

# **Housing**

Ombudsman Service

## **Report of the Housing Ombudsman's Independent Reviewer of Service Complaints**

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# Introduction

## Background

The Housing Ombudsman's dispute resolution principles are: be fair; put things right; and learn from outcomes. The Ombudsman applies these principles internally to complaints about the service it has provided to its customers as well as externally. The appointment of the Independent Reviewer of Service Complaints is intended to enhance our learning with an independent perspective and demonstrate our openness through the publication of the Reviewer's reports.

## Service complaints during the period

This report covers service complaints closed during the period 1 April 2022 to 30 September 2022. The Ombudsman's approach to service complaints is to uphold them if there is any doubt over the service provided.

During this period:

- The service investigated and closed 307 service complaints at stage 1 and 116 at stage 2
- It upheld or partially upheld 191 service complaints at stage 1 and 55 at stage 2
- The total of service complaints investigated and closed at stage 1 and stage 2 represents three per cent of the enquiries and complaints brought to the Ombudsman and closed over the same period.

## Sample selection

The Ombudsman selects 10 cases for review in each six-monthly period. For this review period, the sample was randomly selected. This approach was used to help us to identify any new or emerging trends in our service delivery.

## **Analysis of Service Complaints – November 2022**

This is my fourth report as the Independent Reviewer of Service Complaints (IRSC) for the Housing Ombudsman. As before, I would wish to emphasise at the outset that I have only reviewed a relatively small selection of cases and my conclusions should not be taken as applying to all the cases handled by HOS. I would again also like to repeat my impression that the cases I have reviewed are, in general, characterised by a clear commitment to excellence in customer service; indeed, this commitment is frequently restated in the responses sent to those making service complaints.

The context of this report remains, as before, a period where the organisation is still seeking to handle a mismatch between a sudden surge in the number of complaints against landlords and the resources available to handle them. As a result, there was during the time covered by these cases a high number of cases awaiting allocation, resulting in long delays in cases being allocated for investigation and pressure on staff to respond to complainant communications within the timeframes set out by the organisation. This has given rise to issues which I have identified before and, once again, this is an issue which I reflect on below. The second issue which I discuss is one which comes not just from the selection of cases I have examined on this occasion but is an issue which has been common to many of the cases I have examined over the past two years: simplicity of communication.

### **Handling delay**

Of the sample of complaints assessed (which, unlike on previous occasions, had not been selected to illustrate any particular theme but were simply a random selection of the service complaints raised), all but two contained an element of complaint which was related to delay. This is inevitable, both in relation to service complaints generally (in my experience, issues to do with speed of service make up a very significant proportion of complaints even in schemes without delay) and in the context of HOS's current circumstances. However, the sample again raises some questions about how the risks of delay leading to complaints may be better mitigated.

As I have said, HOS is currently asking complainants wait some months before eligible cases are allocated. This is clearly regrettable and efforts are being made to rectify this situation. In my previous report, given these delays, I raised questions about some confusion about the extent to which HOS operated a strict "first come, first served" policy in the allocation of cases. None of these cases gave evidence of any such issues. However, there was one case which gave me pause for thought in this area.

This was case 202202432, where a complainant was refused a three-month period to gather evidence to submit in support of a determination review on the basis that he had had a lengthy period while the case was awaiting allocation to submit any

relevant evidence and had not submitted any evidence to support his request for an extension; instead, he was allowed a two-week extension. Ultimately the resident decided not to progress with their review request and whether any further extension would have been granted is moot. While I accept that the period of delay before a complaint is accepted for investigation may provide an opportunity for a complainant to submit evidence, it is not in my view entirely reasonable to treat a delay in allocation as a reason to hurry a complainant through the eventual investigation process. If HOS is to have a policy of using this period as one for the complainant to submit evidence and as a reason for shortening the actual investigation period, it should explicitly warn complainants that this is its policy. In addition, from a procedural justice point of view, it seems to me right that a complainant cannot be expected at the outset to predict the evidence that the landlord may submit and must therefore be given a reasonable chance to gather and submit any additional necessary evidence once he or she has a full understanding of what case the landlord has made. To be clear, I am not suggesting that the decision to refuse the delay requested here was incorrect, merely that there is no sign on the file of consideration being given to the possibility, and there is no clarity in the reply to the complainant – either in the adjudicator’s letter or in the response to the second stage service complaint – as to why a two week extension was warranted whereas a three month one was not.

