

## District Council accepts wider interpretation of ‘household’

<b>Legislation</b>	Ombudsmen Act 1975, Rating Powers Act 1988
<b>Agency</b>	Local authority
<b>Ombudsman</b>	Sir Brian Elwood
<b>Case number(s)</b>	C4932
<b>Date</b>	1999

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*Imposition of two sewer charges—whether complainant’s mother part of the ‘household’—interpretation of Rating Powers Act 1988, s 30*

The complaint in this case was that a District Council had acted without legal authority in imposing charges for two separate sewers. The complainant lived on a separately rateable property with her husband and child in one dwelling and the complainant’s mother also lived on the property in a ‘granny flat’ which was physically separated from the house. On the property there were two toilets, one in the complainant’s dwelling and the other in the ‘granny flat’.

The Council had relied on section 30(1) of the *Rating Powers Act 1988* in imposing two charges for the toilets. That section authorises the fixing of ‘*a uniform sum annually on each water closet or urinal connected either directly or through a private drain, to a public sewerage drain*’.

The complainant considered she should be exempted from paying the additional charge because her situation fell within the exception provided for by section 30(2) of the *Rating Powers Act 1988* which provided:

*Notwithstanding anything in subsection (1) of this section, every separate rateable property used exclusively or principally as the residence of not more than one household shall be deemed to have not more than one water closet or urinal.*

The investigation was directed at establishing whether or not there existed one ‘household’ as that term is used in section 30(2) of the *Rating Powers Act*.

The Council argued in support of its view that the physical characteristics of the property should be taken into account in determining the use of the property and that one 'household' cannot consist of more than one dwelling. The Council considered that this approach produced consistency and avoided arbitrary subjective views as to what constitutes one 'household'. The Council argued that the identity and relationship of the occupants of the household is not a concern of the Council.

During the course of the investigation it was established that there existed a close family arrangement between the family members residing at the property. All parties shared responsibilities for running the home and household. The grandmother had a significant role in caring for the pre-schooler whilst the mother worked out of the home and the father worked on the farm property.

After reviewing section 30 of the *Rating Powers Act* the Council accepted that the term 'household' was not limited to a consideration of the physical attributes of the situation under consideration. It accepted that in determining whether a property is one 'household' for the purposes of that Act, a flexible case by case approach as to the actual use of the property is required.

The Council accepted that in this case, as the additional accommodation at the property was occupied by a family member who was the mother and grandmother of other family members and all parties shared responsibilities for running what could most appropriately be described as their home and household, there existed one 'household'. On this basis, the complainant was not required to pay the second sewer rate, subject to annual confirmation that the granny flat continued to be occupied on the same basis.

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