

COMPLAINANT: SW

ACCOMMODATION PROVIDER: UNITE

PROPERTY: DORSET HOUSE, OXFORD

SW complained about breaches of the Code of Standards on the part of the accommodation provider.

The complaint related to the following sections of the Code.

RELEVANT SECTIONS OF THE CODE

Before looking at the complaint I am setting out the relevant sections of the Code.

Managers will ensure that

3.0 All property details are reported accurately without misrepresentation to prospective tenants. This will include details provided in brochures and websites. Where a development is being promoted in a University prospectus then the organisation will request the University to make clear if the operator of the scheme is not the University and will also request the University to state clearly the management organisation charged with both tenant and building responsibilities

3.14 Tenants are made aware of how to report any concerns about the condition of their rooms at the beginning of the tenancy.

4.16 All furnishings and furniture are clean and in reasonable condition at the commencement of the tenancy and comply with the relevant fire safety legislative requirements relating to furniture and furnishings -Furniture and Furnishings (Fire) (Safety) Regulations

4.17 All kitchen facilities are designed and installed having regard to safety

4.21 Suitable and adequate WC, bath and/or shower facilities are provided, having regard to any guidance applicable to developments of this type laid down by the Local Authority

4.22 All WCs situated in tenants' rooms are properly compartmentalised, with adequate provision of natural or mechanical ventilation

INTRODUCTION

Before I analyse the complaint I want to make clear that I can only consider whether there have been breaches of the Code; and where there are such breaches, what the consequences should be. I cannot adjudicate on contractual disputes nor can I

make any orders about compensation. For those matters the complainants' remedy is through the courts.

The details of the complaint and the responses from the accommodation provider are set out in an exchange of emails and other documents. The parties have had a full opportunity to deal with the issues and the points raised by the other side.

I have considered all the written evidence very carefully. If I do not mention a particular statement that does not mean I have not read it or considered it.

THE FACTS

The accommodation provider set out the complaint and its response in a single document.. The most convenient way to deal with the facts is copy this, followed by the complainant's response:

Customer Complaint	Investigation Result
<p>1. (1) Under 3.0 it states that "All properties are reported accurately without misrepresentation to Prospective tenants."</p> <p>The property as presented did not at all meet the description as given, the description was as a fairly modern, clean flat that was in very good condition and one of the flats at the higher end of the student lettings market, however, what I was presented with was a flat in poor condition, that had not been cleaned in the void period, that had a strong smell cigarette smoke throughout, had suffered considerable damage from the previous tenants which had not been made good and furthermore was in significant disrepair, this was clearly not ready to move in to and to simply put a tenant in to a property that clearly hadn't been through reasonable remedial works to make it lettable again was appalling and frankly shocking.</p>	<p>Original copy of Dorset House description (available on our Website for advertising purposes);</p> <p>"En Suite Room (42 weeks): Typically between 4 - 8 en suite rooms within a cluster flat with a shared kitchen and lounge area. The bedrooms are fully furnished with modern furniture's with plenty of living space and your private en suite shower room. It's great for living with your mates, making new friends and not fighting over who cleans the bathroom. The shared kitchen/lounge is fully fitted to a high standard with comfy sofas and large screen TV making it ideal to relax and socialise. Studio (50 weeks)- If it's privacy and extra comfort you are looking for, a studio could be the right choice for you, where you can fully focus on you whilst still having us there under the same roof if you need us! A studio comes with your private en suite bathroom as well as your own fitted kitchen, perfect for inviting friends over for a dinner party or study together. Our studios come in various sizes, some of which are larger with comfy double beds."</p> <p>Conclusion: Descriptions about size, age of the property and provisions are correct. However, the flat had not been turned around properly at</p>

