



Northern Ireland

Public Services
Ombudsman

Investigation Report

Investigation of a complaint against Land & Property Services, Department of Finance

NIPSO Reference: 16066

The Northern Ireland Public Services Ombudsman

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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: 201916066

Listed Authority: Department of Finance - Land & Property Services (LPS)

SUMMARY

I received a complaint about the actions of the Department of Finance – Land & Property Services (LPS). The complainant said that she had incurred a significant debt due to LPS' failure to issue her with a rates bill in a timely manner.

I obtained all relevant information, including the records held by LPS. In the course of the investigation, telephone discussions were had with LPS staff in relation to procedures for tracing ratepayers.

My investigation found failures in how LPS conducted its investigation into tracing the ratepayer for the property. I consider this was due to an absence of internal procedures and guidance into conducting such investigations.

I concluded the maladministration I identified caused the complainant an injustice, namely frustration, upset and the loss of opportunity to request an assessment of the valuation of her property when it was undergoing renovation.

I recommended that LPS should apologise to the complainant. I also recommended that LPS put procedures in place to ensure that staff carry out investigations into ratepayer tracing in a timely manner.

THE COMPLAINT

1. I received a complaint about the actions of the Department of Finance – Land & Property Services (LPS). The complainant said that she found herself in debt because LPS did not process her rates bill in a timely and appropriate manner. The complainant said that as a result she was left distressed and anxious.

Background

2. The complainant purchased a property in October 2013. She said that she did not move into the property until December 2015, as it was in a state of disrepair and renovation works were required to make it habitable. She did not inform LPS that she had purchased the property, although she said that she returned an Occupier Questionnaire to LPS in 2014.
3. As part of an ongoing investigation to determine who was liable for rates at the property, LPS conducted a Land Registry search on 23 November 2017. The search established that the complainant bought the property in October 2013. On 27 November 2017, LPS issued a backdated rates bill of £4,402.96 to the complainant.
4. The complainant submitted a complaint to LPS on 11 October 2019. LPS reviewed the complainant's rate account and found that a previous Land Registry search carried out on 8 February 2016 showed that the property had changed hands.
5. LPS referred the complainant's case to a panel of senior managers who determined that there had been a Shortfall in Service (SIS)¹. The panel applied a reduction of 25% to the complainant's rating liability for the period 1 April 2014 to 27 November 2017. In addition, the rating liability for the period 07 October 2013 to 31 March 2014 was considered statute barred² and written off. LPS issued an apology to the complainant for the poor level of service she received.

¹ LPS defines SIS as an error by an act or omission by staff of LPS or its service providers...to which the ratepayer did not materially contribute, and of which the customer could not reasonably have been expected to be aware

² The claim, agreement or right that can't be subject of any legal action because it is too late after the date has been exceeded

Issue(s) of complaint

6. The issue of complaint accepted for investigation was:

Issue 1: Whether LPS processed the complainant's rates bill in a timely and appropriate manner?

INVESTIGATION METHODOLOGY

7. In order to investigate this complaint, the Investigating Officer obtained from LPS all relevant documentation together with its comments on the issues raised by the complainant. This documentation included information relating to LPS' handling the complaint.

Relevant Standards and Guidance

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. I also make reference to relevant regulatory, professional and statutory guidance.

The general standards are the Ombudsman's Principles³:

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

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

The specific standards and guidance relevant to this complaint are:

- Rates (Northern Ireland) Order 1977;
- Rating Guidance 3/16 'Properties which are Temporarily Incapable (TI) of Occupation (LPS Rating Guidance); and
- LPS Shortfall in Service Guidelines and Procedures September 2019 (SIS Guidelines).

³ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

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

THE INVESTIGATION

Issue 1: Whether LPS processed the complainant's rates bill in a timely and appropriate manner?

