

Housing

Ombudsman Service

REPORT

COMPLAINT 202402396

Broxtowe Borough Council

7 January 2025

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 handling of the resident's reports of anti-social behaviour (ASB).

Background

2. The resident holds a secure tenancy of the property, a 2 bedroom flat, where she lives with her young child. The property has a communal area which is shared with other flats. The landlord is a local authority.
3. The resident reported to the landlord on 1 February 2024 that her neighbour had 5 dogs that were running loose in the communal area. She reported that the dogs were fouling in the area, and this was being left for days and sometimes weeks before being cleaned. The resident said that she was scared of the dogs and felt unsafe being in the area with her young daughter.
4. The resident contacted the landlord numerous times in March, April and May 2024 and said the dogs were aggressive and her daughter was terrified of the dogs. She said the neighbour left the dogs to roam free and foul the area, and did not pick up the dog faeces. She said that delivery drivers were not coming into the property because of the dogs.
5. The resident made a stage 1 complaint on 17 May 2024 about the dogs being left unsupervised in the communal area and said that her daughter was scared of the dogs. She emailed the landlord on 23 May 2024 and said she was pregnant, and the ongoing situation was causing her stress.
6. The landlord responded to the resident's stage 1 complaint on 31 May 2024. It apologised for the inconvenience caused to the resident and the time she had

taken to make the complaint. It said it was working with the dog warden and the resident's neighbour to resolve the issue, and that it had responded to all the resident's reports made about the dogs since 1 February 2024. It said that the resident had stated that the dog fouling had been cleared, but the dogs were still running loose in the communal area and that it was still investigating this matter. It said that positive action had been taken and therefore it "did not feel that it had failed to provide an appropriate level of service." It did not uphold the resident's complaint.

7. The resident escalated her complaint to the landlord on 19 June 2024. She said she did not feel that the landlord had provided a proper service and that the situation was not safe for her and her daughter. She said that whenever they left or returned to the property they had to check if the dogs were in the communal area, and this was very stressful. She said that the 5 dogs were still being left to run free and foul the communal area, and she was now considering moving home because of the situation.
8. The resident continued to report the issue to the landlord in July 2024 and sent the landlord emails and video evidence of the dogs running loose and fouling the area.
9. The landlord responded to the resident's stage 2 complaint on 17 July 2024 and said:
 - a. It understood the resident had reported the issue on multiple occasions since December 2022.
 - b. It had appropriately dealt with the resident's reports on each occasion and was currently working with the neighbour and the dog warden to resolve the issue.
 - c. It understood that the dog fouling had now been cleared.
 - d. It apologised if the resident felt the situation was taking an extended time to resolve. It said it empathised with her and her daughter not feeling safe.
 - e. It would not look to take tenancy enforcement action in "the first instance" and would work with the resident to resolve the issue.
 - f. It would continue to monitor the situation until the issues were resolved.
 - g. It had provided an appropriate level of service.
10. The resident referred the matter to this Service in August 2024. She said that the 5 dogs were still running free in the communal area and fouling the area. She said the area smelled and she and her family were prevented from using it because of the dogs. She said she wanted the landlord to take effective action to resolve the issue. She said she wanted the landlord to ensure the dogs were

kept on leads and the communal areas kept tidy, and if the landlord could not do this she said she wanted to move.

Events after the end of the landlord's complaints process

11. The resident continued to report to the landlord on numerous occasions from July to November 2024 that the situation was still going on. She provided video evidence which she said was of the dogs running free and fouling the area on various occasions during this time.
12. The resident contacted this service on 20 December 2024. The resident informed this Service that the landlord said it was considering taking legal action against the neighbour in the new year.

Assessment and findings

Scope of the investigation

13. The resident has reported to this Service that the situation with the neighbour's dogs has been ongoing since December 2022. The landlord acknowledged in its response to the complaint that the resident had reported the issues "on an occasional basis" since December 2022, but since February 2024 had reported the issues a further 4 times. This Service encourages residents to raise complaints in a timely manner, normally within 12 months of issues arising, so that the landlord can consider them whilst they are still 'live' and whilst the evidence is available for it to properly investigate. The occasional reports made since December 2022 are noted above for context, however there is no evidence the resident complained to the landlord until May 2024. Therefore, this investigation will focus on events from February 2024.
14. As set out above the resident has informed this Service that the ASB situation is ongoing. We appreciate that this may be distressing for the resident, our role is to investigate complaints brought to us that have exhausted a landlord's internal complaints process. This investigation report, therefore, concerns the matters which were the subject of the resident's formal complaint in May 2024, and which were the subject of the landlord's final response on 17 July 2024.

