

REPORT TITLE: HOUSING SERVICES COMPENSATION AND REIMBURSEMENT POLICY

2 FEBRUARY 2023

REPORT OF CABINET MEMBER: Deputy Leader and Cabinet Member for Community and Housing Councillor Paula Ferguson

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PURPOSE

The Housing White Paper, A New Charter for Social Housing includes a number of statements regarding how registered providers should manage complaints in relation to landlord services, including a clear and consistent approach to putting things right and offering tenants redress when they go wrong.

While the Council works hard to ensure that services are delivered “right first time”, on occasion things do go wrong and it is considered that a clear policy of when compensation may be appropriate should be introduced. This will allow tenants to understand what reimbursement for costs and compensation they are entitled to and ensure that a clear and consistent approach to compensation payments for service failures to tenants and leaseholders is adopted across the housing service.

The draft policy was reviewed by The Business and Housing Policy Committee and TACT (Tenants and Council Together) in June 2022 (BHP029 refers) and their comment have help to inform the final policy.

A copy to the proposed new Housing Services Compensation and Reimbursement Policy is included in Appendix 1

RECOMMENDATIONS:

1. That the Cabinet Committee: Housing approve the Housing Services Compensation and Reimbursement policy as set out in Appendix 1



## IMPLICATIONS:

### 1 COUNCIL PLAN OUTCOME

1.1 The proposed policy supports the Council Plan 2020 – 2025 in respect of the Your services, Your voice priority.

#### 1.2 Your Services, Your Voice

1.3 The adoption of the policy aligns with the aim for continuous improvement. The council will use the outcomes of housing service complaints and compensation incidents and claims to improve services and the relationship between the Council as Landlord and the tenant.

### 2 FINANCIAL IMPLICATIONS (to be reviewed by s151 officer)

2.1 During the current financial year, the Council has paid £9,326 in compensation or reimbursement to tenants due to general service delivery failures. This has mainly been as a result of heating and hot water issues and are attributable to several different external factors, such as the pandemic affecting contractor resources (both front and back office) and the availability of materials. The above figure excludes compensation and/or legal costs paid due to the much more complex and formal disrepair claims which will continue to be dealt with and settled on case by case basis and as directed by the courts.

2.2 Owing to the small number of payments made to date for general service delivery failures and the growing pressure on families due to the cost of living crisis, it is difficult to ascertain the extent to which claims might grow once the policy has been formally adopted. At this point in time, it is proposed to set aside a sum of £15,000 within the HRA Budget 2023/24, but to keep this figure under constant review as awareness rises and compensation patterns evolve.

2.3 Where existing contractual arrangements allow, corresponding sums will be recovered from the contractor if they are deemed to be at fault. Payment to a claimant will be made by the Council and not dependent on recovery from the contractor.

### 3 LEGAL AND PROCUREMENT IMPLICATIONS (to be reviewed by Monitoring officer)

3.1 Section 92 of the Local Government Act 2000 gives a relevant authority the power to make a payment, or provide some other benefit, to a person if it considers that an action taken by it or on its behalf amounts to, or may amount to, maladministration and the person has been, or may have been, adversely affected by that action.

3.2 Compensation payments are already made where payment levels are determined by legislation and for areas where there is no statutory obligation

to pay compensation but where a “goodwill” payment is considered to be appropriate. Whilst there should be no additional resource implications associated with the adoption of the proposed policy, there is a risk that the publication of the policy will result in an increase of claims.

3.3 One of the aims of the policy is to ensure any payments are agreed quickly, seamlessly and at local level (i.e. between Housing Officers and the claimant) so legal resources should not be required. Any payments made to claimants will be authorised in accordance with the Council’s Financials Procedure Rules and the approved scheme of delegated authority as set out in the Council’s constitution.

3.4 Future contractual arrangements procured, will include contractual mechanisms for sums to be recovered from a contractor if they are deemed to be at fault of a claim. There are no other procurement implications as a direct result of this report.

### 3.5 WORKFORCE IMPLICATIONS

3.6 Investigating and processing claims could prove very resource intensive and also disproportionate to the actual compensation paid. There is no immediate request for additional resources but volumes and outcomes will need to be reviewed on a regular basis.

