



Complaints Compensation Policy

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1.0 Scope

The Complaints Compensation Policy sets out the approach that Broxtowe Borough Council takes to settle complaints where a financial payment is required.

The Policy applies to all complainants that have registered an official complaint with the Council.

For the purpose of the Policy, complaint compensation payments applied to both stage 1 and stage 2 complaints.

2.0 Purpose

The document describes how Broxtowe Borough Council will address compensation to complainants where fault has been found.

The Housing Ombudsman recommends that the Council adopt a Complaint Compensation Policy in order to provide consistent payments for findings or fault during the complaints process.

3.0 Aims and Objectives

The aims and objectives of the Policy are:

- To ensure consistent payments of compensation in settlement of complaints.
- To provide guidance on how to remedy complaints where a fault has been found.

4.0 Regulatory Code and Legal Framework

- Housing Ombudsman remedies guidance
- Housing Ombudsman Complaint Handling Code
- Local Government Ombudsman Guidance on remedies.

5.0 Policy Outline

5.1 Introduction

The Council aims to provide fair and proportionate remedies to complaints where some level of maladministration has been identified. The Council may also make recommendations to facilitate service improvements or address systemic failings. There are a wide range of proportionate remedies which include both non-financial remedies and compensation.

Compensation will not be appropriate in every case.

5.2 What does the Council mean by remedy?

A remedy is the means by which the Council will put things right after some level of maladministration has been identified. The approach is based on principles below:

Seeking a fair outcome

The Council will treat each case individually and ensure the remedy is fair when considering the specific circumstances of the case by:

- Providing a remedy which is appropriate and proportionate to the severity of the maladministration or service failure.
- Taking into account the impact of the action or behaviour of the complainant, as well as the Council.

Put things right

The Council will consider a range of measures to put things right for the complainant, including financial compensation.

Learn from outcomes

Where possible the Council can add value by looking beyond the circumstances of the individual complaint and consider whether services can be improved in terms of process and systems.

Part of a remedy may be to ensure that changes are made to policies, procedures, systems, staff training, or all of these, to ensure that the maladministration is not repeated. It is important to ensure that lessons are learned and put into practice. The Council considers ways in which the relationship between the Council and residents can be improved and encourage improvements in service delivery.

5.3 Remedies offered

Apology

In some circumstances an apology is all that is required. An apology can be made in writing or in person and will come from the Council and not an individual.

An apology will:

- Acknowledge the maladministration or service failure
- Accept responsibility for it
- Explain clearly why it happened
- Express sincere regret.

Specific action

The Council will also consider whether there is some practical action which would provide all or part of a suitable remedy. This may include:

- Perform or do not perform any of the contractual or other obligations existing between the Council and the complainant
- Exercise or do not exercise any of the rights existing between the Council and the complainant
- Undertake or refrain from undertaking works e.g. to repair a property
- Take such other reasonable steps to put things right as are within the legal powers of the Council e.g. reviews or changes a decision on the service given to an individual or does something else to make things better for the complainant to “make up” for the impact of the maladministration.

Policies and Procedures

Remedial action may include improvements to the Council’s policies or procedures. This may include:

- Revising publicised material
- Revising procedures to prevent the same thing happening again
- Training or supervising staff.

The Council’s approach to financial compensation

All compensation calculations are based on what is considered fair in the particular circumstances of the case. The Council will normally consider compensation for:

- Actual, proven financial loss sustained as a direct result of the maladministration or service failure; and/or
- Avoidable inconvenience, distress, detriment or other unfair impact of the maladministration or service failure.

Factors the Council may take into account when deciding the overall amount include:

- The duration of any avoidable distress or inconvenience
- The seriousness of any other unfair impact
- Actions by the complainant or the Council which either mitigated or contributed to actual financial loss, distress, inconvenience or unfair impact
- The level of rent or service charges
- The levels of compensation for similar cases paid by other UK Ombudsmen.

A table breaking down how payments are calculated is shown in an appendix below.

Each case for compensation will be considered on a case-by-case basis. The Council reserves the right to offer less or more compensation as listed below dependent on the severity of the complaint.

Payments

In all circumstances where a direct compensation payment is offered, the Council will request written confirmation of the complainant's acceptance of the compensation offer and the appropriate bank details to facilitate the payment.

Payments over £5,000

Payments over £5,000 will be referred to the appropriate Committee, in line with the Council's Constitution, for determination.

Payments toward items

If the Council makes a payment toward the damage or replacement of personal belongings this will be limited to £5,000. This payment will also be outside of the insurance process.

6.0 Related Policies, Procedures and Guidelines

This policy should be read in conjunction with the following Council documents:

- Complaints Procedure
- Housing Repairs Policy
- Tenancy Agreement
- Housing Allocations Policy

7.0 Review

This Policy will be reviewed every three years unless there are significant changes identified by the Local Government Ombudsman and Housing Ombudsman.

