



Remedy/Compensation Policy for Tenants & Leaseholders

Issued by Housing & Community Safety

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Remedy/Compensation Policy Quality Record

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1. Introduction

1.1 Our goal is to provide excellent customer service and we recognise that sometimes our actions may cause inconvenience or loss for tenants. When this happens, we try to restore tenants to the situation they would have been in if the mistake had not happened. This can be by saying sorry, paying compensation, or offering other remedies.

1.2 This document is based on the Housing Ombudsman's principles of good practice. We plan to revise the policy as the Housing Ombudsman's guidance evolves. We will review this policy at least once a year.

1.3 This policy explains the circumstances in which compensation, refunds and reimbursement payments are awarded. It has been designed to work alongside the Council's Complaints policy to resolve complaints fairly and consistently.

2. Aims and objectives

2.1 To provide a consistent approach to remedying service failure and awarding compensation which is reasonable and fair.

2.2 To ensure remedies made seek to put the tenants and leaseholders back in the position they would be in had the fault not occurred, as far as reasonably possible.

2.3 To make the process of assessing compensation as simple as possible, to minimise customer effort and ensure that claims are assessed and paid quickly and efficiently.

2.4 To enable practical solutions to be explored to address complaints on a case-by-case basis, including resolving any issues that remain outstanding.

2.5 To ensure payments are made within clear guidelines and are proportionate to the loss/inconvenience caused.

2.6 To ensure compensation paid helps inform our learning and makes our services better

3. Scope

3.1 The policy is restricted to the Council's tenants and leaseholders. People who are not council tenants or leaseholders are outside of the scope of this policy. If they wish to make a claim against the Council should contact the Council's insurance team.

3.2 The policy covers situations where the Council will consider refunds, compensation, or reimbursement of costs for its tenants and leaseholders following service failure.

3.3 Compensation payments are generally made from the Housing Revenue Account. If a compensation payment results from the failure of a third party such as a contractor working for the Council, we will pursue the third party and ask them to pay compensation for their failure. 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 the contract.

3.4 Tenants and leaseholders can choose a person to act as their representative. Compensation payments, reimbursements and remedies are made direct to the tenant and leaseholder even if they have an advocate recognised by us as acting on their behalf.

3.5 New claims for compensation and/or reimbursement will only be considered within 12 months of the incident or in line with statutory requirements.

3.6 This policy covers statutory compensation payments which are set out in law and include home loss payments and disturbance payments. It also covers ex gratia payments where the Council uses its discretion to remedy a situation or failure.

3.7 Payments will not be made for losses which are the responsibility of the tenants and leaseholders as set out in the tenancy agreement. Tenants and leaseholders are responsible for arranging their own contents insurance for accidental damage to their belongings. The Council does not indemnify tenants and leaseholders for damage to personal belongings and cannot offer to compensate tenants and leaseholders for such loss.

3.8 The Council will not compensate for matters relating to services or repairs in communal areas, except where the issue is covered elsewhere in this policy e.g. lift breakdown, or breakdown of a communal boiler.

Claims on the Council's insurance policies are outside of the scope of this policy.

- Leaseholders wishing to make a claim resulting from damage to the building should refer to the Council's buildings insurance policy which is paid for as part of the service charge. The buildings insurance policy covers unexpected events such as a storm, flood, fire etc.
- Personal injury claims are outside of the scope of this policy and should be made to the Council's Insurance Team as a public liability insurance claim. For more information on how to submit a claim tenants and leaseholders should visit (add link here).
- Claims for breach of GDPR (data protection law) or suspected GDPR fall outside of the scope of this policy. Complaints about data protection can be made on the Council's online complaint form and claims can be made through the Council's website (add link here)

3.9 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 tenants and leaseholders. This does not affect reimbursement payments for costs incurred by the tenants and leaseholders, or payments awarded by the Housing Ombudsman service.

3.10 Any payment or other form of compensation offered under this policy is not an admission of liability by the Council.

4. Definitions

Buildings insurance provides cover should damage be caused to a building for example by a fire, flood or storm. This insurance covers the cost to rebuild, repair or replace things like the roof, walls, windows, doors or fitted bathrooms and kitchens.

Compensation Payments are awarded where it is recognised by the Council that there has been a service failure which has caused inconvenience/loss to the tenants and leaseholders.

Public liability insurance claim is where a claimant wishes to make a liability claim for negligence/ breach of duty which is determined by an insurer or court and may result in financial compensation for damaged property, belongings, damage to health, loss of income etc

Refund is a payment made to a tenants and leaseholders when a service has not been delivered that was paid for as part of the rent or service charges.