**Recommendation: HOS should be explicit with complainants about its expectations about the timeframe for the submission of evidence and give the complainant a reasonable opportunity to submit additional evidence in response to whatever evidence the landlord has submitted.**

However, this is not likely to be an issue which arises very often. More concerning to me is the number of these cases where what was at the heart of the complaint was the failure of HOS to observe its own time standards in relation to calling or emailing complainants. This was an aspect of the case handling in at least half of the complaints looked at; worse, in a subset, the failure complained of involved a failure to fulfil timescales directly promised to the complainant. In some cases, it is clear that this is the result of sickness and absence; however, in others, there is no clear reason given.

There is a danger exhibited in some of these cases that HOS staff may occasionally have a tendency to rely on complainants to prod them into action to communicate or, worse, to progress cases. As examples of the latter, the first two service complaints in the sample turn on lengthy period of time where cases are sitting on the HOS system without any evident progress being made on them. To the credit of HOS, in the first of these two cases, it was HOS rather than the complainant who took the next step towards action. However, that was after a delay of over a year.

The tendency to let cases drift and to make promises of updates to complainants which are not fulfilled is common to all Ombudsman schemes, and the pressure of demand which HOS is currently battling with is an added pressure. It is for HOS to determine its management response to this. However, in my experience, new technology can provide massive help in this area, with modern case handling

systems allowing management to set built-in alarms to trigger action to uphold deadlines or ensure that cases are regularly reviewed. It is also possible to track individual and team performance in these areas and use that information to encourage efficient case progression and improved customer service.

**Recommendation: HOS should investigate methods of improving its tracking of case delays, especially in updating complainants about progress.**

### **Communication style**

Over the past two years in these reports, I have addressed some of the harder-edged and more obvious aspects of good complaints handling: dealing with difficult complainants, delay, managing backlogs, managing diversity and personal adaptations etc. Given the - entirely correct – priority given to those issues, it is easy to overlook the central importance of communication style to the customer experience.

This discussion does not arise out of the cases which form the selection on this occasion; in the main, I am impressed by the quality of the written communication sent to complainants. For example, among the sample considered on this occasion (case no 202202918) is a letter from a service complaints handler which, to my mind, is a model of its kind. The apology it contains appears heartfelt and real: the phrases “please accept my sincere apologies” and “I must say how sorry I am” are perfectly judged and communicate a real sense of an individual taking personal responsibility for the failings of the organisation. In addition, the letter is practical in offering a potential adaptation to the needs of the complainant (in this case, the use of a representative), acknowledges the potential impact of the matter on the complainant’s mental health, and gives details of agencies which could support him with any mental health issues. In my view, this is exemplary complaints handling. Moreover, it gives a sense that there was an emotional intelligence at work on the part of the author of the reply.

Perhaps inevitably, however, not all the communications I have read – in this sample or the others I have reviewed – are of this standard. Commonly, I have seen a tendency for letters to slip into the use of unnecessarily bureaucratic language rather than the use of simple, direct English. So, for example, the sentence “the Ombudsman’s internal procedures specify that incoming email correspondence should be responded to within 15 working days” could be far more simply expressed as “we aim to answer all emails within three weeks”. There is also a tendency to use longer, Latinate words rather than shorter, more everyday ones: “advised”, “conclude” and “assistance” can be replaced by “told”, “end” and “help”, for example. Given the fact that a significant proportion of those using HOS’s services have difficulties with written English, it is really important to make sure that information is communicated as simply as possible.

There is also a question of length of replies. On the one hand, it is vital to communicate to the complainant that what they have complained about has been thoroughly looked into. On the other, I am not convinced that it is always necessary to set out every detail of events in a reply, particularly when the factual outline of

events is not in dispute. In my experience, complainants faced with a lengthy reply do not always grasp the essential information contained within it. Providing too lengthy a reply also increases the risk of further dispute as a result of a minor error or an unfortunate turn of phrase.

