for the delay in completing repairs, which it said was due to prolonged periods of heavy rainfall affecting completion. It confirmed that a repair was cancelled at short notice on 10 February 2020, due to adverse weather conditions; however, the repair to the roof and balcony was completed on 21 February 2020. The landlord acknowledged that the wrong product was used on the balcony and said it would rectify the error when the coronavirus restrictions were lifted. Finally, the landlord said that it could not compensate the resident for the cancelled appointment, as it notified him as soon as it was aware that works were unable to take place, and any claim for damaged belongings was a matter for the resident to claim via his contents insurance. In sending documents to this Service, the landlord has advised that this letter should be treated as its response at stage one of its complaints procedure. However, this was not made clear in the letter to the resident.
24. The resident explained that he was unhappy with the landlord's letter on 20 April 2020, because the repair request for the leaking garage ceiling was made in November 2019 and the landlord did not take action until 21 February 2020, before the implementation of the coronavirus restrictions. He also said that the issues with the roof and downpipe had been reported on multiple occasions, but the landlord did not complete a lasting repair. Therefore, the resident asked to be compensated for damage to his items in the shed. Finally, the resident expressed his dissatisfaction that the landlord had not responded to his complaint.

25. On 24 April 2020, the landlord replied that the delay in completing the roof repairs was due to long periods of wet weather causing a backlog of similar repairs. It confirmed that, when the leaking downpipe was reported in April 2019, the cause of the leak was identified as a blocked downpipe, which was cleared. When this re-occurred in October 2019, it carried out further investigations and a new defect was identified, requiring works to the roof. The landlord explained that on each occasion the downpipe was cleared. It confirmed that the roofing work to the shed was identified in October 2019, and damages to the resident's belongings were a matter for his contents insurers. The landlord said that the manager responsible for investigating the complaint attempted to call the resident on 11, 12 and 14 February 2020, and then sent an email on 18 February 2020, after which the manager was in regular contact with the resident.
26. On 10 May 2020, the resident asked for an update and the landlord advised that it was only completing emergency repairs, due to the coronavirus restrictions, and would be in contact regarding the shed and balcony repairs when restrictions had eased. The resident asked for a timescale for the repairs on 15 May 2020, noting that the government was easing work restrictions and had issued guidance. He also noted that the repairs required were to the external of the building and so contractors would not need to encounter his family or belongings.
27. On 18 May 2020, the Housing Minister wrote to all social housing residents via representative bodies to confirm that 'landlords should be able to carry out routine as well as essential repairs for most households. There will be a backlog of repairs that they will need to address, so it may take longer than normal to carry out more non-essential work.'
28. The resident asked for an update on 27 May 2020, and, in reply, the landlord confirmed that it was in the process of remobilizing its repairs service and would write to residents in the coming week to communicate its plans. It confirmed that the repair was a priority, and it was in communication with its contractor about how to complete the repairs moving forward.
29. Further guidance was published for landlords, tenants and local authorities on 1 June 2020, confirming that landlords could 'now take steps to address wider issues of repairs and safety inspections, provided these are undertaken in line with public health advice' and 'where workforce is available and resources allow, landlords or contractors are now able to visit most properties to carry out both routine and essential inspections and repairs, as well as any planned internal works'. It was acknowledged that 'some landlords will have a backlog of repairs that they will need to address, so it may take longer than normal to carry out more non-essential work.'
30. On 5 June 2020, the landlord advised the resident that it would like to start making arrangements with the resident to progress his outstanding repairs, now that its contractor was remobilizing.

