



Customer Compensation Policy and Claims Procedure

COR-POL-05

Version 4.0

Date approved: 25 July 2017

Approved by: People and Places Committee

1. Introduction

- 1.1 Southway Housing Trust (The Trust) aims to provide high quality services to our customers and to get things right first time.
- 1.2 However, in certain circumstances, an explanation and apology may not suffice and it may be appropriate to offer some form of compensation. These cases will be limited, as our primary focus is the swift resolution of problems.
- 1.3 This policy explains the circumstances in which the Trust will compensate our tenants, residents and customers.
- 1.4 The policy also makes a distinction between statutory compensation (which we are legally obliged to pay) and discretionary compensation, (instances where we believe it is appropriate to pay compensation, but we are not legally bound to do so).
- 1.5 With the exception of statutory compensation, this policy does not apply where a customer has commenced legal proceedings.
- 1.6 This policy does not apply where a customer has made a claim for compensation via the Independent Housing Ombudsman. In such cases, the Trust will pay compensation if directed to do so by the Ombudsman.

2. Policy Principles

- 2.1 Each person who makes a claim for compensation will be treated with respect and understanding. An officer with the necessary authority to make decisions on the claim will liaise with the claimant and act as their point of contact.

We will pay statutory compensation in accordance with the relevant legislation.
- 2.2 In line with the Trust's Rent First objective, compensation will be used to assist in clearing rent arrears whenever possible.
- 2.3 The Chief Executive has delegated authority to make changes to levels of compensation outside of the normal policy review schedule.

3. Statutory Compensation

3.1 This section explains the situations in which the Trust is legally obliged to make compensation payments.

Home Loss

3.2 Home Loss payments are statutory payments made to people who are permanently displaced from their homes.

3.3 The law covering Home Loss Payments is contained in the Homes Loss Payments (Prescribed Amounts) (England) Regulations 2014 and a customer is entitled to the prevailing rate of lump sum payment as determined at the time.

3.4 In order to qualify for the Home Loss Payment:

- The move must be permanent.
- The move must be a consequence of demolition or reconstruction.
- The tenant must have been in legal occupation for at least one year prior to the date of moving out.

3.5 Where the displaced tenant has succeeded to a tenancy, the successor can add the length of residence of the deceased tenant to make up the qualifying period.

3.6 The Trust will offset home loss payments against a tenant's rent arrears/debts and the balance will be paid to the tenant. Awards will be subject to Director approval.

Disturbance Payments

3.7 Tenants that are entitled to Home Loss Payments, and those who are temporarily displaced, may be entitled to Disturbance Payments.

3.8 Payments for disturbance are covered by the Land Compensation Act 1973 (s.29-33) (as amended by the Housing Act 1974 and the Planning and Compensation Act 1991 s.68).

3.9 The law does not state an actual amount that should be paid, only that such payments should cover "the reasonable expenses of the person entitled to the payment in removing from the land from which he/she is displaced".

3.10 Reasonable expenses will include, for example:

- Removal costs.
- Refitting of carpets and curtains.

- Disconnection and reconnection of electricity, gas, telephone and fitted appliances.
 - Redirection of mail.
- 3.11 Disturbance payments will not be paid for work that has been carried out by the Trust or its contractors.
- 3.12 Expenses will be met on the production of receipts. Where tenants are unable to make payments in advance, a lump sum payment can be made prior to the move. This will only be done in exceptional circumstances, and our approach will be to provide or pay for services wherever possible.
- 3.13 Tenants who are forced to move on a temporary basis will be offered appropriate compensation relating to expense or inconvenience incurred as part of their move. More detail is provided in the Trust's Alternative Accommodation (Decant) Policy.

