



## Cabinet

22 November 2023

Item  
**9(i)**

<b>Report of</b>	<b>Head of Governance and Monitoring Officer</b>	<b>Author</b>	<b>Andrew Weavers</b> ☎ 282213
<b>Title</b>	<b>Housing Ombudsman Reports</b>		
<b>Wards affected</b>	Not applicable		

### 1. Executive Summary

- 1.1 This report informs Cabinet of the findings made in two recent reports by the Housing Ombudsman in relation to Colchester Borough Homes.

### 2. Recommended Decision

- 2.1 To note the contents of this report and the actions taken.

### 3. Reasons for Recommended Decision

- 3.1 To inform the Cabinet of the contents of the reports by the Housing Ombudsman.

### 3. Alternative Options

- 3.1 No alternative options are presented.

### 4. Supporting Information

- 4.1 The Constitution (Article 13.03 (a)) requires the Monitoring Officer to report to Cabinet (or to Full Council for non-executive functions) if a decision or omission has given rise to maladministration. This report concerns omissions that the Housing Ombudsman has determined in two reports, one of which had a finding of maladministration and the other finding which included severe maladministration.

- 4.2 The Housing Ombudsman Scheme is approved by the Secretary of State. The law requires social landlords (here meaning the City Council and Colchester Borough Homes) to be members of an approved scheme. The Housing Ombudsman's role is to resolve disputes, including making awards of compensation or other remedies when appropriate, as well as to support effective landlord and tenant dispute resolution by others.

- 4.3 In 2022/23 the Housing Ombudsman made 6,500 determinations including 2,430 findings of maladministration in the social housing sector. In the same period the number of cases of severe maladministration increased by 323%. One housing provider, GreenSquareAccord received 6 findings of severe maladministration over a 3 month period. Islington Council received 14 findings of severe maladministration between December 2022 and June 2023 and in July another landlord, L&Q was ordered to pay £142,000 in compensation to a group of residents. The number of determinations by the Ombudsman increased by 69% in the last quarter. This underlines the importance of good service delivery and effective complaints handling in the social housing sector and the need for lessons to be learned from complaints at a time when Ombudsman

determinations have increased significantly. During 2022/23 Colchester Borough Homes received 271 complaints, the vast majority of which were resolved without escalation to the Ombudsman. The following sets out details in respect of the 2 Housing Ombudsman determinations.

## **5. The First Report**

- 5.1 On 28 July 2023, the Housing Ombudsman determined a complaint submitted to it in relation to the handling of concerns by Colchester Borough Homes (“the landlord”) regarding the condition of one of the Council’s tenanted properties. The Housing Ombudsman also considered Colchester Borough Homes handling of the residents’ concerns about pests in the property. The conclusion of the Housing Ombudsman in respect of the complaint was as follows:
1. Maladministration by the landlord regarding its handling of the residents’ concerns about the condition of their new home.
  2. Service failure by the landlord regarding its handling of the resident’s concerns about pests in the property.
- 5.2 A resident raised concerns to the landlord about the poor condition of her new home from an early point in the tenancy. An inspection was carried out and identified that some work was required, and other work was the resident’s responsibility, but the Ombudsman felt that the landlord did not communicate this adequately. In addition, there were issues caused by the resident not wishing the landlord to decorate her home. This caused an issue as the landlord usually carried out decoration and cleaning of properties together.
- 5.3 The Ombudsman found that the landlord had delayed in acknowledging that standards were not met until its stage 2 complaints response when it apologised for failure and offered redecoration vouchers. However, repair issues remained, and the resident complained regarding an infestation at the property which the landlord responded to by in its stage 1 reply. In this reply the landlord confirmed that some areas of the void standard had not been met and upheld the complaint. The resident remained dissatisfied due to some outstanding works and requested a review which was dealt with as a stage 2 complaint. The landlord recognised that the cleanliness of the property was not up to standard, apologised and also that the repair of the property did not meet the expected void standard and offered a £40 decoration voucher. The Ombudsman felt that the voucher did not offer reasonable redress for the failings and that it had missed opportunities to put the situation right earlier.
- 5.4 Subsequently there was further communication between the landlord and the resident in which the Ombudsman felt that the landlord had not demonstrated that it promptly and clearly set out to the resident those outstanding issues that it was willing to remedy. The landlord sent a final complaint response when it clarified its position and was satisfied that the issues raised had been completed. However, the Ombudsman felt that the landlord did not make it clear what issues it was referring to, what repairs it determined were the resident’s responsibility and the reasoning behind its decisions.
- 5.5 The Ombudsman ordered that the landlord write to the resident within 4 weeks of the report apologising for the service failures it had identified. This letter has been sent. It also ordered that within 4 weeks of the report, the landlord should provide the resident and the Ombudsman with written confirmation of any outstanding work, and an action plan, including timescales, for completion setting out any work the resident is responsible for carrying out and explaining its reasoning.