31. On 17 June 2020, this Service asked the landlord to confirm what stage the resident's complaint was at and to provide a complaints response.
32. The landlord advised the resident on 23 June 2020 that its contractor had unsuccessfully called the resident on numerous occasions to book the repairs. After further discussion with the resident, the landlord sent the resident's email address to the contractor.
33. According to the landlord's repair records, on 26 June 2020 it renewed the balcony deck covering. The landlord was also due to carry out works to the resident's shed roof on 30 June 2020, but this was rearranged due to rain and completed on 1 July 2020.
34. On 30 June 2020, the resident asked to make a stage two complaint, expressing his dissatisfaction with the difficulty he experienced in trying to progress his complaint. He remained unhappy with the delays in the landlord fixing the leaks in his garage and shed, which had also been reported in April and May 2019; that he was unable to use his balcony due to the contractor's error; with the cancelled appointments due to rain; and poor communication. The resident asked for compensation for the time taken and distress he experienced in pursuing the repairs, for the belongings damaged by the shed leak, and for the replacement of the underlay and carpet in the lounge. He asked for the latter, because this was stained by the substance used on the balcony being walked into the house and carpet when people came in from the balcony.
35. The landlord updated the resident on 30 June 2020 and said that it would start a formal complaints investigation, complete this within 20 working days, and the Chief Executive or a Director would review and sign off the response within an additional 5 working days. It gave the 3 August 2020 as its response date.
36. On 9 July 2020, the resident asked for an update on the repair to unblock the guttering above his balcony and the landlord confirmed this would be done promptly. On 10 July 2020, the landlord confirmed it instructed its contractor to proceed with the gutter cleaning works and to also confirm that the issues with the downpipe were fully resolved. On 10 July 2020, as per the landlord's complaint records, the landlord cleared the downpipe/stack pipe and, on 23 July 2019, it completed gutter clearance/cleaning at the property.
37. Between 27 and 29 July 2020 the landlord and resident liaised regarding a visit for the landlord to post inspect the works. The landlord completed the inspection on 3 August 2020 and confirmed internally that the balcony repair and shed roof repair had been completed to the resident's satisfaction. However, the resident reported that his carpet was damaged by the landlord's contractor using the wrong product on the balcony walkway, and a further complaint response was required regarding the shed roof repair.

38. On 4 August 2020 the resident expressed his dissatisfaction with the landlord's handling of his complaint, specifically that it did not meet its targets without him having to remind it. The landlord apologised on 5 August 2020 and confirmed that it would respond by the next day.
39. In the landlord's stage two complaint response, dated 6 August 2020, it said that, following the report of repair, it informed the resident that there was a backlog. Initial attempts to carry out the repairs were re-scheduled due to the resident being given short notice, or the inclement weather. The landlord acknowledged that the resident needed to take time off work for the repairs, which then did not happen, and communication with him "was not great". The landlord explained that the weather was an important factor in external repairs. Nonetheless, the time taken to complete the repairs was excessive, and the works being carried out incorrectly on 21 February 2020 contributed to this. The landlord confirmed that the contractor used the incorrect product on 21 February 2020, and then it was unable to schedule a time or date to correct the problem until June or July 2020 due to the coronavirus restrictions. Moving forward, the landlord said that it no longer used the contractor involved and offered £400 compensation because of the damage to the resident's carpet.
40. The landlord confirmed that the issue with the shed roof (debris getting into the downpipe) was resolved in June 2020, following an inspection on 26 February 2020. It took some time to mobilise contractors for this, when restrictions began to be lifted, due to issues with supply chains, furloughed staff, and a backlog of work that had built up in the intervening period.
41. Regarding communication, the landlord said that it called the resident on 11, 12 and 14 February 2020, emailed him on 14 and 18 February, and its contractor also attempted to contact him on three occasions. The landlord said that emails from the resident at this time did not express any dissatisfaction with communication, and, while it was not ideal if calls were made during the normal working day, there were also times where calls could be made or returned. In conclusion, the landlord believed its attempts to contact the resident were reasonable.
42. Finally, the landlord acknowledged that, at the time of the resident submitting the complaint, it should have been made clear to him that it was to be dealt with as a service level complaint. It also said that it had changed its processes to ensure all complaints were acknowledged, and it was made clear what classification the complaint had been registered as. While it took over two months to formally respond to the complaint, the landlord highlighted that it was in contact with the resident during this time.
43. The resident had a previous case, reference 201901675 in which the Ombudsman determined that the landlord failed to handle the resident's complaint within its timescales, and service failure in respect of its complaint handling, was found. The Ombudsman made orders, requesting the landlord to take steps to ensure that formal

complaints were responded to in line with the complaints procedure. This included it making changes to its processes or carrying out staff training.

Assessment and findings

Policies and Procedures

44. The landlord categorises repairs under the following:

- a) Emergency: to be carried out within four hours or made safe and full repairs carried out at a later date.
- b) Next day: to be carried out within 24 hours.
- c) Urgent repairs: to be carried out within 5 working days
- d) Routine repairs: to be carried out within 20 days.
- e) General: to be commenced and completed within a specified time

45. The tenant's handbook states that the landlord will give residents reasonable notice of proposed visits, usually at least 24 hours.

