

Housing & Regeneration Policy and Scrutiny Committee

Date:	12 December 2023
Classification:	General Release
Title:	Housing Compensation Policy
Report of:	Sarah Warman, Strategic Director Housing and Commercial Partnerships
Cabinet Member Portfolio	Housing Services
Wards Involved:	All
Policy Context:	Fairer Housing
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1 Executive Summary

- 1.1 The Council is developing a new compensation policy for housing management services. The requirement for a new policy is a Fairer Westminster strategic objective and part of our commitment to improving complaint resolution and learning. We are on track to complete this work in the current financial year.
- 1.2 This report provides an update on the policy following consultation with communities and provides a summary of the feedback from residents with the proposed changes to be made following the consultation.

2 Key Matters for the Committee's Consideration

- 2.1 Members are invited to consider the feedback on the draft policy following community engagement and to recommend the most appropriate amendments that could be considered in the interest of reasonableness and fairness, including complaint handling.

The responses will be added as recommendations to the report that will be submitted to the Cabinet Member for Housing to approve the revised Compensation Policy.

3 Background

- 3.1 The Housing Ombudsman expects social housing landlords to have a compensation policy as part of their complaint handling documentation to provide guidance on when they will consider offering discretionary compensation.
- 3.2 The Housing Ombudsman service has published guidance on remedies to complaints, including compensation which social landlords are required to follow. The Council's housing service strives to ensure that current compensation offers are in line with that guidance.
- 3.3 The Council does not have a compensation policy specifically for the Housing Service and a commitment was made by this administration to review the Council's compensation scheme for service failures with a view to looking at what more can be done to compensate for repairs delays.
- 3.4 Production of a new compensation policy for landlord services provides us with an opportunity to set out our approach to ensure we provide a fair and consistent approach when assessing claims for compensation, taking into account the severity of the failure and the impact on residents.
- 3.5 The compensation policy covers payments when we fail to meet our service standards to our tenants and leaseholders, or where we have provided a poor service and a tenant or leaseholder has suffered a loss and/or inconvenience because of this failure.
- 3.6 Key to the Ombudsman's approach is ensuring offers made by landlords are reasonable and proportionate in the circumstances of the case, taking into account the impact.
- 3.7 The draft housing compensation policy incorporates the Housing Ombudsman's guidance on compensation remedies and aims to standardise payments for specific service failures whilst also providing flexibility to reflect the impact of a service failure on the resident in the award.
- 3.8 During work on this policy the Housing Ombudsman issued new guidance on remedies which includes revised compensation levels. The draft policy will be amended so that the values match those recommended by the Housing Ombudsman before being presented to the Cabinet Member for Housing for approval. It will also include recommended timescales for review of the values on a regular basis.
- 3.9 The Council's social housing service is overseen by the Regulator of Social Housing and the Regulator works closely with the Housing Ombudsman

Service to understand landlords' performance. That relationship is set out in the Social Housing Regulation Act 2023.

3.10 The Housing Ombudsman has published its Complaint Handling Code for complaint handling and compliance with the Code forms part of the membership obligations set out in the Housing Ombudsman Scheme. The Ombudsman takes action on any failure to comply with the Code.

3.11 It is important that our Compensation Policy is compliant with the Housing Ombudsman's guidance on remedies and Complaint Handling Code.

3.12 The Complaint Handling Code requires a complaint to be defined as:

'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents. The resident does not have to use the word 'complaint' for it to be treated as such.'

3.13 Requests for compensation fall under this definition and therefore must be considered as part our complaints process. In addition, residents who wish to approach the Housing Ombudsman Service to review their complaint or compensation claim must have first exhausted the Council's complaints process.

3.14 It is therefore recommended that all requests for compensation under this policy are recorded as a complaint and that consideration is given to how the process can be made as quick and simple as possible for residents.

4 Developing a draft Housing Compensation Policy

4.1 The Draft Housing Compensation Policy seeks to:

- Provide a consistent approach to awarding compensation which is reasonable and fair.
- Make the process of assessing compensation as simple as possible, to minimise customer effort and ensure that claims are assessed and paid quickly and efficiently.
- Enable practical solutions to be explored to address complaints on a case-by-case basis
- Ensure compensation paid helps inform our learning and makes our services better

4.2 During the summer, the Housing Residents' panel and the Housing Chairs and Secretaries group were invited to complete a short pre-consultation survey on the contents of a draft Housing Compensation Policy. A total of 14 responses were received. Their feedback is summarised below and fed into the development of the draft policy before wider consultation was carried out:

