



Northern Ireland  
**Public Services**  
Ombudsman

# Investigation Report

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## Investigation of a complaint against the Northern Ireland Housing Executive

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**NIPSO Reference: 201917407**

The Northern Ireland Public Services Ombudsman  
33 Wellington Place  
BELFAST  
BT1 6HN  
Tel: 028 9023 3821  
Email: [nipso@nipso.org.uk](mailto:nipso@nipso.org.uk)  
Web: [www.nipso.org.uk](http://www.nipso.org.uk)



## **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: 201917407**

**Listed Authority: Northern Ireland Housing Executive**

## **SUMMARY**

This office received a complaint about the Northern Ireland Housing Executive's (NIHE) management of antisocial behaviour (ASB) concerns reported to it between December 2019 and February 2021.

The investigation examined the details of the complaint, the NIHE's response, and relevant internal guidance. I upheld the complaint. The NIHE explained it did not record the concerns as ASB incidents. However, the investigation found the reports met the NIHE's definition of ASB and that it ought to have managed them in accordance with its ASB Manual. The NIHE said it investigated the complainant's concerns. However, the investigation established the NIHE failed to acknowledge or respond to the complainant's ASB concerns until after he submitted his sixth report, nine months after his first report. The NIHE identified two telephone conversations it had with the complainant regarding his ASB reports. However, the investigation was unable to determine if the NIHE's actions were appropriate, as it did not provide contemporaneous records of the calls.

I was satisfied the failures identified caused the complainant to experience the injustice of anxiety and frustration. I also considered it caused the complainant to lose confidence in the NIHE's ability to manage his ASB concerns. I recommended the NIHE apologise to the complainant for the failures identified. The NIHE explained it had already commenced training on the application of its ASB guidance for relevant staff. I welcomed this learning already identified. I also recommended the NIHE commence the process outlined in its ASB Manual in an effort to address the complainant's concerns.

The NIHE accepted my findings and recommendations.

## THE COMPLAINT

1. I received a complaint about the actions of the Northern Ireland Housing Executive (NIHE). The complainant raised concerns about NIHE's failure to appropriately manage his complaints about antisocial behaviour (ASB).

### Background

2. The complainant moved into his privately owned residence in August 2018. The residence is located in a NIHE managed block. The complainant submitted several complaints to NIHE following this date. These initially related to maintenance concerns. However, the complainant submitted a number of additional complaints from December 2019 until February 2021. Several of these related to his concerns about ASB within the NIHE block. The complainant reported the behaviour is ongoing and continues to submit complaints to the NIHE.

### Issue of complaint

3. The issue of complaint accepted for investigation was:  
**Issue 1: Whether the NI Housing Executive managed the complainant's reports of antisocial behaviour, between December 2019 and February 2021, appropriately and in accordance with relevant guidance.**

## INVESTIGATION METHODOLOGY

4. 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.

### Relevant Standards and Guidance

5. In order to investigate complaints, I must establish a clear understanding of the standards, both of general application and those which are specific to the circumstances of the case. I also make reference to relevant regulatory, professional and statutory guidance.

The general standards are the Ombudsman's Principles<sup>1</sup>:

- The Principles of Good Administration
- The Principles of Good Complaints Handling

6. The specific guidance referred to applied at the time the events occurred. This governed the exercise of the administrative functions of those individuals whose actions are the subject of this complaint.

The specific guidance relevant to this complaint is:

- The Northern Ireland Housing Executive's (NIHE) Antisocial Behaviour Manual, December 2019 (the NIHE's ASB Manual).

Relevant sections of the guidance considered are enclosed at Appendix two to this report.

7. 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 taken unless that decision was attended by maladministration.
8. 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.
9. 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**

**Issue 1: Whether the NI Housing Executive managed the complainant's reports of antisocial behaviour, between December 2019 and February 2021, appropriately and in accordance with relevant guidance.**

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

## **Detail of Complaint**

10. The complainant said he logged several complaints with the NIHE about ASB in his housing block from December 2019. He said the NIHE did not appropriately deal with his concerns.