Reimbursement of an additional expense incurred because of a service failure or incident, for example travel, cleaning, use of additional electricity if needing to use a dehumidifier or electric heater.

Tenants and leaseholders for the purpose of this policy are Nuneaton and Bedworth Borough Council tenants and leaseholders only.

Vulnerable tenants and leaseholders who have a particular characteristic and/or experience an exceptional life event and are currently unable to act independently and/or are unable to cope with managing their tenancy/lease without additional support/reasonable adjustments. This includes physical disabilities, mental health issues as well as transitory situations. Please see the Council's Vulnerable Persons Policy for further information.

5. Compensation Policy commitments/principles

5.1 A tenants and leaseholders should not be disadvantaged by certain actions taken by the Council and should be restored to the position they were in before the event occurred. The event could be a deliberate action (such as rehousing under a regeneration scheme), or a service failure (such as a missed appointment).

5.2 We will seek the views of tenants and leaseholders about the remedies they are seeking following a service failure and act reasonably to compensate them, taking their individual circumstances into account. We will set out any offer clearly, including what will happen and by when, in agreement with the tenants and leaseholders where appropriate. Any remedy proposed will be followed through to completion.

5.3 Consideration will be given to what action could be taken to minimise any negative impact on tenants and leaseholders for example reimbursement of reasonable costs incurred, provision of vouchers for decorations, and whether money is the most appropriate remedy. An apology, explanation, review of policy and procedures, training for staff or another remedial action may also be sufficient.

5.4 The remedy offered will reflect the extent of the service failure and the detrimental impact caused as a result. Factors to consider when assessing the service failure and how this has impacted the tenants and leaseholders will include individual's circumstances including any vulnerability, the length of time that the complaint covers and the severity of the service failure.

5.5 At the discretion of the Assistant Director – Social Housing & Community Safety payments may be made in advance to avoid creating hardship.

6. When compensation may be considered

- When repairs have not been completed on time.
- When essential services set out in the tenancy or lease agreement have not been provided.
- When an appointment has not been kept and we have not informed the tenants and leaseholders in advance.
- When any room in the home cannot be used because of lack of repair.
- Where we have not followed our policies or procedures.
- Where compliant handling has been poor.
- Where it has taken an unreasonable time to resolve a situation.
- Where there has been failure to meet target response times and we have not kept the tenants and leaseholders updated.

- Where there has been failure to provide a service that has been charged for

7. When compensation may not be considered

- Delays to repairs where the tenants and leaseholders seeking compensation has failed to provide access on two or more attempts by the Council to address the fault/issue.
- Delays to repairs due to the need to obtain spare parts that we would not expect a contractor to have in stock and where tenants and leaseholders have been kept informed of the timescales involved.
- Extra work is required, and the contractor has kept tenants and leaseholders informed of the timescales involved.
- Where the fault is caused by a third party or is something that the Council is not responsible for, and we can demonstrate that we have taken all reasonable action to resolve the matter e.g. leaks from a leaseholder's plumbing into the flat below.
- Claims for loss of earnings to provide access for repairs or other services.
- Claims from leaseholders for loss of rental income (please refer to the Council's buildings insurance policy).
- Claims from sub-tenants of leaseholders. Any claim must be made by the leaseholder and compensation is paid to the leaseholder.
- Circumstances beyond our control e.g. storm damage or flooding from extreme weather.
- Delayed repairs to the communal areas of a building, except where the tenants and leaseholders can demonstrate an impact on them. E.g. lift breakdown where there is no access to an alternative lift and a tenants and leaseholders has restricted mobility.
- Damage caused to a tenants and leaseholders possessions due to negligence on behalf of the Council or its contractors. These claims should be submitted as public liability claims.

8. Assessing the impact of a service failure and vulnerability

8.1 The Housing Service assesses vulnerability on a case-by-case basis, considering all tenants and leaseholders' needs and their circumstances. For the purposes of this policy, Nuneaton and Bedworth Borough Council will define a vulnerable person as one who has a condition, disability, or a personal circumstance, which means that without support or intervention, any of the following may be true:

- They are at higher risk of abuse or neglect
- There is detriment to their overall wellbeing
- Their tenancy is put at risk

Included in this definition are people who receive or need additional care and support services. We recognise that not everyone who has a disability is vulnerable under the definition of this policy. We also recognise that vulnerability is not always permanent, and that a person's needs may change over time.

Nuneaton and Bedworth will define an accessible service as one that someone with a disability, communication, or access need, can use, receive, benefit from, and engage with, in a similar amount of time and effort as someone who does not have such a need.

