

COMPENSATION POLICY

Cabinet Member: Cllr Ray Stanley
Responsible Officer: Nick Sanderson, Head of Housing and Property

Reason for Report: To advise members of the new Compensation Policy.

RECOMMENDATION(S): That the Cabinet recommends the Council to adopt the new Compensation Policy.

Relationship to Corporate Plan: This policy will ensure that we compensate our tenants in a fair and consistent way when we have done something wrong.

Financial Implications: The financial implications will be contained within the Housing Revenue Account.

Legal Implications: It will be necessary to ensure that the Compensation Policy addresses all the legal liabilities the Council has as a Landlord for the housing estate.

Risk Assessment: The management of 3061 homes for some of our most vulnerable tenants contains many risks. These risks are managed at a service level through various risk assessments.

1.0 Introduction

1.1 There could be occasions when service standards are not being met and as such it may be necessary to compensate a tenant for loss or inconvenience. In these cases we recognise that the tenant may have a statutory right to compensation.

1.2 It is essential that we have a policy to ensure that all claims for compensation are dealt with in a fair and consistent manner, within published timescales and parameters. It is felt that the attached policy fulfils these requirements and as such will assist both staff and tenants alike when compensation claims are being made.

1.3 Statutory claims for compensation include failure by the authority to meet the requirements under the 'Right to Repair' legislation, and also Tenant Improvements.

2.0 Tenant Consultation

2.1 The 'Tenants Together' scrutiny group have been consulted on this policy and their comments taken into consideration.

3.0 **Implementation of the Compensation Policy**

3.1 This policy formalises the process already in use and make it clearer for both staff and tenants alike when a claim for compensation is being made.

3.2 There are no additional resource implications as a direct result of this policy.

4.0 **Financial Context**

4.1 Within the annual budget there are sufficient monies to fund the current level of compensation claims received each year.

4.2 It is envisaged that this policy whilst making it clearer for all parties will ensure that compensation is paid out only when necessary

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Circulation of the Report: Management Team, Councillor Ray Stanley, Cabinet Member for Housing

Mid Devon District Council

Building Services

Tenant Compensation Policy – DRAFT

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Policy Statement

This policy has been drafted to ensure that Mid Devon District Council (MDDC) has effective procedures in place to manage tenant compensation, quickly and efficiently.

As a registered provider of social housing, we aim to provide our tenants with a high quality service at all times.

All complaints relating to service failure are investigated according to the procedures set out in our “Have Your Say” leaflet.

There may be cases when service standards have not been met and where an apology is insufficient to compensate a tenant’s inconvenience or loss. In these cases, we recognise that the tenant may have a statutory right to compensation.

The council will publicise the Compensation Policy by including information for new tenants at sign-up, through advertising on our website and in our newsletters, and within the Tenants handbook.

We will review this policy on a bi-annual basis to ensure that its contents reflect current legislation and the latest examples of best practice in the field.

Policy Standards

Statutory compensation

This policy includes the statutory rights of our tenants to receive compensation, which includes:

- The Right to a Repair
- Compensation for tenants’ improvements

Discretionary Compensation

Any discretionary award for activities or lack of performance not included within the Tenant Statutory Right will be determined by the Head of Housing and Property Services.

Statutory Compensation

Legislation exists to financially compensate tenants in a number of situations.

Home Loss

The circumstances under which payments relating to Home Loss will be paid are set out in our Decant Policy.

Disturbance Payments

The circumstances under which disturbance payments will be paid are set out in our Decant Policy.

The Right to Repair

Tenants may be entitled to compensation for a listed range of certain repairs or maintenance problems affecting health, safety or security if MDDC's Housing Service twice fails to complete the repair within the prescribed timescales.

In order to qualify under this scheme, the estimated cost of the repair should be £250.00 or less, and should be included in those listed in the Council's Right to Repair Policy.

Compensation under the Right to Repair will not be payable when:

- The repair has been inspected and attended to within set service standards, and the tenant has been advised that the relevant parts are on order
- The repair is classed as rechargeable to the tenant
- There was no access at the time of the pre-booked appointment to do the work

There is a flat rate award of £10 plus £2 per day, for each day the repair remains outstanding after the second report has been raised, to a maximum of £50.

Compensation for Tenants' own Improvements

Tenants have a contractual right to claim compensation at the end of their tenancy for 'qualifying improvements' they have carried out to their home.

