



Northern Ireland

Public Services
Ombudsman

Investigation Report

Investigation of a complaint against the Northern Ireland Environment Agency

NIPSO Reference: 17255

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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. She may also investigate and report 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.

Where the Ombudsman finds maladministration or questions the merits of a decision taken in consequence of the exercise of professional judgment she must also consider whether this has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. The Ombudsman may recommend a remedy where she finds injustice as a consequence of the failings identified in her report.

The Ombudsman has discretion to determine the procedure for investigating a complaint to her Office.

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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EXECUTIVE SUMMARY

I received a complaint regarding the actions of the Northern Ireland Environment Agency (NIEA) concerning their decision to consent to an application to discharge effluent into a stream bordering the complainant's land.

Issues of Complaint

I accepted the following issues of complaint for investigation:

- Whether NIEA's decision to approve the application was attended by maladministration?
- Whether NIEA should have addressed the concerns raised through its complaints procedure?

Findings and Conclusion

The investigation of the complaint did not identify any evidence of maladministration in relation to the decision to approve the consent to discharge application on 29 March 2013.

The investigation of the complaint identified maladministration in respect of the failure of NIEA to address the concerns raised through its complaints procedure.

I am satisfied that the maladministration I identified caused the complainants to experience the injustice of frustration, as well as the time and trouble in bringing the complaint to my Office.

Recommendations

Having considered all relevant facts and evidence in the case and the nature and extent of the injustice sustained by the complainants in consequence of the maladministration I have identified, I recommended the following:

- NIEA should apologise for the failing identified in this report.
- The complainants should receive a payment of £150 by way of solatium for the injustice I have identified.

I recommended that NIEA should provide the apology and payment within one month of the date of my final report.

THE COMPLAINT

1. On 21 April 2010 NIEA received an application from a developer who planned to convert a golf clubhouse located near a complainants business into a nursing home. This application sought approval from NIEA to consent to discharge effluent into a waterway east of the nursing home site. This waterway will be referred to as Outlet 1.
2. NIEA informed the developer on 17 August 2010 that the maximum discharge volume permissible to Outlet 1 was ten cubic metres per day. The developer therefore had to find alternative means for discharging the remainder of the effluent. On 18 August 2010 the developer proposed to NIEA that the excess effluent would be discharged to a soakaway¹ on the nursing home site. During a site visit on 6 May 2011 NIEA verified that the area of ground proposed for the soakaway was unsuitable for this function.
3. On 11 July 2011 the developer made an application for consent to discharge the excess effluent into a stream west of the nursing home site. This stream will be referred to as Outlet 2. Outlet 2 borders an area which forms part of the complainants' business. NIEA issued consent for this application on 29 March 2013.

Issues of complaint

4. The issues of complaint which I accepted for investigation were:

Issue 1: Whether NIEA's decision to approve the consent to discharge application on 29 March 2013 was attended by maladministration?

Issue 2: Whether NIEA should have addressed the concerns raised through its complaints procedure?

¹ A pit, typically filled with hard core, into which waste water is piped so that it drains slowly out into the surrounding soil.

INVESTIGATION METHODOLOGY

5. In order to investigate the complaint, the Investigating Officer obtained from NIEA all relevant documentation together with its comments on the issues raised by the complainants. This documentation included information relating to NIEA's handling of correspondence. The Investigating Officer also met with NIEA during the investigation to obtain further information of relevance to the complaint.
6. The complainants provided details of their complaint and copies of correspondence with NIEA. The Investigating Officer also met with them during the investigation to obtain further information of relevance to their complaint.
7. As part of my process I shared the draft report with the complainants and NIEA. I considered responses from both parties before arriving at my conclusion.

