

Housing Services Policy



Division – Housing – Asset Management and Tenancy Services

Policy: Compensation, Reimbursement and Redress

Review	Version: Final
	Effective date: November 2016
	New Procedure – replaces: <ul style="list-style-type: none">• Compensation for Inconvenience and Disturbance caused by repairs and improvements• <i>Disturbance Payments/Home loss Compensation</i>¹• Tenants/Leaseholder Alterations and Compensation for tenants improvements
	Approved by: Head of Tenancy Services, Assistant Director of Community Services(Housing)

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I. Policy Objective

- 1.1 This policy clarifies the circumstances and conditions under which Royal Greenwich Housing Services (RBG) may compensate or make redress to a resident, financial or otherwise.
- 1.2 This policy outlines statutory provisions, as well as provisions made by Royal Greenwich, to rectify where a resident has experienced financial loss or severe inconvenience as a result of service failure, or poor performance, by RBG Housing Services. Where we have undertaken necessary planned works, and these have severely disrupted services or inconvenienced a resident more than could be reasonably expected, we may also offer some form of reimbursement and redress.

¹ Disturbance payments still subject to review. To be added in next revision of this policy

- 1.3 Through this policy we will aim to seek a remedy which puts the resident back in the position they would have been in, had the service failure or issue not happened. If redress is not achievable by other means we may take a decision to award compensation as part of a solution. However we will work with individual residents and take their views into consideration when trying to reach a fair and appropriate solution.
- 1.4 Royal Greenwich aims to implement this policy consistently and in a way that is transparent and impartial.

2. Context

2.1 Scope:

- This policy covers secure and introductory tenants of Royal Greenwich (RBG) managed housing.
- Parts of this policy apply to RBG leaseholders (where indicated)

2.2 Exclusions – this policy does not apply:

- Where an alternative policy or insurance scheme already covers the situation
- Where legal and financial claims are being pursued by another route – including disrepair, legal proceedings, or insurance claims
- Where the fault or failure in question is not a service or item provided by RBG Housing Services or its contractors
- Where RBG Housing Services is not at fault for the claimed loss, damage or inconvenience
- Where an action or inaction on the part of the tenant has resulted in the service failure or has prevented or delayed RBG in being able to take action
- Where service failure has occurred but there is no adverse effect to residents
- Where service failure is a result of extreme or unforeseen conditions, and RBG have taken all reasonable steps to restore service as soon as circumstances allow
- To tenants of other landlords including providers of temporary accommodation, or tenants of RBG leaseholders. These will be advised to contact their landlord directly.

2.3 This policy should be read in conjunction with our Complaints policy.

2.4 All social landlords have a duty to become members of an Ombudsman scheme. In some cases the Housing Ombudsman may recommend a remedy including the payment of compensation. These recommendations are legally enforceable. In forming this policy, we have considered guidance provided by the Housing Ombudsman, including examples of good and bad practice.

3. Legislation

- 3.1 Right to Repair - Statutory Instrument 1994 n.133 'The Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994'
- 3.2 Compensation for improvements – Housing Act 1985 s97-101 (as amended by Leasehold Reform, Housing, and Urban Development Act 1993)

3.3 Local Government Act 2000 section 92 gives councils a power to consider and make payments in case of maladministration where a person has been adversely affected

3.4 Home Loss and Disturbance payments –

- Land Compensation Act 1973
- Home Loss Payments Order 1989
- Planning and Compensation Act 1991
- Planning and Compulsory Purchase Act 2004
- Home Loss Payments Prescribed Amounts (England) Regulations 2014

3.5 Disrepair –

- Section 11 Landlord and Tenant Act 1985
- Pre-action protocol for Housing Disrepair Claims (2003)
- Defective Premises Act 1972
- Environmental Protection Act 1990
- The Housing Act 2004 introduced the Housing Health and Safety Rating System (HHSRS)

3.6 Housing Act 1985 - Schedule 2 - Part I - Ground 3

“The condition of the dwelling-house or of any of the common parts has deteriorated owing to acts of waste by, or the neglect or default of, the tenant or a person residing in the dwelling-house and, in the case of an act of waste by, or the neglect or default of, a person lodging with the tenant or a sub-tenant of his, the tenant has not taken such steps as he ought reasonably to have taken for the removal of the lodger or sub-tenant”.

