

# Monthly Report of the Independent Compensation Panel Chair

## March 2018

The Independent Compensation Panel (the 'Panel') met on three occasions in March 2018 and undertook one site visit.

### 6 March (ICP81)

#### *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 discussed a compensation claim following the visit to the Claimant's offices (ICP#80, item 4 refers) and noted his request of 13 February 2018 (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717852). On the basis that the office is used from time to time for teleconferences in line with an executive office use, the ICP determined that, until such time as the coffer dam works are completed, then the business should have access to an office of comparable size and standard as and when it needs it. Such office should preferably be within the existing building to facilitate ease of use, either to an office that is further away from (or with no line of sight of) the construction site or an office which benefits from secondary or double-glazing with alternative means of ventilation to allow the windows to be kept closed during the summer months.

##### Item 2

The Panel received an email from a Claimant regarding the text of the ICP#80 Minutes (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717883) and raising some other points. On the basis of the precautionary principle, the Panel Approved respite breaks for two days a week (up to a maximum of £30 per day, on production of receipts and in accordance with Tideway's standard conditions) subject to conditions. The Panel answered the Claimant's queries and requested that the Project take some actions without delay.

##### Item 3

The Panel considered a claim for respite (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717854).

#### *Determination*

The requested respite was Approved, subject to a defined end date.

#### *Request for information from the Project*

The Panel requested some information on operational matters raised by the Claimant ready for the ICP meeting of 26 March 2018.

##### Item 4

The Panel received an email from the Project regarding a Claimant's abuse of temporary accommodation the Panel approved (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717849). The Panel offered advice in relation to (i) this Claimant's case and (ii) agreements that may be entered into with Claimants in the future.

##### Item 5

The Panel received the additional information it had requested at its meeting on 12 December 2017 (ICP#76) in relation to a claim for legal costs (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717855). As (i) the claim was unsuccessful, (ii) no fee agreement has been

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sought with Tideway and (iii) the requested copy of the letter of engagement was not supplied, the Panel did not award any legal costs.

### Item 6

The Panel received a claim for compensation for loss of rent (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717850). The Claimant purchased the property in full knowledge of the Project and the Panel has to assume that, acting as a prudent investor owner, he would have researched the levels of rent that could be achieved both during and after the works and reflected this in the price he paid for the property. On the assumption that the price paid reflected the works and their effect on rental value, the applicant has suffered no loss. The Panel considered that the Claimant has not suffered any loss and, therefore, no compensation is payable.

### Item 7

The Panel received additional information in relation to a claim for loss of rent (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717851); ICP#76 refers. The Panel awarded an appropriate level of compensation having regard to similar levels the Panel has awarded to other Claimants.

### Item 8

The Panel received a compensation claim for loss of business (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717853). The Panel awarded an interim payment covering the period of the claim.

## **13 March (ICP82)**

### *Purpose*

To determine special medical case claims and Trigger Action Plans.

### *Panel Members*

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

### *Decisions of the Panel*

#### Item 1

The Panel received an update on the noise mitigation proposals for Leeward Court (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717892); ICP#80 refers. The Panel required more information ready for its 26 March 2018 meeting. The ICP has had continuing problems in getting information from the Project in this matter

#### Item 2

The Panel received an acoustic report and update from FLO in response to the Conditions imposed by the ICP on the Camelford House TAP at meetings #72 and #77 (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717887). The Panel cleared Conditions 2, 3, 4 and 5 and awaits the programme required by Condition 1.

#### Item 3

The Panel received a draft TAP for Link Financial Services, Camelford House (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717893). The Panel Approved the Link Financial Services' TAP, subject to Conditions.

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### Item 4

#### *Urgent Medical Case*

The Panel received a special medical case claim on behalf of a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717901) The Panel granted (i) some conditional respite and (ii) conditional therapy sessions.

### Item 5

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717889). The Panel determined that it would be helpful to have (i) an up to date account of the Claimant's condition following a recent medical appointment and (ii) her own account of how the Tideway construction works are affecting her health before we can make a decision.

### Item 6

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717890). The Panel determined that a suitably adapted TAP noise mitigation package to facilitate ease of opening the primary and secondary glazing, together with mechanical ventilators (to reduce the need to open windows for ventilation), would be the best solution for the Claimant. An Occupational Therapist would be able to give the Project the appropriate adaptation advice.

### Item 7

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717888). The Panel required current section 61 noise predictions and with the acoustic shed in place at the Claimant's property to inform our decision.

### Item 8

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717891). The Panel required the latest section 61 application and noise measurement results for the past month from the noise monitor closest to the Claimant's property to inform our decision.

### Item 9

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717894). The Panel awarded respite, with conditions.

### Item 10

#### *Urgent Medical Case*

The Panel received an email from a Claimant (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717900) rejecting the respite awarded by the Panel on 13 February 2018 (ICP#80). The decision of the Panel of respite breaks stands. The Panel has recommended a level of respite similar to other families with children with asthma whom the Panel has reviewed. The Panel would review the respite in light of further medical information and requested that the Project investigate whether a HEPA filter could be installed in a particular building element.

