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1. Purpose and context

- 1.1 This compensation policy outlines when payments might be made to residents, where they have experienced financial loss or an unacceptable level of inconvenience as a result of service failure or poor performance by Lewisham Homes. This will often, though not always, be linked to a complaint. The policy also outlines situations where remedies other than financial compensation might be considered.
- 1.2 This policy is designed to work alongside our complaints policy in supporting our approach to resolving complaints fairly, which is itself in line with the Tenant Involvement and Empowerment standard and the Housing Ombudsman code of practice. In preparing this policy we examined their guidance including the dispute resolution principles. These are:
 - Be fair - treat people fairly and follow fair processes
 - Put things right
 - Learn from outcomes

2. Scope

- 2.1 This policy sets out where Lewisham Homes will consider paying compensation or refunding or reimbursing for a lost service, amenity or financial loss. This policy covers:
 - Services provided by Lewisham Homes and/or its' contractors
 - Properties managed by Lewisham Homes
 - Tenants¹ and leaseholders of Lewisham Homes

¹ Some remedies are exclusive to tenants in line with our responsibilities under their contract

- 2.2 We will not investigate claims for compensation where the incident or service failure took place more than six months ago, unless there are exceptional circumstances which prevented the claim being raised.
- 2.3 A financial remedy will not be given in the following type of situations (not exhaustive):
- Where payment is administered under a scheme managed by the London Borough of Lewisham (for example Home-loss, Under-Occupation).
 - Where Lewisham Homes is not at fault for the claimed loss or damage (e.g. resident advised to claim through their contents insurance for damage to belongings arising from a leak in a neighbouring property).
 - Where financial claims are being pursued by another route including legal action or liability insurance.
 - Where service failure results from extreme and/or unforeseen conditions, and where Lewisham Homes has taken all reasonable steps to restore services and/or facilities under those prevailing conditions.
 - Anyone who is not a tenant or leaseholder of Lewisham Homes

3. General principles

- 3.1 We aim to work to agreed service standards and address issues as soon as possible to prevent or reduce complaints and the consequent need to consider compensation.
- 3.2 We will seek to provide a remedy which puts the resident back into the position they would have been in, if it were not for the failure or loss. Where this is not possible then compensation will be considered.
- 3.3 We will aim to implement this policy consistently, and consider each case in a way that is transparent, proportionate and reasonable. This means that as well as considering what is fair for the individual in each case we also consider our duty to other residents by handling funds responsibly and not over-compensating.
- 3.4 When considering what is reasonable and proportionate we will check at what point we knew about a situation and whether we acted in line with our policies, as well as whether anyone else, including the resident, contributed to the issue or delay. (See discretion – section 8).
- 3.5 As stated in the Compensation Act 2006 (Part 1), where Lewisham Homes make an apology or any offer of redress:
- “An apology, an offer of treatment or other redress, shall not of itself amount to an admission of negligence or breach of statutory duty”.*
- 3.6 Any payments Lewisham Homes makes under this policy will be in full and final settlement of the complaint or issue raised. Where the resident accepts payment, they accept that the matter is closed and resolved.
- 3.7 Where Lewisham Homes awards a payment to a resident we will offset this against any outstanding balance owed to us, except where this is a reimbursement of an additional expense.

- 3.8 **Insurance** - Residents are to make a claim on their own contents insurance where there has been damage to their belongings. If they believe that Lewisham Homes is responsible they can submit a claim to our insurers.

