

Policy

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Introduction

This policy looks to set out how Halton Housing Trust ('the Trust') deals with claims for compensation made by customers, or someone acting on the customers behalf.

The Trust is only obliged to pay compensation where it is legally responsible for the loss or damage suffered by the customer. The Trust may consider other claims for compensation on a discretionary basis. In general, this would be where there has been a service delivery failure, and it is felt that the customer has suffered actual monetary loss and/or has been seriously inconvenienced by a considerable delay in an action being carried out.

In view of the nature in which claims for compensation generally arise, there are obvious links between this policy and the Trust's Enquiries, Complaints and Compliments Policy and the Repairs, Maintenance and Improvement Policy.

Aims / Objectives

The aim of this policy is to ensure that all compensation claims are:

- Dealt with in a fair, consistent and timely manner to ascertain the validity of any claim; and,
- To reach an agreement between the Trust and the Customer where applicable.

Scope

This policy will consider claims for compensation made under relevant legislation, such as:

- The Right to Repair;
- The Right to Compensation, for home improvements;
- Home Loss and Disturbance Payments (due to redevelopment or improvement works)

In addition this policy will cover discretionary compensation payments that may be made as a gesture of goodwill.

Policy Statement

Whatever the nature of a customer's claim, the Trust will ensure that:

- It acts reasonably and fairly at all times when considering the claim;
- It looks at all claims on their own individual merits; and
- Where the Trust is liable to pay compensation, it will endeavour to reach an agreement with which the customer is satisfied.

Methods of Compensation

Compensation may be given to customers in three main ways:

- Monetary – this would be a payment to the customer of an agreed amount.
- Replacement of damaged goods
- A Goodwill Gesture - where the customer is compensated in a non monetary way. This could include such things as:
 - A letter of apology;
 - Decoration or gift vouchers, flowers/ box of chocolates etc up to a certain value; or
 - Any other appropriate gesture

Any form of compensation, whether in monetary, non monetary terms or as a goodwill gesture, will be made by the Trust on a 'without prejudice' basis, and on the understanding that it is in full and final settlement of the claim.

Before making a compensation payment, the Trust reserves the right to clear any debt owed by the customer to the Trust out of the proposed payment. This includes rent arrears, service charges, rechargeable repairs, court costs and any other charges that might be outstanding. This requirement may be waived only where the Trust is legally responsible for the loss or damage incurred by the customer and/or this action would cause significant hardship. If this is not the case and the offset is made, the customer would then receive any remaining balance.

Where an offset is being considered for a customer with rent arrears, the following criteria will apply:

- Payments would only be offset against rent arrears where these relate to financial compensation for inconvenience or failure of service;
- Payments towards the cost of replacement of or damage to customer's goods or belongings will not be offset against rent arrears unless the express written consent of the customer has been obtained.

The Calculation and Payment of Compensation

If the Trust accepts that it is legally responsible for the damage or loss suffered by the customer:

- The Trust may choose to replace the damaged or destroyed items rather than pay compensation.
- Where the claim is in respect of items that have been destroyed or damaged, the compensation may be reduced to allow for fair wear and tear, as the Trust is not liable to pay compensation on a new-for-old basis.
- The Trust may not pay compensation if the damaged items have been disposed of. They must be made available for inspection to provide evidence of damage.
- Customer making claims should be asked to provide receipts or other evidence of purchase to prove the age and original cost of the items.

- Compensation may be reduced if, in the Trust's reasonable opinion, the customer could have taken steps to avoid or reduce the damage or loss but did not do so.
- If the claim is for inconvenience caused as a result of the loss of use of a facility provided by the Trust (for example a communal door entry security system), the Trust will take into account the amount of service charge paid by the customer in respect of that item when calculating compensation.
- If the claim is in respect of the loss of use of part of the customer's home, the Trust will take into account the amount of rent payable when calculating compensation.

The Right to Repair and the Right to Compensation

The Trust will ensure that it adheres to relevant legislation and the requirements of the former Housing Corporation Circular 33-94 that is still relevant when dealing with any claim for compensation made under the Right to Repair and Right to Compensation.

Home Loss and Disturbance Payments

Where a customer is to be permanently displaced to allow the Trust to carry out redevelopment or improvement work, any Home Loss payment for which the customer is eligible will be made in accordance with the formula set out in Section 29 of the Land Compensation Act 1973 (as amended by the Planning Act 1991).

Disturbance payments will cover any reasonable costs that are incurred when a customer is required to move by the Trust. This may include the cost of removals, any disconnection and reconnection charges, mail redirection etc, and if appropriate storage costs.

Discretionary Payments

The Trust appreciates that the majority of discretionary payments will be made to try to make amends for inconvenience caused to, and/or to minimise the level of dissatisfaction felt by, a customer as a result of a service failure.

It will not always be the case that an actual claim has to be made by a customer for an offer of compensation to be made by the Trust. In its Enquiries, Complaints and Compliments Policy, the Trust states that: *"At any stage of the Complaints Procedure an apology or even a payment for compensation may be offered. The Trust will normally only offer compensation payment where it considers the complainant has suffered actual monetary loss or considerable delay in an action being carried out."*

There are various scenarios under which discretionary payments may be considered; examples of which can include:

- The customer does not receive the standard of customer service expected of the Trust.
- Failure to keep a pre-arranged appointment that has been made in writing. (24 hours notice must be given to cancel an appointment).