46. The tenant's handbook also sets out that the landlord does not insure resident's possessions or decorations, nor is liable for any damage to the resident's property. It advises residents to have adequate insurance for the contents of their home, to enable them to replace lost or damaged possessions and, if necessary, redecorate their home.

47. Finally, the tenant's handbook advises that, it aims to respond to emails within ten working days or advise residents within five working days of the timescale for a full reply.

48. The landlord's website details its complaints policy. This says that, at stage one, it will acknowledge complaints within five working days, telling the resident the name of the officer who will be dealing with their complaint. The person investigating a stage one response will send the resident either a full answer or a progress report in writing within ten working days.

49. If the resident escalates their complaint to 'stage two', it will then be formally investigated by an officer from a different service area. Where possible, this investigation will be completed within 20 working days. If this is not possible, the resident will be sent a progress report indicating the timescales for completion of their investigation. When completed, the stage two response will be passed to either the Chief Executive or a Director who will then review and sign off the response, for this to then be sent to the resident, within an additional five working days.

Garage roof leak and shed downpipe

- 50.** In total, it took three months for the landlord to complete the repair to the garage roof/balcony walkway, and nearly four months to fix the downpipe. In the interim, an inspection was completed on or around 2 December 2019, and the landlord arranged appointments for 24 December 2019 and 10 February 2020, with the repair eventually being completed on 20 February 2020. The first two appointments could not be completed due to the resident not being given enough notice, and then due to rain preventing the works from being carried out.
- 51.** It is reasonable and usually necessary for a landlord to need to inspect works to understand what repairs are required, and the evidence demonstrates that the landlord did attempt to complete the works earlier than the date they were completed. While it was understandably frustrating for the resident to have booked time off work for a repair to be cancelled last-minute, due to rain, the landlord has explained that the work was dependent on the weather, and this was outside of its control. In line with the tenancy handbook, the landlord should, where possible, give 24-hours' notice for a repair. However, it was not a failing for the landlord to try to arrange an appointment with short notice on 24 December 2019, as, in some instances, short notice is unavoidable due to cancellations on other jobs or similar reasons. Short notice allows a landlord to try to make use of its resources, which might otherwise be wasted.
- 52.** The landlord did not reply to the resident's email, regarding the delays, on 17 December 2019. The landlord's complaint response acknowledges at times that its communication with the resident was "not great", but does not adequately address this or provide compensation for the resident pursuing a response or updates. The earliest appointment the landlord could provide, following 24 December 2019, was 10 February 2020. In the landlord's response, it said that it informed the resident at the time of his report that there was a backlog of repairs, due to wet weather. However, no evidence supporting the landlord's explanation has been provided, nor is there evidence of the landlord explaining the delays or managing the resident's expectations. These shortcomings, taken together, indicate service failure in landlord's handling of this issue, specifically in its communication with the resident.

Balcony repair and overflowing gutters

- 53.** When the landlord carried out works on 20 February 2020, the wrong water sealant was used on the resident's balcony, making it unusable. Unfortunately, shortly after the landlord explained its proposal to fix the issue and sought a quote for repairs to the shed roof, the government implemented coronavirus restrictions. These had an impact on the landlord's repairs service, preventing it from completing repairs within its set timescales. The landlord explained that the coronavirus restrictions affected its ability to respond to the resident's report of 21 February 2020 about the guttering overflowing. This was repaired on 23 July 2020.
- 54.** Due to the government's coronavirus guidance, and the subsequent backlog of repairs once restrictions were eased, it was

understandable, in the circumstances, for the landlord to delay repairs following 16 March 2020. The evidence demonstrates that the landlord updated the resident between April and June 2020, provided an explanation for the delays, and the repair to the balcony was completed on 26 June 2020. The shed roof repair was completed on 1 July 2020. This timeframe was reasonable, given the circumstances and the government's guidance at the time, but, if the original error with the sealant had not occurred, matters with the balcony, at least, would have been resolved before the lockdown started.

