

COMPENSATION POLICY

Introduction

Midsummer is committed to the provision of high quality services to all its residents. There will, however, be occasions where the Association fails to meet its own high standards and where compensation for loss, damage, unreasonable delay, major disruption, and inconvenience will be appropriate. There are also circumstances where compensation is payable as a result of statutory and contractual rights.

This Policy sets out the Association's approach to compensation to ensure the consistent and fair treatment of all claims and to identify clearly the circumstances under which Midsummer will make compensation payments to residents.

Policy Statement

The Association will consider the offer of compensation where financial loss, damage, unreasonable delay, major disruption, or inconvenience is caused by:

- Poor standard of service
- Loss of amenity
- Damage to resident's property as a result of the Association's negligence
- Failure to deliver a service subject to a service charge

In addition, the Association will provide rental tenants with the contractual 'Right to Repair' and 'The Right to Compensation for Improvements' and make statutory payments in the event of home loss or disturbance.

Legislation

In fulfilling its obligations under this Policy, the Association will comply with all legislation and regulations as appropriate. The following Acts apply in varying degrees to the payment of compensation.

- Leasehold Reform, Housing & Urban Development Act 1993
- Land Compensation Act 1973 (amended by the Planning & Compensation Act 1991)
- Housing Acts 1985 & 1988
- 19
- 96 Party Wall Act

Linked Policies

- Customer Service Charter
- Equality and Diversity
- Maintenance

General Matters

Making a claim for compensation

Residents who believe they are entitled to Compensation in accordance with this Policy should make a claim within 28 days from when the event or loss occurred.

The claim should set out the amount of compensation sought and the reasons for it and be supported by evidence of costs incurred where appropriate. Claims must be made in writing. (Assistance with making a claim in writing will be offered to residents).

All claims will be acknowledged within two working days and investigated within 28 days by a relevant Manager. If it is not possible to reach a decision within 28 days the resident will be advised of the reason why and given a revised target date for a decision to be made.

Circumstances where compensation will not be paid

Claims for compensation will not be considered where:

- the loss or damage is a result of routine failure of a building's structure, fixtures or fittings where Midsummer has not been negligent
- the non-availability of parts or materials has resulted in the loss of service
- service failure is the result of extreme or unforeseen conditions (such as weather conditions) where the Association has taken all reasonable steps to restore services or facilities under the prevailing conditions
- 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 resident
- the loss or damage is the residents own fault, including the failure to report repairs or keep appointments
- the loss or damage arises from an alteration or repair which the resident has arranged or carried out themselves
- the loss or damage is due to acts or negligence by a third party for example a visitor or contractor who is not acting on behalf of the Association
- Where the Association has acted reasonably and complied with legal and contractual liabilities
- The problem could reasonably have been covered by the resident's own contents insurance, in which case compensation may be paid to cover any excess payable where negligence on the part of Midsummer can be proven

Statutory Rights

This Policy does not affect the resident's statutory rights including the Right to Repair and the Right to Compensation for Improvements, both of which are dealt with by separate Policies.

Insurance and personal injury

The Association has liability insurance, which may pay if a customer suffers loss or personal injury due to negligence. In such cases the matter will be referred to the Association's insurance providers.

Contractors

Where a Contractor, acting on behalf of Midsummer, has caused any damage or loss the Association will assist the resident to make a claim against that contractor. The Association will ensure that all contractors carry public liability insurance but since in most cases the Association is not present at the time the damage or loss has occurred the ultimate responsibility to pursue a claim will rest with the resident.

Independent Housing Ombudsman

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

Legal proceedings

This Compensation Policy does not apply where a resident has taken, or is intending to take, legal proceedings.

Payment of claims

If a decision is taken to pay compensation in accordance with this Policy it will be paid within two weeks.

If compensation is to meet costs incurred by the resident, for example removal costs, it will be paid either direct to the supplier or to the resident within two weeks of receipt of evidence.

