



Northern Ireland

Public Services

Ombudsman

Investigation of a complaint against the Northern Ireland Housing Executive

Report Reference: 202004826

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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: 202004826

Listed Authority: Northern Ireland Housing Executive

SUMMARY

This complaint was about the process the Northern Ireland Housing Executive (NIHE) followed when it assessed the complainant's application for housing in February 2021. The complainant is separated from his partner. His two children live with him for three nights per week. He applied for a three bedroom house to allow his children to have separate bedrooms. However, following its assessment, the NIHE determined the complainant met the criteria for a two bedroom house.

The NIHE's decision centred around the definition of a '*dependent parent*'¹, as outlined in its guidance. Given the complainant did not meet this definition of a '*dependent parent*', the guidance only entitled him to a two (rather than a three) bedroomed property. The investigation established that the NIHE appropriately assessed the complainant's application in accordance with its Housing Selection Scheme Rules and Housing Selection Scheme Guidance Manual. As the investigation did not identify any maladministration, I did not uphold the complaint.

I recognised the complainant's reasons for pursuing his complaint. However, the investigation identified that the NIHE followed the relevant guidance in this case.

¹ The guidance defines a dependent parent as one who the child is resident with for the greater part of the week, i.e. four or more nights per week, and who receives Child Benefit.

THE COMPLAINT

1. This complaint was about the process the Northern Ireland Housing Executive (the NIHE) followed when it allocated accommodation to the complainant in response to his application for housing.

Background

2. The complainant is separated from his partner, with whom he has two children, a boy and a girl. Both children were under the age of ten when he made his application for housing in February 2021. The children live with the complainant for three days and nights each week.
3. The complainant applied to the NIHE for housing. He requested a three bedroom house to allow his two young children to have their own bedrooms. However, the NIHE allocated him a two bedroom house.

Issue of complaint

4. I accepted the following issue of complaint for investigation:

Whether the NIHE acted in accordance with guidance and relevant standards in its consideration of the complainant's request for a three-bedroomed property.

INVESTIGATION METHODOLOGY

5. In order to investigate this complaint, the Investigating Officer obtained from the NIHE all relevant documentation together with its comments on the issues the complainant raised. This documentation included information relating to the NIHE's complaint responses to the complainant. The NIHE also provided a copy of Chapter three, which refers to the ranking of applicants, and Chapter five of its Housing Selection Scheme Guidance Manual, which it uses to allocate housing to applicants.

Relevant Standards and Guidance

6. In order to investigate complaints, I must establish a clear understanding of the standards, both 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 Principles²:

- The Principles of Good Administration

7. The specific 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, Housing Selection Scheme Guidance Manual, Chapter three, Ranking of Applicants, August 2021 (the Scheme Guidance);
- The Northern Ireland Housing Executive, Housing Selection Scheme Guidance Manual, Chapter five, Rules Covering Allocations, August 2021 (the Scheme Guidance); and
- The Northern Ireland Housing Executive, Housing Selection Scheme Rules, undated (the Scheme Rules).

I enclose relevant sections of the guidance considered at Appendix two to this report.

8. In investigating a complaint of maladministration, my role is concerned primarily with an examination of the NIHE's administrative actions. It is not my role to question the merits of a discretionary decision. That is unless my investigation identifies maladministration in the NIHE's process of making that decision.

² These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

9. 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.
10. 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.
11. The complainant provided a number of comments in response to the draft report, in which he questioned the reasonableness of the NIHE's actions regarding his housing application. However, our role is to consider whether the NIHE processed the complainant's application in accordance with its Scheme Guidance and Scheme Rules.

THE INVESTIGATION

Whether the NIHE acted in accordance with guidance and relevant standards in its consideration of the complainant's request for a three bedroomed property.

Detail of Complaint

12. The complainant said the NIHE '*refused to provide suitable housing*' for him and his family. He said it had a '*disregard of and contradiction of their own policies*'.
13. The complainant stated the NIHE have three different policies. Two of the policies indicated to him that he is eligible for a three bedroomed property, while the third indicated that he is eligible for a two bedroom property. The complainant said the NIHE relied on the third policy.
14. The complainant believed the NIHE should have allocated him a three bedroom property. This was because his son is now ten years of age and has ADHD and autism. He did not believe it appropriate for his son to share the same bedroom as his younger sister.
15. The complainant stated he felt '*let down*' by the NIHE.

Evidence Considered

Policies & Guidance

16. I considered the following guidance:

- The Scheme Rules; and
- The Scheme Guidance.