The Right to Repair

- 3.14 Tenants are entitled to compensation for certain repairs affecting health, safety or security should the Trust fail twice to complete them within set timescales. The details of Right to Repair provisions are included in The Leasehold Reform, Housing and Urban Development Act 1993.
- 3.15 More guidance on qualifying repairs is included in the Right to Repair Policy and the Tenant Handbook, which is available to view on our website.
- 3.16 In order to qualify under this scheme:
- The estimated cost of the repair should be £250.00 or less.
 - Operatives must have been given access at the arranged time.
 - The Trust should be notified when the repair deadline had passed.
 - The Trust may have asked to order the work from another company and this company also subsequently missed their deadline.
- 3.17 Compensation under the Right to Repair will not be payable when:
- The repair has been inspected and attended to within set service standards and the tenant has been advised that the relevant parts are on order.
 - The repair is classed as rechargeable to the tenant.
 - There was no access at the time of the pre-booked appointment to carry out the work.

3.18 There is a flat rate award of £10 plus £2 per day, for each day the repair remains outstanding after the second report has been raised, up to a total of £50.

3.19 The Trust reserves the right to use the compensation to pay outstanding rent arrears

Tenants' Own Improvements

3.20 Tenants have a contractual right to claim compensation at the end of their tenancy for 'qualifying improvements' they have carried out to their home.

3.21 Qualifying improvements that may be eligible for compensation include:

- Bath or shower
- Wash hand basin
- Toilet
- Kitchen sink
- Storage cupboards
- Kitchen work surfaces
- Central heating or water heating
- Thermostatic radiator valves
- Insulation of pipes, water tank or cylinder
- Loft insulation
- Cavity wall insulation
- Door replacement
- Double glazing, secondary glazing or other window replacement
- Rewiring of electrical fittings
- Any other work that the Trust agrees improves the security of the home, except burglar alarms

3.22 The following guidelines will apply when determining whether compensation is payable.

- (a) Customers have received written permission from the Trust prior to starting work (or MCC if prior to 26 November 2007).
- (b) The work must have been undertaken to an acceptable standard and comply with any conditions set out in the permission letter
- (c) All relevant statutory approvals (building control, planning permission etc.) must have been gained and documentary evidence must be available to verify this.

- (d) When a claim for compensation for Tenants' Improvements has been received, the Trust will arrange an inspection by a surveyor and make an assessment based on the estimated cost of the improvement, (unless this can be evidenced by an invoice), its estimated total life and the value of the residual life of the improvement to assess the payment that should be made.
 - (e) Compensation will only be paid at the end of the tenancy, and will be set against any sums that may be owed to the Trust.
 - (f) Compensation will not normally be payable where the tenancy is ended through a possession action taken through the County Court.
 - (g) Compensation will not be payable if the tenant has exercised their Right to Buy or Right to Acquire (if applicable) or where the tenancy passes from joint to sole names (or vice versa).
- 3.23 The maximum payable is £3,000 for aggregated improvements and the minimum is £50 in line with legislation.

Right to Buy Delays

- 3.24 Tenants who exercise a Right to Buy application are entitled to claim compensation for any delay in completing the sale to required timescales, in line with Section 124 of the Housing Act 1988, Sections 153A and 153B and Part V of the Housing Act 1985 (the Right to Buy).
- 3.25 To claim compensation, tenants must first issue a "Delay Notice" to the Trust, giving one month period in which to resolve the delay. If the tenant then issues a further "Operative Notice", due to the failure of the Trust to comply with the original Notice, rent free weeks will be taken from the final purchase price for each week that is outside of the deadline.
- 3.26 If the delay exceeds 12 months, a greater sum of one and a half times the weekly amount of rent, times the number of weeks, is deducted from the final purchase price.

4. Discretionary Compensation

In certain circumstances, the Trust may consider making discretionary compensation awards where:

- It fails to meet its obligations under the Tenancy or Lease Agreement.
- There is a loss of service or facilities for an unreasonable period of time.

- Tenants cannot use part of their home due to a poor repair or a lack of repair.
 - Specific financial losses that can be evidenced have been incurred.
 - The complainant has spent a significant amount of time and trouble pursuing the matter, and payment or some other benefit is considered appropriate as a goodwill gesture.
- 4.1 All claims for compensation will be considered. Claims can be made by letter, fax, email, telephone, text or personal visit, or via an advocate.
- 4.2 The table at Appendix A of this policy details some of the instances when it may be considered appropriate to offer discretionary compensation. This is for guidance only and each case will be considered individually.
- 4.3 All offers of discretionary compensation are made on a “Without Prejudice” basis and do not confer any liability upon the Trust.