## 4 PROPERTY AND ASSET IMPLICATIONS

Payments of compensation or reimbursement for service failures regarding facilities in the home or communal areas is available to all council tenants. For council leaseholders, payments of compensation or reimbursement is only available for service failures regarding communal facilities or structural issues.

## 5 CONSULTATION AND COMMUNICATION

5.1 TACT Committee Members and the TACT Support Group were consulted on the draft policy at a tenant meeting on the 9 June 2022 and were pleased to see a compensation policy in place. The main feedback received was a query as to whether or not the amount stipulated in the policy for missed appointments (£15) was enough and it was suggested that it should be raised to £25 for those residents that can prove that they have taken time off work in order to be at home for the appointment.

5.2 The missed appointment amount was reviewed and remains at £15, but an additional paragraph has been added to the compensation policy (para. 3.01.04 refers) to include a contribution towards loss of earnings.

5.3 Tenants requested that officers provide an easy read version of the compensation policy in plain English. This document is underway

- 5.4 The Business and Housing Policy Committee (which also included 3 members of TACT) reviewed the draft policy on the 21 June 2022 (BHP029 refers) and commented accordingly.(Appendix 1 refers)

## 6 ENVIRONMENTAL CONSIDERATIONS

- 6.1 The Council is committed to reducing energy costs and making homes warmer. Many of the claims for compensation and reimbursement emanate from missed appointments or remedial works to heating systems which are inherently high maintenance and have a large carbon footprint. One aim of the compensation policy is that it will not only help to drive general service improvements, but also to help shape a new low maintenance/low carbon heating strategy as gas boilers become redundant.

## 7 PUBLIC SECTOR EQUALITY DUTY

- 8 An Equality Impact Assessment was completed in June 2022 (Appendix 3 refers).

- 9 Whilst there was no evidence to suggest the policy would adversely affect those with protected characteristics, the impact assessment recognised that some households will be impacted differently by the same service failure and that given the highly subjective nature and variety of incidents it would be difficult to determine an approach which is completely consistent and fair. Whilst research of other providers has found no evidence of good practice that specifically tackles this aspect, the policy still allows a flexible approach to agreeing an award that is both proportionate and reasonable.

## 10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 The policy does not have any additional implications for data protection. Tenant personal data is routinely held within housing key operating systems, SharePoint and the Housing Management MRI Enterprise system. The council is GDPR compliant in the storing and handling of tenant/leaseholder data.

## 11 RISK MANAGEMENT

- 11.1 The key risks centre on the unknown volume of claims.

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
<b>Financial Exposure</b> Risk that adoption and publication of the policy will lead to increase claims	The policy is very detailed and comprehensive with exacting but reasonable criteria for claimants to meet	The Council will use the outcomes to improve services and contractor performance and when possible, claims will be recovered from contractors where they

		are at fault
<b>Exposure to challenge</b> Risk that amounts determined by officers are either incorrect or unfair	The new policy will give clarity, guidance and consistency to staff and tenants/leaseholders	
<b>Innovation</b> Lessons not learnt	Use of the policy will provide a “lessons learned” case history of where things have not gone well	Innovation and improvement of service quality
<b>Reputation</b> Negative reputation of the way claims are dealt with	Clear, transparent and published policy in place	Reputation improved due to having a clear and transparent policy
<b>Achievement of outcome</b> The administrative workload could prove significant and disproportionate to the outcomes	Volumes and outcomes will be kept under review	
<b>Property</b> Decent Home Standards met and maintained.	Incentive for contractors to meet contract controls and enhanced performance levels	
<b>Community Support</b> None		
<b>Timescales</b> Significant numbers could lead to 10 day target not being met	Performance will be regularly monitored	
<b>Project capacity</b> Insufficient resources	Volumes and outcomes will be kept under review	New policy may drive improvements and corresponding reduction in demand in other areas