Finally, while I applaud the fact that, in some of the cases in this sample, the complainant has been pointed directly to original source documents and policies, these are not always as readily comprehensible to those outside the complaints handling community as they are to those working in schemes such as HOS. So, for example, in case 202211640, the complainant was pointed to the Memorandum of Understanding between HOS and the Local Government and Social Care Ombudsman. While this is a useful document for staff in both organisations, it is not in my view easily accessible for individuals unversed in navigating the boundaries between Ombudsman schemes. More important, in the case in which it was used, it did not answer the essential question at the heart of the service complaint: part of the substantive complaint had been ruled out by both Ombudsman schemes so what was going to happen now? Was anyone going to take responsibility for it? As background information it was perhaps interesting but it did not better equip the complainant to do anything about the position she was in.

**Recommendation: HOS should review its mechanisms for ensuring the use of simple language in its communications.**

## **Conclusion**

As I said at the outset, there is nothing in the cases I have seen to shake my belief that the standard of the work undertaken by HOS is at a high level. Clearly, however, the delays being experienced by the organisation require greater emphasis to be placed on timeliness in responses and proactivity in case handling style. Here, I recommend that management explores what help the use of modern case handling technology can bring, with regular reporting on timeliness targets.

In relation to communication style, I have seen examples of excellence in the drafting of replies. However, that is not ubiquitous in the organisation and I recommend that additional training be provided in the writing of clear, simple English.

## **Service Complaint Case Summary**

### **202211640**

The service complaint exposed a series of issues with the handling of the underlying case. The complainant emailed a copy of the final reply from the landlord in December 2020 but this was not received by HOS “due to a technical issue”. HOS replied in February 2021 asking for the reply to be resent, which the complainant attempted to do. There was then a delay of over a year before HOS then contacted the complainant in April 2022 saying that the reply had still not been received. Once this had been provided and the case accepted, the possibility was raised that the delay had meant that the case was no longer eligible. However, some of the complaint was then passed to another organisation, which then refused to accept it. The complainant also challenged the fact that the timescale given for the completion of the investigation was by April 2023. In reply, the HOS complaints handler argued that the delay was partially the fault of the complainant not being more proactive; nevertheless, she agreed that the allocation of the case should be expedited. She acknowledged the communications difficulties (information being requested which had already been sent, incorrect chronology) and apologised for them. However, she defended the referral to the external agency, explaining that the relationship with this agency was complex (attaching the Memorandum of Understanding); however, she did not address the question of whether the refusal of that agency to deal with the issues raised would change HOS’s refusal to accept that part of the complaint.

### **202202918**

The complainant had sent the final reply from the landlord to HOS in December 2021. Having heard nothing further, he then copied HOS into a further email exchange with the landlord in March 2022 and asked for an update. Having received nothing more from HOS, he then raised a service complaint in May. The service complaint reply accepted the failure and made proper apologies. It went further, acknowledging the potential impact of the service failure on the complainant’s mental health impact, suggesting a possible adaptation and providing details of possible support organisations.

### **202212804**

The complainant had rung for an update on 15 August 2022 and a call-back was booked for the following day. The caseworker was ill so sent an email that day instead promising an update by the end of the week. However, there was no follow-up by the time the service complaint was raised on 14 September. This was acknowledged and an apology offered.

In addition, there were two additional features of this case. First, it is clear that the complainant’s preferred manner of communication was email, which raises a

question as to why a call-back was booked. This was not addressed in the reply. Second, the complainant raised a question about different time-targets for calls rather than emails. An explanation for this was given in response which appears to me to be reasonable. In addition, the letter contains a useful list of options for improving the service to this complainant - a commendable practice.

### **202204786**

This service complaint arises out of a case which has given rise to a significant number of service complaints. The subject on this occasion was allegations of delay in answering letters. However, in both the instances cited in the complaint the letters were sent within the timeframes set out in the HOS service standards.

