

# RIGHT TO COMPENSATION FOR IMPROVEMENTS POLICY

Housing Services - October 2007

## 1. INTRODUCTION

The Leasehold Reform, Housing and Urban Development Act 1993 gives secure tenants the right to compensation for certain tenant financed improvements that have had the written permission of the Council.

The right to compensation for improvements is subject to certain qualifying criteria and regulations contained in The Secure Tenants of Local Authorities (Compensation for Improvements) Regulations 1994 Statutory Instrument 1994 No. 613.

This Policy outlines the process that Dartford Borough Council will follow when assessing and processing a claim for compensation for improvement.

## 2. ENTITLEMENT

Entitlement to compensation will depend on whether the following eligibility criteria is satisfied:

- The tenancy must be secure
- Sole tenants or one of both joint tenants are eligible
- Certain cases of succession and certain assignments can qualify for entitlement. (See Appendix A for details of persons qualifying for compensation)
- Tenants exercising a transfer or tenants exercising a mutual exchange are eligible at the time of the exchange
- The improvement work must have started on or after 1 April 1994
- Written consent must have been given by the Council before the improvement work was carried out. If consent was not given before the improvement works were carried out the Council may decide to give retrospective consent.

Compensation will not be paid if the following factors are present:

- The compensation payable works out as less than £50
- The tenancy has ended as the result of an eviction
- The tenancy has ended due to the occupant(s) exercising the Right to Buy
- The dwelling house has been disposed of to the tenant or one of the joint tenants (disposal of land held for housing purposes)
- A new tenancy of the same or substantially the same dwelling house has been granted to the qualifying person (or, in the case of a joint tenancy to all joint tenants) whether or not with anyone else
- The notional life of the improvement has expired
- Compensation has been paid under S100 of the Housing Act 1985 in respect of the improvement<sup>i</sup>

## 3. QUALIFYING IMPROVEMENTS

Table 1 below represents items on which compensation is payable and the notional life of the improvement, which is the life expectancy of the repair in years.

**Table 1: Qualifying improvements and notional lives (in years)**

Improvement	Notional Life
Bath or shower	12
Wash-hand basin	12
Toilet	12
Kitchen sink	10
Storage cupboards in 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 of 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

Interior decoration, such as painting and wallpapering, does not qualify for compensation. Any improvement not listed in Table 1 will not be considered for compensation.

#### 4. CALCULATION OF COMPENSATION

The amount of compensation payable is calculated according to the following formula, which takes into account wear and tear and depreciation.

$$C \times [1 - Y/N]$$

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

If a tenant put in replacement windows ten years ago costing £2000, this would be worked out by dividing the number of complete years the windows have been in place (10) by the notional life set out in Table 1 (20). That gives us .5 and so we take that away from 1, leaving us with .5 again. We would then multiply the original cost (£2000) by the .5 [2000 x (1-10/20) = 1000]. The compensation payable would be £1000.

Deductions to the compensation payable will be made if:

- The cost of the improvement was excessive
- The improvement is of a higher quality than it would have been if the Council had done the work
- The improvement has deteriorated at a greater rate than is specified as the notional life in Table 1

- Any money is owed to the Council by the tenant (e.g. rent arrears, service charge arrears, rechargeable repairs or court costs).

An increase to the compensation payable may be made if the improvement has deteriorated less than is specified as the notional life in Table 1.

Compensation can be claimed for the cost of materials (but not appliances such as cookers and fridges) and labour costs (but not the tenants own labour). No compensation can be claimed for professional fees (such as architects), or the costs of any relevant planning permission or consent under Building Regulations.

Compensation will be payable to a maximum of £3000 for any one improvement. No payment will be made if the level of compensation is less than £50.

## 5. THE PROCESS TO MAKE A CLAIM FOR COMPENSATION

For a tenant to make a claim, you must do so not more than 28 days before or 14 days after the date on which your tenancy ends. A claim can be made by completing an application form (see Appendix B), which can also be obtained from the relevant Housing Officer (contact details are provided at the end this Policy). Or, the claim can be requested in a letter and addressed to the relevant Housing Officer and may be served by post.

