

2019

# Compensation and Goodwill Policy

Giving BME people equality, dignity and hope.



## Contents

# Compensation and Goodwill Policy



## Approvals

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## Contents

	<b><u>Page</u></b>
Introduction	5
Policy Statement	5
Main Provisions Of Policy	5-7
Compensation for Service Failure	8
Ex-Gratia Payments	8
Appeals	8
Compensation and Goodwill Procedure	
When compensation is payable	9-11
Service Failures, Delays and Reimbursements	11
Summary of Payments	12
Failure to Complete Repairs	12

# Compensation and Goodwill Policy

## Introduction

1. Shian HA seeks to provide the highest possible standards of customer service to its tenants. However, it may be that occasionally these standards are not met. We acknowledge that should this be the case that it could inconvenience and cause distress to tenants. In such cases we would seek to investigate such incidents and where deemed applicable, offer appropriate compensation.

## Policy objectives and principles

2. This purpose of this policy and procedure is to set out the circumstances where compensation may be payable. Such payments are always at the discretion of Shian HA. Customers must request compensation or goodwill payments in all instances where it is or may be due.

Shian HA's first priority is to resolve and address service failures, we will not offer compensation in every instance on an automatic basis.

## Scope

3. This policy is primarily intended for the benefit of the occupants of rented housing and is of interest to tenants, Tenancy Services Officers and senior management.

## Main Provisions of policy

4. Shian HA will consider a discretionary payment under the following circumstances:
  - Where a service request has not been met within published timescales.
  - Where a tenant has been unable to use part of the property they occupy which is due to an act or omission on the part of Shian.
  - Where there is a reduction or loss of amenities / services which are the responsibility of Shian.
  - When Shian fails to carry out a qualifying emergency repair within the specified timescale as detailed in the requirements of the Right to Repair.
  - Where a tenant is required to leave their home temporarily or permanently in the case of major works or refurbishment or the tenant is required to permanently leave their home in the case of redevelopment.
  - When a tenant has carried out authorised improvements to their home and is leaving the property vacant, compensation may be payable
  - Where loss or damage occurs which affects the tenant and their family due to the actions of Shian or contractors acting on behalf of Shian. Contractors will be expected to have their own compensation policies but will be required to at least match Shian's policy.
  - All loss or damages claims will be subject to investigation by insurers.
5. Shian HA may offer a goodwill gesture to customers that have received a poor service or suffered significant inconvenience if it is deemed unnecessary to follow the formal Compensation procedure and the goodwill gesture resolves the dissatisfaction efficiently and effectively. Goodwill gestures can be an apology, a gift, for example flowers or chocolates, or gift vouchers.

## **Responsibility**

6. The Managing Director is responsible for the effective implementation of this policy.
7. The Operations Director is responsible for ensuring that all staff involved in the implementation of this policy are aware of it and can use it as a means to deal with customer dissatisfaction.
8. The Finance Director is responsible for ensuring that no compensation payment conflicts with Shian's financial objects and policies.
9. All staff are responsible for ensuring they follow this policy and procedure.

## **Monitoring, Review & Evaluation**

10. A report detailing the following information will be provided as required by the Board:
  - Circumstances of compensation paid out
  - Details of ongoing claims
11. We will review the effectiveness and detail of this policy periodically.

## **Policy Details**

Compensation will not be payable where the loss of service is attributable to damage or misuse by the tenant, or circumstances beyond Shian HA control e.g. loss of utility supplies.

12. Statutory provisions and/or Ombudsman guidance will be used to apply other compensation payments including the Right to Repair, Compensation for Improvements, and Home Loss and Disturbance payments, or act as benchmarks to calculate the level of compensation.
13. Compensation will not be considered where legal action is being taken or contemplated either by Shian HA or by the tenant or where the matter is being processed via an insurance claim.

## **The following principles will be applied in deciding compensation:**

- Whether the matter should be processed via insurance
  - Any financial loss is directly attributable to the acknowledged service failure
  - Any loss, where reasonable is supported by receipts, bills, accounts, or other documents.
  - Where the matter/complaints or compensation issues are being dealt with through any legal or court action.
14. Any claims for inconvenience or distress caused must be raised within 28 days of the situation they relate to, and will be considered on their individual merits taking account of:

- The length of time taken to resolve the subject of the claim
- Any exceptional worry, distress or inconvenience caused by the sequence of events
- Any unreasonable amount of time and effort the complainant has had to spend seeking to resolve the matter.
- Having to live in unreasonable conditions as a consequence of a failure to complete repairs within a reasonable timescale.

