

National Codes Tribunal

25th August, 2016

13.30pm, at The Rose Bowl, Leeds Beckett University

Meeting to consider a complaint against Urban Student Life

Members of the Tribunal present: Mr John Martin (Chair); Ms Shelly Asquith (Vice Chair); Mr Keith White (Vice Chair); Ms Jane Crouch (Pvt Provider); Mr Brian Welsh (Pvt Provider); Ms Victoria Tolmie-Loverseed (ANUK); Ms Fleur Priest-Stephens (NUS); Ms Liz Hodgen (Unipol); Ms Victoria Johnson (Leeds Beckett University); Ms Maddy Andrews (Leeds Beckett University SU); Mr Mike Brook (Leeds City Council);

Also present: The complainant, DB; Mr Andrew Buchannan (AB), Robyn Steward and Elizabeth Dickinson (Urban Student Life)

In attendance: Sian Davies (Complaints Handler) and Simon Kemp (National Codes Administrator)

The Chair asked for introductions and then gave a summary of the complaint (full details shown below) and his views on it.

Report from the Tribunal

Details of the Complaint

The initial complaint was received on the 22nd February 2016 from the father of a tenant living in Asquith House, Leeds, a large development managed by Urban Student Life. The complaint alleged that the following clauses of the Code had been breached:

3.00 - All property details are reported accurately without misrepresentation to prospective tenants. This will include details provided in brochures and websites.

It was alleged that the advert for the development had shown two completed buildings (Asquith and Austin House), along with a reception area, however nothing was actually completed at the time the tenants moved in yet no statement to this effect was ever included on the advertisement.

3.07 - Where a building is new or undergoing refurbishment and the building programme is running late and where this may result in pre-let rooms not being ready for occupancy, the manager informs the future tenant at the earliest possibility of this likelihood and its consequences for them.

It was alleged that as the complainant's daughter was placed in alternative accommodation for eleven weeks as soon as she arrived in September, something she was not notified about in advance, the provider did not comply with this clause.

3.08 - In the event that a room is not ready for occupation on the date that the tenancy begins then suitable alternative accommodation is provided, by the same supplier, in an adjacent building or, in any event, in a building within half a mile of the original development. The replacement facility must provide an equivalent level of services and amenities previously contracted for. If an alternative bed is not available on the terms above then a hotel room will be secured and any amount paid for rent during the period of temporary accommodation will be refunded to the tenant by the supplier with whom the customer signed the tenancy. If no self-catering facilities are provided in any accommodation offered then breakfast and one other meal will be provided, or arrangements for receiving these meals will be provided.

It was alleged that the provider had failed to refund rent to the students for the period of time that they were living in hotel rooms.

3.10 - Prospective tenants are issued with receipts (electronic or hard copy) for all monies received, whether in payment for rent, deposit, utility or service charges.

It was alleged that no receipts were ever issued for any of the payments made.

3.11 - The provider's membership of this Code is clearly communicated to all tenants by the display of a standard notice, (including the Code logo) within the building, or a central reception area.

It was alleged that no such notices were ever displayed.

4.0 - All appropriate measures are taken (including the service of statutory notices if necessary) to ensure timely possession of a property and mitigate any delay or hardship that may be caused to incoming tenants.

It was alleged that as only one working days' notice was provided that the building was not habitable it was impossible for tenants to find alternative accommodation, it was also alleged that the provider gave false information to the students about when the building would be habitable, which led to even greater hardships to the tenants.

4.26 - Managers will ensure that: Tenants are informed of procedures for the distribution of incoming mail and where it can be collected from. Tenants must be able to access their mailbox from a secure area, preferably accessible from within the building; And 4.27 - Where mail is not delivered through a letterbox into the room or flat of occupancy, then mail is delivered in conveniently located, lockable, secure mailboxes.

It was alleged that no secure mailboxes were provided in Asquith House, and that tenants were informed by the provider that mail would be left on a chair or in a cupboard in the reception area.

6.16 - Tenants are provided with clear written guidelines on the fire safety procedures, including details of the safety measures installed, why they are there, how they operate and what to do in the event of a fire;

It was alleged that no such guidelines were made available to tenants at the time they moved in.

