

Combined Compensation Policy

Discretionary/Obligatory/Damage

Effective from: (M/Y)	March 2018
Effective to: (M/Y)	March 2021
Policy Author/Owner	John Loads/Dave Pearce
Directorate	Strategy & Communications
Consultation (Y/N)	Y
Impact Assessment(s) (Y/N)	Y
Approval Body	Leadership Team
Date Approved (M/Y)	17th April 2018

1. Policy aim

- 1.1 We recognise the impact on our tenants/customers/residents if our level of service drops below our agreed standards and we aim to be fair to any customer who incurs financial loss or inconvenience due to a repeated service failure or by damage we are liable for.
- 1.2 This policy sets out the circumstances when discretionary and obligatory

compensation will be considered and also to clarify the organisation's position with regards to claims for compensation following damage to a tenant's home contents.

- 1.3 This policy will ensure that compensation payments made by Together Housing Group are reasonable, justifiable and proportionate and represent value for money for the organisation and wider tenant body.

2. Where does it apply?

- 2.1 This policy applies to tenants of, and applicants for, THA rented housing as well as tenant leaseholders and covers compensation that relates to loss, damage or inconvenience directly linked to repeated service failure.

It should be used alongside the relevant service standard and procedures to help understand the approach THA takes to ensure payments are made responsibly.

Compensation for service failure should be used not because something went wrong, but for the failure to put it right.

- 2.2 This policy does **not** apply to: -

- Members of the public who have no contractual relationship with THA (unless negligence has been proven e.g. damage caused by THA staff or vehicle).
 - Incidents that result in **personal injury** – these are classed as insurance claims and must be notified without delay to the Group Insurance Section.
 - Cases identified as “**Disrepair**”. This is the subject of a separate process and includes claims under the following areas:-
 - Section 11 Landlord and Tenant Act 1985
 - Section 4 Defective Premises Act 1972
 - Occupiers Liability Acts 1957 and 1984
 - Breach of express or implied contractual repairing obligations under the tenancy agreement
 - **Rectification** following planned improvements e.g. re-wire and damp proof courses. Any decorating allowances as part of planned improvements are taken into account as part of the overall process. Where remedial reinstatement works are required due to disrepair liability, this is covered by the process on disrepair.
- 2.3 For **any** compensation claims to be considered, **details must be received by THA within eight weeks of the event**. Failure to make a compensation request in this timescale will result in THA not being able to consider the claim without further evidence to support it.

3. Our policy is

3.1 Discretionary compensation

3.1.1 Discretionary compensation is not automatic. It will reflect the level of inconvenience, disturbance, stress or annoyance suffered by not putting it right and the extent to which THA has been directly responsible. It will also take into account the time taken to resolve the problem and will acknowledge where this is deemed excessive.

3.1.2 The level of compensation will be reasonable, justifiable, proportionate and needs to reflect value for money for THA residents overall.

To prevent fraud, any monetary payments under this policy must be made via BACS/Cheque.

Offers that are non-monetary (chocolate/flowers etc.) will be at the discretion of the service area but are not covered by this policy. **Cash and Vouchers cannot be used.**

3.1.3 Compensation in recognition of loss or a failure to put things right, may also include an apology or a change in procedures to put things right.

3.1.4 Loss of income claims will not be considered, although any reasonable “*out of pocket*” expenses will be at the discretion of the Manager.

3.1.5 **Rent Arrears and Other Debts** - In cases where discretionary compensation is due to a tenant but their rent account is in arrears, any compensation will be offset against any rent or other housing related debt on the tenant’s rent account. Discretion in cases of severe hardship can only be agreed by an appropriate service manager.

3.1.6 Compensation will **not** be given if:

- We take action within a reasonable time of receiving notice and to a satisfactory standard, within targets outlined in our Service Standards.
- Where we have had to gain access to a property in order to comply with regulations.
- THA has acted reasonably in complying with its legal and contractual requirements.
- The repair/fault occurred outside the control/responsibilities of THA.
- Circumstances are beyond the control of the service or if it can be demonstrated that the tenant/resident was advised that additional work (or time) was necessary and the requirement for this was reasonable in the circumstances.
- Agreed planned improvement works (kitchens, bathrooms, roofs etc.) took longer than could be reasonably expected or necessary but any

delay or overrun was not excessive. (*Managers can refer to the Compensation procedure for guidance on a case by case basis*).

- Allegations of theft or damage by a THA employee are unfounded. These must be reported to the relevant service area immediately for investigation. All theft must be reported to the Police.

3.1.7 Claims for compensation that are considered to fall outside of the criteria set out in the Compensation policy/procedure may only be considered by a senior manager.

3.1.8 Reasons for any discretionary compensation payments, or reasons why payment will not be made, shall be clearly set out in our responses.

