Tendring
District Council

HOUSING COMPENSATION POLICY

April 2025

Introduction

Tendring District Council is committed to providing an excellent housing service for its tenants. However, the Council accepts that there will be occasions when our services may not meet these high standards and tenants are inconvenienced or left out of pocket as a result.

Where a complaint is justified, an acknowledgement and apology may be sufficient. However, where a complainant has suffered some disadvantage, inconvenience or loss, as a result of the service failure experienced, other remedial action may need to be considered. This includes financial compensation, and, in some circumstances, this may be the only appropriate form of redress.

Purpose of this policy

The purpose of this policy is:

- To ensure a clear, fair, consistent and transparent approach is taken to compensation for all tenants, leaseholders and prospective tenants
- To outline the degree of service failure that necessitates compensation
- To outline the circumstances in which compensation may be paid and the actions customers need to have taken to be eligible for compensation
- To clarify the process housing managers should take when dealing with a complaint or compensation claim
- To improve the Council's tenants' and other customers' understanding and satisfaction with the housing services the Council delivers
- To set out how the Council's performance in this area will be monitored, reviewed and published
- To comply with the statutory requirements, legislation and good practice relating to complaints and compensation, including guidance produced by the Housing Ombudsman

Scope of this policy

This policy applies to tenants and leaseholders of the Council as well as prospective tenants and those occupying any Council property by way of a licence. It covers both mandatory and discretionary compensation, as well as non-financial compensation.

This policy does not apply to members of the public with whom we do not have a housingrelated contractual relationship.

This policy should be read in conjunction with Tendring District Council's Housing Complaints Policy

Legal and Regulatory Framework

There are legislative and regulatory requirements that set out the circumstances when compensation should be paid and the considerations that should be taken into account. These include (but are not limited to):

- The Secure Tenants of Local Housing Authorities (Right to Repair) Regulations – Statutory Instrument 1994 No. 1334

The Leasehold Reform, Housing and Urban Development Act 1993 gave secure tenants of local housing authorities enhanced rights relating to the repair of their homes.

These were set out in the above Statutory Instrument which aims to ensure that certain small, urgent repairs costing less than £250 should be completed within a specified timeframe. Failure to do so allows tenants to seek an alternative contractor, and in some cases, claim compensation.

- Housing Act 1985 and the Secure Tenants of Local Authorities (Compensation for Improvements) Regulations 1994 – Statutory Instrument 1994 No. 613

The Leasehold Reform, Housing and Urban Development Act 1993 also gave secure tenants the right to compensation for certain tenant financed improvements that have had the written permission of the Council.

This was set out in the above Statutory Instrument which gives tenants, in certain circumstances, the right to claim compensation for improvements they have carried out to their property if their tenancy ends before they have had the full benefit of these improvements.

- Housing Act 1985 (as amended)

This amalgamated previous legislation which gave secure tenants the Right to Buy their council home at a discount providing they met the qualifying period residency requirements and there was not an exception that applied.

- Land Compensation Act 1973 (as amended)

The Land Compensation 1973 (as amended) sets out the provisions for statutory Home Loss Payments that are to be made to compensate tenants for having to permanently move out of

their home, subject to certain eligibility criteria. This legislation also sets out guidance relating to the payment of Disturbance Allowances aimed at compensating tenants for the actual cost of moving from their home.

- Social Housing Regulations Act 2023

The Regulator of Social Housing (RSH) Tenant Involvement and Empowerment Consumer Standard states that registered providers shall have an approach to complaints that is clear, simple, and accessible that makes sure complaints are resolved promptly, politely, and fairly.

- Housing Ombudsman Service – Complaint Handling Code and Compensation Guidance

The Complaint Handling Code sets out best practice for landlord's complaint handling procedures to enable a positive complaints culture across the social housing sector. This became statutory on 1 April 2024 meaning that all members of the Housing Ombudsman Scheme are obliged by law to follow its requirements.

