

Monthly Report of the Independent Compensation Panel Chair

May 2018

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

10 May (ICP86)

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 query from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718795). The Panel answered the query.

Item 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). 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.

Item 3

The Panel received a further claim for loss of rent from a landlord (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-718793). The Panel **Approves** the claim for loss of rent.

Item 4

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:

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.

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).

The Panel requires the information detailed above before the claim can be determined.

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Item 5

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. The Panel ratified the decisions made by the Medical Specialist.

Item 6

The Panel received a specific claim for a holiday from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718796). The Panel **Approves** the claim, subject to conditions.

Item 7

The Panel discussed a confidential matter.

Item 8

The Panel discussed our visit to a Claimant's property following our request at the last meeting.

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.

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.

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.

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 49 L_{Aeq} during extended hours. These noise levels would typically result in internal noise levels of approximately 34-37 L_{Aeq} with windows partially open for ventilation. These noise levels are above the guidance criteria provided in BS8233:2014 *Guidance on sound insulation and noise reduction for buildings* 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.

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Post meeting note The Chair received an email from the Claimant dated 11 May 2018 (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718825) stating that:

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 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.

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).

Decision

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 until such time as the Panel is satisfied that the principles of best practicable means are being followed and adhered to. 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.

General

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.

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.

Item 9

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 likely, based on past experiences of the family, that the noise was related to construction site activities.

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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.

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.

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 *Guidance on sound insulation and noise reduction for buildings* 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.

Decision

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 until such time as the Panel is satisfied that the principles of best practicable means are being followed and adhered to. 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.

General

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.

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.

Item 10

The Panel received a special medical case claim for home cleaning (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718798). 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.

Item 11

The Panel received a special medical case claim for respite and day trips out (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718801).

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Respite

The Panel **Approves** the claim, subject to conditions.

Light intrusion

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.

Item 12

The Panel received additional information from the Project in relation to a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718799).

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.

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.

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 *Guidance on sound insulation and noise reduction for buildings* 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.

1. 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 that the principles of best practicable means are being followed and adhered to. 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.
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.

Item 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).

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

Light intrusion

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.

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Item 14

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.

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....

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.

Item 15

Urgent medical case

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. 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.

22 May (ICP87)

Purpose

To determine special medical case and compensation claims.

Panel Members

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

Decisions of the Panel

Item 1

The Panel received financial information from a Claimant in response to the ICP's in principle award (ICP#83 refers). The Panel awarded the claimed backdated respite payments, subject to a small adjustment.

Item 2

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-718818) for:

- Mechanical ventilator
- HEPA filters
- Respite holiday overseas for 2-4 weeks
- Regular window cleaning

Due to the Claimant's mental and physical ill health, the Panel is of the view that travelling abroad is not at all advisable and is not approving the overseas holiday claimed.

The Panel is of the very strong opinion that the best solution for the Claimant is temporary rehousing for the duration of the Chambers Wharf Tideway works, as determined for an earlier claim (ICP#53 refers). Should temporary rehousing not be feasible due to the Claimant's physical and mental condition, TAP noise mitigation packages are to be installed in his bedroom and lounge; the Titon Sonair units are to incorporate F6 arrestment filters, which should be changed every 4 months.

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Item 3

The Panel received a special medical case claim for (i) a respite holiday overseas during the 6-week school summer holiday and (ii) daily respite breaks (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-718817).

In response to a previous claim, the ICP determined at its meeting on 4 April 2017 (ICP#60) as follows:

The claim is Not Approved as more local respite is deemed more appropriate having regard to the medical conditions of Doofa Hussein and Nassir Abdi. The Panel invites the Claimant to submit a claim for respite locally.

At the ICP meeting on 9 January 2017 (ICP#62), the Panel determined as follows:

The Panel agreed the local form of respite proposed during the jetty demolition as being suitable having regard to the medical conditions of the Claimant's mother and brother.

The Panel determined the following:

Respite holiday

The claim is Not Approved as more local respite is deemed more appropriate, having regard to the medical conditions of the recipients. The Panel invites the Claimant to submit a claim for respite locally.

Daily respite

The Panel is minded to award two days respite per week, which we would review once the acoustic shed is completed. To help us come to a definitive decision, the Panel invites the Claimant to indicate what form of respite she has in mind for the recipients. The Panel notes that any respite would necessarily involve two carers.

