

This Factsheet is about the types of remedies that the Ombudsman can recommend. It should be read together with our general information booklet about our service and the Ombudsman's "Principles for Remedy". The latter sets out how we think public bodies should put things right when things have gone wrong.

The Ombudsman's approach to remedy is based on the premise that the body complained about should restore the individual to the position they would have been in if the maladministration or poor service had not occurred. The Ombudsman is of the view that if this is not possible then the body should provide appropriate redress.

What remedies are available?

The Ombudsman expects remedies to be fair and proportionate to the complainant's injustice or hardship. He is keen to ensure that bodies within his jurisdiction acknowledge failures and apologise for them, make amends, and use the opportunity to improve their services.

The range of remedies available include:

- an apology, explanation and acknowledgement of responsibility;
- remedial action, which may include reviewing a decision on the service given to an individual complainant, revising procedures to prevent the same thing happening again and training staff;
- financial payment for direct or indirect financial loss, loss of opportunity, inconvenience and distress;
- the Ombudsman may also consider whether financial redress for time and trouble should be made. This would be in circumstances where complainants have suffered more than could be ordinarily expected in making a complaint;
- any combination of the above.

The Ombudsman is aware that in most cases, an apology and explanation will be an appropriate and sufficient response. Financial redress will not be appropriate in every case. Financial redress is most relevant where maladministration or service failure on the part of the body complained about has caused the person making the complaint (or the person they are representing) a significant injustice.

How does the Ombudsman decide on appropriate financial redress?

The Ombudsman's role inherently involves a consideration of individual circumstances and the uniqueness of each case is taken account of in any decision made. The Ombudsman does not apply a standard tariff dependent on the type of error as the impact on any one individual can be very different. The Ombudsman aims to ensure that any financial redress recommended is fair and proportionate and takes account of earlier similar cases and previous decisions made. He also has a formal process in place to ensure oversight of decisions made by his staff.

What the Ombudsman can do

The Ombudsman will normally have sought to ensure that the body complained about has had an opportunity to try to resolve the complaint in the first instance.

Where there is a complaint about a Welsh NHS body, the Ombudsman may suggest that a complainant considers the "Putting Things Right" Framework as there are separate redress arrangements which can apply in certain circumstances (not primary care e.g. GP, Dentist).

What the Ombudsman cannot do

The Ombudsman's powers are restricted by law. One restriction is that he cannot investigate a complaint if a remedy exists by way of proceedings in a court of law, unless he is satisfied that it is not reasonable to expect a complainant to resort to court proceedings.

He would normally expect complainants to take such action if a complaint is specifically about negligence which has resulted in the complainant incurring damages.

Issues to bear in mind

The Ombudsman will only recommend a remedy where there has been maladministration or service failure on the part of the body complained about which has caused the person making the complaint (or the person they are representing) an injustice. He will not recommend a remedy where the body has done nothing wrong or has not caused the complainant any detriment.

While the Ombudsman will take into account the complainant's views in reaching a decision on what (if any) remedy to recommend, their views cannot veto the Ombudsman's decision. Ultimately it is up to the Ombudsman to decide what is reasonable.

Further information

Examples of cases that the Ombudsman has looked at can be found on our website. Please see www.ombudsman-wales.org.uk

If you are unsure whether the Ombudsman would be able to look into your complaint, please contact us:

- **phone** 0300 790 0203;
- **e-mail** ask@ombudsman-wales.org.uk;
- **visit the website at** www.ombudsman-wales.org.uk;
- **follow us on Twitter:** @OmbudsmanWales;
- **write to:** The Public Services Ombudsman for Wales
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