NIHE's response to investigation enquiries

17. The NIHE stated it appropriately considered the complainant's application in accordance with the Scheme Rules and Scheme Guidance. It confirmed the complainant's application was for a three-bedroom house for him and his two children, who stay overnight with him three nights per week.
18. The NIHE also stated the policies to which the complainant referred are not contradictory, and relate to different circumstances.
19. The NIHE referred to both the Scheme Rules and the Scheme Guidance, and quoted from what it explained were the relevant sections of the Guidance for this case. It specifically referred to chapter three of the Scheme Guidance (which related to Rule 29). It stated '*where the applicant is determined not to have 'dependent children' but the children stay overnight on a regular basis, there is an allowance for one additional bedroom*'. This section related to overcrowding of a property where an applicant is also a dependant for his/her children. The overcrowding element does not apply to the complainant as he is not a dependant for his children for the purpose of housing allocation.
20. The NIHE said it referred to its Scheme Guidance and Scheme Rules throughout its responses to the complainant.
21. The NIHE explained that for Housing Selection Scheme purposes, the complainant's children are deemed to be '*dependent on and resident with their mother.*' It also said that at no point had the complainant disputed the mother was the resident parent for

the children. The NIHE also stated the complainant confirmed that the mother was in receipt of child benefit for both children.

Relevant NIHE records

22. I have included relevant excerpts from the Scheme Guidance and the Scheme Rules the NIHE applied in appendix two of this report.

Analysis and Findings

23. The three different policies the complainant referred to in his complaint were the Scheme Guidance, (chapters three and five, which the NIHE referred to in its response to the complaint), and the Scheme Rules.

24. I reviewed the two chapters from the Scheme Guidance. I established that they focus on circumstances where the applicant for housing is a '*dependent parent*' for the children of a family. A '*dependent parent*' is deemed to be the parent with whom the children are resident³ and in receipt of child benefit. The complainant in this case advised that his children reside with their mother for four nights per week and she is in receipt of child benefit. I consider, therefore, that the complainant does not meet this definition of a '*dependent parent*' for the purpose of housing allocation. I have included the Scheme Guidance definitions of a '*dependent parent*' (paragraph 3.11.2 refers) and '*resident*' child (paragraph 3.11.2 refers) in appendix two of this report.

25. Chapter 3 of the Scheme Guidance, Ranking of Applicants, and specifically point '3.10.2 – *Bedroom Requirements / Definitions (Rule 29)*', states the following:

'NOTE – RELATIONSHIP BREAKDOWN'

*'Where the Applicant does **not** have dependent children from a previous relationship (see 3.11), but has regular overnight staying access, he / she should only be considered for 2 bed accommodation i.e. one bedroom more than the minimum*

³ A child is determined to be resident with a parent if they are resident with that parent for the greater part of the week, i.e. four or more nights per week.

requirement for a single applicant, whatever the number of dependent children.'

26. Based on this guidance, I consider that as the complainant is not the '*dependent parent*', the Scheme Guidance only permits the NIHE to allocate him a two bedroom property.
27. I also considered the Scheme Rules. I again note that within these rules, the children must be dependants of the applicant. The NIHE referred to Rules 28 and 29 in its correspondence with the complainant, both of which address overcrowding in respect of the applicant and any other resident in the property. I note that 'resident' in this case refers to children living permanently with a '*dependent parent*'. These rules do not account for single applicants who are **not** considered to be the '*dependent parent*'. Therefore, given the circumstances, I am satisfied they do not apply to the complainant. I have included a copy of Rules 28 and 29 in appendix two in this report for reference.
28. For the reasons already outlined, I am satisfied the NIHE correctly applied the Scheme Guidance and Scheme Rules when it considered the complainant's application for housing. I do not uphold this complaint. The NIHE's guidance places emphasis on whether the applicant (in these circumstances) is the '*dependent parent*'. I note the NIHE explained this rationale to the complainant during its complaints process.
29. As I have not found maladministration in the NIHE's allocation process, I have not identified any grounds on which to question the merits of its discretionary decision to allocate the complainant a two bedroom house.

CONCLUSION

30. I received a complaint about the process the NIHE followed when it assessed the complainant's application for housing. I am satisfied the NIHE correctly applied the Scheme Guidance and Scheme Rules when it considered the complainant's application. Therefore, I have not identified any maladministration and do not uphold this complaint.

31. I recognise this was, and continues to be, a difficult time for the complainant. I appreciate his reasons for pursuing his complaint and his drive to obtain what he considers to be the most suitable housing for his family.

MARGARET KELLY

Ombudsman

November 2024

Appendix 1 - PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and relevant guidance, 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.