8.2 When assessing compensation payments, the Council will consider what impact a service failure has had on a tenants and leaseholders and their household, considering any relevant vulnerabilities. This includes whether a vulnerability has made it harder for the

household member to cope compared to others. It is therefore important that tenants and leaseholders are asked for this information as part of their complaint.

8.3 Examples of vulnerability where tenants and leaseholders may have been significantly impacted, and where additional compensation maybe awarded because of the impact caused may include:

- Poor management of anti-social behaviour where a complainant has a mental health condition may make the situation harder to cope with.
- Tenants and leaseholders with young children who experience an extended period in temporary accommodation because of repair delays, causing significant inconvenience and upset.
- Delayed repair response/completion may have a disproportionate impact on a tenants and leaseholders because it impacts a health condition/disability).

9. Types of compensation payments

9.1 There are two types of compensation payment:

- Statutory Compensation: a payment that the Council is legally obliged to make and has no discretion over the amount awarded.
- Ex gratia payments: the Council has no legal obligation to make this type of payment but has chosen to do so to compensate tenants and leaseholders for the loss or injustice they have experienced

10. Statutory Compensation (Mandatory)

10.1 These are payments which the Council is legally obliged to make and where the Council has no discretion over the amounts awarded. They include payments such as disturbance payments, home loss payments and improvement payments.

10.2 **Disturbance Payments** are statutory payments under the Housing Act 1985 (Part II, Section 26) the Council has discretion to give financial assistance towards tenants' removal expenses.

10.3 **Home Loss payment** is a statutory payment made to tenants, leaseholders or owner-occupiers who have lived in their property for a minimum of 12 months and are required to move home permanently because of redevelopment or demolition of their home. Payment is only payable where a displacement (move) is compulsory.

10.4 **Right to Improvement payment** is for Secure Council tenants who are approaching the end of their tenancy for previously approved 'qualifying improvements' they have made to the home. The compensation is only paid for specific types of improvements and can only be claimed at the end of the tenancy. Flexible tenants do not have a statutory right to make improvements or receive compensation for improvements made.

10.5 **Right to Repair** is a statutory compensation scheme which enables tenants and leaseholders to have repairs that are listed in the legislation, and which cost no more than £250 completed quickly. The repairs included in the scheme are likely to affect the health, safety, or wellbeing of tenants and leaseholders. In addition to ensuring repairs are completed

quickly, the scheme sets out compensation for delays where qualifying repairs have not been carried out within the prescribed timescale.

10.6 The legislation which permits these payments are as below:

- Land Compensation Act 1973
- Housing Act 1985
- Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994
- Housing Act 1988
- Secure Tenants of Local Authorities (Compensation for Improvements) Regulations 1994

11. Ex gratia payments (Discretionary)

11.1 The Council has discretion to offer remedies for service failures. These are wide ranging and seek to put the tenants and leaseholders back in the position they would be in had the fault not occurred. For consistency, we offer standard amounts for frequently occurring minor service failures which may not have had a significant impact on a tenants and leaseholders such as a missed appointment. Examples of frequent ex gratia payments are set out in the remedy summary table at section 8. This part of the policy sets out the types of ex-gratia payments that the Council can make.

11.2 **Rent Refunds** - The Council may refund some or all of the rent covering the period for which a tenant can demonstrate loss of a room, amenity or service which is the responsibility of the Council and where the target deadline has passed.

11.3 **Heating Charge Refunds** - Tenants can apply for a refund of heating charges when a communal heating system fails during the heating season when the system is turned on and is unavailable for more than three consecutive days. Refunds are based on the gross weekly charge. Refunds apply to tenants only as leaseholders will receive a lower service charge to reflect loss of heating during the outage.

11.4 **Electricity Cost Reimbursements** - Reimbursements will be made to cover increased electrical costs. Those costs could be incurred by:

- using alternative heating methods such as fan heaters
- generating hot water by boiling kettles while the Council's heating or hot water supply is unavailable
- using a dehumidifier to dry out a home following a water leak

Tenants may apply for reimbursement of additional costs when an electrical appliance has to be used for more than three consecutive days. For communal heating systems, the appliance has to be used during the heating season when the heating should be on. Reimbursement of tenants for loss of hot water does not apply if there is a working immersion heater available. Reimbursement will be based on a flat rate as set out in the Remedy Summary Table on pages 11 & 12.