- 9 respondents (64%) agreed that in addition to financial compensation, other remedies should be considered.
- 11 respondents (79%) respondents were not aware that compensation can be claimed for a service failure
- Compensation assessments should consider the impact of the service failure on the resident.
- In addition to financial compensation, there should be recognition from the Council when there is a service failure
- We should seek good practice in complaints and compensation from other councils.
- Compensation should be awarded when contractors do not attend appointments
- Compensation should be awarded for heating breakdowns
- To incorporate clear guidelines and fairness
- To explain how much compensation a resident can receive.
- Compensation should be awarded for a service that has not been delivered to standard, has been unreasonably delayed/postponed, where there is a loss of income/effect on wellbeing.
- Primarily, an acknowledgement of the Council's error and genuine apology.

4.3 In addition to financial remedies most of the respondents agreed that the service should also consider more alternative compensation remedies to service failures. Examples for additional remedies included decoration vouchers, shopping vouchers, written apologies etc. Responses advised remedies should be dependent on the severity of the failure and impact towards the tenant.

4.4 A copy of the draft Housing Compensation Policy is attached as Appendix A

4.5 This version has been reviewed by Legal Services and an Equalities Impact Assessment was completed and is also attached at Appendix B.

5 Resident engagement and consultation

5.1 Consultation on the policy took place between 11 September 2023 and 9 October 2023 and included a range of methods for residents to get involved to maximise the response. This included an online survey, in person events and use of social media.

5.2 The online survey was designed to test the policy aims and objectives and identify any areas for further development. It was available alongside a copy of

the draft policy and a summarised version of the policy. This work was carried out with the help and support of the Council's Quality Improvement Board.

- 5.3 Opportunities for face-to-face consultation with residents on the proposed policy were also offered, with support to complete the online survey.
- 5.4 Drop in-sessions were offered as follows:
- 14 September 2023 West Area Housing Service Centre
 - 21 September 2023 South Area Housing Service Centre,
 - 28 September 2023 Central Area Housing Service Centre,
 - 28 September 2023 North Area Housing Service Centre
 - 5 October 2023 Queens Park Housing Service Centre
- 5.5 The policy was also promoted at community events during the consultation period, including on 9 September at John Aird Court and 17 September at the Brunel Estate community event.
- 5.6 Social media content was developed to promote survey engagement via Facebook, Twitter (now X), Nextdoor and the online Housing magazine as well as some paid social media messages to raise awareness.
- 5.7 Posters and postcards were distributed in housing offices, and other suitable community locations, to reach tenants and leaseholders on Council estates as directly as possible. All materials featured URL and QR codes. The Housing Customer Contact Centre was briefed to provide help to anyone requiring help with completing the online survey.
- 5.8 The Housing Residents panel and the Housing Chairs and Secretaries group were contacted and directed to the online consultation survey.
- 5.9 SMS messages were sent to all Council tenants and Leaseholders for whom we hold a mobile phone number alerting them to the consultation.

6 Consultation Summary

- 6.1 391 residents visited the on-line consultation, and 237 residents gave their feedback on the draft policy by completing the online survey. Global majority voices were well represented with 46% of respondents identifying as white, 37% as BAME and 17% preferring not to say. Responses were received from all age groups but older residents responded in higher numbers. A breakdown is provided at Appendix C.
- 6.2 The survey asked a series of questions with the opportunity to provide comments against each question. The results, including a summary of comments are provided below. For a more detailed analysis of the feedback provided please see Appendix D.

6.3 One weakness of the consultation process was that residents were not invited to provide a comment if they gave a positive response to a question. Comments are therefore limited to negative feedback. We will ensure that residents are able to provide comments when responding positively to questions in our future consultations.

6.4 The majority of respondents agreed that:

- the proposed compensation levels are about right
- the policy is fair and reasonable
- the policy is clear and transparent
- we should take into account individual circumstances

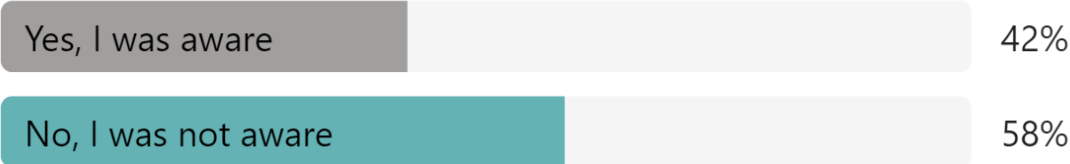
75% of respondents agreed that the policy is clear and transparent and 83% agreed we should take into account individual circumstances. Responses were less positive on ‘the proposed compensation levels are about right (44% agreed and 18% didn’t know) and ‘the policy is fair and reasonable (52% agreed and 10% didn’t know)

This disparity may be due to residents hoping to receive more compensation than is currently described in the scheme. To address this disparity we propose to:

- ensure that the levels match the those set by the Housing Ombudsman
- include more information on other ways of seeking redress which are outside of the scope of the compensation policy, such as through the Council’s insurance policies
- include some worked examples of how the scheme will be applied to show how multiple awards are possible to reflect impact

The results also show that the current compensation process needs improvement and not many residents are aware of it or how to claim.