5. Insurance Claims

- 5.1 The Trust will take out insurance to handle the risk of liability to itself, where tenants claim they have been injured or their possessions have been damaged or they have suffered a financial loss as a result of the Trust’s negligence. Such claims will therefore be referred to the insurer.
- 5.2 Where claims are below the relevant insurance excess, these will be dealt with through general procedures agreed with the insurer.
- 5.3 Insurance claims that are received as part of a wider complaint about services will be dealt with as follows:
- If a formal customer complaint is received which includes an actual or potential claim against the Trust, the customer will be informed in writing that this has been passed to our insurers.
 - The customer will be advised that all enquiries relating to their claim will be referred directly to our insurers.
 - The remainder of the issues raised in the complaint, including any decisions over discretionary compensation, should be dealt with according to the Trust’s standard timescales and service standards.
- 5.4 Although it is generally not appropriate for the Trust’s officers to liaise directly with the customer during an insurance claim, officers will provide details of the service standards that the insurers should adhere to,

6. Compensation Claims Handling and Procedure

6.1 All claims will be acknowledged within two working days and either investigated by the relevant officer or referred to the insurer (as appropriate) within ten working days.

6.2 In cases dealt with directly by an officer, if it is not possible to reach a decision within ten working days the customer will be advised of the reason for this and given a revised target date for a decision to be made.

6.3 If a decision is taken to pay compensation in accordance with this policy, it will be paid within two weeks of the customer accepting the offer.

6.4 In cases where discretionary compensation is due to a tenant but their rent account is in arrears, the compensation will be offset against any rent or other housing related debt on the tenant's rent account **except** in cases where compensation is being offered to reimburse a direct financial loss or expense incurred by the tenant (for example replacement of a damaged personal household article).

6.5 Claims for compensation will not be considered when:

- (a) The loss or damage is a result of routine failure of a building's component, fixture or fittings where the Trust has not been negligent.
- (b) The non-availability of parts or materials prevents the Trust from completing repairs within the published timescales and the customer has been kept fully informed.
- (c) Service failure is the result of extreme or unforeseen conditions (such as weather conditions) where the Trust has taken all reasonable steps to restore services or facilities under the prevailing conditions.
- (d) Service failure is due to interruptions in gas, electricity or water supplies, as a result of the non-performance of utility companies or through the action of the tenant.
- (e) The loss or damage is the tenants' own fault, including the failure to report repairs promptly or to keep appointments.
- (f) The loss or damage arises from an alteration or repair which the tenant has arranged privately or carried out themselves
- (g) The loss or damage is due to acts of negligence by a third party, for example a visitor or a contractor who is not acting on behalf of the Trust.

- (h) The Trust has acted reasonably and complied with its legal and contractual liabilities.

External Contractors

- 6.6 The Trust will ensure that all contractors carry Public Liability Insurance and that they have a clear Compensation and Complaints Policy.
- 6.7 Where a claim is made in respect of personal injury, damage to possessions or other financial loss alleged to have been caused by a contractor's negligence, the Trust will either assist the tenant to claim against the contractor or refer the claim to the contractor themselves.

Home Contents Insurance

- 6.8 Customers are encouraged to have home contents insurance to cover the cost of replacing personal belongings and of interior redecoration in the event of damage. The Trust offers a low cost home insurance scheme to its tenants and leaseholders, and officers will promote and encourage the take up of insurance during their contact with tenants.

Appeals

- 6.9 Appeals against decisions regarding the payment of compensation can be made using the Complaints Procedure set out in The Trust's Compliments and Complaints Policy.

7. Policy Monitoring and Review

- 7.1 The Compensation Policy will be reviewed every three years or at the point that any of the legislation relating to statutory compensation is amended.
- 7.2 An annual review of compensation awards will be carried out to ensure consistency of approach, the appropriate use of compensation awards and that the Trust complies with its published timescales. This will be reported to the People and Places Committee through the Annual Complaints report.

8. Equality and Diversity

- 8.1 This Policy and related publications of the Trust, can be provided on request in other formats (e.g. in an alternative language, Braille, large print, or audio).

