

## **August 2017**

The Independent Compensation Panel (the 'Panel') met on two occasions in August 2017.

### **8 August (ICP68)**

#### *Purpose*

To determine compensation claims and medical special case claims.

#### *Panel Members*

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

#### *Decisions of the Panel*

##### Item 1

The Panel considered the findings of the void research it had undertaken following a business compensation claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716685) and reviewed the claim for lost rent due to the void period that occurred between tenancies. The Panel determined a rent loss compensation payment for the void period.

##### Item 2

The Panel received a claim for loss of rent (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716689). The Panel required more information before the claim can be determined.

##### Item 3

The Panel received a claim for loss of rent (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716693). The Panel required more information before the claim can be determined.

##### Item 4

The Panel received a claim for alternative office accommodation and 'disturbance allowance' (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716688). Given the distance of the Claimant's property from the Chambers Wharf construction site, the Panel is not convinced by the argument that noise, dust and light from the site are significantly affecting her son's health or the Claimant's working environment that would warrant the Project providing alternative office accommodation.

##### Item 5

The Panel received queries from a houseboat tenant at NEP relating to the mitigation compensation awarded to him (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716686), which the Panel responded to.

##### Item 6

The Panel received the documentary evidence it had requested from a claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716687). Using the figures derived from the licence that was current on 10 January 2017 (the date on which the compensation was set by the ICP) the Panel re-calculated the compensation mitigation.

##### Item 7

The Panel received a special medical case claim for respite (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716690). The Panel determined that, whilst the Claimant has medical conditions, given the location of her flat we do not feel that she is sufficiently

exposed to noise, and dust from the Chambers Wharf construction site to warrant respite.

Item 8

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716691). The Panel determined that there was a medical case for periods of respite leave.

Item 9

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716683). The Panel determined that the claimant be temporarily rehoused until the acoustic shed is erected.

Item 10

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716692). The Panel determined that the windows are to be kept closed and mechanical ventilation incorporating HEPA filtration installed in all habitable rooms in order to reduce dust exposure in the flat. The claimant is to be recompensed for the additional electricity cost for each unit on the basis of £55 per annum, pro rata.

Item 11

The Panel received a claim for temporary rehousing (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716694). The Panel determined that the family be temporarily rehoused until the acoustic shed is erected.

Other matters

**Document Submission**

The Panel met with the Project and agreed the following more rigid timetable for document submission to assist all involved in the process manage their workload:

| <u>Time</u> | <u>Day</u> | <u>When</u>                      | <u>What</u>  |
|-------------|------------|----------------------------------|--|
| 17.00       | Thursday   | 12 days prior to the ICP meeting | Deadline for receipt of complete sets of papers to ICP Administrator                       |
| 17.00       | Monday     | 8 days prior to the ICP meeting  | ICP Administrator sends all papers to ICP Chair to enable prioritisation, where necessary. |
| 10.00       | Tuesday    | 7 days prior to the ICP meeting  | Chair and ICP Administrator set ICP meeting agenda   |
| 12.00       | Tuesday    | 7 days prior to the ICP meeting  | ICP Administrator circulates papers to ICP Panel members electronically                    |
| 17.00       | Wednesday  | 6 days prior to the ICP meeting  | ICP Administrator sends hard copies of papers to ICP Chair.                                |

Prior to ICP  
meeting

ICP Administrator prints sets  
for all Panel Members.

### Case Summary Sheet

For returning cases, the Project will provide a short chronological summary of the claim history and ICP decisions.

To assist prioritisation, Case Summary Sheets are to include the date on which the Claimant's papers were received (see below).

### Prioritisation

To avoid any accusations associated with the Project prioritising which cases come before any ICP meeting where there are too many cases for consideration, the ICP Chair will prioritise.

In prioritising, the Chair will take into account two factors:

Date the Project received all the Claimant's papers, and

Urgency of the claim, including the implications of waiting one meeting cycle (normally 2 weeks)

### Effective Date

The new arrangements will come into effect for the ICP's 12 September meeting, meaning that the ICP Administrator will need to receive all papers for that meeting by 17.00 hours Thursday 31 August 2017. It is not practicable to introduce the new arrangements for the 22 August ICP meeting.

