

# REPORT

*COMPLAINT 201805246*

*Arun District Council*

*26 January 2022*

## **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. Response to the resident's reports of noise nuisance.
  - b. Complaint handling.

## **Background and summary of events**

### *Background*

2. The resident has a secure tenancy agreement with the landlord that started in 2008. The property is a one bedroom first floor flat in a block of six flats. The landlord said it was aware that the resident had received support from NHS mental health services. The landlord is a local authority.

3. The tenancy agreement says that the resident is responsible for the behaviour of every person (including children) living in or visiting the property. This responsibility includes behaviour on surrounding land, in communal areas and throughout the estate in which their home is situated. The landlord will consider taking possession action and other legal remedies against any tenant or visitor found guilty of conduct causing nuisance, annoyance or disturbance, including antisocial behaviour likely to have caused a nuisance or annoyance. It lists examples of nuisance, annoyance and disturbance which include loud music.
4. The tenancy agreement goes on to say that the resident must not harass or allow any person living in or visiting the property to harass, any other person. It lists examples of harassment which include “Doing anything that interferes with the peace, comfort or convenience of other people ... unreasonable noise or disturbance”.
5. The tenancy agreement says that the landlord will investigate all reported cases of harassment or nuisance and take appropriate action.
6. The landlord’s antisocial behaviour (ASB) policy in place at the time gave examples of ASB which included noise nuisance, intimidation and harassment and threatening or aggressive behaviour. The policy said it would not consider the following as ASB: personal disputes, children playing in appropriate areas and at suitable times and usual household noise from daily living and domestic appliances. The policy set out what action the landlord would take in response to reports of ASB such as investigating and, in the case of reports of loud and frequent noise nuisance, respond within five working days. It said that, when reports were not considered as ASB, it would notify the resident within ten working days and advise of other remedies that might be open to them.
7. The policy set out the enforcement options available such as acceptable behaviour contracts which define acceptable behaviour such as limits on volume, timing of playing music etc. The policy also sets out the landlord will ensure effective partnerships with other local authority services to deliver a joined-up response to reports of ASB.
8. The landlord has a two–stage complaint policy. It aims to respond within ten working days at stage one and within twenty working days at stage two.

### *Summary of events*

9. The evidence shows that the resident has made noise complaints about the different people living in the flat above her property since 2010. The upstairs neighbour in this report moved into the property in 2015. This report will focus on events from 2018 onwards that led to the resident’s first complaint in June 2019. While this complaint also concerned planning issues, this matter would usually be for the Local Government and Social Care Ombudsman.

10. The resident made regular and frequent reports of noise from the neighbours in the flat above her. I have not included all such reports instance in this document. In February 2018 the landlord visited the resident about noise issues and said it would speak to the neighbour upstairs. No evidence has been seen of that.
11. In April 2018 the landlord visited the resident to listen to some recordings and noted "at times some did sound loud" but noted that, overall, the noise was daily living noise. The resident completed diary sheets of the noise she experienced in the property from February to August 2018.
12. On 13 August 2018 the landlord visited the resident and, while there, heard loud music from the flat above. It noted it asked the neighbour to turn down the music and they did.
13. Meanwhile on 16 May 2019 the landlord wrote to the resident saying that her behaviour towards the neighbour was unacceptable and cited her leaving the radio on while out of the flat and banging on the ceiling. It said it would make unannounced visits to both properties. No evidence has been seen of such visits.
14. On 13 June 2019 the resident made a formal complaint to the landlord about its response to noise reports she had made about the neighbour. She contended that the block was for elderly residents and did not have planning permission for general use housing.
15. On 30 August 2019 the landlord wrote to the resident at stage one of its formal complaints procedure. It said her housing officer had visited her on 18 July 2019 to discuss her noise concerns. It said that, based on the information provided, the noise was normal day-to-day noise associated with daily living and it had not received any complaints of this nature from other residents in the block. It noted that the resident had confirmed she did not want to move to alternative accommodation.
16. The landlord also said that there had been ongoing noise complaints from the resident dating back to 2010 relating to the flat above and it had made many visits to her. It assured the resident that it had dealt with all her reports in a fair and consistent manner. The landlord confirmed that the block was for general family accommodation but acknowledged that at the time she moved in it may have been occupied by more elderly residents and this may have impacted the type of noise she was experiencing now. It assured the resident that it would continue to investigate all allegations of noise and would look sympathetically on any request she made to move.
17. On 4 September 2019 the resident asked for her complaint to be escalated.
18. On 1 October 2019 the resident wrote to the landlord saying she had not had a response to her complaint escalation request of 4 September 2019. She asked that her complaint be escalated; she said the block was built as

