



# Compensation Policy and Procedure

Version:	2
Date of Board Approval & effective date:	31 January 2024
Last Reviewed:	8 <sup>th</sup> June 2022
Next review date:	December 2026
Document owner	Housing Services Manager



## **Introduction**

Empower Housing Association (EHA) are committed to providing high quality services and putting tenants needs at the heart of everything we do.

EHA recognises that in some cases we may need to consider discretionary compensation and gestures of good will and for those occasions, we have put in place an accessible, easy to follow and robust Compensation Policy and Procedure to assist in resolving matters as efficiently and effectively as possible. In addition, tenants may be entitled to mandatory payments in line with legislative requirements.

EHA has a comprehensive Complaints and Feedback Policy and Procedure, and the Compensation Policy and Procedure should be read in conjunction with that Policy, to ensure that any payments of compensation as a result of service failure are proportionate and reflect the Housing Ombudsman Guidelines.

## **Policy**

This Policy relates to all tenants in EHA rented accommodation and will not be applied in the following circumstances:

- A request subject to an insurance claim
- Where legal proceedings are in progress

This policy sets out the circumstances when discretionary compensation, gestures of goodwill and reimbursement will be considered by EHA - see Appendix 1. It also highlights statutory and legislative obligations EHA must comply with in paying compensation.

For the purposes of this policy, EHA makes a distinction between 'compensation' and 'gestures of goodwill' as follows:

- **Compensation** – A payment of recompense for loss of service or out of pocket expense at a quantifiable rate or amount incurred as a direct result of EHA actions or failure to act.
- **Gesture of goodwill** – A payment made to maintain good relations where inconvenience has been caused by EHA's actions or failure to act. This may include a party which is not a tenant e.g. a neighbour.

At times it may be appropriate to pay both compensation and a gesture of goodwill together and each case will be investigated and assessed on its merits. The level of payment made will be commensurate with the level of inconvenience, disturbance or annoyance suffered and the level to which EHA may be directly responsible.

## **Process**

Where a tenant wishes to claim compensation, they should do so within 28 days of the incident using the form provided at Appendix 2. If a claim is made and is not on the

form referred, this will still be considered in line with this Policy if all relevant information is provided.

Where appropriate tenants will be required to take photographic evidence and EHA will contact the tenant within 10 working days in order to book an appointment for a visit/inspection to be completed. The Tenant should be informed not to throw any affected possessions away before an inspection is undertaken.

In some extenuating circumstances, EHA may consider compensation/goodwill/reimbursement outside of this timescale, however we will not normally consider a compensation claim made after six months of the incident(s).

Acceptance of an offer should be received within 28 days from the date the offer was made. Any acceptance made after this time will be paid at the discretion of the relevant Service Manager considering the claim.

### **When Compensation will *not* be considered**

Compensation will not be considered in circumstances where the issue can easily be resolved and as follows:

- All statutory and contractual obligations have been fulfilled.
- Contractors are waiting for parts and kept the tenant and EHA informed of the timescales involved and can evidence this.
- Follow-on work is required, and the contractor has kept the tenant informed of the timescales involved.
- The fault is caused by a third party or is something EHA are not responsible for.
- The incident was caused because of negligence by the tenant or their failure to comply with the terms of their tenancy e.g. an issue not being reported in a reasonable timescale or not providing access to contractors to complete work required when sufficient notice has been provided.
- Service failure due to extreme weather conditions e.g. flooding
- There is, or has been, a payment ordered by a court or competent tribunal in respect of the same issue.
- Work is required at the property and an action plan has been provided in advance and EHA have adhered to this plan.
- Claims for personal injury.
- Instances where any damage is covered under the tenant's contents insurance.
- Any loss or damage due to unauthorised alterations to the property

### **Types of Payment Offer**

In circumstances in which compensation will be offered, EHA will refer to the following types of payment:

- Mandatory (such as home loss, disturbance,)
- Quantifiable (where actual loss can be proven)
- Discretionary (for time and trouble/distress and inconvenience)
- Other Remedies

## **Other Remedies**

EHA will always consider what would be an acceptable remedy to any claim. We will always consider any re-dress suggested by a tenant and work towards an acceptable solution. Remedies can be categorised as:

- Providing an apology
- Offering to undertake a repair or redecoration which would otherwise be a tenant's responsibility.
- Offering voucher/chocolates or flowers
- Improve communication.
- Providing an explanation and reasons why something went wrong.
- Taking action if there has been a delay.
- Reconsidering or changing a decision.
- Amending a record or reviewing a policy.
- Changing procedures, and practices via training or guidance
- Employee disciplinary action
- Compensation

## **General Principles**

The following general principles should be taken into account prior to any payment being agreed:

