



Northern Ireland

Public Services

Ombudsman

Investigation of a complaint against the Northern Ireland Housing Executive

Report Reference: 202001670

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The Role of the Ombudsman

The Northern Ireland Public Services Ombudsman (NIPSO) provides a free, independent and impartial service for investigating complaints about public service providers in Northern Ireland.

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act). The Ombudsman can normally only accept a complaint after the complaints process of the public service provider has been exhausted.

The Ombudsman may investigate complaints about maladministration on the part of listed authorities, and on the merits of a decision taken by health and social care bodies, general health care providers and independent providers of health and social care. The purpose of an investigation is to ascertain if the matters alleged in the complaint properly warrant investigation and are in substance true.

Maladministration is not defined in the legislation, but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

The Ombudsman must also consider whether maladministration has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. A remedy may be recommended where injustice is found as a consequence of the failings identified in a report.

Reporting in the Public Interest

This report is published pursuant to section 44 of the 2016 Act which allows the Ombudsman to publish an investigation report when it is in the public interest to do so.

The Ombudsman has taken into account the interests of the person aggrieved and other persons prior to publishing this report.

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Case Reference: 202001670

Listed Authority: Northern Ireland Housing Executive

SUMMARY

I received a complaint about the actions of the Northern Ireland Housing Executive (the NIHE). The complainant raised concerns about how the NIHE handled his complaint, specifically the provision of its Stage 2 response. The complainant said he submitted his original complaint to the NIHE in September 2020, which the NIHE acknowledged on 29 September 2020. On 2 October 2020, the NIHE emailed the complainant to confirm it passed his complaint to the Area Manager / Housing Benefit Manager to resolve. Failing resolution, the complaint entered Stage 1 of the complaints process. The complainant asked to progress the matter to the next stage. On 21 January 2021, he received a further email from the NIHE stating; *“We will be in touch shortly to confirm your issues of complaint. Following that, there will be full review of those issues and we will proceed with a second stage investigation.”* Following issue of the draft report, the NIHE provided the response to the Stage 2 complaint on 25 November 2022.

The investigation examined the information the complainant provided to my office. While my office requested information and a response from the NIHE, it did not provide either. Based on the records and information available, my investigation identified maladministration in the NIHE’s handling of the complaint. It found the NIHE did not act in accordance with its Internal Complaints Procedure (2015), as it failed to achieve the target timeframes set out in that policy and process. I considered this caused the complainant to experience frustration, uncertainty, and the time and trouble of bringing his complaint to my office.

I recommended that the NIHE apologise to the complainant for the failures and injustice identified. I also recommended action for the NIHE to take to prevent these failures from recurring.

THE COMPLAINT

1. I received a complaint about how the Northern Ireland Housing Executive (the NIHE) handled a complaint. It specifically related to the NIHE's provision of its Stage 2 response to the complaint.

Background

2. The complainant raised concerns with the NIHE prior to September 2020 (specific date unknown). These concerns related to fraud allegations, electrical issues regarding a property, NIHE staff conduct, and an accommodation issue relating to the complainant.
3. In September 2020, the complainant raised a complaint about the NIHE's handling of his concerns. The NIHE acknowledged his complaint on 29 September 2020 and, on 21 January 2021, notified him that his complaint was progressing to Stage 2 of the complaints process.
4. On 9 November 2021, having had no Stage 2 response in nine months, the complainant contacted this office. Despite more than 15 assurances from the NIHE to both the complainant and this office in the period since then, the Stage 2 response to this complaint remained outstanding until the 25 November 2022.

Issue of complaint

5. I accepted the following issue of complaint for investigation:
Issue 1: Whether the Northern Ireland Housing Executive managed the complaint, between September 2020 and May 2022, appropriately and in accordance with relevant guidance.

