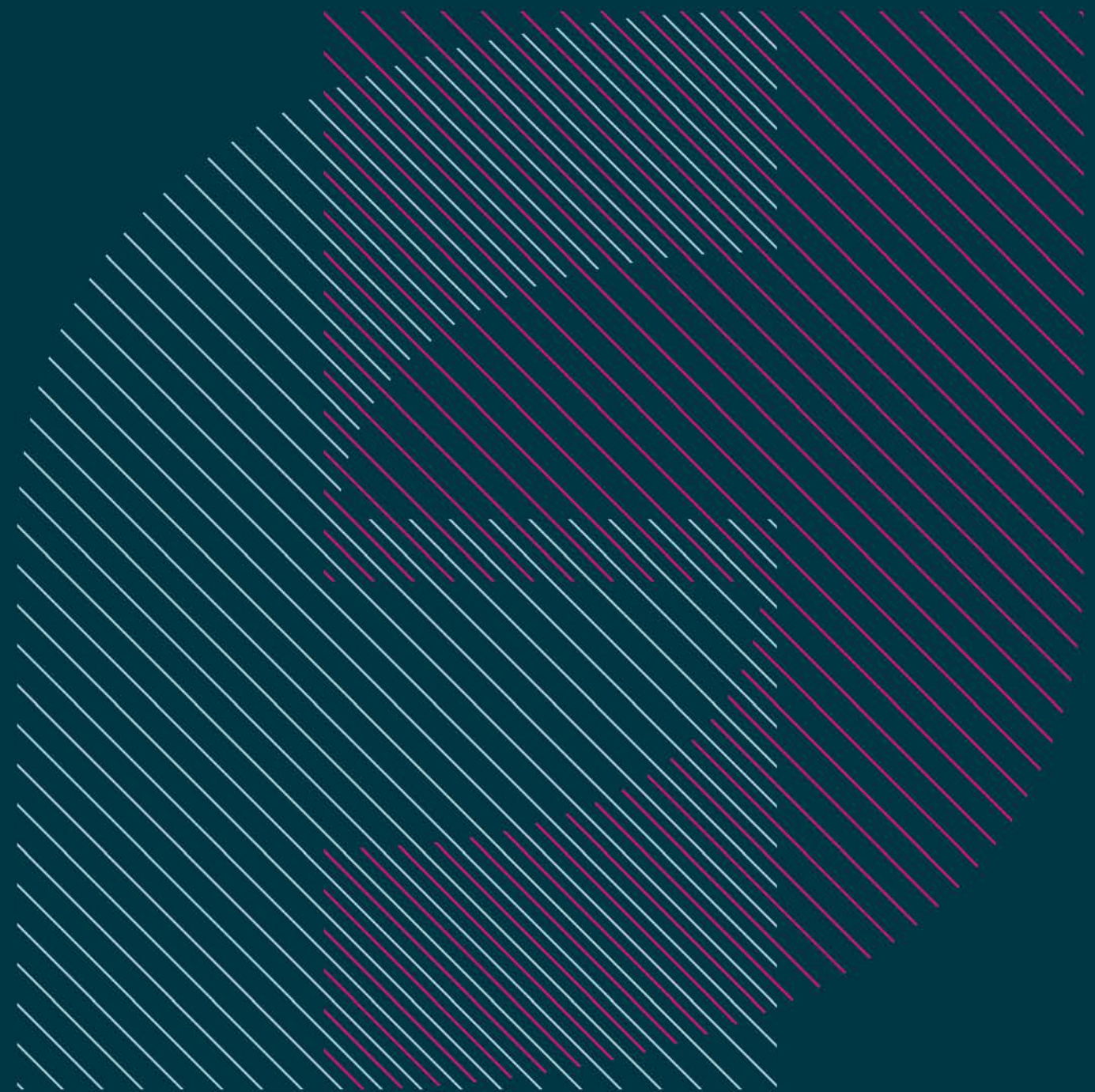


LEGAL
OMBUDSMAN

Guidance

**Our approach to putting
things right**



Summary

This factsheet sets out the Legal Ombudsman's approach to putting things right. When we make decisions about complaints, we always base it on the evidence we have available and what is fair and reasonable in the circumstances. Any resolution will be based on the impact of any poor service and the individual circumstances of the complaint.

We prefer it if the parties can agree on an outcome.

Our approach to putting things right

The key questions we ask are:

1. Has there been poor service?
2. If yes, has poor service led to any specific loss or disadvantage to the customer?
3. Has the poor service had an emotional impact on the individual?
4. Can we take steps that will put the customer back in the position they would have been in, if the service had been reasonable?
5. What kind of outcome would be appropriate in the circumstances (e.g. an apology, some compensation, the service provider carrying out more work)?

Poor service and impact on the customer

If we identify that the service provided has been poor, our next step is to see if the poor service has led directly to any loss or disadvantage to the customer. Examples of loss and disadvantage include:

- Financial loss, i.e. it has cost more than expected, they have incurred additional expenses or have lost money.
- Delay, i.e. avoidable delay caused by the service provider such as progressing a claim/dealing with a court hearing/purchasing a house.
- Inconvenience, i.e. as a result of the poor service, they have had to spend more time than expected following up with their service provider.
- Distress, worry or upset, i.e. the poor service has led to additional upset and worry.

If we decide the service has been poor, then we consider the impact on the individual customer. Poor service can have a different impact on different customers depending on the particular circumstances of the case. The different outcomes we direct are for the *loss, disadvantage or impact* of poor service, rather than for the poor service itself. There are situations where there has been poor service but it has not led to any disadvantage, financial loss or emotional impact to the customer and therefore no outcome is required.