## **Evidence Considered**

### **Legislation/Policies/Guidance**

11. I considered the following guidance:
  - The NIHE's ASB Manual.

## **NIHE's response to investigation enquiries**

12. The NIHE said the complainant reported incidents regarding domestic noise. It explained it did not record the reports as ASB incidents. Therefore, it did not apply the relevant ASB guidance. The NIHE acknowledged it should have opened an ASB case for these reports. However, it did not do so.
13. The NIHE said it is '*simply untrue*' to say it did not respond to the complainant's concerns. It provided a chronology of its communication with the complainant (enclosed at Appendix four to this report). It said this indicates the '*numerous contacts made*'. The NIHE said it was content the Patch Manager<sup>2</sup> investigated each concern. It explained that other residents confirmed there were '*no issues with noise*'. However, it reminded residents '*to consider and be respectful of their neighbours*'. The NIHE also said the Area Manager arranged for more frequent inspections of the area.
14. The NIHE said its Community Safety Team commenced training sessions for relevant staff regarding application of the ASB policy and procedures after it was notified of my investigation.

## **Relevant NIHE records**

15. A summary of the relevant records is enclosed at Appendix three to this report.

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<sup>2</sup> The NIHE Patch Manager provides a housing management service within a designated area.

## **Other information considered**

### *The complainant's response to the draft report*

16. The complainant said he continues to raise concerns regarding ASB in and around the NIHE block in which he resides. He said the NIHE has yet to effectively deal with his concerns.

## **Analysis and Findings**

17. The complainant said the NIHE did not appropriately deal with his ASB reports. I note the NIHE did not consider the complainant's concerns under its complaints procedure. Therefore, it did not exhaust its internal process before the complainant submitted his concerns to my office. However, upon receipt of the complaint, I considered the large number of concerns the complainant raised over a 14 month period. I was satisfied the NIHE had sufficient opportunity to address the complainant's reports. Therefore, I determined to use discretion to undertake an investigation into the concerns raised. While it is not my role to establish if the reported incidents occurred, I considered whether the NIHE appropriately managed the complainant's reports.
18. I note the NIHE explained it did not record the reports as ASB incidents. I considered whether the reports ought to have been identified as ASB and dealt with as such. I note that while the complainant is not an NIHE tenant, the ASB Manual states that those persons who reside in NIHE managed buildings can report ASB concerns. Therefore, I am satisfied the NIHE ought to have considered the complainant's reports.
19. The ASB Manual defines ASB as '*when the behaviour of households or individuals in a neighbourhood adversely affects other people's use and enjoyment of their home or neighbourhood*'. The guidance also states that '*ASB can threaten the physical or mental health, or safety and security of individuals*'. I note the complainant's concerns related to increased levels of noise within the building, offensive smells, and threats from neighbours. I also note that within several of his reports, the complainant explained how the behaviour disrupted his sleep and negatively impacted his health. Based on the evidence available, I am satisfied the complainant's reports met the ASB definition outlined in the guidance. I consider the NIHE ought to have identified the reports as ASB



concerns and managed them in accordance with its ASB Manual. I note that since the start of my investigation, the NIHE said it recognised it should have opened an ASB case for the reports.

20. While the NIHE acknowledged it did not deal with the complainant's reports as ASB concerns, it said it was content the Patch Manager investigated each of the concerns raised. However, the NIHE did not provide any documentary evidence to suggest its staff acknowledged or responded to the complainant's first five reports of ASB from December 2019 to August 2020. I also note the NIHE said the Patch Manager spoke with other residents in September 2020 and told them to '*consider and be respectful of their neighbours*'. However, this action was only taken after the complainant submitted his sixth report of ASB, nine months after his first report. I find the NIHE's failure to deal with the complainant's initial reports concerning, especially given the complainant's submissions clearly outlined the impact the behaviour had on him and his health.
  
21. The NIHE explained the Patch Manager contacted the complainant on several occasions. However, the NIHE's chronology evidences that before September 2020, its correspondence with the complainant related to his maintenance concerns, and not his ASB reports. I also note the chronology refers to telephone calls the Patch Manager said he had with the complainant regarding his ASB reports in September 2020 and January 2021. However, the chronology is based on the Patch Manager's recollection of the call. The NIHE did not provide me with any contemporaneous record of its telephone contact with the complainant. Creating and retaining appropriate records is a key principle of good administration. Without the maintenance of such records, it is impossible for public bodies to defend its actions and the decisions it makes when challenged. I consider the absence of these records limited the availability of information for NIHE staff who later became involved in the case. It also prevents me from identifying if the action the NIHE took during or after the calls was appropriate. I note that legal action is a potential outcome of an ASB investigation where significant levels of ASB are established. Therefore, I consider it particularly important for NIHE staff to create and retain clear

records of all instances where ASB is alleged and reported, as this may form part of the legal case later in the process.