Item 4

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ- ZZ-718816) for (i) ventilation machine + HEPA filters, (ii) blackout blinds and (iii) respite payment.

The Panel determined the following:

Sleep disturbance

In order to determine this part of the claim, the Panel requires the following information:

From the Claimant - details from the Claimant's employer of the shift pattern.

From the Project - latest s61 application and dispensation(s), including the period covering the erection of the acoustic shed. If this information is not readily available in the format requested, then the ICP require predictions of noise levels at the Claimant's property to include existing noise activities and during the erection of the acoustic shed.

Respite payments

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.

Light intrusion

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.

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Item 5

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718815) or (i) ventilation machine + HEPA filters, (ii) blackout blinds and (iii) respite payment.

The Panel does not consider that there is a special medical case owing to the location and aspect of the Claimant's flat in relation to the Chambers Wharf worksite and the Claimant's daughter's medical condition being adequately controlled by medication. The claim is, therefore, Not Approved.

Item 6

Urgent medical case

The Panel received an urgent special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-718820) for respite.

The Panel is of the very strong opinion that the best solution for the Claimant would be to be rehoused away from the Tideway worksite for the duration of the construction works as soon as possible.

If this is not possible, or there will be more than a few day's delay, the Panel is awarding a range of respite measures. These three awards are to be reviewed after the acoustic shed has been completed.

Item 7

The Panel received a series of emails from a Claimant (ref.2350-TDWAY-TTTUN-990-ZZ-ZZ-718821).

Chair's note - The latest email from the Claimant is dated 18 May 2018, 6 working days after the deadline for receipt of papers. Going forward, late submissions will be deferred until a later meeting.

Decision

1. The Panel awards the Claimant temporary rehousing away from a main road or construction activities until the acoustic shed is completed.
2. Whilst the ICP remains unconvinced as to the level of dust exposure and noise levels which affect the Claimant's enjoyment of her property and her health, the ICP requests that noise and dust monitoring should be installed as close to the Claimant's property as is reasonably possible in order that the ICP can make an informed decision as to the effectiveness of the acoustic shed when the Claimant returns to her property. The ICP indicated a possible position.
3. The ICP has been provided with photographs taken by the Claimant which provides some evidence of dust at the entrance to the Chambers Wharf construction site. Whilst the level of dust in the photographs does not appear to be substantial there is the possibility for it to be raised into the air and the ICP would wish to remind the contractor of the advice that the ICP have previously provided that they, the contractor, have a duty to utilise best practicable means to reduce the likelihood of dust impacts.

The ICP note however that during a visit to the general area on the 22 May 2018, levels of dust migration from the site were insignificant although, on that day, the predominant wind direction was from the north whereas ordinarily it would be from the southwest which tends to reduce the likelihood of dust impacting at the Claimant's property.

Item 8

The Panel visited a Claimant to assess her claim for home cleaning (ICP#86 refers).

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The Panel found the Claimant's flat to be very clean inside (the Claimant had recently cleaned it). On opening the windows, little dust was found in the frame or on the seals. All windows were, however, dirty on the outside. The Claimant stated that she kept all of the windows closed during construction hours, only opening them first thing in the morning and in the evening (after Tideway works had finished for the day) to get fresh air into the flat.

The Panel walked along Llewellyn Street and noticed that the ground floor windows were cleaner further away from the Chambers Wharf worksite.

Decision

Based on the cleanliness of the Claimant's flat at the time of our visit, the Panel is of the view that there was insufficient dust within her rooms to support the claim for home cleaning; the claim is, therefore, Not Approved. However, this judgement is made on the basis that the openable non-glazed panels are not opened during Tideway's construction hours, resulting in the flat not being adequately ventilated.

The Panel wishes the Project to investigate the possibility of installing Titon Sonair mechanical ventilation units (incorporating F6 arrestment filters) into the non-glazed openable panels (negating the need to puncture the external cladding) and report back to the ICP as soon as practicable.

Other Matters

Where the ICP has awarded mechanical ventilation with HEPA filters, this should be regarded as meaning *Titon Sonair mechanical ventilation units (incorporating F6 arrestment filters)*.