

## LONDON BOROUGH OF CROYDON

REPORT:	CABINET	
DATE OF DECISION:	24 <sup>th</sup> April 2024	
REPORT TITLE:	Housing Ombudsman Determinations 2023	
CORPORATE DIRECTOR	Susmita Sen, Corporate Director for Housing	
LEAD OFFICERS:	Lara Ashley, Housing Transformation Lead <a href="mailto:lara.ashley@croydon.gov.uk">lara.ashley@croydon.gov.uk</a>  Paul Davey, Senior Strategy Officer <a href="mailto:paul.davey@croydon.gov.uk">paul.davey@croydon.gov.uk</a>	
LEAD MEMBER:	Councillor Lynne Hale, Cabinet Member for Homes and Deputy Mayor	
KEY DECISION?	No	REASON: The purpose of this report is to update Cabinet on the determinations of the Housing Ombudsman with regard to Croydon Housing Services in 2023
CONTAINS EXEMPT INFORMATION?	No	Public
WARDS AFFECTED:	All	

### 1. SUMMARY OF REPORT

- 1.1 Following service issues within Council Housing Management that arose between 2019-22, the purpose of this report is to advise Cabinet of four determinations of Severe Maladministration made by the Housing Ombudsman Service which were received by Croydon Council's Housing Directorate between May 2023 and September 2023.
- 1.2 The report sets out the response to these determinations within the context of the Housing Transformation programme and the actions taken to date to address the service issues raised by the Housing Ombudsman (HO) and its recommendations.

### 2. RECOMMENDATIONS

For the reasons set out in the report and its appendices, the Executive Mayor in Cabinet is recommended:

- 2.1 To note the Housing Service responses to these severe maladministration determinations at the strategic level within the Housing Transformation Programme, and action plans at a service level to address specific service concerns raised by these HO determinations.

### 3. REASONS FOR RECOMMENDATION(S)

- 3.1 Cabinet approved the Housing Transformation Programme in December 2022 to address the need to transform the services provided by the Housing Directorate to our residents.
- 3.2 This programme continues to be informed by resident satisfaction data, performance information and insight from complaints and determinations of the Housing Ombudsman.
- 3.3 This report sets out four severe maladministration determinations from the Housing Ombudsman which further shine a light on some specific failings within the service that took place mostly in 2021/22 which are being addressed both within the Transformation Programme and through service specific action plans.

### 4. BACKGROUND AND DETAILS

#### 4.1 The Housing Ombudsman Service

The Housing Ombudsman Service is in place to investigate complaints and resolve disputes involving tenants and leaseholders of social landlords including local authorities. The Housing Ombudsman (HO) works collaboratively with the Local Government Ombudsman (LGO), the New Homes Ombudsman, and the Regulator of Social Housing.

The Housing Ombudsman Service through its Complaints Handling Code sets out remedies for service failure which can be either discretionary ('should') or mandatory ('must') for the landlord to undertake. The service has increased in size as the number of investigations by the HO saw a 91% increase in cases in the first nine months of 2023-24, compared to the same period a year earlier.

The Code defines what constitutes a complaint and describes best practice in terms of accessibility of the complaints process for residents and for the administration of complaints.

When a resident refers a complaint to the HO there are a range of findings the HO may arrive at following an investigation. The most serious of these potential findings are:

**Severe Maladministration** – for the most serious failings.

**Maladministration** – Where a failure has adversely affected the resident.

**Service Failure** – Where there is a minor failing but action to put this right is still needed.

**Redress** – Where there is evidence of maladministration, but the landlord has identified and acknowledged this prior to the HO's formal investigation and has taken steps and/or made an offer of compensation, that puts things right.

## 4.2 Housing Ombudsman findings May 2023 – September 2023

From May 2023 to September 2023, the Council received four determinations of Severe Maladministration (see section 5 below) relating to complaints made to the Ombudsmen in 2022 relating to service failures that occurred between 2019 and 2022.

Fig.2

### Housing Ombudsman Determinations May 2023 to September 2023

No.	Date of Complaint	Date of Finding	Findings	Service Area
202204778	11.09.19	27.07.23	Severe Maladministration	Response to reporting of ASB
			Maladministration	Complaints Handling
2022118843	04.03.20	27.07.23	Severe Maladministration	Response to reporting of ASB
			Maladministration	Complaints Handling
202215975	21.03.22	04.05.23	Severe Maladministration	Handling of Mutual Exchange application
			Service Failure	Complaints Handling
202127675	16.03.22	08.09.23	Severe Maladministration	Handling of Adaptations
			Maladministration	Complaints Handling and Record Keeping

## 5. SEVERE MALADMINISTRATION DETERMINATIONS

### 5.1 Determinations

Receiving four findings of Severe Maladministration is of great concern to the Housing Service. This means that these residents have received an extremely poor service and the Housing Ombudsman, and the Regulator for Social Housing, will be expecting us to learn from these service failures and put them right as a matter of urgency.