### Item 11

The Panel visited a Claimant to assess light intrusion (ICP#80 refers). The Claimant commented that noisy activities and lights change on the site which cause her problems; once she contacts the Project, the matters are rectified. The Panel recommended that the Project employs best practicable means at all times, especially when introducing a new or altered activity which may give rise to noise or light impacts. The Panel asked the Claimant to record in writing any site activities that cause a problem, even if they happen at night, and pass the information to the Project, in the first instance.

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**26 March (ICP83)**

### *Purpose*

To determine special medical case claims, Trigger Action Plans and an exceptional hardship claim.

### *Panel Members*

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

### *Decisions of the Panel*

#### Item 1

The Panel received an application for compensation under the Project's Exceptional Hardship Procedure (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-7178898). The Panel considered the claim against the Exceptional Hardship Procedure's five eligibility criteria. The claim for compensation was Not Approved on the grounds that three of the five eligibility criteria were not satisfied.

#### Item 2

The Panel received a special medical case claim for various forms of respite (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717914). The Panel Approved the claim, subject to Conditions.

#### Item 3

The Panel received a special medical case claim for holiday respite (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717916). The Panel Approved holiday respite, in principle. The Panel invited the Claimant to submit a quantified claim for approval before the holiday is booked.

#### Item 4

The Panel received a claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717915) for alternative respite to that awarded by the ICP on 16 January 2018 (ICP#78). The Panel Approved the alternatives proposed, subject to Conditions.

#### Item 5

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717917). The Panel determined the following:

1. Night-time respite at a hotel for the Claimant, her husband and child for the period of the forthcoming river dredging works (as, if the upgraded glazing/ventilation aspects of the claim were awarded, it would be unlikely that they would be installed prior to the recommencement of dredging works).
2. The Project to provide predicted daytime and night-time noise levels at the Claimant's property (i.e. excluding river dredging) using data interpolated from the current s61 application to assist the ICP in determining the non-river dredging aspects of the claim.

#### Item 6

The Panel received a claim from the Carnwath Road Residents Group requesting respite on behalf of some residents of Philpot Square (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717917).

Paragraph 7.2.1 of Tideway's *Non-Statutory Off-site mitigation and compensation policy* states:

*The Undertaker shall consider the individual circumstances of each potential beneficiary, having regard to the vulnerability of any affected persons residing or using eligible properties and beneficiaries who may have special circumstances*

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*(specifically night shift workers, vulnerable persons who are housebound and those with a medical condition that it is proven could be exacerbated by exposure to noise or vibration). Where such individuals are known to the Undertaker, then the Undertaker shall contact them directly through the relevant engagement plans. Individuals who have not raised any issues previously are encouraged to contact the Undertaker directly or contact the IAS for help and advice. On the basis of the predicted or measured noise levels, the ICP shall consider whether there is a case for noise insulation or temporary rehousing and such provision may be made accordingly. Any disputes shall be passed to the ICP for resolution.*

The ICP, therefore, can only consider claims from individuals as their particular circumstances [whether it be a vulnerability due to particular medical condition(s), for example] are **the** major material consideration when determining whether some mitigation or respite should be awarded.

The Panel did Not Approve the block claim as medical special case claims need to be made by individuals. The ICP invites the named residents in the block claim to submit individual medical special case claims to the ICP for respite during the forthcoming river dredging works.

### Information required from the Project

The ICP wishes to be advised by the Project of the mitigation measures that it intends putting in place to minimise the environmental impacts on residents during the 24/7 shaft concrete base plug pour that will take place over a continuous 3-day period.

### Item 7

The Panel received a special medical case claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717918). The Panel had not been provided with any medical information that would lead us to grant the claim for respite and overturn our decision of 22 August 2017 not to consider a claim for respite 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 8

The Panel received an email from the Claimant in relation to his claim (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717853).

The Panel determined the following at its meeting of 13 March 2018 (ICP#82):

*The Panel requires current section 61 noise predictions and with the acoustic shed in place at Mr Thwaites' property to inform our decision.*

The Project had not been able to provide the Panel with the section 61 noise predictions with the acoustic shed in place; we have, therefore, had regard to the current s61 noise predictions.

The Panel Approved the claim in full. In reaching our decision, the Panel had regard to the nature of Mr Thwaites' shift work, the potential for sleep disturbance with reference to the s61 predicted daytime noise levels and the potential adverse health effects that may result.

### Item 9

No urgent case was submitted to the Panel after the cut-off date for receipt of claims.

### Item 10

The Panel received a draft revised updated and consolidating Trigger Action Plan for York Gardens Library and Community Centre (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717952) following the ICP's conditional approval on 23 January 2018 (ICP#79). The Trigger Action Plan was Approved, subject to Conditions.

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### Item 11

The Panel received some as-construction drawings of Leeward Court (ref. 2350-TDWAY-TTTUN-990-ZZ-ZZ-717933). No other information requested at our last meeting had been provided.

We first considered the draft TAP 11 months ago and yet there are many questions that remain satisfactorily unanswered regarding balcony screening and mechanical means of ventilation. The Chair is to escalate within Tideway.

### Other Matters

I had cause to write to Tideway on two matters:

1. Lack of provision of timely satisfactory information regarding Leeward Court TAP noise mitigation and mechanical ventilation provisions.
2. The ICP has evidence, through site visits and claimants' videos, that there are a number of instances where best practicable means (bpm) is not being utilised on a number of the construction sites.