

The Ombudsman and complaints about **Local Authorities**

This factsheet tells you what the Ombudsman does, what you can and cannot complain about, and how to complain.



What does the Ombudsman do?

The Ombudsman can investigate complaints about the actions of a range of public bodies, including local authorities.

Local authorities are:

- County councils, for example, Galway County Council or South Dublin County Council
- City councils, for example Dublin City Council or Cork City Council

The Ombudsman can investigate complaints about how local authorities carry out their everyday executive and administrative activities. These include complaints about delays or failing to take action.

Before you complain to the Ombudsman you must try to resolve your problem with the local authority concerned. Many local authorities have internal complaints and appeals systems and you should ask to appeal your case. If you are not happy with the outcome, you can contact the Ombudsman.



The Ombudsman cannot investigate:

- a decision to grant or refuse planning permission (see Planning below)
- decisions and activities called 'reserved functions'
- actions or decisions that occurred more than 12 months before you complain to the Ombudsman
- issues that are the subject of legal proceedings through the courts

However, in special circumstances the Ombudsman can set aside these rules.



What are 'reserved functions'?

Only elected members of a local authority may carry out reserved functions.

Examples of these functions include:

- striking a rate
- making or changing a development plan
- making or revoking bye-laws

If you are not sure whether an action or a decision is an executive or reserved function, contact us and we can let you know.



Is the Ombudsman independent?

Yes. The Ombudsman deals with all complaints independently and impartially when judging whether the action or decision of a local authority was fair and reasonable.



What can I complain to the Ombudsman about?

You can complain about any of the following:

Housing

This includes, among other areas:

- allocations
- transfers
- Housing Assistance Payments (HAP)
- loans
- grants
- repairs (some are the responsibility of tenant – See your 'Tenant's handbook')
- sales
- rents
- Traveller accommodation
- homelessness
- Anti-Social Behaviour

Roads

This includes:

- road maintenance

Planning / Development

This includes:

- handling planning applications
- planning enforcement
- preservation

Environmental issues

This includes:

- litter
- pollution
- control of dogs
- coastal erosion and protection
- fire and emergency services

Recreation and amenity

This includes:

- swimming pools
- parks
- libraries

Other areas of complaint

This includes:

- disposal of land
- provision of animal pounds
- the register of voters
- burial grounds
- derelict sites



What are the main areas of complaint about local authorities?

Most complaints to the Ombudsman about local authorities concern housing and planning, particularly the enforcement of planning decisions. (See Housing and Planning below).



How will the Ombudsman deal with my complaint?

Once we establish that we can investigate your complaint, we will ask the local authority to send us a report. If necessary, the Ombudsman may also examine the files and records and may question people involved with the complaint. It can take time to gather the information that we need.

We will investigate all the issues of maladministration.

'Maladministration' includes an action that was or might have been:

- taken without proper authority
- taken on irrelevant grounds
- the result of negligence or carelessness
- based on incorrect or incomplete information
- improperly discriminatory
- based on an undesirable administrative practice
- otherwise contrary to fair or sound administration
- where the local authority has failed to give reasonable assistance and guidance, or failed to provide information on a person's right of appeal or review.

We will decide whether:

- your complaint is justified
- you have suffered due to the action or decision of the local authority.

If we find that you have suffered due to maladministration, and if the local authority has not taken steps to remedy this, we may recommend it does so. In our recommendation, we may ask the local authority to:

- review what it has done
- change its decision
- offer an appropriate remedy, including an explanation, an apology and/or financial compensation

Planning

Can the Ombudsman investigate a decision to grant or refuse planning permission?

No.

If you are unhappy with the decision of a local authority to grant or refuse a planning permission, there are two options open to you.

1. You may appeal it to An Bord Pleanála, an independent statutory body outside the Ombudsman's jurisdiction. Conditions and strict time limits apply.
2. You may seek a judicial review in the courts. Time limits also apply and you may wish to consult a legal adviser.

What can the Ombudsman investigate about planning?

The Ombudsman can investigate the general running of the planning process, as outlined below, but cannot investigate planning decisions made by the local authority or An Bord Pleanála.

New planning applications

The Ombudsman can investigate complaints about:

- how the local authority handles new planning applications, for example whether it has given accurate information to the public about when these applications were received, to enable submissions or observations to be made within the relevant time limits
- site notices, including content, location and whether they can be read

Third party submissions

The Ombudsman can investigate complaints about how the local authority deals with submissions and observations by those who want to object to or comment on a planning application. This includes investigating whether the local authority informed objectors about the:

- outcome of a planning application
- time limits for appeal

Planning files

The Ombudsman can investigate complaints about the maintenance of planning files, including:

- how the local authority made planning applications or files available for inspection by the public
- whether the local authority charged too much for copies of planning documents

Unauthorised developments

The Ombudsman can investigate how the local authority responded to a complaint to it from a member of the public about an unauthorised development. This includes investigating:

- whether a Council dealt with the planning enforcement complaint in accordance with the process including applicable timeframes as set out in the relevant legislation/ guidelines.
- whether any decision or action taken by the local authority not to take enforcement action was reasonable.