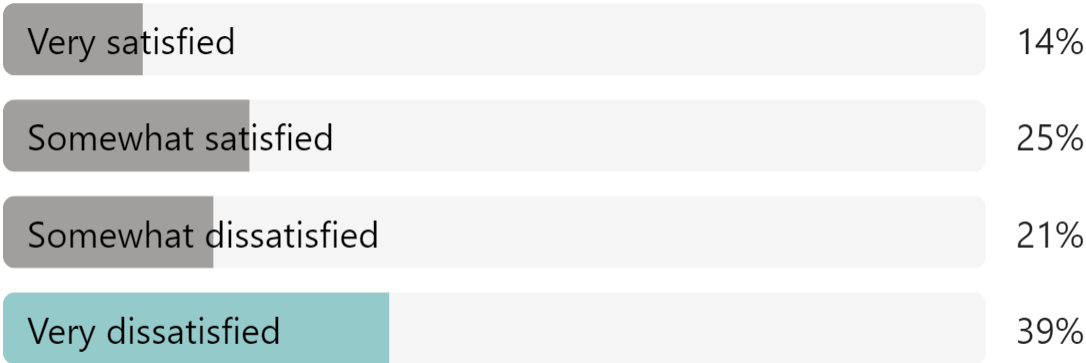
6.5 Were you aware that you could claim compensation for service failure?



6.6 Have you claimed compensation before?



6.7 If you have claimed compensation, how satisfied or dissatisfied were you with the process?

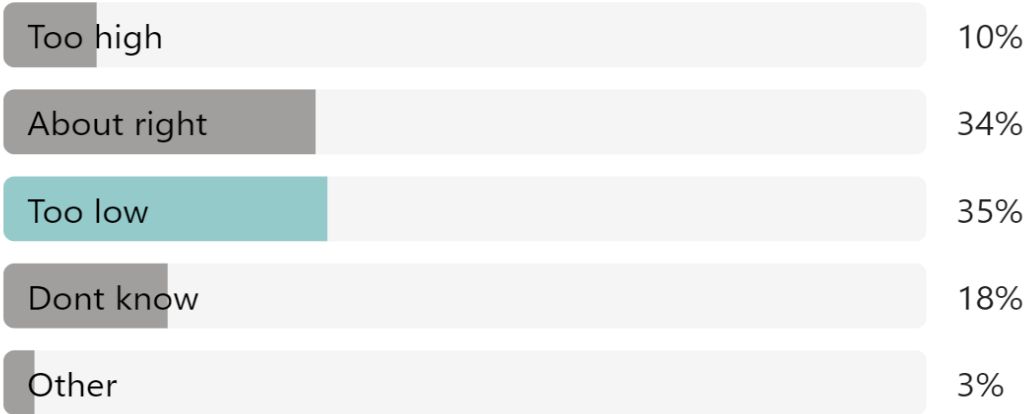


34 residents who had experience of the current complaints/compensation process provided comments. Those comments have been aggregated into five themes as follows:

- The process was inefficient/took too long/was unclear - 21 residents (62%)
- The compensation offered was too low - 9 residents (26%)
- The process lacked empathy - 9 residents (26%)
- There was no learning/the failure was repeated - 5 residents (15%)
- The role of insurance/what could be claimed for was unclear - 4 residents (12%)

These same themes were repeated across the survey with respondents requesting improvements.