Relevant Standards

8. 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.
9. The general standards are the Ombudsman's Principles²:
 - The Principles of Good Administration
 - The Principles of Good Complaints Handling
10. The specific standards are those which applied at the time the events occurred and which governed the exercise of the administrative functions of NIEA whose actions are the subject of this complaint.
11. The specific standards relevant to this complaint are:

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

- The Water (Northern Ireland) Order 1999 (the 1999 Order)
 - The Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2011 (the 2011 Regulations)
 - The NIEA restructuring and revision of application process and fees for discharge consent under the Water (Northern Ireland) Order 1999 for single domestic dwellings October 2011 (the 2011 Revision)
 - The NIEA Complaints Procedure 2008 (the Complaints Procedure)
 - The NIEA Environmental Legislation and Service Standards (the Standards)
 - The NIEA Customer Charter 2011 (the Customer Charter)
 - The NIEA 'Trade Consents – Application Processing' Document
 - The NIEA Procedure On Dealing With Water (Northern Ireland) Order 1999 Applications for Discharge Consents To Small Waterways 2009.
12. I have included relevant extracts from the standards in this report.
13. I have not included all of the information obtained in the course of the investigation in this report. However, I am satisfied that everything that I consider to be relevant and important has been taken into account in reaching my findings.

MY INVESTIGATION

Issue 1: Whether NIEA's decision to approve the consent to discharge on 29 March 2013 was attended by maladministration?

Detail of Complaint

14. The complainants raised the following issues in relation to the decision made by NIEA to consent to the discharge of effluent entering Outlet 2 adjacent to their business:
- i. NIEA should not have consented to the effluent entering Outlet 2 as the

soakaway on the nursing home site was a suitable option for the effluent. They stated that even if the proposed soakaway location was unsuitable it ought to have been moved to another location on the nursing home site.

- ii. NIEA should not have approved effluent entering Outlet 2 as pharmaceutical compounds in the effluent have contaminated Outlet 2. They accepted that NIEA is not currently required to test for these compounds.

Evidence Considered

15. As part of my investigation I have considered the relevant provisions of the 1999 Order. This Order provides for the role of NIEA relating to the protection of water cleanliness and pollution.

16. I note that at Article 4(1) of the 1999 Order the Department of the Environment³ (the Department) is required to:

- ‘(a) promote the conservation of the water resources of Northern Ireland;*
- (b) promote the cleanliness of water in waterways and underground strata.’*

17. I note that Article 7(1) of the 1999 Order provides that:

‘Subject to the following provisions of this Part, a person commits an offence if, whether knowingly or otherwise-

- (a) he discharges or deposits any poisonous, noxious or polluting matter so that it enters a waterway or water contained in any underground strata; or*
- (b) he discharges or deposits any matter so that it enters a waterway or water contained in any underground strata and tends either directly or in combination with similar acts (whether his own or those of another) to impede the proper flow of the water of the waterway or strata in a manner leading or likely to lead to pollution or a substantial aggravation of pollution due to other causes or of its*

³ The Departments Act (Northern Ireland) 2016 provided for the functions and services delivered by the Department of Environment to be transferred to the Department for Infrastructure with effect from 9 May 2016. Therefore the responsibility for this complaint was transferred from the Department of Environment to the Department for Infrastructure.

consequences.'

18. I note that Article 7(2) of the 1999 Order provides that:

'Subject to the following provisions of this Part, a person commits an offence if, by any means whatsoever, he makes any discharge of any trade or sewage effluent—

(a) into a waterway or water contained in any underground strata; or

(b) from land, through a pipe, into the sea outside the seaward limits of any waterway.'

19. I note that Article 7(6) of the 1999 Order provides that:

'Subject to the following provisions of this Part, a person who contravenes the conditions of any consent under Article 7A(3)(a) shall be guilty of an offence.'

20. I note that Article 7A(3) of the 1999 Order provides that:

'A person shall not be guilty of an offence under Article 7(1) or (2) or (6) in respect of the discharge or deposit of any effluent or other matter if the discharge or deposit is made under and in accordance with, or as a result of any act or omission under and in accordance with—

(a) a consent given by the Department under this Article;

(b) a disposal licence under Article 7 of the Pollution Control and Local Government (Northern Ireland) Order 1978;

(c) a licence granted under Part II of the Food and Environment Protection Act 1985;

(d) an authorisation granted under the Industrial Pollution Control (Northern Ireland) Order 1997;

(e) a waste management licence granted under the Waste and Contaminated Land (Northern Ireland) Order 1997;

- (f) a permit granted under regulations under Article 4 of the Environment (Northern Ireland) Order 2002;
- (g) Article 226 of the Water and Sewerage Services (Northern Ireland) Order 2006;
- (h) any statutory order which expressly confers power to discharge effluent into water;
- (i) any prescribed statutory provision.’

