

# **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 October 2022 to 31 March 2023. 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 394 service complaints at stage 1 and 72 at stage 2.
- It upheld or partially upheld 319 service complaints at stage 1 and 71 at stage 2.
- The total of service complaints investigated and closed at stage 1 and stage 2 represents 3.7 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 – June 2023**

This is my fifth 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.

As has been the case with all the reports I have undertaken since my appointment, the cases I have reviewed all arise in a context where there is a significant mismatch between the number of complaints against landlords and the resources available to handle them. Not only does that create the potential for delays in case handling. It also, perhaps more worryingly, creates a risk of a degradation in the quality of investigations and decision-making, with staff focussed on the need to complete cases quickly rather than doing justice. While I am assured that there are no signs of this at HOS, this is not an uncommon result in other schemes at such times.

Given the background of the demand/resource mismatch, it is perhaps inevitable that almost all the service complaints I reviewed resulted from issues of delay. Of the ten individuals raising service complaints, seven explicitly cited delay as the primary cause of complaint; although the headline reasons for complaining were different in the three other cases, in my file reviews of these too I nevertheless came across instances of missed deadlines or failures to respond quickly which could have given rise to similar complaints. More strikingly, one of the service complainants had raised three previous complaints about delay during the handling of his substantive complaint, all of which had been upheld and the third of which had led to a compensation payment being made (a payment which itself had only been paid after a chasing letter from the complainant).

The picture which emerges from the sample, therefore (and I stress again that this is only a small sample of cases which could be totally unrepresentative of the whole) is of an organisation where delay is endemic and where a great deal of energy is going into managing the consequences of that delay. That does not make the Housing Ombudsman particularly unusual: many – if not most – organisations struggle to perform tasks such as answering the phones or returning emails as promptly as their customers would wish and complaint handling organisations are notorious for struggling with the sort of backlogs which the Housing Ombudsman is experiencing.

Under those circumstances, what is important is to ensure that complainants understand first why that situation has arisen and second what the organisation is seeking to do about it. In many of the cases I reviewed in my previous reports, there were clear statements in the service complaints responses which detailed what the Housing Ombudsman was doing to address the delays, which left individual complainants (and me as the independent reviewer) with some confidence that there was a clear plan to address the issues. While I am told that the usual explanation of what actions HOS proposed to take to deal with the delays was not needed in this

case because it was related to a review, a process that is unaffected by the wider HOS delays, the cumulative effect of reading the four replies given to the individual involved in this case was one of helplessness in the face of overwhelming levels of demand. This does not inspire confidence.

I understand there has been some negative feedback about the formulation previously used to explain the reason for the delays and the actions HOS proposed to take. I understand why this might be: such formulations, if used too much or if expressed in too bureaucratic a fashion, can sound insincere and false. However, if there are delays which mean that the organisation cannot manage cases to the deadlines it has set itself publicly, any apology made should be accompanied by some sort of statement about what the organisation is doing to ensure the situation is not repeated.

**I therefore recommend that complaint responses in the case of delay should contain some statement of what the organisation intends to do to improve the speed of case handling and responsiveness.**

### **Call-back deadline**

Within the broader issue of delay was a specific issue about call-back times. No fewer than half of the cases in the sample involved issues in relation to call-backs, with those involved complaining either that, in general terms, they were not called back quickly enough or, in a significant subset of the sample, that the – then in force – five-day call-back deadline had been exceeded.

It is clear that there has been a change of policy in this area, it seems because the five-day deadline was, in practice, impossible to achieve. I support the notion that it is essential not to promise customers action within an unrealistic timeframe: if five days under the current circumstances is impossible, that should not be the target. From what I have been told, the new policy is that the (outsourced) call handling agency answer calls in the order they are received. If no call-back has been possible within the first five days, the matter is passed to the case owner (if there is one), or escalated to the dispute support queue for immediate action. There is an additional process to ensure calls from vulnerable complainants are dealt with via a mechanism adapted for their needs.

