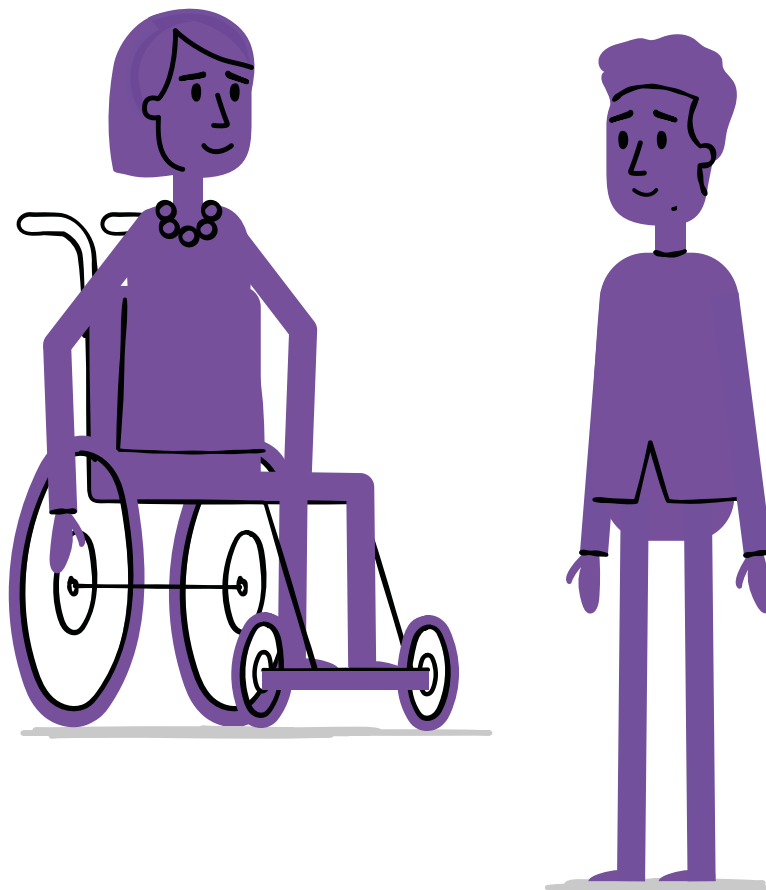


# A closer look – providing a remedy



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# Welcome to this guide

This guide is one of the Good Complaint Handling series. These are designed to help you meet the [UK Central Government \(UKCG\) Complaint Standards](#).

The guide explains how to provide an appropriate remedy when something has gone wrong, including how to:

- establish the impact of any failings
- provide an appropriate remedy that puts things right
- make a meaningful apology.

Read this guide alongside the [Model complaint handling procedure](#). You can find guides to related topics on our [website](#).

# What standards and regulations are relevant to this guide?

- The [Complaint Standards](#) set out expectations to help you deliver good complaint handling in your organisation.
- Statutory and national guidance shows expectations for government complaint handling.

## What the Complaint Standards say

### **Welcoming complaints in a positive way**

- Organisations make sure colleagues can identify when issues raised in a complaint should be (or are being addressed) via another route at the earliest opportunity, so a co-ordinated approach can be taken. Other possible routes include appeals, reference or statutory review by a tribunal or action in a court of law or disciplinary process. Colleagues know when and how to seek guidance on such matters so they can give service users information on the relevant process and explain where they can get advice and support.

### **Giving fair and accountable responses**

- Wherever possible, colleagues explain why things went wrong and identify suitable ways to put things right for service users. Colleagues give meaningful and sincere apologies and explanations that openly reflect the impact on the service users concerned.
- Organisations empower colleagues to identify suitable and appropriate ways to put things right for service users who raise a complaint. They provide guidance and resources to make sure any proposed action to put things right is consistent.
- Organisations make sure service users are kept involved and updated on how the organisation is taking forward all learning or improvements relevant to the complaint.

# What statutory guidance says

## **Part 1, section 2 of the Compensation Act 2006 says:**

An apology, an offer of treatment or other redress, shall not of itself amount to an admission of negligence or breach of statutory duty. (Note: this section of the Act applies to England and Wales only.)

## **Managing Public Money says:**

2.3.4 There is an important category of expenditure commitments for which the Treasury cannot delegate responsibility. It is transactions which set precedents, are novel, contentious or could cause repercussions elsewhere in the public sector. ... Treasury consent to such transactions must always be obtained before proceeding, even if the amounts in question lie within delegated limits. ... Examples include ... ephemeral ex gratia payment schemes, eg payments to compensate for official error.

4.11.4 Where public sector organisations fail to meet their standards, or where they fall short of reasonable behaviour, it may be appropriate to consider offering remedies. These can take a variety of forms, including apologies, restitution (eg supplying a missing licence) or, in more serious cases, financial payments. Decisions about financial remedies – which should not be offered routinely - should include taking account of the legal rights of the other party or parties and the impact on the organisation's future business.

4.11.5 Any such payments, whether statutory or ex gratia, should follow good practice (see section 4.13). Since schemes of financial redress often set precedents or have implications elsewhere, they should be cleared with the Treasury before commitments are made, just as with any other public expenditure out of the normal pattern (see sections 2.1 to 2.4).'

