

Summary of the IA report to the OS Board 2017

The Independent Assessor (IA) can review complaints about OS service which have been fully reviewed by the OS service complaint process. The IA has no jurisdiction over the decisions of the Investigation Team, including their weighting of evidence, assessment of what is relevant in a case or final remedies, which remain the responsibility of the Ombudsman.

Caseload and outcomes in 2017

One hundred cases were escalated to the IA in 2017; a third fewer than in 2016. These 100 cases comprised more than 500 separate elements of complaint, as there are often multiple issues within one case.

For the first seven months of the year the outcomes of cases continued to be categorised as 'upheld' or 'not upheld', but most 'upheld' elements had already been apologised for in the OS internal complaint process. From August 2017 a 'justified' finding was added to the IA 'upheld' or 'not upheld' categories and is used where a complaint has merit, but has already been acknowledged.

The most common elements of complaint to be justified or upheld by the IA this year were about communication, followed by process error and then delay – these categories together represented around 70% of the complaints made which had merit. The further 10% of complaints made which had merit were small in number and quite evenly distributed between concerns about goodwill payment, rudeness or inappropriate treatment, remedy implementation, premature case closure and failure to make reasonable adjustment to meet a vulnerable customer's needs.

Recent years' data show that the number of delay cases have declined markedly, but that process error cases are increasing.

IA Case Recommendations

Recommendations are made for apology, goodwill payment and other actions to restore a complainant to the position they would be in had there been no service error. The total sum recommended in goodwill payment in 2017 is lower than in 2016 reflecting that fewer IA cases, and that more cases have been well reviewed with appropriate goodwill already offered before reaching the IA.

<i>Additional IA goodwill payments</i>	No. of cases	% of cases

None (previous goodwill sufficient, apology only or none merited)	39	39%
£50 or less	46	46%
£51 to £100	12	12%
More than £100	1	1%

Complainants often want OS to learn from their poor experience and the IA now meets regularly with OS staff to review the root cause of individual cases to avoid the repetition of avoidable problems.

Conclusion

The new 'justified' category for IA findings makes it clearer that most of the elements of complaint with merit have already been acknowledged and apologised for in the internal complaint process. Of those that have not, and are upheld by the IA, almost half are for process error.

Although the number of cases that have focused on failure to make reasonable adjustment for vulnerable customers is small, the distress they can cause is significant. I have identified this is an area that OS could focus efforts for improvement to ensure all customers get the same level of service and the organisation can be flexible to accommodate their needs.

I continue to be grateful to the complainants for bringing their concerns to me and to OS for being so open to the feedback that I offer.

Joanna Wallace
January 2018

APPENDIX A

How the Independent Assessor Works

The vast majority of cases arrive by email directly from complainants who have been signposted to us in their final Stage 2 complaint letter from Customer Relations, signed in 2017 by Deputy Chief Executive, Simon Morris. Some complainants write in by hard copy to our PO Box address and then letters are scanned and emailed to us by Customer Relations and a very small number request contact by telephone.

The IA can spend significant time handling enquiries that do not progress to full review. The most common reasons are that:

- The complaint is not within IA terms of reference (most usually as it relates to the Ombudsman's or Investigation Team's finding in some way);
- The complainant has not yet completed the OS internal customer relations complaint process and the IA terms of reference require that they have;
- The complainant has accepted the remedy from OS for a complaint and has misunderstood that they can't therefore also bring it to the IA;
- The case is out of time (we request cases come to the IAs within 3 months of the organisations final reply, although we do make exception to this if there is a persuasive reason for delay.)

All of this needs to be explained to complainants and they can find the distinction between service complaints and matters under the purview of the Ombudsman's investigation hard to grasp, especially if they are angry or frustrated at a finding on a case and see the IA as the only possible way to get any of the underpinning issues that they are unhappy with looked at.

There is almost always an exchange of emails or letters with a complainant to pin down the scope of work the IA can do for them. This can be achieved in one letter if the issues are service-based and clear cut, but can also take many exchanges and span several months as the process can take some time to explain and negotiate. Experience has shown this it is much better to define what will be considered at the start of the case, rather than produce a report which the complainant then claims has not addressed all the issue of concern, and allows a cleaner 'disengagement' with a complainant at the end of a case. It also makes it very clear before any work starts that issues in the provider case (findings, weighting of evidence etc.) will not be addressed.

The IA declines cases from any complainant who has been placed under the OS Unacceptable Actions Policy, as any behaviour that the much larger OS organisation has found unacceptable is unlikely to be manageable by the IA.

The IA has online access to the Ombudsman Services complaint management systems and so can see all the records on a case. Only very rarely does the IA contact either a complainant or OS regarding a case in investigation – usually to ask for help in finding information that the complainant or the OS record suggests is on the electronic file but isn't apparent. The IA considers a case based on what is on the record – so if an action or decision is not documented, from the IA poor record keeping has featured in reports, although this is less of an issue more recently.

The IA reports lay out as much case history or narrative on the case as is necessary to speak to the adjudications made, although the actual review of the case is often much wider. The reports state that the full details of the case are not recorded as some complainants in the past have expected the IA to document very action in the case and wanted to use it as a proxy for a Subject Access Request.

The IA makes recommendations for apology and consolatory or goodwill payments (and rarely, if indicated, financial loss) and for any other actions to remedy the maladministration identified and try to return the complainant to a position they would have been in had things not gone awry. The IA uses the OS framework for goodwill payment which sorts cases by scale and impact of maladministration into low, medium and high level categories and also makes systemic or case-specific recommendations if there is an issue in a case which has wider potential to avoid other errors in future.

Once finalised, our reports go simultaneously directly to the complainant and to OS Customer Relations. If recommendations are made, complainants must contact Customer Relations to accept them. The IA does not enter into correspondence with complainants after a report is sent unless there is a material error of fact, so the report ends our involvement with a case. In practice it can take quite a few exchanges to 'disengage' from a persistent complainant.

APPENDIX B

Summary of Jan to July 2017 findings data based on the IA 6 month Board Report

Timeframe	% of total upheld elements by cause		
	2017 (Jan to July)	2016 (Whole Year)	2015 (April to Dec)
Communications shortfalls	22.5%	33%	30%
Delay	16%	26%	33%
Inaccuracy error	10%	13%	16%
Process error	38%	12%	Negligible
Previous goodwill insufficient	4%	5%	Negligible
Premature closure of case	5%	3%	2%
Use of UAP/ treatment/ reasonable accommodation	3%	2%	Negligible
IT issues	Negligible	Negligible	7%
Delays in remedy implementation	1.5%	6%	12%