8.0 Document History and Approval

Date	Version	Committee Name
09.11.2023	1.0	Policy Advisory Working Group

APPENDIX A

Level of redress	Likely associated finding	Impact on resident	Circumstances
£50 to £100	Service failure	<p>Minimal. Short duration. May not have significantly affected the overall outcome for the resident. Might include distress and inconvenience, time and trouble, disappointment, loss of confidence, and delays in getting matters resolved.</p>	<p>There was minor failure by the Council in the service it provided and it did not appropriately acknowledge these and/or fully put them right. The Council may have made an offer of action/compensation but it does not quite reflect the detriment to the resident and/or is not quite proportionate to the failings identified by the complaint investigation.</p>
£100 to £600	Maladministration	No permanent impact.	<p>There was a failure which adversely affected the resident. The Council has failed to acknowledge its failings and/or has made no attempt to put things right. <i>Or</i> The Council has acknowledged failings and/or made some attempt to put things right but failed to address the detriment to the resident and/or the offer was not proportionate to the failings identified by the complaint investigation.</p>

Level of redress	Likely associated finding	Impact on resident	Circumstances
£600 to £5,000	Maladministration/ Severe maladministration	Significant impact Physical and/or emotional impact	There was a failure which had a significant impact on the resident. The circumstances for maladministration apply and the redress needed to put things right is substantial <i>Or</i> The circumstances for severe maladministration apply but the redress needed to put things right is at the lower end of that scale.
£5,000 and above	Maladministration/ Severe maladministration	Significant impact Physical and/or emotional impact	This would need to be considered by the relevant Committee.

The Council may make more than one finding when determining a case. The table above reflects the financial remedy for each finding rather than the total amount for the case.

Case studies

Case study 1

Ms A's roof was resealed by the Council following a report of a persistent leak, but water ingress continued and Ms A reported the leak again.

The landlord surveyed the building and identified the need for exploratory work. Despite the repairs to the roof, the leak was reported again. The leak persisted despite further repairs and the Council inspected the property again. From a period from 2014 to 2022, Ms A reported the leak but works to repair were not successful.

The Council carried out a further inspection and identified that the cladding had failed and was causing water ingress. As the cladding was within its lifespan, the Council had not considered reviewing the cladding for its failure until 2022.

In total, the Council took over nine years to resolve the water ingress.

The Council found maladministration regarding the repair to the water ingress. The Council has paid Ms A £1,000 in compensation and offered a direct let for a new property in recognition of the lack of repairs to the leak.

The Housing Ombudsman reviewed the complaint and found fault in the Council's handling of the leak. This resulted in an additional payment of £1,200.

Case Study 2

Mrs Z complained about the Council's response to a blocked toilet at her Grandson's property. The Council had sent a plumber to remove the blockage and ensure that the toilet was in working order. The plumber unblocked the toilet on the same day reported.

However, the problem reoccurred over a 1-month period Mrs Z complained again that the toilet was block and un-useable. Mrs Z further complained that sewage was seeping into the property due to the block. Additional works were undertaken to repair the toilet but the blockage continued to occur. The problem persisted due to the root cause of the issue not being identified in the first instance. The Council should have identified that the toilet required raising via a plinth to assist with the sewage flow.

Due to the toilet being un-usable due to the blockage, the Council delivered a portaloos to the property. Once the blockage had been rectified, Mrs Z requested that the portaloos be collected and removed from the property. However, the Council delayed this collection by 3 months despite Mrs Z contacting the Council on several occasions to remove the portaloos over this period.

The Council apologised for the not identifying the cause of the blockage in the first instance and for delaying the collection of the portaloos from the property.

The Council offered £500 compensation in recognition of the distress, inconvenience and delays caused in identifying the solution to the repeated blockage and delaying the collection of the portaloos.

Case Study 3

Mr D contacted the Council to report damp and mould with in the property.

Mr D reported the issue of the damp and mould to the Council in February 2020. However, due the COVID-19 pandemic a delay occurred in an inspection taking place to assess the issue. The inspection subsequently took place on August 2020. It was noted that no works were required to property at this point.

In January 2022 a further damp inspection was booked and undertaken to the property on 3 March 2022. It was noted that no direct works were identified at this point. However, the damp issue was passed to the Capital Works Team to undertake an additional damp survey.

In March 2023 a further damp inspection was undertaken by the Council's external contractor. It was identified that the property required the injection of a new damp proof course.

Additionally, on 31 March 2023 a further inspection was undertaken by the Council. It was identified that works were required to upgrade the loft insulation and install insulated boards to the hallway walls.

The works were completed on 3 July 2023.

Mr D received an apology and was provided with £300 compensation.