flats for the elderly, and therefore she should not have a family living above her. The resident also set out why she was not happy with the landlord's response to the noise complaint.

19. On 29 October 2019 the landlord made a note of a home visit to the resident that same day to listen to recordings she had made. It noted that these were mainly of a child running around from upstairs and a few were of banging from upstairs and some with shouting and one with loud music. The landlord noted it had agreed that the heavy banging and loud music were unacceptable but explained that the child's footsteps were considered to be transferred noise and it could not stop a child from running around. It noted the resident refused to accept this was transferred noise.
20. The landlord further noted that the resident refused its offer of an acceptable behaviour contract; the resident said that she would continue to bang on the ceiling if she heard the child running around. The landlord also explained that, when it was built, the block had been for retired people only; however, this was no longer the case and it was used for general needs housing. The resident said she was awaiting a response on this point from the planning department.
21. On 11 November 2019 the resident reported "loud thumps and bumps on the ceiling" the previous Friday evening.
22. The landlord issued a final complaint response on 19 November 2019 saying there had been no breach of planning. The resident remained dissatisfied with this response and approached a designated person; the complaint was not brought to the Ombudsman at that time.
23. On 25 November 2019 the landlord wrote to the resident to arrange a visit on 28 November 2019 to discuss the issues that were ongoing between her and the neighbour. A meeting was arranged for 5 December 2019 but was cancelled by the resident on 2 December 2019 as she wanted to consider getting some professional advice. In that email the resident reported the neighbours standing outside her flat and filming her when she opened the door.
24. On the same day the landlord wrote to the neighbour arranging to meet with her on 28 November 2019. There was no evidence of that meeting taking place.
25. On 31 December 2019 the resident reported the child upstairs "running across" her ceiling late at night. She said that, when she had returned to the flat at 10:30pm the child had been shouting and there were "loud bangs" on her ceiling. She expressed her view that the neighbour was using the child "as a weapon".
26. On 3 January 2020 the landlord acknowledged the resident's email and said it had noted her report of noise. It added it had tried to make an appointment to visit her to discuss a good neighbour agreement but she

had refused. It said it had met with the neighbour about this and until it heard back from her to arrange the meeting, it would only note and record her communications. In response, the resident disputed that she had refused any meeting; she said the situation was unlikely be resolved through dialogue.

