

INDEPENDENT COMPENSATION PANEL

MEETING #86 MINUTES [EDITED]

Purpose:	To determine special medical case and compensation claims.
Date and time:	Tuesday 8 May 2018 – 09.00 to 16.30
Location:	Tideway, Cottons Centre, Cottons Lane, London SE1 2QG
Panel Members:	John Wade [Chair] Chris Kench [Compensation Specialist] for items 1 to 6, 10 and 14 Richard Pugh [Compensation Specialist] for items 1 to 6, 10 and 14 Stephen Stansfeld [Medical Specialist] for items 5 to 15 Graham Parry [Noise & Vibration Specialist] for items 5 to 15
Abbreviations:	'Panel' means the Independent Compensation Panel 'Project' means Tideway 'TAP' means Trigger Action Plan
Document Number:	2350-TDWAY-TTTUN-990-ZZ-ZZ-718802

Item	Notes for the record
1	The Panel received a query from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718795). The Panel answered the query.

Item	Notes for the record
2	The Panel received the Land Registry documentation from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-718797) that we had asked for on 10 April 2018 (ICP#84).

Decision:	The Panel notes that the Claimant paid a price for the property that appears to be very significantly below the market value. It does not appear to the Panel that the Claimant has suffered any loss and, therefore, dismisses the claim.
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Item	Notes for the record
3	The Panel received a further claim for loss of rent from a landlord (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-718793).

Decision:	The Panel Approves the claim for loss of rent.
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Item	Notes for the record
4	<p>The Panel considered a claim for loss of rent from a landlord (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-718794). The Panel are sympathetic to the claim, however, whilst some information has been provided to support the claim, in order to be consistent with other claims heard by the Panel some additional information is required:</p> <ol style="list-style-type: none"> 1. Information to demonstrate how and where the property was marketed in the Autumn of 2017 and Spring 2018 2. Evidence of the feedback from the viewings; at the very least this should comprise a summary from the agent. 3. The formal notice provided by previous tenants when they decided not to renew, ideally a copy of the original document showing their details. 4. A copy of marketing details for the flat, including a floor plan. <p>The flat has not had the TAP noise mitigation package installed, despite being eligible as the original tenant had declined; it is understood the claimant is now looking to implement these works as soon as possible. The Panel are required to consider that the noise mitigation packages have been installed when considering a claim, unless installation is not feasible. The Panel needs to give consideration to what extent the rent would have been affected if the TAP noise mitigation works had been installed; the applicant may wish to provide evidence to address this issue (for example, some photographs further back in the flat showing the windows in context to the rooms).</p>

Decision:	The Panel requires the information detailed above before the claim can be determined.
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Item	Notes for the record
5	<p><i>Urgent compensation case</i></p> <p>The Panel received several queries from a Claimant since the last meeting of the ICP which were responded to by the Medical Specialist by email.</p>

Decision:	The Panel ratified the decisions made by the Medical Specialist.
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Item	Notes for the record
6	The Panel received a specific claim for a holiday from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718796).

Decision:	The Panel Approves the claim, subject to conditions.
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Item	Notes for the record
7	The Panel discussed a confidential matter.

Item	Notes for the record
8	<p>The Panel discussed our visit to a Claimant's property following our request at the last meeting.</p> <p>The ICP Chair, Medical Specialist and Noise & Vibration Specialist visited on 3 May 2018 at 1430hrs. The Claimant showed the ICP around the property which allowed us to understand the extent to which occupiers of the property would be affected by noise from the Carnwath Road construction site. All rooms within the property had a direct view of the construction site although many of the noisier construction activities are now contained within the acoustic shed. It was apparent during the site visit that noise from the site was audible with windows open for ventilation, however the level of noise during the site visit was not such as was likely to cause disturbance. The ICP, however, had seen information relating to noise from the Claimant that noise at night had woken members of the family at various times and, most recently, at 0200hrs that day when the children in the property were awoken. Whilst the source of noise at that time was not identified, it seems likely, based on past experiences of the family, that the noise was related to construction site activities.</p> <p>Ordinarily, the simplest way to mitigate the noise effects of the construction site would be to close the windows, however the property is affected by overheating even in the relatively cool winter months. On the day of the ICP visit the outdoor temperature was approximately 18-19°C whilst the internal room temperature was 24.5°C without any form of heating.</p> <p>The ICP inspected the property and noted that the double-glazing systems were in good condition. We also considered whether mechanical ventilation could be installed however it was not readily apparent how this could be achieved within the fabric of the building, recognising its reported listed building status. Additionally, installation of an air conditioning system would seem to be problematic and could not be easily achieved in a reasonable timeframe, although discussions between Tideway and the Claimant should explore this option.</p> <p>A review of the predicted noise levels provided by Tideway for the Piper Building identified worst-case noise levels of 52 L_{Aeq} during core hours and 49L_{Aeq} during extended hours. These noise levels would typically result in internal noise levels of approximately 34-37L_{Aeq} with windows partially open for ventilation. These noise levels are above the guidance criteria provided in BS8233:2014 <i>Guidance on sound insulation and noise reduction for buildings</i> when the on-set of sleep disturbance may occur although it should be noted that the overall noise levels are not unusual for many London areas. A review of the noise monitoring data for the noise monitor closest to the Piper Building has not identified any exceedances of the s61 predicted noise levels.</p> <p><u>Post meeting note</u> The Chair received an email from the Claimant dated 11 May 2018 (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718825) stating that:</p> <p><i>After 10 days of silence, a new mechanical noise is now disturbing and waking residents at night, the start of which I had reported to you during your visit. We are getting the same, slow response from Tideway/BMB and the LBHF council, and not a rapid response which we had discussed with</i></p>

