

Policy title	Compensation Policy
Directorate	Neighbourhoods and Wellbeing
Author	Customer Communications Manager
Date First Approved	July 2017
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Next Review Date	June 2022
Policy Scope/Users	All Service Areas and all Customers
Date of Equality Impact Assessment (EIA)	September 2019

1 Purpose and Scope

This policy sets out how MSV manages compensation requests from Tenants, Leaseholders and Shared Owners (the Customer). It includes people living in General Needs homes, Supported accommodation, Sheltered Schemes and Commercial Units.

It ensures we comply with all statutory and regulatory compensation obligations. In exceptional circumstances it may be appropriate to compensate members of the Public with whom MSV has no contractual obligation. However, this will be on an exception basis and approved by the Head of Customer Services

The policy clarifies the circumstances in which we will consider financial compensation where we have failed to follow our published policies or there have been unreasonable delays against our service standards.

Financial compensation will normally be paid only in the event of customers suffering actual financial losses. We will ensure value for money principles in applying the most cost effective outcome both for the customer and MSV.

The Housing Ombudsman confirms that there are two types of compensation:

- Payments that MSV is legally obliged to make, and
- Discretionary compensation which is payment MSV chooses to make

[Home - Housing Ombudsman](#)

It is important to remember that compensation is not a punishment or the same as 'damages' that a court might award.

In terms of overarching principles, we support a transparent and consistent approach when dealing with compensation.

We take into account particular vulnerabilities of customers.

This policy applies to all areas of the business and to all customers. It should be read in conjunction with our complaints policy and procedure.

Definitions

- **Compensation** – a financial payment to make amends or to recognise inconvenience caused as a result of a service failure.
- **Goodwill gestures** – a discretionary financial or other gesture given to recognise a shortcoming in the way we have delivered our service.

2. Policy

2.1 Conditions for claim and award

- Claims must be substantiated with appropriate proofs of purchase or other evidence of value and evidence of loss.
- All payments are made without prejudice (without detriment to any existing right or claim).
- MSV will not pay compensation for items that should be covered by home contents insurance. It is the responsibility of each customer to ensure adequate home contents insurance.
- If damage to contents is found to be directly caused by MSV negligence, this may be compensated for regardless of whether customer has contents insurance.
- Claims must be made within 90 days of the incident being claimed for.
- In making a payment, MSV reserves the right to clear any debt owed by the customer, including gross rent arrears, recharges, former tenant debts, court costs and any other reasonable expense from any proposed payment. This means that any compensation will be paid into the rent account to reduce or eliminate the debt. If the amount of compensation exceeds the level of arrears, the additional amount can be paid directly to the customer. Cash payments are not made.
- Calculation of amounts due, if not determined by statute, will be based on a fair assessment of the costs incurred. Our service standards for new build properties differ in the first 12 months after they are built and occupied because the original builder is responsible for repairs and defects. This is also the case for products under warranty or guarantee.
- MSV will always obtain written agreement from the customer before organising the payment. This agreement should confirm that the offer is made without prejudice and that the customer accepts the amount of compensation awarded, as full and final settlement of their claim & their complaint.
- Compensation will be paid within 28 days of the claim with details of how the final figure was calculated.
- If customers are dissatisfied with the settlement, they have a right to appeal. The appeal will be considered by a Director whose decision is then final.
- Levels of compensation and trends will be reported to the Executive Team as part of the monthly complaints reporting.

2.2 Qualifying Circumstances for compensation payments

2.2.1 Statutory and regulatory compensation

- a) Home Loss - payments may be made to customers who have lived in their property for a minimum of 12 months and are required to move

home permanently as a result of redevelopment or demolition of their home.

