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HMRC internal manual

Complaints and Remedy Guidance

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CRG5025 - Financial redress: Nature and scope

The payments we make under our complaints policy are ex-gratia. In other words, we are under no legal obligation to make them, and they are not intended in any way to equate to damages awarded by the courts. It follows that we make such payments voluntarily, and we are entitled to frame rules to govern them. In doing so, we look to comply with the Ombudsman's Principles for Remedy, while mindful of the constraints imposed by the fact that payments are funded from the public purse.

Our guiding principle when making payments under our complaints policy is to ensure that the customer

is not out of pocket as a direct result of our mistake. In the majority of cases, this will mean reimbursing the additional costs incurred as a direct result of our mistake, to the extent that they are reasonable. Common examples include the cost of telephone calls, postage, and any additional professional fees incurred, again to the extent that they are reasonable and proportionate. We will also consider payments for demonstrable financial loss, but not for any loss which is hypothetical, speculative or insubstantial. In the context of our policy on remedy, the term “demonstrable” should be understood to mean “evidenced beyond reasonable doubt”. This is a higher standard of proof than a balance of probability, reflecting the need for us to ensure that we do not compensate for what might have happened or could have happened.

The payments we make under our complaints policy are not designed to enrich the customer or otherwise lead to advantage. In short, a customer should be no better off when compared with the position they would have been in had we not made the mistake. This is an especially important factor when considering the often very difficult issue of loss, because any amount we pay will need, as far as is reasonably possible, to take account of the effect of passported benefits (ie those benefits to which some groups of people are automatically entitled because they are in receipt of certain other benefits or tax credits), tax consequences, and any other relevant factor.

In the case of alleged financial loss incurred by businesses, you will additionally need to consider, amongst other things, the impact on returned net profits, the rationale behind the trader’s pricing structure, and any other factor you consider relevant in the circumstances. Assessing actual financial loss in such situations can be extremely complicated, and you should contact CCAST in any case of doubt.

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