

COMPENSATION FOR TENANT IMPROVEMENTS - PROCEDURE

1.0 INTRODUCTION

- 1.1 This procedure describes our arrangements for paying compensation to an outgoing tenant who has carried out an improvement to our property.
- 1.2 The types of improvements which will qualify for consideration of a compensation payment are listed in Appendix 1, together with the notional life of each item.
- 1.3 This procedure supports the policy '[Tenant Alterations & Improvement](#)' ref: AM02 and should be read in conjunction with the procedure '[Tenant Alterations & Improvements](#)' ref: AM24a.

2.0 CIRCUMSTANCES WHERE COMPENSATION IS PAYABLE

2.1 Compensation will be payable where:

- the tenant has received prior approval from us in accordance with the requirements of the Tenant Alterations & Improvements policy and procedure, **and**
- the work undertaken has been completed satisfactorily in accordance with current regulations, standards and our requirements, **and**
- the application for compensation is in accordance with the provisions of the Housing (Scotland) Act 2001 (the Act) and subsequent regulations and/or guidance.

3.0 CIRCUMSTANCES WHERE COMPENSATION IS NOT PAYABLE

3.1 Compensation will not be payable for work that would normally qualify where:

- the amount of compensation due is less than £100;
- the tenancy ends because:
 - i) an order for recovery of possession has been made by the Sheriff Court on any of the grounds specified in the 2001 Act;
 - ii) the property has been disposed of under section 14 of the 1987 Act;
 - iii) the property has been disposed of under section 65 of the 2001 Act;
 - iv) the tenant's right to buy has been exercised;
 - v) we have granted the qualifying person a new tenancy, whether alone or jointly, of the same or substantially the same property.

3.0 CALCULATING THE AMOUNT OF COMPENSATION

3.1 The amount of compensation to be paid will be calculated according to the following formula:

$$C \times \frac{(1 - \frac{Y}{N})}{N} \quad \text{where:}$$

C = the cost of the improvement work **less** any grant made under part 13 of the 1987 Act and/or under the Home Energy Efficiency Scheme Regulations or any other subsequent energy efficiency schemes.

Y = the number of years starting on the date the improvement was completed and ending on the date the tenancy ends (a part year will count as a whole year).

N = the notional life of the improvement resulting from the work.

3.2 In situations where either:

- a) the cost of the work is deemed to be **excessive** (i.e. more expensive than the cost would have been if we had undertaken the work); **OR**
- b) the improvement resulting from the work has **deteriorated** at a rate **greater** than that provided for in the notional life for that improvement; **OR**
- c) the improvement resulting from the work is of a **higher quality** than it would have been if we had carried out the work;

then we may **deduct** from the amount of compensation calculated under para. 3.1 a sum that we consider reasonable to take account of whichever of the above points applies.

3.3 Where the improvement resulting from the work carried out has **not deteriorated** at the rate provided for in the notional life for that improvement then we may **add to** the amount of compensation calculated under para. 3.1 a sum that we consider reasonable to take account of the lower rate of deterioration.

3.4 The amount to be deducted under para. 3.2 or added under para. 3.3 will be decided by the Property Manager (PM), who will ensure that full details of the reasons for any deduction or addition, including any calculations made, are filed with the papers relating to the application for compensation.

3.5 As stated in the current regulations, the maximum amount of compensation payable in response to a single application will be £4,000.

4.0 CLAIMING COMPENSATION

4.1 An outgoing tenant wishing to claim compensation should submit their request in writing no earlier than 28 days before and no later than 21 days after the tenancy termination date. A tenant may submit a claim at the same time as submitting notice of terminating their tenancy, subject to the 28-day rule.

- 4.2 On the day the written request is received, the Maintenance Assistant (MA) will:
- date stamp the request;
 - note on the request the maximum date by which a reply has to be sent to comply with the Act (28 days from the date of receipt);
 - add diary notes to their diary and the PM's diary for 21 days and 28 days from date of receipt, as reminders to ensure a reply is sent in time;
 - check relevant files to confirm that approval was given and that the completed work was accepted as meeting our standards;
 - pass the request to the PM.

4.3 The work will normally be inspected as part of the pre-termination visit under the Voids procedure, but if necessary will be inspected separately.

4.4 The PM will check by email with the appropriate member of Housing Services staff and with the Finance Assistant, to establish whether the claimant has any outstanding amounts owed to Ark such as rent arrears or outstanding rechargeable repairs. Copies of emailed replies will be saved in the file relating to the improvement and the claim.

At the same time, the PM will establish, either personally or through the colleague carrying out the post termination (void) inspection, whether any post termination repairs are chargeable to the former tenant.

No compensation payment will be made until the post-termination inspection has been completed and any re-chargeable costs assessed.

4.5 Following completion of the necessary checks and enquiries the PM will calculate the amount of compensation due, including consideration of whether any amounts should be deducted from or added to the resulting amount, as detailed in paras. 3.2 and 3.3 above.

In calculating the final amount due the PM will **deduct** any amounts owed by the claimant to ARK, such as rent arrears or rechargeable repairs.

4.6 The PM will write to the claimant to advise whether compensation will or will not be paid, including reasons where appropriate (see Appendices 2 and 3 for sample letters). A copy of the letter will be added to the relevant property file.

