

EXECUTIVE SUMMARY



Citizen Redress:
What citizens can do if things
go wrong with public services

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1 An important and distinctive feature of public services are the arrangements in place for getting things put right, remedying grievances or securing a second view of a disputed decision. We use the ‘citizen redress’ label to denote all the administrative mechanisms that allow citizens to seek remedies for what they perceive to be poor treatment, mistakes, faults or injustices in their dealings with central government departments or agencies. Of course, redress mechanisms may not find in favour of the citizens making complaints or bringing appeals. Indeed, in a well-run administrative system the large majority of cases investigated should prove to be unfounded. Yet even in such cases the redress processes used should provide people with assurance that they have been fairly and properly treated or that a disputed decision has been correctly made under the relevant rules.

2 The systems currently in place for the citizen to seek remedy when things go wrong have developed over time and for a variety of different purposes. Inevitably, this has resulted in complexity and variations in attitude and approach. Against this backdrop, this report is not a single definitive analysis of redress; instead it is a first attempt to map the overall picture. It draws out key themes which can be explored further by the NAO working in conjunction with ombudsmen and other key participants, to help identify ways in which the effective handling of redress can, in turn, lead to major improvements in the quality of services the citizen receives.

3 The main mechanisms for achieving redress currently are:

- customer complaints procedures;
- appeals and tribunals systems;
- references to independent complaints handlers or ombudsmen; and
- resort to judicial review (and other forms of legal action).

In cases where something is found to have gone wrong, one important outcome of such mechanisms may be the payment of compensation. The different redress mechanisms interconnect strongly. From citizens’ point of view they offer a range of different options and opportunities for trying to achieve very similar or connected outcomes. And from government organizations’ points of view, the efficacy of some redress procedures may imply fewer cases running through other routes. For instance, good basic complaints-handling systems should minimize the number of cases referred on to ombudsmen or leading to legal actions.

4 Yet public sector redress systems have developed piecemeal over many years and in the past they have rarely been systematically thought about as a whole. Central government organizations make a strong distinction between complaints and appeals:

- *complaints* concern processes and how issues have been handled. They have traditionally been considered as part of the internal business arrangements of departments and agencies. They are often thought about primarily in terms of customer responsiveness and business effectiveness.
- *appeals systems and tribunals* concern the accuracy or correctness of substantive departmental or agency decisions. They conventionally form part of the administrative justice sphere. They are often considered primarily in terms of citizens’ legal rights, natural justice and a range of related quasi-judicial criteria.

This bifurcated approach may have some advantages, but it is very distinctive to the public sector and has no counterpart in private sector firms. Rigidly separating complaints from appeals also means that many public service organizations are essentially providing two different basic systems of redress, which are set up and organized on different lines. And citizens also have to grapple with two very different concepts of redress, instead of a more integrated concept of ‘getting things put right’.

5 Current redress systems are also arranged in a ‘ladder’ or ‘pyramid’ format, which copies the arrangements of law courts, with a hierarchy of procedures. Basic cases are solved locally and informally, and higher tier procedures become progressively more formal and more expensive, as well as involving fewer cases. In a legal context this pattern reflects a fundamental assumption that two parties to an action will naturally behave in an adversarial manner. It is not clear that such a foundational assumption is appropriate in many areas of citizen redress. In the past, government organizations perhaps might have been expected to be reluctant to acknowledge or to act on complaints or appeals. Hence establishing a progression of opportunities for citizens to move, for example, from a basic informal complaint to a more formal complaint directed at senior management and then to an ombudsman makes sense in this perspective, creating incentives for lower ranked officials not to ‘close ranks’ to deny mistakes or poor treatment.

6 However, since the early 1990s successive governments have stressed that modern public service organizations need to be more pro-active in resolving complaints and appeals at an early stage. As long ago as 1991 the Citizens’ Charter promised ‘better redress for the citizen when things go wrong’. ‘Agencification’ in the 1990s also lead to a growing realization in the new, increasingly customer-focused organizations that a more active management of redress procedures may allow for the dissemination of better practices, improved quality of services for citizens and the containment of costs. Departments’ and agencies’ staffs are now expected to act on complaints or representations about possibly incorrect decisions and to learn more quickly and thoroughly from past mistakes. The aim now is to be able to assure citizens and senior managers and ministers alike that as much as possible administrative operations and decisions are ‘right first time’. The most recent White Paper in this area, *Transforming Public Services: Complaints, Redress and Tribunals* (Department for Constitutional Affairs, Cm 6243, July 2004) spells out this fundamental shift in government and public expectations of citizen-focused and actively managed redress procedures even more clearly (see Box 1).

