

## London Borough of Waltham Forest

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Report Title	Case analysis of Housing Ombudsman's determination findings
Meeting / Date	Cabinet / 3 <sup>rd</sup> December 2024
Cabinet portfolio	Councillor Ahsan Khan, Deputy Leader (Housing & Regeneration)
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Wards affected	Not applicable
Public access	Open
Appendices	Appendix A – Timeline of events



### 1. Summary

- 1.1 This report provides a detailed summary and analysis of the key findings and lessons learned from a Housing Ombudsman determination received on 10 June 2024, with three severe maladministration findings.
- 1.2 The Housing Ombudsman is increasingly active in the sector and has a mandate for resolving disputes between the council as a landlord and our residents. We value their input and take seriously their feedback as it focuses on improving services to our residents.
- 1.3 The council takes all complaints seriously and in cases where the Housing Ombudsman has found failings, a detailed review is done to ensure lessons are learned. We have apologised to the resident involved in this case and paid them compensation. All orders and recommendations by the Ombudsman have been completed. We are committed to putting things right for this resident and making improvements to ensure no other residents experience the same issue.
- 1.4 Recognising the challenges facing the housing sector as a whole, as well as areas in need of improvement within Waltham Forest, we undertook a Housing Transformation programme. This is now in its second year and has delivered improvements in the services' use of systems, complaint handling and customer care.
- 1.5 The substantive aspects of the tenant's complaint concerned the Housing service's response to:

- Reports of leaks entering the complainant's property from an adjoining leasehold property.
- Damage caused by the leaks, including replacing a bath panel.

## **2. Recommendation**

- 2.1 Cabinet is recommended to note the contents of the report.

## **3. Proposals**

- 3.1 The scope of the Ombudsman's investigation covered a period from June 2022 to December 2023. A full case timeline is enclosed as Appendix A. Further to their investigation, the Ombudsman reached a determination of severe maladministration on the following aspects of the case:

### *3.2 Handling of repairs*

- 3.2.1 "The landlord failed to carry out repair works in line with its obligations. It failed in its management and oversight of property surveys, associated reports, appointments, and subsequent works orders. It failed to take appropriate steps to remedy water damage to the resident's property, many of these repairs remain over 1 year and 11 months later. The landlord failed in its oversight of, and communications with, contractors acting on its behalf. This resulted in a great deal of time, trouble, and distress for the resident in pursuing the matter."

### *3.3 Complaints handling*

- 3.3.1 "The landlord failed to comply with its complaints procedure and is in breach of the Ombudsman's Complaint Handling Code. The landlord did not fully engage with the resident during its complaints process, failing to respond to all concerns raised, or do so in a timely way. It failed to use its complaints procedure to put right what was wrong, and in doing so perpetuated the problems the resident was experiencing in progressing her concerns about repairs and property damage by its contractor."

### *3.4 Record keeping*

- 3.4.1 "Record keeping failures underpin the landlord's ability to action both repairs and complaint handling robustly. This Service has identified failings by the landlord in its record keeping. The only documentation the landlord provided to this Service relating to the repairs was a repair log spreadsheet and the resident's formal complaint."

## **3.5 Progress on orders**

- 3.5.1 The following table summarises the progress on each of the orders stipulated in the Ombudsman's report:

Order	Status
Within four weeks of the date of this report, acknowledge its failings in respect of the resident's experience and apologise to the resident in writing for the failures identified by this investigation. The apology should be made by the chief executive.	<b>Complete</b>
Within four weeks of the date of this report, inspect the property to establish what outstanding repairs are required, including: <ul style="list-style-type: none"> <li>▪ Establishing if all leaks have been resolved and any urgent repairs are needed to ensure health and safety requirements are met</li> <li>▪ Assess the property for damp and any necessary actions to resolve damp</li> </ul>	<b>Complete</b>
Within 2 weeks of the inspection, the landlord must confirm in writing to the resident and this Service what works will be carried out and the target date for these to be completed.	<b>Complete</b>
The landlord is ordered within four weeks of the date of this report to pay the resident £2075 compensation. This is further to the amounts already awarded to the resident during its local resolution process.	<b>Complete</b>
In accordance with paragraph 54(g) of the Housing Ombudsman Scheme, within six weeks of the date of this report the landlord should carry out a senior manager review of its handling of this case. This review should be presented to its senior leadership team and shared with the Ombudsman.	<b>Complete</b>

3.5.2 All works in the property are now complete to the resident's satisfaction.

### 3.6 Case analysis & insights

3.6.1 This section provides the outcomes of a detailed analysis of the Ombudsman's findings as a basis for lessons learned and service improvements (Section 3.4). The text in quotation marks is from the Ombudsman's case report.

