

Housing

Ombudsman Service

REPORT

COMPLAINT 202004227

The Cambridge Housing Society Limited

5 February 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 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:
 - a. The landlord's response to the resident's reports of antisocial behaviour (ASB) from a neighbour.
 - b. The landlord's response to the resident's reports about the conduct of its staff.

Background and summary of events

Background

2. The resident is an assured tenant of the landlord.

Summary of events

3. On 6 March 2019, the landlord's records showed that the resident reported concerns over her neighbour opposite staring at and taking pictures of her.
4. In response to this, the landlord recorded that it visited the neighbour on 6 March 2019 to seek to address these concerns. As the landlord had received a counter-allegation from the neighbour in respect of the resident, an agreement was reached that both parties should refrain from staring at each other.
5. The landlord's records showed that the resident then reported concerns over the neighbour's household rubbish on 12 and 18 March 2019.
6. On 24 April 2019, the landlord recorded that the resident raised further concerns that the neighbour opposite was looking at her window again. The landlord advised the resident that it had already asked both the resident and the neighbour to stop staring at each other. The landlord informed the resident of the details of the new housing officer should there be any further issues.
7. On 15 May 2019, the landlord's records showed that the resident reported concerns that the neighbour had a camera pointing towards the resident's property. The landlord's records confirm that a discussion was held with the

neighbour, who confirmed that the cameras were only focusing on the neighbour's own property.

8. On 28 May 2019, the landlord recorded that it discussed this issue with the resident, who was unhappy. It explained the action taken above, and that it would not be taking any further action unless it received credible evidence.
9. On 30 May 2019, the resident made a stage one complaint about the landlord's new housing officer, highlighting above the call on 28 May 2019. The resident felt that the housing officer was telling the resident what to do and accused the resident of shouting, which she denied. Furthermore, the resident felt that the housing officer was rude and seemed to take the neighbour's side. In response to this, the resident wanted something to be done about the camera in the neighbour's property, and about the new housing officer.
10. On 3 June 2019, the landlord responded to the resident's stage one complaint with the following:
 - a. The neighbour did have permission to have a camera, and the landlord had checked that this was pointed in the correct direction when the camera was installed. It did not feel it would be reasonable for it to check this again, but it explained that it had told the neighbour to use the camera to protect their own property and not be invasive of others' privacy in line with police guidance on camera usage.
 - b. It felt that the housing officer acted reasonably in asking the resident to refrain from shouting. It acknowledged its housing officer was firm but not rude to the resident.
 - c. It supported the approach of the housing officer in not getting more involved in the situation, as it did not want to play a role in making a personal dispute worse.
 - d. The advice to the resident was to "not have anything to do with your neighbours".
11. The landlord's recorded that this did not resolve the resident's concerns and resulted in the resident referring the matter to the police after she informed the landlord that she would do so on 4 June 2019.
12. The landlord's records detail calls from the police on 2 August 2019, with reports by the resident of harassment and video recording by her neighbour opposite. The police confirmed that they would not be taking any further action and advised the resident to keep away from her neighbour.
13. On 4 October 2019, the landlord recorded that it received a further call from the police to confirm the cases raised by the resident and the neighbour opposite her had been reviewed and no offenses were found. The police also advised that both parties would be issued with a community protection warning and advised to

contact the landlord with their reports about one another moving forward instead of the police.

14. On 21 October 2019, the landlord's records showed that the resident raised concerns over the neighbour opposite shining a torch at the resident's property. Diary sheets were issued by it to the resident on the same date to complete and return to it.
15. On 26 October 2019, the landlord's records referred to an agreement to mediation by the parties, to attempt to address the above concerns, with this meeting being scheduled to take place on 2 March 2020, following initially separate appointments with the mediator on 11 November 2019. It is understood the resident was reluctant to move forward to a joint meeting but did "come round to it".
16. On 29 December 2019, the resident provided the landlord with diary sheets reporting the neighbour opposite as littering, filming, staring at and banging on the resident's fence, covering 24 October to 29 December 2019.
17. These reports were acknowledged during a conversation that the landlord recorded having with the resident on 6 January 2020. During this call, it advised the resident that it would not take any action as the issues identified were best dealt with through mediation.
18. On 2 March 2020, a mediation meeting was held between the parties to seek to address the above concerns. During this meeting, the following actions were agreed by them in a joint agreement document:
 - a. The resident and the neighbour opposite would not speak to each other, otherwise communicate with each other, set up false profiles, look at or stare at each other, or film each other.
 - b. The neighbour would not drive over the resident's driveway.
 - c. The neighbour and resident would not speak about each other in their respective gardens.
 - d. The neighbour and the resident would speak to each other, face to face, in an emergency only.
 - e. This was a voluntary agreement between the resident and the neighbour, and not intended to be legally binding.
 - f. No agreement was detailed regarding the actions to be taken should there be a breach of this agreement.
19. Leading up to the raising of the resident's second stage one complaint in May 2020, the landlord recorded that she continued to raise concerns with it about the neighbour opposite's behaviour from 4 to 11 March 2020. During this time, the landlord confirmed that the neighbour had permission for a security light to shine on their property that the resident sought to have removed, and that the evidence

of the neighbour recording the resident was inconclusive. To try to address the resident's concerns, an acceptable behaviour contract (ABC) was subsequently suggested by the landlord on the advice of the police on 3 June 2020.