Qualifying improvements that may be eligible for compensation are:

- Bath
- Wash hand basin
- Toilet
- Kitchen sink
- Storage cupboards
- Kitchen work surfaces
- Central heating or water heating

- Thermostatic radiator valves
- Insulation of pipes, water tank or cylinder
- Double glazing, secondary glazing or other window replacement

The following guidelines will apply when determining whether compensation is payable:

- Introductory tenants will not qualify for compensation
- Tenants must have submitted three estimates from bona fide contractors and have received written permission from the Council prior to starting work
- The work must have been undertaken to an acceptable standard by a competent and qualified contractor
- All relevant statutory approvals, building regulations, planning permission etc. have been gained and documentary evidence as such is available
- When a claim for compensation for Tenants' Improvements has been received, the council will arrange an inspection by a surveyor and make an assessment based on the cost of the improvement, its estimated total life and the value of the residual life of the improvement to assess the payment that should be made
- Compensation will not be paid where a mutual exchange has taken place
- Compensation will only be paid at the end of the tenancy, and will be set against any sums that are owed to the council
- Compensation will not be payable where the tenancy is ended through a possession order obtained through the County Court
- Compensation will not be payable if a tenant has exercised their right to Buy or) or where the tenancy passes from joint to sole names (or vice versa)
- The maximum payable is £3,000 and the minimum is £50 in line with legislation

Circumstances where Claims for Compensation will not be met

The loss or damage is a result of routine failure of a building's component, fixture or fittings where MDDC Housing has not been negligent.

Where non-availability of parts or materials prevents MDDC's Housing Service completing repairs within the published repair timescales, and the tenant has been kept fully informed.

Where service failure is the result of extreme or unforeseen conditions (such as weather conditions) where the council has taken all reasonable steps to restore services or facilities under the prevailing conditions.

Where service failure is due to interruptions in gas, electricity or water supplies as a result of the non-performance of utility companies, or through the action of the tenant.

Where the loss or damage is the tenants' own fault, including the failure to report repairs in a timely manner or to keep appointments..

Where the loss or damage arises from an alteration or repair which the tenant has arranged privately or carried out them self.

Where the loss or damage is due to acts of negligence by a third party, for example, a visitor or contractor who is not acting on behalf of the council.

Where MDDC has acted reasonably and complied with its legal and contractual liabilities.

From loss or damage to personal possessions stored in a council garage, outhouse, or shed.

General

External Contractors

MDDC will ensure that all contractors carry Public Liability Insurance and they have a clear and appropriate Compensation and Complaints Policy

Where a claim is made in respect of personal injury, damage to possessions or other financial loss alleged to have been caused by a council contractor's negligence, the council will not accept liability for the claim, but will refer the claim to the contractor themselves

Home Contents Insurance

Tenants are encouraged to have home contents insurance to cover their personal belongings and cost of interior redecoration in the event of damage

MDDC Housing officers will promote and encourage the tenant to take up contents insurance during their contact with tenants, especially at sign stage

Independent Housing Ombudsman

This Compensation Policy does not apply where a tenant has made a claim for compensation via the Independent Housing Ombudsman. In such cases MDDC, where appropriate, will pay compensation as directed by the Ombudsman

Legal Proceedings

With the exception of statutory compensation, the policy does not apply where a tenant has commenced legal proceedings.

All offers of discretionary compensation are made on a 'Without Prejudice' basis.

Payment of Compensation

Compensation payments will be made within 30 days of the offer being accepted by the claimant

Rent Arrears and Other Debts

In cases where discretionary compensation is due to a tenant but their rent account is in arrears, the compensation will be offset against any rent or other housing related debt on the tenants rent account EXCEPT in cases where compensation is being offered to reimburse a direct financial loss or expense incurred by the tenant (for example replacement of a damaged personal household article)

Appeals

Appeals by tenants against a decision related to the payment of compensation can be made using the complaints procedures

Policy Monitoring and Review

The Compensation Policy will be reviewed every two years and reported to MDDC's Decent and Affordable Home Policy Development Group Committee for approval

Equality & Diversity

MDDC will ensure that this policy is applied fairly to all tenants. The council will not directly or indirectly discriminate against any person or group of people because of their race, religion, gender, marital status, sexual orientation, disability or other grounds set out in our Equality and Diversity Policy

This policy and any other related publications of MDDC Housing Service can be provided on request in other formats (e.g. in an alternative language, in Braille, on tape, in large print).