



# Compensation Policy

May 2021

**MONITORING, APPROVAL AND REVIEW**

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# Compensation Policy

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## 1. What is the purpose of this Policy?

- 1.1 This document sets out First Choice Homes Oldham's (FCHO's) approach to providing compensation to customers. FCHO will consider the payment of financial compensation where maladministration is judged to have occurred, as set out in the Housing Ombudsman Service (HOS) published scheme.

The aim of the Policy is to provide redress to restore a person to the position they would have been in had the service failure not occurred. There are other remedies available to put a situation right, but in some instances financial compensation may be the only and appropriate form of redress. In addition this Policy seeks to ensure that FCHO complies with its legal obligations in relation to statutory compensation schemes as detailed below.

## 2. Policy Details

- 2.1 There are three types of compensation:

- Mandatory compensation that is required by legislation or a court order, for example home loss payments.
- Discretionary compensation that FCHO may choose to offer, for example time and trouble payments.
- Material loss payments – where customers can demonstrate actual loss due to an action or inaction by FCHO.

### 2.2 Mandatory compensation

#### 2.2.1 Improvements

Compensation for improvements may apply where a tenancy is coming to an end and the tenant has undertaken qualifying improvements. Each case will be assessed on its own merits.

Payments will be subject to improvements:

- installed to a standard that is fit for purpose.
- maintained to a good state of repair.
- passing an inspection to ensure the improvement meets FCHO's desired specification.
- notional life expectancy.

## **2.2.2 Home Loss**

Home Loss payments may be made to tenants who have lived in their property for a minimum of 12 months and are required to move home permanently as a result of redevelopment or demolition of their home.

Payments will be as prescribed by the Home Loss Payments Regulations in force at the time of the loss.

## **2.2.3 Disturbance**

No compensation entitlement will accrue where the tenant has made a decision to move, for example moves pursuant to requests, bids or direct exchanges.

Disturbance payments may be made to people who are required to move by FCHO to another property or a temporary basis or to people who have been a tenant at a property for less than twelve months and are required to move home permanently. Any offer of compensation would be made to address reasonable moving costs that are substantiated with evidence of actual estimates and / or receipts.

When considering support and compensation, FCHO will consider the needs of vulnerable tenants as they may need greater support and assistance rather than compensation.

## **2.3 Discretionary Compensation**

There are various reasons why FCHO would consider a payment of discretionary compensation, for example when FCHO have done something which has caused damage or failed to do something to prevent damage, causing material loss, and some of these are listed below:

- poor complaint handling
- delays in providing a service e.g. in undertaking a repair
- failure to provide a service that has been charged for
- temporary loss of amenity
- failure to meet agreed / reasonable response times
- loss of use of part of the property
- failure to follow policy and procedure
- unreasonable time taken to resolve a situation
- when a customer has suffered material loss (e.g. if an operative damages possessions while undertaking repairs, loss of earnings due to time off for repairs if the operative doesn't attend etc.).

### 2.3.1 Forms of discretionary compensation

Outlined below are a range of discretionary remedies that could be offered to customers:

- an apology and explanation.
- a specific action or correction of an error within timescales.
- a review of policy and procedures - customers will be informed of any changes.
- additional training for colleagues.
- offering financial compensation.
- providing an additional service, for example decorating following a leak.
- providing decorating materials or vouchers.
- flowers.
- gift vouchers.
- compensation for damaged goods (receipts will need to be provided).
- provide credit to a customer's pre pay meter for electric or gas to cover costs incurred, e.g. extra energy to assist drying down.
- replace items lost like for like, e.g. supply and install replacement floor covering or carpet damaged due to works or failure to attend in a timely manner.

### 2.3.2 Right to Repair

The Right to Repair scheme covers specific repairs, known as '**qualifying repairs**' which cost less than £250, is likely to jeopardise the health and safety of the tenant and should be done within a set time limit. If FCHO does not carry them out within the time limit there may be an entitlement to a monetary form of compensation unless a different solution is found.

A list of qualifying repairs is attached at Appendix A.

If the repair is not completed within the timescales, a customer may be entitled to £10 plus £2 per day for every day the repair remains outstanding up to a maximum of £50 unless another remedy is accepted.

There is no entitlement to any compensation if repairs were obstructed, it was unsafe to carry out the repair, or access could not be gained or was refused. A full list of exclusions can be found in FCHO's Repairs and Maintenance Policy.

## 2.3

| <b>Levels of redress</b> | <b>Impact on customer</b>   |
|--------------------------|---|
| <b>£50-£100</b>          | Minimal – service failure short duration. May not have significantly affected the overall outcome for the customer. Might include distress and inconvenience, time and trouble, disappointment, loss of confidence, and delays in getting matters resolved. |
| <b>£100-£600</b>         | Moderate – no permanent impact with little or no contact to provide updates. Failure to complete repairs, follow policy or make adequate adjustments that has a considerable impact on the complainant  |
| <b>£600-£1000</b>        | Severe – with significant impact on physical and or emotional impact  |
| <b>£1000 +</b>           | Severe– Long term impact, on physical and or emotional impact.  |

### 2.3.3 How to seek compensation

Requests for discretionary compensation will be dealt with through the Complaints Policy process.

The table below indicate the levels of monetary compensation that may be considered in line with guidance on remedies published by the Housing Ombudsman Service:

Please note that when considering the amount to be offered consideration will be given to the number of people affected, for example if a joint tenancy then the amount offered may be per person. Also note that there is no upper limit to the amount of compensation as if material loss is incurred then it is expected that the compensation paid will replace the loss.