	<p>the beginning of Steven's tenancy – this was rectified within 24 hours.</p>
<p>2. (2) Under 3.14 it states that tenants should be made aware of how to report any concerns or problems,</p> <p>I believe that there has been a breach as it was not made clear who to report concerns about the</p> <p>condition to, this may have been because of the handover from CRM to Unite, however I felt that my concerns were not and have not listened to, as very little action was taken or responses that were made were not in a reasonable and timely manner, furthermore the action that has subsequently been taken has not made good the faults to a reasonable standard.</p>	<ul style="list-style-type: none"> • Our website shows how to report a concern, this can be done directly with a member of staff at site (which Steven did), over the phone, by email or by using the MyUnite app or on the website • Information about how to get a problem resolved also included in the Dorset House Welcome Guide • Steven first reported his concern by contacting the NCC on 4 September 2015 • Steven used our maintenance reporting tool himself on 4 November 2015 • Georgina Couzens recorded maintenance issues on Stevens's behalf on 12 October 2015 <p>Conclusion: information about how to report any concerns or problems is plentiful and clear; Steven has demonstrated understanding of reporting problems through various methods.</p>
<p>3. (3) Under 4.16 it states that all furnishings and furniture are clean and in reasonable condition at the beginning of the tenancy,</p> <p>this was not the case as the flat itself was dirty and smelled strongly of cigarette smoke, which tarnished the furnishings and furniture, the smell of cigarette smoke was deeply unpleasant and not something that any reasonable person should expect to have to endure in their new accommodation, this demonstrates a complete lack of care and attention in carrying out reasonable void and remedial works before my tenancy started.</p>	<p>These issues were resolved once reported – Laura emailed confirmation of this to Steven, he did not follow up</p> <p>Within 24 hours of issues reported, following action was taken;</p> <ul style="list-style-type: none"> • The smell of smoke – air freshener applied to room and aired to remove the smell of smoke. • Stickers on the kitchen cupboards – removed by Laura Accommodation Manager • Peeling wood laminate near fridge – re glued and secured by Henry Maintenance Operative • Hole in bathroom door – door replaced by Henry Maintenance Operative • Broken plug socket – new socket applied by Henry Maintenance Operative • Broken chair – new chair sourced by Laura Accommodation Manager • Marks on wall – Painter sourced to re furbish all walls on Saturday 5th Sep to a high standard. Ceiling also re painted

	<p>Conclusion: the flat was not sufficiently turned around between tenancies, once reported all complaints were resolved within 24 hours.</p>
<p>4. (4) under 4.17 it states that kitchen facilities should be designed and installed to have regard to safety,</p> <p>I believe that the extractor fan issue is a breach of this, because the extractor vents from the kitchen in to my bedroom area, which I believe is a risk to hygiene and health, it is not an unreasonable proposition that any extraction from the kitchen should be diverted to expel the air outside rather than back in to the flat.</p>	<ul style="list-style-type: none"> • The vents filter cooking fumes and heat and expel these through the cooker vent. Clean air is then filtered into the room from outside. • Maintenance inspected the vent once issues were logged and reported that these are working correctly. <p>Conclusion: the vents are performing correctly – kitchen air is not being extracted into bedroom</p>
<p>5. (5) Under 4.21 it states that "suitable and adequate" WC & shower facilities should be provided,</p> <p>this is not the case in my flat, firstly the flush on the toilet is broken and the water continues to flow through the cistern after the flush has been pressed, I have raised this with you and as yet it has not been repaired, as mentioned earlier, this is a section 11 landlord and tenant act issue in terms of repair (Beyond any issue under the national code) and as yet has not been resolved, I have also mentioned the shower screen door which has a habit of locking shut, neither of these can be described as suitable or adequate facilities by any definition,</p>	<ul style="list-style-type: none"> • Any reports of toilet not working properly have been seen to and followed up to ensure the fix has been okay. No recent reports received about toilet not working (last one logged on 12 October 2015) • No fix for shower door has yet taken place as spare parts are needed (John Allum and Andy Corbett) are working on this. Explanation has been given to Steven but this job remains outstanding. <p>Conclusion: shower is outside SLA and we may want to offer goodwill for this</p>
<p>6. (6) Under 4.22 it states that there should be adequate provision of ventilation to the bathroom,</p> <p>although there is ventilation, via an automatic extractor fan, much like the</p>	

kitchen extraction, it vents the damp air from the bathroom into the bedroom area and not outside. This is not at all adequate or suitable; again I have raised this issue with no reasonable response to date.

Conclusion: as above (point 4)

Complainant's response:

In response to Unite housing's investigation and response to my complaint.

In point 1(1) Unite have responded that the descriptions given were correct and that the property was turned around in 24 hours, this was not correct or accurate at all.

Unite state that the issues were rectified within 24 hours, however the plug socket had not been replaced but simply put back into place, even though it had been visibly damaged and was in a significant state of disrepair (furthermore, it was not repaired by an electrician but by the on site handyman), the shower screen had not been repaired (to date it still has not been properly fixed and remains a potential hazard to my safety and well being), the paintwork had not been made good in the property or been cleaned to a reasonable standard, the extractor fan from the cooker still pumped air from the kitchen in to the living room area of the flat, the soft furnishings (Curtains etc) still smelled strongly of cigarette smoke and had neither been replaced or cleaned to remove the smell and the carpets had not been cleaned to remove the smell of stale cigarette smoke.

To say that within 24 hours my complaint had been resolved and issues made good is not correct and it is disingenuous to suggest otherwise.