6.17 - A notice containing this information is displayed in all rooms and communal areas.

It was alleged that no such information was provided to tenants. When students were able to move into Asquith House blank fire notices were provided in rooms, and these were only filled in during the Easter period - several months after the building had been occupied.

8.2 - They make written response to any correspondence from tenants or their representatives within three weeks of its receipt; 8.3 - The response they make confirms the actions they propose to take and the overall timetable they aim to achieve; And 9.0 - Within four weeks of receipt of any written complaint from a tenant (or their representative) they rectify any breach of this Code of Standards or, where any allegations are contested, enter into correspondence with the tenants or their representative;

It was alleged by the complainant that although the provider acknowledged a complaint he had lodged in late January 2016, he received no further communications from the provider after that date.

Other Matters that the Tribunal Took into Account

The Chair invited members of the Tribunal to make any comments on the complaint and/or raise any questions they wished to put to either the complainant or the provider.

Members questioned how the provider did not understand that the site was not ready for occupation at the start of the tenancy and expressed some doubts as to the validity of the provider's claim that they were not allowed on site. The NCA reported to the meeting that as of August 23rd, building work is continuing to take place on site. Whilst Asquith Hall appears to have been mostly completed, the adjoining development - Austin House - is still under construction. Contractors are still very evident on site, and even Asquith House is still surrounded by hoardings - so much so that it is not possible to enter the main reception of the site from the front of it. Copies of photos taken by the NCA on August 23rd were circulated to members of the Tribunal.

The Tribunal raised some questions about how the staff on site had dealt with the difficulties which had arisen with the building, both at the time when tenants were informed that they could not move in as well as after they had done so; members also questioned what knowledge of the Code the staff possessed and whether they had received any training about it.

Some concerns were also expressed by the Tribunal about the quality of the information that had been sent to tenants, especially during the period that they were living in the alternative accommodation and waiting for Asquith House to be ready for occupation. Members questioned

whether this aspect should have been dealt with by a senior manager, rather than by different local managers.

There was some discussion about whether there has been some misrepresentation of services to be provided to students living at the accommodation, as advertised on the website advertising the development. Some members of the Tribunal questioned whether some of the facilities it was claimed they would be offering - such as counselling services, insurance, a prayer room - were in reality going to be provided or whether the website was overstating this, and in reality such facilities would be offered by third parties.

Concerns were also raised about the speed of the provider's response to the NCA's request for comments once the initial formal complaint had been submitted.

The Chair informed the meeting that he had received a letter from the CEO of Unipol Student Homes reporting on the outcome of discussions that Unipol had with USL in respect of compensation payments to tenants affected by the late building, which included mention of the fact that the total amount paid by the developers as a result of the problems was in the region of £290,000.

The Tribunal also raised some questions about the role of third party operators in relation to situations where that operator was contracted to manage the building but had no control over the way in which it was being marketed and/or what amenities were included. Several members of the Tribunal expressed some sympathy for Urban Student Life's plight at having little control over the delivery of the building and took the view that they had been placed in an almost impossible position by the developer and the contractor. It was therefore suggested that some guidance be provided to such operators in these circumstances, and some thought be given to whether such accommodation could be accredited under the Codes in the first place

Report of the Discussions

Both the complainant and representatives of the provider were present at the meeting. They took it in turns to make a statement to the Tribunal and then responded to questions raised by Tribunal members.

Complainant

DB in his statement to the Tribunal emphasised that his reasons for wishing to bring the matter to their attention was due to his belief that the tenants had experienced poor management from USL, both during the time the tenants were in alternative accommodation and also after they moved into the accommodation when it was available to them. He also questioned whether USL had learned anything from the process, and cited the fact that their website continues to advertise amenities that are not yet available to tenants.

In response to a question from the Tribunal DB confirmed that some compensation payments were made to his daughter. The Chair asked about provision of receipts and whether he was content with what USL have provided to him, he stated he was not. He was also asked by the Chair what he had believed from the statement which had appeared on the USL website at the time he had booked the accommodation that the buildings were 'coming soon', and he replied that he had not taken from this a view that the building would not be ready for tenants to move into; he added that had he known it was not going to be ready then he would not have booked the accommodation in the first place. In response to a question about whether the site staff had been trained sufficiently, he stated he did not think so. The Chair thanked DB for attending the meeting and asked that the Tribunal's best wishes and congratulations on passing her course be passed to his daughter.