### **202211925**

The service complaint in this case arose partly out of a belief on the part of the complainant that HOS should have already considered all the evidence she had submitted. To this extent, the reply was clear and simple. However, the second aspect of the complaint gave me more pause for thought. The complainant had scanned and sent through all the documents in relation to the case. However, the member of the Dispute Resolution Team told her that the files were difficult to read and that the reply from the landlord (at a minimum) needed to be resent. The complainant complained also about this aspect of the service. The service complaint reply acknowledged that the files were legible but at the same time argued that "if the Dispute Resolution Adviser was unable to clearly see any part of the document" it was reasonable for her to ask for it to be resent. In the absence of any explanation as to why, if the material was legible (as was accepted), the Dispute Resolution Advisor may have been unable clearly to see it, this formulation does not appear particularly convincing.

The complaint also raised an issue of timelines in replies. This was accepted and apology offered for exceeding the reply target by eight days.

### **202202814**

This case emanates from an individual who has raised a large number of complaints with HOS. In the interests of openness, I should also record that she has also attempted to communicate directly with me in my role as independent reviewer at HOS, although I have felt it inappropriate given my role to engage in correspondence with any individual complainant.

The service complaint in this instance involves allegations about a failure to return calls, the use of email instead of phone calls, a refusal to consider potential GDPR issues, bias, the issuing of a warning letter for behaviour, and a refusal to accept further evidence from her. The reply responds appropriately to each of these complaints with clarity and simplicity, indicating that there were no calls which were not responded to within the time limits, setting out how a subject matter access request could be made, explaining the warning letter, and pointing out that, since the case had not yet been accepted for investigation, the questions of bias and evidence did not yet arise.



## **202203921**

The complainant in this case raised a service complaint about the fact that she had not been able to speak to an adjudicator about her case; however, as the reply stated, this was because the case had not yet been allocated. She also complained that she had not been given a call-back as promised, that HOS would not deal with her representative and about access to her data. The reply indicated that there was no evidence of any missed call-back; it also explained that although the organisation did not have the resources to deal simultaneously with a complainant and representative, they had already arranged to route everything via the latter.

While the second stage response mentioned the issue of the call handlers having access to the complainant's data, it did not address this directly. However, the first stage response made it clear that, although some of HOS's calls were dealt with via a third party agency (Serco), it is part of the contract that Serco staff handle data according to the relevant privacy protocols. While I make no comment on the use of third party agencies, it is perhaps worth noting that two of the sample service complaints made reference to concerns about perceived data handling risks.

## **202119689**

This service complaint relates to the length of time the investigation took and the length of time the landlord had taken to comply with the Ombudsman's determination. The reply, while somewhat bureaucratic in language, was a reasonable one. However, I am struck by the fact that, unlike some of the other answers to this complainant, the second stage reply was on white rather than coloured paper. If it was an agreed adaptation to the needs of this complainant that correspondence should be on coloured paper (it is difficult to see from the file whether or not this is the case), this was an error.

## **202208138**

This case involves a series of complaints arising out of a decision that the substantive issue was out of jurisdiction. The particular issues include an allegation that missed its response times, did not progress the case quickly and discriminated against the complainant on the basis of her race; in addition, the second stage complaint raised an allegation that HOS repeatedly used the wrong name for the landlord. The timing and response issues were well addressed in the first stage reply, with an apology where required, and the second stage response dealt with the landlord name allegation. However, although the first stage reply explicitly dealt with the race allegation, the second stage reply – despite a clear statement by the complainant that the organisation “doesn't help black people” – failed to mention the issue at all. As I have said before, when an allegation of racism is made, I would expect to see evidence that it has been taken seriously and properly examined. While there is no evidence of racism in this case, there is insufficient evidence also on the file that the issue was dealt with with the level of seriousness which I would expect to see.

**202202432**

The substantive complaint in this case was about leaking windows and roof, which led to an order of compensation to the complainant. However, the complainant raised two types of service complaint: at the first stage, he complained that not all the complaints he had submitted had been investigated; and at the second stage, he argued that he should have been allowed three months to submit evidence for a review of the determination rather than four weeks, especially since the landlord had been allowed extra time to comply with the HOS determination.

In relation to the first complaint, the reply seems to me to be entirely satisfactory. However, the reply to the refusal to allow a greater amount of time to submit evidence gave me pause for thought. For the reasons articulated above, I have some doubts about whether the letter of refusal by the adjudicator was wholly satisfactory.

