

BRENTWOOD BOROUGH COUNCIL

COMPLAINTS POLICY - APPENDIX 1

Guidance on Level of Compensation
October 2024

Introduction

When dealing with claims for compensation we will:

- Investigate all complaints fully and fairly
- Apologise for poor service
- Provide a remedy based, where possible, on what the customer wants
- Restore the customer's confidence in us for the future
- View claims for compensation positively and see them as an opportunity to listen to our customers
- Deal with claims consistently, learn from them, with the emphasis on learning not blaming
- Widely publicise our policy and make it accessible offering customers a range of options when making a claim including in person, by phone, in writing and over the internet

Factors to be considered in deciding the level of compensation

a) The effects of the complainant's own action. e.g.:

- Where delay in dealing with the matter was partly the fault of the complainant and partly the fault of Brentwood Borough Council
- Where the complainant has not taken action to mitigate the effect of the failure and could reasonably have been expected to do so
- Where the complainant has not taken advantage of an available benefit
- Where the actions of the complainant were unreasonable for example by pursuing a complaint in unnecessary and excessive detail

b) Any money due to the complainant that has not been paid

In which case a sum will be included in the calculation representing the unpaid money.

c) Incurred costs

If the complainant has incurred costs, which would not have been necessary, but for the fault, it will usually be appropriate to reimburse the complainant. For example, cost of contractor's use of the complainant's gas and electricity.

d) Loss of a non-monetary benefit

Where the access to a service or facility has been restricted or denied. For example, loss of a room because of a major leak that has not been rectified in line with our own performance standards.

e) Loss of value

We do not normally pay for valuable items if they have been paid (or could have been) insured. We only pay in exceptional circumstances and any award is paid without accepting liability that may compromise an insurance claim. We seek advice from our insurance section before making any awards.

f) Lost opportunity

Sometimes the injustice may be that the complainant was deprived of an opportunity. For example, the complainant may have been deprived of a right of appeal because the authority did not inform him or her of that right. This may be a relatively small sum as in most cases it is only the loss of the opportunity which is certain and the actual outcome which would have occurred cannot be known.

g) Delay and distress

Compensation may be considered for the delay in delivering a service and for what might generally be characterised as 'distress' (including stress, anxiety, frustration, uncertainty, worry, inconvenience or outrage).

This needs to have regard to all the circumstances including:

- the severity of the distress
- the length of time involved
- the number of people affected (for example, members of the complainant's family as well as the complainant)
- whether the person affected is vulnerable and affected by distress more severely than most people
- any available professional opinion about the effects on the individual

h) Time and trouble

Consideration should be given to the question of whether a payment should be included for the time taken and the trouble the complainant has incurred in pursuing the complaint. This should not be confused with the issue of delay and distress identified above.

i) Offsetting compensation

In circumstances where the complainant owes money (for example, for rent arrears), it would usually be appropriate to take that point into account. If the compensation is the lower

of the two amounts it would be offset against the debt. If the compensation is greater than the debt it could be used partly to pay the debt with any balance paid to the complainant.

j) Interest

Brentwood Borough Council will not normally consider an interest calculation in the calculating of compensation payments.

k) Professional fees

In normal circumstances a solicitor is not required to lodge a complaint. Therefore, if a complainant chooses to engage one the fees will not be reimbursed. In some cases, where the complexity of the issue or the vulnerability of the complainant leads to a professional being required then consideration should be given to the reimbursement of professional fees.

How much compensation?

We determine the levels of compensation by the particular facts of the case, for example the amount of time the complainant has had to wait for a decision and the nature of the injustice. The level of compensation listed in the table below is for guidance only as each complaint needs to be considered individually and judgment made with regards to the issue caused.

Please note: Any financial compensation given to customers will need to be covered by service budgets.

Delay and distress	
<p>Low impact The complainant has just cause but has not suffered significant inconvenience or distress as a result of the events. Low impact means the manager accepts the service has not achieved the expected standards. However, the impact is not greater than a reasonably tolerant person could be expected to accept and therefore the compensation constitutes a token in acknowledgment of the failure to perform.</p>	Up to £100
<p>Medium impact The events are clearly an injustice to the complainant and the service has failed to meet the required standards. A repeated failure by us to address the shortcoming, even of a low impact event, could give rise to consideration of medium level of compensation.</p>	Up to £500



Major impact A serious failure in service standards. It could either be the severity of the event or a persistent failure over a protracted time or an unacceptable number of attempts to resolve and address the complaint. Major impact could also apply to expenses incurred by the complainant. We will only consider expenses appropriate to the event.	Up to £1000
Time and trouble	Up to £50
Loss of opportunity	Up to £100

In most cases of low impact delay and distress the Local Authority will provide an apology to the complainant.

Authorisation of compensation payments

Authorisation levels for compensation are as follows:

Payment Amount	Authorisation
Up to £500	Director
Up to £1,000	Chief Executive

Further information

For further information please visit [Guidance on remedies - Local Government and Social Care Ombudsman](#).