Provider

AB reiterated USL's view that the complaint stemmed from the situation that they had been put in by the developer of the site (Pinnacle) and the contractor (PHD1). He informed the meeting that the contractor was no longer working with the developer and that USL itself now have a more detached relationship with the developer; he cited the fact that the staff who manage Asquith House are no longer being paid by Pinnacle but by themselves as an example of this change of relationship. The provider also identified that the freeholder of the property was no longer Pinnacle and as such was confident that the new freeholder would ensure the works were completed on site.

The Tribunal asked about the amenities which were advertised - specifically counselling services - and what was available for tenants in respect of this. The response was that this is something they aim to provide via their own staff but that they would also be referring tenants to the university's own services as well.

They were asked about the difficulties they'd had of getting on site from the outset and what action they took regarding this, and they responded that they were told not to talk to the builder by the developer and so therefore had simply accepted the assurances the developer was giving to them as to progress with the development. They informed the meeting that the same builder had caused similar problems in another location and they had not been allowed on site there either. In response to a question about how early USL knew there was a problem with the site and that students would not be able to move in, they replied that the first they knew of this was 4 days beforehand. In response to a question about the relationship with the developer, AB reported that they would not be doing future business with them.

In response to a question about monetary refunds to tenants because of the late running building and when they notified tenants this was to be paid, AB stated this process started at the end of October 2015. The Chair asked AB whether he felt the process of returning money to the tenants had been delayed; he agreed that it had but stated his view that this was due to the developer and the way in which they operated and also the costs of the hotel accommodation and the compensation payments affecting cash flow.

The Tribunal asked about the way in which local managers had responded to the concerns about noise on site that had been raised by one tenant once they had moved in, and the provider's response was that they did not accept the accusation was a proper reflection of the way the situation was dealt with. The Tribunal asked the staff whether they had received any training on the Code and they agreed they had not.

The Tribunal questioned why some support was not provided to local staff when communicating information to tenants about issues with delivering the building. AB accepted this was a problem and that other staff had been brought in to help them, and regretted it had not been better. In response to a question about the tone of the communications from USL to the tenants, AB stated his view that because this was such a unique situation for them and something which they had not expected to happen, they had not always responded as well as they might have and that they would learn the lessons from it. The provider reminded the Tribunal that 46 group move-in emails were sent by managers to the 115 students and that in return the managers received back 3,280 emails from the students.

The Tribunal asked what actions the provider had taken to liaise with those tenants who were living in alternative accommodation. AB responded that he believed they had maintained sufficient contact with these tenants and that his deputy had even attended a social event that they had arranged for them, at which he had spoken to many of the effected tenants.

In relation to the alleged non-provision of mailboxes, the provider was asked what security measures were employed due to the non-availability of these. The provider stated that their policy was to collect all post centrally within the site and then distribute it to tenants and, as the staff knew everyone, they did not always request ID from them when it was being collected.

In respect of the allegations that fire notices were not being displayed within rooms, the provider disputed that this was so- although they accepted that some were removed as they contained errors in them - and stated that they were all in place from January 2016.

The Tribunal asked when the common room, which had been one of the amenities listed on their website advertising Asquith House, would be completed by and AB replied that it would be ready in late September. He also reported to the Tribunal that the development was fully let from September and that all the people who had booked had been made aware of the current condition of the site at the time they did so. The Tribunal asked what steps were being taken to ensure they were aware of the date Austin House would be delivered; in response, AB stated they were not yet marketing this and would not do so until it had been finished. The provider was asked what systems they will now have in place before they can move tenants into a building and they stated they will be looking for one

or two weeks at least to do this in future. The provider also stated that their experiences to date with the developer compounded the need for real caution on future opening dates and that they would only begin marketing once they were sure of the date of opening allowing as much time as possible to represent the product transparently.

