

# Compensation and Reimbursement Policy

April 2023



**Housing  
Management**



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

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## Explanatory note

- 1.1 In our previous compensation policy (2018), we committed to review our approach every three years, to incorporate legislative and/or regulatory changes, best practice, or address any operational issues identified.
- 1.2 That review took place in 2021, with the new policy going live from January 2022. As part of that review, we did the following:
  - Analysed past cases where issues concerning compensation and/or reimbursement of expenses incurred led to formal escalation via the Housing Management complaints process to Stage 2 or Housing Ombudsman.
  - Spoke to individuals who raised complaints, to seek their feedback, establish where they felt the previous policy fell short, and identify what could be done to avoid the need for formal escalation via the complaints process.

- Reviewed the compensation policies of 20+ other London-based Local Authorities and Housing Associations, Housing Ombudsman guidance, and Central Government's 2020 Charter for Social Housing Residents, with the goal of bringing our policy in line with Social Landlord Best Practice.
- 'Stress tested' proposed changes by comparing the initial outcome of the aforementioned cases against the outcome proposed.
- Sought review and comment from the Council's Tenants Consultative Committee (TCC), prior to the policy's finalisation and formal adoption by the Council.

1.3 The new policy reflected the outcome of that review. Where we sought to make changes, we did so with the following goals in mind:

- Minimise customer effort.
- Make the policy easier for customers to understand and officers to administer.
- Reduce the number of avoidable escalations via the complaints process.

The key changes were:

- Increase payments issued to provide reimbursement for financial loss (for example, increased electrical costs for storage heater usage during periods where communal heating is unavailable), and link these to the Consumer Price Index (a measure used by Central Government to account for inflation).
- Rather than make arbitrary distinction between properties with one bedroom and those with two or more bedrooms, calculate the flat rate according to the number of bedrooms multiplied by the number of days. This addresses concerns from previous complainants that payments offered were below current utility prices.
- Expand the range of issues for which we will reimburse residents and/or compensate for loss of a service and provide greater clarity on how this will be calculated. This reduces reliance on arbitrary 'ex gratia' payments. Examples include reimbursing electrical costs for use of a dehumidifier to deal with a leak and certain travel-related costs incurred whilst decanted and compensating for the loss of cold-water supply or TV signal.
- Clearly state what is meant by 'low', 'medium' and 'high' impact.
- Where 'ex gratia' payments are made, calculate these based upon bands linked to impact sector best practice, rather than arbitrary set amounts. This allows for reflection of individual circumstances.
- Increase recognition of how individual circumstances and vulnerabilities can result in a loss of service having a greater impact.
- Clarify how compensation will be paid where a complainant owes the Council monies, with distinction made between compensation and reimbursement.
- Give clear timescales for assessing compensation and reimbursement claims, excluding insurance claims managed outside of Housing Management.

## Explanatory Note – Version 1.1

- 1.4 Since our new policy was introduced in January 2022, we as a nation have entered into a severe and ongoing cost-of-living crisis, with rising inflation in general and significant increases in particular with respect to utility bills.
- 1.5 As a Local Authority and Social Landlord, RBKC are engaged in an ongoing review of all our policies and procedures to ensure we are able to provide appropriate support to all of our residents, particularly those who are most vulnerable, during this challenging time. Details on the various forms of support available can be found on the Council's cost of living support hub: <https://www.rbkc.gov.uk/cost-living-support-hub>
- 1.6 In line with that review, we have revised our compensation policy to ensure the rates we offer are a fair reflection of current prices, and will continue to allow us to meet the stated aim of our policy, namely to put the complainant back in the position had the fault not occurred, insofar as reasonably possible.
- 1.7 With that in mind, we intended to increase all compensation payments across the board, in line with the forthcoming increase in rent and service charges. As this figure has not yet been determined as of the time of writing, all figures subject to this increase will be indicated with the words "subject to review" in brackets after the current figure.
- 1.8 However, we recognise that our residents are already under financial pressure, and that some increases cannot wait until the rent and service charge increase has been agreed. In particular, where we offer flat rate reimbursement for increased utility costs (for example, where a storage heater is provided as a temporary measure in the event of boiler failure, or where a dehumidifier is provided to enable a property to dry out following a leak prior to remedial works taking place). Those rates of reimbursement have been increased by 54%, in line with the 54% increase in the utility price cap that came into effect in April 2022.
- 1.9 Moreover, as inflation is currently projected to rise further, alongside future increases in the utility price cap, we commit to now review our policy at 6-monthly intervals from this point onwards for as long as the cost-of-living crisis continues, rather than every 3 years as was agreed within the previous version of our policy.
- 1.10 In addition, we acknowledge that, as of the time of writing (September 2022), further increases to the utility price cap are expected imminently, and we commit to update our policy to reflect such increases at the point at which they come into effect, rather than waiting for the next 6 monthly review to take place.
- 1.11 Please note that the changes in this version of our policy are not retrospective – any compensation that is offered in relation to events that occurred prior to the current version of the policy going live will be made in line with the previous rates of compensation / reimbursement.

