

Case 200501460: Link Group Ltd

Summary of Investigation

Category

Housing (not Local government): Policy/administration

Overview

The complainant (Mr C) raised two main issues: whether or not housing association staff informed a prospective tenant (Mr A) about anti-social behaviour problems; and, how the housing association's parent organisation responded to the complaint.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the alleged failure of Link Housing staff to inform Mr A about anti-social behaviour problems in the area of the property (*no finding*); and
- (b) the investigation conducted by Link Group Limited (Link Group) was flawed and not in accordance with the complaints policy (*partially upheld*).

Redress and recommendations

The Ombudsman recommends that Link Group consider:

- (i) seeking external advice, for example from the Information Commissioner's Office, on how to deal with disclosure of information on third parties who are responsible for anti-social behaviour;
- (ii) amending the checklist used at sign-up so that it clearly shows that information on their anti-social behaviour policy has been passed to the tenant. Link Group might also wish to consider a free-form section on the checklist so that staff can note other relevant or specific issues that have been discussed. Link Group should remind its staff that the checklist must be signed by their staff and the tenant in all cases;
- (iii) making a record of interviews with staff that are conducted as part of an internal investigation; and
- (iv) what is meant by 'full and fair' as stated in their complaints policy.

Link Group have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. In November 2005 the Ombudsman accepted a complaint from a person who is referred to in this report as Mr C. Mr C brought a complaint on behalf of his daughter (Ms B)'s boyfriend (Mr A) who was a tenant of Link Group Limited (Link Group). Mr C complained that Link Housing Association (Link Housing) staff (Officer 1 and Officer 2) had not informed Mr A at the time of signing up for a property that there were anti-social behaviour problems in the area of the property. Mr A was later subjected to anti-social behaviour incidents. In addition, Mr C was of the view that the investigation into his complaint carried out by Link Group was flawed and did not comply with their complaints policy.

2. The complaints from Mr C which I have investigated are that:

- (a) the alleged failure of Link Housing staff to inform Mr A about anti-social behaviour problems in the area of the property; and
- (b) that the investigation conducted by Link Group was flawed and not in accordance with the complaints policy.

3. In the course of the complaint Mr C raised issues relating to alleged breaches of the Data Protection Act 1998. These issues are for the Information Commissioner's Office to consider and I understand that Mr C has already raised them with the Information Commissioner's Office.

Investigation

4. In support of the complaint Mr C provided an account of what Mr A and Ms B said was discussed at the property during the sign-up visit, insisting that there was no mention of anti-social behaviour problems. Mr C also supplied copy correspondence between him and Link Group during the course of the complaint. On the basis of this initial evidence I requested further information from Mr C, which he supplied, as well as information from Link Group. They provided an account of what Officer 1 and Officer 2 said was discussed at the property during the sign-up visit, copy correspondence between Link Group and Mr C, a copy of the Scottish Secure Tenancy Agreement as was signed by Mr A at the sign-up, and a copy of the sign-up pack provided to new tenants.

5. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and Link Group were given an opportunity to comment on a draft of this report.

(a) The alleged failure of Link Housing staff to inform Mr A about anti-social behaviour problems in the area of the property

6. Mr A applied for a tenancy at the property and, along with Ms B, met with Officer 1 and Officer 2 in June 2005 to view the property and sign-up for a tenancy. The property was owned by Link Group and Mr A was, therefore, a tenant of Link Group. Link Housing is a Link Group subsidiary company that is appointed to provide management services on behalf of Link Group.

7. In his evidence to me, Mr C said that Mr A and Ms B were adamant they were never told by Officer 1 or Officer 2 of any anti-social behaviour problems. According to Mr C, one of Mr A's neighbours (Neighbour 1) told him shortly after signing up to the tenancy that another neighbour (Neighbour 2) had been responsible for anti-social behaviour in the area for most of the previous four years. Neighbour 1 also told Mr A that the local authority anti-social behaviour unit had been involved for the past 18 months and that Neighbour 2 was also the subject of criminal proceedings for assault.

8. Mr C, in his complaint to me, said that:
'[Link Housing] had a specific legal obligation to reveal clearly and unambiguously, any anti-social behavioural problems before prospective tenants commit to any lease.'