It is worth pointing out that Unite have admitted fault in respect of the shower screen and have offered to refund 10% of the rent up until the point that it is repaired, which I believe is an admission that they have failed in a reasonable duty of care in making sure that the accommodation is presented in a reasonable condition which matches the description given in their brochure and advertisements.

In response to 2(2), although Unite are correct in stating that I reported issues, to simply dismiss my complaint by stating that "our website shows how to report.." is not sufficient.

The term "Made aware" implies that Unite must be proactive in providing a system by which complaints, disputes and problems can be clearly and swiftly reported, it was not my experience that this was the case as I had to take my own valuable time to find these details and even when I did report my concerns, a number of times I simply encountered a complete wall of silence which made me feel as if my concerns were not important or that they would be resolved.

In 3(3) Unite state that the issues that I raised in respect of all of the furnishings that were supplied being in clean and reasonable condition at the beginning of the tenancy were resolved within 24 hours is simply not correct or accurate.

Curtains, Carpets and soft furnishings had not been cleaned and they smelled heavily of tobacco smoke as the previous resident was clearly a heavy smoker, there was evidence of tobacco smoke on the paintwork too.

The closest to “remedial work” that was carried out to put this right was the provision of a scented air freshener, which to put it mildly was completely insufficient and did not deal with the staining or the smell which had permeated the soft furnishings, as a non-smoker, you may appreciate that having to live in such conditions was appalling and that nothing was done to clean the soft furnishings or take steps to deal with the smell ruined my utility of enjoyment of the flat.

The fact remains that at the beginning of the tenancy and for the majority of the period of the tenancy, the flat has not been in what any person would describe as reasonable condition.

The facts remain that to date the shower screen has not been repaired to a reasonable standard and is still a hazard, the toilet flush has not been repaired, there is still (After all this time) a smell of stale tobacco smoke on the soft furnishings and the attempts at redecorating have been of a poor quality finish, which is not as the property is described.

In 4(4) Unite have stated that an inspection was carried out in respect of the extraction from the kitchen, however as far as I am aware no inspection was carried out and air is still being extracted from the kitchen to the bedroom. I dispute that the extraction is working correctly.

In 5(5) Unite have stated that the toilet has been repaired and made good, this is not correct, I was advised that it could not be properly fixed as the part was not available in the UK at this time. The toilet is not flushing correctly and I am still having problems with it.

Furthermore, as previously mentioned, the shower screen has not been satisfactorily repaired and still represents a danger to me in the event that the screen were to come away from its temporary fixings and shatter.

This has still not been resolve satisfactorily and therefore it is a reasonable proposition to state that Unite have failed in supplying adequate WC and shower facilities, given that the WC does not function correctly and the shower screen is dangerous and a hazard to my safety.

In conclusion, the flat that has been provided was simply not up to the standards as advertised, there have been issues under s11 of the landlord and tenant act that have not been resolved, there is a potential HHSRS hazard in the shower, in respect of falling objects and the property has not been maintained to the standards as promised in the promotional materials.

All of which has contributed to me suffering a complete loss of utility of enjoyment during my stay as a tenant.

It appears that when the complainant first raised these issues he was offered a change of room. A *goodwill* offer of compensation has been made, and subsequently increased. The complainant states that the shower door has not been fixed.

I am going to copy two emails to the complainant from Alice Hickey, the Service Supervisor, as they are important and have had a considerable bearing on my decision:

On 15 Apr 2016, at 16:32, Alice Hickey <Alice.Hickey@unite-students.com> wrote:

Hello Steven,

Thank you so much for taking the time to speak with me this afternoon – it was really good to be able to talk through your concerns about Dorset House and also get a better idea of how we can move things forward.

As discussed, we'll pick this up next week after you have sent your reply to ANUK, I'm also keen to help with getting the issues you've raised investigated and resolved, so that we can address your overall complaint.

In the meantime, I've made an offer of goodwill for £456.85 to you (10% of rent) for the shower door not being fixed, I will hold this offer open as this is in recognition of just one element of the matters you've raised and understand that you want to reflect on this.

I'll look forward to speaking with you next week, in the meantime, I hope you enjoy your weekend.

Kind regards,

Alice Hickey

From: Alice Hickey <Alice.Hickey@unite-students.com>

Date: 17 May 2016 at 17:15:46 BST

Subject: RE: Unite Students - Phone Call Today

Hello Steven,

Thanks for your email and for copying in Simon and SU advice, please feel free to send this email on to them and keep for your records if you would like to.

Since we spoke yesterday, I have brought this matter to the attention of our Area Manager and City Manager in Oxford, as well as our Facilities Team working in our Head Office. We are very keen that this is brought to resolution and I'd like to thank you for bringing me up to date yesterday.