### 3.7 Complaints Handling

3.7.1 Whilst the Housing service has made significant improvements to its complaints-handling processes since the period covered by this

investigation, the findings are an example of how poor handling of historic Stage 1 and Stage 2 complaints is at the root of maladministration and severe maladministration findings.

- 3.7.2 The evidence of multiple determinations is that the council's housing assets service has, in the past, failed to take the opportunity provided by the formal complaints process to build rapport with residents. This has undoubtedly contributed to the perception in this case of the resident as the driver of communications.
- 3.7.3 *"Based upon what this Service has seen, the resident has been the driving force in both communications with the landlord and in progressing repairs."*
- 3.7.4 The resident's initial Stage 1 complaint was handled as a service request when it was an expression of dissatisfaction. As such, an opportunity was missed to take a more proactive approach to coordinating the repairs required and building a productive relationship with the resident.
- 3.7.5 *"This [the decision to handle the initial stage 1 as a service request] was at odds with the Ombudsman's Code and the landlord's own corporate complaints procedure, which defined a complaint as an expression of dissatisfaction about the landlord, its services, or its staff, where a response or resolution is explicitly or implicitly expected."*
- 3.7.6 Although the Ombudsman acknowledges that both Stage 2 responses went "into greater detail", there is also legitimate criticism of the handling of Stage 2 investigations and responses:
- 3.7.7 *"Its stage 2 response dated 15 August 2023 acknowledged and apologised for failings. However, it failed to address the difference in versions of events about the whereabouts of the survey report the resident had been chasing, and said its contractor was responsible for this. It did however say another survey would be undertaken, but it failed to include any measurable timeframe for this to happen, simply asking the resident to contact it."*
- 3.8 Responding to repairs promptly - No access
- 3.8.1 These findings mirror other findings where there have been avoidable delays created by issues in securing access to adjoining/neighbouring properties to address leaks.
- 3.8.2 The issues caused by access, and a failure to evidence attempts at access, is a recurring theme which is contributing to unfavourable determination outcomes.
- 3.8.3 This is especially the case in situations where there is a dependency on a leaseholder to act to address a leak which is affecting a council-owned

property. These are circumstances in which the council is not directly responsible for addressing the leak. However, the expectation is clear that the Ombudsman expects landlords to be decisive, thorough, exhaustive, and resourceful in acting in the interests of its tenants to secure access to other properties, regardless of the ownership or property status.

3.8.4 *“This Service has seen no attempt by the landlord or its contractors to liaise with the leaseholder, and it was the resident who communicated to the landlord that the leak was repaired on 8 August 2022. The landlord could and should have done more, such as attempted to communicate with the neighbours or sought legal advice and possibly looked to obtain a warrant of entry to the above property.”*

### 3.9 Damp and mould

3.9.1 The determination findings as set out here reinforce the Ombudsman’s expectation that landlords adopt a zero-tolerance approach to investigating and resolving damp conditions, an aspect which is already integrated into the council’s taskforce-led approach.

3.9.2 *“The landlord says it has a zero-tolerance approach to damp. This Service has seen no evidence that the landlord has undertaken any specific investigation into the existence of damp at the property, or considered the associated risks and continued problems that can arise from persistent damp. This Service is concerned by the absence of steps taken by the landlord to investigate any problems or consider its duties and responsibilities around tackling damp in its properties.”*

### 3.10 Type of repair

3.10.1 It must not be assumed that the Ombudsman will look more favourably upon failings associated with repairs which may be viewed as non-essential and/or decorative.

3.10.2 *“Whilst this Service has seen nothing to suggest the damage [to the bath panel] is integral to the functioning and safety of the bath, it is understandable that the resident is unhappy and concerned about when this may be resolved, based on the other delays she has experienced and the continued lack of clarity she says surrounds the bathroom refurbishment.”*

### 3.11 Record keeping

3.11.1 The severe maladministration finding on record keeping is the first of its type received by the council, but broadly matches other similar findings by highlighting that landlords must have robust procedures in place which systematically require qualified professionals (e.g. building surveyors) to produce and store reports following property inspections.