For any claims made by letter, the claim must contain the following information:

- Name and the address of the Council property where the improvement was made
- The new address
- Daytime telephone number
- What improvement has been made
- How much the improvement cost
- The date the improvement began and finished
- A copy of the invoice to show how much the improvement cost (if you do not have a copy of the invoice you must tell us and give us a rough idea of the total cost)
- A copy of the letter from the Council giving consent to the improvement (if consent for the improvement has not been given, this will need to be specified so that the Council can decide whether to treat it as having consent)

Once a claim is received, a visit will be made to the property by an Officer of the Council to inspect the improvement and to make a decision on the outcome of the claim.

You will then be written to explaining the outcome of the claim not more than 21 days from the date the claim was received. This will include details of how the claim was calculated if it is decided that some compensation is payable. The compensation will be payable by cheque.

## 6. DISPUTES

If you have made a claim for compensation for improvements you can ask us to reconsider our decision, to which we will follow the Council's usual complaints procedure. Details of this procedure can be found at <http://www.dartford.gov.uk/complaints/index.htm>. Details of the complaints procedure is also available from Housing Officers.

You have the right to take the Council to court if you do not agree with the decision. Advice on how to do this can be sought from a solicitor or the local Citizens Advice Bureau. You may also be entitled to legal aid.

If it transpires that you have made a false claim for compensation (e.g. made a claim for an improvement not actually made or a claim for more than the actual amount), the Council can take you to court.

## 7. FURTHER INFORMATION

The Secure Tenants of Local Authorities (Compensation for Improvements) Regulations 1994 Statutory Instrument 1994 No 613 can be found by visiting:

[http://www.opsi.gov.uk/si/si1994/Uksi\\_19940613\\_en\\_1.htm](http://www.opsi.gov.uk/si/si1994/Uksi_19940613_en_1.htm)

The Communities and Local Government has produced a leaflet called 'A better deal for tenants: Your Right to Compensation for Improvements' and this can be found at:

[http://www.communities.gov.uk/pub/129/AbetterdealfortenantsYourrighttocompensationforimprovements\\_id1152129.pdf](http://www.communities.gov.uk/pub/129/AbetterdealfortenantsYourrighttocompensationforimprovements_id1152129.pdf)

If you wish to obtain advice and information about how to make a claim for compensation for improvement you can contact your Housing Officer, as follows:

### Area Team East

*Swanscombe, Bean, Greenhithe, Longfield, Southfleet, Fleet Estate, Sutton-at-Hone, Darenth, Stone*

Senior Housing Officer ☎ 01322 343363

Housing Officer ☎ 01322 343061

### Area Team West

*Tree Estate, Temple Hill, Wilmington, Joydens Wood, Dartford West*

Senior Housing Officer ☎ 01322 343380

Housing Officer ☎ 01322 343574

Or tenants can contact their Housing Officer by using the online Live Help facility at:

<http://www.dartford.gov.uk/housing/livehelp.htm>

## APPENDIX A

Housing Act 1985 (c. 68)

### **PART IV SECURE TENANCIES AND RIGHTS OF SECURE TENANTS**

#### *Repairs and improvements*

#### **F1 99B.**

#### **Persons qualifying for compensation**

- (1) A person is a qualifying person for the purposes of section 99A(2) if—
- (a) he is, at the time when the tenancy comes to an end, the tenant or, in the case of a joint tenancy at that time, one of the tenants, and
  - (b) he is a person to whom subsection (2) applies.

