Housing Services

Housing compensation policy

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Department: Housing operations
Version: 1.0 (published)
Last updated: 21 October 2024
Review date: 21 October 2026

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1 Introduction

Luton Council Housing's aim is to provide a good quality service to all our tenants, licensees and leaseholders. In this document these are referred to as customers. When we fail to meet the set standards and our commitments to our customers, we will put this right as quickly as possible.

The aim of this policy is to ensure that we have a fair and consistent approach to offering redress and awarding compensation where we fall beneath these standards. Having a clear compensation policy in place is also a requirement of the Housing Ombudsman.

2 Scope

This policy sets out our approach to managing compensation claims and other financial awards and outlines the circumstances in which we may pay compensation to customers, and it should be read in conjunction with our Complaints Policy. This policy does not apply to members of the public with whom we do not have a contractual relationship. It includes:

- Goodwill gestures
- Fixed compensation payments
- Discretionary payments

3 Policy

Our policy in relation to compensation is as follows:

- We will say sorry and put things right as quickly as possible when things go wrong.
- We will consider offering compensation when an apology is not sufficient and where the service loss or failure has had a more serious impact on the customer.
- Offers of compensation will be considered proactively: for instance, we may offer compensation to all customers affected by a service failure rather than waiting for claims.
- Compensation will be considered where we do not follow our own policies and procedures and this has had a material, adverse effect on the service user.
- We will not make any compensation offers or payments until any outstanding works have been resolved or, where a complaint has been lodged, it has been fully investigated. The only exception to this will be out-of-pocket expenses which may be paid earlier at the service manager's discretion.
- Any customer seeking to make a claim should do so within a maximum of 28 days of becoming aware of the loss or other detriment occurring. Any claim made six months or more after the resolution of the issue to the satisfaction of the customer or where their complaints procedure has been exhausted, will not normally be considered. Outside of this timescale, we may consider compensation where there are exceptional circumstances, and/or where there are good reasons for the delay.
- We may also offer a discretionary payment to customers where there has been clear stress and upset due to failures in responding to their complaints or other requests for service within the specified timescales or, where we have responded, we have done so inadequately.
- Before payments are made to customers, we will check their rent or service charge accounts, and with other council services, to see whether there are existing debts owed. We will fully, or partly, offset any compensation payment or award against debts owed to us. The exception will be for reimbursing any immediate out-of-pocket expenses.

4 Service failures and losses

Examples of the type of service failures and losses that may result in a claim for compensation are as follows:

- Failing to follow our policies, procedures or guidelines where this has had a material adverse effect on the service user
- Unreasonable delays in providing any service where there is no good reason for this, i.e. when the matter could have been raised at any point but was not
- A loss of facilities/amenities in the home e.g. heating or hot water, if this cannot be remedied within a reasonable timescale and where it was not possible to supply an alternative short-term remedy, e.g. a heater where there was a failure in the heating system
- Failure to complete repairs within agreed response times (not applicable to leaseholders)
- Failure to respond to or process a complaint within our target times where there is no good reason for this
- Failure of staff/contractors to take care e.g. loss or damage to personal property during repair work
- Failure to attend a booked appointment without good reason (not because the customer changed the appointment date/time) or notifying you that we cannot attend. But we will not pay compensation if: the delay was outside of our control, for example, if there is a strike, inclement weather or another urgent matter which the officer had to prioritise, or the customer did not give us access to their home or caused delay in any other way.

5 Force majeure

Where there are unforeseeable circumstances that impact on our ability to deliver key services, this policy may be suspended with the agreement of the service director, housing. Examples of incidents which may merit this decision include:

- Extreme weather, e.g. snow, flooding
- Public health, e.g. pandemic
- Strikes affecting delivery of any part of the service
- Serious local incident affecting all or some of the town such as major fire, terrorism etc.

6 Exclusions

Some claims for compensation are excluded from this policy as follows:

- Claims for personal injury
- Claims that would normally be covered by home contents insurance
- Claims that are covered by a statutory scheme such as right to repair or right to compensation for improvement
- Formal disrepair claims
- Cases that are subject to ongoing legal action by the customer

7 Principles for awarding compensation

In awarding compensation, we will be fair and proportionate. It is a principle of this policy that compensation should not be made to cover up service failures. Where we have failed

to provide a service or been negligent, we will seek to learn lessons from our mistakes and put things right for the future.

Discretionary financial compensation is provided to address:

- Actual financial loss, and/or
- Compensation for loss of amenity or distress

8 Leaseholders

Where a leaseholder lets the property out, we will not compensate for loss of rental income due to a repair issue or loss of service. Any compensation paid will be discussed with and credited to the leaseholder directly and not any tenant of the leaseholder. We will pay for missed appointments on communal repairs if we have specifically requested that the leaseholder be present.