**15. Compensation will not be considered payable in the following circumstances where:**

- Problem or service failure has caused little or no problem to the tenant
- Accidental damage has occurred, for example burst pipes, blocked drains or other events which could not have been predicted.
- Access has been refused or contractors have not been able to arrange access to carry out repairs
- Shian HA has met its statutory or contractual obligations
- Loss or damage has been caused by a third party, e.g. gas, electricity and water suppliers
- Loss or damage has been caused by the tenant, a member of their household, or a visitor
- Damage or loss is a consequence of work carried out by the tenant or where there have been unauthorised works.
- There has been a breach of the Tenancy Agreement or Lease by the tenant or Lease holder.
- Legal action is being taken or is contemplated by either Shian HA or the tenant or where the matter is being processed via an insurance claim.
- Tenant(s), household members or their visitors have acted unreasonably or in a vexatious manner.
- There are exceptional reasons for the delay such as inclement weather or specific parts for a repair are not immediately available.
- Loss of income or pay for time off work.
- It is due to ASB or mis-use of facilities or services e.g. vandalism or misuse of lift or gates or where it is due to negligence by the tenant or failure to comply with the terms of the tenancy agreement or lease.

16. Compensation payments will not be made as rent reductions. Tenants are required to continue to maintain their payment of rent to ensure they avoid being in breach of their tenancy.

17. Where compensation is being offered, the payment will be credited to the rent account and will first be used to offset any arrears or debts the tenant may have. Any payment made will be regarded as full and final settlement of any complaint, dispute or claim.

18. Discretionary payments may be authorised by the Managing Director within agreed limits set out in financial procedures as a gesture of goodwill to further good landlord tenant relationship where there has been inconvenience caused to the tenant, but no formal claim for compensation (ex-gratia payments).

## COMPENSATION FOR SERVICE FAILURE

19. Shian HA will pay compensation to tenants in the following circumstances:

- Where it fails to **meet** repair response times
- Where it fails to **complete** a repair within the repairs response time as published on our website and/or Repairs Handbook
- Where failure to repair results in loss of use of rooms or facilities
- Where contractors or staff fail to attend a pre-booked appointment without giving prior notice to the tenants

## EX-GRATIA COMPENSATION PAYMENT

20. Whilst all claims for damages for disrepair should be referred to our insurers, ex-gratia payments up to a limit of £250 may be made by the Managing Director to cover such items as:

- Extra heating or cooking cost whilst the facilities unavailable.
- Reimburse reasonable costs which were incurred during the service loss.
- Damage to residents' personal items will not be covered as this should be covered under tenant's Contents insurance.

## Appeals

21. Tenants dissatisfied with a decision on compensation or goodwill payment may take the issue up with the Managing Director. If this does not resolve the matter satisfactorily they can invoke Shian HA's formal complaints procedure.

In addition, the Managing Director may award directly an additional amount of up to £50 where they consider the tenant has been caused distress through mal-administration e.g. by staff not following effective procedures to minimise nuisance.

22. Should a tenant refer a complaint to the Independent Housing Ombudsman Service (only after Shian's internal Complaint Procedure has been exhausted) who subsequently recommends a compensation payment be made, Shian HA will consider and comply with any orders and recommendation made by the Housing Ombudsman Services.



# Compensation and Goodwill Procedure

## Responsibilities

Tenancy Services Officers are responsible for carrying out the process stages as set out in the flowcharts and the related work instructions in the background notes.

The Tenancy Services Officer is responsible for authorising compensation payments within financial limits in accordance with the Payments procedure.

The Finance Manager is responsible for processing payments in accordance with financial procedures.

## Procedure Detail

1. The Managing Director will determine all claims for compensation or goodwill payment.
2. Shian HA will determine in each individual case that a valid claim has been made and that compensation is appropriate. Shian will require sufficient supporting evidence from the tenant to make such a decision.
3. If the tenant owes money to Shian in respect of rent arrears or rechargeable repairs, any compensation payment will be first used to clear this debt and the remaining sum being made payable to the tenant.

## When compensation is payable

### Loss of room facilities

4. In circumstances where a tenant is unable to use some parts of the property they occupy due to reasons for which Shian is responsible, compensation may be payable. If the loss of use of part of the property causes significant inconvenience to the tenant, any agreed compensation will be calculated with reference to the number of rooms affected as a proportion of the rent.

### Loss of amenities

6. Where the tenant loses the use of amenities due to a factor that Shian is responsible for, compensation may be paid to tenant. Compensation is not payable in cases where there has been a loss or reduction in amenities beyond the control of Shian.
7. Where Shian HA is responsible for the loss of heating and/or hot water and the loss has been more than 7 days, compensation will be paid as a percentage of the net rent, depending on the season e.g. Summer (1st April to 30th September) or Winter (1st October to 31st March).
8. For amenities covered by a service charge Shian will calculate the payment due by calculating the number of days the service was not available multiplied by the service charge levied over the period.