22. I note the NIHE's ASB Manual outlines the process staff should follow when it receives an ASB report. This process instructs staff to record the reported concerns on an ASB form. However, as the NIHE did not follow its ASB Manual for the complainant's reports, it failed to complete the relevant form for any of the reported incidents. It also failed to provide the complainant with the opportunity to record his personal experiences of the ASB in an 'incident diary' and use this as evidence. I consider this resulted in a missed opportunity for NIHE to formulate and agree an action plan with the complainant. I consider that had the NIHE appropriately followed its ASB Manual, it would have been in a position to fully address the complainant's concerns. The complainant could also have been advised appropriately on how incidences of ASB should be recorded and / or reported to other statutory agencies.
23. I established earlier in this report that the reported incidents did meet the NIHE's definition of ASB (as outlined in its guidance). As such, I consider the NIHE ought to have followed the ASB process. The First Principle of Good Administration, 'getting it right', requires bodies to act in accordance with its internal guidance. The Second Principle of Good Administration, 'being customer focused', requires bodies to deal with people helpfully, promptly and sensitively, bearing in mind their individual circumstances. Furthermore, the Third Principle of Good Administration, 'being open and accountable', requires bodies to keep appropriate records. I do not consider the NIHE acted in accordance with these principles when managing the complainant's concerns. I am satisfied this constitutes maladministration and I uphold this complaint.

### *Injustice*

24. I considered the complainant's reports in which he clearly documented how the ongoing ASB affected him. I am satisfied the failures identified caused the complainant to experience the injustice of anxiety and frustration. I also consider it caused him to lose confidence in the NIHE's ability to manage his ASB concerns. I consider it likely that had the NIHE acted in accordance with

its guidance, it could have brought the situation to a quick and appropriate resolution for all concerned.

## **CONCLUSION**

25. I received a complaint about the NIHE's management of the complainant's concerns about ASB. I uphold the complaint for the reasons outlined previously in this report. I am satisfied the failures identified caused the complainant to experience the injustice of anxiety and frustration. I also consider it caused the complainant to lose confidence in the NIHE's ability to manage his ASB concerns.

## **Recommendations**

26. I recommend that the NIHE provides the complainant with a written apology in accordance with NIPSO 'Guidance on issuing an apology' (June 2016), for the injustice caused as a result of the maladministration identified (within **one month** of the date of my final report).
27. I note the NIHE acknowledged it ought to have recorded the reports as ASB concerns. I also note it has already commenced training on the application of the ASB Manual for relevant staff. I welcome this learning. I ask the NIHE to ensure the training incorporates how staff can recognise an ASB complaint, and the importance of creating and retaining appropriate records. I recommend the NIHE provides me with an update on this learning within **three months** from the date of my final report.
28. I note the complainant said he continues to report his concerns to the NIHE about ASB that occurs in and around the block in which he resides. If it has not already done so, I recommend the NIHE commence the process outlined in its ASB Manual in an effort to address the complainant's concerns. I recommend the NIHE provide me with an update on this process within **three months** from the date of my final report. This update should clearly outline each of the concerns raised, the action taken to address these, and the NIHE's progress in addressing the overarching ASB issue within this area.
29. The NIHE accepted my findings and recommendations.

*Concluding remarks*

30. I note the NIHE explained it found the complainant difficult to deal with as his correspondence often contained abusive and inappropriate language. Having reviewed the records, I agree with its concerns and do not condone the language the complainant used. I recognise the NIHE's failure to appropriately respond to the complainant's reports likely contributed to his frustration. However, NIHE staff should not be subjected to abusive behaviour in any form.
31. While I do not condone the language used, I do not consider it would have prevented the NIHE from appropriately managing his ASB reports. In these situations, I believe public bodies are entitled to inform individuals that inappropriate behaviour including use of abusive language in written communication will not be tolerated, and of the potential consequences should it continue. I note the Patch Manager also said he had to terminate a number of his calls with the complainant due to his behaviour. Although there is no evidence to suggest the NIHE asked the complainant to amend or improve his language, the NIHE may wish to consider doing so should similar situations arise in future.



**MARGARET KELLY**  
Ombudsman

**September 2021**

## **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.