## Management responses

Recommendation	Management response
<p><b>HOS should be explicit with complainants about its expectations about the timeframe for the submission of evidence and give the complainant a reasonable opportunity to submit additional evidence in response to whatever evidence the landlord has submitted.</b></p>	<p>We accept the recommendation. We are reviewing our standard correspondence with residents throughout the Triage case handling to ensure that residents are aware of their right to submit evidence, what can be accepted and how this will be used as part of the investigation.</p> <p>Owner: Head of Dispute Support Due date: 31 March 2023</p>
<p><b>HOS should investigate methods of improving its tracking of case delays, especially in updating complainants about progress.</b></p>	<p>We accept the recommendation. We have already started providing proactive updates to residents to inform them of progress. We are also reviewing our communications with residents to ensure we give accurate information about the likely timeframe in which we will deal with their cases.</p> <p>Owner: Head of Dispute Resolution Due date: 31 March 2023</p> <p>We are also undertaking a system review which will explore increased system-generated alerts to trigger case update action.</p> <p>Owner: Transition Director Due date: 30 September 2023</p>
<p><b>HOS should review its mechanisms for ensuring the use of simple language in its communications.</b></p>	<p>We accept the recommendation. The Quality and Standards Team are reviewing the quality framework and will look at ways to encourage use of simple language as standard in our work. We will ensure this learning is fed into our Access project to improve all resident communications.</p> <p>Owner: Quality and Standards Manager Due date: 31 March 2023</p>

### Progress against previous actions

Recommendation	Management response
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*The fact that the organisation's policy on allocations is not understood by all staff is a concern, and I therefore recommend that steps be taken to ensure that all staff are made aware of it and how it should be applied. Similar consideration might be given to the blanket call back policy articulated in case no 202123842.*

Accepted.

a) The Quality Team, who own all DS&R-related policies, will remind all caseworkers and service complaints investigators of this aspect of the allocations policy immediately.

b) The Quality Team will also develop guidance to support our approach to call backs, in consultation with the Heads of Service in DS and DR, and inform all caseworkers by the end of September.

Owner: Quality Manager

**Update:**

a) Case allocation guidance and process is included within the new induction programme and the policy has been flagged to teams through the adjudicator and organisation-wide comms channels. **Complete**

b) New reports are in place to oversee call back allocations and monitor completions by caseworkers. The call back guidance has been updated to ensure any reports of overdue call backs are received, the call is transferred to a caseworker without the need for the call to be rebooked.

**Complete**

*I recommend that consideration be given to a policy of requiring caseworkers proactively to update complainants if it appears a previously promised deadline was not likely to be met.*

Accepted.

We are creating dedicated roles to oversee cases awaiting allocation and one of the responsibilities will be to ensure pro-active updates to residents if target investigation dates will be exceeded.

We will also review our initial communication on likely timescales with residents and landlords to ensure these reflect the challenges we are currently facing, set out the actions we are taking address them and are realistic.

	<p>We will have these measures in place by 30 September 2022.</p> <p>Owner: Head of Dispute Resolution</p> <p><b>Update:</b> A team is now in place providing proactive updates to residents whose cases are awaiting allocation. Initial communication has been reviewed and a process is in place to ensure we regularly review these messages to ensure we are communicating the latest position. <b>Complete</b></p>
<p><i>There is a risk that the drive for efficient management of caseloads may lead to short-cuts being taken. In my experience, any such tendency towards a tightening approach to jurisdiction and evidence-gathering often shows in broader quality performance indicators such as acceptance and uphold rates. I therefore recommend that close attention to these should be paid over the coming months.</i></p>	<p>Accepted.</p> <p>We have a range of performance indicators covering quality, decisions ruled outside of jurisdiction and uphold rates. These will be discussed as a standing item at the monthly Dispute Support and Resolution Directorate Team meeting and cascaded up to the Senior Leadership Team through the Directorate update report with variances highlighted This will take place from August 2022.</p> <p>Owner: Head of Dispute Support and Head of Dispute Resolution</p> <p><b>Update:</b> This information is included in monthly performance reporting and has been considered by the relevant governance meetings since August. This will continue into the future. <b>Complete</b></p>