21. I also note that Article 12(1) of the 1999 Order provides that:

‘If the Department is of the opinion that the holder of a discharge consent is contravening any condition of the consent, or is likely to contravene any such condition, the Department may serve on him a notice (an “enforcement notice”).’

22. I note that Article 12(3) of the 1999 Order provides that:

‘Any person who fails to comply with any requirement imposed by an enforcement notice shall be guilty of an offence...’

23. I note that Paragraph 1, Schedule 1 of the 1999 Order provides as follows:

*‘An application for a discharge consent-
(a) shall be made to the Department...’*

24. I note that Paragraph 2, Schedule 1 of the 1999 Order provides that:

*‘On an application under paragraph 1 the Department shall be under a duty, if the requirements –
(a) of that paragraph, and
(b) of any regulations made under that paragraph,
are complied with, to consider whether to give the consent applied for, either unconditionally or subject to conditions, or to refuse it.’*

25. I have examined the 2011 Regulations. I note that Regulation 13 of the 2011 Regulations provides that *'The Department shall apply, as applicable, the standards for specific pollutants given in Tables 19-37 below to surface waters or parts thereof.'*

26. I have examined the 2011 Revision. I note the following guidance on the testing of proposed soakaways:

'To determine the length and area of infiltration trench required to disperse the effluent, a percolation test⁴ should be carried out. Soil porosity can vary across a site and the percolation test should be carried out at the intended location of the proposed soakaway.'

27. The 2011 Revision describes the nature of the percolation test which is used to determine whether a proposed soakaway location is suitable.

28. I have considered the NIEA *'Trade Consents – Application Processing'* document which outlines the stages of the consent application process. I note that the process involves seven stages which can be summarised as follows:

Stage 1 – Receipt of consent application form which NIEA will check for completeness.

Stage 2 – Application sent out to bodies for consultation.

Stage 3 – Advertising of consent application in local newspapers.

Stage 4 – Application can be refused or withdrawn. If so, process finishes at this stage.

Stage 5 – Draft consent conditions (DCC's) are drawn up and sent for consultation

Stage 6 – NIEA consider consultation comments. DCC's then sent to applicant with form to be signed accepting proposed conditions.

Stage 7 – On acceptance of DCC's from applicant final consent will be generated and forwarded to applicant.

⁴ A percolation test is used to determine the water absorption rate of soil.

29. I have considered the content of the *NIEA Procedure on Dealing with Water (Northern Ireland) Order 1999 Applications for Discharge Consents to Small Waterways 2009*. I note that the purpose of the document is to ‘*detail the procedure for setting consents to discharge*’ to ensure that ‘*there is a consistent approach to dealing with discharge consent applications where the receiving waterway is of limited dilution or the unsustainability of the year round flow in the waterway is in doubt.*’
30. I note the procedure states that ‘*for consent to discharge sewage effluent, flow data and a catchment size will be requested from the Unit’s Hydrology team.*’ I also note that the procedure then sets out the consent conditions to be applied to an application. I note that the consent conditions vary depending on the catchment size of the waterway.
31. As part of my investigation enquiries were made of NIEA in relation to the issue of complaint. The NIEA responded as follows:
- i. ‘*The developer initially applied for a soakaway option for the excess effluent. The success of a soakaway is dependent on the nature of the ground. The developer started work on the soakaway and then informed NIEA that there was a problem with the soakaway proposal due to the nature of the ground. NIEA staff made a site visit, viewed the ground and concurred that it was unsuitable. A soakaway was not therefore a viable option in this case.*’
 - ii. ‘*The complainants raised the issue that the golf clubhouse previously had a soakaway.*’ NIEA stated that it ‘*could not comment on the success of this soakaway*’ but pointed out that ‘*it was approved a long time ago and would have been subject to fewer checks than nowadays.*’ NIEA also stated that it ‘*could not comment on the effectiveness of the soakaway*’.
 - iii. ‘*Part of the nursing home site could not have been considered for a soakaway, primarily due to the undulating nature of the ground.*’
 - iv. ‘*It is likely that the unsuitability of the ground in the area considered for the soakaway would be typical of ground conditions within the immediate vicinity of the nursing home.*’