INVESTIGATION METHODOLOGY

6. To investigate this complaint, the Investigating Officer sought to obtain from the NIHE all relevant records, together with its comments on the issues the complainant raised. However, the NIHE did not provide any records to NIPSO at any stage during the assessment or investigation of this complaint.

7. The Investigating Officer also sought comments and answers from the NIHE in respect of a number of enquiries relating to the case. The NIHE did not respond to the Investigating Officer's enquiries.

Relevant Standards and Guidance

8. To investigate complaints, I must establish a clear understanding of both the standards of general application and those specific to the circumstances of the case. I also refer to relevant regulatory, professional, and statutory guidance.

The general standards are the Ombudsman's Principles¹:

- The Principles of Good Administration
- The Principles of Good Complaint Handling

9. The specific standards and guidance referred to are those which applied at the time the events occurred. These governed the exercise of the administrative functions of those individuals whose actions are the subject of this complaint.

The specific standards and guidance relevant to this complaint are:

- The Northern Ireland Housing Executive's Internal Complaints Procedure, 2015 (the Internal Procedure).

10. In investigating a complaint of maladministration, my role is concerned primarily with an examination of the administrative actions of the authority. It is not my role to question the merits of a discretionary decision unless my investigation identifies maladministration in the process of making that decision.
11. I did not include all information obtained in the course of the investigation in this report. However, I am satisfied I took into account everything I considered relevant and important in reaching my findings.
12. A draft copy of this report was shared with the complainant and the NIHE for comment on factual accuracy and the reasonableness of the findings and recommendations.

¹ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

THE INVESTIGATION

Issue 1: Whether the Northern Ireland Housing Executive managed the complaint, between September 2020 and May 2022, appropriately and in accordance with relevant guidance.

Detail of Complaint

13. The complainant said the NIHE did not provide him with a Stage 2 (final) response to his complaint. This remained outstanding at the time the complainant brought his concerns to my office. The NIHE has since provided its Stage 2 response on 25 November 2022.

Evidence Considered

Legislation/Policies/Guidance

14. I referred to the following policies, which were considered as part of investigation enquiries:

- The Internal Procedure

The NIHE's response to investigation enquiries

15. As noted at paragraph 6, the NIHE did not respond formally to my enquiries, other than to offer 'holding responses'. Nor did it provide any of the requested information or documentation for consideration in respect of this complaint.

Relevant Records

16. The complainant provided this office with copies of correspondence he had with the NIHE, in which he requested a response to his complaint. Within this correspondence, the NIHE documented its intention to issue the Stage 2 response.

17. The NIHE also corresponded with NIPSO in relation to the case. On 15 occasions between 21 December 2021 and 9 August 2022, the NIHE indicated to NIPSO it would issue its Stage 2 response. On nine of these occasions, the NIHE advised it would issue the response within the following two weeks. The Stage 2 response to this complaint remained outstanding until the 25 November 2022.

The Complainant's response to the draft report

18. The complainant referred to the NIHE's handling of his complaint as '*disgusting*'. He said he felt there were '*repeated systemic issues*' within the NIHE regarding its complaint handling. He stated the NIHE did not respond to a number of his queries and questioned if it lost some of his complaints. The complainant disputed that the NIHE always treated him with courtesy.

The NIHE's response to the draft report

19. The NIHE explained the delay in providing evidence to this office was due to its difficulty in acquiring information related to the complaint. It said it communicated these difficulties to this office on multiple occasions. However, NIHE accepted it should have coordinated a response even if it did not have all of the relevant information. The NIHE said it is fully committed to engaging with this office in relation to complaints investigation.
20. NIHE explained it assigned the complainant a Complaints Officer who made '*significant attempts*' to agree his issues of complaint. The NIHE said it took the decision to deal with the issues raised as a 'composite' complaint and explained this to the complainant.
21. The NIHE disputed it had a '*culture*' that considered dealing with complaints quickly and effectively '*unimportant*'. The NIHE explained, '*Complex cases often require multiple inputs from across the organisation to ensure that the response is fully considered and all appropriate guidance has been considered*'. It referred to required checks and approvals that may prolong the process. However it is '*actively seeking ways to improve the speed of obtaining all required input for complaints.*'