There is some evidence from the files that the changeover of policy was not well communicated: clearly, some of the complainants did not know of the change (if they had have done, they would have been less likely to have complained) and in at least one case, it appears that a HOS member of staff was still advising complainants that the five-day target was still in place when it was not. This may, inevitably, be the result of the difficulties of managing a contracted-out service.

More profoundly, I am not convinced that the most customer-friendly solution to the challenge of meeting a challenging service time target is to abolish the target altogether. A strictly chronological process, albeit with a change of individual responsible for providing the call-back if none has taken place within five days, gives a customer no useful information whatsoever about when a call-back can be expected.

**I recommend that consideration be given to reinstating a call-back time target.**

### **Service v policy**

The second issue which I would like to highlight from the sample is a subtle but important one: the difference between an organisation applying its existing policies and an organisation offering good customer service. When one is dealing with a service complaint, one is not being asked to assess whether or not the organisation has followed its policies; one is being asked to consider whether the service offered is good or poor. It is possible for the organisation's rules to have been applied but the result can nevertheless be poor service. This distinction is one which should be familiar to all Ombudsman schemes: it is a commonplace for us to have to inform organisations under scrutiny that while we will take account of organisation policies in our decision-making, we are not bound by them in assessing the quality of service offered.

There are signs in the cases sampled that this distinction may not be fully understood by some answering service complaints at HOS. This is illustrated by the replies to two complaints. In one case, the resident's complaint about repeated instances of promised call-backs not taking place was dismissed on the basis that no deadline for a call-back was promised under the new policy. I accept that in this case, the formal policy was followed. However, I struggle to understand how repeated instances where a HOS member of staff had promised a call-back but no call-back had been made constitutes good service. The absence of a timeframe does not absolve an organisation from the obligation to deliver on a promise made.

The second example is more complex. From the information on the file it appears as if the heart of the service complaint is the way in which HOS approached defining the scope of the substantive housing complaint, with the complainant arguing that the approach adopted by HOS allowed control of scope definition to rest in the hands of the landlord, which in this case left significant elements of the concerns outside scope. The substance of the reply – and the two replies on file take somewhat different approaches to dealing with the issues – was that HOS followed its policies in determining scope and that any issues in this case were for the review process rather than the service complaint process to deal with. Any outstanding issues would have to be raised by the complainant de novo with the landlord. This position, while it may be reasonable in itself, was rendered more difficult by the fact that the review letter did not in practice address the issue and made it clear that it was doubtful the landlord would now address the additional points the resident wanted/had wanted to raise.

In highlighting this case, I am not here suggesting that HOS's fundamental approach to determining scope is incorrect: even if I were to seek to establish that (and it is doubtful that it would be within the scope of my role to make such a judgment), I would never seek to do so on the basis of just one case. Nor am I suggesting that it was for the service complaints process rather than the review process to deal with any policy issue. However, while the complainant in this case clearly raised some arguments about why he believed that HOS's approach was flawed, the replies from

HOS did not engage with these arguments but merely restated that the proper policies had been followed. If it were to be the case that the landlord was able essentially to fix the scope of the complaint by refusing to address some aspects of the complaint in the response without that being routinely checked by HOS (and I do not know if that is true), the result would clearly be unjust. The possibility that the standard processes had been followed in this case but that the result had been that the complainant had not received decent service overall was not, it seems, considered.

## **Conclusion**

Much of what I have said above may seem critical. However, it relates largely to the fundamental issue with which HOS is struggling: the mismatch between demand and resource. The fundamentals of the organisation appear sound: there is a clear desire to offer good service and there is nothing in these cases which gives me concern about the fundamental decision-making in the organisation. There are, again, one or two letters on file which I regard as excellent examples of empathetic but firm complaints handling.

However, the issues of delay are clearly real and causing problems in the quality of day-to-day service. Until those issues are fixed, service complaints such as the examples examined here will continue to arise.