Further steps the Housing Ombudsman set out were:

- With 4 weeks of the report the landlord pay the resident compensation of £250 (including the offer of the decoration vouchers and reimbursement of associated costs, if not already paid) in recognition of the distress and inconvenience caused; and
- Within 8 weeks of the report the landlord to review this case in relation to its void standard and advise the Ombudsman how it intends to ensure that works are completed within a reasonable timescale from the tenancy start date in future.

5.6 In response to the above, the Chief Executive of Colchester Borough Homes has confirmed that CBH accepted the Ombudsman's determination and has considered how CBH can improve the service to new tenants.

CBH wrote to its tenant on 22 September to apologise and has compensated in accordance with the recommendation.

The Letting standard has been reviewed and is now available on CBH's website and is provided to incoming tenants, ahead of them viewing and accepting a tenancy.

CBH's internal process has always included a "new tenant visit" however, following the findings in this case they have improved this process to ensure that they capture the tenant's satisfaction with their new home and deal with any outstanding issues at this early stage.

5.7 All actions identified by the Ombudsman have now been implemented and CBH's response was acknowledged by the Ombudsman on 22 September.

## **6. The Second Report**

6.1 On 30 August 2023, the Housing Ombudsman determined a complaint submitted to it in relation to the handling of concerns by Colchester Borough Homes ("the landlord") regarding an anti-social behaviour case at one of the Council's tenanted properties. The Housing Ombudsman also considered Colchester Borough Homes handling of the residents' concerns via its complaints process. The conclusion of the Housing Ombudsman in respect of the complaint was as follows:

1. Severe maladministration by the landlord in its response to reports of anti-social behaviour.
2. Maladministration by the landlord in its complaints handling.

6.2 A resident informed the landlord during a "new tenant" visit that he was experiencing noise issues with his neighbour (A) banging on the wall and playing loud music. It was noted that these were the same issues that the resident had experienced at his previous address. The resident suffered from back and spine issues and PTSD. The landlord spoke to A who refuted the allegations. A claimed to be hearing a humming noise coming from the resident's property at night. There was numerous correspondence between the landlord and the resident regarding the problems and the resident reported the issues to the police as he felt he was being harassed.

6.3 The landlord subsequently installed noise monitoring equipment in A's property in order to determine the level of any noise which the resident welcomed. The landlord subsequently removed the equipment and listened to the recording but could not identify

the source of the noise. A informed the landlord that the noise was occurring late at night and preventing her from sleeping. Banging on the wall seemed to cause the noise to stop. However, the situation did not improve, and the resident complained that A was persecuting him. The landlord considered various possible causes of the noise including the boiler at the property, but it did not amount to a statutory nuisance.

