

RIGHT TO COMPENSATION FOR IMPROVEMENT

Background

The Leasehold Reform, Housing and Urban Development Act 1993 gives SECURE tenants the right to compensation for certain improvements carried out at the tenant's expense 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.

Entitlement

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

- The tenancy must be Secure, Introductory tenants do not qualify.
- The improvement work must have started on or after 1st April 1994.
- Proof of the Council's written consent for approval for the work to be carried out must be provided.
- Tenants carrying out a transfer or a mutual exchange are eligible at the time of transfer or exchange.
- Sole tenants or one of both joint tenants are eligible
- Tenants who have succeeded to the tenancy on the death of the tenant may be eligible provided the other eligibility criteria can be satisfied.
- Tenants who were assigned the tenancy by an order of the court order from the tenant who originally carried out the improvement may be eligible provided the other eligibility criteria are satisfied.

Compensation will not be paid in the following circumstances:

- The compensation payable is less than £50
- The tenancy has ended as the result of eviction
- The tenancy has ended due to the occupants exercising the Right to Buy.
- The notional life of the improvement has expired.
- Compensation has already been paid for the improvement under S100 Housing Act 1985.

Qualifying Improvements

The table below represents items on which compensation is payable and the notional life of the improvement, which is the life expectancy of the improvement in years.

Qualifying 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
Lift insulation	20
Cavity wall insulation	20
Draft 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 decorations, such as painting and wallpapering, do not qualify for compensation. Any improvements not listed as a qualifying improvement above will not be considered for compensation.

Calculation of Compensation

The amount of compensation 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

Y = the number of completed years the improvement has been in place (part of a year rounded up to a complete year) starting on the date the improvement was completed and ending in the date the compensation is claimed.

N = the notional life of the improvement

Example of calculation:

If replacement windows were installed ten years ago costing £2000, this is calculated as follows:

Number of completed years (10) multiplied by the notional life (20) = 0.5

Then $1 - 0.5 = 0.5 \times £2000$ (original cost) = £1000 (compensation payable)

Deductions to the compensation payable amount 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 lesser than has specified in the notional life.
- Any monies owing to the Council by the tenant (e.g. rent arrears, service charge arrears, rechargeable repairs, court costs etc)

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.

Making a Claim for Compensation

Claims must be made not more than 28 days before or 14 days after the date on which a tenancy ends. A claim must be made by completing "Application Form - Request for Compensation for Improvement".

Once the completed form is received a visit will be made to the property by an Officer of the Council to inspect the improvement.

A letter will then be sent to the tenant 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 letter will also contain details of how to request a review if the claim has been declined. The review will follow the Council's official complaints procedure.