3.2 Compensation for Damage/Loss

3.2.1 Compensation is not a replacement for **home contents insurance**. Tenants are responsible for arranging their own contents insurance to cover the cost of replacing personal belongings and interior redecoration in the event of damage - including as a result of their own action e.g. failure to report a repair promptly.

Therefore, items that have been (or could have been) covered by the tenant's own insurance will not be paid.

Whilst THA insure the building, the tenant is responsible for insuring their contents. **Low cost contents insurance** cover is available to all tenants (details are available on the THA website and on request).

3.2.2 We expect all damage to be reported as quickly as possible (within eight weeks) including any photographic or witness evidence.

If claiming for damage, the items **must not be disposed of** until THA have photographed, logged and verified them in relation to the claim. Any compensated items **will then become the property of THA**.

3.2.3 Even if THA are liable, **we do not pay "New for Old"**. Any claim paid will be assessed against age, wear & tear etc.

3.2.4 We will not off-set the payment against rent arrears in cases where compensation is being offered to reimburse a direct financial loss or expense incurred by the tenant (for example the replacement of a damaged personal household article).

3.2.5 We will ensure all payments (BACS/Cheques only) are recorded so that costs can be analysed for budgeting and planning purposes.

3.3 Obligatory compensation

3.3.1 'Right to Repair'

Since April 2010 it is no longer a regulatory requirement for housing

associations to comply with Housing Corporation Circular 33/94 (Revised 2002). However, the principles and the rights may still be incorporated for some tenants of THA (as *set out in their Tenancy Agreement*). In these cases, the levels of compensation payments shall be set out in the relevant procedure.

3.3.2 **A Right to Compensation for Improvements**

When a tenant leaves a property, **and only where these rights are included in the tenancy agreement**, they may be entitled to compensation for some improvements they have made, but only for work we have given written consent for.

We will decide any compensation in line with sections 97, 98, 99, 99A and 99B of the Housing Act 1985 (as amended).

3.3.3 **Home Loss Compensation**

This applies when a tenant has to permanently move from their home due to redevelopment, improvement works or demolition. It does not apply to repairs, even if these are major repairs, or any other reason for a move.

The Home Loss Payment is set by statute and will only apply where the tenant has been living at the property over the last twelve months and is required to move permanently by THA. Any payments will be in line with levels applicable at the time.

4. Implementing this Policy

4.1 All staff are responsible for implementing this policy.

4.2 This policy and associated service standard and procedures will be made available to all staff and tenants/residents and in a range of formats where there is a specific need or request.

4.3 Information on payments made will be made available to senior managers on at least an annual basis.

5. Associated Documents

5.1 This policy is related to:-

- *Compensation procedures* <http://hq-dm-02/DocumotiveDMS/DocumentView.aspx?Id=5518988&Environment=live>
- *Compensation and complaints service standards*
- *Complaints and related documents*

Version Control Log

THG Policy – Compensation Policy

Formal Review Date – October 2018

Version number and date	Date effective from	Lead	Approved by (LT/SMT)	Issued to THG	Summary of Key changes
V2 – SEPT 2016	SEPT 2016	Dave Pearce – Head of Business Assurance	LT (Ian Clark)	Group Policy – added to Intranet	<p>Clarification around off-setting compensation payments against rent or other housing related arrears*. Paragraph added at 3.1.9 (page 3).</p> <p>Also added that reasons for payment should be explained in any supporting correspondence. (Page 4, paragraph 3.1.11).</p> <p><i>*Can off-set payments for disruption, but not those that replace items or reimbursements.</i></p>
V3 – February 2018	March 2018	Dave Pearce – Head of Business Assurance	LT		<p>Updated to take account of changes requested following scrutiny on compensation and to include payments for damage/loss.</p> <p>Changes include: -</p> <ul style="list-style-type: none"> • Title now clarifies that this is for all types of compensation • New policy template/format used • Scrutiny recommendation – 2.3 and 3.2.2 sets a time frame by which claims need to be made (8 weeks) • Fraud prevention - 3.1.2 and 3.2.5 states that monetary payments to be made by BACS and not cash or vouchers. • New section (3.2) on “Damage/Loss” payments • 3.2.1. Strengthens the expectation for tenants to have contents insurance.

					<ul style="list-style-type: none"> • 3.2.2-3 States that any items claimed for need to be logged and photographed for evidence. Also that items that have been compensated for become the property of THA and are not replaced 'new for old'. • Guidance table for discretionary payments removed as this is now shown in the related "<i>Compensation Procedure</i>" • Removed some examples to the procedure.
V3.1	Apr 2018	Jo Whitlock Governance & Management Support	JW		Created a link to the compensation procedure in the policy