The Housing Ombudsman has rightly urged us to use these reports as a further springboard to improve the services we provide to our residents.

These four cases include detrimental determinations on services dealing with anti-social behaviour, adaptations and mutual exchange. General points in these findings also focus on weaknesses in record keeping and complaints handling.

We fully accept the significant failings outlined in these cases (most of which occurred in 2021 and 2022) and have apologised unreservedly to the affected residents and provided the Ombudsman with a Learning Statement. This Cabinet would like to add our own apologies to these residents for the very poor service that they suffered.

In this statement we acknowledge these significant failings, make clear that we have complied with the orders of the Housing Ombudsman in each of these cases and will learn from these to improve our service and to seek to ensure that similar failings do not happen again.

### **5.1.1 Lessons learned**

We acknowledge that there were significant failures in the way we handled these cases and would like to again offer our apologies to these residents for the difficulties they experienced.

We have embarked upon a transformation journey which seeks to improve the housing services we offer to our residents. The work carried out by the Housing Ombudsman continues to support us in this journey by highlighting areas for improvement.

We have complied with the orders of the Ombudsman for each of the cases (see below) and we will continue to learn from these to improve our service for customers and mitigate the risk of similar failings recurring. Following these findings:

- We are thoroughly reviewing the ASB policy and procedure, with particular focus on the use of the risk assessments, action plans and management oversight.
- We have provided training to all staff, specifically around high priority ASB including harassment and hate crime, to ensure that staff are confident in dealing with reports of a similar nature in the future.
- We are reviewing the Mutual Exchange Policy and Procedure, and changes are being made to reflect the learning in this case and the findings of this review.
- We continue to expand our complaints team and are continuously working to improve our systems and procedures to ensure that all complaints are responded to and handled according to our policy and procedure, keeping customers updated at every stage.
- We have implemented Complex Case Forums to bring together teams and complaints officers to address those cases which are multidisciplinary and complex to ensure we provide a consistent and fair approach. These forums are also seeking to address complex service requests to prevent them becoming complaints.

We will continue to work collaboratively with the Ombudsman and value the opportunity to learn from our cases to drive improvements for our residents and we apologise unreservedly for how these cases were historically handled.

### **5.2 Complaint 1 (202204778)**

This case centred on a report of noise nuisance from the flat above due to the installation of laminate flooring. This was first brought to the Council's attention in 2018.

Noise recording equipment was installed but these recordings were lost by the Council. Lack of progress on the case was followed by a formal complaint in September 2019 and compensation of £300 offered along with a further offer to install recording equipment.

Although the neighbour was ordered to replace the laminate flooring with carpet this was never enforced, nor was the equipment provided.

The resident continued to seek resolution from the Council including a fourth complaint in April 2022, but continuing delay and inaction meant the case was referred by the resident to the Housing Ombudsman.

### **5.2.1 Housing Ombudsman Orders and recommendations**

Following investigation by the Housing Ombudsman the Council was ordered to:

- Pay £900 in compensation.
- Provide the resident with sound recording equipment or access to a recording app to allow her to evidence the level of nuisance to allow the landlord to act suitably.
- To apologise to the resident, at Director level, for the timescales in this matter.

### **5.2.2 Council's actions in response**

The Orders for this case were completed and evidenced to the Housing Ombudsman on the 23<sup>rd</sup> of August 2023 (for those to be completed within one month) and by the 20<sup>th</sup> of September 2023 (for those to be completed within two months).

## **5.3 Complaint 2 (202118843)**

The resident reported being the target of ASB from a neighbour from 2018 onwards. The allegations included noise nuisance, taking of unsolicited photos and verbal abuse.

The resident contacted the Council on this in April 2020.

Although the Council issued the neighbour with three warning letters through May and June 2020 the abusive antisocial behaviour continued to occur into and throughout 2021 without substantive remedy or support from the Council despite the continued issuing of warnings to the neighbour and an injunction being obtained against his behaviour.

The resident moved from her home in February 2023 via a mutual exchange.

### **5.3.1 Housing Ombudsman Orders and recommendations**

Following investigation by the Housing Ombudsman the Council was ordered:

- That the Director of Housing apologise to the resident.
- To pay compensation of £2900
- For the Council to carry out a full review of the case to identify learning and improve its working practices

### **5.3.2 Council's actions in response**

All the Orders in this case were completed and evidence provided to the Housing Ombudsman on the 8<sup>th</sup> of November 2023.

## **5.4 Complaint 3 (202215975)**

The resident found someone who wished to undertake a mutual exchange in December 2021 and made a formal application that month. Due to Council delays regarding an inspection and electrical works, the other party's landlord cancelled the exchange on 21 March 2022.

