

# HFI Procedure

## Refund, Compensation and Remedies

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### **1.0 Introduction**

- 1.1 This document outlines the procedures to be followed when assessing and processing refund and compensation payments. These procedures should be read in conjunction with [Refund, Compensation & Remedies Policy](#) and [HFI Compensation Guidance Notes](#).
- 1.2 The aim of these procedures is to ensure fairness and consistency in dealing with requests for refunds or compensation payments; particularly where decisions are made on a case by case basis.
- 1.3 The term 'relevant officer' referred to in this document will mainly apply to Tenancy Management Advisers, but may also include Income Recovery Officers, Technical Officers or Maintenance Surveyors depending on the circumstances.
- 1.4 Throughout these procedures the relevant officer is responsible for completing the appropriate forms A, B, C or D depending on the nature of the claim or if further investigation is required.
- 1.5 Officers are expected to follow the suggested timescale of 28 days for dealing with requests where it is practicable to do so. Where the timescale cannot be met officers are responsible for liaising with residents and advising them of the current position with regard to their claim.
- 1.6 Requests, whether approved or declined, must be authorised by a line manager, or senior officer, other than the officer responsible for dealing with or investigating the claim.

- 1.7 When a complaint arises it is essential that an initial assessment accurately determines liability, either with HFI, Kier Islington, a resident or an external body. It is essential that the problem is carefully analysed and conclusions are not jumped to. Consider the facts of the case and use common sense. For further information on what to consider before offering to pay compensation read [HFI Compensation Guidance Notes](#).
- 1.8 Throughout these procedures most refunds are payable where there has been a loss of service for 3 consecutive days or more; and, where appropriate, the refund calculation is outlined. This differs from payments for compensation which are usually based on a loss of service that severely affects customers for a period of four weeks or more.
- 1.9 **IMPORTANT:** Refunds and compensation are credited onto rent or service charge accounts, unless a direct payment is authorised by the Area Housing Manager or Head of Services (Operations). In the event that a payment takes an account from an arrears balance to a credit balance, the full payment must still be credited to the tenant's account; and then the tenant can request a credit refund following existing procedures.

## 2.0 Provisions for Statutory Payments

- 2.1 Home Loss Payments are made to residents who are permanently displaced by the Council in the following circumstances:
- where residents are permanently rehoused to permit improvement or redevelopment
  - where properties are acquired by Compulsory Purchase Order
  - where a possession order under Ground 10 or 10a of Part II of Schedule 2 of the Housing Act 1985 is made

The following outlines the actions to be taken when dealing with claims or payments for Home Loss compensation.

- When a request for a Home Loss payment is received, the form should be sent to the Head of Income Control, (Rent Accounts) to see if any rent arrears exist on the former account.
- At the same time, contact should be made with the Area Housing Office from where the tenant has moved **from** and enquiries made as to the reason for the tenant being entitled to the Home Loss Payment, i.e. what is to become of the property / unit vacated by the tenant. The Area Housing Office should be able to advise as to whether the property has been earmarked to receive capital funding, whether the property has been identified for disposal or any other reason.

- If rent arrears, exist then a maximum of £1,000 can be deducted from the Home Loss payment to be offset against the arrears.
- A cheque payment should be raised for the balance of the Home Loss Payment.
- The expenditure code to use may be a capital code if capital funding exists
- If the property is earmarked for disposal then liaise with Islington's Chief Accountant, in Capital Accounts who should be able to identify a code to charge the payment to.
- We need to be aware of the situation because the sum identified to be offset against the arrears will be cleared from the Rent Control Account at the year-end and HFI will look to charge the amount concerned to relevant codes, i.e. the capital cost code, the disposal code.

**Please Note:** HFI's 'Compensation' Budget should only be used where no capital funding has been identified or where the property has not been earmarked for disposal.

## 3.0 HFI Refund and Compensation Schemes

### 3.1 Disturbance Grants

Disturbance is normally paid to tenants to reimburse them for removal costs when they are required to move out of their homes, either temporarily or permanently, for example due to major works. A report will normally be sent from a technical team (eg responsive repairs or voids) to a tenancy management team. The tenant should not need to make a claim for a payment but they must produce relevant receipts on which payments will be based.