7 Citizen redress procedures have an importance for the overall quality of public services that goes far beyond their direct costs. Complaints are an important source of feedback to central departments and agencies about where things are perceived by citizens as going wrong, a view also stressed by the Parliamentary Ombudsman. Hence they are a significant source of information on possible improvements in organizational arrangements. Similarly the availability of appeals and tribunals options is intended to provide an effective incentive for officials to make considered decisions which are right first time. Providing a range of administrative procedures for citizens to seek remedies or redress is also a key area of civil rights, providing vital safeguards against arbitrary or ill-founded decision-making by government organizations. So it is clearly essential that any changes made to citizen redress arrangements do not restrict established rights to independent review and an opportunity to state one’s case.

BOX 1

Examples of the proactive approach to citizen redress in the 2004 White Paper, *Transforming Public Services*

‘We are all entitled to receive correct decisions on our personal circumstances; where a mistake occurs we are entitled to complain and to have the mistake put right with the minimum of difficulty; where there is uncertainty we are entitled to expect a quick resolution of the issue; and we are entitled to expect that where things have gone wrong the system will learn from the problem and do better in future’ (paragraph 1.5).

“‘Right First Time’ [decisions] means a better result for the individual, less work for appeal mechanisms and lower costs for departments’ (paragraph 6.32).

‘We would expect to see improvements in the following areas:

- original decision-making;
- explanation of decisions;
- resolution of disputes without external intervention; and
- availability of information to the public on how to seek redress’ (paragraph 6.33).

‘Our aim is to reduce the need for hearings before tribunals through better decisions and innovative proportionate dispute resolution methods’ (paragraph 10.11).

8 However, it is also possible that the current workings of citizen redress institutions may not be optimally configured to deliver what the public most want. Current arrangements have built up over long periods, largely in separated ways, often specific to one policy sector or one government organization. So the existing ladder of redress options may not be as accessible or as useful to citizens as it could be. It also may well not deliver what citizens most want. Redress systems should be purposefully targeted to deliver valued benefits to citizens in a timely way, rather than just following through on established procedures whose added value for citizens remains unclear. There are a range of other approaches discussed in Appendices 2 and 3 of this study, which might have useful ideas to contribute to UK debates. For instance, **Box 2** shows how under Netherlands law the National Ombudsman plays a key role in formally investigating complaints of maladministration and in shaping complaints systems across the government and responding to a wide range of information needs amongst the public. This example shows the benefits to be achieved from having a clear media profile and making public access to the complaints process as straightforward as possible.

9 In the past there were separate channels in government for dealing with complaints, appeals and ombudsmen processes. The complaints route has mostly been seen as a matter for departments or agencies to run in a decentralized way as they see fit, within only the general discipline provided by ombudsmen comments. Appeals and tribunals confer important citizens rights and are legally mandated and so in business terms are an inescapable cost. They were previously regulated in a separate, more legal manner by the then Lord Chancellor's Department with input from the Council of Tribunals. As a result, citizen redress arrangements have apparently not been monitored or costed in any systematic way by central departments (such as the Cabinet Office or the Treasury). The onus has been on departments and agencies to consider the effectiveness and efficiency of their own redress schemes as part of their wider drive to improve efficiency.

BOX 2

The role of the Dutch National Ombudsman in government complaints systems

The National Ombudsman in the Netherlands is a strongly branded and pro-active force for standardized citizen complaints procedures across government. The Ombudsman has frequent contact with administrative authorities, with each one asked to nominate a relatively senior contact person. The Ombudsman describes these contacts as the 'hands and feet' of his Office within these authorities.

