

# HOUSING AND SOCIAL SERVICES

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director Jean Daintith

Chief Housing Officer Mr Gerald Wild

THE ROYAL  
BOROUGH OF



KENSINGTON  
AND CHELSEA

Ms N. Rawé  
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15 October 2004

My reference: ccc/jm

Your reference:

Please ask for:

Posted 20th  
Received 30th

See my reply of 11 Nov 04; his of 7 Dec 04  
and that of 16 Dec 04 from Jean Daintith, Executive Director, housing  
See section 15 of my 3 Jun 08 Witness Statement for a summary of the  
battle I had to go through with the council and the Local Government  
Ombudsman to eventually get an incomplete version of the accounts

Dear Ms Rawé,

## Complaint against RBKC Housing Department

I am writing in response to your complaint about the Council's Housing Department which was referred to this authority by the Local Government Ombudsman on 5 October 2004. The Ombudsman is of the opinion that the Council had not had a reasonable opportunity to investigate the complaint you made to Councillor Ritchie on 30 August. However, it is possible that the Ombudsman was, at the time of writing, unaware that you had since received a response from Councillor Ritchie in this matter.

In any event, it is appropriate that this letter comprises the formal response under Stage 2 of the Council's Corporate Complaints procedure. This requires that the head of Service carry out an investigation, in this case myself, the Chief Housing Officer.

Your letter of 30 August to Councillor Ritchie was passed to the Council's Customer Care & Complaints Team on 2 September so that information could be compiled and a letter drafted to the Councillor, informing her of the Council's view of events to that point and what actions remained outstanding in the matter. This is standard practice when correspondence has been directed specifically to a Councillor or a local Member of Parliament. I wrote to Councillor Ritchie on 7 September and I understand that she, in turn, wrote to you on 30 September outlining the Council's position in this matter.

I am aware that you further responded to Councillor Ritchie's letter on 5 October 2004. The Council's Department of Law & Administration (DLA), has offered the following advice in respect of the additional points you raised with Councillor Ritchie in that letter. This information may also help clarify to you the Council's position in respect of your original complaint of 30 August.

Local authorities have the power to prosecute people for offences under the Landlord & Tenant Act 1985 but they are not under a duty to do so. The matter was referred to the DLA, in accordance with the Constitution, on 18 August 2004 by the Housing Department. It was the DLA's opinion that the evidence supplied by you and forwarded to them on 27 August, was insufficient to justify the instigation of proceedings under Section 25 of the Act in relation to both the 2002 accounts and 2003 accounts.

In reaching that view, the DLA applied the Crown Prosecution Service's Code of Practice and considered whether there was sufficient evidence to provide a reasonable prospect of securing a conviction and whether it was in the public interest to prosecute.

In relation to the 2002 accounts, the DLA attached considerable weight to the possibility that the reasonableness of the 2002 service charges had been fully explored at the Leasehold Valuation Tribunal (LVT) and that it would

I sent him  
2 chaser  
emails, on  
10 Sep  
and  
15 Sep -  
which he  
ignored

not be in the public interest to prosecute in respect of that period. The DLA did not have a full copy of the pleadings, court orders or the decision of the LVT which made it difficult, if not impossible, to assess the extent to which the 2002 accounts had been examined by the LVT. The DLA also took into account the fact that the landlord said, by letter dated 16 July 2004, that it had supplied the 2002 accounts to you, although it was subsequently noted that you refuted that you had ever received this information.

In relation to the 2003 accounts, which it was presumed were not considered at the LVT, the DLA has taken the initial view that the landlord is technically in breach of his statutory duty to provide a summary of the relevant costs under Section 21 of the Act within the statutory timescales, namely by 25 July 2004. However, at this stage the DLA does not consider it would be in the public interest to prosecute. The landlord did respond to the request with a letter dated 16 July 2004, explaining that the accounts were with the auditors and the DLA has been advised that Mr Hutchings has been in regular phone contact with the landlord (whose demeanour has been co-operative) and who wrote most recently on 12 October 2004, promising that the accounts were in draft form and would be sent to the Council and all lessees shortly.

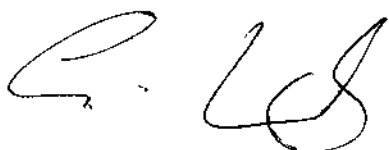
In the circumstances, the DLA has suggested that the best approach would be to set the landlord a deadline of 4 p.m. on 29 October to supply the summary of relevant costs for 2002 and 2003. The position should then be reviewed in the light of all the information then available.

The DLA has noted that there is no guarantee that if the Council prosecutes the landlord that the Section 21 summaries will be forthcoming. Therefore, there has been no final decision to proceed or not to proceed. The case is still being investigated and, as stated above, will be reviewed on 29 October. It may well be the case that with further investigation there will be sufficient evidence to provide a reasonable prospect of conviction and that it will be in the public interest to prosecute.

While I note and regret the fact that you are dissatisfied at the time it is taking for the Council to take action in this case, it should be noted that the prime purposes of the Council's Tenancy Relations Service are the prevention of homelessness and illegal evictions. It is a front line, reactive service and although it has powers of prosecution, it is unlikely to be the first action pursued with regards to any instances of leasehold infringements.

I hope this information clarifies the Council's position for you. However, if you are still dissatisfied with this response, under stage 3 of the complaints process, you can request that your case be reviewed by the Executive Director of Housing & Social Services, Jean Daintith.

Yours sincerely,



Gerald Wild  
Chief Housing Officer

cc Councillor Shireen Ritchie  
Derek Myers, Chief Executive  
Jean Daintith, Executive Director of Housing and Social Services  
Gifty Edila, Director of Law and Administration

**first class**



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