Right to compensation for tenant improvements

# Introduction

* 1. Medway Council have a duty and commitment to all of our tenants to provide the appropriate compensation, upon termination of their tenancy, for improvement works they have carried out. The right to compensation for improvements is subject to certain qualifying criteria and regulations as set out in this policy.

# Purpose

* 1. This policy outlines the process Medway Council Housing Services will follow when assessing and processing a claim for compensation for tenant improvements.

# Scope

* 1. The Right to Compensation Policy for tenant improvements applies to all rented property owned by Medway Council Housing Services and all qualifying tenure types.

# Legislation and Guidance

* 1. **External**
     1. Housing Act 1985
     2. The Secure Tenants of Local Authorities (Compensation for improvements) regulations 1994
  2. **Internal**
     1. Medway Council Tenancy Agreement(s)

# Policy

* 1. Secure tenants of Medway Council are entitled to be paid compensation when their tenancy comes to an end for certain improvements they carried out to their home.
  2. For there to be an entitlement to compensation, all the following eligibility criteria must be satisfied:
     1. The tenancy (or former tenancy) must be secure.
     2. The improvement must be a qualifying improvement under S97 of the Housing Act 1985.
     3. The claimant must be a qualifying person under S99b of the Housing Act 1985.
     4. The improvement work must have started on or after 1st April 1994.
     5. As part of the initial permission request, three estimates from bona-fide contractors to complete the improvement works will have been submitted.
     6. Housing Services must have given written consent for the improvement before the work was carried out as per S97 of the Housing Act 1985.
  3. Compensation will not be paid if any of the following factors apply:
     1. The compensation payable is less than £50.
     2. The tenancy has ended as the result of an eviction.
     3. The tenancy ended due to the occupant(s) exercising the Right to Buy.
     4. The property has been disposed of to the tenant or one of the joint tenants.
     5. A new tenancy of the same or substantially the same property has been granted to the qualifying person.
     6. Compensation has been paid under S100 of the Housing Act 1985 in respect of the improvement.
     7. The notional life of the improvement has expired.
     8. We will deduct any arrears or money owed to Medway Housing Services from the compensation prior to the amount agreed being paid to the resident.
  4. A table which lists some of the items on which compensation is payable and the notional life of the improvement, which is the life expectancy of the improvement in years can be found in Appendix 1.
  5. Compensation will not be provided for any appliance a tenant has fitted that was not originally provided by Medway Council.
  6. Interior decoration, such as painting and wallpapering, does not qualify for compensation.
  7. The formula used for calculating compensation can be found in Appendix 2.
  8. Deductions to the compensation payable will be made if:
     1. The cost of the improvement was excessive.
     2. Any elements of the improvement has been replaced or repaired by Housing Services
     3. The improvement has deteriorated at a greater rate than is specified as the notional life in Appendix 1.
  9. Compensation can be claimed for the cost of materials, but not appliances such as cookers or fridges and labour costs.
  10. No compensation can be claimed for professional fees, or the costs of any relevant planning permission or consent under building regulations.
  11. Compensation payable will be to a maximum of £3000 for any one improvement. No payments under £50 will be made.
  12. The claim for compensation for improvement works must be made no more than 28 calendar days before or 14 calendar days after the tenancy is terminated.
  13. The claimant needs to provide their name and address, details of improvements made, the receipt showing the costs of each improvement, the dates the improvements were started and finished and provide any appropriate certification including electrical certificates or building control certificates etc.
  14. Once a claim is received, a visit will be made to the property by a Building Inspector. They will assess the improvement and make a decision on the outcome of the claim.
  15. The claimant will then be written to with the final decision within 10 working days from the date the claim was received.
  16. If this timescale cannot be met, the claimant will be advised, and a target date given by which a decision will be provided.
  17. If a claimant does not agree with a decision, they have the right to ask for reconsideration via the complaints procedure.
  18. Claimants also have the right to take the issue to court if they do not agree with the final decision. In this case advice should be sought from a solicitor or the Citizens Advice Bureau.
  19. If anyone makes a false claim for compensation, Medway Council can take the claimant to court.
  20. Where there is an outstanding debt owed to the Council including but not limited to rent or service charge arrears, any compensation payment will in the first instance be made against the debt. Any remaining monies will then be forwarded to the claimant.

# Role, responsibilities and authority

* 1. The Chief Housing Officer retains the overall responsibility for the implementation of this policy.
  2. The Property Services Operations Manager and Tenancy Manager are responsible for the operational delivery of this policy, the associated procedures and has the responsibility for ensuring that this policy complies with Regulatory and Legislative requirements.

# Monitoring, review and evaluation

* 1. Regular monitoring will take place to ensure Housing Services is dealing with applications for compensation for improvement work in line with this policy.
  2. The results will be used by Housing Services to inform future policy review in this area and continually improve service standards. All reviews will consider whether:
     1. the current policy follows legislative and regulatory requirements, and reflects current good practice;
     2. the aims and objectives of the policy are being met;
     3. the current policy outcomes meet the needs and expectations of our diverse customer base;
     4. service users are aware of and understand the policy and believe it to be consistent and fair;
     5. the service offers value for money;
     6. Partnership arrangements are working effectively.
  3. This policy will be reviewed on a biennial basis or in line with legislative or regulatory changes.

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**Appendix 1 - Items on which compensation is payable and notional life.**

| Type of improvement | Notional life |
| --- | --- |
| Bath or shower | 12 |
| Wash-hand basin. | 12 |
| Toilet | 12 |
| Kitchen sink | 10 |
| Storage cupboards in the bathroom or kitchen | 10 |
| Work surfaces for food preparation | 10 |
| Space or water heating | 12 |
| Thermostatic radiator valves | 7 |
| Insulation of pipes, water tank or cylinder | 10 |
| Loft insulation | 20 |
| Cavity wall insulation | 20 |
| Draught proofing of external doors or windows | 8 |
| Double glazing or other external window replacement or  secondary glazing | 20 |
| Rewiring or the provision of power and lighting or other electrical fittings(including smoke detectors) | 15 |
| Any object which improves the security of the dwelling-house, but excluding burglar alarms | 10 |

**Appendix 2: - formula used for calculating compensation**

**C x (1-Y/N)**

**C =** original cost of the improvement (any financial assistance,

such as a grant, that was paid towards the cost of the improvement

will be deducted from the cost)

**Y =** the number of complete years the improvement has been in

place (with part of a year being rounded up to a complete year)

starting on the date the improvement was completed and ending on

the date the compensation is claimed

**N =** the notional life of the improvement