

Policy & Procedure for CESSA / CESSAC Housing Staff / Tenants

H 26 – COMPENSATION POLICY

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Approved: CEO

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Preamble: CESSA HA/CESSAC (the Organisation) is committed to delivering quality services that consistently meet or exceed tenants' expectations (and even prospective tenants for some issues). However, there always has to be the possibility that, on rare occasions, the level of service provided might not achieve this. If the Organisation should fail to meet the standards it has set out, or that it is legally obligated to meet, and/or cause inconvenience to its tenants, it may make an offer of compensation.

Compensation may be either **statutory** or **discretionary (goodwill)**. These are not mutually exclusive and may be used in combination as appropriate.

- Statutory compensation: is where there is a legal, or other external requirement to compensate.
- Discretionary compensation: is other than above but is considered out of goodwill. It may be given where the Organisation decides that a level of service, action or inaction is not in line with the Organisation's service standards. This covers issues where the Organisation have financially disadvantaged a tenant.

The main pieces of legislation which apply are:

- The Land Compensation Act 1973 (as amended by the Planning and Compensation Act 1991).
- Right to Compensation for Improvements contained within part 1 of the Landlord and Tenant Act 1972.
- The Housing Act 1985 and 1988 as amended.
- The Home Loss Payment (Prescribed Amounts) (England) Regulations.

Policy

The Organisation will consider compensation for tenants (and occasionally prospective tenants) in accordance with this document. It will process any claims efficiently and sympathetically. This policy will be reviewed at least every three years unless otherwise required, i.e. due to regulatory or legislative change, or as an outcome of learning which has a material effect on this policy.

Applicability

This policy applies to all tenants of the Organisation (or housing applicants registered in its applications' pool); however, it does not apply to:

- those with whom the Organisation has no contractual relationship (e.g. which ceases on the death of a sole tenant).
- any issues raised with the Organisation through the courts or legal representation, nor does it apply when a claim through insurance has been made.

Responsibilities

It is the responsibility of all staff to ensure that any claim for compensation is dealt with quickly, effectively and in line with this policy.

Any person making a claim for compensation must provide honest and accurate information in relation to their claim and must be willing to provide supporting evidence where requested.

It is the responsibility of tenants to have home contents insurance and to claim on this insurance when it is deemed appropriate to do so. This policy is not intended to replace, or compensate for the lack of such insurance.

The Organisation will advise tenants of their right to compensation when appropriate and any actions necessary to claim. Tenants must request compensation within a prompt timescale. The Organisation will not normally compensate in respect of an event or service failure which occurred more than three months previously.

The CEO, or in their absence, the Director of Housing, has ultimate responsibility for scrutinising and authorising compensation requests.

Procedure

Tenants who consider that they have a case for compensation should write in the first instance to the Tenant Services Manager providing as much relevant information as possible. (Policies T01H & G – Tenants' Complaints state that the Organisation will consider the payment of compensation to a tenant where the Organisation's action or lack of appropriate action is demonstrated as having caused the tenant a personal financial loss or an unreasonable loss of a facility or normal service within CESSA HA/ CESSAC's control.)

Each claim for compensation will be considered on an individual basis, taking into account all relevant known circumstances and supporting evidence or documentation supplied. Where evidence is requested and is not supplied, claims may not be considered.

Where necessary, compensation will be offset against arrears, service charges or other debts owed to the Organisation, unlike where reimbursement is being made for loss and damage, or costs reasonably incurred, where it will take the form of a financial payment to allow for the financial disadvantage of the individual to be corrected.

The Organisation will not pay compensation/reimburse for:

- Damage or loss of items / property which should be covered by a tenant's contents insurance.
- Service failure where reasonable access has not been given to carry out services; tenants are expected to provide up-to-date contact details to enable the Organisation to arrange access to carry out work and to keep appointments made.
- Where requested access to deal with an emergency or urgent maintenance issue in the tenant's absence, has been refused.
- Loss that is due to negligence by the tenant; that is deemed to be the fault of a third party; or is beyond the Organisation's control.

- Insurance claims relating to financial loss, damage to third party property or personal injury, as a result of the Organisation's negligence, which will be dealt with in accordance with the insurance procedures.
- Cases where there is tribunal or legal proceedings underway.