Reimbursement, on the production of receipts, will be made for:

- Cost of disconnection and reconnection of any plumbing/gas/electricity/telephone supplies
- Cost of carpets/curtains up to a maximum of £300.00
- Cost of removals up to a maximum of £450.00
- Redirection of mail for 3 months

In exceptional circumstances it may be possible to make an additional payment of up to £500 for residents who have to move permanently. The additional amount is awarded on a discretionary basis by the appropriate manager, depending on the individual circumstances.

The customer services team is responsible for requesting a cheque to be raised in the tenant's name against the appropriate expense code. Officers should note that if a tenant temporarily moves to another property managed by HFI:

- the tenant should continue to pay rent on their main home to retain security of tenure
- the rent charge on the new home should be reduced to zero

### 3.2 Uninhabitable Rooms

If a property is so badly affected by disrepair that one or more rooms become un-useable, check:

- the cause of the disrepair, has it been caused by another tenant, perhaps one upstairs or the tenant themselves. Common examples are leaking/defective washing machines and associated plumbing from the flat above, and careless use of shower in upstairs flat. (HFI would **NOT** be responsible in these cases)
- date that HFI was put on notice regarding the problem
- what HFI/Kier have done to date to resolve the problem

Compensation is payable where any room is unavailable for use for 4 weeks or more as a result of HFI failing to take reasonable steps to carry out repairs. Compensation is not payable in cases where repairs cannot reasonably be completed within 4 weeks due to the nature of works required. Compensation should be calculated as follows:

Weekly gross rent divided by (total number of habitable rooms + 1) x number of rooms affected x number of weeks out of use.

#### Example:

A two bedroom property has one bedroom out of use for 5 weeks and the gross rent is £70.00 per week:

$£70.00 / 4^* \times 1 \times 5 = £87.50$  compensation is payable

\*total no. of habitable rooms = 1 bedroom, 1 living room and kitchen + 1 = 4 (please refer to guidance notes for more information on habitable rooms)

Payments will only be made if a written report from a HFI **Maintenance Surveyor** supports the claim.

A maintenance surveyor must inform the tenancy management adviser that a room has been uninhabitable stating the number of days that the room was out of action.

A tenancy management adviser is responsible for calculating the amount of compensation that is payable using [Form C](#). A team leader is responsible for signing off the form. Payment must then be confirmed in accordance with 1.9 above.

### **3.3 Disrepair or Severe Inconvenience (not causing the loss of a room)**

Cases where considerable inconvenience is caused are hard to quantify and a supporting report from HFI **Maintenance Surveyor** would be needed to outline and quantify the repairs. A common sense approach should be taken. It is recommended that the officer assessing the claim should take into account the number of people living in the accommodation and thus affected by the problem, then consider how the problem is affecting the families' ordinary everyday life. In a court of law, minor disrepair is viewed as worth £500 per annum rising to £3500 per annum in very serious cases. Prior to making such an offer, all officers are advised to seek advice from the **Senior Legal Repair Solicitor**.

### **3.4 Lift Failure**

Where lift failures meet the criteria for compensation, HFI will pay £1.00 per day for every day that the lift is unavailable **after** the first 5 days of failure. An appropriate member of staff in the Mechanical and Engineering department is responsible for sending confirmation of lift failures to a tenancy management advisor who will check rent accounts and request appropriate payments are made to residents.

### **3.5 Missed Appointments**

Kier Islington will make payments of £15.00 for missed appointments when certain criteria are met. Payments will be processed automatically; however any queries regarding this scheme should be directed to the Contracts Performance and Scrutiny Team.

Compensation payments of £15.00 may be made to tenants under certain circumstances where an HFI officer misses an arranged appointment. Team leaders are responsible for monitoring missed appointments and requesting payments are made to customers. See the [Missed Appointments procedure](#).