4. Payment types

4.1 Statutory Loss payments

4.1.1 Home Loss is a statutory payment made for the permanent loss of a home. In line with section 30(2) of the Land Compensation Act 1973, where displacement occurs on or after 1st October 2015, the current prescribed amount we award to secure tenants of Royal Greenwich who are eligible for a Home Loss payment is £5,300. To qualify for home loss compensation, an applicant must be a secure tenant of Royal Greenwich who has lived in the property for at least one year as their main address and has not been given the opportunity to return.

4.1.2 Home Loss compensation is payable to owner occupiers who are dispossessed because their property is required by an authority for redevelopment, regeneration or a road scheme. In line with section 30(1) of the Land Compensation Act 1973, where displacement occurs on or after 1st October 2015, the prescribed amount we award to leaseholders of Royal Greenwich who are eligible for a Home Loss payment is a minimum of £5,300 and a maximum of £53,000. The actual amount awarded corresponds to 10% of the market value of the property for resident leaseholders who have been living at the property for the last 12 months. We will require vacant possession before completion.

4.1.3 The Planning and Compulsory Purchase Act 2004 introduced an additional statutory element of compensation for claimants who are not entitled to receive a home loss

payment (landlords of residential or business premises and business occupiers). Under Section 106 of this Act, we will pay a Basic Loss Payment to leaseholders who have owned an affected property for a qualifying period of twelve months. The Basic Loss payment is equivalent to 7.5% of the market value of the property, and subject to a maximum of £75,000, whichever is the lesser. (Under Section 109 of the Act, where acquisitions are being progressed by agreement we may make payments equivalent to the Basic Loss we would have been required to pay had the property been acquired compulsorily). We will require vacant possession before completion.

- 4.1.4 Where a tenant or leaseholder of Royal Greenwich owes arrears of rent, service charges, rechargeable repairs or legal fees to Royal Greenwich Housing Services, our policy is to deduct these arrears from the Home Loss/Basic Loss payment before paying the remaining balance to the tenant or leaseholder. We will inform the tenant or leaseholder in writing that we will be doing this. However, by prior agreement, we can arrange for outstanding payments to be made to us by a leaseholder's solicitor separately on completion.

4.2 Disturbance payments¹

Section under review – Use Disturbance payments policy (2007)

4.3 Right to Repair

- 4.3.1 Right to Repair is a statutory compensation scheme (see 3.1) which gives secure council tenants a contractual right to have specified qualifying repairs completed within a fixed period of time. Where these repairs are not carried out in the timeframe, the tenant has a right to request an alternative contractor, and where we fail to complete the repair within a second prescribed period, the right to a set sum of compensation.
- 4.3.2 These regulations do not apply if the tenant informs us they no longer want the work carried out, or where they have been given a reasonable opportunity to arrange sufficient access for us to carry out the repair or inspection but have failed to arrange this.
- 4.3.3 The regulations allow for the prescribed period to be suspended in the case of 'exceptional circumstances' which are beyond the landlord's control.
- 4.3.4 Where a tenant of Royal Greenwich owes arrears of rent, service charges, rechargeable repairs or legal fees to Royal Greenwich Housing Services, our policy is to deduct these arrears from the Right to Repair payment before paying the remaining balance to the tenant.

4.4 Compensation for improvements

- 4.4.1 Where a council tenancy is ending, the tenant can apply for compensation for certain qualifying improvements they have made to the property as set out in legislation (see 3.2) and listed in DCLG revised guidance booklet 'A Better Deal for Tenants 2007'.
- 4.4.2 The Regulations state that compensation is not payable in certain circumstances including:
- Where the amount of compensation would exceed £3000 per improvement
 - Where the compensation which would otherwise be payable would be less than £50;

- Where the tenancy has come to an end because:
 - an order for possession was made on any of the grounds in Part I of Schedule 2;
 - the right to buy has been exercised;
 - a new tenancy to the same property has been granted to any other qualifying tenant

4.4.3 The claim must be in writing and be made within the period 28 days before the tenancy ends or 21 days after it has ended. We will respond to the claimant within 28 days of a claim being made.