55. The resident requested compensation for the items damaged by the leak in his shed. The landlord referred the resident to his contents insurer, which was in line with its tenants handbook, and therefore reasonable. However, there was an acknowledged service failure by the landlord, in its contractor using the incorrect water sealant on the property's balcony. This, understandably, would have caused frustration and inconvenience for the resident, especially during the lockdown, and the resident reported that the substance used had created a stain on his carpets.

56. Where there are admitted failings by a landlord, the Ombudsman's role is to consider whether the redress offered by the landlord (in this case, an acknowledgment of its error, an apology, changing its contractors, and offering £400 compensation for the damage to the resident's carpet) resolved the resident's complaint satisfactorily in the circumstances. In considering this, the Ombudsman takes into account whether the landlord's offer of redress was in line with the Ombudsman's Dispute Resolution Principles: be fair, put things right and learn from outcomes.

57. The £400 compensation offered was in line with the Ombudsman's own remedies guidance. The apology recognized the distress and inconvenience that its mistake when sealing the balcony may have caused, and the compensation offered by the landlord provided financial reimbursement for the damage to the carpet. The landlord demonstrated that it learnt from outcomes by no longer using the contractor involved, and also post-inspected all of the works to ensure the repairs were resolved to the resident's satisfaction.

Complaints handling

58. By unreasonably delaying in providing a stage one response and not providing updates, the landlord did not adhere to its complaints procedure. This necessitated a high level of involvement from the resident, who requested an update on his complaint on several occasions. Furthermore, the landlord did not clearly advise the resident that its letter of 16 April 2020 was to be treated as a complaint response, or how he could escalate this if he remained unhappy. Again, as a result, the resident contacted the landlord on several occasions, and subsequently this Service, to seek updates on his complaint.

59. In its stage two complaint response the landlord recognised its failure to acknowledge the initial complaint, and said that it had changed its processes to ensure all complaints were acknowledged and it was made clear what stage the complaint had been registered at. While this was partial redress, the landlord does not appear to have considered the number of times the resident had to chase updates. If it had properly considered this, the landlord would have apologised, and considered compensation for the time and trouble incurred by the resident. The landlord did not do this, and, accordingly, it did not provide a reasonable response to the complaint.
60. After considering case reference 201901675, I agree that the handling of this complaint was not acceptable given that the Ombudsman previously made orders, requesting the landlord to take steps to ensure that formal complaints were responded to in line with the complaints procedure. This included it making changes to its processes or carrying out staff training.
61. While we review cases on their own merits, if service failure is found in a previous case regarding the same issue, the Ombudsman must take this into consideration. Whilst the orders within case 201901675 were noted as complied, I accept that the same failures have been repeated. As such I cannot conclude that lessons have been learnt. As a result, I feel that further compensation is due.

Determination (decision)

62. In accordance with paragraph 54 of the Housing Ombudsman Scheme, there was service failure in the landlord's handling of the resident's reports of leaks to his garage roof and shed downpipe.
63. In accordance with paragraph 55(b) of the Scheme, the landlord has provided reasonable redress for its handling of the reports of overflowing gutters, and the wrong repair being undertaken to his balcony.
64. In accordance with paragraph 54 of the Scheme, there was maladministration in the landlord's handling of the subsequent complaint.

Reasons

65. 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. The landlord has provided reasonable redress, in line with this Service's remedies guidance for this failing. However, the landlord failed to redress its poor complaints handling, and its poor communication when there were delays repairing the resident's garage roof and shed downpipe. Service failure has been found previously over the complaint handling and it appears that the resident did not comply with what was previously ordered by this Service.

Orders

66. In light of the findings of this investigation, the landlord is ordered to pay to the resident (within four weeks of the date of this report):
- a. £200 for its poor communication about delays repairing your garage roof and shed downpipe.
 - b. £250 for its handling of the subsequent complaint. This amount has been increased due to the landlord's continued failure to ensure it deals with its complaints in line with its complaint handling guidelines.
67. These payments are in addition to the £400 already offered for the damage to the resident's carpet.
68. The landlord is further ordered to ensure that formal complaints are responded to in line with the complaints procedure and the Ombudsman's Complaint handling Code. This may include additional staff training or changes to processes.
69. The landlord should provide details of the action it will be taking to both the complainant and the Ombudsman within 4 weeks of this letter.