What we can direct

1. Compensation for financial loss

The Legal Ombudsman can direct that the service provider pays compensation for financial losses. Financial losses are the expenses a customer has incurred, or money they have lost, as a result of a service provider's poor service. Generally, this doesn't cover any costs a customer may have incurred in making a complaint.

Before we can direct compensation for financial loss, we need to establish if there is a direct link between the poor service and the financial loss.

Sometimes customers want to claim for a loss that either may occur in the future, or is something that could have occurred, as a result of a service provider's poor service. Compensation for losses that might happen is not often directed. We need evidence that the loss has directly resulted from the poor service.

The next step is to decide what the loss is. In order to direct that compensation should be paid for financial loss, we need clear evidence to demonstrate the loss that has been, or will be, incurred. We cannot direct a payment just because the poor service might have led to a loss; the financial loss has to be something that has actually happened, or that we know will definitely happen.

We always seek to return customers to the position they would have been in if the service hadn't been poor. We try to avoid putting the customer in a better position than they otherwise would have been in.

2. Compensation for distress and inconvenience

Although it is impossible to undo the emotional effects caused by poor service, a compensation payment can help to acknowledge the impact of poor service and the added worry, upset, stress or general inconvenience it has caused.

The majority of compensation payments we direct are for less than £250, however the following table sets out the levels we use. This is a guide only as our decisions will always be case and individual specific.

In all cases we will take the circumstances of the individual into account. For example a modest amount directed for a series of minor incidents could become a significant amount if the individual was vulnerable, and the incidents had led to more worry and anxiety.

As part of the specific circumstances of the case we will take into account how the complaint was handled initially by the service provider. For example, if a service provider has made reasonable attempts to try and resolve the complaint, we may consider that nothing further is needed to put things right. However, if a service provider has not dealt with the complaint reasonably, we may direct that some compensation is paid to acknowledge that, depending on the specific circumstances of the case.

The table below shows what we take into account when deciding upon compensation for distress and inconvenience payments.¹ (Payments are not limited to £1,000 as some circumstances could be so exceptional and require compensation above £1,000, but in practice payments above this amount are extremely rare.)

<p>Modest award</p> <p>£0 - £251</p>	<p>A modest payment will be directed if the impact of the poor service was short-lived and no longer exists. For example:</p> <ul style="list-style-type: none"> • Minimal impact/disruption on the customer's daily life. • There were several individual minor incidents but when added together didn't significantly affect the customer's overall experience.
<p>Significant award</p> <p>£251 - £750</p>	<p>A significant payment will be directed if there has been a serious, but not permanent effect on the customer. For example:</p> <ul style="list-style-type: none"> • The customer has experienced significant inconvenience such as repeatedly chasing for information or correcting mistakes, taking time off work to deal with issues, or carrying out tasks their service provider should have dealt with. • The customer had to complain multiple times about service issues which were not addressed. • The impact of the poor service was modest but was made worse by poor complaints handling. • An serious impact has been lessened by the actions of the service provider or by part of the remedy such as a significant costs reduction. • The poor service took place over a long period but has now been resolved.
<p>Exceptional award</p> <p>£751-£1,000</p>	<p>An exceptional amount will be directed if there has been a long-term or serious impact on the customer's wellbeing or life. For example:</p> <ul style="list-style-type: none"> • The release of a confidential address to an abusive former partner. • Avoidable exposure to particularly stressful situations or financial liabilities.

3. Refund, reduction or waiver of a service provider's costs

If we consider that the poor service has reduced the value of the work that has been completed we can decide that the service provider's costs should be reduced or refunded. This will be by either a specific amount or a percentage of the whole amount. We will consider whether any interest should be paid on top of a costs based remedy.

¹ Figures updated on 22 August 2019

In some circumstances, if the service has been of no benefit whatsoever to a customer, a full refund or waiver of a service provider's costs may be appropriate. Although each case will be considered on its own merits, we may consider this:

- when the service provider's work was so poor it was of no value to the customer,
- where the customer did not receive what they'd paid for, or
- where we are satisfied that if the service provider had given the customer accurate information on costs then the customer would not have proceeded.

4. Non-financial ways to put things right

An apology

An apology is not an admission of fault². In some cases an apology means more than a small financial payment. However, to be of value to a customer, an apology has to be meaningful and sincere. An apology should, we would suggest, include the following elements: acknowledgement of the service failing; an acceptance of responsibility for the problem; an explanation for why the poor service happened; an expression of regret for any impact and a brief explanation of what action is being taken to prevent the same thing happening again.

Completing or correcting work

Sometimes an appropriate remedy is for a service provider to complete further work or correct mistakes for the customer free of charge in order to put the customer back into the position they would have been in, if the poor service hadn't happened.

If we direct this, we will be clear about what is required and ask the service provider to either agree to undertake the remedy within a specified time or bear the costs of someone else doing it.

Progressing a matter within a specific timeframe

In many cases, the outcome sought by the customer is simply that the work requested of the service provider should be completed within a reasonable timeframe. We can make a direction to that effect, with specific reference to what the work is that needs to be done and what a reasonable timeframe is. Sometimes this can be difficult however, if the work relies on other processes or organisations such as the courts or Land Registry.

Returning documents

Many customers come to us to ask for their file, and if appropriate, we can direct this. However, this may not be appropriate if the file is being held until outstanding payments are fully met by the customer. This may be a perfectly reasonable course of action for a service provider to take when a bill remains unpaid.

Further information

² Scheme Rule 5.21 refers - <http://www.legalombudsman.org.uk/downloads/documents/publications/Scheme-Rules.pdf>

If you have any questions about the guidance provided in this document please contact

Email: enquiries@legalombudsman.org.uk

Tel: 0300 555 0333