Any decision or action taken by a local authority in relation to an unauthorised development which seeks to enforce planning law is known as enforcement.



Enforcement

Local authority powers and duties

Under the Planning & Development Act 2000 (the Act), local authorities have certain powers and obligations.

Warning letter

Local authorities must issue a 'warning letter' within six weeks of receiving a written complaint about an unauthorised development. However, this does not apply if it appears that the complaint is frivolous, vexatious or without substance, or the development is minor.

Investigation

Local authorities must:

- investigate the alleged unauthorised development
- consider the complaint and any submissions made about it
- make a decision as to whether to issue an 'enforcement notice'

The objective is that the local authority makes its decision within 12 weeks of issuing the warning letter.

Enforcement notice

If the local authority decides to issue an enforcement notice, it must then serve that notice and tell the person making that complaint that it has done so.

Local authority chooses whether to take action

A local authority is not obliged by law to take action in every case. Under the Act, it can, having investigated a complaint, decide whether or not to take enforcement action in the case of a breach of planning legislation. If a complaint has been made to the Ombudsman about a decision by a local authority not to take enforcement action, the Ombudsman's role is to assess whether the local authority acted reasonably.

Where do I go if I need general information or technical advice on a planning matter?

If you need general information, technical advice or guidance on a planning matter, you should contact your local authority or seek your own independent advice.

Information and forms on the planning process are available from local authorities.



Housing

Housing applications

The Ombudsman can investigate complaints from people:

- whose applications for housing have been refused
- who are on the housing list and consider that the local authority has treated them unfairly by not allocating them a house.

This includes among other areas:

Loans and grants

The Ombudsman can investigate complaints from people who have applied for local authority housing loans or grants and consider that their applications have not been dealt with fairly. These loans and grants include:

- Housing Adaptation Grant for People with a Disability
- Housing Aid for Older People
- Mobility Aids Grant.
- Local Authority Home Loan

Transfers, rent, repairs and purchases

The Ombudsman can investigate complaints made by local authority tenants where the local authority has:

- refused to grant a housing transfer
- calculated rent incorrectly
- delayed in carrying out repairs to a local authority dwelling
- not dealt correctly or fairly with an application to buy a local authority dwelling

How is a house allocated by the local authority?

The local authority assesses each application for housing under the Social Housing Assessment Regulations and if deemed eligible and there is a need for housing it will be approved for housing.

Each local authority has a Housing Allocation Scheme. Houses are allocated in accordance with this scheme.

How does the Ombudsman deal with my complaint about the allocation of a house?

If you complain to us about a failure or delay in giving you a house, we will investigate whether:

- the housing application has been dealt with according to the Social Housing Assessment Regulations
- you have been treated less favourably than other applicants in similar circumstances



When should I complain to the Ombudsman?

Before you complain to the Ombudsman you must try to resolve your problem with the local authority concerned. Many local authorities have internal complaints and appeals systems and you should ask to appeal your case.

If you are not happy with the outcome, you can contact the Ombudsman. Complain to the Ombudsman as soon as possible. You should complain within 12 months of the local authority's decision or action. Please remember to include any letters or other correspondence between you and the local authority.



How long will it take the Ombudsman to deal with my complaint?

The time taken to reach a decision will vary from case to case, depending on how complex it is. However, we will keep you informed of what is happening with your complaint.



What will it cost me to complain to the Ombudsman?

Nothing - there is no charge for the services of the Ombudsman.

How do I complain to the Ombudsman?

The best way to make a complaint to the Ombudsman is through our website, www.ombudsman.ie.

You can also write to:

- The Office of the Ombudsman, 6 Earlsfort Terrace, Dublin 2, D02 W773
- Or call us at (01) 639 5600.



Can someone else complain on my behalf to the Ombudsman?

Yes, but only if you give them permission to do so.

If you want to complain on behalf of someone else, you must get their permission first.



Accessible services

If you have a disability and need help to use the services of the Ombudsman, contact us to arrange to speak to our Access Officer.

A copy of this Factsheet is available in large font on request.

Email: accessofficer@ombudsman.ie or call 01 639 5600.

You can complain online on www.ombudsman.ie