9 Receiving and handling compensation claims

Customers can make a compensation claim in several ways. These include:

- Completing an online feedback form
- Verbally by telephone or in person
- In writing by post or email to (add email address)

All claims will be acknowledged within 5 working days and timescales for completing assessments and assessing claims will be discussed with the customer. Compensation claims will be dealt with according to the procedure at Appendices A (actual loss and discretionary compensation payment procedure**)** and B (framework for compensation payments)

Staff may advise, but not support, customers in making compensation claims. For customers who need help with submitting a claim, staff will signpost them to consumer organisations such as citizens' advice. Where compensation claims are linked to complaints, they will be dealt with in line with our complaints policy and procedure.

10 Investigating and assessing compensation claims

We will consider the following circumstances relevant to the claim:

- whether the customer (or their household) has specific needs that were made worse by the issue/situation
- The difficulties the customer experienced when living with the issue and in dealing with us to resolve it (e.g. the time, effort and level of distress/ inconvenience caused to the customer by the service failure)
- Direct financial loss incurred by the customer e.g. missed appointments resulting in fine or out-of-pocket expenses (proof needed) or where the customer must pay an excess on their insurance
- How we communicated with the customer.

11 Goodwill gestures

We may offer a goodwill payment in recognition of the time and trouble the customer may have taken to get the issue resolved.

12 Service charges

Where there has been a loss of communal service or facility, we will fully or partly refund service charges to all customers (including leaseholders and shared owners), regardless of whether they make individual claims. This includes:

- Continuous unavailability of services such as lifts, TV aerials, or communal lighting for more than seven consecutive days
- Grass not cut in growing season for more than one month – unless other works are ongoing which prevent this, or the weather prevents this, e.g. rain. Growing season is usually between March and November
- Communal areas not cleaned in line with service standards on more than two consecutive occasions for low rise flats, or 5 consecutive days for high-rise flats and sheltered housing. Payment will be made from the third/sixth and subsequent periods in which the service is not provided.
- We will partly or fully offset a compensation payment or service charge refund against any debt owed to us by the customer, including rent arrears (except reimbursements for out-of-pocket expenses). Any remaining amounts will be paid to the customer. However, all payments below £25 will be paid into the rent or service charge account rather than direct to the customer due to the cost of raising a payment.

13 Key checks

In all cases, check with the Council's insurance and legal teams due to potential liability issues before processing any claim.

14 Monitoring and evaluation

We will monitor all compensation claimed, awarded and refused. We will record the type, amount and the reasons for the decision. Information on all compensation payments will be included in performance reports and tenant partnership board. Where there is learning from compensation claims this will be reported to tenant partnership board and included in our annual report to tenants. In addition, the data will be evaluated for consistency, which will help shape improvement plans.

15 Equality and diversity

Luton council is committed to valuing and promoting equality and diversity. We recognise we have a duty to eliminate unfair treatment and discrimination in the services we provide and to promote and value respect in everything we do. We expect our staff to share these values and treat all customers with fairness and respect.

16 References

Guidance on Remedies – Housing Ombudsman Service (March 2019)

Document amendment history

1

Version	Type	Date	Brief Description of changes
1.0	New	October 2020	New policy Author: Sarah Markham
2.0	Approval	June 2021	Approved at Admin and Regulation Committee

17 Appendix A

Compensation payment procedure

17.1 Request for compensation or goodwill gesture received and acknowledged within 5 working days by service manager. Requests do not have to be in writing but the officer receiving the request must take all relevant details of the reasons for the request and pass these details onto the service manager.

17.2 Service manager to check with insurance and legal team before proceeding.

17.3 Service manager carries out an assessment of the claim, checking that it falls within the policy initially. Where it does not the service manager must write to the customer and inform then that their claim has been refused and the reasons why.

17.4 Where the service manager determines that the claim falls within the policy s/he must:

- For cases of actual financial loss – gather all relevant information on the case, to include all relevant costs including copies of receipts and other proofs. To carry out any research into the costs of reinstatement or other remedy. To investigate any legal or insurance implications. Where the service manager identifies a case for potential payment to check whether there is any debt either owed to housing or other council services. To provide full information to head of service and propose a sum, and/or other remedy, that is reasonable according to the circumstances of the case.

