



Home Loss and Disturbance

Status: Approved

Policy Lead :	Executive Director – Customer Experience
Owned By :	Neighbourhood Services Lead
Date Approved:	17 th January 2023
Approved By :	BHA Board
Review Date:	January 2026
Regulatory / Legislative Considerations/ References	<p>This Policy shall be reviewed by Operations Committee, with delegated authority by BHA Board upon approval.</p> <p>Under the Land Compensation (Scotland) Act 1973, Home Loss and Disturbance Payments will be paid to tenants and owners displaced due to demolition or other redevelopment proposals affecting their home. We will pay Home loss and disturbance payments only when a decision to demolish has been approved by our Board that affects our tenants and homeowners.</p> <p>The policy should be considered as an essential document to BHA's fulfilment of its duties under the Housing (Scotland) Act 2010 including provision of housing services in line with the Scottish Social Housing Charter and compliance with the standards set out in the Scottish Housing Regulator's Regulatory Framework.</p>

Other Documents to be read in conjunction with this policy :

This document should be read in conjunction with:

- Complaints Policy
- Land Compensation (Scotland) Act 1973
- Scottish Government Guidance
- Decant Policy
- Housing (Scotland) Act 1987
- Planning and Compensation Act 1991
- Scottish Social Housing Charter
- SHR Regulatory Framework
- Housing (Scotland) Act 2010
- UK General Data Protection Regulation

Policy Title:	Home Loss and Disturbance Policy
Purpose / Aim of policy:	<ul style="list-style-type: none"> To clarify the criteria governing a claimant's eligibility for Home Loss and Disturbance. To define the procedures for claiming Home Loss and Disturbance. To identify the personnel responsible for processing Home Loss and Disturbance claims.
Scope of Policy:	To issue Policy directive to colleagues when making determination over whether our customer(s) have incurred Home Loss or Disturbance and therefore are entitled to make necessary claims to recover all associated expenses.
Definitions:	Detailed definitions for both Home Loss and Disturbance are provided within the Policy document under sections 3 and 5.
Specific detail related to each strand in the scope:	<ul style="list-style-type: none"> Home Loss Discretionary Home Loss Payments Disturbance Discretionary Disturbance Payments Additional Costs Outstanding Debts Complaints Training
Approval Source:	BHA Board (to be reviewed by Operations Committee)
Equality Impact Assessment:	<p>Those noted regarding adaptations and the discretionary costs incurred for ensuring that any known vulnerabilities are supported throughout the home loss and disturbance.</p> <p>In fulfilment of the Access pillar of the Customer Experience Strategy, an equality impact assessment is still required to be carried out (<i>to follow</i>).</p>
Sustainability Assessment:	No direct implications or requirements.
Partnership Assessment:	BHA colleagues will work in partnership with other organisations where appropriate to ensure customers' needs and aspirations are fulfilled.
Glossary of Terms	<p>Compulsory Purchase Order - A compulsory purchase order (CPO) allows a public authority to acquire land without the consent of the owner. In the context of compulsory purchase, land may include houses or any other buildings as well as the land itself.</p> <p>Recovery of Possession – The legal process by means of evicting a tenant or customer from their home.</p> <p>Eviction - is the act or process of officially forcing someone to leave a house or piece of land.</p>
Risk Implications:	N/A

1. INTRODUCTION

- 1.1 A Home Loss payment is compensation for personal upset, stress and inconvenience caused to an occupant who is compulsorily moved from their home. A Disturbance Payment is compensation for the actual reasonable expenses of such a move.
- 1.2 This policy sets out how Berwickshire Housing Association (BHA) will deal with both Home Loss and Disturbance Payment to customers who have to leave their home permanently because of redevelopment work or work of a substantive nature. BHA will work closely with customers affected to secure suitable alternative accommodation for them. This may involve liaison with other Registered Social Landlords to secure such suitable alternative accommodation.
- 1.3 A Home Loss payment is intended to compensate the customer in recognition of the upheaval and upset of losing their home. It should not be confused with a Disturbance Payment which is intended to compensate a customer for reasonable expenses and losses incurred as a direct result of displacement from their home. Disturbance Payment is separate from and may be paid in addition to, a Home Loss payment.
- 1.4 Entitlement to Home Loss and Disturbance payments depends on a number of qualifying circumstances and calculation of amounts due, if not determined by law, will be based on a fair assessment of the loss or costs incurred by customers losing their homes.