## Explanatory Note – version 1.2

1.12 Further to our previous version, we have now completed our 6-monthly review. The key changes are as follows:

- We have increased payment levels by 7%, in line with the 7% rent increase (note – this excludes those payments already increased in line with the utility price cap increase)
- We have revised our policy for missed appointments, so that successive missed appointments in relation to the same repair are paid at a higher rate.
- We have revised our payment rates for loss of heating / hot water with respect to larger properties (2+ bedrooms), with the aim of better reflecting the costs of heating larger properties using temporary heaters (and using kettles to provide hot water for washing in larger households).
- We have removed the reference in Section 8.9 to providing compensation for loss of earnings up to the daily rate for jury service (subject to appropriate evidence being provided), as it is felt such circumstances are better dealt with on a case-by-case basis via the ex-gratia methodology (Section 8.7, Table 2).

## Introduction

- 2.1. Kensington and Chelsea Council is committed to consistently providing a high-quality service to all our customers. We recognise that there are times when services do not meet our high standards and customers are inconvenienced. Section 92 of the Local Government Act 2000 gives Councils the power to remedy injustice arising from poor service. This policy sets out how this power will be administered.
- 2.2 The Council's aim will always be to put the complainant back in the position had the fault not occurred, insofar as reasonably possible. Where a complaint is justified an apology may be sufficient to correct inconvenience caused. The Council recognises that where a complainant has suffered loss or injustice, other remedial action may also need to be considered, including financial compensation.

## Scope

- 3.1 This policy sets out Housing Management's approach to awarding compensation. If services fail, or fall below published standards, Housing Management will put the matter right and apologise.
- 3.2. This policy covers situations in which the Council will consider issuing refunds or compensation payments to its tenants and, where appropriate, leaseholders.

- 3.3 This policy does not cover instances where non-Council residents wish to make claims against the Council for damages etc. In such instances, the Insurance Policy and Procedures should be followed. At the discretion of the relevant Head of Service, the Council may reimburse any insurance excess where we feel that the circumstances warrant it.
- 3.4 Other than in exceptional circumstances, claims for compensation and/or reimbursement will only be considered within 12 months of the incident, or in line with statutory requirements.
- 3.5 Payment of compensation and reimbursement of costs incurred under this policy is restricted to residents of Kensington and Chelsea Council (this includes individuals and families living out of borough, in temporary accommodation provided and paid for by the Council).
- 3.6 Barring exceptional circumstances, the Council will not compensate for matters relating to services or repairs in communal areas, except where the issue is explicitly covered elsewhere within this policy (e.g., failure of a communal boiler or lift breakdown).
- 3.7 Payments will not be made for delays in responding, or failure to respond at all, to a fault or other issue where the cause is failure by the resident to provide access or respond to two or more attempts by the Council to make contact to address the fault / issue (e.g., when trying to arrange an appointment).
- 3.8 Payments will not be made for works which are the responsibility of the tenant or leaseholder, as per Section 6 of our Repairs Policy, and pages 17-19 of our Tenant's Handbook.