The Housing Ombudsman has also produced guidance for landlords in relation to compensation policies.

Definitions There are generally three types of financial compensation and

these are:

- mandatory (such as statutory home loss payments)
- quantifiable loss payments (where people can demonstrate actual loss)
- discretionary payments (for time and trouble/distress and inconvenience)

However, compensation can also be non-financial. By offering non-financial compensation, the Council recognises that customers want things to 'be put right'. The Council may also offer financial compensation at the same time if it considered that its actions have had a significant impact on the customer

Compensation should be claimed within 12 months of the failure, fault, or event, unless there are exceptional circumstances that prevent this (such as delays due to waiting for works to be completed). In such cases, the Council will work with customers to ensure fair and equitable outcomes.

Financial compensation

The following three types of compensation are covered by this policy:

- **Mandatory Compensation**

This is compensation that the Council is required to pay by law in certain circumstances and these are as follows:

Right to Repair

The Right to Repair scheme sets out certain repairs that require completion within a certain timescale. Such repairs include small repairs which can be done quickly and easily and urgent repairs where there is a possible risk to health, safety and/or security. These repairs are known as ‘Qualifying Repairs’ and these, together with the timescale for competing these, are set out in the table below:

Repair	Timescale
Total loss of electrical power	1 day
Partial loss of electrical power	3 days
Unsafe power or lighting socket, or electrical fitting	1 day
Total loss of water supply	1 day
Partial loss of water supply	3 days
Total or partial Loss of gas supply	1 day
Blocked flue to open fire or boiler	1 day
Total or partial loss of space or water heating between 31 October and 1 May	1 day
Total or partial loss of space or water heating between 30 April and 1 November	3 days
Blocked or leaking foul drain, soil stack or toilet (where only one in the property)	1 day
Toilet not flushing (where there is no other working toilet in the property)	1 day
Blocked sink, bath or basin	3 days
Tap which cannot be turned	3 days
Leak from water or heating pipe, tank or cistern	1 day
Leaking Roof	7 days
Insecure external door or window	1 day
Loose or detached banister or handrail	3 days
Rotten timber flooring or stair tread	3 days
Door entry system not working	7 days
Mechanical Extractor fan in internal kitchen or bathroom not working	7 days

If the Council and/or its contractor fails to carry out a ‘qualifying repair’ that has been reported on two separate occasions within the published repair timescale, and the customer has allowed reasonable access to the property, the Council is required to make a compensation payment of £10. A further payment of £2 will thereafter be paid for every day that the repair remains outstanding, up to a maximum of £50.

Compensation will not be payable if the delay is due to the availability of a non-standard part and the resident has been kept informed

A repair will not qualify for the Right to Repair scheme if it exceeds an estimated cost of £250 or if the Council is not responsible for the repair.

Compensation for tenant's improvements

In certain circumstances, tenants may be entitled to claim compensation for improvements that they have carried out to the property.

Any payment of compensation for improvements is made at the end of the tenancy, providing the tenant obtained prior permission from the Council to carry out the works and the improvement is considered a 'Qualifying Improvement'. Qualifying improvements and the average notional lifespans associated with each of these are set out in the table below:

Qualifying Improvements	Notional Life
Bath, shower, wash hand basin or toilet	12 years
Kitchen sink, or work surfaces for food preparation	10 years
Storage cupboard in bathroom or kitchen	10 years
Thermostatic radiator valves	7 years
Insulation of pipes, water tank or cylinder	10 years
Loft or cavity wall insulation	20 years
Draught proofing of external doors or windows	8 years
Anything that improves the security of the property excluding burglar alarms	10 years
Space or water heating	12 years
Double glazing or other external window replacements or secondary glazing	20 years
Rewiring, provision of power, lighting or other electrical fittings	15 years