### Failure to Repair

9. Shian HA will comply with the requirements of The Right to Repair scheme, which specifies that certain essential repairs, which could affect the health, safety or security of the tenant. The list of qualifying repairs and time scales are detailed in the Tenants Handbook.
10. If Shian HA has failed to complete a qualifying repair that has been reported and this subsequently causes damage to the tenants' personal property, providing reasonable access has been given, Shian HA will pay compensation.

### Major refurbishment or redevelopment resulting in Permanent or Temporary Decant

11. Where a tenant is required to leave their home they will be compensated.

In instances where a tenant is required to move in order for Shian HA to carry out major works or improvements, whether temporarily or permanently, they will receive assistance for removals expenses including the reasonable costs of:

- Arranging the removal company
  - Disconnection/reconnection charges for utilities
  - Redirection of mail for a set period
  - Miscellaneous expenses such as an amount to assist towards replacing flooring
12. In some cases tenants may qualify for statutory home loss and disturbance payments, which are payable when:
    - Their move is a permanent one
    - The move is necessitated by the redevelopment or demolition of the property
    - The tenant has lived in the property as their only or principal home for a minimum of 12 months immediately before the move.

### Improvements

13. Compensation may be payable for an authorised improvement carried out by the tenant to a satisfactory standard and where proof, receipts or bills can be provided of installation costs. For full details of authorised improvements, please refer to the Tenant's Handbook or the Repairs Procedures. Shian HA has an authorisation process in place detailing how improvements requested by customers are authorised.
14. Compensation for qualifying improvements is paid at the end of the tenancy depending on the age and quality of those improvements at the time. Compensation for improvements will not be payable where prior written authorisation has not been obtained from Shian HA or where the improvement(s) are in breach of any of the terms of the Tenancy Agreement or Lease or any Planning Permissions or building regulations (whether applied for or not) If any money is owed to Shian HA in respect of rent arrears or rechargeable repairs for example, it will be offset against any compensation due.

15. The claim for compensation must be received in writing by Shian HA within the period starting 28 days before the end of the tenancy i.e. the date of commencement of the termination notice and no later than 14 days after the tenancy has ended.

#### Loss or damage affecting the tenant

16. Tenants must provide details in writing of the loss or damage and the sum they wish to claim in compensation. Shian HA may wish to have an independent valuation of the damaged item or to obtain quotations for the cost of cleaning, repairing or replacing the item. Tenants must keep any item that is damaged until the claim has been settled to their satisfaction. The details will be sent to Shian's insurers who will look into the claim where appropriate on a case by case basis. The amount payable will take into account the full circumstances of the case and the age and condition of the tenants' property.
17. In the event a contractor has caused damage through insufficient care Shian HA will pass on details to the Contractor or the Contractor's Insurers.
18. This policy is not intended to replace or compensate a tenant for not having a home contents insurance policy, which is the tenant's responsibility to have in place. Tenants will be expected to make a claim on their home contents insurance where it is deemed reasonable to do so.
19. Tenants are encouraged to take out comprehensive household contents insurance to ensure that they are covered for any situations where Shian HA is not liable.
20. Compensation payments are approved and processed in accordance with Shian's financial policies and procedures including payment approval and authorisation limits.

Should a tenant need to be rehoused temporarily as a result of the loss of use of rooms or services, please see the Decant Policy. The compensation outlined above will be drawn from revenue funding, charges against management or maintenance budgets according to the cause of the service failure. Rent rebates will be a charge against the rent roll.

#### **SERVICE FAILURES, DELAYS & REIMBURSEMENTS**

21. Shian HA classifies repairs in line with the Repairs Handbook. If Shian HA fails to attend a repair as specified in the Repairs Handbook, the tenant may contact Shian HA for follow up action. We will treat this as a service request.

**Summary of Payments (subject to section 16 of the Compensation and Goodwill Policy):**

<b>Failure to meet timescales</b>	£10 per week up to maximum of £50
<b>Distress and inconvenience</b>	Most awards will be up to £200
<b>Poor complaints handling</b>	Between £10 to £50 (as above)
<b>Personal injury</b>	This will be referred to Shian HA's insurers and/or solicitors
<b>Loss of income or pay</b>	Nil payable. Under the terms of the Tenancy Agreement, tenants are required to allow access to their homes so that repairs may be carried out, which may mean having to take time off work.
<b>Loss of service charge facilities</b>	Cost of service for period of failure/delay.
<b>Cost of electricity for communal lighting where connected to a tenant's meter</b>	£10 per quarter per light fitting.
<b>Cost of electricity for communal fire alarm panel where connected to a tenant's meter</b>	£100 per 12 months. This is because the fire panel is on 24/7.
<b>Substantial redecoration of a room</b>	Shian HA will only redecorate properties after works where the original decorations have been substantially affected. We will make good to any damage where possible. Or if residents wish to redecorate themselves, we will pay an allowance of up to £80 per room.
<b>Minor redecoration of a room/area</b>	£40 per room/hallway/landing area.
<b>Qualifying right to repair</b>	£10 plus an additional £2 for each day's delay in completing the repair, subject to a maximum of £50
<b>Disrepair claims</b>	This will be referred to Solicitors

**FAILURE TO COMPLETE REPAIRS**

22. Shian HA will normally complete repairs on the day they are first attended, **and where the correct repairs reporting procedure has been followed by the tenant.** Should there be genuine reasons for extending completion of a repair over a longer period these will be explained to the tenant.