**Repairs policy:**

<https://www.rbkc.gov.uk/media/document/housing-management-rechargeable-repairs-policy>

**Tenant's Handbook:**

<https://www.rbkc.gov.uk/media/document/housing-management---tenant%E2%80%99s-handbook>

- 3.9 The Council will not compensate for any delays in carrying out works, or failure to carry out works at all, to address damage that has resulted from the neglect of, or vandalism by, a resident or member of their household. The Council reserves the right to charge the cost of any such works to the resident / household that caused the damage.
- 3.10 The Council reserves the right to refuse to deal with claims for compensation, or to deal with them differently, if they are pursued unreasonably or if they can be handled more effectively in a different way.
- 3.11 The Council considers acceptance of compensation to be a full and final settlement of a case (excluding insurance related claims). Cases will not be re-opened, or further compensation considered through a further complaint, unless

the circumstances of the original case have significantly changed. Any payment or other form of compensation offered under this policy is not an admission of liability by the Council.

## Definitions

- 4.1 Residents are Council tenants and leaseholders. Tenant means eligibility for tenants only (e.g., eligibility for refunds / compensation in some circumstances).
- 4.2 A refund is money that the Council will pay to residents for services that are included in their weekly, monthly, or annual service charges and that have already been paid, for example, heating charges. The refund amount will be linked to the actual charge at the time the failure of service occurred. Refunds are paid after an initial period of loss of amenity. This period is shorter for vulnerable residents who are disproportionately impacted by the loss of service.
- 4.3 Housing Management's Neighbourhoods Team will determine whether a resident should be classified as vulnerable, by making an assessment based on appropriate documentary evidence (e.g., medical records). The Council will assess whether a vulnerability is relevant to the issue at hand when deciding upon the appropriate level of compensation.
- 4.4 Compensation payments are awarded to recognise inconvenience caused to residents. A customer's vulnerability will be taken into consideration when assessing the level of inconvenience experienced.

Two categories of compensation are covered within this policy:

**Statutory Compensation:** The Council is legally obliged to make this type of compensation and has no discretion over the amounts awarded.

**Ex-Gratia Payments:** The Council has no legal obligation to make this type of compensation but has chosen to do so to compensate our residents for the loss or injustice they have experienced.

## Policy Aims and Commitments

- 5.1 Whilst each case will be assessed individually, the application of this policy provides a consistent approach to resolving claims for compensation to make sure that:
  - The compensation process is reasonable, fair, and treats customers equally.
  - Problems are resolved quickly and efficiently.
  - Practical solutions are explored to address complaints.
  - Information gathered is used to learn and improve service delivery to prevent repeat complaints.
  - Financial awards, made within clear guidelines, are in proportion with loss and/or inconvenience caused, are fair and consistent, and safeguard public funds. Where no detriment occurs, no compensation will be paid.

5.2 Before financial awards are offered, consideration will first be given to a range of remedies that may be appropriate. The following list is not exhaustive, but ‘putting things right’ could include:

- An apology.
- A written explanation giving a full answer to all points raised in the complaint.
- Assurance that every effort will be made to ensure the same thing does not happen again, with action and monitoring to resolve.
- A review of policies and procedures.
- Action taken to put things right to demonstrable the complaint has been taken seriously.
- Staff guidance or training.
- Appropriate disciplinary action.

5.3 In assessing potential remedies, due consideration will be given to the guidance set out within the Housing Ombudsman’s Complaint Handling Code (page 12), which states the following:

*“Any remedy offered must reflect the extent of any service failures and the level of detriment caused to the resident as a result.*

*Factors to consider in formulating a remedy can include, but are not limited to the:*

- *length of time that a situation has been ongoing*
- *frequency with which something has occurred*
- *severity of any service failure or omission*
- *number of different failures*
- *cumulative impact on the resident*
- *a resident’s particular circumstances or vulnerabilities.*

*When offering a remedy, landlords should clearly set out what will happen and by when, in agreement with the resident where appropriate. Any remedy proposed must be followed through to completion.*

*In awarding compensation, landlords shall consider whether any statutory payments are due, if any quantifiable losses have been incurred as well as the time and trouble a resident has been put to as well as any distress and inconvenience caused.”*

5.4 In line with the above, the Council will consider a compensation claim when:

- Residents have been severely inconvenienced by the Council’s actions.
- Failures in service delivery have caused residents’ loss or major inconvenience.
- Failure of the Council to follow Housing Management’s policies has a detrimental effect on residents.
- Appointments are missed due to actions of the Council, not the resident.
- Failure by the Council to identify the correct issue or carry out repairs in a satisfactory manner, or within agreed timescales, causes the resident inconvenience or loss (appreciating that some issues can take a process of elimination to identify).
- The Council is responsible for the loss of services which it provides to residents’ homes, such as heating and/or hot water.