In line with industry standards – the goodwill offer discussed (£456.85) had originally been calculated based on the first date the issue had been recorded in writing, which was 5 November 2015 at a rate of 10%. In light of your continued patience of this matter still being outstanding, in line with your suggestion I'd like to offer this from the first date of your tenancy 7 September 2015 until the end of this week 20 May 2016. This means the offer is increased to £715.92.

We will keep you further updated, but as discussed in the call I made to you yesterday, should the issue still be outstanding following this week I will again review the goodwill offered and if needed.

If you would like me to go ahead and make arrangements for £715.92 to be returned to you now, please let me know and I will not hesitate to go ahead and do this. If you would prefer to wait until we have resolved the issue, I will be happy to do this too.

Kind regards,

Alice Hickey.

ANALYSIS

For the most part I broadly accept the evidence of the complainant.

As to 3.0, the complaint was not about size or age of the property, but about the condition. Unite accepted: *the flat had not been turned round properly at the beginning of the tenancy*. The ambit of 3.0 is to prevent misleading descriptions, which might lead to people signing up for accommodation on the basis of false expectations. I think it is wide enough to include the condition. Reading that description, I would expect the room's condition to be a high standard. The website description says *fully furnished with modern furniture....and fully fitted to a high standard*. I don't think that was true at the start of the tenancy, and in consequence there was a breach of the Code.

Unite go on to say: *once reported all complaints were resolved within 24 hours*. That is patently not the case - the complainant continued to be aggrieved and to report issues. I will return to this below.

Unite has admitted that the furniture and furnishing were not clean and in a reasonable condition at the beginning of the tenancy: *the flat was not sufficiently turned around between tenancies*. There was a breach of the Code.

They go on to say: *once reported all complaints were resolved within 24 hours*. There is some evidence put forward, but the complainant disagrees that the problems were resolved. As stated above I generally accept the evidence of the complainant. The dispute about what was resolved and when is not directly relevant to the initial breach of the Code, but may have some bearing on what action is recommended.

As regards 3.14, I accept that the complainant had difficulty getting his complaints dealt with: *when I did report my concerns, a number of times I simply encountered a complete wall of silence which made me feel as if my concerns were not important or that they would be resolved.* I believe him, not least because the response is dismissive and unparticularised: *S has demonstrated understanding of reporting problems through various methods.* In my view it is permissible to read 3.14 as *tenants should be made aware of how to report any concerns or problems so that they will be dealt with promptly and effectively.* On the basis of what S has said I find a breach of the Code.

On the question of ventilation, 4.17 and 4.22, I am not impressed with Unite's dismissive response, which is a simple assertion, without any evidence : *the vents are performing correctly - kitchen air is not being extracted into bedroom.* If an inspection was carried out, details of that inspection could have been provided. I am unable to come to a conclusion on this point, but I see no reason to doubt that the complainant has been uncomfortable over this.

Breach of 4.21, the shower facilities, is admitted. Compensation has been offered. The complainant says the defect has not yet been remedied.

The complainant makes a number of more general complaints about breaches of section 11 of the Landlord and Tenant Act 1985 and of HHSRS hazards under the Housing Act 2004. This Complaints Tribunal is not the right forum for exploring these questions unless they relate to breaches of the Code. With the exception of the ventilation points I have upheld the complaint. If the complainant wishes to pursue these points he will need to take legal action and/or involve the local authority.

CONCLUSION

I do not think it is necessary to refer this complaint to the full tribunal. I have consulted the Vice-Chairs and taken their comments into account in coming to my conclusion.

I have found breaches of the Code and I uphold the complaint. I believe that Unite could have done more to improve their service.

However, there are a number of matters which mitigate the effects of the breaches. I note that alternative accommodation was offered; of course there was no obligation on the tenant to accept this offer, but it shows some willingness to deal with the problem. I have not found Unite to be as defensive as can often happen in these cases, though I did find some of their responses dismissive and unhelpful. I don't understand why the shower door was not dealt with swiftly and properly. On the other hand, there has been an offer of compensation, which has been increased because of the delay in remedying the defect.

One thing, however, has greatly impressed me, and that is the response of the Service Supervisor, whose two emails I copied in full above. I found the response polite, fair, helpful and showing a genuine wish to resolve the complaint. That is just

the sort of response the Code encourages in the way complaints are to be dealt with. If the Service Supervisor, or whoever is the appropriate person in the organisation, could contact the Code Administrator in writing to confirm that lessons have been learnt from the way this complaint arose and how it has been dealt with, and that the points I have raised have been taken on board at every level of the organisation, I would recommend that no further action be taken in regard to the complaint.

JOHN MARTIN
CHAIR OF THE COMPLAINTS TRIBUNAL

19th May 2016