27. On 22 January 2020 the resident reported loud bangs from the flat above, "loud, pounding music" and the neighbour's child running around. She acknowledged that she had banged on the ceiling after a while as the noise was unreasonable and deliberate. She said she refused to sit in her car in the evening (to avoid the noise at the property).
28. On 27 January 2020 the resident reported to the landlord by email that for the last hour the neighbour had "banged, dragged things and bounced things". The resident said that she had made no noise herself but the neighbour was aware she had returned home and that was why she had started making noise. She added that the neighbour had deliberately put her washing machine spin cycle on about five times over a two-hour period when there was no water going into the machine. She said it was so loud, it vibrated through the flat.
29. In response, the landlord told the resident that it needed to meet with her to discuss an acceptable behaviour contract which would outline what was acceptable behaviour from each neighbour. The resident responded saying that was "an insult" that she was being asked to sign such a contract.
30. On 3 February 2020 the resident requested a visit from the landlord regarding the noise issues. There is no evidence that a visit that was suggested for 11 February 2019 took place. Meanwhile, on 5 February 2020 the resident had told the landlord she wanted to make a formal complaint about its handling of her reports of noise.
31. On 10 March 2020 the landlord wrote to the resident in response to her complaint. It said that the housing officer had said that one of the recordings demonstrated an unacceptable level of loud music; in relation to the footsteps, it said it was the housing officer's opinion that this was noise transference and part of day-to-day living. In order to resolve the matter, it said the housing officer had suggested entering into a good neighbour agreement, which the resident had refused. The landlord confirmed that it was satisfied that it fully understood the issues in relation to this matter and advised the resident to re-engage with the housing officer. It said that, if the resident remained dissatisfied, she could ask the councillor to look into the matter as a designated person.
32. On the same day, the resident told the landlord it had failed to act on her reports of noise for 21 months. She said the block was intended for the elderly; she added that she "had no quality of life" and wanted to be able to stay in the property without "a constant succession of thumps" on her ceiling. She said the neighbour's actions were intended to provoke her.

33. On 11 March 2020 the resident told the landlord there had been many recordings of loud music, not just one, and that the child running across the ceiling was not reasonable day-to-day noise. She said the noise was causing her stress and anxiety.
34. On 13 August 2020 the resident wrote to the landlord about the noise issues she was experiencing. In response the landlord said it would ask environmental health to install noise monitoring equipment and it would write to the neighbour asking her to be more mindful about noise transference.
35. On 13 August 2020 the landlord asked environmental health to install noise monitoring equipment in the property. They responded the same day saying that it could only act on an open case and it was not aware that there was one. The landlord did not respond to that email and therefore no action was taken by environmental team at that time.
36. On 17 August 2020 the resident complained about harassment by the neighbour. She said they were purposefully making her life in the flat "as untenable as possible". She said the landlord had failed to investigate these matters fully. The landlord treated this correspondence as a formal complaint. When acknowledging it, it said it would respond by 3 September 2020.
37. On 3 September 2020 the landlord apologised for the delay in responding which had been caused by unforeseen staff absences and said it would provide the complaint response by 9 September 2020.
38. On 4 September 2020 the landlord responded to the resident at stage one of its formal complaints procedure. The main points were:
  - a. It was sorry that she had felt it necessary to write again about the noise from the flat above her.
  - b. Its records showed that the housing officer had acknowledged and investigated each report of noise and each counter allegation. Where there were nuisance complaints where it did not have evidence to support taking further action, it would usually write to both parties and offer mediation as often it was a difference in lifestyle that was the main cause of the problem. It confirmed it had offered mediation and advice to both parties and that it had also offered the resident the opportunity to transfer to alternative accommodation, which she had declined.
  - c. It had contacted environmental health regarding the installation of noise recording equipment and asked if the resident was aware of when they would be installing it.
39. The landlord did not uphold the complaint and explained how the resident could escalate it.
40. On 14 September 2020 the resident reported the neighbour slamming doors in her flat. The landlord responded on 17 September 2020 saying it

would write to the neighbour about door slamming and would look into whether a slow closing mechanism could be installed on doors in the neighbour's property.