If the repair is still not completed within the second timescale set, the tenant may claim compensation up to a maximum of £10 per week up to a maximum of £50 and subject to section 16 of the Compensation and Goodwill Policy.

Loss of Rooms or Facilities

23. Rent is paid for the use of dwellings and the provision of services. All properties need repairs from time to time but where failure to do these results in the loss or severe limitation of use of rooms or services for unreasonable periods, a rent rebate will be

made as part of any other compensation payable (subject to a maximum of 100% rebate) of the weekly rent.

24. All compensation or Goodwill payments will take effect one week (7 days) after the loss is first notified to Shian HA.

Complete loss of use of living room or 1 or more Bedroom(s)	20% of rent
Partial loss of use of living room or bedroom	10% of rent
Complete loss of use of kitchen	20% of rent
Partial loss of use of kitchen	10% of rent
Partial loss or use of bathroom (where separate WC)	10% of rent
Complete loss or use of bathroom (Where combined WC)	20% of rent
Loss of heating (Oct to March only)	10% of rent
Loss of hot water	10% of rent
Loss of Water Supply due to Shian HA	20% of rent
Partial loss of Water Supply due to Shian HA	5% of rent
Loss of Electricity Supply (total loss due to Service failure)	20% of rent
Partial Loss of Electricity	10% of rent

### Key questions when considering remedies

Questions that may help us to decide what an appropriate remedy to a complaint is include (but are not limited to) the following; -

- What has gone wrong?
- Can it be put right – what actions could be taken to remedy the situation?
- What would the complainant like to happen?
- How has the complainant been adversely affected?
- Is there an actual quantifiable financial loss – for example, has the complainant incurred costs as a result of what happened, or not received payment that they should have?
- What other impacts have there been? (for example, distress caused)?
- Did the complainant's actions or in actions, or those offer third party (for example a complainant's advocate), contribute to what happened in the case?
- What remedy would be proportionate, appropriate and reasonable in the circumstances of the case?

### Examples of when the complainant's own actions might mitigate the extent of any compensation being considered;

- Failure by the complainant to communicate clearly with Shian HA.
- Failure to bring individual matters to Shian HA attention within a reasonable time frame.
- Refusing help to make a coherent complaint.
- Failing to respond to contact from Shian HA.
- The dispute is about repairs, but the complainant has repeatedly refused to allow access to inspect the property and assess the extent of works needed.

Where complainant's behaviour in pursuing their complaint becomes unreasonable, such as; pursuing the matter in an unreasonable or excessive way.

### **Missed Repairs Appointments / Delays caused by Tenants**

25. Missed appointments cost time and money for both customers and Shian HA. Where the contractor fails to attend a pre-booked appointment without giving prior notice to the tenant, the tenant can claim compensation for the missed service up to £10 for each missed appointment. Equally, Shian HA reserves the right to charge a tenant £10 or the full cost of the contractors visit where a tenant refuses to provide access or fails to fully co-operate with a contractor for a pre-booked appointment or where the condition of the property prevents works from being carried out. These costs may be offset against any other compensation or goodwill payment due to the tenant under this policy.

### **Discretionary Payments**

26. Discretionary payments may be authorised within agreed limits set out in financial procedures, as a gesture of goodwill to further good landlord tenant relationships where minor inconvenience might have been caused to the tenant.
27. The Operations Manager should also consider whether it might be more appropriate where minor inconvenience has occurred, to offer an apology, a gift, vouchers or discretionary payment as a gesture of goodwill. This could include a basket of fruit, box of chocolates, gift vouchers or flowers to acknowledge a shortfall in service delivery.
28. The Operations Manager must seek to quantify the losses and verify any amounts claimed by obtaining copy receipts or other documentation from the tenant. Where these are not provided within given timescales (as notified by Shian HA), Shian HA may refuse any request for a compensation or goodwill payments.

### **Full and Final Settlements**

29. Shian HA will offer compensation or goodwill payments on a 'First Refusal Basis'. Shian HA will not make repeat offers as this takes up the time of both Shian HA staff and the tenant, and often prolongs matters or leads to delays in reaching a final resolution. Where a tenant does not accept compensation when initially offered, they cannot accept or request it at a later date. We may make acceptance of compensation or goodwill payments contingent on full resolution of a complaint, claim or dispute. We will describe this as a 'Full and Final Settlement'.