

Monthly Report of the Independent Compensation Panel Chair

April 2018

The Independent Compensation Panel (the 'Panel') met on two occasions in April 2018.

10 April (ICP84)

Purpose

To determine special medical case and compensation claims.

Panel Members

I was joined by a Medical Specialist, a Noise & Vibration Specialist and Compensation Specialists, as appropriate.

Decisions of the Panel

Item 1

The Panel received a compensation claim for loss of rent (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717958). There were a number of elements to the claim which the Panel considered in turn.

In relation to the claim for interest, Tideway's *Non-Statutory Off-site mitigation and compensation policy* makes no provision for the payment of interest on any compensation due. Whilst this is a claim under the non-statutory policy, the ICP follows the principles of statutory compensation wherever possible. Where appropriate, interest on statutory compensation is calculated at a prescribed statutory rate (which is currently 0%) so if interest were to be payable in principle, in practice the quantum would be nil.

The Panel awarded compensation for the majority of the claim.

Item 2

The Panel received a referral back from the ICC relating to a compensation claim for loss of rent (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-717959) as the Claimant had provided the ICC with additional information that the ICP had not received when it previously considered the claim on 6 March 2018 (ICP# 81).

In order to determine the claim, the Panel requires sight of Land Registry documentation for the recent sale of the property to the Claimant so that we have full details of the price paid, ownership, etc.

Item 3

The Panel an email from the Project in relation to the practicability of installing secondary glazing at a Claimant's property (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-717962) following the ICP's request of 10 October 2017 (ICP#72) in response to a compensation claim for loss of rent. Having fully investigated the opportunity for the installation of the Trigger Action Plan (TAP) measures, the ICP agreed that it is not practicable to secondary glaze the property. In light of the above, the Panel have now considered the compensation claim for loss of rent for the period 1 January 2017 until 31 December 2017.

The Panel agree to the payment of compensation for loss of rent (as previously evidenced), without a deduction to reflect secondary glazing. The Claimant is invited to submit further claims going forward if the losses continue and the Panel would be happy to consider the evidence when presented having regard to the circumstances at that time.

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Item 4

The Panel received an email trail from the Project seeking advice from the Panel on the temporary alternative office accommodation offered to a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718717).

The Panel was of the view that it would need to visit the Claimant's current office, the office being offered to him and his preferred choice to assess the impact of noise from the piling operations with windows closed and open (to facilitate the use of a mobile air conditioning unit), both subjectively and by taking sound level measurements.

The Panel noted the rental price difference between the office being offered to him and his preferred choice.

In view of:

1. The time already spent by the Project and the Panel considering the claim (including an abortive visit to the Claimant's office on 13 February 2018 when the pre-arranged piling did not take place due to a technical problem) and the costs incurred and,
2. The further time that would be spent by the Project and the Panel assessing the noise impact within the various offices (including a site visit as described above) and the costs incurred;

the Panel is of the view that the most pragmatic and best customer relations solution would be to agree to the Claimant's request to be allocated his preferred office from those offered to him for the duration of the coffer dam works.

Item 5

The Panel received additional medical information from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717961) in response to the ICP's request on 12 December 2017 (ICP#76). The Panel determined that the Claimant should have two days respite per week (up to £30 per day, on production of receipts and in accordance with Tideway's standard terms and conditions) until the acoustic shed is erected.

Item 6

The Panel received a special medical case claim for new windows and air conditioning (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717967). The Panel determined that dust exposure from the site would be unlikely to put the Claimants' son at risk, given the location of their flat in relation to the site.

On the basis of the medical evidence provided, the Panel did not consider the Claimant to be a medical special case. The Panel would be prepared to review the case in the light of the provision of further medical evidence.

The Panel anticipates that the concerns already raised by the ICP with Tideway regarding best practicable means (bpm) will result in minimising sleep disturbance from night working.

Item 7

The Panel received a request from a Claimant for an extension to the respite the ICP awarded on 22 August 2017 (ICP#69), ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717960). The Panel awarded an extension to respite, subject to conditions.

Item 8

The Panel received a special medical case claim for the noise mitigation package (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717964). In view of the Claimant's chronic pain and disability restricting his mobility, the Panel determined that the requested noise insulation package should be installed.

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Item 9

The Panel received a letter from a Claimant's GP (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717965) in response to the Panel's determination of 13 March (ICP#82). On considering the contents of the GP's letter, the Panel were of the view that the level of respite awarded by the Panel on 13 February 2018 remains unchanged.

The Panel noted that to date we have still not received any information from the Project in relation to installing the HEPA ventilator into the 'door' of the ventilation area.

Item 10

The Panel received a special medical case claim for respite (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718453) due to heat within his flat. The ICP had granted temporary rehousing during the 2017 summer months because of the impact of heat on his pregnant wife.

Based on the TAP information and 'as built' drawings provided to the ICP to date, the Panel has not been provided with any satisfactory reason why mechanical ventilators cannot be installed in the lounge and bedroom in order to provide forced ventilation with the windows closed.

The Panel determined that

1. Mechanical ventilators are to be provided by the Project in the lounge and bedroom.
2. Venetian blinds are to be provided between the primary and secondary glazing fitted to the lounge and bedroom windows to reduce solar gain (if they have not already been provided)
3. Some of the requested respite was approved, subject to conditions.

