

Redress Policy



1 Introduction

This policy sets out the Scottish Public Services Ombudsman (SPSO) and Independent National Whistleblowing Officer (INWO) approach to resolving a complaint or request through recommendations for redress.

Redress is not the same as compensation (although they can be similar).

Redress is setting right what went wrong for an individual or group of individuals. This means that, as far as possible, where someone experiences detriment or is negatively affected as a consequence of something going wrong, they should be returned to the position they would have been in had the failure not occurred. This may include reimbursement for quantifiable financial loss. The loss should be clearly linked to, and shown to be a direct consequence of, the failure.

Compensation is usually used to describe the financial amounts awarded by courts in damages. Courts will make sometimes very complicated financial assessments of impacts. These can include, for example, the physical effects of an injury, distress, time and trouble and other issues, such as loss of future earnings.

Compensation takes the financial award beyond simple reimbursement, often as the result of applying legal tests. We consider that because of the complexity of ensuring appropriate financial compensation, it is in the individual's interest that this should be pursued through the appropriate court or tribunal process.

In handling a complaint we may propose action, at any stage, that we consider would resolve the complaint. In some cases, this may also inform our decision whether or not to initiate or continue an investigation.

This policy relates only to redress in relation to direct loss or harm. We may also make recommendations in relation to service improvement or complaints handling.

2 General principles

When making recommendations for redress we will:

- focus on loss or harm to the individual(s) resulting from failures identified by our investigation
- take into account the wishes and needs of the complainant, but equally be clear about the complainant's responsibility to provide evidence of the loss
- consider carefully what is fair and reasonable
- be proportionate to the loss and the hardship suffered
- aim to provide, as far as possible, a comprehensive resolution of the issue
- explain clearly the reason for the redress and the outcome we want to achieve
- ensure evidence is provided of compliance.

3 Types of redress

Redress may include some or all of the following:

- an apology (see our separate **SPSO Guidance on Apology**)
- an explanation
- a request to reconsider a decision
- practical action to mitigate any detriment
- where possible, reimbursement of demonstrable loss and/or costs incurred
- other appropriate action suggested by the SPSO/INWO, complainant or the organisation.

Redress may be limited by:

- how much time has passed since the problem or failure occurred
- the degree to which the complainant contributed to the failure and the detriment suffered
- the capability of the organisation to comply.



4 Redress for direct financial loss or costs

When making a recommendation to redress a financial loss or cost, we will record the reasons for each element and how this should be calculated. The calculation will be on the basis of direct loss or costs incurred as a result of the failing we have identified.

Recommendations for financial payment will take into account any degree to which the complainant has contributed to the failure or loss suffered.

Complainants will normally be required to provide the SPSO/INWO and/or the organisation, evidence of the loss incurred.

When making a recommendation for financial redress, we will normally issue a date by which payment should be made. Failure to make the payment by that date will normally result in interest being added to the amount payable, running from the date by which payment should have been made. Interest will be charged at a rate deemed appropriate by the Ombudsman (likely the judicial rate of interest).

We may agree not to apply interest to the amount payable if an organisation provides clear evidence that payment on time was not possible and any delay was not a result of their failing. We would expect the organisation to alert us as soon as it was known they could not meet the timescales, so that

a revised timescale can be agreed and the complainant/person suffering the loss can be updated.

We would not normally require an organisation to pay interest from the time the loss occurred until our recommendation. However, in limited circumstances, the Ombudsman may consider that this is an appropriate remedy. This will be dependent on the facts and circumstances of the case, and a full explanation will be given.

5 Compliance

When an authority has said it will take action or when we have made recommendations for change or asked for redress, we will follow up to make sure that it has happened.

We can take the views of the complainant and authority into account when deciding what evidence is needed to demonstrate compliance. However, the SPSO/INWO is responsible for making the recommendations and remains responsible for deciding what evidence is needed to demonstrate compliance. For example, SPSO/INWO will need to confirm that the wording in an apology is appropriate.

If it appears to the SPSO/INWO that the injustice or hardship has not been remedied satisfactorily then the Ombudsman may use powers under the Scottish Public Services Ombudsman Act 2002 to lay a report before Parliament. The Ombudsman will normally name the authority, in line with normal practice.

How to contact the SPSO...

For enquiries relating to complaints about authorities or the SPSO:



SPSO
Bridgeside House
99 McDonald Road
Edinburgh EH7 4NS

Opening hours:
Monday, Wednesday,
Thursday, Friday 9am–5pm,
Tuesday 10am–5pm



A freepost envelope can be supplied if this is required.



SPSO freephone **0800 377 7330**



Website **www.spsso.org.uk**
Online contact form
www.spsso.org.uk/contact-form

For enquiries relating to whistleblowing complaints regarding the NHS in Scotland or the INWO:



SPSO - INWO Team
Bridgeside House
99 McDonald Road
Edinburgh EH7 4NS

Opening hours:
Monday, Wednesday,
Thursday, Friday 9am–5pm,
Tuesday 10am–5pm



A freepost envelope can be supplied if this is required.



INWO freephone **0800 008 6112**



Website **www.inwo.spsso.org.uk**
Online contact form
**www.inwo.spsso.org.uk/
contact-form**



Email **INWO@spsso.gov.scot**

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