- For cases of discretionary compensation – gather all relevant information on the case, to investigate and provide a report detailing the circumstances of the claim, any legal or insurance implications and any relevant or mitigating information. Where the service manager identifies a case for potential payment to check whether there is any debt either owed to housing or other council services. To provide full information to the head of service and propose a sum, and/or other remedy that falls within the criteria in the council's compensation policy and is reasonable according to the circumstances of the case.

17.5 For goodwill gestures - these can be agreed by the head of service up to a value of £100.

17.6 For actual loss and discretionary payments - head of service to consider the claim and assess reasonableness of the offer. To refer to service director, housing for final agreement.

17.7 Service manager to arrange for payment of compensation or other remedy ensuring is made as an ex-gratia no-liability payment, in full and final settlement.

17.8 Where a customer is dissatisfied with an offer of compensation, they must contact the service manager and provide a detailed explanation of the reasons for their dissatisfaction. This will be submitted to the service director, housing for a final determination which will be conducted based on the reasons given. The service director, housing will confirm the outcome of this review to the customer in writing within 10 working days. The decision of the service director, housing is final.

18 Appendix B

Framework for compensation payments

Level of award	Criteria	Examples of when used
Awards of £50 - £250	• Very limited impact on customer • Short duration • No or limited effects on outcome for complainant • Distress and inconvenience • Time and trouble • Disappointment • Loss of confidence • Delays in getting matters resolved	• Repeated failures to reply to letters or return phone calls • Not having regard to a complainant's preferred method of contact or contact requirements • Failure to meet service standards for actions and responses but where the failure had no significant impact • Incorrectly addressing correspondence (so as to cause offence/upset, but not a breach of data protection requirements)
Awards of £250 to £700	• Considerable service failure or maladministration • Minimal impact on the customer	• Misdirection – giving contradictory, inadequate or incorrect information about a complainant's rights (for example in relation to decants, mutual exchanges, or preserved Right To Buy) • A complainant repeatedly having to chase responses (which have not been made in a reasonable time) and seek correction of mistakes, necessitating unreasonable level of involvement by that complainant

Level of award	Criteria	Examples of when used
Awards of £250 to £700	• Considerable service failure or maladministration • Minimal impact on the customer	• A complainant being repeatedly passed between staff and / or teams, with no one officer or department taking overall responsibility, or not taking responsibility for sub-contracted services • Failure over a considerable period of time to act in accordance with policy – for example to address repairs; to respond to antisocial behaviour; to make reasonable adjustments • Serious failures but which have already been recognised and resolved including redress for actual financial loss • Repeated failure to meaningfully engage with the substance of the complaint, or failing to address all relevant aspects of complaint, leading to considerable delay in resolving the complaint • Significant failures to follow complaint procedure, escalate the matter or signpost the complainant
Awards of £700 and above	• Maladministration / severe maladministration • Severe long-term impact on the complainant • Significant and serious long-term effect on the complainant, including physical or emotional impact, or both	• Long stay in temporary accommodation due to mishandling of repairs • Mishandling or lack of impartiality in an antisocial behaviour case leading to exacerbation of tenant relations • Erroneous or premature threat of eviction • Failure to make reasonable adjustments after having clearly identified the need for such adjustments • Landlord unreasonably withholding permission for assignment of tenancy which results in it no longer being available • Serious mishandling or misdirection leading to potential loss. For example, delays in a Right to Buy application resulting in a loss of favourable mortgage offer.

Indicative maximum compensation levels

Reason for compensation	Maximum payable
Time and Trouble	£700.00
Distress	£350.00
Service failure – low impact	£50.00
Service failure – high impact	£500.00
Goodwill gesture - decoration voucher	£100.00
Goodwill gesture – Love to Shop voucher	£75.00

Worked examples:

Actual financial loss:

Replacement of fencing where insurance will not pay for damage by housing:

2 metres of fencing damaged:

BTS charge for 6ft high wooden fencing = £32 per linear metre

Online checks show prices between £25.00 plm and £50 plm

Offer made of either:

£64.00 or to reinstate fencing plus time and trouble payment of £50.

Total payable: £124.00
Or
£50 + reinstatement of fencing by BTS

Discretionary compensation:

Failure to clean communal areas on 4 occasions in low-rise block:

Verify cleaning missed with concierge manager.
Check type of block – low rise so eligible for payment after two consecutive missed cleans

Service charge for cleaning in block: £3.37 per week

2 x £3.37 = £6.74

Total payable = £6.74

As issue is likely to have affected all residents in the block payment will be made to all residents whether or not they have complained.

Failure to respond to repeated requests for tenancy change due to death of joint tenant plus repeated letters sent out in joint names

High impact due to recent bereavement and stress of chasing changes:

Time and trouble payment	£100
Distress	£250

Total payable £350