- There is a loss of amenity (e.g., room) due to damp, leaks, neglect or similar.
- 5.5 Barring exceptional circumstances such as financial hardship, where a debt is owed to the Council (e.g., arrears or service charges), compensation payments will be offset to pay the debt. Any credit remaining can be refunded to the resident. This does not affect reimbursement payments for costs incurred by the resident.
- 5.6 Where the Council has become aware of a significant service failure affecting multiple properties, it may, at its discretion, instigate this policy without the residents involved needing to make individual claims. In such circumstances, the Council will pay all residents affected whether or not they made a claim or complaint.

## Statutory Compensation

### 6.1 The Right to Repair

This is a right given to secure tenants to ensure the completion of certain repairs quickly and easily. Small, urgent repairs are covered, which if not carried out within a specified period, are likely to cause damage to the health, safety, or security of the resident.

### 6.2 Qualifying repairs must cost £250 or less and include the following:

- total or partial loss of electrical power
- unsafe power, lighting socket or electrical fitting
- total or partial loss of water supply
- total or partial loss of gas or oil supply
- blocked flue to open fire or boiler
- total or partial loss of space or water heating
- blocked or leaking foul drain, soil stack or (where there is no other working toilet in the dwelling house) toilet pan
- toilet not flushing (where there is no other toilet in the house)
- blocked sink, bath, or basin
- tap which cannot be turned
- leaking from water or heating pipe, tank, or cistern
- leaking roof
- insecure external window, door, or lock
- loose or detached banister or handrail
- rotten timber flooring or stair tread
- door entry phone not working
- mechanical extractor fan in internal kitchen or bathroom not working

Further guidance can be found on the Department for Communities website:

<https://www.communities-ni.gov.uk/right-repair-scheme#:%7E:text=Compensation-Introduction,completed%20within%20a%20prescribed%20period>

### 6.3 Home Loss

The Council will make Home Loss payments in accordance with the statutory levels set under the Land Compensation Act 1973, as amended by The Home Loss Payments (Prescribed Amounts) (England) Regulations 2022 (Statutory Instrument 2022 No.793) ('2022 Regulations').

Payments are made when a resident is moved on a permanent basis due to improvement or redevelopment of their home. The changes must result in it being unsuitable for the resident to return to their property, for example, changes due to

demolition, compulsory purchase, or where remodelling affects the size of the accommodation. Payments are not intended to cover costs associated with moving home (see disturbance grants below). The current statutory Home Loss payment is £7,800. To be eligible for a payment a resident must have resided in their current property for at least 12 months and displaced on, or after, 1 October 2022.

### 7.1 Ex-Gratia Payments - Disturbance Grants

Under the Housing Act 1985 (Part II, Section 26) the Council has discretion to give financial assistance towards tenants' removal expenses. Any payments would be assessed under our Decants Policy.

#### Other Ex-Gratia Payments

#### 8.1 Compensation for Loss of a Room, Amenity or Service

- 8.1(a) Compensation will be paid for the loss of use of a room, amenity, or service, where something, which is the responsibility of the Council, has gone wrong and the contractual deadline for completing the repair has passed.
- 8.1(b) Compensation will be calculated based upon a 50 per cent reduction of the weekly rent for loss of a kitchen or bathroom, and 25 percent per room for all other rooms (up to a maximum of 100 per cent of total weekly rent).
- 8.1(c) Compensation will be calculated from seven days after the date at which the Council was notified by the resident of the problem that led to the loss of room / amenity / service. until the date at which it was restored.
- 8.1(d) No compensation is payable if the loss is due to planned works agreed in advance with the resident unless the loss is for longer than initially agreed.
- 8.1(e) No compensation will be awarded if the loss of facility is caused by a third party (e.g., resident's utility supplier) or the resident's own action / inaction.

#### 8.2 Damage to Decorations or Fixtures

- 8.2(a) Where decorations or fixtures are damaged as a result of repairs or improvements by the Council, or our agent, the resident will be offered the choice

to allow the Council to carry out the work, or decoration vouchers to carry out the works themselves. The value of vouchers is in section 14.1.