The resident made a formal complaint to the Council about this in March 2022 stating that the Council's delays caused the cancellation of the exchange. She also stated that previous delays by the Council in two other proposed exchanges meant they too had failed.

The Council apologised and suggested that the proposed exchange be resubmitted.

The resident referred the complaint to the Housing Ombudsman for the errors and delays of the Council.

#### **5.4.1 Housing Ombudsman Orders and recommendations**

Following investigation by the Housing Ombudsman the Council was ordered to:

- Pay £700 in compensation.
- To provide a written apology to the resident from the Chief Executive for the handling of the mutual exchange
- To review its mutual exchange process clarifying how it intended to learn from this case.

#### **5.4.2 Council's actions in response**

The Order for an apology was evidenced to the HO on the 23<sup>rd</sup> of June 2023 and evidence for the compensation payment was provided to the HO on the 29<sup>th</sup> of June 2023. We are currently reviewing the Mutual Exchange Policy and Procedure, and changes are being made to reflect the learning from this case.

### **5.5 Complaint 4 (2021276775)**

In April 2021 this resident was contacted by the council about the commencement of works to her kitchen and bathroom under the Decent Homes Programme.

The resident has a disability and health issues and her Occupational Therapist (OT) recommended that her bath be replaced by a level access shower as well as some level access works to her kitchen.

However, disagreements between the Council and the resident developed over the level of works outside of the remit of the Decent Homes Programme.

In March 2022 the resident made a formal complaint, which did not produce a satisfactory outcome at stages 1 and 2 of the complaints process, and the resident referred her case to the Housing Ombudsman to investigate.

#### **5.5.1 Housing Ombudsman Orders and recommendations**

Following investigation by the Housing Ombudsman the Council was ordered to:

- Pay the resident £3875 in compensation.
- Organise an OT assessment of the property within 8 weeks of the issue of the HO report, to be reviewed by Housing Management to consider whether the works should be completed with the decent homes works or separately.

#### **5.5.2 Council's actions in response**

The Orders for this case were all completed and evidenced to the Housing Ombudsman by 13<sup>th</sup> of December 2023.

## **6. HOUSING TRANSFORMATION PROGRAMME**

**6.1** In December 2022, Cabinet approved the Housing Transformation Programme, a three-to-five-year programme designed to deliver a comprehensive improvement in the services provided by the Housing Directorate.

**6.2** This programme, which Cabinet monitors on a regular basis, has been developed to transform these services to residents and to provide a roadmap for return to compliance with the Consumer Standards following a regulatory notice from the Social Housing Regulator.

**6.3** Many of the findings set out in these Severe Maladministration determinations from the Housing Ombudsman, are being addressed within the scope of this programme. These include, but are not limited to, the following projects within the programme:

- High level restructure and recruitment
- Revised Performance Framework
- Resident Engagement Strategy
- Staff Training Needs Analysis and Development Programme
- Customer Service Training
- Review of policies, procedures, business process and customer journeys.

**6.4** In addition, and with each significant step in this programme, we are checking with residents to make sure that the actions we are taking will address the concerns that residents have identified. Together with this, the Transformation Programme is monitored by the Housing Transformation Board – an independent body.

## **7. COMPLAINTS HANDLING**

**7.1** It is clear, (see Fig. 2) that a common theme within these Housing Ombudsman determinations is complaints handling.

The HO gives examples of failings in this regard throughout these four cases. These are broadly:

- Not addressing an expression of dissatisfaction as a formal complaint.
- Not contacting the resident to discuss his/her concerns before responding in writing.
- Delays in responses outside of the Councils response guidelines
- Responses failing to address or acknowledge that earlier information provided was not accurate.

Work has been ongoing for some time to improve this service.

With the introduction of a Customer Insights Manager in July 2023 our focus has been to re-invigorate our approach to complaint handling and we began a series of workshops with colleagues on effective complaint handling, learning from complaints and ensuring Stage 1 responses to complaints comprehensively address all the concerns raised by residents. We have supported our teams by creating templates in line with the guidance set out in the Complaint Handling Code to ensure we have consistency in our approach when responding to complaints.

Our Designated Complaints Officers are supported centrally by the Customer Insights Manager to ensure quality and performance is monitored and that we are learning from our service failures.

We have also implemented Complex Case Forums to bring together teams and Designated Complaints Officer's to address those cases which are multi-disciplinary and complex to ensure we provide a consistent and fair approach. Going forward, Action Plans that derive from multi-service failure highlighted by Housing Ombudsman determinations will be monitored and progressed through the Complex Case Forum.

We have now recruited to all vacant posts in the Complaints Team and have also taken firm ownership of the complaints process with regard to repairs, utilising our own repair inspectors to assess the complaint, determining the correct remedy and passing to our new contractors to resolve.