## Service Complaint Case Summary

**CASE 1** - This is a complaint about landlord's failure to answer second stage complaint. The resident had called HOS repeatedly to alert them to the fact that the landlord had failed to meet proper deadlines but had got no response from HOS\*. The response letter, while properly acknowledging the failure, was slightly formulaic and the action promised by HOS was slow to eventuate. Strikingly too, the subsequent correspondence to the complainant from the caseworker made no mention of the service failure, so while the quality team had apologised, there appeared to be no recognition on the part of the case handlers of the issue.

**CASE 2** - The complainant in this matter had a mental health issue and was raising issues about delay in allocation/investigation of his case, which he said was impacting on his mental health. There had been repeated failures to call back and the occasional use of emails rather than phone (which was contrary to the agreed adaptation), leading to anger on part of complainant and a consequent behaviour warning from HOS. The response correctly acknowledged the service failures. However, it was perhaps interesting that the reply attributed the complainant's anger to the stress of his housing situation rather than the frustrations caused by dealing with HOS. In addition, I note that the reply also stated that HOS does not make individual prioritisation decisions about allocations. This is a subject on which I have commented before and I understood – and it is confirmed elsewhere in this case file – that some element of prioritisation is now possible, such as in the case of children at risk because of their housing conditions.

**CASE 3** - This complaint is about the repeated failure of HOS to call the resident back to update him on his landlord's progress towards making a second stage complaint reply. In my view, the complaint response is not ideal. The language is somewhat bureaucratic and the decision itself is one with which I disagree: the mere fact that no deadlines for call-back were now in place does not mean that a failure to call back despite three chasing calls over a 20-day period is good service. The file shows that the complainant then signals his discontent with this response and receives a – far better – email apologising that he had not been sent the full version of the reply; however, it is not clear from the file whether the response it contains is the full complaint response or the one which was complained about. Nevertheless, the complainant signals that he is now happy – perhaps because by this stage he has had direct contact with a HOS staff member about his substantive housing issue, who has taken swift action to chase it.

**CASE 4** - This complaint again about a call-back, in this case from someone who had erroneously been told that the five-day target period, which had been changed a few weeks before, still applied. The service complaint reply on file was perfectly proper. However, it is not clear from the file that this reply was ever received by the complainant: there is a note on the file indicating that, six weeks after the date of the

reply, the complainant has rung to ask what had happened to the reply to her complaint. Three weeks later, the file shows an email to a colleague asking for this to be chased up and it appears – although it is not clear – that there is then a further phone call with a quality team member which leaves the complainant satisfied. One small aside to this case is that the complainant in this matter appears to have been asking for her housing complaint to be dealt with urgently because it involved issues of mould which might impact on her children. This is explicitly one of the features of a case which could, according to the file note in case 2 above, lead to formal case prioritisation. I have since been advised by HOS that once this case completed the landlord complaint process, an assessment was completed that resulted in the case being given high priority and the duly made date was backdated. Further, I am assured the requests for follow up emails and calls were addressed under a different case reference number. HOS has taken corrective action to link all the relevant cases following my feedback.

**CASE 5** - This complaint involved a number of service issues: not being contacted for five months despite frequent calls, slow case progress, an occasional failure to use agreed contact protocols and the refusal of reception staff member to accept a service complaint. While the pattern of poor service here was worrying, the service complaint response is to be commended for its clarity, warmth and empathy.

**CASE 6** - This complaint was from an individual who clearly had a long history of complaints with (and about) HOS. At the time the complaint was made, the complainant was formally banned from contact with the organisation and I was impressed to see that the service had exercised its discretion to accept this matter. As with many such complainants, limiting the scope of this complaint to the matters initially raised (including the inappropriate sharing of the fact that he had been barred from contact with his landlord) was clearly challenging and the second stage response ranged considerably more widely than the first, including a discussion of some of the issues regarding the handling of barring from contact. The openness of those dealing with this – clearly challenging – individual is to be admired, and while this case prompts some wider questions about the precise arrangements around suspensions from contact and the information governance, it represents good service complaint handling.