- 8.2(b) Where a resident meets the eligibility criteria for the handyperson service (as per Page 25 of the Tenant's handbook, and reproduced below for ease of reference), we will also offer assistance with installing the replacement items, in conjunction with decoration vouchers.

**Eligibility criteria:**

- having a disability or significant health condition that prevents you carrying out the repair yourself,
  - being a single parent with a disabled child, or
  - being aged 65 years and over.
- 8.2(c) Where a carpet has been damaged, we will offer deep cleaning as an alternative to replacement.

**8.3 Loss or Damage to Possessions**

- 8.3(a) Residents are advised to take out home contents insurance to insure their personal possessions and decorations against damage or loss.
- 8.3(b) All liability claims against the Council must be made to our Insurance Team using the Housing Liability Claim Form and are managed outside of this policy.

**8.4 Claims for Injury or Alleged Negligence / Disrepair**

- 8.4(a) All claims for injury or costs incurred due to alleged negligence by the Council, its officers, or agents acting on its behalf, should be referred to the Council's Insurance team, using either the Housing Liability Claim Form, or via legal representatives such as solicitors or similar legal support services like the Citizens Advice Bureau. These cases will be dealt with outside this policy by the Insurance Team. It is always recommended that you seek independent advice and support for personal injury or complex claims.

**8.5 Lift failure**

Compensation is payable for lift failure when:

- there is no access to another lift in the same block, and
- the lift has been out of service for more than seven consecutive days AND / OR
- there has been 3 or more instances of lift failure during a 1-month period (irrespective of the duration of each outage)

- 8.5(a) Compensation will not be paid to residents living on the ground floor of a building.

- 8.5(b) Compensation of £1.07 per day will be paid for each day after the first seven consecutive calendar days failure, inclusive of the initial seven days i.e., eight consecutive days of failure would result in a payment of £8.56.

The payment will be £2.14 per day for residents deemed vulnerable due to mobility issues and will be paid after the first three consecutive calendar days failure (inclusive of the initial three days).

- 8.5(c) Compensation is not payable for an individual becoming trapped within a lift, barring exceptional circumstances such as when the time taken to respond to a lift trapping significantly exceeds normal timescales.

#### **8.6 Refunds: Heating**

- 8.6(a) Tenants can apply for a refund for heating costs when a heating supply controlled by the Council fails during the heating season (the period when the Council's communal heating systems are turned on and off, currently 1 October to 31 May) for two consecutive days or more (or after 24 hours in the case of vulnerable residents). Refunds are based on the gross weekly charge.
- 8.6(b) On occasion, during periods of extreme hot or cold weather, the Council may choose to adjust the period when it turns on and off its communal heating systems. The heating season will be adjusted to reflect this.
- 8.6(c) Refunds apply to tenants only, as leaseholders will receive a lower service charge to reflect loss of heating during the outage.

#### **8.7 Refunds: Hot Water**

- 8.7(a) A refund applies when a resident has a Council controlled hot water supply and has had no hot water for three consecutive days or more (or after 24 hours in the case of vulnerable residents). Refunds are based on a proportion of the gross weekly charge and the length of time the service was unavailable.
- 8.7(b) Refunds apply to tenants only, as leaseholders will receive a lower service charge to reflect the loss of hot water during the outage.

#### **8.8 Heating or Hot Water Compensation**

8.8(a) Compensation is payable when the loss in supply lasts for three consecutive days or more (or in excess of 24 hours for vulnerable tenants), or there is a loss in supply three or more times within a consecutive three-month period. The supply may include:

- Loss of heating for a landlord-controlled system during the recognised heating season for residents.
  - Loss of hot water for a landlord controlled hot water system for residents.
  - Loss of heating for an individual system for tenants.
  - Loss of hot water for an individual system, except where a working emersion heater is available for tenants.
- 8.8(b) Compensation will be paid to cover increased electrical costs experienced by customers from using alternative methods of heating (such as storage heaters) or generating hot water (boiling kettles) during periods when their landlord-controlled heating or hot water supply is unavailable.