4. Definitions

For the purposes of this policy, definitions are broken down into the following, with examples²:

- **Refund of charge** - money paid by a resident to Lewisham Homes that is repaid where there is a loss of amenity or service included in their service charge or rent, e.g. loss of heating or where a resident has been unable to use a room. The refunded amount will reflect an actual charge for the service/amenity that was lost, once it was reported to us and where we fell outside of our agreed timeframe to rectify.
- **Reimbursement of expense** – where a resident has made arrangements as a result of a service failure or incident which has incurred them a minor loss of evidenced value. Examples of out of pocket expenses include travel costs, postage, cleaning, and extra fuel.
- **Compensation** - payments awarded in recognition of inconvenience caused to residents for a loss of service, amenity or non-monetary benefit, or reimbursement for a quantifiable loss. Examples include contractual payments made for failures under 'right to repair'.
- **Discretionary payment** (also known as ex-gratia payment) – where Lewisham Homes is not necessarily obliged but have chosen to make an award to resolve a matter and as part of complaint prevention. This could be where a resident has had to go way beyond any expected 'time and trouble', or where we may consider a 'goodwill award' in a non-fault situation with an extenuating circumstance.
- **Statutory payment** – These are usually pre-set amounts or set within a threshold or criteria, with a prescribed way of calculating in accordance with legislation. For example Home-loss payments set by Government.

5. Statutory compensation

- 5.1 **Right to Repair** – This is a statutory compensation scheme which gives secure council tenants a contractual right to have certain qualifying repairs completed within a prescribed period of time, or receive a set sum where these are not carried out within the time period.
- 5.2 **Compensation for improvements** – Council tenants whose tenancy is ending can apply for compensation for 'qualifying improvements' they have made to the property.
- 5.3 **Disrepair** – Claims and notifications of disrepair will be managed according to separate processes which have been written to comply with relevant legislation, including a Pre-Action Protocol for Housing Disrepair Cases.
- 5.4 **Home loss/Basic loss payments** – a statutory scheme covering payments to tenants and leaseholders with a qualifying interest in land where they are required to move for

² Examples are for definition only and will not be applied in all cases

specific conditions. This is administered by London Borough of Lewisham rather than Lewisham Homes. Disturbance payments may also apply.

6. Non-financial remedies

6.1 We will always consider if it is appropriate to offer a non-financial remedy either instead of or in addition to any financial payment. These may include, but are not limited to:

- An apology;
- A full response to all of the points raised in a complaint;
- Actions to put things right e.g. carrying out a repair;
- Offering an additional service which would not usually be given, for example redecoration;

6.2 In addition we will:

- Review a policy or process where there is evidence of a flaw or gap (informing the complainant that we will do this);
- Offer staff guidance or training if there is evidence of some failing (informing the complainant that we will do this);
- Take appropriate action against an employee or contractor

7. Refunds and reimbursement

7.1 Uninhabitable rooms

Tenants may be awarded a payment where one or more rooms are unavailable for use, as a result of Lewisham Homes failing to take reasonable steps to carry out repairs in line with our published timescales. The award is calculated on a weekly basis using the net rent and percentage of rooms in the property that were out of use.

7.2 Decorating

Recognising that one size doesn't fit all we may use discretion when offering a suitable remedy where rectification work to a decorated area is needed following a repair. We will usually make good by preparing a surface for a tenant to redecorate it, but may at times issue a decorating voucher or allowance to reimburse the tenant towards the cost of replacement materials for the affected area. We may offer to redecorate an affected surface where a tenant with health limitations will be unable to undertake this work.

7.3 Heating/Hot water failure

A proportion of rent can be refunded for loss of amenity if a hot water or space heating appliance fails, where supplied by Lewisham Homes, and where an alternative form of heating is not provided in the required timescale. Where a resident pays a service charge for heating and hot water, this is subject to a pro rata refund.

7.4 Loss of water supply

This will be considered, only where it is clearly evidenced that a total loss of supply or failure is as a result of failure or omission on the part of Lewisham Homes.

7.5 Caretaking/Grounds maintenance

Lewisham Homes will pay a pro rata refund of the service charge where there has been a total loss of service, beyond a week, and where there has been no alternative provision. Exclusions apply – for example where a service could not be provided as a result of extreme weather conditions, although an alternative or additional service may instead be provided, such as gritting.