- b) Disturbance - payments may be made to people who are required to move to another property temporarily or to people who have lived at a property less than 12 months and are required to move home permanently. This payment is for reasonable moving costs.
- c) Improvements - if the tenancy is ending and tenant has completed improvements to the property after 1 April 1994 tenant may be entitled to compensation for those improvements. Claims must be submitted at least 28 days before the tenancy ends. This does not apply to fixed-term tenancies. Note that Tenancy Agreements states that permission is needed from MSV to carry out any improvements and if permission is not requested we will not award compensation. See Appendix 2
- d) Right to Repair – this scheme is regulation for Local Authorities and MSV **may** operate to cover specific repairs, known as 'qualifying repairs' which cost less than £250 and should be done within a set time limit. If we do not carry them out within that time the tenant may be entitled to compensation. MSV will advise tenants if the repair is a 'qualifying repair'.
- e) Payment for damage to the property/belongings - it is usually MSV responsibility to insure the building and a customer's responsibility to insure the contents of their home. MSV has comprehensive insurance in place for all our properties and also public liability insurance. Any claim against either of these policies will be forwarded to our insurer (see 2.2.4 below).

2.2.2 Discretionary compensation

It is important that Customers are compensated fairly where MSV has failed to deliver to the standards expected, and that we spend our funds appropriately. If we are clearly responsible for a service failure we can make a discretionary payment up to £500 This includes cases of inconvenience, hardship, distress or a 'making good' payment. These payments are made subject to supporting evidence such as a receipt for costs incurred. Any award will take into account wear and tear and compensation will not be made on a new for old basis.

Discretionary compensation may be offered in the following circumstances:

- Failure by a member of MSV to keep a prearranged and confirmed appointment.
- Failure to attend to repairs within published or advised target times. MSV will contact customers to advise if going to be late

- Loss of facilities - where a Customer loses facilities for which they are paying rent or a service charge, it is reasonable we consider recompense depending on the service. If for example, gardening or window cleaning is not being carried out then this should be reflected in the reconciliation of the accounts. Customers should only be charged for the services completed.
- Loss or damage to personal property – MSV has a responsibility for the actions of its staff and contractors who are employed as their agent. If any damage occurs whilst staff or a contractor is undertaking work on their behalf, MSV should ensure that it is made good. Either the customer should be directly compensated or the contractor required to make good the damage.
- Service delivery - in cases where MSV has failed to provide a service or it has not been delivered to the level expected as set out in service standards, it may be necessary to pay compensation.

MSV staff should be alert to situations where compensation might be payable as detailed in this policy and other associated policies, e.g. the complaints policy and work towards resolving the situation promptly without the need for the customer to make a claim. We will not rely on customers to advise us that they want to make a claim for compensation for us to act effectively. In many instances an apology may be what is required in addition to resolving the outstanding issue, for our customers to be assured that their issue has been taken on board and resolved satisfactorily. However, any claims made by our customers will be considered fairly.

Goodwill gestures - MSV Managers are empowered to make discretionary goodwill gestures such as a bunch of flowers or a small payment in respect of special hardship where we are not at fault. Payments in these circumstances are not an admission of liability but are designed as an apology and to restore good relations – even if compensation is not being claimed. The value must be no more than £100 and must be approved by the relevant Head of Service.

Housing Ombudsman determinations – this type of compensation is only awarded when the Housing Ombudsman has found that there has been maladministration. The amount depends on the circumstances of the case and is usually for time and trouble bringing a complaint or for distress and inconvenience experienced by the complainant.

2.2.3 Compensation will not be paid if any of the following applies

- MSV acted reasonably and complied with its statutory and contractual liabilities.

- When the loss or damage has been caused by the customer or a member of their family or visitor.
- When contractors cannot gain access to a customer's home to carry out a repair.
- When unforeseen works are required and the customer has been kept informed. Evidence of the contact with customer must be available.
- When the loss/damage is caused by another customer or neighbouring occupier (e.g. a leaking washing machine).
- When the customer has not reported the loss or damage within 3 months of incurring the loss or damage and has not retained damaged items claimed for inspection.
- The loss or damage occurred as a result of an alteration or improvement to the property or its facilities, carried out by the customer without the permission of MSV or completed to the required standard.
- The loss or damage has occurred from the act or negligence of a contractor or other third party not acting on behalf of MSV.
- Damage arising from a criminal act.
- Damage arising from the work of the emergency services.
- Damage arising from events that could not be foreseen or predicted (flood, storm, fire, civil unrest etc.).
- Noise or disturbance caused by building work.
- Cost of contacting us, unless it can be shown that repeated contact was necessary to register an enquiry that had not been registered previously. Repeat calls about a repair already reported would also not qualify for compensation.
- MSV is not responsible for the insurance of Customer's contents or personal belongings including bikes, cars or other vehicles parked on MSV land. Customers are expected to have all relevant personal insurance cover in place.
- Customer loss of earnings.