The landlord's handling of the resident's reports of anti-social behaviour (ASB)

15. It is evident that this situation has been distressing to the resident. It may help to firstly explain that the Ombudsman's role is not to decide if the actions of the neighbour amounted to ASB, but rather, whether the landlord dealt with the resident's reports about this appropriately and reasonably.

16. The resident reported to the landlord on 1 February 2024 that her neighbour had 5 dogs that were being allowed to run freely in the communal area. The resident said that the dogs were fouling the area and that she and her young daughter were scared to come and go from her property. The landlord said it would visit the neighbour and advise her that the dogs should be on a lead and discuss the dogs fouling the area. The landlord said that the neighbour should not have permission to have 5 dogs in a flat. The landlord has a pet policy which states that a resident must ask for permission to keep dogs. It states that permission will only be given for a maximum of 2 dogs. Its pet policy says it will withdraw permission by giving 28 days' notice in instances where the pets cause nuisance and annoyance to residents.
17. The resident contacted the landlord on 14 March 2024 and said that the neighbour was still allowing the dogs to foul the communal area. The landlord contacted the resident on 15 March 2024 and said that steps were being taken to resolve the situation and that it had carried out a site inspection on that day.
18. The resident contacted the landlord on 16 and 21 March 2024 and said she was concerned for her daughter's safety. She said that the dogs were still running off the lead and fouling the communal area and if the situation didn't improve, she wanted to request a move. The landlord contacted the resident on 23 March 2024, in line with timescales in its ASB policy, and said the area would be inspected regularly and that it was considering further tenancy action. Its ASB policy states it will keep residents updated on the progress of a case so it would have been appropriate to give more information to the resident at this stage on the proposed actions and expected timescales.
19. The resident contacted the landlord in April and May 2024 to report that the dogs were still running loose and fouling the area. She said she could not allow her daughter to play outside because of the dogs and the dog fouling which was being left for days at a time.
20. The resident contacted the landlord on 9, 10 and 11 July 2024 and said there was no improvement with the situation. She sent video evidence of the dogs to the landlord, and it responded on 11 July 2024 and said it would "look to take further action". The landlord was aware of the distress the situation was causing, and it was therefore unreasonable not to provide further information to the resident. This was 4 months after it had told the resident it would look to take further action. Its ASB policy states it will keep the complainant fully informed of how the investigation is progressing. The policy says it will take the necessary early action to protect people and property once facts are established. The situation had been ongoing for many months and was having a considerable effect on the resident and therefore the landlord's actions were unreasonable.

21. The landlord has informed the resident that it issued a tenancy warning to the neighbour and served the neighbour with a Community Protection Notice. While these actions were in line with its ASB policy it is unclear when it informed the resident that it had taken these actions.
22. The landlord made apologies in its complaint responses for the length of time the situation had been going on and said it empathised with the resident that she and her daughter did not feel safe. It said it did not look to take tenancy enforcement action, “in the first instance.” This situation had been reported for many months and therefore it would have been appropriate to consider further action, taking in to account the effect on the resident and her daughter. The landlord’s ASB policy states it will escalate to more formal action where appropriate and enforcement action should not be a last resort but a proportionate response which will stop problems. It would have been proportionate to consider a Community Protection Notice in line with its policy, following the service of the Community Protection Warning, as it was clear the issues had not been resolved. The landlord could have also considered other measures such as an acceptable behaviour contract (ABC) or formally withdrawing permission for the neighbour to keep the dogs. These measures were not taken and therefore this was a failing.
23. The landlord failed to put things right during its complaints process and this Service has received evidence from the resident that shows the issue has not been resolved. Therefore, this investigation has found maladministration, and we have made an order for the landlord to pay the resident £300 in line with the Ombudsman’s remedies guidance for situations such as this, where there was a failure which adversely affected the resident. We have also ordered the landlord to contact the resident and provide a clear plan on the actions it intends to take, with timescales.

Determination

24. In accordance with paragraph 52 of the Scheme, there was maladministration in the landlord’s handling of the resident’s reports of ASB.

Orders

25. Within 4 weeks of the date of this report the landlord is ordered to:
 - a. Pay the resident compensation of £300 for the distress and inconvenience incurred by the resident because of the landlord’s response to her reports of ASB. This amount should be paid direct to the resident and not used to offset any monies she may owe the landlord.
 - b. Contact the resident to confirm whether she is currently experiencing any ASB. If the resident confirms that she is, within 2 weeks of contacting the

resident the landlord should agree a plan with her, with timescales for actions to be taken.