### **3.6 Major Works**

As a guideline, payments of £5.00 per week for external works or £10.00 per week for internal works can be made as follows:

- where a contract overruns by more than 6 weeks, or
- where a contract overruns by more than 20% of the original contract duration, for missed appointments (see above for amount)
- for use of electricity at the end of a programme of works

However, every contract is different therefore even where the criteria have been met, an **Area Housing Manager** should seek advice from the **Senior Legal Repairs Solicitor**.

### 3.7 Heating Refunds

A refund applies when a resident has a landlord controlled heating supply and has had no heating during the recognised heating season (usually last week in September to end of May) for 3 consecutive days or more.

Refunds are payable regardless of whether they are for full or partial heating systems.

There are many different heating charges depending on the service provided to the individual property. The current actual charge is shown on iworld. The amount charged changes each year so the amount to be refunded will be calculated using the charge levied at the time of the service failure. Further clarification on charges levied on particular dates can be provided by Rent Control team.

The heating refund is calculated on the basis of a 36 week heating season and is made as follows:

Combined heating and hot water charge	x 60% (for heating element)	x $\frac{52}{36}$	x $\frac{\text{no of days}}{7}$
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**Example:** For a 15 day failure in a 2 bed unit the heating refund calculation is as follows:

$$£5.16^* \times 60\% \times \frac{52}{36} \times \frac{15}{7} = £9.58$$

(\* this figure is used for illustration only)

### 3.8 Hot Water Refunds

The hot water refund is calculated in the same way as a heating refund, except there is no need to take the heating season into account

There are many different hot water charges depending on the service provided to the individual property. The current actual charge is shown on iworld. The amount charged changes each year so the amount to be refunded will be calculated using the charge levied at the time of the service failure. Further clarification on charges levied on particular dates can be provided by Rent Control team.

$$\text{Combined heating and hot water charge} \times 40\% \text{ (for hot water element)} \times \frac{\text{no of days}}{7}$$

**Example:** For a 15 day failure of hot water supply in a 2 bed unit the hot water refund calculation is as follows:

$$£5.16^* \times 40\% \times \frac{15}{7} = £4.42$$

(\* this figure is used for illustration only)

Once all the relevant information has been collated by a tenancy management adviser all heating and hot water refunds must be calculated by the Rent Control team.

### 3.9 Loss of Heating or Hot Water Compensation

Compensation for losses in supply, of both individual and landlord controlled systems, is payable where the loss in supply occurs for 4 consecutive weeks or more.

Compensation is paid as follows:

80p per day for the loss of hot water only

£1.20 per day for the loss of both heating and hot water

### 3.10 Concierge Service

#### Refunds

Refunds will be made where there is a total loss of service for 5 consecutive days or more. This will be of the weekly charge specified in the rent breakdown.

The amount charged for concierge changes annually. The amount refunded will depend on the charge made at the time of the service failure. More information on refund amounts can be provided by Rent Control team.

Where the area housing office is aware there has been a total loss of concierge service they will instigate the refund process for the affected residents.

#### Compensation

In addition compensation will be payable where the total loss of service has been continuous for 4 weeks or more. Where compensation is

applicable this will be paid at 50% of weekly charge x no of weeks loss of service.

### 3.11 Caretaking Service

#### Refund

Tenants make a request for a refund to their area housing office for a refund of their service charge for caretaking where there has been a total loss of the caretaking service for 5 consecutive days or more.

Where the area housing office is aware there has been a total loss of caretaking service they will instigate the refund process for the affected residents.

The refund rate is currently £1.43 per day (from 1<sup>st</sup> June 2009).

The amount of refund changes annually. Where a refund is due for service failure before the above date the refund amount will be less. More information on refund amounts can be provided by Rent Control team. **No compensation is payable for the loss of a caretaking service.**

### 3.12 Loss of Water Supply

Where it is claimed that HFI is responsible for a loss of water supply as a result of failing to keep in good order, or to repair installations and fittings, a Maintenance Surveyor is responsible for carrying out an investigation. A payment will only be made where a written report from the Surveyor supports the claim.