Detail of Complaint

13. The complainant received a backdated rates bill for £4,402.96 in November 2017 in respect of a property she purchased in October 2013. She said that the property had been derelict for twelve years before she bought it and was uninhabitable. She said that she carried out renovations to the property and moved in to the house in December 2015. She said that when she bought the property, she was unaware of the need to inform LPS that she had done so.
14. The complainant said that she found herself in debt due to the failure of LPS to issue her with a rates bill until November 2017. She also said that if LPS had issued her with a rates bill when she bought the property, she could have applied for a review of its entry in the Valuation List.⁴ She believed that as the

⁴ To assess rates on a domestic property, LPS uses the property's capital value.

property was uninhabitable for a period, she might have been exempt from paying rates.

15. The complainant said that that the 25% reduction applied to her outstanding rating liability was insufficient. She said that she still faced significant debt and was having difficulty paying off her arrears. She said that she had supplied evidence to LPS demonstrating that the property was uninhabitable until December 2015 and wanted LPS to consider an additional reduction to her bill.

Evidence Considered

Legislation/Policies/Guidance

16. I considered the following legislation, policy and guidance:
 - LPS Rating Guidance; and
 - SIS Guidelines.

Relevant extracts of these documents are reproduced at Appendix three to this report.

LPS' response to investigation enquiries

17. LPS stated that it had actively investigated who was liable for the rates on the property. This included the issuing of two occupier questionnaires to the property on 9 July 2014 and 15 December 2014. LPS stated '*although [the complainant] has claimed that she completed a questionnaire in 2014, LPS has no evidence of receiving this completed questionnaire*'.
18. LPS said, '*[the complainant] states that she was a first time buyer and thought rates were not due because of the condition of the property. However, when the works were completed and [the complainant] moved into the property in December 2015, there was no contact with LPS to enquire about rates liability. Any such contact would have allowed LPS to issue a bill sooner without such a large amount of backdated rates accrued*'
19. LPS stated, '*whilst there is no onus an (sic) new owners/occupiers of properties to contact LPS to obtain a rate demand, ratepayer contact is the most effective*

way to administer rate accounts and prevent a backdated rate demand.'

20. LPS acknowledged that it obtained information linking a person with a similar name to the complainant to the property in February 2016. It stated *'[r]egrettably this information was not followed up. Had correct action been taken [the complainant's] rate account could have been opened at this time and this would have resulted in a smaller backdated rate bill'.*
21. In response to the complainant's claim that the 25% reduction in her outstanding rating liability was inadequate, LPS explained *'[t]he 25% reduction is in line with LPS Shortfall in Service Policy. The period of time which has elapsed since the shortfall occurred is the principle guide in determining the quantum of an award unless it is deemed there are exceptional circumstances. The panel did not believe there were exceptional circumstances in this case'.*
22. In response to an enquiry from the Investigating Officer, LPS said *'[t]here is no defined criteria in determining what constitutes "exceptional circumstances" under the LPS Shortfall in Service Policy, with each case being considered individually.*
23. In response to the complainant's claim that she should have been exempt from rating liability in 2014 and 2015 due to the condition of the property, LPS explained that it *'has no statutory authority to revise the Capital Value of a property in the Valuation List retrospectively. It is for the ratepayer to advise LPS of any matters which they believe may affect the Capital Value so that a timely inspection of the property can be made to assess its condition, but no application was submitted until after the renovations had been completed'.*
24. In relation to any identified learning, LPS stated *'LPS has not identified any learning from this case. The shortfall in service to [the complainant] in this case was caused by an oversight; a deviation from standard practice and procedure'.*

Discussion with LPS staff

25. As part of the investigation, the Investigating Officer spoke by telephone with

two members of LPS staff with operational knowledge regarding the process for tracing ratepayers. The staff said that there were no set procedures for tracing ratepayers. The staff said that different teams carried out ratepayer tracing on an ad hoc basis. The staff said that ratepayer tracing would be carried out on occasions when officers were not busy with other duties

26. The staff said that monthly debt reports ought to act as a reminder to officers to continue with enquiries and that there ought not to be significant gaps in an investigation to trace a ratepayer.
27. The staff said that Land Registry checks were now a common tracing tool in ratepayer investigations, however in the past, officers' access to Land Registry was limited.