In response to a question about why they signed up to the Code they stated they did so because they felt their management standards met the requirements. The Tribunal asked them what steps they would be taking to ensure they complied with the Code and how they would be taking this forward, to which AB promised to offer all staff further training on the Code. He also agreed to take responsibility for ensuring they meet the standards and will be present at any visits that take place. Local staff mentioned they were creating student ambassadors for the coming year, who would be liaising with tenants. AB stated that they had intended to offer a quality product which had been marred by the relationship with the developer.

The Tribunal asked whether they felt their advertising of the development on their website had been misleading in relation to when the development would be ready for occupation and AB agreed with the Chair's suggestion that DB had been misled by information provided by them and which had appeared on a third party website. Asked whether they felt they were over advertising amenities to tenants on their website, AB agreed to review it.

The Chair thanked AB and the other staff from the provider for attending.

Both parties were informed that the decision would be notified to them in 5 working days.

Decision

The Tribunal then discussed the issues relating to the complaint, specifically in terms of whether the clauses had been breached, and reached the following decisions in relation to each one:

3.0 - The Tribunal noted that the provider had agreed with the Chair's view that the advertising of the property had been misleading in relation to the date of occupation, and was of the opinion that the advertising had overstated what services they were going to be able to provide. The Tribunal believed these matters had adversely impacted on the tenants and agreed that a breach of this clause had occurred;

3.07 - The Tribunal did not believe that four days was sufficient notice to give to the tenants of the late running building and that this had therefore also had a significant adverse impact on them. It therefore agreed this had also been breached;

3.08 - Although the Tribunal felt that it had taken time for the provider to refund the rental costs to the tenants as a result of them having to live in hotels, because the payment had been made and other monies refunded, it did not feel able to agree that this clause had been breached.

3.10 - The Tribunal was divided on whether a breach had occurred in relation to this clause. It agreed that as some form of receipt was given then it could not uphold a breach, but that the way Urban Student Life had dealt with this was not best practice;

3.11 - Because the provider had admitted it had not placed any notices within the building making clear it was accredited under the Code, the Tribunal agreed that this clause had been breached;

4.0 - The Tribunal was of the opinion that Urban Student Life had failed to communicate the correct information to tenants about the date they were due to move into the completed building on several occasions, which had caused further hardship to the tenants. It therefore agreed this clause had been breached;

4.26 and 4.27 - As the provider had admitted not having secure mailboxes available, and the Tribunal believed the alternative arrangements made were not secure, it therefore agreed that this clause had been breached;

6.16 - The Tribunal was unsure as to whether there was any evidence to prove that Urban Student Life had not given clear written guidelines on fire safety procedures to tenants, especially as they had shown the Tribunal evidence of including such information within tenant handbooks. It therefore agreed that there was insufficient evidence to find that this clause had been breached.

6.17 - However, because the provider had stated that it had taken until January for fire safety signage to be displayed in all relevant areas within the building, the Tribunal agreed that this clause had been breached;

8.2, 8.3 and 9.0 - Finally, the Tribunal was of the opinion that delays had occurred in the Urban Student Life responding to correspondence and complaints, and that they had also not provided confirmation of actions that they proposed to take in order to rectify Code breaches. Therefore the Tribunal agreed that they had breached all three of these clauses.

Overall, therefore, the Tribunal upheld the complaint brought against Urban Student Life.

Tribunal Outcomes

The Tribunal stated that it did not believe this provider was sufficiently competent at present to continue in membership of the Code, and that its staff required more training about the Code and its requirements.

The Tribunal agreed unanimously that Urban Student Life should be suspended from membership for a period of 12 months, and that before they could be re-admitted verification visits would need to be undertaken to ALL of their sites - the costs of which would be charged to the provider - the precise structure of which would be determined by the National Codes Audit Panel. In addition, Urban Student Life would be required to complete a new self-assessment questionnaire.

Follow Up Action

The Tribunal agreed that a press release detailing the outcomes should be issued, and that it include quotes from both NUS and the Tribunal Chair. In addition, the National Codes Administrator was instructed to notify all relevant local housing authorities of the outcome, and to ensure that relevant students unions and educational establishments are also informed about the suspension of Urban Student Life too.