Where applicable compensation will be paid at the following rates:

- £5.00 x number of days with no supply. The resident must have been without water for a minimum of two days for this to apply.

If the loss of supply results from action or lack of action on the part of Thames Water, then residents should be directed to Thames Water who have their own compensation scheme.

The final decision to pay compensation must be approved by a **Senior Area Housing Manager** or **Area Housing Manager**.

### 3.13 Ex Gratia Payments

In certain circumstances Homes for Islington, in acting for the Council, may have no direct liability to make payment to a resident who has suffered damage or disturbance. As a good social landlord, however, it will sometimes be in our interests to make an ex gratia payment on a 'without prejudice' basis.



Officers must be committed to ensuring that a customer focussed approach is taken to dealing with complaints that do not fall within HFI's payment schemes for compensation. This will ensure that delays are minimised and that, potentially, customer satisfaction can become a realistic outcome.

Authority to make such payments will rest with an Area Housing Manager, Operations Manager (Home Ownership) or Head of Service (Operations), **but where appropriate the amount to be paid may be recommended by a relevant officer from the Property Services department.** Payments must still be made to the rent account where rent is owed by the tenant or where money is outstanding on the leaseholders annual service charge account.

Where payments are made by cheque directly to the resident, the relevant manager is responsible for authorising the request for payment before passing it to the Customer Services Manager who allocates a compensation code depending on the type of complaint.

Customer Services teams are responsible for requesting cheque requisitions from the cash control team in finance. Once ready, the cheque is sent directly to the tenant by finance and the Area Office is responsible for writing to the tenant to confirm the payment has been made.

All ex-gratia payments are recorded in CEDA using nominal codes 25 or 27 and Customer Services Managers are responsible for ensuring that details of the type of compensation payment are recorded on the request form.

## **4.0 Effecting payments**

### **4.1 Heating and Hot Water refunds/compensation**

### **4.2 HFI technical or repairs service aware of loss of heating/hot water**

Where a Service Engineer or other officer becomes aware of a loss of heating or hot water affecting a resident, block or estate they will inform the relevant area housing office by sending an email FAO the Tenancy Management Team Leader (TMTL) to the relevant AHO mailbox address stating:

- type of system involved in failure i.e. individual or communal
- type of service i.e. heating/hot water/both affected by loss
- the addresses known to have been affected by loss of service
- actual dates know when service failed and when resumed
- request that refund/compensation process is instigated for all properties affected by the loss of service

#### **4.3 Resident reports loss of heating or hot water**

- TMA is responsible for dealing with all enquiries from resident
- TMA liaises with Service Engineer to confirm dates of loss of supply
- Service Engineer is responsible for investigating reported loss of supply and confirming dates of loss and whether other properties would have been affected to TMA by email in same way as shown in 4.2

#### **4.4 Processing the claim**

- For tenants with communal system, TMA fills first sections of [Form A \(tenant\)](#).\*
- For leaseholder/freeholders with communal system, TMA fills first sections of [Form A \(homeowner\)](#)\* – See 4.6
- For tenant with an individual system, TMA fills first sections of [Form B](#).
- Team Leader or above authorises payment.

#### **4.5 Tenants affected**

TMA emails as applicable [Form A \(tenant\)](#) or [Form B](#) to Rent Control Team who are responsible for completing calculation. (\*depending on the number of properties affected a spreadsheet can be attached to a covering form showing checks and sign off if this is more convenient.)

On receipt Rent Control Team credits rent account. The Rent Control Team will return to the TMTL at the AHO the completed form showing the details of the refund/compensation payments made.

On receipt from Rent Control Team, the TMTL will arrange for each of the tenants receiving a refund/compensation payment to be sent a copy of [Letter A](#) confirming this payment. The tenant can apply for the refund of any credit showing on their rent account using the standard process.

#### **4.6 Leaseholders and Freeholders affected**

TMA will email Service Charge Officer at HOS (currently Françoise Gigandet) with completed [Form A \(homeowner\)](#) (\*depending on the number of properties affected a spreadsheet can be attached to a covering form showing checks and sign off if this is more convenient.) and request payment calculated and homeowners informed as per 4.13 of this procedure.

