

REDRESS

Getting it wrong and putting it right

The Ombudsman's Guide to the provision of redress when public bodies make mistakes in their dealings with members of the public

Getting it wrong and putting it right

Where a person has been wronged by a public body, that body should provide appropriate redress. This leaflet gives very broad proposals on the provision of redress to help public servants develop a consistent approach towards remedies.

Redress and public administration

Public bodies deliver a vast range of services and benefits to the public. Even where people are not entitled to a particular service or benefit, they are entitled to be told the reasons why they do not qualify and be informed of alternative services, where possible. Where they may be entitled to the service or benefit but a delay in the decision cannot be avoided, they should be told when the decision is likely to be made. In cases of need, other possibilities for short-term relief may have to be examined. Public service providers must always bear in mind that members of the public usually do not have the option of taking their business elsewhere. Members of the public are entitled to proper, fair, impartial and expeditious treatment by public bodies. Where there is a shortfall in these standards, and the fault lies with the public body, it should remedy the shortfall through the provision of redress. The general rule of thumb should be to put the person back into the position he/she would have been in if the public body had acted properly.

Apologies and explanations

When it turns out that the service or benefit has been wrongly denied or delayed, the public body should always give a detailed explanation and/or apology. Explanations and apologies should include the following:

- the reasons why the public body got it wrong;
- an apology for any hurt, inconvenience or hardship caused;
- an acceptance of responsibility for the fault which has occurred;
- an undertaking to make good any loss which may have resulted;
- an acceptance that, where time limits apply, any undue delay on the part of the public body will be discounted where possible.

When should financial redress be paid?

In some cases an action (including an inaction) of a public body wrongly taken may affect a person in a manner which can easily be quantified and payment of financial redress may be appropriate.

Complaints can be made to the Ombudsman about breaches of contract or negligence of public bodies. However, the Ombudsman cannot award compensation in the same way as a court. These claims for compensation must be taken in the appropriate court. The Ombudsman may recommend that the public body take an action to correct the wrong into the future and apologise for any error. Financial redress may be considered for:

- **Financial Loss** - where there is a specific amount of money denied to a person as a result of the action, financial redress should make good the specific loss which has occurred.
- **Loss of purchasing power** - where refunds or payments of benefits have been delayed or withheld over an unduly extended period of time as a result of an error, misinterpretation, oversight or other similar action on the part of a public body.
- **Loss of a non-monetary benefit or service** - where costs are incurred by a person in securing alternative services for non-monetary benefits or services normally provided by public bodies, e.g. school transport, housing repairs, refuse and water supply, hospital services, facilities for people with disabilities etc. and where these are initially denied or delayed and subsequently restored or granted.
- **Loss of opportunity** - where the action of a public body has the effect of preventing an eligible person from taking advantage of special arrangements or participating in a particular scheme or has resulted in the loss of an opportunity to exercise a right of appeal.
- **Costs incurred** - where a person complains or appeals he/she may need to seek professional advice, for example, from a solicitor, accountant, architect or engineer in order to vindicate his or her position. If, at the end of this process, the decision of the body is reversed or varied, the question of refunding costs incurred in obtaining professional advice should form part of the public body's redress proposals. The key consideration should be whether the costs arose as a result of an unreasonable attitude by the public body.
- **Time and trouble** - where writing letters, making telephone calls, carrying out interviews, research and getting legal or other professional advice are integral parts of the complaint/appeal process, these and other related activities involve time and trouble on the part of the complainant. Where it becomes clear that the complainant had to go to unusual lengths or suffered distress in making his/her case, financial redress in the form of payments for time and trouble reasonably expended in pursuing the complaint, and associated vouched costs, should form part of the redress proposals.

Keeping it Right

An effective complaints system which offers a range of timely and appropriate remedies will save the public body time and money in the long run. It will enhance the quality of service to its clients, it will have a positive effect on staff morale and improve the body's relations with the public. It will also provide useful feedback to the body and enable it to review procedures and systems which may be giving rise to complaints.

How do I contact to the Ombudsman?

You can write or call to:

The Office of the Ombudsman,
6 Earlsfort Terrace, Dublin 2, D02 W773.
Phone: (01) 639 5600
Complaints email: complaints@ombudsman.ie
Enquiries email: info@ombudsman.ie

You can also make a complaint online using the online complaint form at www.ombudsman.ie