

# **Compensation Policy and Procedure (including Ex-Gratia Payments)**

**Date Policy last reviewed: March 2018**

**Date next review due: March 2021**

**Date Policy approved by South Essex Homes' Board: March 2018**

**Policy written by: Sarah Lander**

## **1. POLICY OBJECTIVE**

To ensure that South Essex Homes (SEH) meets its legal obligations for claims for compensation, and that where a claim is valid, residents receive a fair and efficient settlement.

It should be noted that all claims for compensation are dealt with on a strict legal liability basis.

## **2. AREAS OF CLAIMS**

This policy covers claims relating to the following:

- Loss of Amenities
- Costs for Alternative Heating
- Economic Loss
- Damage to Tenants Property
- Delays in Completing Repairs (that affect health & safety and security known as Right to Repair)
- Tenant Improvements
- Compensation due to failures in Customer Service in its own right

The Policy does not cover:

- Compensation which would normally be dealt with as part of a claim on South Essex Homes Insurance, e.g. Personal Injury claims
- Compensation which would be covered by any other insurance or cover policy including the tenants own policy(ies)
- Loss of a service which is included as part of a service charge
- Decants or temporary moves

South Essex Homes will not pay compensation for:

- Short term nuisance caused by building works e.g. noise of contractors
- Neighbour nuisance
- Stress following any incident or failure of service

## **3. CRITERIA**

For claims to be considered, details must be received by SEH within the periods specified below:

*Claims for Loss or damage, etc. - 21 days*

*Claims for Improvement costs - 42 days from start of 28 day End of Tenancy notice period*

#### **4. MONITORING**

All claims will be monitored by service area to show:

- The number of claims received
- The amount of money paid out

Reports will be taken to management team.

#### **5. POLICY DETAILS**

The specific approach for different circumstances is set out below.

##### **5.1. Loss of Amenity**

Where any part of the dwelling or its major amenities are unusable by the tenant (as a result of either delayed repairs or major building work), compensation will be payable as follows:

- *Loss of complete heating* – 10% of the weekly rent after 24 hours provided no reasonable substitute was offered by SEH. Compensation for loss of heating is excluded between 1 June and 30 September
- *Hot Water System* – 10% of the weekly rent after 24 hours provided no reasonable substitute was offered by SEH
- *Loss of Kitchen* – 25% of the weekly rent after 48 hours
- *Bathroom* – 25% of the weekly rent after 48 hours (reduced to 15% if a separate WC is available)
- *Living Area* – 20% of the weekly rent after 7 days
- *Bedrooms* – 20% of the weekly rent payable after 7 days

Where programmed maintenance works have been pre-arranged and advance notification has been given to the tenant (allowing alternative arrangements to be made), the qualifying periods for loss of bathroom / kitchen will be increased to 96 hours (4 days).

##### **5.2. Additional Costs for Temporary Appliances**

In some circumstances, South Essex Homes may need to provide a tenant with a temporary source of heating or a dehumidifier which incurs additional costs to the tenant. Compensation rates for this will be calculated on a daily basis.

##### **5.3. Economic Loss (e.g. loss of income, annual leave etc)**

If a pre-arranged appointment is broken by South Essex Homes without giving the tenant reasonable notice then the tenant may claim the following:

- Loss of income
- Annual leave (to the equivalent sum as income)
- Any related expenses that may result directly from the broken appointment

Compensation in these circumstances will be paid so long as the following criteria have been met:

- The appointment was formally arranged with the resident.
- The tenant informed South Essex Homes that the consequences of breaking the appointment would result in economic loss
- Evidence is provided showing that there has been an economic loss. (e.g. Employers declaration)

Compensation will not be paid if:

- The tenant was advised as soon as South Essex Homes was aware that the appointment could not be kept and an alternative appointment was arranged within 7 working days.

#### **5.4. Damage to Tenants Property**

Where a claim for damage or loss is made, the tenant will be visited within 14 days to assess the damage or loss incurred. A Compensation Claim form must be completed in all cases.

Compensation will not be paid where:

- Any damage has occurred as a result of disrepair or neglect by the tenant
- SEH has not been negligent, i.e. where it could not have foreseen that an item needed repair
- There has been no breach of the terms of the tenancy

Claims over £250 will be referred to South Essex Homes' insurers. Where South Essex Homes is found to be liable the insurers will settle directly with the tenant.