- 6.4 The landlord referred the parties to mediation and referred the case to its anti-social behaviour team however, the noise issues continued. Subsequently the landlord visited the resident with a Community Psychiatric Nurse. Following which the landlord made a number of written suggestions to improve the situation for the resident. The resident responded with a number of issues. The police confirmed that A's behaviour did not amount to an offence under the Prevention from Harassment Act 1997 and that the landlord was responsible for resolving the anti-social behaviour and encouraged the parties to participate in mediation. The resident contacted his MP who wrote to the landlord on his behalf regarding the noise. The landlord responded and took further action to investigate the humming noise and check the boiler.
- 6.5 The resident in 2021 made a call to the landlord regarding his neighbour (B) slamming doors and banging dustbin lids. The landlord did not consider that this was anti-social behaviour and was classed as household noise and would not take any action. The landlord suggested the resident speak with B. The landlord liaised with the police but they considered it to be normal day to day noise although the resident felt it was affecting his PTSD. The landlord felt that the resident was a serial complainer and subsequently refused a request for a management move because the landlord felt that it was impossible to find a quieter property in its stock. The resident's MP contacted the landlord regarding the noise caused by B and the landlord responded that it considered the noise to be that from normal daily living and noted that the resident had reported B to the police for harassment which was a waste of police time.
- 6.6 The resident made an initial complaint to the landlord pursuant to its complaints procedure regarding his concerns regarding the action of his neighbours which was dealt with as a stage 1 complaint. The landlord responded setting out what action it had taken. The landlord also considered that the resident was suitably housed and would not be considered for a move but was advised to explore a mutual exchange. The resident was not happy with the response and escalated his complaint. The landlord responded with its stage 2 response which set out several actions it had taken in response to the complaints about the neighbours. The resident then referred his complaint to the Housing Ombudsman in January 2022.
- 6.7 Subsequent to the referral the resident contacted the landlord as A was continuing to bang on the wall and it was affecting his mental health. He was also unhappy about the actions the landlord had taken regarding B. The landlord considered whether the resident could be given a management move however it concluded that the resident would be best served by a mutual exchange. The resident continued to report noise nuisance by B which he reported had escalated and was detrimental to his health. The landlord subsequently served B with a Community Protection Warning and an Acceptable Behaviour Contract in relation to B's actions towards the resident. In January 2023 the landlord arranged a management move for the resident following which the resident's health had improved immeasurably and it was no longer receiving complaints about noise. As part of the investigation the Ombudsman noted that the landlord admitted that it did not have a policy or procedure relating to management moves. The absence of such a policy meant that the landlord could not manage the resident's expectations which reference to appropriate standards.

- 6.8 The Ombudsman was critical of the landlord's response to the reports of anti-social behaviour and the failure by the landlord to fully consider the welfare, safety and wellbeing of the resident. This was considered a significant failing. The Ombudsman considered that the landlord should have assessed the risk of harm to the resident which may have led to a management move earlier on in the process. There was no evidence that the landlord had carried out a risk assessment at any stage of the anti-social behaviour investigations. The Ombudsman felt that the landlord had failed to comply with its anti-social behaviour policy which amounted to severe maladministration.
- 6.9 The Ombudsman felt that the landlord had throughout the complaints process failed to address the residents' concerns in relation to bias regarding concerns raised by the resident at his previous address. The Ombudsman also felt that landlord should have taken an open-minded approach to the residents' concerns whereby it could have considered how it could put things right including (a) ensuring that any further reports of antisocial behaviour were assessed on their own merits and (b) financial compensation for distress caused. There was also a finding that the landlord did not give appropriate regard to its remedies policy. The Ombudsman found that the landlords complaint handling failures amounted to maladministration.
- 6.10 The Ombudsman ordered that the landlord within four weeks of the report:
- (a) pay the resident £1250, comprising:
    - (i) £1000 for the distress and inconvenience caused by its failure to manage the anti-social behaviour case effectively.
    - (ii) £250 for the distress and inconvenience caused by the complaint handling failings identified by the investigation
  - (b) a senior member of staff should issue the resident with an apology.
- 6.11 The Ombudsman ordered that landlord within six weeks of the report should consider the failings identified in this case, and provide refresher training to relevant staff to ensure that they:
- (a) are aware that case management must be based on the merits of a case and that proportionate investigation is not overlooked because of tenancy history.
  - (b) are aware of the evidential test required to enforce breaches of:
    - (i) the terms of the tenancy in relation to noise nuisance.
    - (ii) Community Protection Warnings.
    - (iii) Acceptable Behaviour Contracts
  - (c) complete risk assessments for all cases reported.
  - (d) complete action plans in agreement with the complainant to ensure that appropriate steps are taken in a timely manner.