One fifth of the Ombudsman's 130 staff field correspondence and enquiries from the public (4 staff deal with around 22,000 calls a year to the free phone 0800 number). Staff aim to answer all queries, not just those within the Ombudsman's remit. In 2003, over 10,000 formal complaints were received, with two thirds within this remit.

Citizens submit complaints directly to the Ombudsman via a 'petition'; a proforma for personal details and a description of the complaint. This is a standardized form for all complaints, which is at the back of Ombudsman brochures, and on the website for e-submission. In 2003, 18 per cent (and rising quickly) of complaints came in this web-based form, with another 7 per cent on the pro forma by post – but still around three quarters come through by open-ended letter.

The Ombudsman places a high priority on raising public awareness. For the last 18 years, he has written a weekly column in a best-selling Dutch broadsheet. Now the office runs an advertisement on national TV, showing a woman walking in a crowd of people (to show that the Ombudsman is 'of the people') and saying 'If you have a problem with the government and you can't solve it yourself, please phone us!'

The Ombudsman staff evaluate their public awareness campaigns every year, with surveys before and after. Now, 20 per cent of respondents refer to the Ombudsman's Office when asked 'If you had a problem with the government where would you go?'

10 Before the creation of the Department for Constitutional Affairs there was not much change affecting tribunals. However, the Department for Constitutional Affairs has recently issued an important White Paper, *Transforming Public Services: Complaints, Redress and Tribunals*, which looks forward to a major consolidation, integration and simplification of the provision of tribunal services in the period from 2004 to 2008. It also sets out important general principles for the operations of citizen redress mechanisms. The White Paper appears to herald a much more systematic approach to the whole range of redress procedures covered here, and its provisions are likely to have major implications for the overall operations of citizen redress arrangements. At the same time, implementing a major change programme of the kind envisaged may also have some risk factors for the costs and efficacy of redress arrangements. So the issues about redress considered here are also highly topical ones where major public policy changes are already in progress.

11 In order to take an overall view of how redress mechanisms currently operate we surveyed 277 central departments, executive agencies and non-departmental public bodies to examine information on the number of complaints, appeals and other redress cases handled per year and the costs entailed. To inform this survey we also conducted nine short case studies of central government departments and agencies and interviewed relevant senior staff from a wide range of independent complaints handlers, mediators and ombudsmen agencies. We additionally looked at two comparator organizations from the private sector and at some different aspects of ombudsmen arrangements in the Netherlands and Scotland. We also reviewed previous work by National Audit Office study

teams relevant to redress issues. To see how government organizations present redress options to citizens we conducted a comprehensive census of departments' and agencies' websites and additionally undertook a limited 'mystery shopper' investigation of 20 major organizations' arrangements for handling initial phone contacts relating to complaints or appeals. To see how the public understand and evaluate current citizen redress mechanisms we conducted focus groups and carried out a short national opinion poll, which examined some key issues and suggestions emerging from the groups.

The incidence and costs of redress cases

12 Our data gathering on redress processes has limitations (which are described in more detail in Part 2 and Appendix 1). So the picture that we draw here is the first one covering the overall system of redress and must necessarily be treated with some caution. Readers should also note that the data represents conservative estimates of the scale and costs of redress procedures in central government. However, research has been able to scale redress processes as shown in **Figure 1**. This estimates that nearly 1.4 million cases are received through redress systems in central government annually and are processed by over 9,300 staff and at an annual cost of at least £510 million. Appeals and tribunal cases account for just under three fifths of the redress load, seven tenths of the annual costs and two thirds of the staff numbers. Complaints are much cheaper to handle, accounting for two in five redress cases but an eighth of the annual costs. Cases handled by independent complaints handlers or

1 An overview of the scale and costs of appeals, complaints and other processes in redress systems across central government in 2003-04

Type of redress system	Per cent of annual			Number of agencies involved
	New cases	Total costs	Total staff	
Appeals and tribunals	58	72	66	97
Complaints	39	12	23	230
Ombudsmen and mediators	3	14	12	11
Compensation	na	2	na	12
Total	100%	100%	101	na
Base numbers, per year	1,388,000	£510 million	9,325	230

Source: Survey of departments and agencies, and supplementary information provided in annual reports and interview. More detailed breakdowns can be found in Part 2 of this report.

ombudsmen are a small part of the total. But because they often concern more complex or hard-to-resolve issues they are perhaps inevitably more resource-intensive than basic complaints handling.