41. On 23 September 2020 the resident asked the landlord to escalate the complaint. She disputed that the landlord had dealt with reports of noise as they arose. She said that she had only had one visit relating to noise from the housing officer and said that deliberately banging with a hard object on the ceiling could not be part of someone's "lifestyle". She asked the landlord to review the video evidence she had provided. The resident also challenged that she had been offered alternative accommodation saying she had only been told that any request for a move would be looked at "favourably".
42. On 29 September 2020 the landlord acknowledged the escalation request.
43. On 2 October 2020 the landlord told the neighbour it would only install slow closing mechanisms on communal doors.
44. On 8 October 2020 the landlord told the resident that it had listened to the videos she sent in on 28 September 2020 and noted her concerns. It responded in detail to each video concluding that the noise was not deliberate or above the noise expected when people were in during the day. It said it had discussed with her and the neighbour ways to reduce noise and had asked them both to be mindful of noise from household activity but added that some noise might be unavoidable. The landlord said it would ask the neighbour to be aware of the noise from the front door slamming. The landlord offered a good neighbourhood agreement and to refer the case for mediation.
45. In an internal email dated 2 November 2020, the landlord noted an assurance that appropriate action had been taken in relation to the noise complaints. It noted that this action included carrying out announced and unannounced visits to the block and each party, letters of advice to each party and contact with other residents to seek supporting evidence relating to instances of noise and nuisance.
46. On 3 November 2020 the landlord chased up the noise monitoring equipment with environmental health. The same day the landlord asked it to open a noise complaint and wrote to the parties.
47. The landlord also said that it had offered a new mediation referral to the resident and the neighbour; and had also offered to draw up a good neighbour agreement for both parties to sign. It explained that the purpose of those options was to allow them to participate in resolving the disputes and to come to an amicable way forward. It added that both must be willing to participate and, to date, it had not had agreement from both sides to be able to facilitate these options. The landlord added that the behaviour between the resident and her neighbour was now having an impact on other residents in and around the block.

48. The landlord said it would now draw up an acceptable behaviour contract between them that they would need to sign and abide by the terms that would be set out. It explained that these measures would be tailored to ensure that the unacceptable behaviours that were impacting on other residents and on each other were negated. The landlord added that, if the unacceptable behaviour continued, it could lead to tenancy enforcement action being taken. It said it encouraged both parties to take up the offer of mediation. The landlord asked the parties to keep an incident diary, to report noise to it and environmental health and not to retaliate.
49. On 16 November 2020 the resident told the landlord, among other things, that she would not mediate because it “could never be productive” as it had already been tried and due to the hostility that had been allowed to develop between her and the neighbour.
50. On 18 November 2020 a local councillor acting as a designated person wrote to the resident with a complaint response saying that he had considered all the documents, had read the previous stage one and two complaint responses and had visited her in the property to listen to the videos she had in relation to the noise issues. The councillor concluded that the landlord had followed all processes fully but understood that the noise was affecting her day-to-day life. He said that he believed the best outcome would be to arrange a formal mediation session between the resident and the neighbour in order to resolve the dispute and asked her to let it know if she wished to proceed.
51. On 19 November 2020 the resident reported the neighbour had “thumped heavily across her ceiling”. She also complained that the neighbour left the communal window so wide open she could not reach to close it and it was cold.
52. On 21 November 2020 the resident reported that she had “knocked on her ceiling” due to the noise coming from the neighbour.
53. On 27 November 2020 the landlord wrote to the resident at stage two of its formal complaints procedure. The main points were:
- a. The Housing Team had taken appropriate and timely actions to assess and respond to the ongoing noise complaints. The required processes had been adhered to; the complaints submitted have been investigated with suitable follow up actions including liaison with Environmental Health and it had sent letters of advice to each party. Solutions had been proposed to try and resolve this issue including mediation, an acceptable neighbour agreement and an offer of alternative suitable accommodation.
  - b. Housing officers had contacted other residents to seek supporting evidence relating to instances of noise and nuisance; they had also carried out both announced and unannounced visits to the scheme in relation to this complaint. Housing Officers had also sought advice and

guidance from Environmental Health, who were responsible for oversight and application of statutory noise nuisance powers and had requested noise equipment to be installed in the property.