The amount of any compensation award is calculated using the equation provided in the Secure Tenants of Local Authorities (Compensation for Improvements) Regulations 1994. This takes into account the cost of the improvement, its expected lifetime and the time that had elapsed since its installation. The equation for calculating the compensation payment is set out below:

$$C \times \left(1 - \frac{Y}{N}\right)$$

C = Cost of the improvement (excluding the amount of any grant or minor works assistance under Part VIII of the Local Government and Housing Act 1989 or the Home Energy Efficiency Grants Regulations 1992 paid in respect of the improvement)

N = Notional life of improvement

Y = Number of years since completion with part of a year being rounded up to a complete year, starting on the date the improvement was completed and ending on the date the compensation is claimed

Compensation will not be paid to tenants who have exercised their Right to Buy or where the tenancy ends as a result of a Court Order for possession.

Compensation will only be paid if the Council's prior written permission for the works had been obtained and receipts or other proof of cost of the works can be provided.

Compensation will not be payable where the assessed amount is under £50.00 and any payments will not exceed £3,000.00

Home Loss and Disturbance

The Land Compensation 1973 (as amended) sets out the provisions for statutory Home Loss Payments that are to be made to compensate tenants for having to permanently move out of their home, subject to certain eligibility criteria. This legislation also sets out guidance relating to the payment of Disturbance Allowances aimed at compensating tenants for the actual cost of moving from their home.

Home Loss payments are made when a permanent move is required or agreed because of the need to carry out some improvement or redevelopment of their property, including a change of use – for example, the decommissioning of sheltered housing.

In order to qualify for this payment, the tenant must:

- Be required to move due to the improvement or redevelopment works

- Have lived in the property as their only or principal home for at least the last 12 months.

The amount of compensation is set by the Government each year and only one home loss payment is payable per household.

Tenants will also qualify for disturbance payments if they are the legal tenant on the date the move takes place and they are required to move on a permanent basis due to improvement or redevelopment works.

Disturbance payments are made to cover the reasonable expenses of moving and may include such things as removal costs and the disconnection and reconnection of appliances.

Costs must be reasonable and relevant receipts provided.

Right to Buy

Tenants who have made an application to buy their home under the Right to Buy are entitled to claim compensation if the sale has not completed within the statutory timescales, as a result of the Council's inaction. The compensation will be in the form of a deduction from the final purchase price, calculated by multiplying the weekly rent by the number of weeks that the sale has been delayed.

To make a claim for such compensation, the tenant is required to:

- Serve an “Initial Notice of Delay” form providing one month for the Council to resolve the delay; and

- Serve a further “Operative Notice of Delay” form, if the delay is not resolved within that month.

o Quantifiable loss payments

In some cases, there is evidence that the Council’s service failure has resulted in the customer suffering a loss that is clear and measurable. These circumstances include increased heating bills due to disrepair, having to pay for alternative accommodation or take-away food, paying for cleaning or carrying out repairs where the Council has failed to meet its obligations.

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

If it is the first reporting of the incident or the complainant/claimant has not allowed the Council the opportunity to put things right prior to making the complaint/claim then the claim will not be accepted.

For the replacement of lost or damaged possessions, tenants will need to provide the following within 7 calendar days:

- Evidence of the damage - this may include the damaged items themselves, but photos would usually suffice.

- Proof of ownership and the value of the lost or damaged item such as photos, instruction booklets or receipts.

However, this policy is not intended to replace or compensate a tenant or leaseholder for not having their own contents insurance.

o Discretionary Compensation

Discretionary compensation can be paid where the Council’s actions have resulted in:

- Poor complaint handling.

- Delays in providing a service (e.g. in undertaking a repair).

- Failure to provide a service that has been charged for.

- Temporary loss of amenity.

- Failure to meet target response times.

- Loss of use of part of the property.

- Failure to follow policy and procedure.

- Unreasonable time taken to resolve a situation

- The customer suffering distress and inconvenience.