A4.14.1 ... Where groups of complaints raise common issues, the remedies offered should be fair, consistent and proportionate.

A4.14.2 Public sector organisations should seek to learn from their complaints. If an internal or external review, or a PHSO investigation, shows there are systemic faults, defective systems or procedures should be overhauled and corrected.

A4.14.3 As section 4.11 explains, when public sector organisations have caused injustice or hardship because of maladministration or service failure, they should consider:

- providing remedies so that, as far as reasonably possible, they restore the wronged party to the position that they would be in had things been done correctly, and
- whether policies and procedures need change, to prevent the failure reoccurring.

'A4.14.4 Remedies can take a variety of forms including (alone or in combination):

- an apology
- an explanation
- correction of the error or other remedial action
- an undertaking to improve procedures or systems or
- financial payments eg one-off or as part of a structured settlement.

'A4.14.6 The normal approach to complaints where no financial payment is called for is to offer an apology and an explanation. This may be a sufficient and appropriate response in itself. People complaining may also want reassurance that mistakes will not be repeated.'

A4.14.8. Where financial remedies are identified as the right approach to service failure, they should be fair, reasonable and proportionate to the damage suffered by those complaining. Financial remedies should not, however, allow recipients to gain a financial advantage compared to what would have happened with no service failure.

A4.14.14. When considering making individual remedy payments, departments need to consult the Treasury (and sponsored bodies need to consult their sponsor departments) about cases which:

- falls outside their delegated authorities;
- raises novel or contentious issues
- could set a potentially expensive precedent or cause repercussions for other public sector organisations.

Handling of Parliamentary Ombudsman Cases published by the Cabinet Office, says:

'22. In keeping with UK Central Government Complaint Standards, where mistakes have been made, the priority of the organisation should be to avoid a "blame culture" (where staff feel threatened by complaints and defensive about receiving them). Guidance should instead encourage the ready admission of mistakes, the provision of swift and effective redress and steps to ensure that a similar failure does not recur.

## What you need to do

At the start of an investigation, when you clarify the complaint and agree the matters to be investigated, it is important that you also ask about and understand the impact of the events complained about and the outcome the person is looking for. This is really important when you are thinking about how best to put things right if your investigation finds that something went wrong.

For further information, look at the guidance module [A closer look – clarifying the complaint and explaining the process](#).

### Understand what people want

When you ask people what they want to achieve by raising a complaint, most say:

- they want an apology
- they want things put right
- they want to understand what happened
- they want to make sure what happened to them (or a loved one) does not happen to anyone else.

A meaningful apology and explanation are more likely to resolve a complaint early than any other action you might take. An early, open and honest apology is the most practical way of starting to restore trust and confidence in your organisation.

Remember, when you provide a remedy, your first aim is to put things right for the service user who has complained. But you also need to think about any actions you should take to help improve services for everyone.

### **Understanding the impact of any failings**

When you discover that something has gone wrong, you need to find out what impact that failing has had (or might have) on:

- the service user who made the complaint
- other service users
- services your organisation provides – now or in the future.

This will help you understand what you need to do to put things right and (if appropriate) improve services going forward.



**Tip:** You will already have spoken to the person who has raised the complaint about the impact on them at the start of your investigation. But you can ask them for more information at any point, if you need to. This is especially important if the failings you have found are slightly different to those they first complained about.





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There are two types of impact:

- the impact from the failing itself
- the impact of making the complaint.





### **Impact from the failing itself**

Look at the failings and ask yourself what would have been different if they had not taken place. For example:

-  Did a delay in making a decision have a negative impact in some way?
-  Did an error in the decision-making process cause hardship in some way?
-  Did a failure to provide a service, or a failing in providing a service, have an impact in some way?
-  Did a failure to explain what was happening cause anxiety and frustration?

### **Impact from making the complaint**

Think about the additional impact on the person of having to bring a complaint to your organisation:

-  Has it cost the person time and trouble to complain?
-  Were there any errors or unreasonable delays in your handling of the complaint?
-  If so, did these worsen the person's distress or frustration?
-  If so, take this impact into account when you decide on a remedy.

As you think about impact, use this checklist to make sure you capture all the detail.



## Checklist: Identifying impact



**Inconvenience and distress** could be caused by:

- cancellations
- failures or delays in service provision or decision making
- failures in communication
- unreasonably prolonged complaint handling.



**Being denied an opportunity** for example, being denied the chance to make an informed choice or a claim because of not being given the full facts.



**Physiological injustice** for example, an impact on physical or mental health.



**Loss through actual costs incurred** this might include delayed or cancelled travel, overpayment of tax or loss of benefits.



**Other financial loss** includes loss of a financial or physical asset (such as loss of, or damage to, possessions), reduction in an asset's value, or loss of financial opportunity.

## Practical tools

[The Ombudsman's Principles for Remedy](#)

[The Ombudsman's guidance on financial remedy](#)

[Scottish Public Services Ombudsman guidance on apologies](#)

[The Ombudsman's action plan guidance and template](#)

If you would like this document in a different format, such as Daisy or large print, please contact us.

**Let's make  
complaints  
count!**

