

Discretionary Payments to Tenants Policy



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Aim

The Council aims to provide excellent services that meet customers' needs, and ensure that if there is a failure to meet the level of service set out in our published standards, there is damage or injury caused where the Council is at fault, or if work is carried out to a tenant's property we may issue a discretionary payment.

Scope

This policy applies to discretionary payments to tenants, leaseholders and neighbouring residents.

Definitions

Discretionary payment: *"A payment made to a tenant as a result of a failure in the service by us or a contractor; compensation; injury; homelessness, disturbance; inconvenience; goodwill or a right to appeal."*

Principles

1 Discretionary Payment Circumstances

- 1.1 A discretionary payment may be offered as:
 - The result of a claim from a tenant, leaseholder or resident within our estates,
 - The result of a complaint regarding our services,
 - The result of an issue being raised by a member, officer or contractor,
 - In accordance with another policy.
- 1.2 There is no automatic right to a discretionary payment.
- 1.3 As a registered provider of social housing the Council has a statutory obligation to pay discretionary payments in certain circumstances. The Council will consider any payment on the merits of each case and on the basis of evidence supplied, information held on our own records and from officer accounts.
- 1.4 The Council will consider discretionary payments where:
 - We have a statutory obligation.
 - There is damage to tenants furniture or personal property as a direct result of the Council's actions or the actions of a contractor. This will not include any costs covered by an insurance policy, although payment towards an insurance excess as described in 6.2 below would be eligible.

- A tenant is subject to decanting or disturbance.
 - As a result of personal injury.
 - For decoration where a property is not up to the required void standard.
 - The Council's service has been substantially below the standard expected which has resulted in a service loss and has caused inconvenience.
 - In exceptional circumstances, as a goodwill gesture, either as a result of a complaint or otherwise.
- 1.5 Any discretionary payments under this policy will be made in full and be a final settlement of the matter.
- 1.6 Payment offers made under this policy do not constitute any admission of legal liability.
- 1.7 Payments will not be used to negate complaints about areas of our service. Complaints will be investigated and actioned in accordance with our Housing Complaints Policy.
- 1.8 The Council will not make a payment for the failure of an officer or contractor to attend a pre-arranged appointment or for loss of earnings connected with this or any other circumstances.

2 Disturbance Payments and Decanting

- 2.1 A decant could take place if major works are required to Council owned properties and if it is decided that it is not safe or practical for tenants to remain in their home, they may be asked to move to another location to allow for the works to take place.
- 2.2 There are two main types of payment that are likely to be made to tenants that are being decanted:
- Disturbance payments
 - Discretionary payments.

Disturbance Payments

- 2.3 Disturbance payments cover 'reasonable expenses' involved in moving. There is no minimum or maximum amount in law for disturbance payments and it is for providers to decide, in consultation with residents, what they will consider as 'reasonable expenses'.
- 2.4 For tenants that are being moved permanently, these payments should still be made in addition to Homeless.
- 2.5 Other housing-related debt should not be deducted from disturbance payments as they are to cover expenses which the tenant will have to incur.
- 2.6 The Council will accept disturbance allowance costs based on either:
- One off moves
 - Invoices and receipts supplied by the tenant or contractor, or
 - By approved estimates from the contractor.

Discretionary Decanting Payments

- 2.7 Discretionary payments are payments made over and above the Council's legal obligations. Discretionary payments can be useful tool in order to ensure that tenants agree to decant as the use of legal powers to force a decant can be time consuming,

and may be more expensive for the Council than the amount of the discretionary payment.

- 2.8 The Council needs to be satisfied that making a discretionary payment is a reasonable approach and will therefore balance the costs of the discretionary payment against the costs of legal action. For example, the Council may consider making a discretionary payment if a tenant is being re-housed permanently, but does not qualify to receive Homeloss because they have been a resident for less than a year.
- 2.9 Further detail on the procedures for Homeloss and Disturbance Payments is given in the *Homeloss and Disturbance Payments Procedure*.

3 Transfer Incentive Payments

- 3.1 Transfer incentives payments are normally available to new transfer applicants who are downsizing from a property in a high demand area, who would not otherwise consider moving.
- 3.2 Generally applicants will be entitled to £500 for moving and £500 per bedroom being freed up, less any outstanding rent or recharges following the move.
- 3.3 The Housing Services Manager has discretion to award to existing transfer applicants where appropriate.
- 3.4 Any monies owed to council will be deducted from any eligible amount before payment is made.
- 3.5 This is a discretionary scheme therefore eligibility and payments are subject to budget availability.

4 Discretionary Housing Payments (DHP)

- 4.1 This is a fund that we are allowed to use to top up housing benefit where we think someone needs extra financial help to pay their rent.
- 4.2 It is completely separate from the housing benefit scheme, as it is not an entitlement but the fund is administered by the revenues and benefits team on behalf of North Kesteven District Council.
- 4.3 In addition to the governments allocation to this fund, the council has approved an additional £25,000, if required, specifically to assist North Kesteven Council tenants.
- 4.4 The fund is discretionary, subject to individual circumstances, eligible and funding eligibility.