- Compensation/goodwill - If a tenant has arrears on their rent/service charge account or any other outstanding debt then the amount offered may be credited to their account to help towards paying any arrears, in agreement with the tenant. Should the amount cover more than the arrears, the surplus amount will be paid to the tenant by BACS payment or cheque payment where this is not possible.
- Reimbursement -When there has been a failure in service and EHA have offered to make payment for costs that the tenant has incurred. Receipts or evidence will be requested before re-imbusement will be paid by BACS payment or cheque payment where this is not possible.
- Payments over £500 should only be agreed after consultation with the relevant Director.
- Complex or unusual cases should be referred for legal advice where appropriate.
- If the issue is associated with an EHA policy refer to the policy for clarification.
- Consider if the tenant suffered a loss based on action(s) outside their control or as a result of action(s) undertaken by the EHA.
- Is there a perceived fault with the service provided?
- Did EHA fail to act on an issue that should have been addressed?
- Has EHA caused the tenant distress, inconvenience, or hardship as a result of consistently poor service in handling a situation?
- Compensation is not automatically offered and will not apply where the service failure or mistake has not caused any problems or where it can be easily remedied.
- Any payment made will reflect the level of inconvenience, disturbance, stress, and annoyance suffered and the extent to which EHA has been directly responsible.

- The level of compensation will be reasonable, justifiable, and proportionate and reflect value for money for EHA and its' tenants.

### **Related Legislation, Regulation and Codes of Practice**

- Home Loss and Disturbance Payments (Under the terms of the Land Compensation Act 1973 as amended).
- Land Compensation Act 1973 (as amended)
- Housing Act 1985 and 1988 as amended.
- Social Housing (Regulation) Act 2023
- Equality Act 2010
- Data Protection Act 2018
- Regulator of Social Housing Regulatory Standards
- Housing Ombudsman Complaints Handling Code

The Regulator of Social Housing (RSH) has responsibility for the regulation of social housing providers in England and has set out a regulatory framework which includes Regulatory Standards providers must meet.

The Housing Ombudsman Service (HOS) published a Remedies Guidance in September 2022 as a supplement to the Remedies Policy used by the HOS when investigating complaints. The Guidance provides indicative levels of redress and circumstances which may be a useful reference document when determining levels of compensation.

Whilst Appendix 1 is not exhaustive the requirements laid out have been considered when formulating this policy and all colleagues will refer to the related documents listed and legislative requirements for further clarification or seek legal advice where necessary.

### **Related Policies, Procedures and Documents**

- Complaints and Feedback Policy and Procedure
- Data Protection Policy
- Equality Diversity & Inclusion Policy
- Reasonable Adjustments Policy
- Temporary Decant Policy
- Tenancy Agreement

### **Performance Reporting**

EHA will record all compensation in line with complaints recording and report as follows:

- Annually to Board on the volume and cost of compensation payments
- All compensation payments will be considered and discussed at monthly Senior Management Team Meetings.

### **Policy Review**

The policy will be reviewed every three years (or sooner if there is a change in regulation, legislation, or codes of practice).

## Appendix 1

<b>Mandatory Payments</b>	
<b>Description</b>	<b>Detail</b>
<b>1. Tenant Decant</b>	Home loss payments may be made to tenants who have lived in their property at least twelve months before the date that they are required to move home permanently as a result of redevelopment or demolition of their home.
<b>2. Disturbance</b>	<p>Disturbance payments may be offered to cover the reasonable costs that a tenant would incur as a consequence of being required to move to another property, either temporarily or permanently.</p> <p>Examples may include:</p> <ul style="list-style-type: none"> <li>• Removal costs</li> <li>• Forwarding of post (for a reasonable period)</li> <li>• Disconnection and reconnection of services (such as telephone etc.)</li> </ul> <p>Tenants may be required to pay the bills first and EHA will refund them. To make a disturbance claim the tenant will need to keep receipts for all payments.</p>

<b>Quantifiable Loss Payments</b>	
<b>Description</b>	<b>Detail</b>
<b>1. Temporary move/relocation</b>	Where extensive repairs require the tenant to be temporarily rehoused refer to EHA's Temporary Decant Policy.
<b>2. Additional electricity costs</b>	Where EHA provides dehumidifiers or temporary fan heaters to rectify the impact of a repair not caused by damage or neglect by the tenant, EHA will pay up to £5 per day for the cost of the additional electricity, on the understanding that the tenant uses them as instructed and can demonstrate the increase in electricity costs.
<b>3. Cleaning or repairs that are EHA's responsibility</b>	If an EHA tenant pays for cleaning or carrying out repairs where EHA has failed to meet its obligations under the Tenancy Agreement, then EHA will reimburse the tenant for any costs incurred subject to proof of payment i.e. receipts.

<b>Discretionary Loss Payments</b>	
<b>Description</b>	<b>Detail</b>
<b>1. Failure of Service where service charge is payable</b>	If EHA fails to provide a service (or a reasonable alternative) for more than 14 days, the level of compensation will be the same amount paid for the service for the length of time that we failed to provide it, plus a single payment of £10.

