



# Home Loss, Disturbance & Compensation Procedure

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# Home Loss, Disturbance & Compensation Procedure

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## 1.0 Principles

This procedure establishes that there are specific circumstances when ARK may have a requirement to displace tenants from an ARK owned property which they rent. These include where ARK is required, or chooses, to sell or undertake major redevelopments to a tenanted property.

This procedure does not relate to emergency situations such as flooding or fire, which are covered in a separate procedure HM40, Emergency Decants and Temporary Accommodation.

We recognise that there may be exceptional circumstances that arise, that are not covered by this procedure. We will consider such cases on an individual basis as they arise.

## 2.0 Decanting Requirements

In situations where tenants need to be decanted to alternative accommodation a set of criteria will be considered.

### 2.1 Criteria

The criteria will be as follows:

- Where possible tenants being moved due to remodelling or major repairs will be housed in a property with the same number of bedrooms as the property in which they already live, unless they are under-occupying the property by two or more bedrooms.
- Due to the small numbers and geographical spread of ARK's housing stock, accommodation from other landlords may be utilised. Other types of temporary accommodation may be used such as hotels or bed and breakfasts.
- For the period a tenant is required to decant, the rent they will pay shall be the rent on their permanent home.
- Where the decant accommodation is required for the purpose of modernising or remodelling the tenant's existing home, the tenant will not be able stay in this accommodation permanently. Tenants will be required to sign a decant agreement to return to their remodelled/modernised home, prior to any moves being arranged.
- Where the move is required to allow for demolition of the tenant's home, or the remodelling results in a reduction of housing stock (i.e. loss of the tenant's home); affected tenants will be made an offer of permanent alternative housing where possible. If this is not possible the Local Authority will be approached for assistance.

## 2.2 Accommodation Needs Assessment

Accommodation will be allocated according to the tenant's needs. This will be assessed:

- In accordance with minimum size criteria detailed in ARK's Allocation Policy;
- And
- By considering the location for specific family support/medical or work reasons.

We will ensure that all accommodation, including decant accommodation, we provide will be to our normal letting standard and will be wind and watertight plus:

- Fitted flooring throughout with vinyl floor covering in kitchen and bathroom;
- A fully operating heating and hot water system.

## 3.0 Tenant Assistance

Where tenants are unable to carry out packing up of personal belongings, due to reasons of health or ability, we will ensure that assistance is provided to do this.

Should ARK Housing supply a Contractor to undertake the packing / moving / transportation of Tenants furniture and / or personal belongings, the Tenant will be required to sign a Disclaimer Form (Appendix 1) accepting that ARK, nor the Contractor will be held liable for any damage incurred.

For tenants returning to a reconfigured scheme we will ensure all floor coverings are provided, and will seek to ensure that the tenant is involved in the choice of coverings (this may be limited).

If tenants have made approved improvements to their existing property, which are affected by the development/major repairs works, then they will be compensated in accordance with our policy on Tenant Alterations and Improvements M02 and supporting procedures.

## 4.0 Payments

There are two types of compensation payments that ARK may consider making in relation to home loss/ disturbance:

- **OBLIGATORY PAYMENTS** - Payments that ARK as a landlord is obliged to make such as Statutory Home Loss Payments, Right to Repair and Right to Compensation for Improvements;
- **DISCRETIONARY PAYMENTS** - Payments that ARK chooses to make such as assistance with moving when being decanted, where a repair has taken longer than

anticipated and as a result has caused unnecessary expense to a tenant and where major repairs or planned repairs may have impacted on the tenant in some way. Please note that whichever type of payment a tenant may ask for or be offered, compensation is not an admission of any wrong doing or liability, or the same as 'damages' that a court might award.

ARK has discretion to decide what form the compensation may take e.g. decoration vouchers, cheque, adjustment to the rent account. In addition payments may be offset, wholly or partly, against any debts owed to the Association.

## 4.1 Obligatory Payments

### 4.1.1 Home loss Payment

A claimant's removal must be as a result of one of the following events:

- Compulsory acquisition of the property by a body with compulsory purchase powers;
- Demolition, improvement or closing order under the Housing (Scotland) Act 1987;
- The development of land acquired by an authority with compulsory purchase powers;
- Improvement or redevelopment by ARK;
- Demolition of a dangerous building;
- A court order for recovery of possession proceedings by an RSL, with suitable alternative accommodation being available to the tenant. [This only applies to secure tenants.]

In addition a claimant is required to meet the following criteria in order to qualify for a home loss payment:

- They must have occupied the property as their only or principal home for at least one year prior to displacement;
- The move must be permanent;
- The claimant must have a Scottish Secure Tenancy Agreement (SST), be a spouse with occupancy rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981, or any person with any "interest in the dwelling house".

It is the responsibility of the tenant to make the claim, although the form contained in Appendix 2 should be provided to the tenant.

It must be made by the claimant before the expiration of the period of 6 months beginning with the date of displacement.

The Home Loss payment is a fixed rate payment of £1500.00 for each tenanted household. Therefore, if two or more persons are entitled to Home Loss payment in respect of one property, the payment of £1,500 will be divided equally between them.