5 Insurance

- 5.1 The Council expects customers to claim against their own household insurance policies where cover for the loss or damage is typically covered by such insurance policies.
- 5.2 In circumstances where the Council is not negligent, we will only meet any insurance excess claims up to a maximum of £500.
- 5.3 In circumstances where the Council is negligent the full insurance excess will be payable.

- 5.4 Unless negligence by the Council or its contractors is proved, the Council will not compensate customers who are unable to claim because they do not have insurance.

6 Loss of use of a room

- 6.1 The Council will consider discretionary payments where the Council or contractors liability has resulted in the complete loss of the use of a room.
- 6.2 The loss will be calculated on a daily rate using the following formula:
*(Weekly rent / 7) * room % rate*
- 6.3 The room % rate shall be:

Room	%
Kitchen	30
Bathroom	30
Living Room	20
Dining Room	10
Bedroom	10

- 6.4 The use of this formula will be considered separately to any claim under the Right to Repair.

7 Damage to property

- 7.1 The Council will consider discretionary payments where a customer has incurred damage to property they own or their personal belongings where:
- The damage been caused through the actions of and/ or the failure of a Council officer or contractor to act.
 - The loss is not separately insured by the customer or a third party.
 - The damage has occurred as a result of an event or incident in another property owned by the Council where the event or incident is the Council's fault.

8 Personal injury

- 8.1 The Council will consider claims for personal injury in line with its public liability insurance. All claims should be referred to the Council's Governance Officer.

9 Decoration Allowances

- 9.1 The Council will consider issuing a decoration voucher to new tenants following sign up where it has been identified decoration to the property is required.
- 9.2 The issuing of a decoration voucher will be considered under the Decoration Allowances procedure.
- 9.3 The use of decoration vouchers may also be considered following works to a property, caused by the liability of the Council or its contractors, which have substantially damaged the decoration of the property.
- 9.4 Where a tenant is elderly or disabled and requires property decoration they will be referred to the decoration scheme procedure.

10 Inconvenience Allowances

- 10.1 The Council will consider the payment of an inconvenience allowance if a tenant has been without 1 or more of the following facilities, for a minimum of 8 hours as a direct result of improvement works carried out:
- Loss of cooking facilities.
 - Loss of toilet facilities.
 - Loss of hot water and washing facilities.
 - Loss of electricity.
 - Loss of heating with no alternative, eg: electric fire (between 31st October-1st May.)

11 Goodwill payments or gestures

- 11.1 In exceptional circumstances which are not already covered in this policy, the Council may consider a goodwill payment.
- 11.2 The payment will be made entirely at the Council's discretion and made on a case by case basis and does not imply liability on the part of the Council.

Responsibilities

Offset of discretionary payments

The Housing Act 1985 s96(3)(e) enables the Council, as the landlord, to set off against discretionary payments payable under the right to repair regulations any sums owed to it by the tenant.

Where a tenant or leaseholder is entitled to receive a home loss payment in these circumstances the Council reserves the right to offset any housing related debt¹.

Where a payment is agreed to cover expenses of persons moving temporarily for construction (or other) works the Council reserves the right to offset any housing related debts.

The Housing Act 1985 s99A(5)(d) enables the Council, as the landlord, to set off any compensation payable for improvements under the regulations against any sums owed to it by the qualifying person or persons.

Statutory Obligations

Right to Repair

The Council will comply with the Right to Repair provisions contained within section 121 of the Leasehold Reform, Housing and Urban Development Act 1993. Information on the Right to Repair can be found in the 'Your Home Standard' booklet.

Compensation for planned or necessary disturbance

We will compensate where we have to move tenants or leaseholders for major planned works. Further information can be found in our Decant Policy and Home loss and Disturbance Payments Procedure.

Right to Payment for Improvements

¹ Khan v Islington London Borough Council (1999) CA

Tenants may be able to claim a payment for certain specified improvements which they have carried out during their tenancy. Further information can be found in our Tenants Improvement Scheme Procedure.

Homeloss Payments

Homeloss is a one-off payment made to tenants that are required to move permanently due to either a redevelopment scheme, or for major works that cannot take place whilst they continue to live in the property.

Supporting procedures

This policy also links to:

- NKDC Tenancy Policy
- NKDC Decant Policy
- NKDC Housing Complaints Policy
- Homeloss, Disturbance and Discretionary Payments Procedure
- NKDC Decoration Allowances procedure
- NKDC Inconvenience Allowance procedure
- NKDC Transfer Incentive Scheme
- The Home Loss Payments (Prescribed Amounts) (England) Regulations 1 September 2008
- Land Compensation Act 1973
- Housing Act 1985

Monitoring

Claims under this policy will be monitored and recorded.

Information on the number of claims, type of claim and amount of discretionary payments paid will be reported annually to the Tenant Liaison Panel.

All tenants have a right to appeal should they wish to against any discretionary payment offered.