13 There are currently very wide differences amongst departments and agencies in the ways that they define and record complaints. Our survey shows that around half of central government organizations, including departments operating in areas of major interest to many citizens, cannot effectively answer how many complaints they have received in either of the last two years. In some cases complaints are not distinguished from ‘enquiries’. Even when complaints are systematically monitored in some way, departments and agencies vary greatly in how they define an interaction with citizens as ‘a complaint’. Most government organizations operate with an inclusive view of complaints as ‘any expression of dissatisfaction’, including major departments handling tax and welfare issues – and they also record high numbers of complaints. But others include major restrictions on recording interactions with dissatisfied customers as complaints. Some of these organizations use additional ‘no blame’ concepts such as ‘corrections’ and others do not count complaints made and resolved at local or regional level. Even the apparently clearer concept of ‘an appeal’ has important variations in meaning in different administrative settings. In some organizations a large number of customer interactions are processed into the appeals system with minimal effort on citizens’ part, whereas in other cases citizens must make more of an effort to initiate an appeal. So our findings here are necessarily qualified by difficulties in measurement and inadequacies in many government organizations’ recording systems, especially for the costs of redress.

14 The overall public expenditure costs of handling complaints and appeals can be assessed very roughly as the cost per new case and our research summarised in Figures 11 and 15 suggests the following data:

- complaints cost an average of £155 per new case;
- appeals cases cost an average of £455 per new case;
- the costs for independent complaints handlers and for ombudsmen vary a lot, ranging between £550 and £4,500 per case, but mostly around £1,500 to £2,000.

There are very wide variations around these average numbers. For instance the cost per complaint claimed by organizations can be as low as £10 per case in a few cases for those that are reviewed and settled by grass roots or ‘street level’ staff.

15 In addition to the direct administrative costs of complaints, appeals and other redress systems, processing these cases can indirectly create substantial additional expenditures for some particular areas of the central government, via legal aid costs paid to those people eligible for this assistance. From information supplied by the Legal Services Commission we can say that these additional costs are a minimum of £198 million in central government (primarily in the area of immigration and asylum appeals), plus a small amount in welfare benefit appeals. A minimum additional £24 million is incurred in the National Health Service. The actual full costs involved here are likely to be much greater than this.

16 The numbers in Figure 1 suggest that there is considerable potential for departments, agencies and appeals bodies to review their practices and to bear down upon any procedures or approaches which unnecessarily encourage the occurrence of complaints or appeals, or their progression up the ladder of redress options. Cutting down the initial numbers of complaints or appeals, resolving more complaints and appeals more speedily and pro-actively, and improving the cost efficiency of current redress arrangements, could all make appreciable savings in public money, savings which could then cumulate with every passing year. If reductions of 5 per cent could be made in the current costs of redress systems, we estimate from our research that the Exchequer would save at least £25 million per year less the cost of implementation.

How accessible is the information that departments and agencies give about redress options?

17 A census of government departments’ and agencies’ websites showed that most organizations provide a generally good level of information about how to make a complaint, but often less information on making appeals. Websites also generally give targeted information on whom to phone when seeking information about complaints (and less commonly appeals). But there are sharp variations amongst them in the ways that they make information available. The best government organizations provide well-written and encouraging information in easily findable and well-presented web pages. The worst either provide no information on redress or integrate the information into formally written pages which prove difficult to find and are often only accessible in the restrictive PDF form. During the course of our research many agencies and other bodies refreshed their complaints information or put up web pages where none previously existed.

18 We also undertook a ‘mystery shopper’ exercise with 20 different departments and major agencies. This did not use the web, but tried to find out information about making a complaint via phone calls starting from telephone directories or directory enquiries services. This showed a very patchy pattern of responses, with many government organizations apparently no longer set up to handle such interactions, and others impossible to reach by phone. Citizens without access to the Internet and the web (who are differentially older people) confront much greater problems in accessing general information about redress procedures than those who do have such access.

Do citizens find current redress systems easy to use and meeting their needs?