- 8.8(c) Compensation will be based on a flat rate of £7.70 x number of days that the loss persisted, with a 25% uplift applied to the total figure for each bedroom beyond the 1<sup>st</sup> i.e., if a three-bed property experiences a loss of heating for 21 days, the calculation would be £7.70 (base rate) x 21 (no of days) x 150% = £242.55
- 8.8(d) An additional £7.70 a week, after the first three consecutive weeks, will also be paid to each household to reflect the resident(s) time and trouble. For vulnerable residents, payments will be £15.40 per week paid after the first week.

## 8.9 Missed appointments

- 8.9(a) Barring exceptional circumstances, a flat payment of £21.40 per appointment will be paid where our operatives / contractors fail to attend an agreed appointment (excluding instances recorded as 'no access'), arrive late to an appointment by two hours or more, or cancel an appointment giving less than 24 hours' notice. This flat payment will also apply to appointments where works are scheduled to take place over multiple days. No payment will be made for appointments cancelled by residents themselves.
- 8.9(b) Where there are multiple missed appointments in relation to the same repair, the flat payment will be increased to £42.80 with respect to the 2<sup>nd</sup> and subsequent missed appointments i.e., if there are 3 missed appointments in relation to the same repair, the total compensation payable will be £21.40 + £42.80 + £42.80 = £107.00

## 8.10 Loss of cold-water supply

- 8.10(a) Where the Council is required to switch off water supply to carry out works, we aim to: give all affected tenants one weeks' notice of the works, restore water within four hours, arrange delivery of bottled water to vulnerable residents, and any other residents who specifically request this.
- 8.10(b) It is recognised there may be emergency situations where we are unable to meet this standard. In such circumstances we will compensate as per 8.10(c) and 8.10(d) below. We will also seek to keep affected residents updated via letter drops and phone calls.
- 8.10(c) Where the Council fails to give adequate notice, restore the water supply within the above timescale, and/or deliver bottled water to vulnerable residents, compensation will be paid at £5.35 a day or £10.70 a day for vulnerable residents, for the number of days the notice period fell short, and/or for each day beyond the first 24 hours when water is not restored and/or bottled water is not delivered.
- 8.10(d) For leaseholders, we will instead reimburse their water service charges for the affected period (where applicable).

### 8.11 Use of a dehumidifier

- 8.11(a) Where a de-humidifier is provided to dry out a property following a leak or flood, we will provide compensation towards the increased electrical costs at the rate of £7.70 per affected room, per day.

### 8.12 Loss of TV signal

- 8.12(a) Where a communal TV aerial service is provided by the Council, we will reimburse for any loss of service beyond the first seven consecutive days, based upon TV license costs. This policy will be updated to reflect Wi-Fi loss should the Council also provide a communal Wi-Fi service in the future.
- 8.12(b) Where actions or lack of action by the Council is confirmed to have resulted in loss of access to a subscription service (such as Sky), we will reimburse for the period concerned after the first seven consecutive days, subject to evidence supplied in the form of relevant bills.
- 8.12(c) An additional £5.35 per week per household will also be paid after the first seven consecutive days (or £10.70 per week in the case of vulnerable residents) to reflect time and trouble.

### 8.13 Loss of cooking facilities

- 8.13(a) Where a tenant experiences a loss of cooking facilities and is not offered alternative accommodation, the Council will offer payment to offset the cost of purchasing food elsewhere. Payments will be calculated according to our decants policy; £16.05 per adult per day, £10.70 per child per day (for this purpose a child is aged 12 or under).

### 8.14 Loss of electricity and/or lighting

- 8.14(a) Where a loss of lighting affects one or more rooms, but not the entire property, compensation will be paid after the first full week from when the resident notifies the Council of the fault. This will be calculated at the rate of £5.35 per week, rounded up to the nearest full week, or £10.70 per week in the case of vulnerable customers.
- 8.14(b) Where a customer experiences a loss of electrical supply, or loss of lighting with respect to the entire property, compensation will be paid after the first two consecutive working days after the resident notifies the Council of the fault. This will be calculated at the rate of £5.35 per day or £10.70 per day in the case of vulnerable customers.
- 8.14(c) Loss of perishable items during periods when there is a loss of electrical supply (i.e., food in fridges and freezers) will be considered on a case-by-case basis under our ex-gratia payment policy (see section 8.17).