2. POLICY AIMS AND OBJECTIVES

- To clarify the criteria governing a claimant's eligibility for Home Loss and Disturbance.
- To define the procedures for claiming Home Loss and Disturbance.
- To identify the personnel responsible for processing Home Loss and Disturbance claims.

3. HOME LOSS

- 3.1 Statutory Home Loss Payments only apply to those who are permanently and compulsorily moved from their home. The most recent Scottish Government Guidance Note relating to Home Loss payments states that a customer claiming the payment (the claimant) must meet all the following criteria in order to qualify for a statutory Home Loss payment:
 - (a) A Claimant must have occupied the property as his/her sole or main residence for a period of at least one year prior to the date of displacement.
 - (b) The displacement must be permanent.
 - (c) A claimant must have an 'interest in the dwelling house'. This means that the claimant must be a tenant, a spouse with occupancy rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 (as amended) or have some other legitimate interest in the property.
 - (d) In addition, a claimant's removal must be in consequence of one of the following events (known as a qualifying event):

- i. Compulsory acquisition of the property by a body with compulsory purchase powers; or
 - ii. Demolition, improvement or closing order under the Housing (Scotland) Act 1987; or
 - iii. The development of land acquired by an authority with compulsory purchase powers; or
 - iv. Improvement or redevelopment by a Registered Social Landlord; or
 - v. Demolition of a dangerous building; or
 - vi. A Court Order for recovery of possession proceedings by a Registered Social Landlord, with suitable alternative accommodation being available to the tenant (under Paragraph 10 of Schedule 3 of the Housing (Scotland) Act 1987). This only applies to claimants with secure tenancies.
- 3.2 Statutory entitlement to a Home Loss payment starts at the point at which a decision has been taken, e.g. to demolish or radically alter a property, and that decision has been made known to the customer. The knowledge of the claimant is important because the removal must have been triggered by a qualifying event and be a consequence of a decision having been taken by the appropriate local authority or Registered Social Landlord.
- 3.3 A customer who qualifies for a statutory Home Loss payment will receive a flat rate payment of £1,500 (according to regulations introduced in 1989 to update Section 27 of the Land Compensation (Scotland) Act 1973). If two or more persons are entitled to a Home Loss payment in respect of one property, then the payment will be divided equally between them.
- 3.4 If the customer entitled to the Home Loss payment dies before receiving this payment then a person may be eligible to receive this payment if they are over 18 and lived in the property for at least one year before having to vacate the property. The person will be able to inherit this payment either through the will of the person who died or because they were married to the customer, in a civil partnership with them or related to them.
- 3.5 Home Loss payment claims must be made within 5 years from the date of removal. If a customer qualifies for a statutory payment, then it must be paid within the current statutory time limit (currently to be made on the date the customer has to move out or within three months of the claim being made, whichever is the latest). Customers are entitled to interest on the outstanding amount if payments are not made within the statutory time limit.
- 3.6 There may be circumstances e.g. demolition of a block of flats which contain owner occupied properties where owners are entitled to claim for Home Loss payments. In such situations an owner is entitled to receive up to 10% of the market value of their home with a minimum payment of £1,500 and a maximum payment of £15,000. Owners who do not think their home has been valued correctly can appeal to the Lands Tribunal.

Where it is not possible to reach agreement with an owner for the purchase of their home then it may be necessary to seek a Compulsory Purchase Order. In such circumstances it will be necessary to liaise with the local authority to proceed with such an Order.

4. DISCRETIONARY HOME LOSS PAYMENT

Where a customer does not qualify for a statutory Home Loss payment, then BHA may decide to make a discretionary Home Loss payment. The circumstances under which discretionary payments may be made will vary but, as a general rule, payments may be made for one or more of the following reasons:

- (a) Where the qualifying events do not apply but BHA has made the decision to decant the customers permanently from their home; or
- (b) Where a customer does not qualify for a statutory Home Loss payment because their tenancy tenure or the length of time they have occupied the property; or
- (c) In order to prevent delay or significant difficulty in taking projects or plans forward

The Executive Director – Customer Experience will be responsible for identifying the need for a discretionary Home Loss payment. Each individual case will be considered on its own merits and any decision taken shall not be deemed to have set a precedent. The Executive Director – Customer Experience has delegated authority to approve discretionary Home Loss payments that meet the above criteria.

