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1. Policy Objectives

- 1.1 This policy sets out Peabody's approach to dealing with compensation payments. This policy is a corporate policy and covers all residents that live on Peabody estates including tenants, leaseholders and freeholders. It also covers anyone who is affected by a service Peabody provides.
- 1.2 Peabody aims to provide a high quality housing service and to resolve any issues before the need for a compensation payment arises. If services fail or fall below published standards then Peabody will put the matter right and say sorry as quickly as possible.
- 1.3 The aims of this policy are to ensure that:
 - problems are resolved quickly and efficiently;
 - practical solutions are explored completely to remedy the situation;
 - where financial payments are appropriate they are proportionate to the loss or inconvenience caused;
 - financial payment is considered against clear agreed guidelines; and
 - all residents and service users are treated in a fair and equitable way.

2. Relevant Legal and Regulatory Information

Housing Act 1996 s.51 and Schedule 2

- 2.1 All registered social landlords have a duty to become members of any Ombudsman schemes approved by the Secretary of State; there is currently only one approved scheme, the IHO. If a housing association fails to join the Scheme, it will be considered to be in breach of the law.

Housing Corporation Regulatory Code s2

- 2.2 Section 2 of the Code requires housing associations to comply with all statutory requirements. The Code states that housing associations must seek and be responsive to residents' views and priorities. The guidance states that residents, housing applicants and others should have access to an effective complaints and compensation policy, administered effectively. It also states that Independent Housing Ombudsman recommendations should be actioned.

The Independent Housing Ombudsman Scheme

- 2.3 Housing associations registering with the Housing Corporation must certify that they are members of an [Ombudsman Scheme](#) and must remain members, even if they become deregistered from the Housing Corporation. Normally, the IHO investigates a complaint after an association's internal complaints procedure is exhausted. However, he (the IHO) has the discretion to take on a complaint if there is reason to believe the association is causing unnecessary delay in handling it. According to the exercise of his discretion within the terms of his Scheme, the Ombudsman's powers permit him to:
- reject a complaint;
 - recommend an apology;
 - order the housing association to pay compensation;
 - order the association or the complainant not to enforce obligations or rights; and
 - recommend that the association does or does not do something so as to rectify the complaint.
- 2.4 If the Ombudsman finds maladministration (upholds a complaint), the housing association is expected to comply with his orders or recommendations. If it does not, it will be reported to the Housing Corporation and regulatory action may be taken. If a housing association does not comply with the Ombudsman's decision within a reasonable period of time, it can be ordered to publish that fact. If it does not, the Ombudsman can publish and recharge the cost from the association.
- 2.5 Housing associations are expected to publish in their annual reports details of the Ombudsman's formal decisions (called 'determinations') in which the association is found to be responsible for maladministration. Additionally, associations are expected to outline the type of complaint that led to the Ombudsman's intervention and the outcome following his final determination.

3. Key Definitions

Full and final settlement

- 3.1 Any payments Peabody makes under the Compensation Policy will be in full and final settlement of the issue. This means that the resident or service user is accepting that the matter is resolved by taking the compensation payment and will take no further action.

Ex gratia

- 3.2 All payment made under the Compensation Policy will be referred to as an ex gratia payment.

4. Policy

Compensation payments

- 4.1 Compensation payments by Peabody are not automatic, even where it is clear mistakes have been made. Where a practical solution would provide all or part of the remedy, this will be discussed with the resident or service user.
- 4.2 In some cases a compensation payment may be appropriate if there is no practical action that would provide an appropriate remedy. When making this decision Peabody will consider the following.

- The problems caused by Peabody getting it wrong.
- The length of time it took Peabody to resolve the problem.
- Whether those affected have particular needs that were made worse by the situation.
- Difficulties the resident or service user experienced when making their complaint.
- How quickly and easily the problem was sorted out.

4.3 Compensation payments may be payable where a customer making a complaint has suffered injury or loss as a result of service failure on the part of Peabody. Where the claim is upheld Peabody will consider making a payment in the following circumstances.

- Failure of staff to follow Peabody's published policies and procedures.
- Failure of staff to act in a reasonable way.

4.4 Peabody may not make compensation payments in certain circumstances. The following list is an example and is not exhaustive:

- Where the mistake or failure has caused little or no problem to the people affected.
- Where the fault is caused by a third party or is something Peabody has no control over.
- Where the resident or service user could make a claim on their own insurance.
- Where the incident was caused as a result of negligence by the resident or service user or their failure to comply with the terms of their tenancy.

Authorisation Limits

Payment Amount	Authorised Member of Staff
Up to £100	Service Manager, for example a Regional Manager or Older Persons Initiative Manager
Between £100 and £500	Assistant Director or Head of Service
Between £500 and £1000	Director
More than £1000	The Complaints and Feedback Panel

4.5 There is no central budget for compensation payments. They must be paid from the relevant service area's budget.

5. Other Information

Guidance for staff

- 5.1 In every instance, any award should be authorised by the budget holder, and then signed off according to the [table above](#).
- 5.2 Staff should realise that compensation payments by Peabody are not automatic, even where it is clear mistakes have been made. Where a practical solution would provide all or part of the remedy this will be discussed with the resident or service user.
- 5.3 Any period for which a compensation payment is considered would start after the deadline for the repair has passed.