## 8.15 Travel payments

- 8.15(a) Where a tenant is placed in alternative accommodation a significant distance from their normal accommodation (more than 45 minutes travel time using public transport), the Council will, at its discretion, offer reimbursement of travel costs, up to the daily cost of a TfL anytime day travelcard (currently priced at £21.50).

## 8.16 Advance Compensation

- 8.16(a) At the discretion of a senior manager (Head of Service or above), payments may be made in advance to avoid creating financial hardship, subject to evidence (e.g., utility bills).

## 8.17 Ex-Gratia payments for miscellaneous items (anything not specifically covered elsewhere in this policy)

- 8.17(a) Table 2 will be used to calculate the level of ex-gratia compensation, based upon the judgment of the relevant Head of Service (or higher).

**Table 2 – Ex-gratia compensation calculation methodology**

<u>Level of RBKC's responsibility</u>	<u>Low impact</u>	<u>Medium impact</u>	<u>High impact</u>
Partial	£21.40 - £32.10	£53.50 - £107.00	£214.00 - £374.50
Full	£32.10 – £53.50	£107.00 - £214.00	£374.50 - £535.00

With reference to the above table, the terms are defined as follows:

### Low Impact

Where the complainant has just cause but has suffered minimal or no inconvenience or distress as a result of the compensation event.

The circumstances are such that although the manager accepts the service has not achieved the expected standard, the impact is no greater than a reasonably tolerant person could be expected to accept, and the compensation constitutes a goodwill gesture in recognition of the failure to perform.

An example of this might be a moderate delay (1-2 weeks) in carrying out a routine repair (such as plastering or retiling), where the delay is not caused by circumstances outside of the Council's control (such as lockdown restrictions imposed by central government during the Covid-19 pandemic).

### Medium Impact

Where the compensation event is clearly an injustice to the complainant and the service has markedly failed to meet the required standards, and there is evidence of a moderate degree of inconvenience or distress. A repeated failure of the Local Authority to address

the shortcoming, even of a low impact event, could also give rise to consideration of a medium impact level of compensation.

An example of this might be multiple (three or more) visits over an extended period being required to rectify what should be a routine repair such as unblocking a toilet, where said toilet is the only one present within the property.

## High Impact

These relate to a serious failure in service standards. This could include the severity of an event, a persistent failure over a long period, or an unacceptable number of attempts to resolve and address the complaint. The claimant will have suffered a considerable degree of inconvenience or distress as a result. High impact could also apply where, due to actions (or lack of action) by the Local Authority, the complainant has reasonably incurred expenses that are directly related to the compensation.

An example of this might be failure to act promptly to address an uncontrollable leak, resulting in significant and avoidable damage being caused to the property and resident's belongings, and disruption from the household needing to be temporarily decanted when this would not have proven necessary had the matter been dealt with at an earlier juncture.

- 8.17(b) There may be exceptional circumstances where the above limits may need to be exceeded. This will be at the discretion of senior management (Director level or above), based upon assessment of individual circumstances and appropriate supporting evidence.

## 9.1 Appealing an Award for Compensation

- 9.2 The claimant can appeal the rejection of a claim for compensation (excluding Insurance claims), or the level of compensation awarded by Housing Management, by making a formal complaint through the Housing Management complaints procedure or escalating any offer made on a complaint to the next stage. **This process can only be followed if the claimant has not previously accepted the proposed compensation as full and final settlement.**

## 10.1 Third Party Responsibilities

- 10.2 Where service breakdown is due to a third party, such as a contractor working for the Council, the Council will pursue the service provider and ask them to pay compensation for their failure to provide services on time and/or to a satisfactory standard. Dependent upon individual contractual arrangements, this could take the form of the contractor making payment to the complainant directly, or instead the Council making payment on their behalf and seeking to recover its costs via said contract.
- 10.3 Where contractors do not have their own compensation policy, they will be expected to follow this policy and will be required to remedy the situation and settle any compensation payments via the Council, with the Council making settlement directly to the service user.