4.7 Where compensation is to be paid, the PM will pass the original of the letter to the Finance Assistant together with a covering memo requesting the cheque (Appendix 4).

4.8 The Finance Assistant will prepare a cheque for signature and thereafter send it to the claimant with the PM's letter.

5.0 RESOLVING DISPUTES

5.1 In the letter the claimant will be advised that if they are not satisfied with the response they have the right to request that the decision be reviewed, and that if they wish to appeal they should write giving their reasons to the Director of Finance and Housing Services (DFHS) within 28 days of receiving the PM's letter.

- 5.2 The DFHS will acknowledge receipt of the appeal letter within 3 working days, and in accordance with current guidance will then arrange for the claim to be reviewed by a valuer or surveyor who was not involved in the original decision.
- 5.3 Within 14 days of receipt of the appeal, the DFHS will write to the claimant to advise:
- how the review is to be carried out, and by whom;
 - the length of time the review is expected to take (normally no more than 28 days);
 - that they will have the right to submit any written representations to the reviewer;
 - that they may also meet with the reviewer and be accompanied by any representative of their choice.
- 5.4 The aim will be to complete the review within 28 days. If however the claim is a complicated one and requires more time, the DFHS will write to the claimant before the end of the 28 days to advise that more time is needed and, where possible, will give an estimate of when a decision will be made.
- 5.5 The DFHS will advise the claimant in writing of the reviewer's decision. The letter will advise that if the claimant remains dissatisfied with the way their appeal has been handled, they may appeal to the Board of Management, and that their appeal will be dealt with in accordance with our Complaints policy and procedures.
- 5.6 Where it is agreed that additional compensation should be paid, a cheque for the additional amount will be requested and enclosed with the letter, as detailed in paras. 4.7 and 4.8 above.
- 5.7 The DFHS will ensure that all correspondence relating to the appeal and decision is added to the relevant property file.

6.0 IMPLEMENTATION AND REVIEW

- 6.1 The Property Manager is responsible for ensuring that this procedure is implemented when required.
- 6.2 The Property Manager will ensure that this procedure is reviewed at least every three years.

Version 2.0 Approved by SMT:

Review of procedure due by:

Complies with:

February 2013

April 2016

**Performance Standard AS2.1
Raising Standards Chap. 7**

COMPENSATION for TENANT IMPROVEMENTS**QUALIFYING IMPROVEMENT WORK AND NOTIONAL LIFE**

ITEM	NOTIONAL LIFE (YEARS)
Bath or shower	12
Cavity wall insulation	20
Sound insulation	20
Double glazing, or other external window replacement, or secondary glazing	20
Draught proofing of external doors or windows	8
Insulation of pipes, water tank or cylinder	10
Installation of mechanical ventilation in bathrooms or kitchens	7
Kitchen sink	10
Loft insulation	20
Rewiring and the provision of power and lighting, or other electrical fixtures including smoke detectors	15
Security measures, other than burglar alarm systems	10
Space or water heating	12
Storage cupboards in bathroom or kitchen	10
Thermostatic radiator valves	7
Wash hand basin	12
Watercloset	12
Work surfaces for food preparation	10

[Date]

[Tenant name]
[Address 1]
[Address 2]
[Town]
[Postcode]

[Our reference]

Dear [Salutation]

Compensation for Tenant Improvement

I refer to your request for payment of compensation for the following improvement you have carried out at the above address:

[details of improvement work]

Following our checks I am writing to advise that you are entitled to compensation amounting to £[amount]. This amount has been calculated taking into account the original cost of the work and the length of time since it was completed, in accordance with guidance issued by the Scottish Government under the Housing (Scotland) Act 2001.

If you wish details of how this amount has been calculated, please contact me.

A cheque for this amount is enclosed.

If you are not satisfied with our decision, you have the right of appeal to the Director of Finance and Housing Services. You should write to the Director at our Head Office address below within 28 days of the date you receive this letter. Your letter should give details of the reason(s) why you wish to appeal.

If you have any questions about anything in this letter, please contact me at the address below.

Yours sincerely

Name
Property Manager

[Date]

[Tenant name]
[Address 1]
[Address 2]
[Town]
[Postcode]

[Our reference]

Dear [Salutation]

Compensation for Tenant Improvement

I refer to your request for payment of compensation for the following improvement you have carried out at the above address:

[details of improvement work]

Following our checks I am writing to advise that you are not entitled to compensation for this work.

This is because [enter reason(s) why compensation is not due].

If you are not satisfied with our decision, you have the right of appeal to the Director of Finance and Housing Services. You should write to the Director at our Head Office address below within 28 days of the date you receive this letter. Your letter should give details of the reason(s) why you wish to appeal.

If you have any questions about anything in this letter, please contact me at the address below.

Yours sincerely

Name
Property Manager

CHEQUE REQUEST

From: Name, Property Manager
To: Name, Finance Assistant
Date:
Subject: **Compensation for Tenant Improvement**

Please arrange for a cheque to be made out to:

for the sum of: £

and sent with the attached letter.

This amount is compensation due to the above-named tenant for a qualifying improvement under the 'Compensation for Tenant Improvements' regulations in accordance with the Housing (Scotland) Act 2001.

Please code this payment to:

Name
Property Manager