Where claims under £250 are considered, any compensation payment will take into consideration the age and value of any items damaged.

If damage has occurred due to South Essex Homes contractors carrying out work, provided the contractor has been correctly appointed, South Essex Homes would not normally be liable and the matter will be referred to the contractor for referral to their insurers. However, South Essex Homes will try to ensure that the contractor deals fairly with any claim and where appropriate reaches a fair and reasonable settlement with the tenant.

#### **5.5. Damage to Decorations**

Where tenant's decorations are damaged in the process of carrying out a repair, every effort will be made to match existing decorations. Where decorations can not

be matched a fixed decoration allowance will be payable in accordance with South Essex Homes voids procedure.

## **5.6. Delays in Completing Repairs (Right to Repair)**

The right to repair is a contractual right given to all tenants in accordance with the Citizens Charter scheme. It allows tenants the right to take action where certain small urgent repairs which might affect health, safety or security, are not completed within published response times.

If a repair is not completed within the stated time limit and the tenant notifies South Essex Homes, a second time limit equivalent to the first will be given to the tenant. If the repair is still not completed within the revised timescale the tenant is entitled to claim compensation of £10 plus £2 per day for every day the repair remains outstanding up to a maximum of £50.

To qualify for any payment, the following must apply:

- The repair must be an emergency or urgent repair that affects health, safety or security of the tenant
- South Essex Homes must be responsible for the repair

Compensation will not be payable if:

- Either of the two cases listed above do not apply
- The repair was needed because of damage caused by the tenant
- The tenant had not informed South Essex Homes that the repair was needed
- The tenant failed to provide access or make an appointment with the Contractor
- The claim is for Improvements

## **5.7. Tenant Improvements**

Where a tenant ends their tenancy, South Essex Homes may compensate for any substantial improvements (as listed in Appendix 2) made to the home after 1 April 1994, so long as:

- Permission had been requested in writing from South Essex Homes to allow the improvements to be undertaken
- South Essex Homes had granted permission for the complete works
- Three quotes from contractors had been obtained and copies sent to South Essex Homes
- The improvements complied with statutory approvals, i.e. buildings, electrical, planning and any other relevant regulations
- A final invoice had been sent to South Essex Homes

- The tenants agreed to allow an South Essex Homes Surveyor to inspect the property
- The improvement has been maintained

A claim will not be considered if:

- The tenant is buying their home through the Right to Buy scheme
- The tenancy is terminating because of legal action taken by South Essex Homes to recover the premises

Any claims for compensation for improvements must be made to South Essex Homes within 42 days of the beginning of the four week end of tenancy notice period. Claims made outside of this date will not be considered.

All improvements will be inspected by a surveyor. The amount payable will be calculated by taking the original cost of work and reducing this by the number of years the improvement has been in place / the lifespan of the improvement.

The maximum amount payable will be £3,000.

### **5.8 Failures in customer service**

Where a customer is able to establish that they have been disadvantaged due to a failure in South Essex Homes' customer service, South Essex Homes Management and/or Panel of Board Members can agree to authorise an ex-gratia payment of up to £100 for the individual affected. This may be agreed following the customer making a formal complaint but not solely as a course of this action.

## **6. ASSESSMENT PROCEDURE**

Compensation claims can be submitted either separately or as part of a formal complaint under South Essex Homes standard complaints procedure. In either case the following procedure will be adhered to:

- A standard compensation form must be completed to record full details of the claim. Full details must be recorded, including dates, costs, proof of purchase, etc. South Essex Homes can provide assistance with completing the form if required.
- Tenants should be advised to keep any item that is damaged until the claim has been settled to their satisfaction. Where possible, photographs should also be taken.
- All claims will be assessed within 14 days of receipt
- If a claim is not upheld the tenant will be advised in writing. Details of why the claim has not been accepted will be given.
- Where a payment claim is upheld but the tenant has outstanding debts with South Essex Homes, e.g. rent arrears or recharges, the amount payable may be offset against the debts. South Essex Homes will reasonably consider the potential to cause undue hardship before taking this action

- Letters offering compensation or ex-gratia payments will give the tenant 14 days to accept or refuse the offer. Where no contact is received, South Essex Homes will assume that full and final settlement has been accepted.

## **7. APPEALS**

Tenants have the right to appeal if they disagree with the settlement or consider that their claim has not been fairly dealt with. All appeals must be made in accordance with the complaints procedure and before any payment is made.

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