

## CASE SUMMARY

Complaint against the Housing Department for unreasonably deleting the complainant's grandson from the public housing tenancy

### THE COMPLAINT

The complainant is a tenant of a public housing estate. During an interview with the estate staff of the Housing Department (HD) in 1996, she was asked to sign a document. However, she was immediately told her grandson had been deleted from her tenancy. The complainant felt that the HD had mishandled the case. Had she known the purpose of the document was to delete her grandson who was living with her, she would not sign it. The complainant claimed that after the death of her son, her daughter-in-law remarried and moved out leaving an undertaking to entrust complainant to take care of her son. Complainant considered it unreasonable for HD to delete her grandson from her tenancy and she lodged a complaint with this Office.

2. After obtaining the complainant's consent, this complaint was initially referred under this Office's Internal Complaint Handling Programme to HD for action. However, having examined the reply from the Director of Housing to the complainant and other relevant information, The Ombudsman decided to conduct an investigation into the complaint.

### FINDINGS AND CONCLUSION

3. The Director of Housing explained that generally speaking, when a minor is an authorised person and his legal guardian moves out of a public housing flat, the HD will request the minor to live with his legal guardian and delete his name from the tenancy, so that he can be placed under the care of his legal guardian. However, the HD would take any special circumstances of the household into consideration and exercise their discretion in handling the case. In the present case, since the father of the complainant's grandson had died and the child was only seven years old, the estate staff considered that he should live with his mother who was his legal guardian and both the child and his re-married mother

should be deleted from the tenancy. Hence, during an interview with the complainant, the officer concerned suggested to the complainant that her grandson should be deleted from the tenancy. The complainant did not indicate any objection to the suggestion and signed a deletion form for her grandson voluntarily.

4. Nevertheless, this Office does not accept the explanation of the Director of Housing. First of all, there is no provision for deletion of a minor under such circumstances in the existing guidelines and policy for addition/deletion of household members. Moreover, the officer was fully aware that the child has all along resided in the public housing flat under the complainant's care. As such, it is inconsiderate and unreasonable for him to have ignored the special situation of the household and to have suggested to the complainant to delete her grandson from the tenancy. The management of the estate office has also not acted in accordance with the principle and spirit of discretion stated in the above guidelines.

5. This Office notes that the complainant's subsequent application for reinstatement of her grandson in the tenancy was turned down. She then turned to the Social Welfare Department for assistance. After investigation into the case, the Director of Social Welfare issued a memorandum to the Director of Housing to support the request for reinstatement. However, the Director of Housing did not accept the recommendation on grounds that the child should be under his mother's care and the complainant is not the legal guardian of her grandson.

6. Upon the complainant's second application to reinstate her grandson into the tenancy, the HD rejected the application again and only approved the child's temporary stay for six months and advised the complainant to seek legal aid for acquiring the legal guardianship over her grandson. The HD would review the case in six months' time and consider to reinstate the child when his actual need for the complainant's care was ascertained. This Office considers the refusal and the approval for temporary stay inconsiderate and unreasonable, as it has unnecessarily put the elderly tenant in an uneasy and helpless state.

7. This Office is pleased to know that the HD has eventually reinstated the complainant's grandson because he is still living with the complainant and continues to need her care. Nevertheless, this Office considers that it was unnecessary for the HD to have suggested to the complainant to delete her grandson from the tenancy voluntarily and approved the application in the first place. The department's subsequent rejection of the request for reinstatement on different occasions and the approval for temporary stay have unnecessarily brought distress and anxiety to the complainant for more than a year.

8. This Office opines that the HD has made several mistakes in this case. In fact, this complaint is avoidable and can be resolved at an early stage. Unless the complainant's grandson no longer lives with her, there is no need to delete him from the tenancy. In addition, upon requests for reinstatement, the HD should take prompt action to review and rectify the decision. The HD should not insist on an unreasonable decision. It only serves to prolong the anxiety and worry of the complainant and is unfair to her. This is against the HD's pledge to provide a caring service to the residents. In view of the above, The Ombudsman considers this complaint substantiated.

## RECOMMENDATIONS

9. The Ombudsman makes the following recommendations for the consideration by the Director of Housing-

- a) to apologise in writing to the complainant for the distress and anxiety brought to her; and
- b) to review the adequacy of the existing guidelines for addition/deletion of minor household members in order to avoid the recurrence of similar complaints.

## THE DIRECTOR OF HOUSING'S RESPONSE

10. The Director of Housing agreed to both the conclusion of this report and the recommendations.

## FINAL REMARKS

11. The Ombudsman is pleased that the Director of Housing has reinstated the complainant's grandson into the complainant's tenancy, issued an apology to complainant and accepted this Office's other recommendation.

The Office of The Ombudsman

Case ref.: OMB 1997/0446

October 1997