- v. The developer subsequently made an application to discharge the excess effluent into Outlet 2. NIEA stated that *'Under Schedule 1 of the 1999 Water (NI) Order NIEA have to consider such applications.'*
 - vi. The decision to approve the consent to discharge application is made by a *'designated Authorised Officer of the Department, subject to satisfactory completion of the various stages of the application process...this includes evidence of consultation with the relevant statutory bodies, their responses, evidence of advertising, river catchment surveys to inform the consenting process and other related information pertaining to the consenting process.'*
 - vii. The appropriate consent conditions are established by following the NIEA Procedure on Dealing with Water (NI) Order (1999) Applications for Discharge Consents to Small Waterways. The conditions are *'dependent on the available dilution in the receiving waterway.'*
 - viii. *'Pharmaceutical compounds are not prescribed for control by NIEA. Such compounds are not contained within the relevant Water Framework Directive and NIEA therefore has no responsibility to test or check for same in normal circumstances. Pharmaceutical compounds can be found in waste coming from every property, for example when persons have taken medicine.'*
32. The NIEA record of the soakaway test conducted on 6 May 2011 evidences that NIEA staff visited the site along with representatives of the developer to check the suitability of the ground for the proposed soakaway. The record of the meeting states the following:

'Observations/Agreed Action etc:

The company have a consent for 10 cubic metres but have an additional 2 cubic metres which cannot go to the consented waterway.

The site sub-soil is clay. The test hole was full of water. Another waterway runs parallel to the first on the other side of the site. Application will be required.

Recommend a single treatment system with an outlet sample point followed by a splitter to divide the effluent for discharge to the 2 separate streams. This will require:

- 1. A new application at full fee (£906)*
- 2. A review of the existing consent to update the site plan (£115).'*

33. I have considered the content of contemporaneous records completed by the NIEA Hydrology Team. I note that these records calculate the catchment size of the waterway bordering the complainants' land which is used to determine consent limits for the consent to discharge application.
34. I have also considered the content of NIEA records which evidence that it consulted with a number of statutory bodies including Rivers Agency and the Fisheries Operation section of the Department of Culture, Arts and Leisure in relation to the consent to discharge application. I also note that NIEA advertised the consent to discharge application in local newspapers.

Analysis and Findings

35. I have considered the complainants' views on the soakaway option and that they reiterated these concerns in their response to the draft report. I also note the NIEA response in relation to the soakaway option. I note the content of the site visit on 6 May 2011. I consider that the contemporaneous record of this site visit evidences that NIEA conducted the necessary check to verify that the area of the proposed soakaway was unsuitable for effluent discharge. I therefore have not identified any maladministration on the part of NIEA in relation to its consideration of the soakaway option. **I therefore do not uphold this element of the complaint.**
36. I consider that the unsuitability of the soakaway option led the developer to seek an alternative method for discharging the excess effluent and he subsequently made an application for consent to discharge into Outlet 2. I note that NIEA's responsibility to consider this application is provided for in the 1999 Order. I also note that Article 12 of the 1999 Order provides for NIEA to take enforcement action if the consent holder fails to comply with conditions of the consent provided.
37. I refer to the First Principle of Good Administration which requires a public body to 'Get it Right' which involves acting lawfully and in accordance with a body's policies and procedures. I am satisfied that by processing the consent to

discharge application NIEA was acting within its legislative authority. I have not identified any maladministration in relation to the processing of this application.

38. I have considered the content of the relevant NIEA procedures in relation to the processing of the consent to discharge application and the setting of consent conditions. I have also examined the content of NIEA's records in relation to this application. I am satisfied, following examination of these records, that NIEA followed the appropriate procedures when processing the application and issuing the consent conditions.
39. I have considered the complainants' concerns relating to the presence of pharmaceutical compounds within the effluent entering Outlet 2. I note that they reiterated these concerns in their response to the draft report. I also note NIEA's view that there is no legislative requirement to monitor levels of such compounds. I have examined the nature of the specific pollutants which NIEA is required to monitor under the 2011 Regulations and I am satisfied that pharmaceutical compounds are not on this list.
40. NIEA has informed me that the monitoring of pharmaceutical compounds in waterways may be provided for in future legislation. I would welcome this change in legislation if and when it occurs. However, I am satisfied that currently there is no responsibility for NIEA to monitor the level of pharmaceutical compounds within treated effluent. I therefore have not identified any maladministration in this instance. **I do not uphold this element of the complaint.**

Issue 2: Whether NIEA should have addressed the concerns raised through its complaints procedure?