	<p><i>Sally Cox from BMB and council officers to quickly identify and mitigate noise nuisance sources and prevent a prolonged repeat of regular sleep deprivation for residents.</i></p> <p>As the ICP had raised best practicable means issues at this site with Tideway previously, the Chair is to raise this formally with the Independent Complaints Commissioner (ICC).</p>
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<p>Decision:</p>	<p>Recognising the vulnerability of the Claimant with respect to health issues and the children being disturbed by noise at night, the Panel has determined that temporary rehousing should be offered during the night-time <u>until such time as the Panel is satisfied that the principles of best practicable means are being followed and adhered to</u>. Initially, the night-time temporary accommodation is to be offered for one calendar month starting from 21 May 2018, being the next working day after the date of issue of these Minutes. In addition, reasonable return public transport travel expenses to the alternative accommodation are approved, subject to the provision of receipts and in accordance with Tideway’s conditions.</p> <p><u>General</u></p> <p>The Panel notes that complaints with respect to noise appear to be arising due to the management of noise at night and would wish to be reassured that the contractor is implementing all best practicable means (BPM) wherever possible. Such BPM should routinely include ensuring that noise impacts are avoided, banksmen are used to remove the need for reversing alarms, loud voices should not be used (except in emergencies) and noisy activities should wherever possible be confined to core hours and localised noise screening should be used.</p> <p>The ICP requires a copy of any s61 updates/dispensations in respect of dredging, barge movements and concrete deliveries. The ICP also requires a copy of the logistics plan for concrete deliveries so that we can be reassured that the 24hr day deliveries will not result in unacceptable and disturbing noise impacts.</p>
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Item	Notes for the record
9	<p>The Panel discussed our visit to a Claimant following our request at the last meeting. The ICP Chair, Medical Specialist and Noise & Vibration Specialist visited on 3 May 2018 at 1500hrs. The Claimant was not available for our site visit however we were shown around the property by her husband which allowed us to understand the extent to which occupiers of the property would be affected by noise from the Carnwath Road construction site. All rooms within the property had a direct view of the construction site although many of the noisier construction activities are now contained within the acoustic shed and the view of the eastern area of the site was very restricted. It was apparent during the site visit that noise from the site was audible with windows open for ventilation, however the level of noise during the site visit was not such as was likely to cause disturbance. The ICP, however, had seen information relating to noise from the claimant that noise at night had woken members of the family at various times and most recently at around 0200hrs that day when the children in the property were awoken. A similar noise event had been reported by another claimant within the Piper Building. Whilst the source of noise at that time was not identified, it seems</p>

	<p>likely, based on past experiences of the family, that the noise was related to construction site activities.</p> <p>Ordinarily, the simplest way to mitigate the noise effects of the construction site would be to close the windows, however the property is affected by overheating even in the relatively cool winter months. On the day of the ICP visit the outdoor temperature was approximately 18-19°C whilst the internal room temperature was 24°C without any form of heating.</p> <p>The ICP inspected the property and noted that the double-glazing systems were in good condition. We also considered whether mechanical ventilation could be installed however it was not readily apparent how this could be achieved within the fabric of the building recognising its reported listed building status. Additionally, installation of an air conditioning system would seem to be problematic and could not be easily achieved in a reasonable timeframe, although discussions between Tideway and the Claimant should explore this option.</p> <p>A review of the predicted noise levels provided by Tideway for the Piper Building identified worst-case noise levels of 52 L_{Aeq} during core hours and 49L_{Aeq} during extended hours. These noise levels would typically result in internal noise levels of approximately 34-37L_{Aeq} with windows partially open for ventilation. These noise levels are above the guidance criteria provided in BS8233:2014 <i>Guidance on sound insulation and noise reduction for buildings</i> when the on-set of sleep disturbance may occur although it should be noted that the overall noise levels are not unusual for many London areas. A review of the noise monitoring data for the noise monitor closest to the Piper Building has not identified any exceedances of the s61 predicted noise levels.</p>
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<p>Decision:</p>	<p>Recognising the vulnerability of the Claimant with respect to health issues and the children being disturbed by noise at night, the Panel has determined that temporary rehousing should be offered during the night-time <u>until such time as the Panel is satisfied that the principles of best practicable means are being followed and adhered to.</u> Initially, the night-time temporary accommodation is to be offered for one calendar month starting from 21 May 2018, being the next working day after the date of issue of these Minutes. In addition, reasonable return public transport travel expenses to the alternative accommodation are approved, subject to the provision of receipts and in accordance with Tideway's conditions.</p> <p><u>General</u></p> <p>The Panel notes that complaints with respect to noise appear to be arising due to the management of noise at night and would wish to be reassured that the contractor is implementing all best practicable means (BPM) wherever possible. Such BPM should routinely include ensuring that noise impacts are avoided, banksmen are used to remove the need for reversing alarms, loud voices should not be used (except in emergencies) and noisy activities should wherever possible be confined to core hours and localised noise screening should be used.</p> <p>The ICP requires a copy of any s61 updates/dispensations in respect of dredging, barge movements and concrete deliveries. The ICP also requires a copy of the logistics plan for concrete deliveries so that we can be reassured that the 24hr day deliveries will not result in unacceptable and disturbing noise impacts.</p>
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Item	Notes for the record
10	The Panel received a special medical case claim for home cleaning (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718798).