From April 2024 social landlords, such as Croydon Council, must produce an annual complaints performance and service improvement report that includes a self-assessment against the code ensuring complaints handling remains in line with Ombudman's requirements.

## **8. CONTRIBUTION TO EXECUTIVE MAYOR'S BUSINESS PLAN**

- 8.1 Improvements to the homes and housing services that we provide to Council tenants, is inherent in our response to these determinations by the Housing Ombudsman, and is key to ensuring the Council delivers against the Mayor's priorities to "Invest in council homes to drive up standards and develop a responsive and effective housing service" and "Develop our workforce to deliver in a manner that respects the diversity of our communities."

## **9. IMPLICATIONS**

### **9.1 Financial Implications**

The paper sets out the Housing Service responses to these severe maladministration determinations at the strategic level. Within the HRA budget for 2024-25 onwards there are provisions made for projects within the Housing Transformation Programme which contains action plans at a service level to address specific service concerns raised by these HO determinations.

Comments approved by Orlagh Guarnori, Head of Finance (Date 21/02/2024)

### **9.2 Legal Implications**

- 9.2.1 The Housing Ombudsman Service (HOS) investigates complaints concerning registered providers of social housing in England, including local authorities in respect of their landlord functions.
- 9.2.2 Once a complainant has exhausted the local authority's internal complaints procedure, complaints can be escalated to the Housing Ombudsman pursuant to Schedule 2, Housing Act 1996 as amended by s.180 Localism Act 2011.
- 9.2.3 The purpose of the Housing Ombudsman as set out in the Housing Act 1996, and amended by the Localism Act 2011, is to administer the Housing Ombudsman

Scheme as approved by the Secretary of State for Department for Levelling Up, Housing and Communities.

- 9.2.4 The Housing Act of 1996 requires social landlords, as defined by section 51(2) of the Act, to be members the Scheme. The Housing Ombudsman Scheme enables tenants and other individuals to have complaints about members investigated.
- 9.2.5 Schedule 2 and Paragraph 7 of the Housing Act 1996 and Paragraphs 54 and 55 of the Housing Ombudsman Scheme sets out the Housing Ombudsman's powers to make orders or recommendations following an investigation. The Scheme provides that the Housing Ombudsman's may uphold or reject a complaint and make orders or recommendations, including that the member:
- a. apologise to the complainant;
  - b. pay compensation to the complainant;
  - c. performs or does not perform any of the contractual or other obligations existing between the member and the complainant;
  - d. exercises or does not exercise any of the rights existing between the member and the complainant;
  - e. undertakes or refrains from undertaking works;
  - f. review their policy or practice in relation to a matter if that policy and practice may give rise to further complaints about that matter; and/or
  - g. takes such other reasonable steps to secure redress within the legal powers of the member.
- 9.2.6 Where the Ombudsman's consideration of a complaint finds evidence of maladministration the Ombudsman may order the member to take steps to put things right.
- 9.2.7 This report sets out the determinations and recommendations made by the Housing Ombudsman in respect of its findings of severe maladministration and the actions taken by the Council in response.

Comments approved by: Stephen Lawrence-Orumwense, Director of Legal Services and Monitoring Officer. (20/03/2024)

### **9.3 HR Implications**

- 9.3.1 In the event of poor customer service and associated complaints, it is possible that the council will need to address specific concerns via application of the council's HR policy framework with the staff concerned, following the established procedures in a fair and robust manner.
- 9.3.2 Any service redesign and restructuring required to address complaints and service failings will require the application of the HR policy framework, including the restructuring and reorganisation policy and procedure, observing due regard to consultation with the affected staff and their trade union representatives.
- 9.3.3 Further work to address the customer journey experience and workforce culture should be undertaken and be congruent with work in progress across the whole Council.

Comments approved by: Dean Shoesmith, Chief People Officer 8/3/2024

## **9.4 Equalities Implications**

- 9.4.1 The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in Section 149 of the Equality Act 2010. The Council must, in the performance of its functions, have due regard to its duty to:
- 9.4.2 Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act.
- 9.4.3 Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- 9.4.4 Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.4.5 Access to safe and secure housing has a great bearing on the health and wellbeing of our residents. There are clearly equalities implications for these determinations, which will be nuanced depending on each case, and require some thought as the service works to develop its action plans in response.
- 9.5.6 Equalities considerations will need to underpin any recommendations or actions arising from this work and be kept under review as the Council learns from this judgement and improves its approach and/or services.
- 9.5.7 This may include but not be limited to consideration of relevant protected characteristics as they pertain to the individuals involved, as well as consideration how the Council exercises its duty to advance equality of opportunity, particularly in terms of standard of services.

Comments approved by Helen Reeves, Head of Strategy and Policy (Date 08/03/24)

## **10 APPENDICES**

N/A

## **11 BACKGROUND DOCUMENTS**

N/A