20. On 5 May 2020, the resident emailed the landlord to explain the following:
 - a. During mediation, the resident did not take up the option of agreeing action in the event of a breach. This was because she did not know what the neighbour opposite would do next.
 - b. The resident had provided evidence which she believed to be satisfactory.
 - c. That the police had told the resident that the landlord was responsible for dealing with issues with neighbours, and therefore it should deal with this.
 - d. The resident also referenced a verbal exchange between herself, the neighbour, and a friend of the neighbour where the resident felt abused. She requested that the landlord also "do something about this".
21. The resident made a second stage one complaint to the landlord on 29 May 2020 regarding:
 - a. how the resident's new housing officer had addressed the above concerns regarding the neighbour opposite's positioning of a security camera
 - b. the housing officer accusing the resident of shouting
 - c. the housing officer taking the neighbour's side and not taking the resident's concerns of ASB seriously.
22. To resolve the matter, the resident did not want to liaise with the housing officer moving forward. She requested that something be done about the positioning of the neighbour opposite's security camera, and she wanted her concerns regarding her neighbour taken seriously.
23. On 3 June 2020, the landlord advised the resident to refrain from making abusive comments to her neighbours as this would only make the situation worse.
24. The resident responded on the same day to point out the following:
 - a. She did not appreciate being accused of making abusive comments to her neighbours, which she denied.
 - b. That she had explained what was happening in her email of 31 May 2020, and requested that the situation be dealt with.
 - c. That she considered the neighbour opposite's actions as racial harassment.
 - d. That the neighbour was continuing to film or try to take pictures of her, make comments about her to others that were "nastiness and untrue" and stare at her.
25. On 3 June 2020, the landlord opened a formal ASB/harassment case, and responded to the resident with the following:

- a. The neighbour had also made a report about the resident, and had provided recordings evidencing the resident making abusive comments towards the neighbour. It therefore requested that the resident not make any more hurtful comments to the neighbour.
- b. It also highlighted that it had requested that the neighbour submit written evidence of any future incidents instead of making video or audio recordings.
- c. The neighbour had taken police advice about the latest incidents, who had suggested drawing up an ABC between the resident and the neighbour.
- d. In response to the report of racial harassment, it requested examples from the resident.

26. On 4 June 2020, the resident provided a response to the landlord detailing that:

- a. She was concerned that the landlord was “sticking up” for the neighbour, and she did not feel that her concerns were being treated fairly. The resident had also not received a response from the landlord to her above email dated 5 May 2020 about the incident that occurred on that date.
- b. She did not believe she had made some of the alleged comments, and explained some of the other comments as being made in response to the neighbour’s above behaviour.
- c. In response to the request for examples of racial harassment, the resident referenced a racist remark that had previously been made and admitted by the neighbour to the resident. She also advised this had been reviewed by the landlord.
- d. She explained that as mediation was not successful, she did not think that the ABC would be either and so she declined to agree to this.
- e. She further advised the landlord that she would try to avoid the neighbour as much as she could.

27. On 9 June 2020, the landlord issued a response to the resident with the following:

- a. It clarified that unless there was a breach of tenancy, it would be unable to take any action as it was unable to do so for disputes between neighbours involving unsubstantiated counter-allegations.
- b. It was unable to take any action regarding possible breaches of the mediation agreement unless these involved a breach of tenancy, and reminded the resident that it had already suggested an ABC to look to resolve the concerns.
- c. With reference to the resident’s email of 5 May 2020, it had reviewed the information provided and concluded that this did not breach any terms of tenancy. It acknowledged that it had been ‘unfriendly’, but explained it was unable to act based on the information it had received.

