



Northern Ireland

Public Services

Ombudsman

Investigation of a complaint against the Northern Ireland Housing Executive

Report Reference: 202002197

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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: 202002197

Listed Authority: Northern Ireland Housing Executive

SUMMARY

This complaint was about the Northern Ireland Housing Executive's (the NIHE) provision of its Stage 2 response to a complaint. The complainant said that following his dissatisfaction with the NIHE's response to his Stage 1 complaint, he submitted a Stage 2 complaint on 2 July 2021. To date, the NIHE has yet to respond to the Stage 2 complaint.

As the NIHE did not provide this office with any documentation as part of its investigation, it relied on records and information the complainant provided. These records evidenced that the NIHE provided several assurances to the complainant that its written response was undergoing internal checks prior to issue. The investigation also noted that the NIHE provided similar assurances to this office along with expected dates for issue. However, to date, the NIHE has yet to provide the complainant with its written response to his Stage 2 complaint. The investigation found this delay unacceptable and not in accordance with timescales outlined in the NIHE's Complaints Procedure. It established that this constituted maladministration causing the complainant to sustain the injustice of frustration, uncertainty, and the time and trouble of bringing his complaint to this office.

This report recommended that the NIHE apologise to the complainant for the failures and injustice identified. It also recommended that the NIHE issues to the complainant its written response to the Stage 2 complaint within two weeks of the date of this report and provides training to relevant staff. This report noted the NIHE's response to a draft version of this report, including its acceptance of the findings and recommendations, and actions already taken 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 in January 2021. The complainant said that when he and his family moved to a property in March 2016, NIHE informed him the bathroom needed replaced and the kitchen had been inspected.
3. On 9 April 2021, the complainant raised concerns with the NIHE about the safety and standard of the kitchen. The NIHE acknowledged his complaint and on 10 May 2021 it issued its Stage 1 response.
4. The complainant wrote again to the NIHE on 2 July 2021. The NIHE emailed the complainant on 11 August 2021, informing him that it had progressed his complaint to Stage 2 of the complaints process. The NIHE sent a further email on 1 September 2021 advising again it had progressed his complaint to Stage 2 and of the name of the Complaints Officer for his case.
5. In November 2021, the NIHE carried out an independent site visit as part of the Second Stage process. During this inspection, the Inspector identified several issues including health and safety concerns. The report recommended a full kitchen replacement. It further recommended that the NIHE replace the kitchen under the BKR Scheme¹, and prior to this, it should carry out various repairs '*as a short-term solution to avoid any health and safety issues*'.
6. The NIHE sent a copy of the site inspection report to the complainant on 22 September 2022. This was further to a number of requests from the complainant asking for a copy of this report.

¹ BKR – Bathroom Kitchen Rewiring

7. On 25 February 2022, having had no Stage 2 response, the complainant contacted this office. Despite more than 14 assurances from the NIHE to both the complainant and this office in the period since, most recently that it would provide a response before 24 October 2022, the Stage 2 response to this complaint remains outstanding.

Issue of complaint

8. I accepted the following issue of complaint for investigation:
 - **Whether the NI Housing Executive managed the complaint, between April 2021 to July 2022, appropriately and in accordance with relevant guidance.**

INVESTIGATION METHODOLOGY

9. 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.
10. The Investigating Officer also sought comments and answers from the NIHE in respect of a number of enquiries relating to the case. While there was some correspondence with the NIHE, it did not respond to these enquiries.

Relevant Standards and Guidance

11. 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 Principles²:

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

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

12. 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).

13. 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.
14. I did not include all information obtained during the investigation in this report. However, I am satisfied I took into account everything I considered relevant and important in reaching my findings.
15. 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.

THE INVESTIGATION

Whether the NI Housing Executive managed the complaint, between April 2021 to July 2022, appropriately and in accordance with relevant guidance.

Detail of Complaint

16. The complainant said the NIHE did not provide him with a Stage 2 (final) response to his complaint. He explained the response remains outstanding since August 2021.

