

# ***Home Loss & Disturbance***

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Next Review: 2019/20



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## **1.0 INTRODUCTION**

- 1.1 In accordance with the Land Compensation (Scotland) Act 1973 and subsequent amendments, RSLs have to strictly adhere to specific guidelines on how Home Loss and Disturbance payments are claimed and subsequently paid.
- 1.2 The Legal Services Agency Ltd's publication of 1996 clearly explains the legal requirements pertaining to Home Loss and Disturbance Compensation. This Policy and subsequent Procedures have been based on the legislative requirements noted in this publication.

## **2.0 POLICY OBJECTIVES**

- 2.1 To clarify the criteria governing an applicants eligibility for Home Loss and Disturbance.
- 2.2 To define the Procedures for claiming Home Loss and Disturbance.

## **3.0 DEFINITIONS**

- 3.1 A Home Loss payment is compensation for personal upset caused to people who have been compulsorily moved from their homes.
- 3.2 A Disturbance payment is compensation for the actual expenses of such a move.

## **4.0 POLICY STATEMENT**

- 4.1 The Co-operative will encourage those people considered eligible for a Home Loss or Disturbance payment to make the appropriate application. Once an application has been made the Co-operative will instruct the District Valuer to process the claim.
- 4.2.1 The Co-operative will at all times act in accordance with the most recent guidance.

## **5.0 HOME LOSS**

### **5.1 Eligibility**

To be eligible for a Home Loss payment applicants must:

- Have a legal interest in the dwelling (e.g. they must be a tenant, an owner occupier, live in a tied house, or be a spouse with matrimonial occupancy rights)
- Have moved, or been moved, as a direct consequence of one or more of the following circumstances, a “qualifying event”:
  - a) Compulsory Purchase Order
  - b) Demolition, Improvement or Closing Order under the Housing (Scotland) Act 1987
  - c) The development of land acquired by an authority with compulsory purchase powers
  - d) Improvements or redevelopment by a RSL
  - e) Demolition of a dangerous building
  - f) A Court Order for recovery of possession proceedings by an RSL, with suitable alternative accommodation being available to the tenant, provided that the tenant has a secure tenancy
- Have lived in the house, as a principal residence, for more than one year at the date of moving,

### **5.2 Entitlement**

Tenants, once the primary reason for their move has been assessed, will if eligible, be entitled to a ‘flat rate’ Home Loss payment of £1,500 and owners are entitled to 10% of the market value of their home up to a maximum of £15,000 and a minimum of £1,500.

## **6.0 DISTURBANCE**

### **6.1 Eligibility for Disturbance payments is the same as for Home Loss with the following qualifications:**

- Tenants who are decanted are not normally eligible for disturbance if they move back into their original house. However disturbance may apply if the house has been significantly changed as a result of improvement works

(e.g. amalgamation with another house or extensive internal changes to layout). A claim under those circumstances would be assessed by the District Valuer

- Tenants who were previously owner-occupiers are not eligible, as they will have received a disturbance amount in the purchase price of their house.
- There is no qualifying residency period.

## 6.2 Entitlement

Where tenants and owners are being decanted as a result of improvement works the Co-operative will arrange and pay for the following:-

- Removal expenses (excluding packing)
- Telephone disconnection/reconnection (where applicable)
- Cooker disconnection/reconnection
- Automatic washing machine disconnection/reconnection (where applicable)
- Dishwasher disconnection/reconnection
- Mail redirection for three months
- Removal and re-installation of TV aerials where necessary

There is no closed list of items which can be claimed for disturbance however, and claims may include:-

- Cost of refitting existing carpets
- Cost of fitting new carpets limited to the number of rooms in the old house
- Cost of fitting an alternative floor covering
- Adapting existing curtains for the new house and the cost of making up new ones (not the cost of materials)
- Adapting existing curtain rails
- Fitting new square pin plugs for existing appliances if round plugs were used in the original accommodation.