4.4.4 Tenants must have obtained permission from the Royal Borough of Greenwich before undertaking qualifying works. For more information see the Improvements and Permissions Policy. Only in exceptional circumstances will we consider permission retrospectively.

4.4.5 A tenant has the right to appeal the decision we make as to awarding compensation for improvements, providing they do so within 28 days of being notified of our decision. The decision will be reviewed by a surveyor who had no part in the previous decision.

4.4.6 Where a tenant of Royal Greenwich owes arrears of rent, service charges, rechargeable repairs or legal fees to Royal Greenwich Housing Services, our policy is to deduct these arrears from the Compensation for Improvements payment before paying the remaining balance to the tenant.

4.5 Room Loss

4.5.1 Tenants can be reimbursed for the complete or partial loss of one or more rooms, where they are uninhabitable during a period of repair work. To qualify the room must be out of use for more than 1 full week.

4.5.2 The payment for loss of rooms is calculated as follows:-

$$\frac{\text{No. of rooms lost}}{\text{Total No. of Rooms In Property}} \times \text{net rent} \times \text{No. of complete weeks rooms(s) lost for}$$

4.5.3 Where the entire property is uninhabitable, the calculation will be made against gross rent for the entire period the property was uninhabitable. Where a property is likely to be uninhabitable for an extended period, alternative accommodation may be offered instead in line with the Remedial Rehousing policy.

4.6 Disrepair

4.6.1 Royal Greenwich Housing Services have a separate Disrepair policy and procedure which covers the following:

- Proceedings brought by tenants under S.I I Landlord and Tenant Act 1985 (LTA)
- Proceedings brought under Section 4 of the Defective Premises Act 1972
- Cases brought under the terms of a tenancy or lease
- Cases brought under the Environmental Protection Act 1990 (EPA)
- Tenants and leaseholders of Royal Greenwich, though the scope of our duties as a landlord differs according to which type of agreement.

4.7 Refunds, Reimbursements and Discretion

- 4.7.1 Where we charge Leaseholders and/or Tenants a service charge for a specific service we will consider requests for a pro rata refund for a lost service, where a problem with the service has been reported and we fall outside of our agreed timeframes to rectify. These payments are treated as refunds rather than a compensation award.
- 4.7.2 We will consider requests to reimburse tenants or leaseholders who have incurred an unreasonable additional expense where we have failed to meet our service standards. To qualify the resident will be required to provide evidence of the service failure, loss and subsequent expense. Such payments will be considered case-by-case, and where awarded these payments are treated as a reimbursement rather than compensation. Reimbursements will only be deducted from outstanding arrears where the resident specifically agrees to this.
- 4.7.3 Discretionary payments are sometimes also known as an ex-gratia (or voluntary) payment. It is not possible, fair or practical to apply a 'one size fits all' approach when awarding such payments. The objective when we consider such cases is that any action we take, or award we make, will be to help put the person back into the position they would have been in before they incurred the loss.

4.8 Responsibilities

- 4.8.1 The Tenancy or Leasehold agreement sets out the roles and responsibilities for Royal Greenwich as well as what the tenant or leaseholder is responsible for in relation to the property, which includes their repair responsibilities.
- 4.8.2 Royal Greenwich will work with tenants and leaseholders to come to a fair and amicable solution whenever possible. However, where necessary Royal Greenwich will take appropriate legal action to defend our rights including taking vacant possession of a property.
- 4.8.3 Where Royal Greenwich Housing Services work with partners or other agencies to deliver a service, and we receive a request for compensation or reimbursement which lies outside of our jurisdiction, we will signpost the resident to the relevant agency for assistance.

5. Performance Monitoring

- 5.1 We will provide training for staff who will be involved in implementing this policy.
- 5.2 We will monitor this policy by analysing cases, spends and patterns, and report this information to Senior Management on a bi-annual basis. We will use this information to inform our wider learning, for example when reviewing relevant policies and processes.

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