



# Lancaster City Council

## Housing and Property: Council Housing

# Compensation and Redress Policy

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## 1. Introduction & Policy Objectives

- 1.1. This policy outlines how we will provide a fair and proportionate response to managing tenant compensation claims to ensure Lancaster City Council – Council Housing complies with all statutory and regulatory compensation obligations and provides an accountable and fair system.
- 1.2. We will not promise anything that we cannot deliver or that would cause unfairness to others.
- 1.3. Our approach follows Part 6 of The Housing Ombudsman’s Complaint Handling Code, which is dedicated to ‘Putting things right’ also commonly known as “remedial action”.
- 1.4. We want to positively impact the lives of our social housing tenants. This policy will make sure that we listen to tenants and work with them if services fall below our published standards.
- 1.5. Our aim is to provide fair redress by returning residents to the position they would have been in if the service failure had not occurred. We recognise that a range of remedies may be needed to resolve an issue, but in some cases, financial compensation may be the most appropriate form of redress.
- 1.6. This policy aims to ensure that compensation payments are fair and proportionate. Each case will be assessed on its individual merits, applying discretion and common sense while maintaining consistency. The policy also acknowledges our responsibility for any harm or damage caused by third-party contractors working on our behalf, ensuring that residents receive appropriate redress for such incidents.

## 2. Scope

- 2.1. This policy applies to all properties/tenancies where Lancaster City Council – Council Housing is the landlord, including Leasehold properties.

## 3. Legislation, Regulatory Standards & Approved Codes of Practice.

- 3.1. Council Housing is governed by legislation and good practice relating to the payment of compensation. This is used to decide when and how much compensation will be payable. Compensation payable under legislation includes:
  - Planning and Compensation Act 1991
  - The Home Loss Payment Regulations
  - Housing Act 1985
  - The Leasehold Reform, Housing and Urban Development Act, 1993
  - Right to Compensation for Improvements:
    - The Housing Act 1985 and the
    - Secure Tenants of Local Authority Regulations 1994.
  - Home Loss and Disturbance payments
    - Land Compensation Act 1973 as

- amended by the Planning Act 1991.
- The Housing Ombudsman's Complaint Handling Code, 2022
- Right to Repair

## 4. Circumstances in which compensation will be issued.

### 4.1. Compensation is considered in several categories:

4.1.1 **Mandatory Payments**, where we are required by law to compensate, payments will be made in line with statutory requirements. Payments include:

- a) statutory home loss payment, made to tenants or owner-occupiers required to move home permanently.
- b) disturbance allowance, made to tenants required to move to another property.
- c) right to repair scheme, which covers specific repairs that should be completed within a set time limit; and
- d) Ombudsman determinations, Council Housing will fully comply with any Ombudsman determination to pay compensation for maladministration or service failure.

4.1.2. **Discretionary Payments**, it is important that tenants are compensated fairly where we have failed to deliver our published service standards, e.g. (this is not an exhaustive list)

- a) poor complaint handling.
- b) delays in providing a service.
- c) failure to provide a service that has been charged for.

Discretionary payments also take into consideration the upset, discomfort, worry, frustration, or uncertainty caused to the tenant.

4.1.3. **Quantifiable loss**, it is important that customers are compensated fairly where they have experienced an actual monetary loss, such as:

- a) increased energy bills.
- b) replacing damaged furnishings; or
- c) decoration costs.

Any costs must have been reasonably incurred and evidence of loss/receipts must be provided before a payment is made. Any award will take wear and tear into account and compensation will not be paid on a new for old basis.

## 5. Other Remedies

5.1. Council Housing provide a flexible approach to considering different remedy solutions.

5.2. Below provides a summary of the types of remedies we may offer outside of compensation payments (this list is not exhaustive).

- apologising,
- rectifying our mistakes,
- a change of decision or policy,

- additional Service in kind, this is a service above our normal service offer to support the customer, i.e. decorate a room, fit cooker etc,
- making a financial offer of compensation in accordance with our policies and procedures, by way of rent credit.

## 6. How compensation will be calculated

### 6.1. Mandatory Payments

6.1.1. **Home Loss** - Home loss payments may be made to secure who have lived in their home for a minimum of 12 months and are required to move permanently because of redevelopment or demolition of their home. Home loss payments are reviewed annually by the government and each regeneration scheme will have a specific strategy which will include home loss payments.

6.1.2. **Disturbance** - Disturbance payments may be made to households who are required to move to another property either temporarily or permanently. This is a payment made for reasonable moving costs and will be managed through the Decant Procedures.

6.1.3. **Right to Repair** - This scheme covers 'qualifying repairs,' which cost less than £250 and should be Council Housing's responsibility and completed within a set time limit. Failure to complete them within the time may result in a compensation payment.

a) These repairs should be completed in 1 day:

- Loss of electric, gas or water (unless due to utility company or planned maintenance).
- Gas leak or potentially hazardous electrical fault.
- Loss of heating or hot water (between 1 October and 30 April).
- Leak from water or heating pipe, tank, or cistern
- Insecure external door or window (not including communal).
- Blocked flue to open fire or boiler.
- Making a property secure.

b) These repairs should be completed in 28 days:

- Faulty electrical equipment posing no danger.
- Minor repairs to joinery.
- Non-emergency faults to bathroom sink or toilet.