The tenant or owner will be required to submit receipts for all items when submitting a claim to the Co-operative.

Only one payment will be made in respect to tenants and owners being decanted and moved back in after improvement. The claim should also be made once the tenant or owner has moved back to either the new or newly improved property.

## **7.0 Assessments of Eligible Costs**

7.1 Disturbance payments are discretionary, assessed by the District Valuer and paid by Communities Scotland. The Co-operative has no control over the level of payment approved by the District Valuer.

## **8. Data Protection**

8.1 On the 25<sup>th</sup> May 2018 the legislation governing data protection changed with the introduction of the General Data Protection Regulation (GDPR).

8.2 We hold a variety of Personal Data relating to individuals including tenants, waiting list applicants, factored owners, other service users, employees and Committee Members. Our Privacy Policy sets out the basis on which we can process and share such data with third parties, it also sets out how we will securely store individuals' data, whether electronically or in paper format. It also provides information on individuals' rights under GDPR including: to view personal data held about them by us; to request a restriction of processing of their data; the right to be forgotten and a right to object to us processing their data. In terms of the rights to be forgotten and to restrict or object to processing of Personal Data, any such requests will require to be considered on their own merits and legal advice will need to be obtained in some circumstances. We have the responsibility for accepting or refusing such requests and will do so in writing.

8.3 Under GDPR we are required to provide all customers whose Personal Data we hold with a Fair Processing Notice (also known as a Privacy Notice). The Notice sets out the Personal Data we process and the basis for doing so.

8.4 We will only keep and process Personal Data for the original purpose we gathered it for and we will not keep it for any longer than necessary. Attached to our Privacy Policy is a table of Retention Periods for Personal Data held and processed by us. We recognise that not all Personal Data can be processed and kept for the same period of time, and this will vary depending on the individual circumstances of each person whose Personal Data we hold.

8.5 The Privacy Policy sets out what should happen in the event of a Data breach e.g. does the breach require reporting to the Information Commissioner's Office and whether the individual

affected should be notified. Timescales are set out for dealing with data breaches.

- 8.6 Full copies of our Privacy Policy are available upon request at our office or from our website [www.rosehillhousing.co.uk](http://www.rosehillhousing.co.uk)

## PROCEDURE FOR HOME LOSS AND DISTURBANCE

### 1.0 Procedure for Home Loss and Disturbance Claims

1.1 Forms for claiming Home Loss and Disturbance payments will be issued to qualifying owners and tenants by the Development Section at the appropriate time. On receipt of the completed forms the Development Section will:

- Instruct the District Valuer to assess the validity of the claim;
- Apply to Communities Scotland for the appropriate compensation for valid claims;
- On receipt of funds from Communities Scotland, the Finance Department will issue a cheque to the relevant owner/tenant within 14 days.

### 2.0 Assistance to Claimants

2.1 Every assistance will be given to owners/tenants who are making claims. Specifically they will be advised, as far in advance as possible:

- That if they wish to submit a claim for Disturbance, they must be able to produce receipts to back up their claims;
- That claims for Disturbance are discretionary and are assessed by the District Valuer, who is entirely independent;
- That the Co-operative, while assisting them in preparing their claims, has no control over the amount of the Disturbance payment;
- Of the timetable for Home Loss payments, as below.

2.2 Where a claim has to be refused the claimant will be informed of the decision, and the reasons for it, as soon as possible.

### 3.0 Timetable

3.1 The Co-operative will ensure that the correct timetable is maintained:

- All claims for payments must be made within five years of the date of removal;
- A Home Loss Payment must be made on or before the last of these dates:
- The date of displacement;

- The last day of the period of three months starting from the date the claim was made;
- If the claimant is an owner, the day on which the market value of the property is agreed or finally determined.

#### 4.0 Resolution of Disputes

- 4.1 Where there is any doubt as to the eligibility of any Home Loss claim the Co-operative will refer the matter to its solicitors, and advise Communities Scotland.