5. DISTURBANCE PAYMENT

Disturbance Payments only apply to those who are permanently moved from their home and are intended to cover reasonable expenses of moving.

To qualify for a Disturbance Payment the claimant must have been in lawful possession of their house at the 'relevant date' and the move must have been as a direct consequence of one of the events as listed at section 3.1 above. It is recognised that some customers may not be able to pay some or all of their removal costs in advance and as a result BHA will seek to pay any agreed reasonable costs directly.

The 'relevant date' will be:

- (a) Compulsory Purchase: the date of the compulsory purchase order.
- (b) Demolition, Improvement or Closing Order: the date the Local Authority makes the order.
- (c) Demolition under the Building (Scotland) Act 1959; the date the occupier is required to move.
- (d) Improvement or Redevelopment: the date of agreement to move.
- (e) A Court Order for Recovery of Possession: the date granted for repossession of the property.

We will pay up to £1,000 to compensate our customers and homeowners for any reasonable expenses incurred in moving from a house due to demolition or other redevelopment proposals affecting their home. Any customers or homeowners who dispute this amount will need to provide receipts to demonstrate their 'reasonable' expenses.

The amount of Disturbance payment should equal all **reasonable** expenses (to the value of £1,000) incurred during the move in addition to the removal itself.

Customers and owners have up to 5 years from their date of moving to submit a claim for disturbance payments although in practice BHA will be proactive in ensuring such payments are processed timeously.

The following list, although not exhaustive, is an example of the type of items that may be claimed for payment due to Disturbance:

- (a) Removal expenses.
- (b) Disconnection and reconnection of cookers, gas fires, telephones, washing machines and television aerials.
- (c) Carpeting including uplifting, refitting and/or replacement.
- (d) Curtains and blinds including removal and refitting and/or replacement.
- (e) Provision of gardening equipment (for a compulsory move from a house without a garden to a house with one).
- (f) Redecoration to approximately the same standard as the old, which may not equate to the amount required to fully redecorate the new home.
- (g) Agent's fees (e.g., solicitors or surveyors costs in connection with the claim).
- (h) Disability adaptations for special needs.

6. DISCRETIONARY DISTURBANCE PAYMENTS

Where a customer does not qualify for a Disturbance Payment, then BHA may decide to make a discretionary Disturbance Payment. The circumstances under which the discretionary payments may be made will vary but, as a general rule, payments may be made for one or more of the following reasons:

- (a) Where the qualifying events do not apply, but BHA has made the decision to decant the customer permanently from their home; or
- (b) Where a customer does not qualify for a Disturbance Payment because their tenancy tenure or the length of time they have occupied the property; or
- (c) In order to prevent delay or significant difficulty in taking projects or plans forward.

The Executive Director – Customer Experience will be responsible for identifying the need for a discretionary Disturbance Payment. Each individual case will be considered on its own merits and any decision taken shall not be deemed to have set a precedent. The Executive Director – Customer Experience has delegated authority to approve discretionary Disturbance Payments that meet the above criteria.

7. ADDITIONAL PAYMENTS

In accordance with the Housing (Scotland) Act 2001 customers have a right to compensation at the end of their tenancy for certain improvements, made at their own expense, to their home. This payment will only apply to qualifying improvements where the landlord's prior permission had been obtained. The claim must be made no more than 21 days after moving out and only applies to work undertaken after 4 March 2003.

8. OUTSTANDING DEBT

Where a Home Loss or Disturbance payment is to be made, and the customer receiving the payment has rent arrears or other debts owing to BHA then the Neighbourhood Services Lead will seek to make an arrangement with the customer for the outstanding debt to be repaid from the Home Loss or Disturbance payment.

9. COMPLAINTS

Customers who feel that BHA has not dealt properly with their request for a Home Loss or Disturbance payment have the right to complain. Complaints will be dealt with in accordance with BHA's Complaints Policy, a copy of which can be obtained on request. Customers also have the right to refer the matter to the Scottish Public Services Ombudsman upon exhaustion of the complaints and appeals process.

10. TRAINING

BHA will ensure that the relevant employees have the appropriate level of skills and knowledge to deal efficiently with Home Loss and Disturbance payments.

11. POLICY REVIEW

This Home Loss Policy has been approved by the Board of BHA and will be subject to regular review in accordance with BHA's policy review procedures.