- c. The use of the word “lifestyle” in addressing noise complaints could lead to misunderstanding and it empathised with the resident’s frustration in it being applied in this case. The landlord considered it would have been clearer to fully explain, referencing Housing policy and applicable statutory definitions, how and why the decision was made. It recommended that the Head of Housing addressed this specific point to improve future responses.
  - d. It had reviewed the letter from the housing officer and believed it lacked factual detail and evidence and, furthermore, it did not explain what steps would be taken to resolve and conclude the situation. It said it considered it would have been appropriate to have included how it would liaise with environmental health to assess and address this ongoing noise complaint.
54. The landlord concluded that there was evidence that the appropriate processes, investigations and actions had been carried out by the housing team. For that reason, it did not uphold the complaint.
55. In the response, the landlord set out recommendations that would be considered including:
- a. Housing Officers refer complex noise nuisance cases to the local multi-agency, ASB case management forum to assist with problem solving and resolution with support and input from relevant partners, including environmental health.
  - b. In tenant communications, it would, wherever possible, cite facts and evidence to support decision-making in conjunction with language such as “lifestyle”.
  - c. It would write to the resident, in a timely manner, providing details of how it investigated the complaint, the actions taken to date and an explanation as to why decisions were taken thus ensuring she had received all relevant information.
56. The landlord signposted the resident to the Ombudsman.
57. Following this final response, the resident continued to report noise from the neighbour to the landlord; she also provided videos evidencing noise in her flat.
58. Following the installation of noise monitoring equipment for six days in early December 2020, the report from environmental health found the following:
1. A “remarkably high” volume of recordings was made: 197 in three days and in excess of 150 a day for each of the remaining three days. Recordings were made in the morning, afternoon and evening.

2. Meal preparation activities were audible, including chopping vegetables, movement of items of work surfaces and the opening and closing of kitchen cabinets.
  3. Each afternoon/evening there were frequent and significant periods of time when the child in the flat above was running around and squealing/screeching/shrieking. This could be accompanied by heavy thuds which might be due to jumping.
  4. The movement of furniture could be heard in afternoons and early evenings.
  5. Despite the TV playing, "movement noise" could "clearly be heard from the flat above".
  6. During day three, there was a period of at least ten minutes where the occupant of the flat above was talking quite loudly and, although specific words were not intelligible, the voice and undulating tones of speech were clearly audible despite the TV being on.
59. Environmental health said it was apparent that there was "almost constant noise" when the occupants were in the flat above. They concluded that the evidence presented did not constitute a statutory noise nuisance; however, there was evidence of significant ongoing noise disturbance. It concluded that there was excessive noise transfer due to poor sound insulation between the residential units and this was the primary cause of the ongoing disturbance.
60. Environmental health noted that the disturbance experienced by the resident was "significant and intrusive" and they questioned the standard and/or adequacy of the accommodation. They recommended that the landlord take the following action:
- a. 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.
  - b. Install carpets/rugs in the flat above with acoustic underlay.
  - c. Install a suspended ceiling in the resident's flat and provide insulation (if possible).
61. In mid to late December 2020 the resident recorded noise on a diary sheet. She subsequently told the landlord on 3 January 2021 that she would retaliate to the neighbour's noise; she said "They thump. I thump. They bang. I bang. They do it continuously. I do it continuously". She said she would do so "to protect" herself, rather than for anti-social behaviour reasons.
62. On 1 February 2021 the landlord wrote to the resident saying following the investigation by environmental health. It said that, although it was noted that the noise she heard was significant, it was day-to-day living noise and was not being done maliciously. The landlord said that, as there was no

statutory noise nuisance or ASB from the neighbour, it considered the resident's complaint concluded and would not be taking any action at that time.