### 11.1 Time Scales

- 11.2 Where payment has been agreed, the Council will aim to deal with requests for refunds and compensation within 28 working days (36 calendar days) unless there are particular circumstances requiring further investigation. Where a case requires further investigation, the Council aims to resolve the situation within three months.
- 11.3 During a period where a potential compensation claim is being assessed, rent and service charge payments must still be paid as normal. Failure to do so may result in debt recovery action being initiated. However, we will notify our Rent / Home Ownership teams where such a claim is pending, so this can be accounted for in terms of any outstanding arrears.

### 12.1 Monitoring, Review and Accountability

- 12.2 This policy will be reviewed by the Customer Experience Team every six months, to incorporate legislative, regulatory amendments, best practice developments, or to address any operational issues with the procedure.
- 12.3 This policy will also be reviewed on an ad hoc basis as and when further increases are made to the utility price cap.
- 12.4 Input and approval will be sought from our residents (via the Tenants Consultative Committee or similar) prior to making any substantive changes.

This is in line with our Corporate Values (Putting Communities First, Respect, Integrity, Working Together), and is intended to ensure our policy continues to meet the needs and aspirations of our residents.

### 13.1 Legal Context

Consideration in developing this policy has been given to the following items of legislation, all of which can be viewed directly at:

<https://www.legislation.gov.uk/>

- Land Compensation Act 1973 (as amended)
- Sections 153A, 153B and 138C from Part V of the Housing Act 1985
- Section 124 of the Housing Act 1988
- The Secure Tenants of Local Housing Authority (Compensation for Improvements) Regulations 1994
- Statutory Instrument 1994 No. 133
- Right to Repair Regulations 1994 in force from 1st April 1994
- Housing Act 1996
- The Secure Tenants of Local Housing Authorities (Right to Repair) (Amendment) Regulations 1997
- Local Government Act 2000
- Home Loss Payments (Prescribed amounts) England Regulations 2007
- Home Loss Payments (Prescribed Amounts) (England) Regulations 2020
- Home Loss Payments (Prescribed Amounts) (England) Regulations 2022 (Statutory Instrument 2022 No.793) ('2022 Regulations')

## 14.1 Associated Policy Documents

Complaint Handling Code (Housing Ombudsman):

<https://www.housing-ombudsman.org.uk/landlords-info/complaint-handling-code/>

Housing Management Complaints Policy:

[https://www.rbkc.gov.uk/sites/default/files/media/documents/Housing%20Management%20Complaints%20Policy\\_2.pdf](https://www.rbkc.gov.uk/sites/default/files/media/documents/Housing%20Management%20Complaints%20Policy_2.pdf)

Insurance Policy & Procedures:

<https://www.rbkc.gov.uk/council-councillors-and-democracy/how-council-works/claims-procedure>

Repairs Policy:

<https://www.rbkc.gov.uk/media/document/housing-management-repairs-policy>

Tenant's Handbook:

<https://www.rbkc.gov.uk/media/document/housing-management---tenant%E2%80%99s-handbook>

## 15.1 Equality & Diversity

15.2 Equality and diversity are of fundamental importance to services provided regardless of a person's protected characteristics under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, religion pregnancy and maternity, race, belief, or sex). All must be treated with respect.

The Council treats everyone it houses, serves, and employs, fairly, and encourages others to do the same.

15.3 In meeting the aims of this policy, the Council will provide information that is clear, accessible, and in an appropriate format (such as translated into another language, or in large print).

Where appropriate, Council Officers will assist residents in making a claim for compensation, by, for example, helping to complete paperwork. This policy provides assurance that compensation is offered in a fair and consistent way.

## 16.1 Data Protection

As part of the Council, Housing Management shares its commitment to ensure that data is:

- Processed lawfully, fairly and in a transparent manner.
- Collected for a specific and legitimate purpose and not used for anything other than this stated purpose.
- Relevant and limited to whatever the requirements are for which the data is processed.

- Accurate, and where necessary, kept up to date. Any identified inaccuracies will be amended or removed without undue delay.
- Stored for as long as required, as specified within the Retention Policy.
- Secured with appropriate solutions, which protect against unauthorised or unlawful processing, accidental loss, destruction, or damage.

For further information, please see the Council's Fair Processing Notice at:

<https://www.rbkc.gov.uk/data-protection/data-protection/fair-processing-notice>