The relevant officer must notify the Service Charge Officer at HOS (currently Françoise Gigandet) of failures of landlord controlled heating and/or hot water supply effecting, leaseholders and freeholders on estates as shown in 4.1.

The Home Ownership Services will deal with the financial calculations for all payment requests and apply any refunds or payments to the service charge accounts. All affected homeowners will be sent [Letter B](#)

(-not on intranet) by Home Ownership Services to confirm they will be entitled to a refund of the service charge account for the period of the failure.

#### **4.7 Resident contests period of heating/hot water service failure**

Should a resident contest they suffered a loss of service for a differing period this should be investigated by the Service Engineer and Team Leader or higher at AHO makes final decision on whether additional refund/compensation should be paid.

#### **4.8 Other compensation payments**

The relevant officer should ensure they have confirmed that the circumstances warrant payment of compensation before completing [Form C](#), clearly indicating for what reason and period compensation is payable. Any appropriate reports or receipts must be attached to the form for example a Maintenance Surveyor's report.

The form should then be passed to a **Team Leader** (or above) for checking and signing.

In the case of major works, loss of water supply, exceptional or ex gratia payments the **Area Housing Manager, Operations Manager (Home Ownership) or Head of Service (Operations)** must authorise payment but may request information from other departments to support the decision to pay compensation and the amount to be awarded.

The completed form should then be sent to either the Rent Control Team or Service Charge Officer at HOS (currently Francoise Gigandet) who will credit the relevant account OR to the Payments Section in Finance who will arrange for a cheque or BACS payment to be made.

**Please note** that no BACS or cheque payments will be made to leaseholders; instead amounts will be credited to their service charge accounts.

#### **4.9 Effecting ex-gratia payments**

Most complaints related compensation will be lodged with an area housing office where the relevant officer will log the claim using [Form D](#).

- The officer will look into the claim in order to identify what, if any, action has already been undertaken. If the claim requires a response from Property Services, the relevant officer will complete the upper section of the form before sending it the appropriate section.

- The relevant officer in property services must complete the lower section of [Form D](#), sign and date the form and return it to the area housing office within **10 working days**.
- The officer in the area office must check the details before passing the form to a team leader who is responsible for checking that the recommendation(s) is appropriate.
- The officer must then write to the complainant advising them of the decision that has been reached including any offers of ex-gratia payments.
- If complainant accepts the offer the area office team leader passes [Form D](#) to a Customer Services Manager who processes for payment.

## **5.0 Timescales for Completing Requests**

- 5.1 Officers are expected to deal with requests within 28 days of contact from resident or discovery of service failure unless the case requires additional investigation or liaison with other departments. In these cases the officer must write to the resident advising them of the situation and suggesting a realistic timescale for resolving the problem.

## **6.0 Recording/Logging Payments**

- 6.1 All refund or compensation payments will be recorded in iWorld or CEDA depending on the method of payment to the resident.
- 6.2 The Tenancy Management Team Leader or Service Charge Calculations Manager must retain for the records copies of fully completed refund/compensation forms.

## **7.0 Summary of Procedures**

- 7.1 This summary is provided as a quick reminder of the main elements of dealing with a request for a refund or compensation payment. Officers are advised that each case will be different and that it may not be necessary to carry out each step listed below.
- **Always** check rent account/service charge account
  - Liaise with relevant departments
  - Calculations to be completed by Rent Control Team for tenants/Service Charge Calculations Team in Home Ownership Services for leaseholders
  - Check with the Senior Legal Disrepair Solicitor, where appropriate
  - Deal with requests within 28 days, otherwise write to the resident advising them of the situation
  - All payments must be authorised by a team leader or other senior officer/manager

- All letters must clearly state that residents accept payment '**In Full and Final Settlement**' and letters must be clearly marked '**Without Prejudice**' in the event that legal action is taken.

## **8.0 Appendices**

All forms and letters referred to within this procedure are held on the intranet within the supporting documents folder linked to this procedure.