63. On 2 February 2021 the resident told the landlord that, having seen the report of environmental health, she considered that further investigation was required and asked that the recording equipment was installed for a further period. She also asked that the landlord undertake the necessary remedial work to ensure her flat was fit for her to live in.
64. On the same day the resident's mental health worker wrote to the landlord that the noise issues had had a "significant and detrimental effect on the resident's mental and physical health". She strongly urged the landlord to take steps to improve the soundproofing of the flat.
65. On 15 February 2021, following contact from the resident earlier that month, the landlord provided the resident with details of how it had investigated complaints made to it relating to noise nuisance caused by the neighbour. In brief in relation to noise complaints from 2018-19, it said:
  - a. It had investigated her reports of noise from 2018-19; a housing officer visited the property in February 2018, listened to noise recordings and visited the neighbour's property also. Unannounced visits were also made.
  - b. As the evidence demonstrated this was not a statutory noise nuisance, therefore, a referral was not made to environmental health at the time.
  - c. A housing officer had visited the resident in October 2019 to listen to noise recordings and suggested that an acceptable behaviour contract could be drawn up to see if agreement could be reached in relation to music being played by the neighbour. This suggestion was not taken up.
66. The resident continued to report noise from the neighbour; the neighbour moved out of the block in May 2021.
67. When the resident approached the Ombudsman, she said that, since the neighbour had moved out, the landlord had installed an acoustic underlay now things were "okay" with new neighbours above her. She said the impact from the previous neighbour had meant she had "lost six years of her life". She described how the noise had been so unbearable that she had lived out of her car even in lockdown, returning to the flat at night. The resident said she wanted an acknowledgement that the landlord had not done everything it could have done in response to her reports of noise.

## **Assessment and findings**

### *The landlord's response to the resident's reports of noise nuisance*

68. It is the Ombudsman's role to assess the appropriateness and adequacy of the landlord's actions in responding to reports of ASB and the fairness and reasonableness of its response to the formal complaint. This does not include establishing whether a party is responsible for ASB; our investigation is limited to the consideration of the actions of the landlord in the context of its relevant policies/procedures as well as what was fair in all the circumstances of the case. The Ombudsman cannot tell the landlord to take action against neighbours.
69. The landlord's response to the resident's reports of noise was not appropriate. Despite long-standing noise complaints which previously had concerned different neighbours who had lived above the resident, the exploration of the noise issue was minimal from 2018 to 2020. There did not appear to be any written consideration of the diary sheets submitted by the resident.
70. The landlord acknowledged that it had made three visits to the property in February 2018, July and October 2019 (at least two other visits were identified from the evidence provided to the Ombudsman). The landlord reached the opinion that the noise was, in the main, day-to-day living noise; even when it accepted that there was door-slamming and loud music. There is little evidence of the landlord taking up the issue of these aspects of ASB with the neighbour; it would have been appropriate for it to have done so.
71. Despite internal assurances about the action taken (paragraph 45), there is no evidence provided to the Ombudsman of the landlord speaking to other residents in the block or of unannounced visits. However, it was reasonable for the landlord to have tried to prevent the relations between the resident and the neighbour deteriorating, therefore, the suggestions that they agreed and signed an acceptable behaviour contract and good neighbour agreement were appropriate.
72. It would have been reasonable for the landlord to have installed noise monitoring equipment much earlier to establish the extent and level of the noise. The landlord explained in correspondence with the resident that it did not do so because there was no statutory noise nuisance; however, while the landlord might have had its opinion on such matters, a decision about whether noise was a statutory nuisance could only be decided by environmental health.
73. The subsequent report by environmental health confirmed no statutory noise nuisance; however, it made clear that there was evidence of significant ongoing noise disturbance to the resident. The landlord was aware of the stress and anxiety the noise was having on the resident. The landlord's decision to close the case at that stage was not fair because it ignored the circumstances in which the resident had been living – and likely for some time – which environmental health had made recommendations to try to alleviate.

