

Remedies Policy

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3	23.04.2024	Knowledge Management Team	Updates to apologies section.

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1. Introduction

We aim to provide fair and proportionate remedies to complaints where some level of maladministration has been identified. We may also make recommendations to facilitate service improvements or address systemic failings. There are a wide range of proportionate remedies which include both non-financial remedies and compensation.

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 54 of the Scheme.

2. What do we mean by remedy?

A remedy is the means by which we put things right after some level of maladministration has been identified. Our approach 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

Put things right

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

Learn from outcomes

Where possible we can 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 the maladministration is not repeated. It is important to ensure that lessons are learned and put into practice. We consider ways in which the relationship between the landlord and resident can be improved and encourage improvements in service delivery.

3. Orders and recommendations

The legislation and the Scheme provide the Ombudsman with a wide range of discretion in the types of orders and recommendations that can be made. Under paragraph 43 the Ombudsman will determine complaints by what is, in the Ombudsman's opinion, fair in all the circumstances of the case. In our determinations we may reject the complaint or make orders or recommendations including that the member:

- 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 and the complainant;
- d. exercises or does not exercise any of the rights existing between the member and the complainant;
- e. undertakes or refrains from undertaking works;
- f. review their policy or practice in relation to a matter if that policy and practice may give rise to further complaints about that matter;
- g. takes such other reasonable steps to secure redress within the legal powers of the member.

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

Orders

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

To aid clarity orders can be expressed within 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-tenant dispute resolution and promote service improvements. Recommendations can be used where a determination of no maladministration or reasonable redress has been identified but the investigation has highlighted opportunities for service improvement. Recommendations can also be used in cases which have been resolved with our intervention and without the need for a full investigation.

4. Exploring the types of orders and recommendations we can make

Apology

An appropriate personal apology to the resident is often a key component to the effective resolution of a complaint. The most appropriate form and method of communicating an apology will depend on the circumstances of the case. An apology can be ordered to be made in writing or in person. The apology should come from an individual, on behalf of the landlord as a body. The Ombudsman may order that the apology is given by a senior member of staff on behalf of the landlord, including the chief executive or a director. An apology should:

- acknowledge the maladministration or service failure
- accept responsibility for it
- explain clearly why it happened
- express sincere regret
- set out what actions have or will be taken to address the problem
- include the remedy to put things right
- include what the organisation has learned from the complaint

Specific action

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

- performs or does not perform any of the contractual or other obligations existing between the member and the complainant
- exercises or does not exercise any of the rights existing between the member and the complainant
- undertakes or refrains from undertaking works e.g. to repair a property or to build next to a person's home
- takes such other reasonable steps to put things right as are within the legal powers of the member e.g. reviews or changes a decision on the service given to an individual or does something else to make things better for the tenant to "make up" for the impact of the maladministration.

Landlords' policies, procedures and practices

Remedial action may include ordering a landlord to review or to make improvements to its policies, procedures and/or practices. This includes where there is no policy in relation to the matter raised or where the landlord is relying on a policy that does not appear to be relevant to the matter.

It is particularly useful to consider orders in this area if systemic or potential systemic issues are identified, the landlord is or has been the subject of a wider systemic investigation or the landlord has been issued with multiple complaint handling failure orders.

Our approach to financial compensation

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

- actual, proven financial loss sustained as a direct result of the maladministration or service failure; and/or
- avoidable inconvenience, distress, detriment or other unfair impact of the maladministration or service failure.

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