Evidence Considered

Legislation/Policies/Guidance

17. I referred to the following policies, which were considered as part of investigation enquiries:
- The Internal Procedure

The NIHE's response to investigation enquiries

18. As noted at paragraph 10, the NIHE did not respond 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

19. The complainant provided this office with copies of correspondence he had with the NIHE, in which he requested a response to his complaint. Within its correspondence, the NIHE documented its intention to issue the Stage 2 response.
20. The NIHE also corresponded with NIPSO in relation to the case on over 25 occasions between February 2022 and October 2022. On 13 of these occasions, the NIHE gave assurances it would issue its response to the Stage 2 complaint imminently. On seven of these occasions, the NIHE advised it would issue the response within the following two weeks. To date, the NIHE has yet to issue its response.

The NIHE's response to the draft report

21. The NIHE stated the service it provided fell below the high standards it would expect. It apologised to the complainant for this on 18 July 2022. It changed its complaints handling approach to ensure it provides its customers with a response in a timely manner. Also, its Central Complaints Team now reviews investigation responses to determine if any actions can or should be progressed in advance of issuing the final complaints response.

22. The NIHE stated it is required to balance *'dealing with complaints effectively and dealing with them swiftly'*. Complex cases often require input from multiple departments within the organisation to ensure the response *'is fully considered, and all appropriate guidance has been considered'*. The response also undergoes *'rigorous senior management checks and approvals'*. These add time to its process. However, they ensure *'policies and procedures are followed, all opportunities for resolution are considered and that senior management are sighted on issues'*. Its proposed resolution to this complaint *'reflected that staff were empowered to act to resolve complaints, noting that he [the complainant] was to be provided with a scheme standard kitchen under the response maintenance contract'*.
23. The NIHE stated it actively seeks ways to improve the time taken to obtain all required input for complaints. This is particularly where it *'deviates from standard operational practice to try to find a resolution'*. Its revised guidance encourages staff to carry out case conferences to ensure they identify at an early stage all input required *'to permit a swift response'*. It is *'fully committed to complaints as a tool to improve service and remedy issues'*. It also works to ensure adequate staffing and system support to ensure it deals with complaints *'quickly and effectively'*.
24. The NIHE stated it is *'fully committed'* to trying to achieve the *'challenging targets'* set out in its revised Complaints Policy (previously the Internal Complaints Procedure). However, *'significant and ongoing recruitment and workload pressures'* impacted this, which it is working to address. It advises complainants of this at the outset to *'manage expectations'* and reminds staff of the importance of providing regular updates to its customers.
25. The NIHE stated it fully supports the recommendation to provide training to staff. Its revised Complaints Policy issued in 2022 provides *'significant additional procedural guidance to staff to support good complaints handling'*.
26. The NIHE stated it accepts the findings in this report and has taken steps to remedy these. It provided reassurance that it is *'fully committed to good*

complaints handling, as a means to improve service, and to engagement with the Ombudsman as our complaints handling authority’.

Analysis and Findings

27. 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 in this case 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 gave to the complainant that it prepared its response and would issue it shortly. I also noted the time taken to respond to the complaint 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.
28. 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.
29. I note the complainant raised several concerns with the NIHE. When the NIHE failed to resolve those concerns by April 2021, he complained to it about its lack of action. The NIHE’s complaints process reached its final stage (Stage 2) in August 2021. The complainant asserts that the NIHE repeatedly assured him it would issue a final Stage 2 response. In November 2021, the NIHE undertook an independent site visit as part of the Stage 2 process. The inspection recommended the NIHE carry out *‘a full kitchen replacement’*. It further made short term recommendations in order *‘to avoid any health and safety issues’*.
30. Seven months after the complainant expected a response (in line with the Internal Procedure), he raised his concerns with this office. The NIHE’s failure to respond to the complainant was compounded by its failure to respond to

requests for information from this office. NIPSO made repeated attempts to engage with the NIHE regarding this case. However, as outlined above, it did not provide any information or documentation my office requested. It also failed to respond to the issues raised. In the absence of this information, I only considered the records the complainant provided.