- d. Following a review of the evidence provided to the landlord, it was considered that the neighbour had provided more substantial evidence to support their counter-allegation of harassment whereas the resident had not described how the neighbour had been racist towards her. As a result, the resident was advised not to make further personal insults.
 - e. Regarding the repeated concerns about being photographed and filmed and regarding lights shining through the resident's window, the landlord suggested that the photographs and reports that she had sent it had not confirmed that she was being photographed or filmed and that she get a blackout blind "to deal with the [light] problem".
28. On 24 June 2020, the landlord received two further emails from the resident to request an escalation of her complaint for the following reasons after she sent it further complaint correspondence on 11, 12, 15 and 16 June 2020:
- a. The resident felt that she was not being treated the same as the other tenants, specifically naming the neighbour opposite.
 - b. The complaint was not being taken seriously by the landlord.
 - c. The resident also explained that the remarks that she had made to the neighbour were not verbal abuse or prejudice.
29. A second stage one complaint response was issued by the landlord on 15 July 2020 following additional complaint correspondence sent by the resident on 25 June and 7 July 2020. It addressed the concerns of the resident as follows:
- Regarding the neighbour's racist remark, calling the resident "dirty"*
- a. It confirmed that it had investigated this when it was raised, and had challenged the neighbour.
 - b. Following review, it was considered that the remark was connected to dirt on a car. The landlord had no further reports of racist remarks or behaviour by the neighbour.
 - c. It confirmed that it did take racial discrimination and harassment very seriously and always investigated this.
 - d. Any action it that it took must be guided by the evidence, and there was insufficient evidence that the neighbour had made a racist remark, or that their behaviour was racially motivated.
- Whether comments made by the resident to the neighbour were racist, verbal abuse or prejudice*
- a. It highlighted that it had not indicated that the resident was racist. However, harassment or verbal abuse could be driven by a number of motives, and the resident had admitted to the landlord that she had made reference to the neighbour's body shape and weight.

- b. It confirmed that it was appropriate for it to raise these with the resident, as it was both upsetting and unhelpful to call the neighbour nicknames.

Regarding the CCTV in the neighbour's property

- a. On review of its actions and communications, the landlord found that it had checked the position of the neighbour's security light and confirmed that this was not CCTV.
- b. When asked to move the angle to ensure that the light was directed at their own home only, the neighbour had agreed to do so.

Regarding criticism of the resident's housing officer

- a. The landlord found that it had replied to many communications from the resident, and explained what actions it was able or unable to take.
- b. It had treated the resident's concerns seriously; for example, it had discussed her concerns with the neighbour, funded the independent mediation and proposed that both resident and neighbour sign an acceptable behaviour agreement.
- c. In response to the allegation that the landlord had racially discriminated against the resident, it was felt that it had acted fairly based on the different reports that it had received from both the resident and the neighbour.

That diary sheets sent to the landlord were not acknowledged or acted on

- a. The landlord's records confirmed a call to the resident on 6 January 2020 to acknowledge receipt of her diary sheets. During this discussion, the landlord advised the resident to raise this during the mediation process which was underway at that time.
 - b. In summary, it found that it had acted fairly and within its policy guidelines in dealing with these concerns.
30. On 28 July 2020, the resident advised the landlord that she had sent a final stage complaint to its complaints panel on 16 July 2020 and was awaiting a response. During the communications between them that followed from 30 July to 17 August 2020, it became apparent that this was not received by it. A request was made for this to be resent, although the resident expressed doubt over the value in resending the complaint while reiterating her above concerns and explaining that these had impacted her life and affected her health.
31. On 25 August 2020, a final stage complaint response was issued by the landlord, summarised below:
- a. The concerns raised by the neighbour were considered "personal disputes". The landlord's ASB policy detailed that these would not normally be considered as harassment unless tenancy conditions were broken.

- b. The complaint had been treated seriously and in line with its ASB policy, by meeting with both parties to attempt to resolve the issue and by arranging and paying for independent mediation.
- c. In addition to the landlord's review, the police had investigated reports from both the resident and the neighbour, and found no evidence of criminal activity.
- d. It therefore concluded that it had followed its ASB policy regarding the issues raised, and had been treated this with the appropriate level of seriousness. It found no evidence that it had been biased against the resident or that it had sided with the neighbour.

Assessment and findings

The landlord's response to the resident's reports of ASB

- 32. In accordance with the landlord's ASB policy, when the landlord receives reports of harassment, it should "prevent ASB before it starts, intervene appropriately where we can, and enforce tenancy and lease conditions relating to ASB where necessary".
- 33. Furthermore, the landlord's ASB policy details that it will not normally consider personal disputes between neighbours to be classified as harassment unless tenancy conditions are broken.
- 34. The landlord's ASB policy outlines a number of possible measures that it can use, including:
 - a. Approaching the alleged perpetrator to discuss and resolve the problem behaviour.
 - b. Referral to mediation specialists.
 - c. ABCs.
- 35. It is evident that this situation has been distressing for the resident. There remains a dispute between the resident and the landlord regarding whether the landlord responded appropriately to the reports of ASB. The role of the Ombudsman is not to establish whether the ASB reported was occurring or not. Our role is to establish whether the landlord's response to the resident's reports of ASB and harassment were in line with its legal and policy obligations and whether its response was fair in all the circumstances of the case.
- 36. In accordance with the landlord's ASB policy, when the landlord receives reports of ASB, it should carry out an investigation and seek to assist in resolving the situation. For a landlord to take formal action in respect of ASB, a landlord requires corroborative evidence of the alleged behaviour to support formal action. In this case, it was evident that the landlord took reasonable steps to investigate and seek evidence in line with its obligations. For example, from the resident's reports of 6 March 2019 onwards the landlord intervened and drew up a plan of

