

REMEDY AND COMPENSATION POLICY

Report of the Director and Company Secretary

1. SUMMARY

This report proposes changes to the Remedy and Compensation Policy.

2. RECOMMENDATION

To agree changes to the Remedy and Compensation Policy, as identified in paragraphs 3.2 to 3.6.

3. MATTER FOR CONSIDERATION

- 3.1 Revisions to the Remedy and Compensation Policy are required following changes to the base insurance excess level Derby Homes now has on public liability claims and to update approval levels and those employees eligible to approve such awards. The following is a summary of the proposed changes. Full details of changes recommended can be found in appendix 1.
- 3.2 Complaints Officer to be able to authorise up to £100 (Stage 1 complaints). Currently £50.
- 3.3 Service Manager or Head of Service to be able to authorise up to £1,000 (Stage 1 complaints). Currently this is the Chief Executive.
- 3.4 Any amounts over £1,000 will be covered by the Insurance Claims procedure and must be passed to the Insurance Claims Handler for investigation.
- 3.5 Stage 2 payments must be authorised by the Chief Executive, their nominee or Director if over £1,000. No change from current procedure.
- 3.6 If the tenant /leaseholder is currently in arrears, then the first part of the compensation will be allocated to their rent account. Any remaining compensation will then be paid to the individual.

4. FINANCIAL AND BUSINESS PLAN IMPLICATIONS

- 4.1 Derby Homes currently budgets for £11,500 a year in compensation payments. Payments in 2012/13 totalled £9,833. Further increasing the potential amounts payable to up to £1,000 may result in this budget requiring additional resources.
- 4.2 Overall this change will not have a material budget implication to Derby Homes and costs can be contained within Repairs Team budgets.

5. POLICY REVIEW IMPLICATIONS

This is a key policy of Derby Homes and is/will be included in the Key Policy Review Schedule. In accordance with minute 10/51 this policy will be reviewed no later than 3 years from the date of this meeting.

The areas listed below have no implications directly arising from this report:

Consultation
Legal and Confidentiality
Council
Personnel
Environmental
Equalities Impact Assessment
Health & Safety
Risk

If Board Members or others would like to discuss this report ahead of the meeting please contact:

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Background Information None
Supporting Information None

Appendix 1 – Proposed Policy

REMEDY AND COMPENSATION POLICY

Remedy

The general principle of the policy in providing a remedy is that the complainant should be placed, as far as is practicable, in the position they would have been in if things had not gone wrong.

Generally, the remedy will be one or more of these:

- an apology
- providing the service required if it was not provided at all or was provided but not to an acceptable standard, within a stated timescale.
- a financial remedy if the complainant has suffered a clear and definable financial loss or out of pocket expenses or a level of distress / inconvenience.

The complainant should also be told about action taken, or to be taken, if their complaint relates to the service in general rather than only their individual case.

Compensation

The general principle of the policy in providing compensation is that if the complainant has clearly been disadvantaged in some way, either by the cause of their complaint or in pursuing it, that we should recognise this.

Generally, compensation will be a payment in recognition of distress or inconvenience caused to the complainant. Other forms of compensation may be used as appropriate in some cases.

The policy allows for these levels of compensation:

- At Stage 1 the Investigating Officer may authorise a payment of up to £100.
- If a payment is required over £100, the Department Manager to which the complaint relates, may authorise up to £1,000, although definitive reasons must be recorded for the payment amount.
- Any amounts over £1,000 will be covered by the Insurance Claims procedure and must be passed to the Insurance Claims Handler for investigation.
- Stage 2 payments must be authorised by the Director of Derby Homes, their nominee or a Service Director if over £1,000.

Prior to any payment of compensation to an individual, their arrears position is to be reviewed. Where any arrears exist, the compensation is first allocated against the arrears with any remaining balance then paid to the individual.

REMEDY AND COMPENSATION POLICY GUIDANCE

Remedy

The appropriate remedy depends on the individual case. Often, an apology may be the only necessary action. In other cases more will be required but an apology should always be given when a complaint is upheld or partially upheld.

If the complaint is about a service not having been provided, for example a repair promised but not done, then the service should be provided as soon as possible.

If the service was provided but not to an acceptable standard, for example repair done but not properly, the service should be provided again correctly.

When the service level is not specific to the complainant but relates to a wider problem, for example the time taken to provide a service, the senior managers of the relevant service area should be informed and asked to look into the situation, within a timescale. The complainant should be informed that this will happen, and the timescale. When appropriate and practical, the complainant should be informed of the outcome at a later date.

It should be possible to remedy most complaints as described. However, in some cases a financial remedy may be appropriate. It is important to remember that this is not the same as compensation - see next section. A financial remedy is appropriate if the complainant has suffered a clear financial loss or out of pocket expenses because of Derby Homes' actions. It is for the complainant to demonstrate this loss, and that it resulted directly, and wholly or partially from the Derby Homes' actions. The Investigating Officer will consider what financial remedy is appropriate, based on the individual case.

Compensation

Regardless of the remedy Derby Homes provides, compensation may also be considered appropriate. Compensation is defined as an acknowledgement that the Derby Homes was at fault and the complainant has suffered in some way, or put time and effort into pursuing the issue, which would not have been necessary had Derby Homes acted differently in the first place. Compensation is in addition to the remedy, financial or otherwise.

Compensation could be offered when no financial remedy has been given, or may not be offered when financial remedy has been given. Compensation does not necessarily have to be financial. There may be cases when something more than an apology is appropriate, but not a cash payment. In such cases a 'gesture' may be the best way to acknowledge the situation. This is the Investigating Officer's decision, although they may seek guidance.

In considering compensation, the Investigating Officer must consider the type of complaint, the degree of fault Derby Homes accepts, and the amount of time and effort the complainant has put into it. It is also important to judge whether the time and effort was reasonable, or whether the complainant has, in the view of the investigator, gone to unnecessary lengths in pursuing the complaint. An example might be a complainant who has engaged solicitors for a minor complaint, or made multiple visits or telephone calls despite being advised that this was not necessary.

An officer investigating a Stage 1 complaint has the discretion to award compensation up to £100, although a 'standard' figure of £10 or £20 should normally be sufficient for time and trouble.

Once compensation has been awarded, where appropriate, the tenants / leaseholders rent account should be reviewed and any compensation deducted from any type of arrears, with any balance then being paid out.

When a complaint is upheld at Stage 1 and compensation is offered and accepted - cashing our cheque is seen as acceptance - the complaint will be considered resolved. The complainant will not have the option to escalate the complaint further through Derby Homes' complaints procedure in the hope of further compensation. However, their right to refer the matter to the Ombudsman is unaffected. If the complaint is upheld at Stage 1, but the offer of compensation is rejected as too low by the complainant, the complaint will be escalated to Stage 2 on this basis.

When a complaint is not upheld at Stage 1 but escalates to Stage 2 and is upheld, the Director of Derby Homes, their nominee or a Service Director, has discretion to award over £1,000, although a substantially lower figure should normally be appropriate. Derby Homes will not normally award a compensation figure beyond £1,000, but rather refer the matter to the relevant committee, insurance or to the Ombudsman for a final decision.

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