Decision:	The Panel wishes to visit the Claimant's property in order to assess the claim. The visit has been arranged for 22 May 2018 at 12.30.
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Item	Notes for the record
11	The Panel received a special medical case claim for respite and day trips out (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718801).

Decision:	<p><i>Respite</i> The Panel Approves the claim, subject to conditions.</p> <p><i>Light intrusion</i> No photographic evidence of light intrusion was included within the claim documentation; the Claimant should, therefore, apply for blackout blinds using the alternative local claim process that has been agreed with the ICP.</p>
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Item	Notes for the record
12	<p>The Panel received additional information from the Project in relation to a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718799).</p> <p>The claim relates to sleep disturbance during night-time river dredging works, daytime/night-time disturbance from site activities for the Claimant and her husband (who both work from home) and the inability to relax on the balcony during the weekends.</p> <p>The ICP visited two other residents of Piper House living close to the Claimant and this has helped inform our judgement on the impact of noise from non-dredging night-time site activities on the Claimant and her family.</p> <p>The Project provided highest predicted noise levels for 'core' hours, 'extended' hours and 'other' hours at Piper Building (west wing 3). Based on this information, it is unlikely that the design values for office environments in BS8233:2014 <i>Guidance on sound insulation and noise reduction for buildings</i> would be exceeded with the windows open for ventilation. However, the Panel invites the Claimant to describe the sort of work she and her husband do at home in order for us to make a definitive decision on the matter.</p>

Decision:	<ol style="list-style-type: none"> Having regard to visits we made to two other residents living close to the Claimant and recognising the vulnerability of the Claimant with respect to health issues and being disturbed by noise at night, the Panel has determined that temporary rehousing should be offered during the night-time until such time as the Panel is satisfied
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	<p><u>that the principles of best practicable means are being followed and adhered to.</u> Initially, the night-time temporary accommodation is to be offered for one calendar month starting from 21 May 2018, being the next working day after the date of issue of these Minutes. In addition, reasonable return public transport travel expenses to the alternative accommodation are approved, subject to the provision of receipts and in accordance with Tideway's conditions.</p> <p>2. The Claimant is invited to provide information on the types of work she and her husband do at home in order for us to determine this aspect of the claim.</p>
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Item	Notes for the record
13	The Panel received a special medical case claim for re-glazed windows and an integrated air conditioning system (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718800).

Decision:	<p>The Panel determined that no medical information has been presented that entitles the Claimant, his partner or his child to be considered a special medical case(s). The noise levels at the façade of Claimant's flat do not exceed the trigger levels that would make him eligible for TAP noise mitigation. The Panel, therefore, Does Not Approve the claim for re-glazed windows and an integrated air conditioning system</p> <p><i>Light intrusion</i> No photographic evidence of light intrusion was included within the claim documentation; the Claimant should, therefore, apply for blackout blinds using the alternative local claim process that has been agreed with the ICP.</p>
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Item	Notes for the record
14	<p>The Panel received an email from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718810) in relation to the visit proposed by the Panel on 26 June 2018 (ICP#85 refers), viz.</p> <p><i>I'm not able to be at the property on that day (or any day that week). Ideally the visit would be outside of the 9-5 working day and on a Tuesday or Wednesday....</i></p>

Decision:	<p>The Panel are not able to attend outside normal working hours unless the matter being assessed requires an early morning or evening/night time visit e.g. light intrusion. Therefore, we are offering to visit between 15.00 and 17.00 hours on Tuesday 12 June or Thursday 26 July.</p>
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Item	Notes for the record
15	<i>Urgent medical case</i> The Panel received an email from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718809) in relation to the need for a carer to accompany her during her respite.

Decision:	In light of this new information, the Panel considers that the Claimant requires to be accompanied and, therefore, amends our decision on 25 April (ICP#85) to include a carer.
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I confirm that these minutes are an accurate record of the proceedings of the meeting.

Signed *John Wade*

Date 18 May 2018

John Wade
Chair, Independent Compensation Panel