11.5 **Other Reimbursements** - These are payments the Council may make where a tenant or leaseholder can demonstrate actual loss. In these circumstances, costs must have been reasonably incurred. An example of a reimbursement requiring evidence could be the cost of visiting a launderette when plumbing to the kitchen is blocked. In the event of tenants and leaseholders making a claim for negligence/breach of duty, that claim will fall outside the scope of this policy and will be redirected to the Council's insurance team and public liability insurance.

11.6 Damage to Decorations or Fixtures - Where decorations or fixtures are damaged because of repairs or improvements by the Council, the tenants and leaseholders will be offered the choice to allow the Council to carry out the work or decoration vouchers to carry out the work themselves.

11.7 Miscellaneous Ex-Gratia payments - Strategic Directors & Assistant Directors have the discretion to offer practical solutions to address complaints, as far as reasonably possible. This includes anything not specifically covered elsewhere in this policy.

11.8 Housing Ombudsman suggested financial compensation awards - We will offer higher level payments when the impact has been more significant. We classify these payments as low, medium, high, severe impact and we determine the compensation amount based on these levels. These payments are aligned with the payments set out in the Housing Ombudsman's guidance on complaint remedies to compensate for instances of service failure, loss, or inconvenience. When determining a compensation award, an assessment may identify more than one finding. The bands of low, medium, high, and severe below reflects the financial compensation award for each finding rather than the total amount for the case.

Low Impact (Awards from £25- £50)

- Compensation in the range of these amounts may be used for instances of service failure resulting in some impact on the tenants and leaseholders. We recognise that there has been service failure which has had an impact on the tenants and leaseholders but was of low impact, short duration and caused minimal, low inconvenience, and minimal distress. Overall, the circumstances have not significantly affected the outcome for the tenants and leaseholders. E.g. a moderate delay in carrying out a routine repair, instances where there has been failure to reply to letters or return phone calls etc. but the impact is no greater than a reasonably tolerant person could be expected to accept.

Medium Impact (Awards of £50 - £250)

- Compensation in this range may be for cases where we recognise that there has been service failure which has had an impact on the tenants and leaseholders and caused a moderate degree of inconvenience or distress but no permanent impact. A repeated failure of the Council or contractors 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 could be a significantly delayed repair such as a blocked toilet which has resulted in distress and inconvenience, and where the tenants and leaseholders have had to chase responses and seek corrections of mistakes that has required multiple visits over an extended time before the repair is fully rectified.

High Impact (Awards of £250 - £500)

- Compensation in the range of these amounts is used in recognition of a significant failure in service resulting in a significant impact on the tenants and leaseholders including physical or emotional impact, or both. An example of this is a service failure that has gone on for a long period of time, with a lack of action to address the issue such as an ongoing leak that has significantly worsened over time and has caused avoidable damage to the property which has impacted on the quality of the living environment. In addition, the tenants and leaseholders may have been required to stay in temporary accommodation.

Severe Impact (Awards of £500 and over)

- Compensation in the range of these amounts recognises there have been serious failings which have had a serious detrimental impact on the tenants and leaseholders. The redress needed to put things right recognises this is at a higher end.

12. Remedy Summary Table

Category	Level of Compensation
Missed appointments where we or our contractor fail to attend an agreed appointment, arrive late to an appointment by 2 hours or more, or cancel an appointment giving less than 24 hours' notice. Where tenants and leaseholders can demonstrate loss of earnings, we will at our discretion compensate up to the limit for loss of earnings using the established jury duty rate. The tenants and leaseholders will need to demonstrate that they cannot work from home, no other household member could reasonably have provided access, and it was necessary to book a full day off work for the day of the appointment.	£10 per appointment
Failure to deliver a service to published service standards causing minimal impact	£10
Failure to complete repairs within target timescales	£10 + £2 per day up to a maximum of £50
Reimbursement of heating and hot water charges following a service breakdown of more than 3 days (tenants only)	Reimbursement of the weekly heating and hot water charge for the period the service is down (during the heating season only)
Reimbursement of increased electricity costs due to use of a temporary heater usage	£2.50 per heater, per day
Reimbursement of increased electricity costs due to the need to boil water due to breakdown of a boiler	£2.50 per household day
Reimbursement of increased electricity costs due to use of a dehumidifier	£3.50 per unit, per day
Loss of electricity and/or lighting affecting one or more rooms	£5 per day after 2 days of the repair being reported for loss of lighting/electricity to the