The payment will only be paid once. This means that if the tenant receives a payment when they leave the first property, they are not entitled to another payment when they move on to other accommodation or return to the original property.

In the event that the tenant who is entitled to the Home Loss Payment dies before making a claim, any member of his household who is aged 18 or over may claim, if they have lived in the property for at least 1 year before the tenant was removed from the property and/or they are entitled to inherit the payment either through the will of the person who died or because they were married to them, in a civil partnership or related to them.

#### 4.1.2 Compensation under Right to Repair

The maintenance procedure M14 Right to Repair describes how we will deal with repairs that are designated as 'qualifying repairs' as defined in the statutory 'Right to Repair' regulations.

#### 4.1.3 Compensation for a Tenant Improvement to the Property

The maintenance procedure M25 Compensation for Tenants Improvements describes how we will deal with requests for compensation when a tenant ends their tenancy.

### 4.2 Discretionary Payments

Unlike Home Loss Payments, there is no statutory provision or specification of the amount of discretionary payments. Section 35 of the Land Compensation (Scotland) Act 1973 refer to "reasonable expenses..." with the Lands Tribunal being given the task of determining any disputes. The upper limit on this will be £1,000. Payments will be assessed in accordance with the particular situation that arises. The examples given below are not exhaustive and may be updated as and when a new situation arises.

#### 4.2.1 Reasonable payments

Payment is to compensate for the 'reasonable expenses' associated with moving house, examples of which are:

- Disconnecting/connecting services (gas/electric/telephone);
- Moving furniture and fittings;
- Secure storage of items that cannot be moved to the decant property where this is required;
- Moving appliances. It is the tenant's responsibility to ensure that their appliances meet the existing legal standards for safety. If they do not then our contractors will not be able to reconnect appliances;
- Mail redirection for a maximum of 3 months.

While we will take all reasonable steps to ensure the disruption to the tenant is minimised, it is recognised that a relocation, by its nature, will inconvenience the tenant. To compensate for this, we will make a flat rate payment of £100.00 when the tenant moves out, and a further flat rate payment of £100.00 when the tenant returns.

In the following circumstances tenants should be given the form contained in Appendix 3 and the claim will be assessed accordingly. The claimant is not restricted to making the claim within 6 months but claimants will be encouraged to submit their claims as soon as possible after the date of displacement. In such cases claims should be made within 5 years of the move.

#### 4.2.2 Failure to complete a repair within target

If ARK has failed to deal with a repair within set targets and the tenant has suffered some material damage as a result, (for example but not limited to – failure to deal with water ingress which may have incurred additional electrical costs of running a dehumidifier) we may consider paying discretionary compensation as a ‘goodwill gesture’. This will be calculated in accordance with the Matrix in Appendix 4.

#### 4.2.3 Disturbance/damage to decoration

ARK tenants are responsible for the internal decoration of their property. However, if ARK has carried out major repairs improvement work within the property and this has resulted in damage to decoration, we will assess any damage to decoration and may consider paying discretionary compensation. This will be calculated in accordance with the matrix in Appendix 5.

#### 4.2.4 Disturbance/damage to floor coverings

ARK tenants are responsible for the provision and fitting of floor coverings. Under the terms of the Scottish Secure Tenancy Tenants, ARK will not pay for any damage to floor coverings/laminate.

### 4.3 Compensation and Complaints

If a tenant decides to accept compensation from ARK this does not prevent them from making a complaint to ARK in relation to the issue which gave rise to the payment. If a tenant is dissatisfied with the value of an offer of compensation from ARK, they will be entitled to make a complaint through the formal complaints process, about that offer, and ARK will be able to review the value of the offer as part of its investigation into the complaint.

If a tenant exhausts ARK’s complaints process and remains dissatisfied, they will be entitled to contact the Ombudsman regarding their complaint. The Ombudsman will only request a landlord to pay compensation if maladministration is found.

## 5.0 Implementation and Review

### 5.1 Implementation

The Head of Housing Services is responsible for ensuring that this procedure is implemented when required by the appropriate staff.

### 5.2 Review

The Head of Housing Services will ensure that this policy is reviewed at least every 3 years.



## Appendix 1 - ARK Housing Association Disclaimer

DISCLAIMER FOR USE WHEN ARK STAFF OR CONTRACTORS MOVE FURNISHING, ELECTRICAL ITEMS, PERSONAL GOODS AND OR PERSONAL EFFECTS AT THE TENANTS REQUEST.

DETAILS OF ITEMS TO BE MOVED:

.....  
.....  
.....  
.....  
.....  
.....

CONT. ON SEPARATE SHEET IF REQUIRED.