- Failure to respond to a complaint within the timescales set out in the Trust's Enquiries, Complaints and Compliments Policy and Procedures.
- Inappropriate communication on matters affecting the customer
- Incorrect handling of an application to the detriment of the applicant
- Inadequate quality of work
- Inconvenience whilst completing work.

This list is not exhaustive and discretionary payments may also be considered in situations where expectations regarding other customer service standards have not been met.

General Exclusions

There are certain eventualities which the Trust has decided will not be covered under its Compensation Policy.

These are:

- Any claims for personal injury/negligence and associated compensation will be referred to the Trust's Insurers to be dealt with under the Public Liability Claim Procedure agreed with them.
- Any sums paid by the Trust are not intended to compensate for loss of earnings or similar
- The Trust cannot accept responsibility for any claim for compensation that arises directly because the customer doesn't have their own contents insurance. The Trust will always encourage customers to take out insurance cover for their own possessions.
- The Trust will not accept liability for damage caused to property through flood, fire or other such incidents. The Trust will expect customers to have taken out their own insurance to cover such eventualities.
- Claims for property damaged as a result of unforeseen failures in the building structure where the Trust or its agents are not at fault will not be considered under this policy.
- The Trust will not be held directly responsible where the fault is that of a third party. For example, for damage caused as a result of major improvement works being carried out to an unsatisfactory standard by any contractor(s) working on its behalf. However, where the customer experiences problems in pursuing the claim with the contractor, the Trust will liaise, and where necessary will deal direct with the relevant contractor(s) on behalf of the customer to get the best possible resolution for all parties.
- The Trust will expect any claims for serious maladministration to be considered by the Independent Housing Ombudsman once its own Complaints Procedure has been exhausted.

Implementation

More details on how claims for compensation should be dealt with can be found in the Compensation Procedure Guide that has been developed to compliment this policy.

Responsibility

The Director of Resources will be responsible for the effective implementation of this policy.

The Assistant Director – Finance and Performance will monitor, manage and approve any claims from the compensation budget.

The Administration Manager will be responsible for dealing with any claims referred to and dealt with by the Trust's Insurers.

The ECC Co-ordinator will be responsible for dealing with any claims dealt with through the Trust's ECC Policy.

Performance Measures / Monitoring

The ECC Co-ordinator and Administration Manager will be jointly responsible for the recording and monitoring of any concerns raised under this policy.

The Assistant Director – Finance and Performance is responsible for authorising and monitoring any payments that are made from the compensation budget and will report to the Senior Management Team as part of the monthly budgetary commentary when necessary.

An annual report of cases will be made to the Risk and Audit Committee.

Consultation arrangements

This policy will be reviewed every three years to ensure that it continues to meet the working requirements of the Trust and its customers.

Employees in general as well as trade union or other staff representatives will be encouraged to take part in any review. Comments and suggestions on how this policy may be improved will always be welcomed.

Benchmark Analysis

Benchmarking is undertaken using Housemark who produce a complaints Benchmarking Performance Indicator Guide.

Networking and sharing of good practice continues on a regular basis with peer groups and through the Ombudsman Service.

Regulatory and/or Legal Compliance

The Trust will ensure that it adheres to relevant legislation and the requirements of the Housing Corporation Circular 33-94 when dealing with any claim for compensation made under the Right to Repair and Right to Compensation.

Where a customer is to be permanently displaced to allow the Trust to carry out redevelopment or improvement work, any Home Loss payment for which the customer is eligible will be made in accordance with the Home Loss Payments (Prescribed Amounts) (England) Regulations 2008.

Regulatory standard number 5 – Value for Money states that:

“In meeting all TSA standards, including their local offer, registered providers shall have a comprehensive approach to managing their resources to provide cost-effective, efficient, quality services and homes to meet tenants’ and potential tenants’ needs.

Registered providers shall set out in an annual report for tenants how they are meeting these obligations and how they intend to meet them in the future. The provider shall then meet the commitments it has made to its tenants.”

KLOEs affected

With the announcement that the Audit Commission’s housing inspection framework is to cease with effect from April 2011, a full assessment against each of the KLOE’s has not been undertaken. However the policy outcomes will feed into the Trust’s ongoing update of its self assessment documents as well as the input to our Service Improvement Framework.

The key areas covered by this Strategy include:

- Access and Customer Care
- Value for Money
- Resident Involvement
- Diversity

Diversity Considerations

An Equality Impact Assessment has been carried out on this policy. There were no significant issues identified that affect the implementation of this policy.

Links to Strategies, Procedures and Associated Documents

The following documents are associated with this policy:

- Enquiries, Compliments and Complaints Policy
- Standing Orders and Financial Regulations
- Customer Care Policy
- Compensation Procedure including Guidelines

Business Impact

Any learning that emerges from any claims that are paid as a result of this policy will be used to improve the services that the Trust offers to its customers. This will improve the efficiency of the Trusts operations and may result in cashable as well as non cashable savings.