

## **Guidance on Remedies**

The aim of this procedure document is to provide guidance to complaint handlers and service managers around appropriate complaint remedies. This guidance should be read in conjunction with the council's formal complaints procedure, specifically around the council's approach to redress:

### **Redress**

In some cases an apology is all that is necessary and appropriate by way of a remedy.

We will offer redress where we believe that this will best serve the interests of the customer and customer service. For example, practical action will be considered as part or all of a remedy where a complaint is about failure to take some specific action such as carrying out repairs to a tenant's house.

Consideration will also be given to any practical action suggested by the complainant(s).

There will be circumstances where we are unable to put the customer back into the position they would have been in because of the amount of time lapsed or due to other events which may have occurred. In such circumstances, we may consider restorative or financial compensation. When considering any redress we will be fair, consistent and mindful of the spending of public money.

Decisions about making compensation payments as a result of a formal complaint will be made by the investigating officer and depending on which stage the complaint is at.

### **Key questions when considering remedies**

What has gone wrong?

Can it be put right – can the complainant be put back into the position they would have been in if fault had not occurred?

What would the complainant like to happen?

How has the complainant been adversely affected?

Is there an actual quantifiable loss?

What other impact has there been? Distress, time and trouble, inconvenience

Did the complainant's actions contribute to the problem complained of?

What remedy would be proportionate and reasonable in the circumstances?

### **Types of remedy**

It may often be the case that a combination of the different types of remedy may be appropriate – these are not exclusive.

### **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 council as a body, rather than an identified member of staff. Usually an apology will be made by an Assistant Director (or service equivalent) or Director as part of the formal complaint response.

An apology should:

- acknowledge service failure
- accept responsibility for it
- explain clearly why it happened
- provide assurances of remedial action taken

### **Specific Action**

We always consider whether there is some practical action which would provide all or part of a suitable remedy. Action identified will include specific timescales and compliance with these timescales will be monitored by the information and complaints team, in conjunction with the relevant service area. It may also be appropriate for us to make a non-financial offer of assistance to a complainant as a goodwill gesture.

### **Review of policy and procedure**

If relevant policy and procedure has not been followed, we will recommend appropriate reminders and training for staff.

It may be that a complaint will identify inadequacies in our policy and procedure and this will be reviewed if this is the case

### **Financial Compensation**

Broadly this falls into three categories

#### Mandatory payments

Where we are required by law to compensate, such payments will be made in line with statutory requirements such as a statutory home loss payment, disturbance allowance or payments made under the Right to Repair scheme for Housing.

#### Actual quantifiable financial loss

Costs which have been reasonably incurred by a complainant, which would not have been necessary if the service failure or maladministration the Ombudsman found had not occurred or when due payment has not been made.

#### Other financial redress

We may decide that financial compensation is appropriate to recognise avoidable inconvenience, distress or any unfair impact of service failure. A compensatory payment

may also be made to remedy the time and trouble a complainant has gone to in pursuing their complaint and may recognise any delay by the council in responding.

### **Ombudsman decisions**

The council will comply with any Ombudsman determination to pay compensation for identified maladministration or service failure

### **Guidance on the level of financial compensation which is appropriate:**

Decisions on the awarding of financial compensation will be made by an Assistant Director (or service equivalent) or by the Director, depending at which stage the complaint is being considered.

#### **Awards of up to £300**

Remedies in the range of these amounts may be used for instances of service failure resulting in some impact on the complainant. We recognise that there has been service failure which had an impact on the complainant but was of short duration and may not have significantly affected the overall outcome for the complainant.

Examples could include, a delays in responding to correspondence or a failure to meet service standards which does not result in a significant impact

Financial recompense to recognise the time and trouble a complainant has gone to in pursuing their complaint or to recognise delays in complaint handling, will usually be in the region of £50 - £100

#### **Awards of £300 to £500**

Remedies in the range of these amounts may be for cases where considerable service failure or fault has been identified.

Examples could include giving contradictory, inadequate or incorrect information about a complainant's rights, repeated failure to meaningfully engage with the substance of the complaint, or failing to address all relevant aspects of complaint, leading to considerable delay in resolving a complaint or significant failures to follow our complaints procedure.

#### **Awards above £500**

Where fault is identified which results in significant harm to the complainant over a prolonged period, we may consider an award above £500