The Council will treat all of its customers fairly and will recognise its failings and the impact that this has on its tenants, leaseholders and other customers. Individual personal circumstances will be taken into consideration when doing this and each case will be considered on its own merits. This means that the Council may deal with a complaint differently depending on the individual circumstances of the household.

It may be appropriate to remedy a complaint with actions separately from, or in conjunction with, an offer of compensation. These can include the following:

- Practical actions (such as offering to undertake repairs or redecoration, which would otherwise be a tenant or leaseholders' responsibility)

- Gestures of goodwill (such as flowers or a voucher).

In such circumstances, any discretion will be applied fairly and appropriately.

The Council may decide that, through our actions or inaction, it has caused a tenant to experience stress, upset or inconvenience and as such may look to compensate them for this.

Compensation will be paid at the discretion of the appropriate section or Service Manager in accordance with this policy.

Specific examples of discretionary compensation include (but are not limited to):

Loss of Room or Facility

Compensation in the form of a rent rebate may be paid when a tenant is not able to use a room(s) in their home because of a repair issue that is the Council's responsibility, and which has caused prolonged and unreasonable disruption. Compensation will not be paid for a fault or loss that is caused by the customer's misuse, negligence or damage.

Failure of Amenity or Service

Compensation in the form of a service charge refund may be paid when a service that is charged for and is the responsibility of the Council has failed and the deadline for completing the repair has passed. Compensation may not be payable if the loss is due to planned works agreed in advance with the tenant or the loss of facility is caused by a utility supplier or the tenant's misuse, negligence or damage.

Damage to Decoration or Fixtures

While carrying out repairs, improvements or other works there may be unavoidable damage to a tenant's decorations or fixtures. The Council will try to identify possible damage before starting any works and will discuss the options available to minimise the damage. Where decorations or

fixtures are damaged, as a result of works carried out by the Council or its agents, the tenant may be offered the choice to allow the Council or its agents to rectify the damage or be paid an allowance to carry the work out themselves. The Council will consider the value of the fixtures at the time of the loss and/or damage rather than the full replacement value.

Failure to follow policy, procedure or guidelines

In these circumstances compensation may be paid as a gesture of goodwill and will be paid without prejudice. Compensation will only be considered where the tenant has experienced actual and proven financial loss and/or severe avoidable inconvenience, distress, detriment or other unfair impact of service failure. The Council will not pay compensation for the loss of earnings due to service failure. However, a goodwill gesture may be made in recognition of the time and trouble the tenant may have taken to get the issue resolved.

Missed Appointments

The Council may offer compensation to a tenant if a pre-arranged appointment that has been confirmed either verbally or in writing is not kept by either a member of the Council's staff or one of its contractors unless there are exceptional circumstances. The Council will not offer compensation if the tenant was advised that the appointment would not be kept in advance of the appointment.

Formal complaints

On occasion, a tenant or leaseholder may have reason to complain about the housing services the Council provides. Where this complaint is upheld, in most situations, an apology, resolving issues and a commitment to learning lessons for the future will be an appropriate and proportionate response.

However, in certain circumstances, to put things right when things have gone wrong, we may make a discretionary decision to award financial compensation. These complaints must be made via the Housing Complaints Policy. Where compensation is being considered because of a complaint, the offer would normally be made at the end of the investigation.

Circumstances in which compensation will not be payable

This policy does not cover the following:

- Insurance claims

Substantial claims against the Council, its agents or contractors will be dealt with through the relevant employers or public liability insurance in force at the time of the incident which means that these claims may be handled by the Council's ~~by~~ insurers and/or legal advisors. Personal injury claims will always be referred to the Council's insurers for investigation and are outside the scope of this policy.

- Disrepair claims

A disrepair claim may be made through a solicitor if it is considered that the Council has failed to remedy a repair after being made aware of the issue. The Council will always attempt to resolve disrepair issues by following its complaints process to achieve an early and appropriate resolution for tenants and to reduce the need for legal action. Any claims which are not resolved in this way and progress through legal channels are outside the scope of this policy.