74. Case law has established that there is no legal requirement for landlords to retrospectively fit improved sound installation. While there is no legal obligation for the landlord to improve sound insulation, it would be appropriate for the landlord to check that the existing sound proofing had not fallen into a state of disrepair, as recommended by environmental health.
75. Had the landlord acted sooner, it is likely that environmental health would have reached the same conclusion that the noise was not a statutory noise nuisance (given the noise issues remained very similar). However, it would have given the landlord a better insight into the issues the resident was experiencing and given it an opportunity to take forward any recommendations made by environmental health at that time to try to alleviate the noise transference between the properties. The delay in referring this matter to environmental health was not reasonable.
76. The resident's view is that she was discriminated against because of her age; such a determination would be for the courts, rather than the Ombudsman. However, the evidence shows that the landlord could have done more in relation to the resident's reports of noise as well as acted sooner to try to establish the extent of the noise by a referral to environmental health. That failure – along with its failure to consider diary sheets, make unannounced visits to the block and act on the incidents where there had been loud music – amount to maladministration.
77. In relation to the failures identified, the Ombudsman's role is to provide fair and proportionate remedies where maladministration or service failure has been identified. 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 as well as our own guidance on remedies.
78. It is evident that the noise issues within the property had a serious and long-term effect on the resident. Had the extent of the noise – deemed significant and intrusive – been established sooner, the landlord could have taken action in line with environmental health's recommendations sooner which would likely have eased the issue to some extent. Financial compensation of £400 is appropriate in this case for the inconvenience, frustration and distress caused to the resident over a long period of time.

### *Complaint handling*

79. The landlord's complaint handling was not appropriate. Since mid-2019 the resident has made three complaints and every complaint response was delayed. There was only evidence of one letter apologising for that delay. The landlord did not adhere to the timescales set out in its formal complaints procedure and that is a service failure.
80. The first complaint covered both planning issues and the landlord's response to noise reports. However, the stage two response dealt with only the planning issue and did not deal with the resident's concerns about

the noise aspect of her complaint. Failure to deal with this fully meant that the resident had to make a further complaint. This meant the landlord lost the opportunity to resolve matters at the earliest opportunity and therefore an opportunity to improve the landlord/resident relationship.

81. The stage one response to the second complaint the resident made on 5 February 2020 signposted her to a designated person, rather than to stage two. That meant that the resident was unable to have progressed her case to the Ombudsman at that stage, should she have wanted to. Again, this resulted in a delay in her complaint reaching this Service.
82. In its final complaint response of 27 November 2020, the landlord identified where that its previous response could have been improved. It acknowledged that it had not explained matters fully or what steps it would take to try to resolve the situation. It would have been reasonable in its complaint responses to have set out exactly what action it had taken in response to the resident's reports of noise; without doing so, it offered no evidence to support its conclusion that it had dealt with all her reports "in a fair and consistent manner" (paragraph 16). It also offered no apology for these failings. In line with the Ombudsman's dispute resolution principles, it would have been reasonable for the landlord to have put matters right here by offering such an apology and an order has been made below with regard to complaint handling.
83. The landlord's complaint handling failures – the delays and the poor quality of several of the response (partially acknowledged by the landlord) – amounts to maladministration. Again, financial compensation is appropriate in this case of £200 for the time and trouble taken by the resident in pursuing three separate complaints in order to reach this Service. An order has been made, below.

### **Determination (decision)**

84. In accordance with paragraph 54 of the Housing Ombudsman Scheme there was maladministration by the landlord in respect of its:
  - a. Response to the resident's reports of noise nuisance.
  - b. Complaint handling.

### **Reasons**

85. The landlord's handling of the resident's reports of noise was not appropriate. It did not take all the action it would have been appropriate and reasonable to take and 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.
86. The landlord's complaint handling was not appropriate. There were delays at several stages and its failure to provide full responses and follow its

complaint procedure meant that the resident had to submit three separate complaints before coming to this Service.

## **Orders and recommendations**

### **Orders**

87. The landlord shall take the following action within four weeks of the date of this report and also provide the Ombudsman evidence of compliance with these orders.
- c. A senior manager to apologise to the resident for the failings identified in this report – relating to both its response to noise and its complaint handling.
  - d. Pay the resident the sum of £600 to reflect the impact the distress and inconvenience these failings had on her.
  - e. 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).
  - f. 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.
  - g. 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.

### **Recommendation**

88. It is recommended that, if it has not done so already, that the landlord considers carrying out the other recommendations made by environmental health and gives the resident an update on what action, if any, it decides to take.