3.11.2 *“The landlord has said that there were three surveyors appointed to the resident’s property to investigate the damages following the leak. Because of a lack of evidence, this Service was unable to identify three surveyors having been involved in inspecting the property. Furthermore, three surveyors investigating would suggest there would be three reports available to this Service to view. This Service has not seen any such documents, and there is no evidence that the resident was provided with copies despite her complaint and requesting this.”*

### 3.12 Compensation

3.12.1 The Ombudsman continues to challenge the amount of compensation / redress being awarded by the council, which it has consistently found to be disproportionately low relative to the extent of the failings identified and the impact which the failings have had on residents.

3.12.2 *“This Service considers the compensation offered for repairs was not proportionate to the distress, impact, inconvenience, and time and trouble experienced by the resident as a result of the landlord’s overall repair failings.”*

3.12.3 The Ombudsman is routinely asking landlords to provide the level of rent which the resident is paying or has paid, thereby inferring that the degree of compensation which they are awarding is derived from the resident’s rent contribution.

3.12.4 In cases of maladministration the Ombudsman is typically awarding in the region of £600 to £1000.

### 3.13 Lessons learned and service improvements

Lesson learned	Improvements already made, planned or recommended
Strengthen complaints-handling approaches.	<ul style="list-style-type: none"> <li>• On 1 April 2023, the council’s Housing Management and Repairs services migrated from a 20 to a 10-day timescale for Stage 1 complaints. The council is currently performing to a 93% response rate for statutory housing complaints.</li> <li>• At the same time, the Housing service overhauled its complaints handling process requiring that early contact is made with the resident.</li> <li>• The following externally led complaints-handling training was mandatory for all complaints handling staff:               <ul style="list-style-type: none"> <li>- HQN led training in March 2024</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- Westminster Insight led training in September 2024</li> <li>• In June 2024, a specific policy was developed for handling complaints within the Housing Ombudsman’s jurisdiction.</li> <li>• A commitment tracker for repairs complaints is now in operation, which prompts complaints handlers to track the progress of any commitment to action which is made in a Stage 1 or 2 complaint.</li> <li>• A Corporate Improvement Plan is in place to address the challenges created by the volume and complexity of Stage 2 complaints.</li> <li>• A recent self-assessment exercise against the Ombudsman’s statutory requirements highlighted a significant degree of compliance, with plans in place where compliance is not being met.</li> </ul>
<p>Improve success rate and quality of records in securing access to neighbouring/adjoining properties</p>	<p>The following measures have been implemented to accelerate case progress in circumstances where access has been problematic:</p> <ul style="list-style-type: none"> <li>• New No Access Protocol rolled out in November and December 2023, including robust documentation requirements.</li> <li>• Access Officer appointed and tasked with negotiating access to properties where access is problematic.</li> <li>• Complex case management infrastructure rolled out which includes long-standing cases which have been complicated by no access.</li> </ul>
<p>Ensure that all interactions with residents about their properties are systematically captured, including a requirement that Surveyors must routinely produce and store inspection reports following property inspections</p>	<p>Recommendations have been made which require surveyors to action the following within 48 hours of property inspections:</p> <ul style="list-style-type: none"> <li>• Produce a property inspection report</li> <li>• Email tenants with assurance, key findings and next steps</li> <li>• Raise works orders to contractors directly through systems rather than outside of systems by email.</li> </ul> <p>NEC Transform was introduced to housing services in September 2024. This requires that all interactions with residents are logged, thereby:</p> <ul style="list-style-type: none"> <li>• Enhancing the experience for our residents, the Resolution Centre, and the Housing Teams.</li> </ul>

- Establishing a single, unified system for recording residents' interactions with us.
- Providing visibility to previous resident enquiries for all staff, reducing the need for residents to repeat information, and minimising frustration.
- Moving away from ad hoc methods such as notepads and emails which can cause delays and lead to communication failures.

A housing-wide knowledge & information (KIM) steering group has been convened and tasked with strengthening information handling practices by coordinating a response to:

- the council's self-assessment against the Ombudsman's KIM requirements
- successive Ombudsman findings.