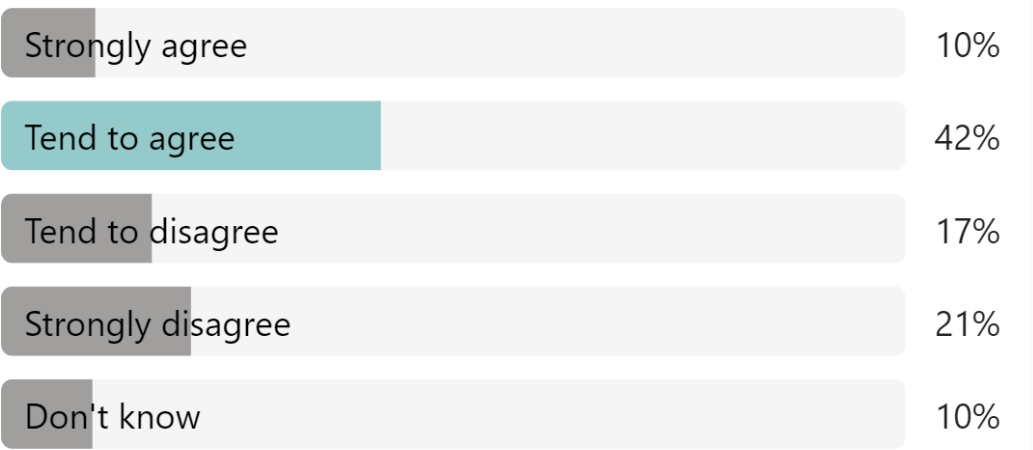
6.8 Do you think the draft policy has set the right levels for compensation?



Comments included:

- The policy is too vague
- The policy includes too many exclusions (clarity on what can be claimed is needed)
- The policy does not account for loss of earnings for missed appointments
- The policy is not required (a number of responses were received with this theme)
- More focus should be put on improving housing services rather than producing a Housing Compensation Policy
- It needs to be clear where the money comes from

6.9 Do you agree/disagree with the statement 'the draft policy feels fair and reasonable'?

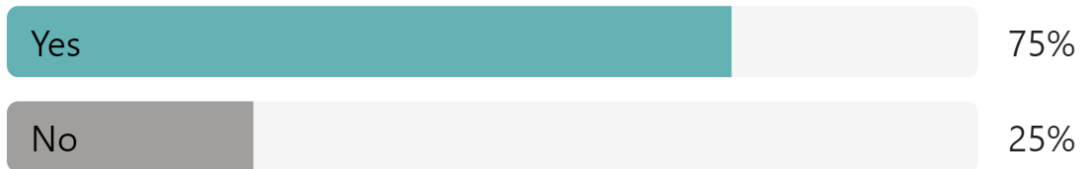


Comments included:

- The policy has too many exclusions
- The policy needs to be clearer with regards to vulnerable people

- The policy needs to include more examples
- More clarity is needed on timescales for claims
- More detail on the claims process
- It needs to be clearer with regards to who can claim (leaseholders and their tenants)

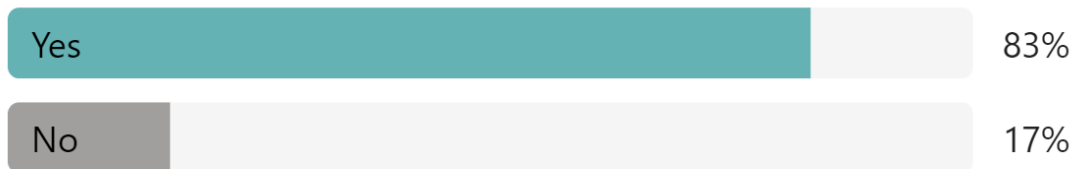
6.10 Is the draft policy clear and transparent?



Comments included:

- Where is compensation paid from?
- The policy is complicated and needs good literacy levels to understand
- The policy has a lot of 'no applicable' clauses
- There are no details of the application process and when the Council will offer payment without the need for a claim

6.11 Should compensation take into account individual circumstances?



6.12 Respondents were asked if anything was missing from the draft policy and to provide any further comments. Common issues raised included:

- The scope of the policy is limited with too many exclusions
- Improvements within the housing service generally are required
- Current compensation payments are too low
- The process needs to be quicker and easier to follow with named contacts
- More should be done to identify trends and learning as a result of compensation and to act on them

7 Proposed amendments to the policy and process

The committee is invited to comment on the proposals for amendment and to identify any gaps in the policy that should be filled.

7.1 A clear and simple process

- 7.1.1 The comments show that we need to review the process for claiming compensation and re-design it to make it as clear and simple as possible; to minimise the time and effort required to make a claim and to make the process feel supportive for residents. The process forms part of the implementation plan to accompany the policy and the plan will be presented to the Cabinet Member for Housing with the report to approve the policy. The plan will include resident engagement.
- 7.1.2 The implementation plan will also include a review of the application process, updated procedures and staff training on new requirements to ensure compliance with the policy.
- 7.1.3 As part of the launch of the new policy we will produce guidance in plain English in different formats so that it is clear to follow, and residents know what to expect.