- Legal claims

Legal claims raised by contractors, suppliers or other third parties under the terms of a legal agreement will be managed in line with the legal agreement and/or other relevant legislation. These will be managed in consultation with the Council's legal team.

There are also other circumstances which will not normally be considered for compensation and these include where:

- the loss or damage is caused by or made worse by the tenant's inaction (see under Mitigating Factors below)
- the loss or damage was caused by another household member or visitor to their property
- the problem or service failure has caused little or no issues or impact
- the Council could not gain access to a tenant's home to carry out the required work or the tenant otherwise failed to co-operate with the Council
- the damage could not have been foreseen, and the Council has not been negligent
- the Council has acted reasonably to mitigate any loss or damage
- the service or facility is unavailable because of vandalism, severe weather conditions or other actions outside of the Council's control, for example local or national disruption
- damage is caused by circumstances beyond the Council's control including service failure or damage that is the result of extreme or unforeseen conditions, such as extreme weather
- evidence of the damage to goods or loss is not available or provided
- the loss or damage arises from an alteration or repair to the property or its facilities which the tenant carried out or arranged to have carried out
- the Council has had to remove, dismantle or damage a fixed item installed by the tenant, either with or without the Council's permission, to access essential services – for example the removal of a bath panel to access a leaking pipe
- the loss or damage is the fault of another tenant or neighbouring occupier – for example a leak from their washing machine
- the loss or damage is due to the acts or negligence of a third party, such as a contractor who is not acting on the Council's behalf
- the loss of supply of gas, electricity or water that is outside of the Council's control, such as a failure by the utility provider
- the Council has acted reasonably and complied with its legal and contractual liabilities.

- the Council has made or offered, reasonable alternative arrangements, temporary accommodation for example.

- damage is covered under a resident's contents insurance.

- personal possessions are lost, stolen or damaged through no fault of the Council or its contractors.

- claims for loss of income or time off work.

- loss of rental income.

Mitigating factors

In determining any claim for compensation, the Council will consider any extent to which the tenant's actions might have contributed to the situation in which they found themselves, that is whether they exacerbated or failed to minimise the impact. Equally, the tenant may have been proactive in seeking to minimise the impact of the situation on them. All these factors may mitigate or minimise the level of award ('mitigating factors').

Examples of when the tenants, leaseholders, or others, actions mitigate the extent of the compensation being considered might include:

- failure to communicate clearly with the Council as their landlord or the freeholder
- failure or delay to bring individual matters to the Council's attention within a reasonable timeframe
- failing to respond to contact from the Council
- repeatedly refusing to allow the Council or its contractors access to inspect the property and assess the extent of works needed (where relevant)
- pursuing a complaint in an unreasonable or excessive way
- failure to adequately maintain their property in accordance with their tenancy or lease conditions
- misuse or damage to the property

Investigating Claims and Calculating Compensation

Where it is determined that discretionary compensation is appropriate, the amount of compensation should be fair, reasonable, justifiable and proportionate in the circumstances of the case. Officers are expected to use their reasonable discretion when considering individual cases.

Prior to any payment of compensation being offered, the appropriate authorisation must be obtained from a senior officer who is delegated to approve such offers.

When considering awarding compensation for service failure, the factors to be taken into account will include (but are not limited to):

- Severity of any service failure or omission
- Length of time that a situation has been ongoing

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- Frequency with which the issue has occurred

  Number of different failures

- Cumulative impact on the tenant or leaseholder

- A tenant or leaseholder's particular circumstances or vulnerabilities including family life, use of their home and impact on health and emotional well-being

- Unreasonable delays in resolving matters

- Quantifiable financial loss that would otherwise have not been incurred

- Actions of the tenant, their household or visitor(s), whether this mitigated or contributed to any loss, damage, distress or inconvenience

- The levels of compensation awarded for similar cases by the Housing Ombudsman

Where compensation is recommended, this will be confirmed in writing with an explanation given as to how the level of compensation has been determined. The tenant will be asked to confirm their acceptance of the offer in writing prior to any payment being issued. The tenant will also be required to provide or confirm their bank details to enable payment to be made.