31. On 1 March 2022, the NIHE emailed NIPSO to advise it finalised the complainant's Stage 2 response except for one aspect. The NIHE hoped to have this information the following day, after which it would provide a timeframe for a response. On 10 March 2022, the NIHE emailed the complainant stating it forwarded its complaint response and recommendation for a new kitchen for final approval to the Assistant Director and Director and following that, the Chief Executive. On 11 March 2022, the NIHE sent a further email to the complainant advising his complaint will go through approval and it would email its response to him by the end of the following week (18 March 2022).
32. On 29 April 2022, having had no response from the NIHE, my office contacted it regarding the Stage 2 response. The NIHE explained the response '*was done, but not yet issued*'. The NIHE said it '*could not be certain*' but the response would hopefully issue before 6 May 2022. On 6 June 2022, following emails from this office, the NIHE explained it would shortly issue a detailed response. A further email from NIHE to this office explained it hoped to issue a final response before 8 July 2022. On 7 July 2022, the NIHE stated it '*will likely be next week*' before it issues its response.
33. Despite further assurances that a response was '*imminent*' and timescales given, the NIHE has not issued its Stage 2 response to date.
34. The NIHE Internal Procedure allowed up to 51 working days to complete the complaints process. It allowed up to three working days after receipt to acknowledge the complaint. The Internal Procedure, with its additional Area Review stage, required NIHE to issue a Stage 1 response within 36 working days. In this case, the NIHE achieved this target, issuing its response to the Stage 1 complaint in 22 working days.

35. The final stage of the Internal Procedure was Stage 2, which 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 would acknowledge receipt within three working days and issue a response within 15 working days.
36. In this case, following a response from the complainant on 2 July 2021 to the Stage 1 complaint, the NIHE issued correspondence on 11 August 2021 advising it progressed the complaint to Stage 2. On 1 September 2021, the NIHE emailed the complainant to advise again of the Stage 2 complaint and the name of the Complaints Officer. I did not receive any evidence to confirm that the Complaints Officer contacted the complainant. 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. Therefore, in accordance with the Internal Procedure, the NIHE should have issued its Stage 2 response by 28 September 2021. Therefore, based on the evidence available, this timeline represents a breach of the Internal Procedure.
37. The NIHE indicated to my office that several issues arose, and the complainant made additional queries which added time to dealing with his complaint. 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. It must also be noted however that these additional queries arose months after the NIHE should have issued its final Stage 2 response. Nevertheless, as noted, as of the date of this report, the NIHE has yet to issue its Stage 2 response. This is a delay of over 14 months. I find this delay significant and wholly unacceptable, even if the complainant had expanded the issues of complaint for consideration.
38. The First Principle of Good Complaint Handling '*getting it right*', requires bodies to act in line with their internal guidance. While the Policy 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 its Stage 2 response by the end of September 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.

39. I note from the records the complainant provided that the NIHE at times explained the delays were due to *'approval by senior management'*. 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.
40. 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 not yet issued the Stage 2 response over a year and a half after the complaint was raised and despite the involvement of this office. In addition to this, I believe its continuing assurances it would issue the Stage 2 response caused the complainant a great deal of frustration, upset and anxiety, particularly given that several health and safety concerns were raised with the suitability of the kitchen.
41. 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 has caused the complainant to sustain injustice in the form of disappointment, uncertainty, and the time and trouble of bringing his complaint to this office.

CONCLUSION

42. 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.

43. I am satisfied the NIHE did not act in accordance with its Internal Procedure 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

44. I recommend the NIHE urgently completes and issues its Stage 2 response to the complainant. The NIHE should keep me advised of the progress of this action and provide me with a copy of the final response. Given the time that has already elapsed, it is my firm view that a response should be issued within **two weeks** from the date of my final report.
45. 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'.
46. 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 current Policy.
47. 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.

48. 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

September 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.