All offers are made without an admission of legal liability.

Unless a specific purpose payment has been agreed, for example a payment to replace an item, all monetary payments will normally be offset against money owed by the tenant to FCHO, this includes rent, arrears, service charges and legal costs. Balances or minor payments can be paid direct to a customer.

Where an offer of compensation is not accepted within 14 days or as outlined within the complaint resolution response, it will be deemed to have been refused and the offer withdrawn.

### 2.3.4 Loss of facilities

The approach to calculating compensation for loss of facilities should be consistent to ensure the service is delivered effectively for example, if a six room property has two rooms that are considered unusable due to disrepair, and this causes significant inconvenience to the tenant, compensation shall be calculated as follows:

|                                   |   |
|-----------------------------------|---|
| <b>Total rooms</b>                | six                                       |
| <b>Rooms 'lost'</b>               | two                                       |
| <b>Percentage of rooms 'lost'</b> | 33%                                       |
| <b>Daily rent (assumed)</b>       | £9.40 (weekly rent x 48 weeks ÷ 365 days) |
| <b>33% of daily rent</b>          | £3.11 per day compensation                |

FCHO will not pay compensation for loss of facility in the case of regular contractual repairs, planned, or major improvement works or routine maintenance that is part of a contractual obligation. Compensation for delay may be payable between the target date for completion and the date the work is finished.

Please note that 'loss of facilities' refers to a room that provides a substantial amenity or is provided for particular function, for example a kitchen or bathing facilities.

### 2.3.5 Exclusions

Compensation will not normally be considered in any of the following circumstances:

- Where damage or loss is outside of the reasonable control of FCHO or where all reasonable steps to restore services or facilities have been made.
- Where the loss or damage is not attributable to FCHO.
- Where the allegation relates to fair wear and tear or a matter FCHO has not previously been reported through the normal channels or where FCHO has not had any notice.
- Where damage or loss is caused by the act or omission of a third party.
- Where allegedly damaged items are not recoverable or available for inspection.
- Where the matter is already the subject of a separate claim or pending claim.
- Where a matter has not been pursued in compliance with the law or contractual obligations that apply to it or is out of time because of the amount of time that has passed since the incident occurred.
- Discretionary payments for incidents that happened more than 21 days in the past.



## **2.4 Appeals**

No appeal is permitted against discretionary compensation decisions. Complaints will be dealt with in accordance with the Complaints Policy.

Appeals cannot be made against obligatory compensation provided since the limits are set by law. If a customer has not been made an offer of mandatory compensation and feels they should have been, they should seek independent advice.

## **2.5 Legal claims**

FCHO may refer any claim at any time to its Solicitors and / or report potentially fraudulent claims to the appropriate authorities.

Claims for disrepair or personal injury and associated losses may be referred to Solicitors or insurers at any time.

## **2.6 Full and final settlement**

Any offers of compensation and payments will be in full and final settlement. Matters will not be reopened once an offer is agreed or a payment has been made.

## **2.7 Factors taken into account**

Cases will be considered on their own facts and merits.

Factors that FCHO will take into account in deciding on compensation include:

- The customer's own action or inaction that led to the loss or damage.
- The reasonableness of costs alleged to be incurred and their proportionality to the event that occurred.

For specific items there is no entitlement to 'new for old' and FCHO will take into account the age and condition of the item which is the subject of the request and may pay accordingly.

Professional fees must have been subject to the provision of estimates and prior approval which will only be considered and granted in exceptional circumstances.

Inconvenience (time and trouble): Time and Trouble payments will only be paid when the time and trouble in pursuing the complaint are more than the minor costs that would routinely be expected. The maximum of time and trouble awarded will not exceed an amount equal to 100% of the weekly rent. FCHO may consider reimbursement of loss of earnings however proof of earnings will be required where customers are in paid employment.

Payment for damage to tenant's property / belongings: It is a tenant's responsibility to ensure they have suitable insurance to cover the contents of their home to ensure they do not suffer losses.

## 2.8 Delegated authority to approve / offer compensation

All amounts of compensation to be approved or offered must be in line with FCHO's Financial Regulations Invoice Approval limits.

## 3. Legislative or other Guidelines

FCHO will follow the laws in force at the time that the payment is offered or made.

## 4. Links to FCHO's Strategic Delivery Plan

- 4.1 This Policy links to the area of Excellent Landlord within the SDP and could impact on the following measures:

### **Key Performance Indicators:**

Excellent Landlord

- % of overall satisfaction (derived from all touchpoint surveys)
- Total volume of all complaints received.

## 5. Monitoring

- 5.1 The payments of all compensation made will be recorded in Northgate, monitored by the Service Centre Manager and reported on a monthly basis as part of the Monthly Complaints Performance Report.

### Right to Repair Qualifying Repairs

- Total / partial loss of electric power.
- Unsafe power or lighting socket or electrical fitting.
- Total / partial loss of water supply.
- Total / partial loss of gas supply.
- Blocked flue to open fire or boiler.
- Heating or hot water not working between 31 October and 1 May.
- Heating or hot water not working between 1 May and 31 October.
- Blocked / leaking foul drain, soil stack or toilet.
- Toilet not flushing (if there is only one toilet in the property).
- Blocked sink, bath or basin..
- Tap cannot be turned
- Leak from a water pipe, tank or cistern.
- Leaking roof.
- Insecure external window, door or lock.
- Loose or detached banister or hand rail.
- Rotten timber flooring or stair tread.
- Door entry phone not working.
- Mechanical extractor fan not working.