Rent Arrears and Other Debts

In instances where compensation is due to a resident whose rent account is in arrears or where other monies are owed to Midsummer the compensation sum to be deducted from the debt.

Appeals

Appeals by residents against a decision related to the payment of compensation can be made using the complaints procedure set out in the Association's Customer Services Charter.

Communication

A summary of this Policy will be included in the Residents' Handbook and a full copy will be made available through the web-site and on request. Where required it will be reproduced in different languages and in different formats.

Information on the Policy will also be included, from time to time, in the Association's newsletter, Resident Matters.

Discretionary Payments

1. Gesture of Goodwill

In some circumstances it is appropriate to make a quick and positive response to a complaint. This can be achieved through the offer of a gesture of goodwill.

Examples of such payments include:

Service failure	Recommended payment
Where an Association Officer has failed to attend a previously arranged appointment and has not made contact to rearrange	£10.00
Where Midsummer has failed to respond to written correspondence within two weeks of receipt	£10.00
Failing to respond to a complaint within the timescales specified in the 'Customer Service Charter'	£10.00

The level of payment will depend upon the individual circumstances of each case but the maximum payable will be £50.00

2. Compensation for loss or damage

In such cases compensation will be quantified against actual loss incurred, and an objective measure should be used where possible. Any decision to award compensation will have regard to the following issues and principles:

- Any financial loss directly attributable to the acknowledged service failure
- Any costs incurred were reasonable in the circumstances
- The complainant acted where possible to mitigate the effects
- Losses, where possible, are verifiable (receipts, comparable gas/ electricity accounts, loss of earnings)
- Assessments related to inconvenience for distress should have regard to the length of period involved and the severity of the distress.

Examples of such payments include:

Service failure	Method of calculation
Costs incurred whilst pursuing a complaint against Midsummer	Up to a maximum of £75.00
Loss of metered water due to Midsummer negligence	Up to value of loss
Electricity costs where temporary heating provided pending a repair of the property's fixed heating system	A maximum amount of £1.50 per heater per day may be paid
Electricity costs where a de-humidifier is provided	A maximum amount of £1.50 per de-humidifier per day may be paid
Damage to resident decorations	The cost of reinstatement to an agreed standard if 'making good' is not an option
Damage to personal items	The cost of replacement having regard to the age and condition of the item

3. Loss of amenity

Where as a consequence of the failure of the Landlord's materials or equipment a resident loses the use of part of a property, compensation will be paid, calculated as a proportion of the rent, for each day that the part of the property remains unusable once the Association's published timescales for completing such works have expired.

Where there is a loss of room for more than three days the following will be paid up to a maximum of £250.

Amenity	Method of Calculation
Kitchen	20% reduction in the net rent per day
Bathroom	20% reduction in net rent per day
Toilet (where no other toilet available)	20% reduction in net rent per day
Bedroom (where no spare room available)	10% reduction in net rent per day
Living room	10% reduction in net rent per day
Dining room	5% reduction in net rent per day

NB the loss of some amenities, such as the heating supply, is covered under the right to repair provisions (see Contractual Rights below).

4. Loss of service – service charges

If it is known that a contractor working on behalf of Midsummer has failed to provide

a service as specified they will be asked to remedy the situation immediately. If the service continues to not be provided then the contractor will receive a reduced payment or no payment at all. As actual costs incurred are charged to the resident it is therefore unlikely that they will lose out financially if a service is not provided.

This does not, however, compensate them for the inconvenience associated with the loss of service. Examples where payments may be made to cover inconvenience include:

Service failure	Recommended payment
Entryphone, lighting or failure of other communal fixtures and fittings for more than two weeks	£10.00
Failure of contractor to comply with specification for cleaning and landscaping services within 7 working days of the Association being made aware of the failure	£10.00

Payments will not be made where the service is provided directly through Midsummer staff where non-delivery is a result of unforeseen short-term illness.