Analysis and Findings

22. Section 24(1) of the 2016 Act allows me to investigate a complaint if I am satisfied the complainant has exhausted the listed authority's internal complaints procedure. There is, however, a discretion under Section 24(2) of the 2016 Act which I can use where the complainant has not exhausted the complaints procedure, but I consider there are special circumstances to accept the complaint. The absence of a Stage 2 final response (at the time my office received this complaint) meant the complainant had not yet exhausted the NIHE's complaints procedure before raising his concerns

with my office. Upon receipt of this complaint, I noted the number of assurances the NIHE had given to the complainant that it had prepared its response and would issue it shortly. I also noted that the time taken to respond to the complaint had well exceeded the NIHE's own timeframe set out in its Internal Procedure. I was satisfied the NIHE had sufficient opportunity to address the matter and therefore used my discretion to accept the complaint.

23. The issue raised to this office related only to complaint handling; and therefore the investigation did not examine the substantive issues the complainant raised to the NIHE.
24. I note the complainant raised several concerns with the NIHE. When the NIHE had failed to resolve those concerns by September 2020, he made a formal complaint about its lack of action. The NIHE's complaints process reached its final stage (Stage 2) in January 2021. The complainant asserts that the NIHE gave him repeated assurances that it would issue a final Stage 2 response. In November 2021, nine months after the complainant expected a response (in line with the Internal Procedure), he raised his concerns with my office.
25. The NIHE's failure to respond to the complainant was compounded by its failure to respond to enquiries from my office. NIPSO made repeated attempts to engage with the NIHE in relation to this case. However, as outlined above, the NIHE did not provide any of the information or documentation my office requested. It also failed to comment on aspects of the case. In the absence of this information, I could only consider the records the complainant provided.
26. On 21 December 2021, the NIHE's email to NIPSO documented that a Stage 2 response would be ready before Christmas and was awaiting the Chief Executive's availability for sign off. On 1 April 2022, the NIHE updated that the matter had been discussed with the Chief Executive and would be concluded by close of business that day. The NIHE later emailed on 26 April 2022, to advise it was difficult to get information from the South Regional office. On 16 June 2022, the NIHE indicated it needed '*a few extra days*' to finalise approval. On 9 August 2022, NIHE clarified that the Stage 2 response had been ready for '*quite some time*' but was not issued due to an administrative error. Despite the conflicting accounts of the readiness of

the response, I note the NIHE did not issue its Stage 2 response to the complainant until more than two years after he submitted his original complaint.

27. I assessed the NIHE's actions in this case against its 2015 Internal Procedure, which was relevant at the time of the complaint. This allowed up to 51 working days for the complaint to progress through all stages of the process (plus any additional delays while awaiting further requested information from the complainant or additional issues being raised). The Internal Procedure allowed up to three working days after receipt to acknowledge the complaint. NIHE achieved that target in this case.
28. Stage 1 of The Internal Procedure, with its additional Area Review stage, required NIHE to issue a Stage 1 response within 36 working days. In this case, however, it took 63 working days for the NIHE to inform the complainant that his complaint had progressed to Stage 2.
29. The NIHE did not provide any evidence to indicate that it required additional time to seek further information from the complainant, or others, in line with the Internal Procedure. Therefore, based on the evidence available, this timeline represents a breach of the Internal Procedure.
30. The final stage of the Internal Procedure is Stage 2. At this stage, the Internal Procedure allowed 15 working days for a response. The Internal Procedure stated that the NIHE will appoint a Final Stage Complaints Officer to deal with the complaint at this stage. The Complaints Officer was required to acknowledge receipt within three working days and issue a response within 15 working days.
31. In this case, the complainant received an email on 21 January 2021 explaining that the Final Stage Complaints Officer would contact him. However, I have not received any evidence to confirm that the Complaints Officer did so. As before, the NIHE did not provide any evidence to indicate that it required additional time to seek further information from the complainant, or others, in line with this stage of the Internal Procedure. Therefore, in accordance with the Internal Procedure, the NIHE should have issued its Stage 2 response before the end of February 2021.

