

Policy on remedies

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Housing Ombudsman Service – Remedies Policy

Introduction

This policy sets out the Housing Ombudsman’s approach to remedies, including the circumstances in which the Ombudsman can propose remedies, what we mean by remedy, how our approach to remedies links to the Ombudsman’s [Dispute Resolution Principles](#), the difference between orders and recommendations, the types of remedies that the Ombudsman can make, and our approach to financial compensation.

We aim to provide fair and proportionate remedies to complaints where maladministration or service failure has been identified. We may also make recommendations to facilitate service improvements or address systemic failings. We can provide a wide range of remedies, including both non-financial remedies and compensation, however compensation will not be appropriate in every case.

The legislation which sets out our powers and discretion in relation to orders and recommendations can be found in in Schedule 2 to the Housing Act 1996 and paragraph 43 of the [Housing Ombudsman Scheme](#).

The Housing Ombudsman has also signed the Public Sector Ombudsmen Principles for Remedy. That document outlines the Public Sector Ombudsmen’s general approach to recommending remedies and sets out their six guiding Principles for Remedy. These Principles are an agreed framework for the Ombudsmen to refer to in order to inform, where appropriate, their approach to remedy.

What do we mean by remedy?

A remedy is the means by which we put things right after we have investigated a case. The Ombudsman uses two types of remedies – orders and recommendations.

The legislation and the Housing Ombudsman Scheme provide the Ombudsman with a wide range of discretion in the types of orders and recommendations that can be made.

Under paragraph 43 of the Scheme, the Ombudsman will determine complaints by what is, in the Ombudsman’s opinion, fair in all the circumstances of the case. In our determinations the Ombudsman may reject the complaint or make orders or recommendations including that the member landlord:

- a. apologise to the complainant;
- b. pay compensation to the complainant;
- c. performs or does not perform any of the contractual or other obligations existing between the member landlord and the complainant;
- d. exercises or does not exercise any of the rights existing between the member landlord and the complainant;
- e. undertakes or refrains from undertaking works;
- f. takes such other reasonable steps to secure redress within the legal powers of the member.

Each case is decided on its own facts, and any orders and recommendations must be tailored to suit the individual circumstances of that case.

Orders

Orders are only made in relation to a determination of maladministration or service failure and will therefore only follow an investigation. Orders should clearly describe the actions expected from the parties.

To aid clarity, orders will usually be set out using the SMART framework:

- Specific – clear, unambiguous and target a specific area for improvement or correction
- Measurable – clear parameters in order to know if the action was achieved
- Achievable – realistic in the circumstances of the case
- Relevant – consistent with the findings and outcomes of the investigation
- Time-bound – deadlines and timeframes which specify when the result(s) can be achieved.

Recommendations

Recommendations are an opportunity to support effective landlord-resident dispute resolution and promote service improvements. Recommendations can look beyond the individual complainant's circumstances and consider whether anything can be put right in terms of processes and systems.

Recommendations can also be used where no maladministration or service failure has been identified, but the investigation has highlighted opportunities for service improvement.

Our approach when considering remedies

Our approach when considering what remedies should be made following an investigation, is based on our [Dispute Resolution Principles](#) as follows:

Be fair – seeking fair outcomes

The Ombudsman will treat each case individually and ensure the remedy is fair when considering the specific circumstances of the case by:

- providing a remedy which is appropriate and proportionate to the severity of the maladministration or service failure
- taking into account the impact of the action or behaviour of the complainant, as well as the landlord's actions.

Put things right

A remedy must set out the measure(s) that will correct the maladministration or service failure. The Ombudsman will consider a range of measures to put things right for the complainant, including financial compensation.

Learn from outcomes

Where possible we add value by looking beyond the circumstances of the individual complaint and consider whether anything can be improved in terms of process and systems.

Part of a remedy may be to ensure that changes are made to policies, procedures, systems, staff training, or all of these, to ensure that maladministration or service failure is not repeated. It is important to ensure that lessons are learned and put into practice.

Types of remedy

Our staff consider the facts of each individual case to decide the best remedy, and our remedies are tailored to the individual circumstances of a case.

Apology

In some circumstances an apology is all that is required. An apology can be made in writing or in person to the complainant. The responsibility for making an apology is a corporate one, and is made by the landlord as a body, rather than an identified member of staff. An apology should:

- acknowledge the maladministration or service failure
- accept responsibility for it
- explain clearly why it happened
- express sincere regret

Specific action

We always consider whether there is some practical action which would provide all or part of a suitable remedy. The action identified may require that the landlord:

- performs or does not perform any of the contractual or other obligations existing between itself and the complainant
- exercises or does not exercise any of the rights existing between itself and the complainant
- undertakes or refrains from undertaking works for example to repair a property
- takes such other reasonable steps to put things right as are within its legal powers, for example reviews or changes a decision on the service given to an individual or does something else to make things better for the complainant in order to recognise the impact of the maladministration.

Landlords' policies and procedures

Remedial action may include improvements to the landlord's policies or procedures. It is particularly useful to consider orders in this area if systemic or potential systemic issues are identified during an investigation. The actions identified may include:

- Revising published material
- Revising procedures to prevent the same thing happening again
- Providing additional training for staff on the relevant process.

Other remedies

Not all the remedies that the Ombudsman can propose fall neatly within one of the categories listed above. Our staff use their discretion to decide on the best remedy for a case and may therefore set out a remedy that does not fall into one of the categories above, but is tailored to the individual circumstances of that case.

Our approach to financial compensation

Our compensation calculations are based on what is considered fair in the particular circumstances of a case. We may order a landlord to pay compensation for:

- Actual quantifiable financial loss sustained as a direct result of the maladministration or service failure identified; and/or
- Other financial redress, for example in recognition of avoidable inconvenience, distress, detriment or other unfair impact of the maladministration or service failure which has been identified.

Factors we may take into account when deciding the overall amount include:

- the duration of any avoidable distress or inconvenience
- the seriousness of any other unfair impact
- actions by the complainant or the landlord which either mitigated or contributed to actual financial loss, distress, inconvenience or unfair impact
- the level of rent or service charges
- the landlord's own compensation policies
- the levels of compensation for similar cases paid by other UK Ombudsmen.

Our compensation calculations are always based on what we consider to be fair on the particular circumstances of the case being considered. We do not limit our discretion by setting limits on the amount of awards that can be made – in other words we do not set minimum and maximum amounts.

In some cases, it is relatively straight-forward to quantify the amount of compensation that would be fair in the circumstances. But many of the cases we deal with are more complex and compensation cannot be easily quantified in this way. We may therefore set out a remedy that involves compensation under a series of different elements, using our discretion to decide how these are set out.

More detailed guidance on remedies, including suggested ranges of compensation levels that may be appropriate, is available for caseworkers. This sets out detailed guidance, including the consideration of mitigating and aggravating factors, when deciding an award of financial compensation. This is to ensure that a complainant's actions and circumstances are taken into account when reaching a decision on a proportionate award of compensation.