<p>Lift Failure –</p> <p>Where a lift is unavailable for more than 7 consecutive days and tenants and leaseholders do not have access to another lift in the block. Minimal impact complaints</p>	<p>whole property. £10 per week paid after the first full week from the date reported to the Council where there is partial loss of lighting/electricity</p> <p>£1 per day for each day after the first 7 consecutive calendar days failure (inclusive of the initial 7 days eg. eight consecutive days of failure would result in a payment of £8. A higher rate of £2 per day will be considered for those deemed vulnerable due to mobility issues. In addition, if there has been detrimental impact to a tenants and leaseholders who is unable to use the stairs, the Council will assess the impact of the failure on the tenants and leaseholders and offer appropriate remedies.</p>
<p>Minimal impact complaints -</p> <p>Where a tenants and leaseholders has just cause to complain and has suffered minimal inconvenience the Council may make an offer of compensation in recognition of the failure to perform.</p>	<p>£10 - £25</p>
<p>Poor communication that results in inconvenience</p>	<p>£10.00</p>
<p>Complaints Handling eg. response outside of the Ombudsman timescales where the tenants and leaseholders have not been kept updated,</p>	<p>£20 plus £5 per day over target timescale</p>

13. Claiming compensation and making a complaint

13.1 Tenants and leaseholders should follow our complaints procedure when wishing to seek a remedy such as compensation because of a service failure. Tenants and leaseholders should provide the details of what went wrong and what the impact was on them. Each case will be considered on its own merits to ensure the most appropriate remedy is offered. For further details of the Council's complaints policy and process follow this link <https://www.nuneatonandbedworth.gov.uk/contact-us/customer-feedback/2>

13.2 Where the Council is aware of a significant service failure affecting multiple properties, it may, at its discretion, offer compensation to those affected without the need for tenants and leaseholders to make individual claims.

13.3 Compensation will be signed off by a service manager at the level appropriate to the compensation awarded.

14. Timescales

Where payment has been agreed, the Council will aim to deal with requests for refunds and compensation within 28 working days unless there are particular circumstances requiring further investigation.

15. Appealing a compensation award

15.1 If a tenants and leaseholders is dissatisfied with the outcome of a complaint and compensation award, they can appeal by escalating their complaint to the next stage of the complaints process. In some cases, the next stage maybe for the tenants and leaseholders to escalate the matter to the Housing Ombudsman.

15.2 The Housing Ombudsman can order the Council to pay compensation if following their investigation, they find evidence of a service failure which has not been put right by the Council. For more information on The Housing Ombudsman tenants and leaseholders can visit www.housing-ombudsman.org.uk

16. Equality, Diversity & Inclusion

16.1 We have carried out an Equality Impact Assessment to consider the positive and negative impacts this Policy may have on people with protected characteristics under the Equality Act 2010 and have concluded that implementation of this policy presents no barriers to accessing the service/process or unintentionally disadvantages for “any protected group”. We aim to ensure that all tenants and leaseholders can achieve an equitable outcome and that compensation payments reflect impact.

16.2 When required, Council Officers will assist tenants and leaseholders in making a claim for compensation, by, for example, helping to complete paperwork or offering translation services.

17. Communication

We will provide information on this policy and how we calculate compensation using various methods such as on our website, leaflets, plain English summary guides, and via tenant newsletters.

18. Data Protection

Where information needs to be shared with our staff and partners to resolve a complaint or to deal with a compensation award, this will be in line with data protection requirements, including:

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

For further information on the Councils responsibilities for data protection can be found on the Councils website.

19. Financial Controls

19.1 The Council are required to comply with financial legislation and regulations around antifraud and money laundering when processing financial transactions. Refunds of rent and service charges will be made direct to that account.

19.2 When making payments directly to tenants and leaseholders we will pay into the tenant or lessee's account only, and require supporting documentation to verify the beneficiary details, such as a recent (within 3 months) bank statement, confirming the beneficiary address and bank details (sort code and account no.), a cheque/paying-in slip or photo of a bank card where the name and bank accounts/ sort code are shown. Details of the anti-money laundering regulations can be found here: www.gov.uk/guidance/money-laundering-regulations-your-responsibilities

20. Training

We will provide all staff responsible for implementing this policy with comprehensive training on assessing compensation. We will ensure that the approval process is sufficiently robust to ensure compliance with this policy. In addition, staff guidance and training on lessons learnt from previous claims will form part of our commitment to ongoing service improvements.

21. Monitoring and learning

21.1 We will use the learning from compensation cases and complaints to continuously improve our service to our tenants and leaseholders.

21.2 Compensation awards will be monitored quarterly, reported, and published annually to Housing Cabinet Members and Scrutiny Panels. Reports will provide analysis on compensation payments, information on themes identified and learning as a result.

21.3 In addition, an annual review of this policy will be undertaken by the relevant service managers to update values, incorporate legislative, regulatory requirements and best practice developments.