19 We used focus groups and a national opinion survey to examine how the public see redress options. Most people (especially in younger age groups) have a comparatively vague general picture of how redress procedures operate. However, nine out of ten people express some confidence that they would try to get things put right if a wrong decision affected them. Around half of people would either try to phone a government organization with a complaint or would write a letter, with many people uncertain of whether phone calls or emails would secure attention compared with a more formal letter. Around one in six people will write to a department’s or agency’s senior or top manager in seeking to get things put right and a similar number will contact an MP. Three fifths of people will use one or two methods in acting on a grievance. Around a quarter of people could nominate three ways in which they would seek to get things put right.

20 There were many indications from the focus groups that citizens regard redress arrangements in government organizations as time-consuming and requiring a lot of persistence by the complainant or appellant to secure a useful outcome. Nonetheless, more than four out of ten people would expect a response to a complaint to a government organization within two weeks, and a further third of people would expect a response within three weeks to a month. One in six people effectively expect no reply.

21 On appeals and tribunals cases around a quarter of people expect that their case might be resolved within a month, and rather more estimate either two to three months. A fifth of people expect appeals or tribunals’ cases to take six months, and a further fifth expect them to be more long-winded. Citizens associate appeals with demands upon them to produce additional evidence and to present their case in person, but they expect less paperwork and a more informal hearing. Tribunals are seen as somewhat more formal and more intimidating for ordinary people.

22 Our focus groups suggest considerable uncertainty about different aspects of redress systems. The official separation between complaints and appeals is not generally understood, but people have a better grip on the idea of a ladder of increasing options of redress where cases must proceed up the ladder one rung at a time. People with experience of public sector complaints or appeals systems report some positive experiences, including pleasant staff. The main problems identified by respondents are finding whom to talk to in the first place, getting through by phone, the difficulties of writing in and the impersonality and large size of government organizations.

23 The concept of an ombudsman is well known amongst older people but according to our survey and focus groups it has little penetration amongst younger people (aged under 40). Public and private sector ombudsmen are seen in rather common ways. Government sector ombudsmen are seen as very much an option of last resort, to be used only when other recourses have been exhausted, but as authoritative and independent. In our survey only one person in 14 spontaneously mentioned contacting an ombudsman in seeking to get things put right. (By contrast, in another recent survey two fifths of people say that they have heard of the main public sector ombudsmen, when prompted to do so with their titles). Other mediators and redress arrangements have little profile. People are somewhat ambiguous about providing financial redress to complainants or appellants against government organizations. In some areas (such as medical negligence) financial compensation is seen as reasonable, but in other contexts as resulting in less money for public services.

24 In our national survey we asked people to compare redress arrangements in the government sector with those in private business on a number of different dimensions. Around three quarters expect businesses to be quicker in responding to complaints and to give complaints more individual attention. Smaller majorities expect private business to outperform government organizations in making fair decisions, providing financial compensation and minimizing the effort needed on their part. The focus group discussions suggested perhaps a more complex picture. Some private businesses (including Marks and Spencer, supermarkets and some major banks) are seen as offering much higher levels of customer care than any public sector agency. But other private businesses (such as travel companies and IT suppliers) are also seen as offering worse response or redress arrangements than government organizations.

25 From several focus groups a demand emerged for a general help centre or 'customer care' centre for government that could be accessed by phone and over the web. It would help people get over the first stage of launching a complaint or appeal by explaining what to do in different policy areas and putting people in touch with the right department or agency to progress their case. In our national survey a large majority of respondents (five out of six) thought this would be a good idea. A similar proportion of people say they would themselves use such a service if available and two thirds would use the website for such a service (again mainly excluding older people).

26 Overall our survey findings show that nine tenths of respondents declare that they would take action to remedy faults or mistakes in their treatment by government departments or agencies and many people can give a reasonably definite account of how they would set about doing so. Our focus groups also showed some people reporting partly positive experiences of redress processes in action. Yet there is also little doubt that the public see the bulk handling of complaints and appeals by government departments and agencies as complex to access or understand, slow moving, expensive, time-consuming and weakly directed to meeting their needs or expectations. More than half of respondents in our survey see government procedures as less successful in all the dimensions we asked about than private businesses. We conclude that government redress arrangements in their current form are not generally seen as delivering the best attainable value for citizens at large.