Detail of Complaint

41. The complainants stated that the concerns they raised with NIEA in relation to the consent provided to discharge effluent into Outlet 2 were never investigated under NIEA's complaints procedure.

Evidence Considered

42. I have reviewed NIEA's complaints procedure. I note the following extracts from the procedure:

i. A complaint is defined as a *'written or spoken expression of dissatisfaction because we have not provided the standard of service promised in our Customer Charter or Environmental Legislation and Service Standards.'*

ii. *'This complaints procedure does not cover appeals against a decision we have made or a complaint about environmental activities.*

If you want to comment or ask a question about, for example:

- *our refusal to give permission or a licence;*
 - *an activity in relation to your land or property;*
 - *enforcement action;*
 - *the facilities at our country parks or historic monuments; or*
 - *an environmental activity you have witnessed or which affects you;*
- contact the person you have been dealing with or the Unit which looks after the activity you are concerned about.'* The Complaints Procedure provides contact details for the NIEA Units.

43. I have considered the NIEA Customer Charter. I note the following extracts from the Charter:

i. *'Our Customer Charter tells you about the wide range of services we provide and the standards we aim to meet'.*

ii. *'If your complaint is about our policies, how we have interpreted the law or about an activity which has damaged the environment, contact the Functional Unit responsible for the matter. Similarly, if you want to challenge a decision on any application you have made to us, contact the head of the appropriate Unit.'*

iii. The Customer Charter refers service users to its complaints procedure if the complaint relates to NIEA's standard of service.

iv. The Customer Charter sets out NIEA's service standards in relation to answering telephone calls and responding to letters and emails.

44. I have reviewed the NIEA Environmental Legislation and Service Standards. I note the following extracts from the Standards:
- i. *'If you want to challenge our decision on your application, or some action we have taken, contact the Unit you have been dealing with or which is responsible for the matter.'* The Standards provide contact details for the NIEA Units.
 - ii. *'If you have a complaint about our standard of service, the steps you need to take are explained in our Complaints Procedure'.*
 - iii. The Standards list the specific service standards in relation to water quality. This includes timescales for processing applications for consent to discharge effluent, making information available to the public and taking enforcement action where pollution has occurred.
45. In response to enquiries from the Investigating Officer, NIEA responded as follows:
- i. The complainants did not make a complaint to NIEA and therefore the issues they raised were not dealt with under NIEA's complaints procedure.
 - ii. Any correspondence they had in relation to NIEA's consent to discharge effluent into Outlets 1 and 2 was dealt with by way of normal business.
46. I note that the complainants engaged in lengthy correspondence with NIEA between 2010 and 2014 concerning their objections to NIEA's provision of consent to discharge applications to Outlets 1 and 2, and the perceived environmental impact of these decisions.

Analysis and Findings

47. I note the rationale provided by NIEA for not dealing with correspondence from the complainants under NIEA's complaints procedure. I also note the content of the relevant policies and procedures relating to this issue, particularly the definition of a complaint contained within the complaints procedure. I have also reviewed the content of the correspondence between the complainants from

2010 to 2014.