The landlord to confirm the date and content of the training to the Ombudsman also within six weeks.

- 6.12 Recommendations made by the Ombudsman.

The landlord should:

- (a) review its Anti-social behaviour policy and procedure to reflect the principles of the Antisocial Behaviour, Crime and Policing Act 2014. It should ensure it takes a harm centred approach to its response to antisocial behaviour, including the use of risk assessments and action plans.
- (b) review its remedies policy to ensure that it complies with section 6.1 of the Housing Ombudsman's Complaint Handling Code. This should include financial redress for distress, inconvenience, or unfair impact.
- (c) develop a management move policy and /or procedure to ensure that requests for management moves are considered against a criteria based on risk and/or need. This will provide a fair and transparent method of assess requests for management moves.

- 6.13 In response to the above, the Chief Executive of Colchester Borough Homes has confirmed that CBH is disappointed to receive a finding from the Ombudsman of severe maladministration and that requesting a review of the finding was considered. CBH's Board and senior staff reviewed the determination on 4 October and committed to deliver service improvements as a result of it.
- 6.14 The findings have led to an in-depth review of how CBH's housing management and anti-social behaviour services are delivered, including a review of the anti-social behaviour (ASB) policy, the way in which the Housing Management system is used (particularly in respect of holding information and maintaining case notes), how staff deal with complex issues and vulnerable tenants that they are often faced with.
- 6.15 As recommended, CBH completed a series of refresher training for staff who work in the ASB and housing management teams (as well as support staff) in October. This will help ensure they are all aware of the necessity to consider each case on its merits and particularly to consider and mitigate any vulnerability of complainants or alleged perpetrators of nuisance or ASB.
- 6.16 Amendments to the Housing management system were made on 11 October will now mandate completion of a risk assessment and action plan as part of the workflow process. Each contact with tenants will now also include a review of the information that is held to ensure that it is both relevant, up to date and reflects any particular vulnerabilities.
- 6.17 During October, all relevant staff working in CBH's Housing management teams received refresher training, to remind them of the requirements of dealing with reports of nuisance and ASB. This training was delivered by the Community Safety manager and included recommendations and insights from the Ombudsman spotlight report into noise complaints.
- 6.18 To provide additional assurance CBH has added an internal audit of ASB case work to the forthcoming audit timetable.
- 6.19 All tenants transfer requests are dealt with through CBH's wider allocation and lettings policies. This process ensures that all transfers are considered fairly and in line with the policy.
- 6.20 CBH has also reflected on the recommendation in relation to its ASB and Remedies policies and will be taking amendments through its policy change process which includes

resident consultation and approval by CBH's Operations and Performance committee. This process will complete by end of November 2023.

- 6.21 The Ombudsman confirmed on 20 October that compliance with its findings and recommendations had now been met and the case closed.

## **7. Strategic Plan References**

- 7.1 The lessons learnt from complaints to the Housing Ombudsman link in with our Strategic Plan aims to be efficient accessible, customer focused and always looking to improve. Having an effective complaints process helps us to achieve the Strategic Plan's themes of a Wellbeing, making Colchester an even better place to live and supporting those who need help most.

## **8. Publicity Considerations**

- 8.1 Details of the Reports are published on the Housing Ombudsman's website.

## **9. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety, Risk Management and Environmental and Sustainability Implications**

- 9.1 No direct implications.

## **10. Background Papers**

- Housing Ombudsman Report dated 28 July 2023 Complaint 202122725
- Housing Ombudsman Report dated 30 August 2023 Complaint 202110444