7.2 Compensation levels

- 7.2.1 35% of respondents said the proposed compensation levels were too low and we will ensure the levels mirror those required by the Housing Ombudsman.
- 7.2.2 The compensation bandings in the Ombudsman's new guidance have been raised and the amounts for failures such as delayed correspondence have also been increased to better reflect reasonable expectations.
- 7.2.3 We will ensure we update the policy each time the Ombudsman amends the guidance on remedies.
- 7.2.4 We will include some worked examples of how the scheme will be applied to show how multiple awards are possible to reflect impact. An example has been included at Appendix E.

7.3 Fair and reasonable

- 7.3.1 52% agreed that the policy is fair and reasonable.
- 7.3.2 There were a number of comments that the policy is not needed as there are other schemes that residents can claim under. There were also comments that there were too many exclusions.
- 7.3.3 The Compensation Policy is one of several options that residents can pursue to gain redress and the policy tries to ensure that overlaps between the purposes

of the different options are minimised. It does however mean that there are a lot of exclusions which are outside of the scope of the policy.

- 7.3.4 We will provide information on all of the options that residents have with regards to a claim in one place. This will include the role of insurance, leaseholder tribunals and legal action so that tenants and leaseholders are better informed of their options when choosing a route to follow.
- 7.3.5 We will add worked examples to the policy and to the accompanying guidance.
- 7.3.6 We will include clear timescales as well as what happens if there are delays, and timescales are not met as part of the application process.
- 7.3.7 We will also add in how compensation will be approved to demonstrate a commitment to scrutiny, consistency and fairness in its application.

7.4 Clear and transparent

- 7.4.1 75% of respondents agreed the policy is clear and transparent, however we received responses from residents who did not believe a policy is needed. Questions were also raised as to where compensation is paid from and what learning there is from claims.
- 7.4.2 We will expand the explanation of who can claim compensation under this policy and that compensation is paid from the Housing Revenue Account.
- 7.4.3 We will also explain that we recoup compensation from contractors where this is appropriate, for example when there are delays in completing work.
- 7.4.4 We will consider how best to publish more information on trends, common issues and learning from compensation claims and complaints and how we are improving services. We will work with our Resident Panel on how best to do this.

7.5 Consideration of impact

- 7.5.1 83% of respondents agreed that we should consider the individual circumstances when assessing claims and this will be built into the assessment process.
- 7.5.2 We will amend the claim form so that information on impact is a mandatory field

8 Financial Implications

- 8.1 The Policy sets out a framework that should ensure there is a consistent approach to responding to a service failure through a compensation policy.
- 8.2 The financial implications will be contained within the Housing Revenue Account and there will be clear lines of approval for any such payments supported by record keeping identifying the approval process.

- 8.3 This does represent an area of financial pressure for the HRA revenue budget and there is nothing intrinsic to this policy that should have a direct bearing on the level of spend on compensation.
- 8.4 The housing service has a service improvement programme to address common sources of claims and drive up the quality of service provided.
- 8.5 It may be necessary in some instances to notify the Council's insurers of specific service failures, so it is important that in these instances Housing Services notify the Council's insurance team to ensure the most appropriate process is followed.

9 Legal Implications

- 9.1 Section 92 of the Local Government Act 2000 provides that the council can, if they think appropriate, make a payment to, or provide some other benefit for a person, if they consider action taken by the council exercising their functions amounted to maladministration.
- 9.2 Maladministration is undefined; however, it has been previously stated that it will cover "bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, arbitrariness and so on". It covers the manner in which a decision is reached, or discretion is exercised; but excludes the merits of the decision itself or of the discretion itself.
- 9.3 The Council can also consider the mechanism by which those payments can be approved and paid out to ensure prompt action. The current arrangement provides for officer approval and also approval by the General Purposes Committee above a certain amount.
- 9.4 Section 2 of the report clearly states that guidance from the Housing Ombudsman, Local Government and Social Care Ombudsman and the Regulator for Social Housing has been taken into account in drafting this Policy.
- 9.5 Sections 4 and 5 clearly outline consultation already undertaken by the Council in relation to the draft Policy and officers now seek the view of the Housing and Regeneration Policy and Scrutiny Committee.

10 Equalities Implications

- 10.1 An Equality Impact Assessment (EIA) for the policy was undertaken and reviewed by one of the Council's Community Equalities Managers. This can be found at Appendix B. Any negative impacts can be mitigated, and these are demonstrated in the EIA.

Appendices

Appendix A – Draft Housing Compensation Policy

Appendix B – Policy Equality Impact Assessment

Appendix C – Breakdown of respondents

Appendix D – Community feedback and proposed actions

Appendix E – Worked examples of compensation payments

**If you have any queries about this Report or wish to inspect any of the
Background Papers, please contact Report Author
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