**CASE 7** - This complaint related to an incident when a call handler ended a call on the basis that it was unproductive since the complainant had previously been told the same information she was challenging – that she had to exhaust landlord's complaint procedure before HOS could investigate. The case went through both stages of the service complaints process and on both occasions the reviewers listened to the call recording and decided that the action was not rude. While the complainant clearly did not agree, the handling of this case was as it should have been.

**CASE 8** - This complaint again was about delay, in this case about HOS's failure to contacting the landlord in a timely fashion. The response was entirely appropriate about that matter. The complainant also raised a fear that her position in relation to her housing complaint would be made worse by her having raised a service complaint, which received appropriate assurances.

**CASE 9** - This is a case where, in essence, the complainant is making a service complaint in order to address some failings which he considers impacted on the outcome of his substantive housing complaint. In essence, the subject of the service complaint is that he argues that HOS did not consider the correspondence between complainant and landlord during the complaints process and allowed the landlord to define what issues they wished to respond to in their stage 2 response, thus excluding some important issues (e.g. asbestos) which he wanted considered. It is clear from the file that the service complaint handler (certainly at second stage) made considerable efforts to engage with the complainant. However, the response refused to address the key issue on the basis it was something examined by the review process. While this may appear fair, having read the review reply, it is clear to me this was not actually addressed in the review, which merely accepted that there was a dispute in relation to what was raised at the second stage of the landlord complaint. This means that the key issue being raised by the complainant went unaddressed.

**CASE 10** - This was the fourth service complaint from one individual in relation to a single substantive case – all of which had been upheld (including one where and MP had been engaged and compensation paid) about delay in processes. While nothing about each individual delay complaint raises particular issues, the totality is striking. While compensation was paid in relation to this complaint for reasons which have subsequently been described to me, I have reviewed that there have been other cases where complainants had described similar impacts and no compensation was paid. I understand that a wider review of compensation policy is underway and I applaud this initiative.

## Management responses

Recommendation	Management response
<b><i>Complaint responses in the case of delay should contain some statement of what the organisation intends to do to improve the speed of case handling and responsiveness.</i></b>	<p>Accepted</p> <p>We will develop a standard response to be used when responding to service complaints that will shift according to the current actions being taken to respond to the speed of case handling.</p> <p>Owner: Quality Standards Manager Due date: 31 March 2024</p>
<b><i>Consideration be given to reinstating a call-back time target.</i></b>	<p>Accepted</p> <p>This will be considered as part of the end to end review of the service which commenced in November 2023.</p> <p>Owner: Director of DS&amp;R Due Date: 31 March 2024</p>

### Progress against previous actions

Recommendation	Management response
<b><i>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.</i></b>	<p>Accepted</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>Update:</b> We now provide relevant information to residents regarding evidence throughout the triage process. Caseworkers also now call the resident when the case is assigned for investigation to understand what has happened, the impact, and the resolution they would like. We will talk with them at that point about how we would let them know if we need any additional information. <b>Complete</b></p>

<p><b><i>HOS should investigate methods of improving its tracking of case delays, especially in updating complainants about progress.</i></b></p>	<p>Accepted</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: Director of DS&amp;R Due date: 30 September 2023</p> <p><b>Update:</b> The end to end review of our DR service was delayed due to staffing changes but has now commenced and is on track to complete by the end of January 2024 – this will factor in recommendations regarding tracking of case delays and communication to the customer.</p>
<p><b><i>HOS should review its mechanisms for ensuring the use of simple language in its communications.</i></b></p>	<p>Accepted</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> <p><b>Update:</b> We have produced a ‘Style Guide’ which provides a framework for the use of plain language, simplified layout or documents and other accessibility principles. This was introduced in November 2023, later than initially</p>

	planned due to staffing issues, and applied across all departments within HOS. <b>Complete</b>
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