### **Compensation cases**

The Panel now receives far fewer compensation cases than special cases (medical or otherwise) and, except when linked to urgent medical cases, compensation matters are not urgent. The Panel agreed with the Project that, from August 2017 onwards, compensation cases will be considered at one ICP meeting a month (the 2<sup>nd</sup> Tuesday). Medical cases will be considered at all scheduled meetings.

### **22 August (ICP69)**

#### *Purpose*

To determine medical special case claims and receive a report regarding Leeward Court balcony screening.

#### *Panel Members*

I was joined by a Medical Specialist, a Noise & Vibration Specialist and Building Surveyor for appropriate items.

#### *Decisions of the Panel*

##### Item 1

The Panel received a Technical Note prepared by Bryden Wood regarding balcony screening at **Leeward Court**, 7 - 17 Yeoman Street, (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716715). This document briefly assesses the balcony screening options provided in the TAP dated March 2107 for the subject property. The Panel was disappointed to find that the Technical Note had not progressed since previous meetings with CVB and their Bryden Wood representatives at the property and at ICP panels.

The Panel determined that:

1. Urgent and immediate action is required to fully assess the options for mitigating the predicted noise levels over the anticipated four-month period where mitigation is required.
2. A further update of the means of providing fresh air into each room fitted with secondary glazing is required by 17.00 hours Thursday 7 September 2017 ready for the next meeting of the Panel on Tuesday 19 September 2017.

#### Item 2

The Panel received a special medical case respite claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716709). A previous Panel had made an award to the Claimant (ICP#65). The Panel granted specific respite during the river wall works and invited the Claimant to apply again for consideration of ongoing mitigation in the light of the noise levels arising from the main construction site.

#### Item 3

The Panel received a special medical case claim for respite (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716714). The Panel requires VOC monitoring information from the Project for our next meeting on 12 September 2017 in order to fully assess all the risks the Claimant and her daughter are exposed to.

#### Item 4

The Panel received a special medical case claim for a contribution towards a respite break (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716708). The Panel determined that no request for respite will be considered until the noise mitigation and HEPA filter have been installed and evidence being provided that there is ongoing exacerbation of depression by the Tideway works.

#### Item 5

The Panel received additional medical information (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716707) that it had requested (ICP#67). The Panel granted respite during the Winter 2017 and Spring 2018 school term holidays and requested further medical information on the baby's rash to assess the impact of the Tideway works as the baby is at home during the day.

#### Item 6

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716710) for a contribution towards days out. A previous Panel rejected the Claimant's previous claim for the installation of noise mitigation at her property (ICP#44). The Panel determined that there is no further evidence for granting compensation.

#### Item 7

The Panel received a special medical case claim for respite payments the Claimant's son (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716716).

The Panel is surprised to note that the custom vertical slats in the lounge have not been fitted (Minutes of ICP#61 refers).

1. The Panel has not been presented with any health evidence to support the claim for respite.
2. The custom vertical slats in the lounge are to be fitted without further delay.
3. The Panel is able to reassure the Claimant that the levels of noise which would be experienced within her property are such that no damage to hearing would occur to her son.

## Other matters

### **Email from Sarah Lewis**

The Panel was asked to comment on an email the Project had received from Sarah Lewis (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716767). The Panel provided a response.

### **Sound insulation**

The ICP were somewhat surprised to learn that when sound insulation has been fitted to qualifying windows (as identified in the respective TAP's) that the property occupiers' have been given the opportunity to refuse the offer of mechanical ventilation. The purpose of the ventilation is to provide fresh air in order to avoid issues that arise in non-ventilated properties such as mould and mildew, which have the potential to result in health-related problems which can include chest infections, sinus problems, itchy eyes etc.

The general purpose of the insulation package for all TAP's was to mirror the Noise Insulation Regulation (NIR) scheme for new and altered roads and railways. The NIR does not allow for the exclusion of any part of the offered insulation package and therefore this is a departure from the NIR scheme. The ICP would therefore request that the Project explains the rationale for the stance that has been taken in respect of allowing the cherry picking of the mitigation package and that they understand the risks that may potentially occur in respect of human health.