Total loss of heating and hot water

5.4 Where there is no heating between 1 November and 30 April, Peabody may offer a fixed amount of £3 a day. This payment may be offered after the initial 24 hours (see 5.3), and includes any additional heating costs incurred by using temporary heaters.

- 5.5 Where there is no heating between 1 May and 31 October, there would be no standard payment. In exceptional cases (e.g. severe weather, vulnerable residents etc), discretion may be shown and clearly explained on the Compensation Payment Offer Form.
- 5.6 Residents should always be offered a temporary heater where the heating cannot be fixed within the stated response time.
- 5.7 Where there is no hot water Peabody may offer a fixed payment of £1 a day. It should only be payable a week after the repair was reported because no hot water is classed as an 'urgent' repair, with a timescale of a week to complete (see 5.3). This is provided there is a means to get hot water, for example, ability to be able to boil a kettle.
- 5.8 If a resident has no hot water AND no heating, they may be offered up to £4 a day in the winter.

Unusable property

- 5.9 Where compensation is paid under 5.10 – 5.14 below, the total amount of compensation will not normally exceed 100% of the rent.

No cold water

- 5.10 Where there is no supply of cold water, after 24 hours Peabody may offer an amount equal to 100% of the rent. This should be worked out on a daily rate as below.

Weekly rent

----- X number of days without water (after the first 24 hours)

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- For example, a property had no cold water for 5 days and it was Peabody's responsibility.
- The weekly rent is £100.
- Divide £100 by 7 to get the daily rent (£14.28).
- Multiply the daily rate by 4 (which is the number of days AFTER the initial 24 hours)

No sanitary provision

- 5.11 Where there is no sanitary provision at all, after 24 hours Peabody may offer an amount equal to 100% of the rent. If the toilet is not flushing, Peabody may offer a 100% rebate after one week.

Unusable rooms

- 5.12 It is not possible to provide a definition of 'unusable' as it differs from case to case. However, examples of unusable rooms include;
- no electricity at all in a room;
 - severe damp;
 - unsafe floor; or
 - unsafe / collapsed ceiling.

- 5.13 For each unusable room, the resident can receive up to the following percentage of their weekly rent as a goodwill gesture. If the resident is in arrears, see [this section](#).

Room	1 Bedroom/Bedsit	2 Bedroom	3 Bedroom	4 Bedroom
Kitchen	40%	30%	30%	30%
Bathroom *	20%	20%	10%	10%
Living Room	20%	20%	20%	20%
Bedroom 1	20%	15%	15%	15%
Bedroom 2	N/A	15%	15%	15%
Bedroom 3	N/A	N/A	10%	10%

*Lack of all sanitary provision is dealt with under point 5.10.

5.14 If it becomes apparent that all of the rooms in the resident's property are unusable and the problem has not been resolved, staff should refer to the Decant and Buy Outs Policy. If a resident's property is completely unusable and they have to permanently move, they have a statutory right to compensation which is set out in the Decant and Buy Outs Policy.

General guidance

Vulnerable residents

5.15 Staff should use discretion when considering payments where a resident is vulnerable either through:

- age;
- disability;
- the presence of children; or
- any other vulnerability.

For further guidance, please contact the Policy Team on ext 4457 or email policy.helpline@peabody.org.uk.

Time and trouble

5.16 Peabody does not reimburse residents for loss of earnings, though may consider making a payment for time and trouble caused by the problem. A time and trouble payment may exceed an amount equal to 100% of the rent.

Rent arrears

5.17 Peabody will normally offset any compensation payment against outstanding rent arrears or other debt the resident or service user may have with Peabody. Each case will be considered individually.

Legal action

5.18 Where a resident or service user is taking legal action against Peabody the case will be managed by Peabody's Legal Services. Where Peabody receives a Housing Disrepair Pre Action Protocol letter or a Disrepair Counter Claim from a resident or Solicitor it will be forwarded immediately to Legal Services.

Insurance claims

5.19 In some situations it may be more appropriate for a claim to be processed through Peabody's insurance, for example, a fire or flood. In these cases the Insurance Manager will provide advice and assistance

6. Monitoring Information

6.1 Monitoring information will be shared with Governors, staff and tenants. A quarterly management report of complaints and compensation payment will be presented to the Resident and Community Committee. The report will include:

- the number of stage 1, 2 and 3 complaints received in the last quarter with an analysis of the nature of the complaints;
- the number of complaints at each stage which have not been responded to within the set time scales;
- any update on the outcome of cases that had previously reached stage 3;
- the number of stage 4 complaints investigated by the Ombudsman in the last quarter with a summary of the nature of the complaint;
- any update on the outcome of cases that have previously reached the Ombudsman;
- a record of any compensation payment made and the reason; and
- a breakdown of complainants by ethnicity.

7. Relevant Procedures

Compensation Payments Process Map

8. Relevant Policies

Complaints Policy

Privacy and Confidentiality Policy

Communication Needs Policy

9. Relevant Forms/Letters

Compensation Payment Offer Form

Compensation Payment Acceptance Form

Making a Complaint Leaflet