Statutory & Discretionary Compensation

Statutory Compensation: May take several different forms, including:

- Compensation for Home Improvements:** Tenants may be entitled at the end of their tenancy to claim recompense if they have carried out qualifying improvement work to their home after 1 April 1994 with expressed written permission. The improvement(s) will be subject to an inspection to ensure it has not deteriorated beyond reasonable wear and tear. Claims may be submitted no sooner than 28 days before, or later than 14 days after the tenancy comes to an end. A full list of qualifying improvements and their notional lives **is set out in Annex A to this policy**. A flowchart to assist staff assessing home improvement compensation payable is at Appendix to Annex A.
- Home Loss Payment:** May be paid when a tenant has been permanently displaced from their home to move from their home to make way for demolition and/or development. This is a flat rate payment set by Government annually¹, and will only be paid where required by law and where the resident has been residing in the home for a minimum of 12 months. Payment will be divided equally between named tenants where applicable.
- Disturbance allowance:** Where tenants are being temporarily decanted, they should not be out-of-pocket, and the move may take the form of physically using the Organisation's own contractors and suppliers for most aspects. This avoids tenants having to pay in advance then claim and provides the best value-for-money. Tenants will be encouraged to use this service, but so long as any works carried out have been done by a competent and qualified person, they may use their own contractors and suppliers. If agreed in advance, reasonable reimbursement will be provided on the production of receipts, in line with the cost of the Organisation's contractors. Such expenses may include removals, disconnection and reconnection of appliances and utilities and installation of minor disability aids and adaptations where these are required and are not already available in the property being moved to. Disturbance Allowance should be paid in addition to a Home Loss payment where a tenant is being permanently displaced. Tenants who have lived at a property for less than 12 months may also be eligible.

A tenant will not be regarded as being permanently displaced if:

- There is an intention to move the tenant back to their original home on completion of works; or
- A tenant has chosen to stay in their temporary property rather than move back to their original home.

Discretionary Compensation: May take two different forms, including:

¹ £8,100 as at October 2023

- a. Goodwill compensation: This is discretionary and will be assessed on a case-by-case basis laid out in Annex B to this policy. Payments are made ex-gratia, where it is considered morally appropriate, without recognising any liability or obligation.
- b. Discretionary Remodelling Payments: In addition to disturbance allowance for temporary moves, the Organisation also considers offering payment to compensate for the upheaval involved. The current rate is £1,500 for the first move, and £750 for any subsequently made as part of the project.

Goodwill compensation may also be paid for the following:

- a. Service failure: Where the Organisation has failed to meet the Organisation's own service standards, either through not achieving a specified level of service, or adequately addressing an issue which is its responsibility.

Detailed information and figures outlining compensation payable, is contained in Annex B to this policy.

- b. Loss of Amenities or Rooms: If the Organisation is unable to complete a responsive repair within the set response times, resulting in the tenant losing the use of amenities and/or rooms, compensation may be awarded, calculated on the amount of the out of use rooms and rent payable (excluding service charges). Detailed information and figures outlining compensation payable, contained in Annex C to this policy.
- c. Service Charge Service Failure: In exceptional circumstances, compensation may be paid if such services are not carried out as promised.
- d. Stress, Upset and Inconvenience: If, through its actions or inaction, the Organisation has caused a tenant to experience stress, upset or inconvenience it may consider, on a case-by-case basis, compensating them for this.
- e. Loss and Damage: The Organisation may issue compensation to tenants as a result of decorations, furniture or personal items being damaged due to neglect by a member of staff or a contractor acting on the Organisation's behalf, where it has been reasonably proven. Where possible, compensation will be issued by way of a retail voucher, taking into account the value of the goods at the time of the loss and/or the damage, rather than the full replacement value.
- f. Goodwill Gestures: The Organisation reserves the right to choose, without acceptance of fault, to offer a gesture of goodwill. This may be either a physical, token or financial gesture. These will be considered on a case-by-case basis, and should not constitute more than a value of £30, unless there are exceptional circumstances.

Any Related Documents: e.g. other Policies. T01H - Complaints,

Annex A – Home Improvements – Qualifying items and notional life
 Appendix to Annex A - Home Improvement Compensation Payable Flow Chart
 Annex B – Compensation for Service Failures
 Annex C – Loss of Amenities or Rooms Schedule of Costs

Distribution: CEO, DoH, HSM, T&SM, Scheme Managers, Tenant Policy Folder + File