32. The NIHE indicated to my office that the complainant amended and added to his complaint on multiple occasions. While the NIHE did not provide any evidence to support its assertion, I acknowledge this may have impacted the time it took to provide its response. Nevertheless, as noted, it took the NIHE over two years to issue its Stage 2 response. I find this delay significant and wholly unacceptable, even if the complainant had expanded the issues of complaint for consideration.
33. The First Principle of Good Complaint Handling '*getting it right*', requires bodies to act in line with internal guidance. While the Internal Procedure sets out governance arrangements, its achievement against those arrangements in this case is poor. As outlined previously, I consider the NIHE breached the timeframes detailed in its Internal Procedure. As stated previously, I consider the NIHE should have issued a Stage 2 response by the end of February 2021, in accordance with its Internal Procedure. I am satisfied its failure to do so is a breach of the First Principle of Good Complaint Handling.
34. I note from the records the complainant provided that the NIHE at times explained the delays were due to '*awaiting senior management approval*'. The First Principle of Good Complaint Handling requires bodies to have clear governance arrangements where '*staff are equipped and empowered to act decisively to resolve complaints.*' While I am unable to substantiate the NIHE's reason for the delay, I consider the delay itself demonstrates the absence of such arrangements that would allow the NIHE to deal with complaints quickly and effectively. I also consider it demonstrates a culture in which dealing with complaints quickly and effectively as a means to improve service and 'put things right', appears to be unimportant. I find this concerning.
35. The Second Principle of Good Complaint Handling, '*being customer focused*', requires bodies to deal with people helpfully, promptly and sensitively, bearing in mind their individual circumstances. In this case, I do not consider the NIHE dealt with the matter helpfully or promptly, having taken over two years to issue its Stage 2 response, despite the involvement of this office.

36. I do not consider the NIHE acted in accordance with the above principles when managing the complainant's concerns. I am satisfied this constitutes maladministration and I uphold this complaint. I also consider this caused the complainant to experience injustice in the form of frustration, uncertainty, and the time and trouble of bringing his complaint to this office.

CONCLUSION

37. I received a complaint about the actions of the Northern Ireland Housing Executive (the NIHE). The complainant raised concerns about how the NIHE managed his complaint, specifically in relation to its provision of a Stage 2 response in accordance with its policies.
38. I am satisfied the NIHE breached its Internal Procedure and did not act in accordance with the Principles of Good Complaints Handling for the reasons outlined in this report. I am satisfied this constitutes maladministration. I am also satisfied that the failures identified caused the complainant to experience frustration, uncertainty, and the time and trouble of bringing his complaint to this office. I uphold this complaint.

Recommendations

39. I recommend that within **one month** of the date of this report, the NIHE provides the complainant with a written apology for the maladministration identified, in accordance with NIPSO 'Guidance on issuing an apology'.
40. I note the NIHE explained it experienced internal staffing difficulties arising from, but not solely due to, the Covid-19 pandemic. I also note it said it is taking steps to address this to avoid similar delays for existing and future cases. I welcome these steps. In addition to this, I recommend that within **one month** of the date of this report, the NIHE's Chief Executive reminds staff charged with the responsibility of investigating complaints of the need to provide responses within the timeframes set out in its Internal Procedure.