<p><b>2. Failure to restore heating and hot water within prescribed timescales</b></p>	<p>In cases where a tenant has reported a loss of heating or hot water and EHA, or its contractor, has not responded within the relevant repair response timescale, compensation will be awarded at £10 per day until the matter is resolved. This is subject to there being no access difficulties and there being no issues with services provided by the Utility Providers.</p>
<p><b>3. Unable to use a room in your home</b></p>	<p>EHA will pay compensation if work that is necessary has not been carried out and rooms are subsequently uninhabitable, this will exclude decoration.</p> <p>This does not apply to programmes of work such as ‘Decent Homes’ and only applies if the tenant has not caused the damage to the room and has allowed EHA to carry out the necessary work. The payment will be calculated by dividing the number of habitable rooms in the home by the amount of full rent paid to arrive at an amount to be paid for each day the room remains uninhabitable.</p>
<p><b>4. Loss of communal facilities</b></p>	<p>When lifts, door entry phones or communal lighting systems are out of order for more than 28 days and are the responsibility of EHA, a £20 goodwill payment will be paid to each household directly affected (this excludes the planned replacement or upgrade of a lift as part of the investment programme).</p>
<p><b>5. Gesture of goodwill payment</b></p>	<p>At the sole discretion of EHA Managers and following a full investigation of the circumstances, a gesture of goodwill payment of up to £100 can be made in recognition of the time, trouble or inconvenience caused by EHA actions, or lack of action. This should consider individual circumstances such as vulnerability and disability. This payment is not intended to recover lost earnings. This should be used by investigating Managers at Stage 1 of the complaints process.</p> <p>Senior EHA Managers have the discretion to award a gesture of goodwill payment of up to £250 for the same purpose. This should also be used by investigating Managers at Stage 2 of the complaints process.</p> <p>The Housing Ombudsman Service provides examples of inconvenience in their guidelines which may include:</p> <ul style="list-style-type: none"> <li>• Poor complaint handling</li> <li>• Delays in providing a service e.g., undertaking a repair.</li> <li>• Temporary loss of an amenity</li> <li>• Failure to meet target response times.</li> <li>• Failure to follow policies and procedure.</li> <li>• Unreasonable time taken to resolve a situation.</li> </ul> <p>When assessing the appropriate amount for a gesture of goodwill payment, consideration should be given to the severity of any service failure and the associated impact on the tenant. The HOS Remedies Guidance provides further detail re their considerations in ordering financial remedy which may be useful.</p>
<p><b>6. Decoration Damage</b></p>	<p>In the event that that a tenant’s decoration is damaged following a repair to their home, EHA will make good, in the area of the repair only, matching the existing decoration to the best of its ability. Alternatively, the tenant may be offered a contribution towards their costs in carrying out any subsequent redecoration following the repair. The amount will be calculated based upon an allowance of £25 per wall or ceiling affected by the work, up to a maximum of £300 per property.</p>



<p><b>7. Personal Injury</b></p>	<p>Any incidents involving personal injury must be reported to the Building Quality Manager for investigation, and where necessary will be notified to EHA's Insurers. Any payment in relation to personal injury should be considered by the Chief Executive Officer only in conjunction with Insurers.</p>
<p><b>8. Damage to Possessions</b></p>	<p>Where an EHA employee damages a tenant's possessions, EHA or its insurers may need to physically see the goods before considering compensation. Photographic evidence will be required, and EHA should contact the tenant within 10 working days in order to book an appointment for the inspection to be completed</p> <p>The tenant should be informed not to throw any possessions away before the inspection takes place.</p> <p>In many cases, it will be possible for goods to be satisfactory cleaned, for example, carpets. If the inspection indicates this is a practical option, EHA will either arrange the cleaning directly or will reimburse the tenant for their reasonable costs.</p> <p>Compensation will be based on the age of goods, not "new for old."</p>
<p><b>9. Damp &amp; Mould</b></p>	<p>Where EHA are unable to respond to issues of damp and mould within a specified timeframe, in line with EHA repairs response times or where the issues in relation to damp and mould cause a room to become uninhabitable.</p> <p>In cases where a room becomes uninhabitable, refer to 'unable to use a room in your home' (No3)</p> <p>EHA will consider any case of damp and mould on a room-by-room basis and any compensation will be considered on a case-by-case basis, subject to inspection.</p>

**Appendix 2**

**Compensation Claim Form**

Once completed this form should be sent to:

Complaints Officer  
Empower Housing Association  
33-35 Hollinshead Street  
Chorley  
PR7 1EP

Tenant Name:

.....

Address:

.....

..... Postcode: .....

Telephone No: .....

Please give details of your claim in the space below. Include for example the names of any EHA colleague you dealt with, any contractors, details of poor works, dates when appointments were broken, and any direct financial loss incurred. Include details of how you would like your claim to be resolved:

.....  
.....  
.....  
.....  
.....  
.....

(continue on a separate sheet if necessary)

Signed: .....

Date: .....

On behalf of: .....  
(Tenant's name)

Relationship to Tenant: .....