9. Related Policies

- Customer Compliments and Complaints Policy
- Responsive Repairs Policy
- Customer Care Everyone Matters
- Alternative Temporary Accommodation (Decant) Policy

10. Compensation Award Examples

10.1 The following table details some of the situations when compensation awards will be considered, and indicate levels for an appropriate financial award.

Service Failure	Recommended Compensation
Failure to deliver a service which is subject to a service charge, where the fault has been reported and the Trust has failed to respond within the advertised repair timescales without a justifiable explanation.	Reimbursement of the relevant part of service charge.
Major works not completed at time of let, (for example, preventing commission of heating or hot water), when this is at no fault of the tenant.	Consideration of fixed rent free period until property habitable.
Lack of hot water and/or heating beyond the published repairs timescales.	Up to £8 per day after the completion deadline for each service not available, <u>if</u> temporary heating and/or hot water facilities have not been provided by the Trust. .
Increased costs of utility bills due to the Trust's use of tenant's electricity supplies (e.g. drying out property after a burst).	Up to £8 per day for each appliance (e.g. dehumidifier) – evidence of increased costs may be sought.
Increased cost of utility bills due to use of electric heaters as a temporary solution beyond published repair timescales.	Up to £2 per day based on the cost of 6 hours of use each day. The amount of money may alter subject to a tenant's vulnerability.

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COR-POL-05

Version **4.0**

Service Failure	Recommended Compensation
<p>Damage to tenant's property due to the negligent or inappropriate actions of the Trust's staff or contractors.</p>	<p>Refer to insurers (while also dealing with any other complaints about services separately, to the Trust's agreed complaints service standards).</p> <p>Where the claimant will accept a settlement which is beneath the prevailing relevant excess within the Trust's insurance policy, the insurer will be notified of the amount agreed between tenant and the Trust, and this will be paid as a "<i>Without Prejudice</i>" discretionary payment under standard acceptance documentation as agreed with the Trust's legal advisers and the insurer.</p>
<p>Loss of use of part of a property for a period beyond the time advised for completing remedial works.</p> <p>Kitchen or Bathroom or Toilet (where no other available)</p> <p>Bedroom (where no spare room available)</p> <p>Living Room/Dining Room/Parlour</p>	<p>Payment of compensation will be based on the following:</p> <p>20% reduction in net rent per day</p> <p>10% reduction in net rent per day</p> <p>5% reduction in net rent per day</p> <p>Up to a maximum amount of £250</p>
<p>Failure to deliver services where this results in a material loss or significant inconvenience to the customer.</p>	<p>£20 or;</p> <p>Cost to the customer as reasonably evidenced.</p>
<p>Rubbish and materials not removed after the repair is completed.</p>	<p>£5.00 per day after 5 days of completion of the work.</p>

POLICY REVIEW HISTORY	
<i>To be completed during each review</i>	
Previous versions V1 – Shadow Board – 28/08/2007 – Compensation for Damage After Repairs Policy V2 – Performance and Resources Committee – 15/05/2012 V3 – Chief Executive – 05/05/2014 – Customer Compensation Policy	
Date of last EIA:	N/A
Review lead by:	Luke Benfield – Head of Customers and Communications
Main points or amendments made and reasons	
<p>Confirming delegation to the CE to change compensation levels.</p> <p><u>Statutory Compensation:</u></p> <p>The cash value has been removed as this changes yearly in line with legislation. Clarity has been provided around the conditions required to qualify for this compensation. The fact that home loss compensation may be deducted from rent arrears has now been more clearly specified in the policy.</p> <p><u>Tenant Improvement Compensation</u></p> <p>Draft proofing is excluded from the list of qualifying repairs as it is no longer a separate product and is integral to windows and doors. The qualifying criteria are clearer. Tenants are no longer required to provide three written estimates. Surveyors from the Trust carry out this assessment.</p> <p><u>Other Compensation</u></p> <p>A reduction in the daily payment for use of fan heaters from £8 a day to £2 a day based on the cost of 6 hours of use each day.</p>	
Next review due:	Q2 2019/20
Review level:	People and Places Committee