The level of payment will depend upon the individual circumstances of each case but the maximum payable will be £50.00

Statutory payments

There is a statutory right to compensation under the following Acts:

- 1973 Land Compensation Act
- 1991 Planning and Compensation Act
- 1996 Party Wall Act

This section summarises the payment details.

Home loss payments

A lump sum payment of £1,500 can be claimed by a rental tenant for the permanent loss of their home due to re-development (this includes cases where the home is demolished and rebuilt even if the resident returns to the newly built home). To qualify the tenant must have been living at the property for more than one year and the claim must be made in writing.

Disturbance payments

These are paid to rental tenants who have to move temporarily (decanting) or permanently to cover the reasonable costs of moving whilst a property is being redeveloped, refurbished or undergoing major repairs that cannot reasonably be completed with the tenant in occupation.

The amount payable will vary according to individual circumstances and will cover the reasonable expenses incurred including:

- Any additional accommodation costs associated with the temporary accommodation
- Removal costs
- Disconnection and reconnection of appliances and services
- Mail redirection
- Storage of furniture
- Provision of aids and adaptations

The Association will consider claims for compensation in respect of carpets, floor coverings, and curtains, depending on the circumstances of each case. Compensation will be calculated on like for like basis.

No disturbance payments will be made if the tenant is on the transfer list and takes the opportunity to secure a permanent move.

The Association may arrange and pay for certain services directly, rather than compensate the residents.

The Party Wall Act 1996

The Act lays down procedures that must be followed if the Association is carrying out building work:

- including work on the boundary line of a property
- that affects a building on neighbouring land within a specified distance
- on party structures.

The building owner must pay compensation for any damage caused as result of this work. This will only have implications for the Association where major building works are being carried out that are likely to affect a neighbouring property.

Contractual Rights

Right to Repair

The Association's rental tenants are given a contractual Right to Repair. This establishes an entitlement to compensation where the Association has failed to complete a repair within its published target timescales and has failed to do so again after a further request is made.

If the Association fails to complete the work within the second time period the tenant should be paid compensation as follows:

- £10 as a one off payment
- £2 for each day the repair remains outstanding (up to a maximum of £50)

For a repair to qualify the following must apply:

- it must cost less than £250;
- it must be an emergency or urgent repair that is Midsummer's responsibility;
- it must not be a result of tenant abuse or misuse;
- the tenant must have kept to arranged appointments and allowed the contractor access.

There is no right to compensation if the contractor:

- has attended in time and is waiting for parts;
- has attended and made safe or limited further damage;
- is delayed for another reason outside their control.
- has been unable to complete the work for reasons of health and safety
- has been unable to gain access to the property through no fault of their own

Where the repair has affected more than one tenant then all those affected should receive a payment without having to make a claim. This will include emergency or urgent repairs to communal areas.

Right to Compensation

Rental tenants have a contractual right to claim compensation for 'qualifying improvements' they have carried out to their home.

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

1. Residents will only qualify for compensation if they have submitted three estimates from bona fide contractors, have received written permission from the Association for the work to be undertaken and the work undertaken is to an acceptable standard
2. The formula for calculating compensation will follow the guidance laid down in Statutory Instrument 613/94 and the value depreciated in line with the estimated life of the improvement
3. The Association will make available to residents a list of qualifying improvements in accordance with Statutory Instrument 613/94
4. The maximum payable is £3,000 and the minimum £50
5. Compensation will only be paid at the end of the tenancy and may be set against any sums that may be owed to the Association.
6. Compensation will not normally be payable where the tenancy is ended through a possession action taken through the County Court
7. Compensation will not be payable if the tenant has exercised their Right to Buy or Right to Acquire (if applicable) or where the tenancy passes from joint to sole names (or vice versa)

The Association can reject a tenant's proposal to make an improvement if it:

- is considered too costly;

- is out of keeping with the rest of the dwelling;
- will be too expensive to maintain;
- will make the property difficult to let in the future;
- is not practical for future occupants.