7.6 Lift failure/Door entry

A refund of service charge may be payable where a lift/door entry system is unavailable for a period of time beyond our published timescales to repair.

7.7 Digital aerials and digital services

A refund of service charge may be payable where there is a loss in digital service to a system or equipment provided by Lewisham Homes and we have not met our published timeframes to re-establish service. We do not pay compensation for the loss of digital services paid to a third party, in which case the resident is advised to contact their digital supplier at the earliest opportunity.

7.8 Other paid services – In certain locations residents may pay for additional services, such as concierge or specialist security measures. Where a service is delivered and charged for by Lewisham Homes we will consider a refund of the charge for delays beyond our contracted timescales to remedy. Where a service is provided directly by a third party, for example a utility company, we can signpost the resident to the third party but will not get involved beyond this.

7.9 Other reimbursement – As it is not possible to cover all situations in full here we will use our discretion in reimbursing for other incurred expenses or loss (See section 8). We will ask for evidence of the expense, such as a receipt or previous bill. For example where a repair led to additional electricity or water usage in comparison to a similar period. We may agree in advance a maximum amount that we will reimburse where we know an expense is likely or can reasonably be expected.

8. Discretion

8.1 Discretionary payments may be awarded according to specific circumstances. These cases will be considered on an individual basis. We may consider factors such as any disproportionate effect on a resident due to a particular protected characteristic.

8.2 We will produce information and training to guide our staff on identifying a situation where discretion may be used, and on methods for agreeing such an awards.

9. Monitoring and controls

- 9.1 This policy will be implemented through internal processes we have put in place to administrate complaints and compensation, as well as measures we have in place to process statutory and contractual awards.
- 9.2 Compensation and other remedies linked to a complaint are recorded with the complaint and will be analysed as part of learning and continuous improvement to prevent similar complaints in future and to help us improve our services.
- 9.3 Remedies and awards will be analysed and monitored:
- By internal quality checks and audit trails
 - For effectiveness in addressing the issue and for consistency
 - When benchmarking our services against others
 - For equality implications
- 9.4 A review by the Independent Adjudicator (IA) forms part of our complaints process. The IA can instruct us to pay compensation and/or implement some other remedy. The Housing Ombudsman may also make a recommendation (See 10.2). Where the Housing Ombudsman or Independent Adjudicator proposes a remedy we will implement this promptly.
- 9.5 The Housing Ombudsman regularly publishes information about decisions made on individual cases and patterns across the sector. We will regularly review this information and use it to inform our learning and decision making on similar cases.

10. Legislation and regulation

- 10.1 Applicable legislation and regulation includes but is not limited to:
- Housing Ombudsman Scheme and Code of practice
 - Section 11 of the Landlord and Tenant Act 1985
 - Environmental Protection Act 1980
 - Fitness for Habitation Act 2018
 - Compensation for improvements – provisions under Housing Act 1985 (as amended)
 - Secure Tenants of Local Authorities (Right to Repair) Regulations 1994
 - Tenant Involvement and Empowerment standard (HCA)
- 10.2 All social landlords have a duty to become members of an Ombudsman scheme. On investigation of a case, the Housing Ombudsman may recommend a remedy including the payment of compensation.

11. Equality, diversity and inclusion

- 11.1 An equality assessment was carried out as part of the review of this policy. It concluded that the policy should go ahead in its current form, but that we should regularly review the way we implement it for equality purposes as well as wider

organisational learning. The principle of fairness and a range of remedies including discretion are built in to the policy so that we do not have to apply a 'one size fits all' solution.

12. Communication and consultation

12.1 This policy will be communicated to:

- Residents and other stakeholders via our website, leaflets and relevant correspondence.
- Staff via our intranet library, and through training to assist them to implement this policy
- Contractors and other partners as and when required.

12.2 We have arrangements in place to protect the confidentiality of complainants. Where information needs to be shared with staff and partners to achieve a resolution, this will be in line with data protection requirements.

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