Mr C cited the Freedom of Information (Scotland) Act 2002 and Property/Tenancy Law as the basis for his assertion. Mr C also said that landlords have a responsibility to tenants under Health and Safety legislation to consider the health of tenants when making decisions which may have an effect on them. In addition, Mr C said that Mr A was not given any advice on how to deal with or report anti-social behaviour.

9. Link Group, in its response to Mr C's complaint, said that Officer 1 and Officer 2 were as equally determined as Mr A and Ms B that their account of events at sign-up was correct. Officer 1 provided a brief statement that, in response to a question from Mr A, she had told him that there were anti-social problems with Neighbour 2. Officer 2 also provided a brief statement confirming that Officer 1 had discussed the anti-social behaviour problem with Mr A in response to his question.

10. Link Group also said, in response to my enquiries, that:

'There is no provision covering the extent to which information about third parties is volunteered by staff. This is a particularly difficult judgement call in view of data protection issues ... We have consulted with other social housing providers (RSLs and local authorities) and this appears to be common practice.'

11. The documentary evidence provided to me by Link Group included, in addition to that already mentioned (see paragraph 4), a Good Neighbour Agreement, a Tenants Handbook and a checklist for tenants and Link Housing staff to sign jointly that specific information and advice had been passed to the tenant (for example on repairs, alterations, right to buy etc).

12. In the evidence supplied to me by both Mr C and Link Group there is no formal record of the conversation that took place, neither is any independent corroboration available as the only parties present at the sign-up visit were Mr A, Ms B, Officer 1 and Officer 2.

(a) Conclusion

13. Mr C said that Mr A was not given any advice on how to deal with or report anti-social behaviour. The evidence shows that Mr A was provided with information on how to report anti-social behaviour which is contained in the Good Neighbour Agreement and in the Tenants Handbook. However, given the high profile nature of general anti-social behaviour concerns, the information is not as readily identifiable in the pack given to new tenants as the information on, for example, repairs and alterations.

14. Mr C also said that Link Group had a specific legal obligation under the Freedom of Information (Scotland) Act 2002 and property/tenancy law to disclose information on Neighbour 2 as the cause of anti-social behaviour in the area, and that they had a duty under health and safety legislation to take into account the health of tenants. There is no specific duty under the Freedom of Information (Scotland) Act 2002 or housing legislation as it applies to RSLs in Scotland for Link Group or its staff to have disclosed the information about Neighbour 2. The Health and Safety at Work etc Act 1974, as the framework for health and safety, does not place a specific duty on Link Group to consider a tenant's health in relation to anti-social behaviour when signing up for a tenancy, and there are no specific health and safety regulations or approved codes of practice that apply to this issue in such circumstances.

15. The key event which led to this complaint was the conversation between Mr A and Ms B and Officer 1 and Officer 2 at the sign-up visit to the property in June 2005. Each side has given an account of the conversation which is contradictory to the other. As there is no record of the conversation and no independent corroboration, what was or was not said cannot be proved. While this is unfortunate, I am unable to reach a finding on this complaint.

(a) Recommendations

16. Although I have made no finding on this complaint, the Ombudsman wishes to make two general recommendations as a result of the issues it has raised. In the absence of any specific provision in its policies for dealing with disclosure of information on third parties who are responsible for anti-social behaviour, the Ombudsman recommends that Link Group should consider seeking external advice, for example from the Information Commissioner's Office, on how to deal with this issue.

17. The Ombudsman recommends that Link Group consider amending the checklist used at sign-up so that it clearly shows that information on their anti-social behaviour policy has been passed to the tenant. Link Group might also wish to consider a free-form section on the checklist so that staff can note other relevant or specific issues that have been discussed. Link Group should remind its staff that the checklist must be signed by their staff and the tenant in all cases. This would be in keeping with a suggestion made by Mr C in the course of the complaint, as forwarded to Link Group staff by their Chief Executive.

(b) The investigation conducted by Link Group was flawed and not in accordance with the complaints policy

18. Mr C wrote a letter of complaint to the Director of Finance at Link Group on 4 August 2005, following a telephone conversation between the two, and sent a follow up letter with additional information on 10 August 2005. Mr C did not receive a reply within the ten day timescale stated in the Link Group complaints procedure and so tried to progress the matter by telephone calls to Link Group and then by an email to the Director of Finance on 1 September 2005. Mr C received an email reply on 2 September 2005 apologising for the delay and advising that the Link Group Chief Executive would respond to Mr C by 5 September 2005.