Relevant LPS records

28. I considered all relevant LPS records, including:

- SIS Panel Submission
- SIS Panel Decision
- Chronology identifying repossession details and LPS investigations

Relevant sections of the records considered are enclosed at Appendix four to this report

The complainant's response to the draft report.

29. The complainant reiterated her original comments that the actions of LPS had left her in severe debt. She said that she had provided proof that her property was uninhabitable until December 2015. She said that it was the responsibility of LPS to provide her with a timely rates bill.
30. I have considered the complainant's comments and while I acknowledge and sympathise that she finds herself in considerable debt, I am satisfied that my findings were correct.

LPS' response to the draft report

31. In its response, LPS clarified that it carried out the Land Registry search in February 2016 on the wrong property, and therefore did not link the complainant to the property. However, it stated that it did *'accept that the search, albeit that it has transpired it was on the wrong property, should have prompted further investigations at that time which could have resulted in timelier billing.'*

Analysis and Findings

32. I note the complainant's concern that she found herself in debt due to the manner in which LPS processed her rates bill. I note that on 8 February 2016, LPS carried out a Land Registry search against the complainant's property. The search showed a pending case for a person with a similar name to the complainant. LPS took no further action until 23 November 2017, when it carried out a second Land Registry search. LPS found that the complainant had owned the property since October 2013 and it sent her a backdated rates bill of £4,402.96
33. I note that when LPS reviewed the complainant's rate account and found that it had failed to act upon the information it obtained in February 2016, it referred the matter to its SIS panel. The panel agreed that there had been a shortfall in the service received by the complainant and applied a 25% reduction to the complainant's rating liability for the period 1 April 2014 to 27 November 2017.
34. In light of this, I am satisfied that LPS has acknowledged its failure to issue a rates bill in a timely fashion, after it obtained the information which would have allowed it to do so. In applying a 25% reduction to the complainant's rating liability, LPS has done so in accordance with the SIS Guidance. LPS had discretion to write off additional arrears if it considered there were exceptional circumstances in the SIS, however it stated *'we believe there has been fair redress in this case based on the circumstances'*.
35. I note that the complainant requested that LPS write off her arrears for the period April 2014 to December 2015, as the property was uninhabitable due to ongoing renovations. I note further that the complainant supplied

documentation to LPS in 2019, which she said supported her claim that the property was uninhabitable. I considered LPS Rating Guidance, section 2, Exclusions, which states that the guidance does not apply when *'[a]n application for T.I. (temporarily incapable of accommodation) was made post completion of works'*. I am satisfied that LPS had no legal authority to remove the property from the Valuation List based on the information provided by the complainant.

36. I accept that LPS is bound by legislation to seek the recovery of rates that are properly due, regardless of why any arrears may have accrued. Also, I am mindful that LPS has only a very limited discretion to consider 'writing-off' any portion of rates arrears. Poor service by a public body should not be seen by customers of that body as justification to seek removal or reduction of a debt for which they are legally liable. While acknowledging that the level of service provided to the complainant by LPS was less than satisfactory, I also consider that a customer is not without responsibilities in his/her dealings with a public body.
37. I am mindful that the complainant did not inform LPS that she had bought the property in 2013. She said that as the property was not habitable until December 2015, she thought that she would not be liable to pay rates for the period. I accept LPS' view that when *'[the complainant] moved into the property in December 2015, there was no contact with LPS to enquire about rates liability. Any such contact would have allowed LPS to issue a bill sooner without such a large amount of backdated rates accrued'*. However, I note that LPS also state *'there is no onus an (sic) new owners/occupiers of properties to contact LPS to obtain a rate demand...'*
38. In considering the complainant's assertion that LPS was responsible for her debt, due to its failure to issue her with a rates bill when she purchased the property, I examined the chronology of LPS' investigation into rating liability at the property. I focused on the period between June 2013 when LPS became aware that the property had been put up for sale and February 2016 when LPS carried out its first Land Registry check. I found that there were instances of significant delays

between actions and failures to make timely follow up enquiries when an organisation did not respond to a request for information.