RECOMMENDATIONS

27 For **government organizations** we recommend that each should:

i review how it defines a complaint against the widely used Cabinet Office definition.

We consider that it would be unusual for there to be significant variation from this and that any organization not adopting the definition should be able to demonstrate why that is so, in line with their customers' needs, and in turn the basis upon which it measures and reports upon the level of complaints received.

ii report on their redress procedures, both for complaints and appeals, together with their other measures of the quality of services that they provide as part of their annual report.

iii review whether a closer alignment of procedures and the common handling of complaints and appeals would be a more cost effective solution.

In larger organizations arrangements for bringing together information on complaints and appeals will be needed. In small bodies it will generally make sense for a single manager to consider both aspects. Arrangements need to be put in place giving departments' and agencies' management boards a capability to look across complaints and appeals in an integrated way.

iv keep under review their web-based information about redress arrangements so that it remains up to date and clear, does not use off-putting language, provides realistic timetables within which redress action will be completed and covers appeals as well as complaints systems.

Citizens should always have a clear route for seeking information on their redress options and rights.

v keep under review the arrangements for citizens without web access to ensure that they are not being disadvantaged.

Every central government organization should have a single telephone number for citizens to contact it in order to access reliable and useful information about their redress options and rights. Departments and agencies should also be able to supply written information on these issues to citizens on request. Information provided on the web is not a substitute for these alternative means of access.

vi take into account the individual needs of different social groups in the design and operation of their redress procedures.

The recent NAO report on *Delivering Public Services to a Diverse Society* highlighted key lessons and good practice to assist departments to become more responsive to diverse needs. This would include taking into account the requirements of the six recognised diversity strands (gender, race, disability, age, sexual orientation, and religion and belief), while also recognising there may be other groups with specific needs, such as young people (as focused on in a recent Local Government Ombudsman report).

vii regularly secure the views of citizens who complain or appeal on the handling of complaints or appeals.

The Cabinet Office's Charter Mark scheme for departments and agencies to evaluate their activities includes criteria on handling complaints, and provides a practical checklist against which they can assess their performance.

- viii collect information on complaints and on appeals in a regular and systematic way.**
The levels of complaints and appeals are one of a range of indicators, including measures of customer satisfaction and of the quality, accuracy and reliability of services, that together highlight whether citizens are receiving the services that they want and that they need. All departments and agencies should know how many complaints or appeal cases have been made to them, how much it cost them to handle them and what is the average cost per case or appeal handled.
- ix seek to improve the quality of the services that they provide in the first place to citizens and also reduce the costs of handling complaints and appeals but not at the expense of reducing the quality of the redress procedures that it applies.**
This includes seeking reductions in the extent to which complaints and appeals occur, and in the extent to which cases progress before being resolved.
- x use the information on why the appeals have been successful to improve decision-making and review arrangements, wherever a significant proportion of appeals are successful (including those cases which are resolved informally).**
Making it more difficult to appeal is not an acceptable solution.
- 28 At the government-wide level we recommend:**
- xi the Department for Constitutional Affairs should take the lead in considering whether more pro-active mediation and other innovative methods of dispute resolution can be developed to help minimise the progress of cases up the “ladder of redress”.**
- xii the Cabinet Office and the Department for Constitutional Affairs should explore with the Parliamentary Ombudsman and other ombudsmen whether there is a value for money case to provide citizens’ with a single point of contact for impartial information on where to make a complaint or seek redress, and if so, explore cost-effective options for doing so.**
If widely publicised it could give citizens clear information at the earliest stage of launching a complaint, and direct them to the appropriate starting point for handling their case. This may build on the information that the Parliamentary Ombudsman’s staff and others already give to people who telephone their offices on how and to whom they should take their complaint. One option might be for a contact centre, either in-house or contracted out to the private or voluntary sector, to provide both a phone service and a web-based equivalent. Alternatively there may be opportunities for some providers to combine the contact point with other services that they already provide to citizens. Any such contact point should not, however, become an extra step in the process that citizens are obliged to use.