- (2) This subsection applies to—
- (a) the improving tenant;
  - (b) a person who became a tenant jointly with the improving tenant;
  - (c) a person in whom the tenancy was vested, or to whom the tenancy was disposed of, under section 89 (succession to periodic tenancy) or section 90 (devolution of term certain) on the death of the improving tenant or in the course of the administration of his estate;
  - (d) a person to whom the tenancy was assigned by the improving tenant and who would have been qualified to succeed him if he had died immediately before the assignment;
- F2** (e) a person to whom the tenancy was assigned by the improving tenant in pursuance of an order made under—
- (i) section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
  - (ii) section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.), or
  - (iii) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents);]
- F3** (f) a spouse, former spouse, cohabitant or former cohabitant of the improving tenant to whom the tenancy has been transferred by an order made under Schedule 1 to the Matrimonial Homes Act 1983 or Schedule 7 to the Family Law Act 1996.]
- (3) Subsection (2)(c) does not apply in any case where the tenancy ceased to be a secure tenancy by virtue of section 89(3) or, as the case may be, section 90(3).
- (4) Where, in the case of two or more qualifying persons, one of them ( “the missing person”) cannot be found—
- (a) a claim under regulations made under section 99A may be made by, and compensation under those regulations may be paid to, the other qualifying person or persons; but
  - (b) the missing person shall be entitled to recover his share of any compensation so paid from that person or those persons.
- (5) In this section “the improving tenant” means—
- (a) the tenant by whom the improvement mentioned in section 99A(1) was made, or
  - (b) in the case of a joint tenancy at the time when the improvement was made, any of the tenants at that time.]

**Annotations:**

**Amendments (Textual)**

**F1S.** 99A, 99B inserted (1.2.1994) by 1993 c. 28, s. 122; S.I. 1993/2762, art. 4(b) (with saving in art. 5(2)).

**F2S.** 99B(2)(e) substituted (1.10.1996) by 1996 c. 52, s. 222, Sch. 18 Pt. III para. 13; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

**F3S.** 99B(2)(f) substituted (1.10.1997) by 1996 c. 27, s. 66(1), Sch. 8 Pt. III para. 54 (with Sch. 9 paras. 8-10); S.I. 1997/1892, art. 3

APPENDIX B



**RIGHT TO COMPENSATION FOR IMPROVEMENTS  
APPLICATION FORM**

**HOUSING SERVICES**

If you are a secure tenant you may be entitled to claim compensation, when your tenancy ends at that property, for certain improvements that you have made.

The right to compensation applies to improvements that were started on or after 1 April 1994 that have been given the written consent of the Council.

The qualifying improvements that you may apply for compensation is shown in the table below:

<b>Improvement</b>	<b>Notional Life</b>
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Bath or shower	12
Wash-hand basin	12
Toilet	12
Kitchen sink	10
Storage cupboards in 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 of 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

Internal decoration, such as painting or wallpapering does not qualify for compensation. Compensation can be claimed for the cost of materials from the above list (but not appliances such as cookers and fridges) and labour costs (but not the tenants own labour). No compensation can be claimed for professional fees (such as architects), or the costs of any relevant planning permission or consent under Building Regulations.

The compensation is worked out under the following formula, which takes into account wear and tear and depreciation:

**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

You may be eligible for compensation up to a maximum of £3000 for any one improvement. No compensation will be made if the level of compensation is less than £50.

To make your claim, please complete this application form (or you can put your request in a letter) not more than 28 days before or 14 days after the date on which your tenancy ends.

Once we have received your request, we will arrange for an Officer to visit the property to inspect the improvement and make a decision on the outcome of the claim. We will then write to you with the outcome of your claim not more than 21 days after your request was received.

**Full details of the Council's Right to Compensation for Improvements Policy can be obtained by contacting your Housing Officer or by visiting [www.dartford.gov.uk/housing](http://www.dartford.gov.uk/housing).**

<b>Your details</b>	
Your Name	
The Address of where the improvement was carried out	
Forwarding Address	
Daytime Telephone	
Date Tenancy Commenced	
Date Tenancy Ended	

<b>Improvement 1</b>	
Please give details of the improvement that you are claiming compensation for	

Date that the work was undertaken	
Number of years since completion	
Was approval given by the Council for the improvement?	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please enclose a copy of the approval letter*
Cost of the work	Please enclose copies of invoices or receipts in relation to the work
Have you received any financial assistance (such as a grant) towards the cost of the improvement? (e.g. a Disabled Facilities Grant)	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please give brief details below:

<b>Improvement 2</b>	
Please give details of the improvement that you are claiming compensation for	
Date that the work was undertaken	
Number of years since completion	
Was approval given by the Council for the improvement?	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please enclose a copy of the approval letter*
Cost of the work	Please enclose copies of invoices or receipts in relation to the work
Have you received any financial assistance (such as a grant) towards the cost of the improvement? (e.g. a Disabled Facilities Grant)	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please give brief details below:

<b>Improvement 3</b>	
Please give details of the improvement that you are claiming compensation for	
Date that the work was undertaken	
Number of years since completion	
Was approval given by the Council for the improvement?	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please enclose a copy of the approval letter*
Cost of the work	Please enclose copies of invoices or receipts in relation to the work
Have you received any financial	Yes <input type="checkbox"/> No <input type="checkbox"/>

assistance (such as a grant) towards the cost of the improvement? (e.g. a Disabled Facilities Grant)	If Yes, please give brief details below:
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<b>Improvement 4</b>	
Please give details of the improvement that you are claiming compensation for	
Date that the work was undertaken	
Number of years since completion	
Was approval given by the Council for the improvement?	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please enclose a copy of the approval letter*
Cost of the work	Please enclose copies of invoices or receipts in relation to the work
Have you received any financial assistance (such as a grant) towards the cost of the improvement? (e.g. a Disabled Facilities Grant)	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please give brief details below:

If you would like to make a claim for compensation for more than four improvements, please continue on a separate sheet.

\* If you cannot find anything in writing to confirm that you have received approval from the Council for the improvement, please specify this on the form.

**Once you have signed the form at the bottom, please return it to your Housing Officer at Dartford Borough Council, Civic Centre, Home Gardens, Dartford, Kent, DA1 1DR.**

**Data Protection Act 1998 Notification Clause**

The information you have provided on this form will be used to help decide the outcome of your claim for compensation for improvement. It will be held securely and used in connection with your claim.

All or part of the information provided may be disclosed or supplied to external organisations or bodies e.g. Audit Commission, Courts, Bailiffs, Department of Works and Pensions, HM Revenue & Customs and any other charging authority that are legally entitled to the information and may also be disclosed to the Council's external auditors for the following purposes;

- the prevention or detection of crime;
- the apprehension or prosecution of offenders;
- the assessment or collection of any tax or duty in any case where failure to disclose would be likely to prejudice any of those matters;
- data matching initiatives with other statutory bodies for the purposes of fraud prevention and detection.

All or part of the information you have provided may also be used for electoral registration purposes and by other Departments of the Council for purposes connected with the collection of Council debts or to assist in other statutory functions such as Environmental Health or Planning.

The Council may check information provided by you or information about you provided by a third party against other information held by the Council. The Council may also obtain information from third parties or provide information to them to check the accuracy of information supplied by you to the Council.

The Council may make a search (including making enquiries about principal directors) with a Credit Reference Agency. The Credit Reference Agency will keep a record of that search and may share the information with other businesses.

**DECLARATION**

I am aware that the Council will create and maintain computer and paper records on me and that these records will be processed in accordance with the Data Protection Act 1998 and may be used for the purposes detailed above, both internally within the Council and to external organisations/bodies.

Signed

.....

Date

.....

*All personal data is kept accurate, up to date and secure to prevent accidental loss destruction or damage. The extent of the measures taken by the Council will depend upon the sensitivity of the information. Personal data will not be kept for longer than is necessary for their purpose.*

*You have a right of access to your personal data and the right to check and correct the information and may pursue a query or complaint on matters related to your personal data.. Further information on your rights may be obtained by contacting The Data Protection Officer, Dartford Borough Council Civic Centre Home Gardens Dartford Kent DA1 1DR Email: [dataprotection@dartford.gov.uk](mailto:dataprotection@dartford.gov.uk); Website <http://www.dartford.gov.uk/>*

If you or anybody you know requires this or any other Council information in another language, please contact us and we will do our best to provide this for you. Braille, Audio tape and large print versions of this document are available upon request.



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Calls are welcome via Typetalk



**ENDNOTES**

<sup>i</sup> The Council is empowered to compensate tenants for approved improvements commenced since 3 October 1980 under s100 of the Housing Act 1985, which have added materially to the market value of a property or the rent which could have been charged. Discretion to compensation and the amount of compensation are left to the individual local authority.