[Knowledge and Information Management \(KIM\) | Housing Ombuds \(housing-ombudsman.org.uk\)](https://www.housing-ombudsman.org.uk)

Implement a formal zero tolerance approach to acting upon reports of damp conditions, including responses to damp conditions arising from leaks

- The Housing service's governance infrastructure has been strengthened significantly with a monthly Repairs Task & Finish Group implemented to ensure strategic oversight and monitor performance in progressing high-risk complex cases.
- The council's Damp and Mould Taskforce is still in operation with a new Head of Taskforce appointed who leads on weekly meetings with contractors to track outstanding cases and agree actions.
- A Damp and Mould Policy is in development and is currently under consultation. The policy solidifies the council's zero tolerance approach to acting upon reports of damp and/or mould, regardless of source and/or extent.
- Pre visits for more complex repairs are being arranged by the contractor, Morgan Sindall Property, Services following the raising of works orders and prior to works commencing. This is to ensure that the scope of works is clear and that all parties, including residents, are in agreement.
- The repairs service has implemented a weekly complex case management meeting and infrastructure to support with the coordination of efforts to respond to complex cases involving leaks.



	<ul style="list-style-type: none"> <li>The use of a leak detection organisation is currently being piloted to support with tracking and tracing leaks more efficiently.</li> </ul>
Ensure that compensation is scaled more effectively to reflect the full extent of the disruption and distress caused to the resident by service failure.	<ul style="list-style-type: none"> <li>Information from successive Ombudsman cases and a recent HQN-led review has been used to revisit the service's approach to scaling compensation, with the total sum awarded now better aligned with Ombudsman awards.</li> <li>A more pragmatic approach is being taken to awarding redress for damages in circumstances where the council is demonstrably at fault.</li> <li>The Housing service will produce a housing-specific compensation/damages addendum to the corporate policy to clarify Housing Ombudsman's requirements and expectations.</li> </ul>

### 3.14 Conclusion

3.14.1 Determination reports from the Housing Ombudsman continue to provide an invaluable source of insight and feedback, as well as a focus for areas of improvement. In this case, there are several areas where the council is already investing time, energy, and resources, including:

- The need to use the complaints process to its fullest extent as a means of effectively resolving disputes.
- Acting proactively and resourcefully to ensure barriers to access to properties are promptly and effectively overcome.
- Ensuring that all repairs' staff, including buildings surveyors, are aware of the importance of producing and storing a robust record of interactions with residents including property surveys.

## 4 Options & Alternatives Considered

4.1 The contents of this report are for review and consideration only.

## 5 Council Strategic Priorities (and other National or Local Policies or Strategies)

5.1 Responding with urgency to residents' reports of damp and mould remains a priority for the council. The findings and recommendations of this report reinforce this commitment and outline how the council intends to improve its services.

## **6 Consultation**

- 6.1 This report was considered by Housing and Inclusive Economy Scrutiny on 16<sup>th</sup> October 2024.
- 6.2 A public consultation on the development of the council's new damp and mould policy is currently underway, including damp and mould focus groups at which residents are invited to share their experiences of engaging with the council when reporting damp and mould.
- 6.3 Further information is available online: [Housing Service: Damp and Mould Policy | Let's Talk Waltham Forest](#)

## **7 Implications**

- 7.1 Finance, Value for Money, and Risk
  - 7.1.1 The Housing Ombudsman has the power to award compensation to complainants where complaints are upheld. In this case, the resident was awarded a total of £2075.00 compensation.
- 7.2 Legal
  - 7.2.1 The Housing Ombudsman was established under section 51 of the Housing Act 1996 as amended by the Localism Act 2011, and the Housing Ombudsman Scheme (the Scheme) was approved by the Secretary of State. The Housing Ombudsman carries out quasi-judicial statutory functions in relation to investigating complaints and has wide powers to direct action be taken by local authorities. Housing Ombudsman powers and duties stem from S51 of, and Schedule 2 to, the Housing Act 1996.
- 7.3 Equalities and Diversity
  - 7.3.1 The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding. An equalities impact assessment is not required in relation to this report as we are not proposing any changes to current service delivery.
- 7.4 Sustainability (including climate change, health, crime, and disorder)
  - 7.4.1 There are no known sustainability implications.

## 7.5 Council Infrastructure

- 7.5.1 The Council continues to monitor the effectiveness of the Access Officer role in securing access to traditionally hard-to-reach properties.
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Background Information (as defined by Local Government (Access to Information) Act 1985)

None