- I understand that it is necessary for the above noted items to be moved within my home, or to an external storage facility, to allow work to be carried out.
- I confirm that I am unable to move these items myself and I have no one able to offer assistance to move them on my behalf
- I agree that ARK’s Staff or Contractor’s Staff will take reasonable care when moving / transporting the above items
- I accept that it is my responsibility to check that any electrical appliances that have been moved (e.g. fridge or freezer) have been reconnected
- I agree that neither ARK Housing Association nor the Contractor will be held responsible for any damage to the items, or the contents of these items, as a result of them being moved / transported, unless this is the result of negligence by the staff or Contractor moving the items
- Where required, I accept that it is my responsibility to empty cupboards or shelves, but that in exceptional circumstances, this may be done by ARK Housing Association or the Contractor’s Staff.
- I accept that I have the opportunity to obtain my own insurance in relation to the removals and that this is organised at my own discretion. ARK Housing nor their Contractor will not provide such insurance.

TENANT NAME: ..... (Please print) DATE: .....

On behalf of, address: .....

SIGNATURE: .....

ARK / CONTRACTOR WITNESS: .....(Please print) DATE: .....

On behalf of, Company: .....

SIGNATURE: .....

## Appendix 2 – Claim for Home Loss

**FORM HLD1**

To: \_\_\_\_\_ Housing Association

### CLAIM FOR HOME LOSS PAYMENT

1. Name of Claimant

2. Present Address

3. Address for correspondence,  
if different from above

4. Previous Address  
(Address from which you have been  
displaced)

5. At your Previous Address were you

An Owner Occupier  Please Tick  
Appropriate Box (/)

A Tenant

A user under a   
contract of  
employment

6. Date at which you started to  
occupy your former address

7. Have you been in Continuous  
Occupation since?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If "No" please supply details

---

**8.** Date and Reason for Displacement

**9.** (Former Owner-Occupiers only)

Yes	No
?	?

**i.** Did any other person(s) or organisations have a financial interest in the ownership of your former address.

**ii.** If "Yes", please give the name(s) and address(es) of the person(s) or organisation(s) concerned.

**iii.** If "Yes", what is the total amount of their financial interest(s) (e.g., outstanding mortgage principle).

**10.** Was any other person living at your former address entitled jointly with you to ownership or tenancy of the dwelling; If so, please give details.

**11.** If you were a tenant, please state the name and address of the former landlord or his agent.

The following document(s) are attached in support of my claim:

Copy Rent Book Details

Copy Title Deeds

Other

Please State Nature of Document(s)

I certify that the information given above and the evidence submitted is to the best of my knowledge and belief true and accurate, that I was in lawful occupation of my former address as my only or main residence for not less than one year immediately before my displacement, and that I am the only person entitled to a Home Loss Payment in respect of the dwelling.

**Signed (Claimant):**

**Date:**

## Appendix 3 – Claim for discretionary costs

**FORM HLD2**

To: \_\_\_\_\_ Housing Association

### CLAIM FOR DISCRETIONARY PAYMENT

1. Name of Claimant

2. Present Address:

3. Previous Address:  
(Address from which  
you have been  
displaced)

4. State whether you carried on any trade or business at your former address:

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Please tick appropriate  
box ( /)

ii. If "Yes", what was the nature of the trade or business?

iii. If "Yes", have you claimed compensation under Section 19 of the Business Tenancy Act (NI) 1964?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Please tick appropriate  
box ( /)

(Please note: payment of compensation under the Business Tenancy Act (NI) 1964 precludes payment of Disturbance Payment).

5. Was any other person living at your former address entitled jointly with you to ownership or tenancy of the dwelling? If so, please give details:

6. If you were a tenant, please state the name and address of the former landlord or his agent:

7. Date and Reason for Displacement:

The following document(s) are attached in support of my claim:

- Copy Rent Book Details
- Copy Title Deeds
- Other

Please state nature of the document(s):

I certify that the information given above and the evidence submitted is to the best of my knowledge and belief true and accurate, that I was in lawful occupation of my former address as my only or main residence at the time of displacement, and that I am the only person entitled to Disturbance Payment in respect of the dwelling:

**Signed: (Claimant)**

**Date:**

## Appendix 4 – Late Repair Compensation

Matrix of how discretionary compensation will be calculated for a repair that is not completed on time and where there has been a material loss or cost to the tenant.

COMPLAINT MADE & UPHELD – YES / NO

If YES, please complete the table below

Date repair first reported	Target completion date	Actual completion date	A Number of days that the repair was late	B Extent inconvenience caused Minor – 10% Major – 20%	C Weekly rent	D Costs incurred by tenant – please list	Total offer $A \times (B \times C) + D$

Definitions:

Minor – anything else that doesn't fall within the definition of "major"

Major – total loss of amenity such as heating; loss of the use of 1 room or more

## Appendix 5 – Major Repairs Compensation

Matrix of how discretionary compensation will be calculated where major repair works have been carried out.

Room	A Condition of existing decoration  Good – 2 Fair - 1	B Damage to decoration  Minor - 1 Major - 2	C Points/room £	D Feature wall wallpapered	Total (A x B) x C + D
Hall			20		
Livingroom			20	30	
Kitchen			10		
Bathroom			10		
Bedroom 1			20		
Bedroom 2			20		
Bedroom 3			20		
Bedroom 4			20		
<b>TOTAL TO BE PAID</b>					