Item 11

The Panel Chair asked for thoughts on what Panel members would like to see in his 2017-18 Annual Report.

Other Matters

Carnwath Road River Wall Works

The Project made the Panel aware that footpath reinstatement following the completion of the works to strengthen the river wall will be carried out by the London Borough of Hammersmith and Fulham. These works may include noisy activities which could disturb the Claimants who have been awarded respite by the ICP.

The respite period previously awarded to residents affected by the river wall works is to be extended until such time as the footpath has been reinstated, the hoarding removed and the footpath is considered fit to be reopened by the London Borough of Hammersmith and Fulham.

Queries regarding existing awards

The ICP amended its requirements relating to the awards to two Claimants owing to the special circumstances the Claimants presented via the Project.

25 April (ICP85)

Purpose

To determine special medical case claims.

Panel Members

I was joined by a Medical Specialist and a Noise & Vibration Specialist.

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Decisions of the Panel

Item 1

The Panel received an email from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718766) regarding the ICP's visit to assess the thermal comfort within his flat that the ICP requested before the compensation claim could be determined (ICP#78 refers). The Panel is offered a date to visit.

Item 2

The Panel received an email from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-718770) following the ICP's request on 13 March 2018 (ICP#82) for additional information. The Panel awarded respite for the Claimant until the acoustic shed is constructed.

Item 3

The Panel received a request for periodic respite from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718767). The ICP approved a claim for respite, in principle, on 14 November 2017 (ICP#74), but was unclear as to the Claimant's wishes, requesting that the Project discussed the possible options with her so that the ICP could agree specific respite at some future date. The Panel awarded respite for the Claimant and a carer until the acoustic shed is constructed.

Item 4

The Panel received additional information (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718773) requested by the ICP on 13 March 2018 (ICP#82) pertaining to a claim. The Panel needs to visit the Claimant's property before determining the claim. This has been provisionally arranged for 3 May 2018.

Item 5

The Panel received a special medical case claim for daytime respite payments (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718768). Whilst noise levels at the Claimant's property are not predicted to be particularly high, the Panel is awarding the Claimant one day respite per week as a precaution against a risk of relapse (up to £30 per day, on production of receipts and in accordance with Tideway's standard conditions). The Panel will review the claim at its meeting on 23 October 2018 when additional on-site mitigation is expected to be in place.

Item 6

The Panel received a special medical case claim for (i) replacement of existing windows with up to date, more effective double glazing and (ii) air conditioning that would vent through external wall vents (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718771). The Project notes that the Freeholder will not allow any openings in the facade. The Panel needs to visit the Claimant's property before determining the claim. This has been provisionally arranged for 3 May 2018.

Item 7

The Panel received a special medical case claim for (i) daily daytime respite for herself and her friend (acting as a carer) and (ii) mechanical ventilation with HEPA filtration (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718772). The Panel awarded the following:

1. One day respite break per week with a carer until such time as the footpath has been reinstated, the hoarding for the river wall removed and the footpath is considered fit to be reopened by the London Borough of Hammersmith and Fulham (up to £30 per day, on production of receipts and in accordance with Tideway's standard conditions).
2. Recognising (i) the time that it would take to install a mechanical ventilator with HEPA filter and (ii) the time remaining for the river wall works to be completed, the Panel considers that the most expeditious solution would be to provide funding for a free-

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standing mechanical unit with HEPA filtration until the footpath has been reinstated, the hoarding for the river wall removed and the footpath is considered fit to be reopened by the London Borough of Hammersmith and Fulham.

Item 8

The Panel received a special medical case claim for financial compensation (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718774) for both the Claimant and her son. The Panel determined the following:

Claimant

Information from the Claimant's GP on the severity of her asthma, medication history and current status of her underactive thyroid is required before the claim can be determined.

The Claimant is to note that the Standard Case payments of £30 per day were a Tideway initiative and not awarded by the ICP. The ICP does not award financial compensation without justifiable reason. Should the ICP make an award in this case, it would be in the form of respite, the costs associated with which would need to be claimed on production of receipts (up to a cap that the ICP would specify) and in accordance with Tideway's standard conditions.

Claimant's son

The Panel is of the view that the Claimant's son has access to many places that offer a quiet study environment (e.g. university or local library) and, therefore, dismisses this aspect of the claim.

Item 9

The Panel received a special medical case claim for (i) on-going respite and (ii) temporary rehousing for himself, his wife and his undergraduate son for the length of the project at Carnwath Road (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718769). The Chair became aware after the meeting that (i) the Claimant's property is eligible for TAP noise mitigation and that (ii) the Claimant only recently verbally accepted the TAP noise mitigation package. The Panel considers that there is insufficient evidence that the levels of noise that the Claimant will be exposed to going forward is sufficient to warrant temporary rehousing. However, there is a medical case that renders the Claimant sensitive to noise and respite was awarded.

The Claimant's son is at university. The Panel is of the view that the Claimant's son has access to many places that offer a quiet study environment (e.g. university or local library) until the TAP mitigation is in place and, therefore, dismisses this aspect of the claim.

Item 10

Urgent Medical Case

There were no cases received after the cut-off date for receipt of papers that required urgent attention by this Panel.