
Information About Material Errors and Reconsiderations



Introduction

This leaflet gives you information about material errors and the reconsideration process. It explains what this means for you.

Redress Scotland tries very hard to get its decisions right, but occasionally mistakes can happen. Sometimes, after we have made a decision (or a review decision), either we or the Scottish Government have reason to believe that an error was made which “materially affected” that decision.

When this happens, the law says that the decision must be sent back to us for “reconsideration” regardless of whether a payment has been made.

What is a material error?

A material error is a mistake which may have affected the decision in an important way. The panel which made the decision may have got something wrong. It may have made a decision based on information which was wrong or perhaps incomplete.

For example, we may have deducted the wrong amount for a previous payment you received for the abuse you suffered. Or we may have made a mistake in deciding whether you are eligible to receive a redress payment or not. While this can happen because you have not given us correct information, in most cases there will be another reason for the mistake.

The panel may have missed something important which it should have taken into account, or for some reason it may not have been given an important document which would have affected its decision.

What is reconsideration?

This is where a new panel at Redress Scotland considers things again to decide whether we made a material error when we made a decision, or a review decision.

What happens when there is a reconsideration?

The Scottish Government will tell you that the decision is to be reconsidered and the reasons why. You will have at least 8 weeks to send in any “written representations” if you wish to do so. This means any information that you think is relevant to the reconsideration and you would like us to take into account.

Once you have submitted any written representations or confirm that you do not have any information you would like to be included, your application will be allocated to a Reconsideration panel. A Reconsideration panel is made up of 3 Redress Scotland panel members.

The Reconsideration Panel will consider all of the relevant information when making its decision. This includes:

- the original decision
- the reasons why it was sent back to us for reconsideration
- any information which was not available to the original panel, and
- any *written representations* we receive from you.

How long will the reconsideration process take?

We will do our best to make sure that you do not have to wait too long for the Reconsideration Panel's decision. A panel will usually take place within 2 months of the matter being sent back to us for reconsideration.

What happens after the Reconsideration Panel makes its decision?

The Scottish Government will tell you what decision the Reconsideration Panel has made. They will tell you about the reasons for the decision and what it means for any redress payment you were offered by the original panel.

Where the Reconsideration Panel decides to offer you a redress payment, you will be told how long you have to accept the offer and what your options are.

What will the Reconsideration Panel's decision mean for me?

This will depend on whether or not the Reconsideration Panel decides that there was a material error in the original panel's decision.

If the Reconsideration Panel decides that a material error was not made, that is the end of the reconsideration process. This means that:

- If you were offered a redress payment by the original panel, but had not yet accepted it, that offer will be made to you again. You will then have 6 months to decide whether to accept the offer. The panel may give you longer than this if it is satisfied that there is a good reason why you may need more time to decide about this.
- If you have already accepted an offer, but some or all of the money has not yet been paid to you, the payment (or the rest of the payment) will be made to you.
- If you had asked for a review of the decision, the review will be resumed.

If the Reconsideration Panel decides that the original decision was affected by a material error, it will reconsider your application based on how it would have been decided had that material error not been made.

What this means for you will depend on what the Reconsideration Panel decides should happen:

- If you were not previously offered a redress payment (or where an offer was made but you had not accepted it), and the panel decides that you should be offered one, you will have 6 months to decide whether to accept it.
- If you have already accepted an offer of a redress payment, but the panel thinks that a new offer should be made, having taken the material error into account, you will be made a new offer.

- This new offer may be for the same amount as before, or it may be for more or less.
- Where the offer is for the same amount as before, you are deemed to have already accepted it.
- If the offer is for more than before, you will have 6 months to decide whether to accept it. The panel may give you longer than this if it is satisfied that there is a good reason why you may need more time to decide about this.
- If the offer is lower than before, you may have to repay some of the money you have already been paid.
- If you were previously offered a redress payment and the Reconsideration Panel decides that you should not have been offered this, you may have to repay any money to the Scottish Government.

Requesting a review

Whatever the outcome, you have the right to request a review of the reconsideration decision if you do not agree with it. If you would like any further information or advice, please contact your Scottish Government case worker or your solicitor, if you have one.



Survivors are at the
heart of our process



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