12 SUPPORTING INFORMATION:

Background

- 13 The Housing White Paper, A New Charter for Social Housing includes a number of statements regarding how registered providers should manage complaints in relation to landlord services, including a clear and consistent approach to putting things right when they go wrong and to compensation payments.
- 14 Whilst there is a clear aim to ensure that services are delivered “right first time”, on occasion things go wrong and it is considered that a clear policy of when compensation may be appropriate, and to what level, would help to ensure a consistent approach to payments of compensation or reimbursement for service failures to tenants and leaseholders is adopted by all housing teams.
- 15 The Business and Housing Policy Committee and TACT reviewed the draft policy in June 2022 (BHP029 refers) and commented accordingly.
- 15.1 Winchester City Council is committed to providing a high-quality service to all our customers; however, there can be occasions when services do not meet our high standards and customers are inconvenienced.
- 15.2 Section 92 of the Local Government Act 2000 gives councils the ability to remedy injustice arising from poor service. The proposed policy in the appendix to this report sets out how this will be administered.
- 15.3 The Council’s aim will always be to put the complainant back in the position that would have existed if the service lapse had not occurred, insofar as reasonably possible. Where a complaint is justified, an apology may be sufficient to correct inconvenience caused. However, it is recognised that where a complainant has suffered loss or injustice, other remedial action may also need to be considered, including financial compensation. The purpose of this policy is to provide officers with guidance to ensure that any compensation and reimbursement payments, both statutory and discretionary, are dealt with fairly and consistently.
- 15.4 Steps have been taken to mitigate these factors in the past, however issues of compensation for service delivery failure have been dealt with by the officer managing the service, with no formal guidance on the levels of compensation that would be appropriate in each circumstance. This can potentially lead to inequality in how these cases are treated when compared against each other.
- 15.5 Whilst each case will be assessed individually, the application of this policy provides a consistent approach to resolving claims for compensation to make sure that:
- a) Problems are resolved quickly and efficiently.

- b) The compensation and reimbursement process is reasonable, fair, and treats each case with equal consideration.
  - c) Financial awards, made within clear guidelines, are in proportion with loss and/or inconvenience caused, are fair and consistent, and safeguard public funds. Where no detriment occurs, no compensation will be paid.
  - d) No compensation or reimbursement would be paid for issues where the Council has no liability (e.g. items where the tenants or leaseholders have a liability to maintain).
- 15.6 The guidance and figures set out in the proposed policy for non-statutory claims have been derived from past service experience and as compared with other social housing provider policies. Statutory claims for compensation will always be handled in line with current legislation.
- 15.7 Missed Contractor Appointments – The Gas Servicing and Heating repairs contract procured in 2021 included a new clause in relation to the contractor paying compensation of £15 for missed appointments (when it was the fault of the contractor). Other term maintenance contracts do not include such a clause, but the intention is to apply this policy irrespective and independently of any existing or future contractual arrangements. When maintenance contracts are re-procured the pros and cons of similar clauses will be considered on a case by case basis. Where contractors are at fault the Council will independent of the Policy seek to get redress through relevant contract provisions.
- 15.8 Further to the comments received (Appendix 2 refers), the following amendments have been made to the original draft policy :-
- a) Compensation for missed appointments - the definition and the form of payment (store vouchers) has been clarified. This section has also been expanded to include a fixed allowance for loss of earnings subject to the claimant being able to evidence certain criteria.
  - b) Payment timescales - this has been clarified and confirms that, once agreed, payment should be made within 10 working days.
  - c) Exceptional items not covered in the schedule - a section on miscellaneous items has been added to cover these eventualities
  - d) Time limit for submitting claims - changed from 28 days to 3 months from date of incident
  - e) Loss of earnings - clause added
- 15.9 Breakdown of communal services (lifts) - compensation payments linked to service charges produced very small payment amounts and were

disproportionate to the administration involved. The suggestion here is therefore to pay fixed sums per incident.

15.10 Conclusion

15.11 The proposed Compensation policy seeks to provide greater clarity and transparency on how the Council handles the issue of compensation payments to its tenants and leaseholders, and also sets out clearer definitions and circumstances in which the Council may refuse to compensate.

16 OTHER OPTIONS CONSIDERED AND REJECTED

16.1 To continue with the status quo (i.e. not adopt a Compensation Policy) is rejected, as it leaves the Council with the ongoing possibility of treating cases unfairly and leaving the Council open to challenge.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

BHP029 Housing Services Policy for Compensation and Reimbursement - 21 June 2022

Other Background Documents:-

None

APPENDICES:

Appendix 1 - Housing Services Compensation and Reimbursement Policy

Appendix 2 - Minutes (BHP029 Housing Services Policy for Compensation and Reimbursement 21 June 2022)

Appendix 3 - Equality Impact Assessment - June 2022