39. I am satisfied that in carrying out its investigation LPS attempted to establish the identity of the person liable for rates at the property. I also accept that at the time of the investigation, LPS staff did not have ready access to Land Registry, which would have made task of tracing the liable person easier. However, I do not consider that it conducted its investigation in a timely and effective manner. I am critical of the delays between enquiries and the failure of LPS to follow up on requests for information when it did not receive a response. The First Principle of Good Administration 'Getting it right' requires a public body to provide effective services, using appropriately trained and competent staff. Also, the Fourth Principle of Good Administration 'Acting Fairly and Proportionately' requires a public body to ensure that decisions and actions are proportionate, appropriate and fair. I am satisfied that the failure of LPS to undertake a robust, appropriate and structured investigation constitutes maladministration.
40. The First Principle of Good Administration 'Getting it right' requires a public body to take account of established good practice. I established that LPS does not have adequate formal procedures for conducting timely and effective investigations into tracing ratepayers. Although I cannot conclude whether a more thorough investigation would have enabled LPS to establish the identity of the ratepayer at an earlier date, I am satisfied that the failure of LPS to implement procedures for investigations into ratepayer tracing constitutes maladministration.

Injustice

41. As a consequence of the maladministration I identified above, I am satisfied that the complainant suffered the injustice of frustration and upset. This is because the complainant has said that she experienced distress and anxiety upon receiving a backdated bill from LPS. I also consider that she suffered the loss of opportunity to request an assessment of the valuation of her property when it was undergoing renovation.

CONCLUSION

42. I received a complaint about the actions of the Department of Finance – Land & Property Services (LPS). The complainant said that she found herself in debt because LPS did not process her rates bill in a timely and appropriate manner.
43. I investigated the complaint and found maladministration in the actions taken by LPS in relation to the following
- LPS' failure to carry out its investigation into tracing the ratepayer for the property in an effective and timely manner.

I am satisfied that the maladministration identified caused the complainant to experience the injustice of frustration, upset and the loss of opportunity. However, I consider that in applying a 25% reduction to the complainant's outstanding rate arrears, LPS has provided appropriate financial redress in accordance with its SIS guidelines.

Recommendations

44. I recommend that
- The Chief Executive of LPS 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 this report).
 - LPS put procedures in place to ensure that investigations into ratepayer tracing are carried out in a timely manner.
45. I recommend that LPS implements an action plan to incorporate these recommendations and should provide me with an update within **three** months of the date of my final report. That action plan should be supported by evidence to confirm that appropriate action has been taken (including, where appropriate, records of any relevant meetings, training records and/or self-declaration forms which indicate that staff have read and understood any related policies).

46. I am pleased to note LPS accepted my findings and recommendations.

A handwritten signature in cursive script that reads "Margaret Kelly". The signature is written in black ink on a white background with a light gray dotted pattern. The signature is enclosed in a thin black rectangular border.

MARGARET KELLY

Ombudsman

June 2021

Appendix 1

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:

1. Getting it right

- Acting in accordance with the law 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 learned from complaints.
- Including complaint management as an integral part of service design.
- Ensuring staff are equipped and empowered to act decisively to resolve complaints.
- Focusing 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.

2. 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 where appropriate co-ordinating responses with any other bodies involved in the same complaint, where appropriate.

3. 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.

4. 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 and actions 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

5. 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.

6. 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 learning from complaints.
- Regularly reviewing the lessons to be learnt from complaints.
- Where appropriate, telling the complainant about the lessons learnt and the changes made to services, guidance or policy.