19. Following an investigation by the Chief Executive which included speaking to, and obtaining brief written statements from, Officer 1 and Officer 2, the Chief

Executive had a telephone conversation with Mr C on 2 September 2005 and followed this up with a letter on 5 September 2005. This letter outlined Link Group's position in relation to the complaint which supported the view of Officer 1 and Officer 2 that they had discussed the anti-social behaviour with Mr A. Mr C disagreed with this position and there was an exchange of several emails and telephone calls between 6 September 2005 and 10 October 2005.

20. Following further investigation the Chief Executive wrote to Mr C on 12 October 2005 with a further statement of the Link Group position, an offer of £100 compensation payment for failing to meet timescales set out in their complaints procedure and advice that Mr C could take his complaint to the final stage of the internal complaints procedure by writing to the Board of Link Group. Mr C was not happy with the conclusions reached by Link Group, the offer of £100, or the possibility of another stage of the internal complaints procedure. Again there was an exchange of several emails between 13 October 2005 and 31 October 2005. During the course of this exchange it became apparent that Link Group held copies of correspondence relating to Mr A's tenancy and Mr C's complaint, but no records detailing how Mr C's complaint had been investigated by Link Group other than the brief statements from Officer 1 and Officer 2.

21. On the recommendation of the Chief Executive, Mr C's complaint was considered by the Link Group Board on 1 November 2005. This resulted in a letter of 7 November 2005 from the Board Chairman to Mr C noting that the statements made by the two sides were contradictory, expressing regret for any misunderstandings and apologising should Link Group have contributed to this, and restating the offer of £100. Mr C remained dissatisfied and submitted his complaint to the Ombudsman.

22. The Link Group complaints policy stated that:

'[Link Group]'s complaints policy and procedures will: ...

- allow speedy handling, with established time limits for action, and keep customers informed of progress
- ensure a full and fair investigation ... '

(b) *Conclusion*

23. As the evidence shows, Link Group did not respond to Mr C's complaint within the timescales noted in their procedure. The Chief Executive apologised for this and offered Mr C £100 as a compensation payment. As Link Group have provided an appropriate remedy in relation to delay before the complaint

was considered by the Ombudsman I do not uphold this aspect of the complaint.

24. The Link Group complaints policy stated that the investigation would be 'full and fair' but the policy does not provide a more detailed definition of what constitutes 'full and fair'. The evidence provided to me by Link Group indicates that an investigation was carried out but it does not support a reasonable definition of 'full'. The statements provided by Officer 1 and Officer 2 are very brief, lack sufficient detail and are informal in nature. There is no record of what was said when Link Group management discussed the matter with Officer 1 and Officer 2 as part of the investigation. The email and letter correspondence I have seen does not lead me to believe that the investigation was 'unfair', though a judgement on this would be made easier if there was a more full record of the investigation. However, it is important to note that given there is no record of the conversation at, and no independent corroboration of, the sign-up visit which is the substance of the complaint, it would have been difficult and disproportionate for Link Group to have conducted a very detailed investigation. Taking these factors into account, I have partially upheld this limited aspect of Mr C's complaint.

(b) Recommendations

25. The Ombudsman recommends that Link Group consider:

- (i) making a record of interviews with staff that are conducted as part of an internal investigation.
- (ii) The Ombudsman recommends that Link Group consider what is meant by 'full and fair' as stated in their complaints policy.

26. Link Group have accepted the recommendations and will act on them accordingly.

24 October 2007

Explanation of abbreviations used

Mr C	The complainant
Ms B	Mr C's daughter and Mr A's girlfriend
Mr A	The aggrieved, Mr C's daughter's boyfriend
Link Group	Link Group Limited
Link Housing	Link Housing Association
Officer 1	Link Housing Officer
Officer 2	Link Housing Maintenance Officer
Neighbour 1	Mr A's neighbour who discussed the anti-social behaviour with him
Neighbour 2	Mr A's neighbour who was responsible for the anti-social behaviour
RSLs	Registered Social Landlords

Glossary of terms

Registered Social Landlords	Not-for-profit organisations providing affordable social housing, including Housing Associations and Co-operatives.
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List of legislation and policies considered

Freedom of Information (Scotland) Act 2002

Health and Safety at Work etc Act 1974

Housing (Scotland) Act 2001

A legislation and literature review of health and safety for social landlords – a report to Communities Scotland (June 2006)