Compensation rates are legislatively set, and more information about these rates can be found at: <https://www.legislation.gov.uk/ukxi/1994/133/made>

6.1.4. **Ombudsman Determinations** – There is no prescribed limit to how much the Housing Ombudsman can order a landlord to pay in compensation. However, this is based on numerous factors. Council Housing will fully comply with any Ombudsman determination to pay compensation for maladministration or service failure.

## 6.2. Discretionary

6.2.1. This policy provides guidance on when discretionary compensation will be offered. This includes gestures of goodwill. Discretionary compensation will normally only be paid where there has been:

- Actual, proven monetary loss sustained as a direct result of a service failure or mismanagement, and/or
- Avoidable inconvenience, distress, detriment, or other unfair impact due to the service failure or mismanagement

As is the nature of discretionary decisions; compensation will not be offered in each case and will be decided on a case-by-case basis.

6.2.2. All compensation payments must be appropriate and proportionate. A Manager or Head of Service may agree compensation up to £500. Any payments exceeding this amount must be authorised by the appropriate Chief Officer.

6.2.3. Discretionary compensation can include payment for:

- Damage to property or decorations because of negligence by an employee or contractor. Unacceptable delays in providing services which have resulted in serious distress or inconvenience.
- Unacceptable responses to upheld or partially upheld complaints which have caused distress or dissatisfaction due to poor complaint handling.
- Additional costs incurred because of a failure in service.

6.2.4. The amount paid will depend on the impact to the person making the complaint.

- **Minor impact – up to £50:** Complaint has been upheld and there has been minor inconvenience or distress caused. Impact has been no more than a reasonable person could be expected to accept and the compensation is a token in acknowledgement of our responsibility. This type of payment would generally be recorded as a gesture of goodwill.
- **Medium impact - £50 - £250:** Inconvenience and/or distress has clearly been caused as a result of a failure in service. Failure to follow the Complaints Policy, to investigate the complaint or poor handling of the complaint. A repeated failure of a low impact event could result in the impact being increased to a medium impact.
- **High impact – £250 - £500:** A serious failure in service has taken place. This could either be due to the severity of the event or a persistent failure has occurred over a prolonged period or an unacceptable number of attempts to resolve the complaint.
- Payments should take into account the level of stress, anxiety, frustration, uncertainty, and inconvenience caused.

- 6.2.5. We reserve the right to use discretion when applying this policy and may deal with a complaint differently depending on the individual circumstances of the household. In such circumstances any discretion will be applied fairly and appropriately. Only one claim can be made per household.
- 6.2.6. Offers of compensation will remain valid for 3 months, after which it will be classed as being rejected. If a customer is unhappy with an offer of compensation made as part of a complaint the amount will be reviewed as part of the complaints process.

### 6.3. Quantifiable Loss

6.3.1. If there has been an actual, evidenced monetary loss incurred as a direct result of our mismanagement or service failure we will consider the specific circumstances when considering a payment of compensation.

6.3.2. Examples of quantifiable loss could include:

- increased heating bills due to disrepair,
- having to pay for alternative accommodation or take away food,
- paying for cleaning or conducting repairs where a landlord has failed to meet its obligations.

6.3.3. Any such costs must have been reasonably incurred and evidence of such loss has been provided.

### 6.4. Payment

6.4.1. In all cases, payment will be made to residents by BACS.

## 7. Where will compensation not be considered?

7.1. There are circumstances when compensation will not normally be considered. These are when it is/relates to:

- The fault of a third party not contracted by Council Housing (e.g. utility supplier).
- Covered by customers' own home contents insurance.
- A situation which has been caused by the complainant (e.g. neglect/lack of action or wilful damage).
- Subject to tribunal or legal proceedings, (for example, where there is a Possession Order, or Suspended Possession Order against the complainant).
- Due to circumstances beyond our control e.g. severe weather.
- Requests for repair or replacement of fixtures/fittings which are not our responsibility.
- When contractors cannot get into a complainant's home, despite having made and kept to an agreed appointment.
- When a complainant has been advised of extra works required and has been kept informed.
- Due to advanced warnings about loss of service or fault, where we complete the work within specified timescales.

- If a complainant chooses to instruct a solicitor or seek legal advice, they will be responsible for the costs incurred in doing so and will not be able to recover legal costs as part of any compensation.
- Where a customer has unreasonably prevented or delayed resolution of the issue.
- Where there is evidence that a resident's lifestyle has resulted in condensation and mould growth due to a lack of heating or ventilation, or lack of adequate airflow.
- Where a complaint has been previously investigated and closed.
- Claims for personal injury.
- Where compensation has already been paid for the matter

### 8. Monitoring

- 8.1. The effectiveness of this policy will be reviewed through monitoring of compensation spending. This will be recorded and reviewed on a quarterly basis.

### 9. Related Policies

- 9.1. The following policies relate to compensation and redress.
- Complaints
  - Repairs and Maintenance
  - Decant Procedure
  - Unreasonable Behaviour

### 10. Review

- 10.1. This policy will be reviewed in 2 years or sooner to address any legislative or regulatory changes. Or in response to any operational issues.