48. I consider that according to the complaints procedure there was no requirement to treat the correspondence between 2010 and 2014 as a complaint. However, I consider that there exists a requirement on all public services to ensure that complainants can easily access the service dealing with complaints, and respond to complainants needs flexibly, in accordance with the second Principle of Good Complaint Handling, 'Being customer focused'.
49. I find that from 2010 to 2013 the complainants corresponded with NIEA as part of the consultation process for the consent to discharge applications into Outlets 1 and 2. However, in 2014 they raised these concerns with NIEA post-consultation. I consider that the appropriate way to have dealt with this correspondence was through NIEA's complaints procedure.
50. I find that the failure to address these concerns through NIEA's complaints procedure is contrary to the second Principle of Good Complaint Handling. I am satisfied that this failure elongated the process, did not provide a clear outcome to the complainants and meant that they were not referred to my Office at the end of the process in line with statutory requirements.
51. **I consider that this failure fails to meet the required standards and constitutes maladministration. I therefore uphold this issue of the complaint. As a consequence of the maladministration, I am satisfied that the complainants suffered the injustice of frustration and time and trouble in bringing the complaint to my Office.**
52. I note that all complaints now made to NIEA are handled in accordance with the Department of Agriculture, Environment and Rural Affairs (DAERA) complaints procedure. I expect that if the complainants raised their concerns to NIEA now it would be treated as a complaint and handled in accordance with the DAERA complaints procedure.
53. In its response to the draft report NIEA stated that it *'considered the complaints procedure in respect of the handling of correspondence and found that it was*

outside the remit of the NIEA Complaints Procedure relating to standards of service. The issues raised would also be considered to be outside the remit of the current DAERA complaints procedure’.

54. I considered NIEA’s comments in relation to this issue. I wrote to the Chief Executive of NIEA on 17 April 2018 asking him to provide clarity on whether NIEA accepted my finding of maladministration in relation to complaints handling in this case. I discussed this finding and explained the reasons for it with the Chief Executive on 20 April 2018. The Chief Executive stated that in his view NIEA had complied with its complaints procedure. The Chief Executive was also asked to consider the meaning of a complaint as referred to in guidance issued by this Office in 2009, namely that a complaint is *‘any expression of dissatisfaction whether oral or in writing’* and that the complainants in this case had in fact expressed their dissatisfaction with the administrative actions of NIEA and the discharge decision.
55. I wrote to the Chief Executive on 27 April 2018 to further explain the reasons for my finding of maladministration, to remind him of the definition of a complaint and to inform him having considered NIEA’s submissions, that I remained of the view that the failure in complaints handling constituted maladministration. I informed the Chief Executive of the meaning of maladministration and that I considered the current DAERA complaints procedure to be *‘restrictive in that it deals solely with issues of the quality of customer service and does not provide sufficient recourse for a member of the public to raise dissatisfaction with the range of actions and decisions that affect them.’*
56. The letter of 27 April 2018 to NIEA also noted that the complainants had on two occasions voiced concerns over administrative failings. Further I clarified in that letter that while DAERA’s complaints procedure excluded matters where a statutory appeal existed, this did not apply to them as they had no right of appeal NIEA’s decision on the consent to discharge. I also expressed my intention to share my investigation report with DAERA in this respect.
57. The Chief Executive by letter dated 1 May 2018 in response noted the position and indicated that he looked forward to working with my Office on improving

DAERA's practices consistent with '*best practice guidelines*'. I note that while not accepting my finding of maladministration that NIEA have agreed to make a payment of £150 by way of solatium for the injustice identified in this report.

CONCLUSION

58. The complainants submitted a complaint to me about the actions of NIEA concerning the decision of NIEA to consent to an application to discharge effluent into a stream bordering their land. They also complained about NIEA's subsequent handling of concerns raised by them in relation to this application.
59. The investigation of the complaint did not identify any evidence of maladministration in relation to the decision to approve the consent to discharge application on 29 March 2013.
60. The investigation did identify maladministration in respect of the failure of NIEA to address the concerns through its complaints procedure.
61. I am satisfied that the maladministration I identified caused the complainants to experience the injustice of frustration caused by the time and trouble and the delay in bringing the complaint to my Office.

Recommendations

62. Having considered all relevant facts and evidence in the case and the nature and extent of the injustice sustained by the complainants in consequence of the maladministration I have identified, I recommend the following:
 - NIEA should apologise to the complainants for the failing identified in this report.
 - The complainants should receive a payment of £150 by way of solatium for the injustice I have identified.

63. I recommend that NIEA should provide the apology and payment within one month of the date of my final report.

Marie Anderson

MARIE ANDERSON
Ombudsman

May 2018

APPENDIX ONE

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.

APPENDIX TWO

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.