The Council considers acceptance of discretionary compensation to be a full and final settlement of a case. Cases will not be reopened, nor further compensation considered via the same or alternative process unless the circumstances of the original case have significantly changed or escalated.

However, the payment of discretionary compensation is not intended as a substitute for home contents insurance and tenants and leaseholders should ensure that they have sufficient home contents insurance to cover damage to their property that occurs through no fault of the Council.

Compensation is also not automatic and will not apply where a service failure or mistake has not caused any inconvenience or loss and has been easily and quickly remedied.

In making a goodwill or discretionary compensation, the Council is not accepting any liability or fault in connection with the payment.

Where the tenant owes money to the Council in connection with housing services, such as rent or service charges arrears, any compensation will normally be credited directly to the relevant account by way of offset against the balance owing. The exception to this is if the compensation offered is intended to be used for a specific purpose, for example, to replace a damaged item. In such circumstances, the payment of compensation will be made to the tenant.

Other remedies

In some circumstances, it may be appropriate to offer a combination of recompense which includes work to a tenant's home and a financial compensation payment, but only if this is acceptable and agreed by the tenant in advance as part of their complaint resolution.

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Therefore, compensation may be in the form of one or more of the following:

An apology

- Specific action(s) by the Council
- Review of policy or procedures
- Gesture of goodwill
- Financial compensation.

Compensation Payments Ordered by the Ombudsman

When a tenant escalates a complaint to the Housing Ombudsman Service, having exhausted the Council's formal complaints process, compensation will be paid and / or other action taken to comply with the Housing Ombudsman's Order or Recommendation. An Officer Decision, signed by the Chief Executive will be required to authorise the payment and this decision will then be published.

In accordance with the Council's Constitution, the Monitoring Officer is required to report to Cabinet (or to Council for non-executive functions) if any decision or omission has given rise to maladministration.

Equalities Statement

The Council recognises that it delivers its housing services to communities within which there is a wide social diversity and is committed to providing equal opportunities and valuing diversity.

The Council will ensure that no individual is discriminated on the basis of age, disability, ethnicity, gender, sexual orientation, marital status or civil partnership, pregnancy or maternity status. Discrimination on the basis of any of these grounds is not acceptable.

The Council will tackle inequality, treat people with dignity and respect and continue to work to improve services for all service users

The legal framework for the Council's approach is provided by the Equality Act 2010 and specifically by the Public Sector Equality Duty, under which a public authority must work consciously to eliminates discrimination, harassment, victimization and to advance equality of opportunity and foster good relations between people with differing characteristics.

Monitoring

The Council will review its services with the aim of achieving continuous improvement and to ensure compliance with best practice.

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The Council will monitor its performance in acting on and learning from complaints, as required by the Housing Ombudsman's Complaints Handling Code and amounts payable in compensation will feed into this.

Performance in relation to the implementation of this policy will be monitored and this will include details of all payments awarded and the reasons for these payments.

A central record will be kept of all compensation awards, including gestures of goodwill.

Complaints Procedure

The Council's Housing Complaints Policy is available to any tenant, leaseholder or prospective tenant who is dissatisfied with any aspect of the housing services we provide.

A tenant can appeal the refusal of any claim for compensation or the level of compensation awarded under this Policy. Where a customer seeks to make an appeal, they should do so by making a formal complaint through the Council's Housing Complaints Policy.

Further information can be obtained from the Council's Housing Complaints Policy.

Review of policy

This policy will be reviewed every three years in consultation with tenant representatives, staff, other stakeholders, including the Portfolio Holder responsible for Housing, unless there are any reasons, such as legislative or regulatory which necessitate a review prior to this.