

## COMPENSATION POLICY

### Responsible Officer

Director of Finance

### Aim of the Policy

We are committed to providing excellent services *‘to build a better future for our Phoenix Community’*.

This policy sets out our approach to awarding compensation to residents and others who may be adversely affected by services we may provide.

### Policy Scope

We may offer the following types of compensation payments under this policy:

- Statutory: where there is a legal, or other external requirement for us to compensate you.
- Discretionary (Ex Gratia): a discretionary financial payment or other gesture of goodwill made to you without us accepting any liability.
- Reimbursements: where you are left out of pocket for something we are at fault for or responsible for.
- Refund: where you directly pay for a service which you do not receive, either fully or partially.

Wherever possible we will try to rectify our mistake or offer a gesture of goodwill such as flowers or gift vouchers instead of making a financial payment.

Where you hold a rent or service charge account with us and owe us money, we will pay any compensation due into your account.

### Policy Statement

We try to meet our published service standards at all times. If we fail to do so, we will offer an apology, investigate, put things right as soon as possible and use the learning as an opportunity to improve our services.

We will act fairly and consider each request for compensation on a case by case basis. Requests should be made as soon as possible after the incident or service failure occurs.

### The Policy

This policy covers payments or payment in kind made by us in recognition of the impact of our service failure.

Where appropriate, we may refer a claim to our insurers, legal representatives or advisors, experts or other third party to deal with. In such cases, we will keep you informed where appropriate.

We respect your right to seek independent legal advice or assistance when you are making a claim. You can seek independent legal advice or assistance at any point of the claim process.

Where appropriate we may consider the use of alternative dispute resolution methods such as mediation and negotiation. We will agree with you to attempt settlement of the dispute by this means rather than legal proceedings.

We will consider each request for compensation on a case by case basis. However, we will not make compensation payments in certain circumstances for example:-

- Where the fault is beyond our control or power or there are unforeseen events.
- Where the incident was caused as a result of negligence by you or the failure to keep to the terms of your tenancy, lease, any other agreement, promise or duty.
- Unreasonable failure to give access to us to remedy a reported issue or defect at your home.
- Where the payment would amount to increased or double compensation, for example where your own insurers are due to make a payment.
- Fraudulent or exaggerated claims.
- We may reduce or extinguish your compensation where you fail to take reasonable steps to mitigate loss, damage or inconvenience resulting from the failure.
- The request for compensation is the subject of an insurance claim or is impending legal action against Phoenix.

We will always obtain written agreement from you prior to organising the payment. This agreement will confirm that the offer is made in full and final settlement of your claim and without liability. Offers of settlement will be made without prejudice and that you accept the amount of compensation awarded.

## **Monitoring and review**

We will monitor performance of this policy using key performance indicators:

- The number of statutory financial payments made.
- The number of discretionary financial payments made.
- The number of in-kind payments made.

This policy will be reviewed every 3 years or sooner if there are changes to legislation, good practice or other learning.

## **Legislation**

- Defective Premises Act 1972
- Land Compensation Act 1973 (as amended)
- Protection of Eviction Act 1977,
- The Limitation Act 1980
- Landlord and Tenant Act 1985
- Commonhold & Leasehold Reform Act 2002
- Housing Act 1985, 1988, 1996, 1998, 2004
- Right to Repair Regulations 1994
- The Home Loss Payments (Prescribed Amounts) (England) Regulations 2008
- Equality Act 2010

- Homes (Fitness for Human Habitation) Act 2018
- Data Protection Act 2018

## Reference to other documents and associated policies and procedures

Including:

- Anti-Fraud Policy
- Data Protection Policy
- Privacy Statement
- Complaints, Compliments and Comments Policy and Procedure
- Compensation Procedure and Guidance
- Compensation Claim Form
- Equality and Diversity Charter
- Home Ownership Management Policy
- Home Ownership Arrears Policy
- Phoenix Standards
- Rent Arrears Policy
- Rent Collection and Payments Policy
- Responsive Repairs Policy
- Tenancy and Lease Agreements
- Tenure Policy
- Translation and Interpretation Policy

## Definitions

Term/acronym	Description
You/Your	Includes tenants, lessees, freeholders and claimant
We/Phoenix/Us	Phoenix Community Housing.
Claimant	Anyone making a claim for compensation payment from Phoenix
Ex Gratia	A discretionary one-off payment made out of goodwill rather than in acceptance of any liability by Phoenix
Without Prejudice	Means neither Phoenix nor the claimant will seek to use the information exchanged under this cover of confidentiality (e.g. while negotiating a settlement) as evidence in court against each other unless it is later agreed in open correspondence
Full and Final Settlement	Means that the settlement is accepted and agreed as final by the claimant and Phoenix.

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