Passport entitlement

There is no statute law governing the grant, refusal of British passports, which are issued in the United Kingdom. However, certain principles apply which are as follows:-

United Kingdom passports are issued in the UK at the discretion of the Home Secretary and in overseas posts at the discretion of the Secretary of State for Foreign and Commonwealth Affairs. They are issued in exercise of the Royal Prerogative, which is an executive power that doesn't require legislation.

There is however, no entitlement to a passport and there are circumstances where passport facilities are refused: -

- Minors whose journey is known to be contrary to a Court Order, to the wishes of a parent or other person or authority awarded custody or care and control, under the provisions of the Children Act 1989, or the Children Act (Scotland) 1995, or the Children (Northern Ireland) Order 1995;
- Where a person is to be arrested under a warrant issued in the United Kingdom or is wanted by the United Kingdom police in suspicion of a serious crime;
- Where a person’s past or proposed activities are so demonstrably undesirable that the grant or continued enjoyment of passport facilities would be contrary to the public interest (these cases are very rare and decisions on this category are made personally by the Home Secretary);
- In the case of UK nationals who have been repatriated from abroad at public expense, until they have repaid their debt.

Compensation and liability

Because passport facilities are granted at the discretion of the Secretary of State exercising the Royal Prerogative, there is no contractual relationship between the IPS and a passport applicant.
Consequently, a dissatisfied customer would have to claim for negligence rather than under the law of contract and, that being so, would not be able to rely directly on those authorities which make it clear that damages for loss of enjoyment of a holiday are available in an action for breach of contract.

Furthermore, no authority could be discovered for an award of damages for loss of enjoyment and distress in an action for the tort of negligence. However, it expressed the view that in certain circumstances there must, at the very least, be a possibility that a court would award general damages, which would include an element for loss of enjoyment and distress.

To conclude, in the absence of any legal authority on the matter, the IPS is justified in maintaining its policy that only actual financial loss will be reimbursed.