## Other matters outside ICP meetings

### **Roll-out of 'standard cases' to other sites**

Following concerns discussed in ICP meetings, the Noise & Vibration Specialist sent the following email to the Project's CEO on 18 July 2017:

*Apologies for emailing you when I know you are so very busy, however I wanted to express my concern in respect of the apparent roll-out of the Standard Case mitigation approach to further construction sites other than Chambers Wharf.*

*As you know when providing noise, vibration and air quality input to the rationale for the geographical boundary for the scheme at Chambers Wharf it was on the basis of informed decision making and a detailed understanding of the noisiest activities at Chambers Wharf which might otherwise result in claims to the ICP. I now understand that the scheme has been or is in the process of being extended to other construction sites some of which may well be in the London Borough of Southwark administrative area.*

*My concern is that any use of similar geographical boundaries to those used for Chambers Wharf at these other sites may not have gone through the level of scrutiny which was exercised for the Chambers Wharf site. What this means in practice is that far more people may have access to mitigation than would otherwise be reasonable and such mitigation measures may not necessarily be capturing only the activities which are considered to be particularly noise e.g. coffer dam construction, initial shaft works etc. Additionally, the rationale for the Chambers Wharf site included input from Stephen Stansfeld in respect of medical issues.*

*It appears to me that there is a very real possibility that the adoption of the Standard Case mitigation scheme for other construction sites without input*

*from the ICP could result in a lack of balance in the administration of the scheme and its very worthy outcomes with respect to fast-tracking claims.*

This resulted in the Medical and Noise & Vibration Specialists and myself meeting with Project's General Counsel on 25 July 2017. I subsequently met with the Project's Property Manager and Mitigation and Compensation Executive on Tuesday 8 August 2017 where it was confirmed that both the Medical and Noise & Vibration Specialists would be consulted on any future 'standard case' roll-outs; I advised that this may necessitate a site visit.

**Email from Gary Kandinsky**

I was asked by the Project to draft a response to Gary Kandinsky's query as to why the ICP made a decision for him which he did not ask for (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716769). I liaised with the ICP's Medical Specialist who drafted the following response which was provided to the Project:

*Gary has Canal Paresis which gives him unsteadiness and has a longstanding hearing loss on the left side. His consultant has said, in so many words, that this is not likely to improve. He also has some pain in his right ear. He has fatigue, headaches and anxiety, probably as a result of these matters, and it is likely that the problems are made worse by exposure to noise. These symptoms began in 2012 and were worse again in 2013. A lot of his symptoms might be explained by an anxiety state. He currently takes gabapentin and naproxen for pain, as well as amlodipine, atenolol, and doxazosin for hypertension and recently amitriptyline 10mg to help him sleep. His anxiety state and hypertension may be worsened by prolonged exposure to construction noise. Moreover, his anxiety seems to have made him very noise sensitive and he has become sensitised to the effects of noise on his health. Thus, temporary rehousing away from the site is most likely to relieve his noise-related anxiety and thereby improve his general health. Day respite away from home during noisy activities will help but is unlikely to be as effective as a complete break from exposure to construction activities.*

The Medical Specialist and I met with the Project's Property Manager and Mitigation and Compensation Executive on Tuesday 22 August 2017 outside the ICP meeting to discuss this response.

**Letter from Neil Coyne MP re Isaac Muyiwa**

I was asked by the Project to draft a response to Neil Coyne's letter concerning his constituent, Isaac Muyiwa, as to why the ICP requires an update on his medical condition before it can determine his claim for respite (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-716782). I liaised with the ICP's Medical Specialist who drafted the following response which was provided to the Project:

*Dear Neil Coyle,*

*Thank you for your letter. We agree that the conditions that Isaac suffers from including hypertension, epilepsy and osteoarthritis are unlikely to get better over a short period of time. However, it is very helpful in making medical decisions to know if there has been any change in his condition, for instance as you stated, a worsening in his hypertension, which might affect our decisions about what is the most suitable mitigation for him and Vanessa. If, of course, there has been no change it would just be helpful to know that too.*

The Medical Specialist and I met with the Project's Property Manager and Mitigation and Compensation Executive on Tuesday 22 August 2017 outside the ICP meeting to discuss this response.

**Teleconference re FLO Camelford House TAP**

FLO requested a teleconference to brief on progress/approach following the ICP's determination/comments on the FLO Camelford House TAP. This took place on 31 August 2017 with the ICP's Noise & Vibration Specialist, Building Surveyor and myself.