

CASE SUSTAINED

CS/588

COMPLAINT AGAINST THE DEPARTMENT OF BUILDINGS & WORKS OVER THEIR DELAY IN PROCESSING THE COMPLAINANT'S CLAIM FORM

On 2nd April 2003 (and again on 15th May 2003) the Complainant, a Government tenant, wrote to the Department of Buildings & Works (B&W) highlighting a dampness problem affecting the paint on one of his flat's walls, and asking B&W to make good these damages.

Background: Prior to this complaint, the Complainant had lodged a complaint in respect of B&W failure to reply to the Complainant's above-mentioned letters. B&W only wrote back to the Complainant on 24th June 2003, as a result of the Ombudsman's intervention. At that time B&W provided the Complainant with a Claim Form, which allowed him to set out the particulars of the compensation he was claiming. On November 6th 2003 the Ombudsman closed the investigation, and sustained the complaint due to B&W inordinate delay in providing the Complainant with a quality reply to his letter.

The present complaint: The Ombudsman and B&W carried out an on-site visit at the Complainant's flat during February 2004, in order to try to establish the cause of the dampness which was affecting the paint on the walls. It was established by B&W that the dampness problem had resulted from the various private works which had been undertaken by the Complainant. The main cause appeared to be the privately installed windows; these windows were not properly sealed, and lacked the necessary external mastic seal in order to prevent rainwater from penetrating into the flat.

By 23rd February 2004, the Complainant's Claim Form had not yet been processed. B&W explained that a final decision had not yet been taken in respect of the Complainant's claim, but it was likely to fail due to the fact that the damages were as a result of private works.

The Ombudsman pointed out that all the Department had to do was take a decision on the Complainant's claim, however, B&W explained that they would pass the Claim Form on to the Financial & Development Secretary's (F&DS), for his consideration.

At the following meeting, dated 23rd March 2004, the Claim Form had still not been passed on to the F&DS, notwithstanding, the Ombudsman was then informed that the matter would not be referred to the F&DS, due to the fact that the works had been privately carried out, and it was government policy not to entertain such claims. By way of letter dated 25th March 2004 B&W wrote to the Complainant explaining, '*...it is not our policy to entertain claims for problems originating from works carried out privately by tenants*'.

The Ombudsman was disappointed with the delay the Complainant had been made to experience. He had submitted his Claim Form on 5th November 2003, but it took B&W over four months to write to him and explain that his claim could not be entertained, as the problems he was experiencing stemmed from the private works to his flat.

Although B&W had assured the Ombudsman that they would be passing the matter on to the F&DS, in the end this did not prove necessary, and a decision was taken by B&W itself. The Ombudsman explained that there had been an inordinate delay, B&W had known the privately decorated works were the source of the Complainant's problems, and the Complainant would not be entitled to any compensation. This should have been communicated to the Complainant as soon as the Complainant submitted his Claim Form, instead, it seemed to the Ombudsman, a leisurely pace had been adopted by B&W in spite of the fact that the Complainant had been trying to resolve this matter for almost a year.

The delay experienced by the Complainant was excessive and unnecessary, therefore, it constituted an act of maladministration. With these words, and having sustained the complaint, the Ombudsman closed the case.