action to help find a resolution. Because of the counter-allegations made against the resident by her neighbour, this approach to intervene by speaking to both parties and agreeing that they should not stare at each other was reasonable in the circumstances and in line with its ASB policy.

37. Unfortunately, this did not resolve the issue and the resident involved the police from at least 2 August 2019. In situations where there has been police involvement, a landlord would be expected to act on the findings of the police. In this instance, the police concluded that no offences were found and both parties were issued with community protection warnings from 4 October 2019. Again, as the allegations were reciprocal, and the police had warned both parties, the landlord's decision not to take formal action against the resident's neighbour was reasonable as this was based on the police's conclusions.
38. Nevertheless, the landlord did initiate a mediation meeting from 26 October 2019 which took place on 2 March 2020, whereby a voluntary agreement was reached. This showed the landlord's continued willingness to find a resolution.
39. The landlord has evidenced its attempts to use suitable measures to resolve the resident's disputes and to offer suitable solutions in line with its policies and procedures. Where the landlord was unable to resolve the concern, it provided an explanation to the resident. For example, in the landlord's letter dated 15 July 2020, it detailed the actions taken in response to the resident's ASB reports. It further confirmed that it had "acted fairly based on the information we can collect, and tried to act in a balanced way about the different complaints that you and your neighbour have had about each other".
40. In short, without corroborative evidence the landlord would not be able to take formal action against the resident's neighbour. It is evident that the landlord did investigate any reports of ASB, and it intervened where possible, in line with its obligations. Ultimately, there was no evidence to support formal action and the landlord had concluded, following its investigation, that these allegations would constitute personal disputes and would not be considered harassment. In light of the above, this Service has not found any service failure in the way that the landlord responded to the resident's reports of ASB.

Staff Conduct

41. The resident has complained of the approach of members of the landlord's staff in her case being racially prejudiced and discriminatory. However, this Service will not investigate matters where the Ombudsman considers it quicker, fairer, more reasonable or more effective to seek a remedy through the courts, a designated person, other tribunal or procedure or where the outcome is not within our authority to provide. This Service cannot determine whether racial or other discrimination has taken place, as these are legal terms which are better suited to a court to decide and that we do not have the legal authority to determine.

However, we can look at whether the landlord responded fairly and appropriately to the resident's allegations of misconduct by its staff.

42. Following the resident's reported concerns over the conduct of its staff, the landlord was obliged to carry out an investigation into the claims and respond to the resident accordingly. In response to the reported concerns over the conduct of the member of staff, the landlord took reasonable steps to investigate this. In the landlord's letters dated 3 June 2019 and 15 July 2020, it highlighted the actions taken by the landlord to look to address the resident's concerns.
43. The landlord confirmed that it had investigated the resident's concerns about its staff and that it had found that they had acted reasonably in asking the resident to refrain from shouting, in being firm but not rude to her and in avoiding getting more involved so as not to make a personal dispute worse. It also subsequently explained that it had found that its staff had replied to many communications from the resident, explained what actions it was able or unable to take and treated her resident's concerns seriously by taking the above action in response to her ASB reports. The landlord therefore concluded that its staff had acted fairly based on the different reports that it had received from both the resident and the neighbour.
44. This Service has found the landlord to have acted fairly in responding to the resident's concerns, and has taken action to attempt to address these. It has been fair in reviewing the available evidence, and has provided the resident with a reasonable explanation where it has been determined no further action can be taken by the landlord. Therefore, this Service has not found any service failure in the way that the landlord responded to the reports over the conduct of its member of staff.

Determination

45. In accordance with paragraph 54 of the Housing Ombudsman Scheme, there was no maladministration by the landlord in respect of its response to the resident's reports of ASB from a neighbour.
46. In accordance with paragraph 54 of the Housing Ombudsman Scheme, there was no maladministration by the landlord in respect of its response to the resident's reports about the conduct of its staff.

Reasons

47. The landlord has evidenced its attempts to address the concerns of the resident in attempting to intervene, offering mediation and proposing a more formal behavioural agreement, in line with its obligations.
48. The landlord has demonstrated a fair and reasonable investigation into the conduct of its staff, as evidenced in its complaint responses dated 3 June 2019 and 15 July 2020.