41. I also recommend the NIHE provides training to relevant staff on effective complaint handling. This training should provide awareness to staff, using case studies if appropriate, of the impact a prolonged complaints process has on complainants. It should also promote the development of a culture where the NIHE values and welcomes complaints as a way of putting things right and improving service. The NIHE should provide evidence that it has delivered this training within **three months** of the date of this report.
42. I acknowledge the NIHE's comments in response to a draft version of this report. However, when making enquiries of the NIHE, I noted its resistance to participate fully in my investigation. I should highlight that it is unusual for any listed authority in jurisdiction to fail to provide this office with documentation and information when requested to do so, particularly when such information requests are repeated. I found the lack of its engagement with NIPSO concerning. I acknowledge the staffing difficulties the NIHE said it experienced, and continues to experience, which impacted its participation. However, when investigating complaints, I have a responsibility to consider the complainant and to progress the investigation in a timely manner. This is to the benefit of all parties involved. I note my office frequently made additional allowances for the NIHE because of its cited difficulties. Despite these allowances, I was disappointed the NIHE failed to respond to enquiries made, or provide any documentary evidence, that would have assisted my investigation. This resulted in my decision to proceed with my investigation without input from the NIHE. I would ask the NIHE to consider this in future when managing complaints, and co-operating with this office's enquiries.

MARGARET KELLY
Ombudsman

July 2023

PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and with regard for the rights of those concerned.
- Acting in accordance with the public body's policy and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

2. Being customer focused

- Ensuring people can access services easily.
- Informing customers what they can expect and what the public body expects of them.
- Keeping to its commitments, including any published service standards.
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances
- Responding to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

3. Being open and accountable

- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Stating its criteria for decision making and giving reasons for decisions
- Handling information properly and appropriately.
- Keeping proper and appropriate records.
- Taking responsibility for its actions.

4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy.
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

5. Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

6. Seeking continuous improvement

- Reviewing policies and procedures regularly to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.

PRINCIPLES OF GOOD COMPLAINT HANDLING

Good complaint handling by public bodies means:

Getting it right

- Acting in accordance with the law and relevant guidance, and with regard for the rights of those concerned.
- Ensuring that those at the top of the public body provide leadership to support good complaint management and develop an organisational culture that values complaints.
- Having clear governance arrangements, which set out roles and responsibilities, and ensure lessons are learnt from complaints.
- Including complaint management as an integral part of service design.
- Ensuring that staff are equipped and empowered to act decisively to resolve complaints.
- Focusing on the outcomes for the complainant and the public body.
- Signposting to the next stage of the complaints procedure, in the right way and at the right time.

Being customer focused

- Having clear and simple procedures.
- Ensuring that complainants can easily access the service dealing with complaints, and informing them about advice and advocacy services where appropriate.
- Dealing with complainants promptly and sensitively, bearing in mind their individual circumstances.
- Listening to complainants to understand the complaint and the outcome they are seeking.
- Responding flexibly, including co-ordinating responses with any other bodies involved in the same complaint, where appropriate.

Being open and accountable

- Publishing clear, accurate and complete information about how to complain, and how and when to take complaints further.
- Publishing service standards for handling complaints.

- Providing honest, evidence-based explanations and giving reasons for decisions.
- Keeping full and accurate records.

Acting fairly and proportionately

- Treating the complainant impartially, and without unlawful discrimination or prejudice.
- Ensuring that complaints are investigated thoroughly and fairly to establish the facts of the case.
- Ensuring that decisions are proportionate, appropriate and fair.
- Ensuring that complaints are reviewed by someone not involved in the events leading to the complaint.
- Acting fairly towards staff complained about as well as towards complainants.

Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Providing prompt, appropriate and proportionate remedies.
- Considering all the relevant factors of the case when offering remedies.
- Taking account of any injustice or hardship that results from pursuing the complaint as well as from the original dispute.

Seeking continuous improvement

- Using all feedback and the lessons learnt from complaints to improve service design and delivery.
- Having systems in place to record, analyse and report on the learning from complaints.
- Regularly reviewing the lessons to be learnt from complaints.
- Where appropriate, telling the complainant about the lessons learnt and changes made to services, guidance or policy.