2.2.4 Potential Insurance claims

In all cases it should first be considered whether an insurance claim is appropriate. Any claims should be referred to initially to the Head of Finance to establish whether an insurance claim may be appropriate. This could be the case if:

- The claim is for a large sum.
- It is likely that there may be a future claim.
- The loss has resulted in MSV failing to act reasonably or acting negligently.
- The loss has been caused by a defect for failure to carry out a repair.
- Where an insurance claim is being made, no indication should be given either verbally or in writing that MSV accepts any liability, and any compensation cannot be considered until any claim has been settled/refused.

3. Responsibility and implementation

The Executive Director- Customers is responsible for ensuring that the MSV approach to compensation is appropriate and any trends are acted on in conjunction with the Head of Customer Services who will maintain oversight in this area..

All claims of compensation are actioned by the appropriate manager of the service area.

Heads of Customer Service will be responsible for the implementation of this policy.

4. Monitoring, Review and Evaluation

Performance relating to this policy will detail compensation payments for each service area and the associated service improvements to prevent repeat failures.

Compensation amount will be monitored through the Complaints policy and reported to Customers & Communities Committee every quarter..

The policy will be reviewed every three years, or in line with changes made to associated policies such as the complaints policy.

5. Equality

We support a transparent and consistent approach when dealing with compensation. MSV will ensure that this policy is applied fairly to all our Customers. We 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 Statement. Decisions to offer or refuse discretionary compensation will be based on facts alone.

MSV will take into account the particular vulnerabilities of customers when assessing claims and any award that is determined.

An Equality Impact Assessment (EIA) has been carried out on this policy and Customers have been consulted with as part of the review process.

6. Legislation and associated Policies

Equality Act 2010

Landlord and Tenant Act 1985

Data Protection Act 1998 – Breaches pre May 2018
Data Protection Act 2018 [UK]
General Data Protection Regulations 2018 [EU]
Housing Act 2004
Homes (Fitness for Human Habitation) Act 2018
Complaints Policy 2020
Equality and Diversity Policy Statement
Repairs Policy

Appendix 1 - Guidance for considering amount of compensation to offer

In the following situations (see 2.2.1) amount of compensation is predetermined.

- ✓ Right to Repair
- ✓ Home Loss and Disturbance payments

Repair related compensation

Where it is confirmed that an appointment we arranged between the customer and MSV has been missed through no fault of the customer, MSV will compensate **£30 for a missed appointment**. Staff are expected to update customer if they are running late or early. In cases where an appointment is missed, MSV would only compensate if we failed to let customer know for example that a staff member could not attend due to sickness absence.

This is in line with the customer responsibility to pay **£25.00 & VAT**, when MSV has a 'no access' to attend an appointment.

We will not award compensation for defects in new build properties, however compensation may be awarded in cases where the customer experiences service failure in the rectification of defects.

The loss of service charge facilities will be reimbursed through service charges. If there is a service failure made by MSV in dealing with the repair of the facility it may be possible to make a compensation payment. This will be down to particular circumstances and decisions will be made on a case by case basis.

MSV has a commitment to attend to emergencies within 24 hours. It may be that when we first attend within 24 hours it is to assess and not fix, if e.g. our vans do not stock the necessary parts. In the case of heating loss we may need to leave approved heaters until the repair is complete.

When dealing with vulnerable customers where loss of heating and hot water is of particular concern, MSV will aim to attend as soon as is possible within that 24 hour period but cannot guarantee.

With emergency appointments, if we do not attend within the 24 hour period, but it's found that the repair was not actually an emergency, compensation would not be applicable and the job would be altered to reflect the actual priority..

When the failure to carry out repairs results in the loss or severe limitation of use of rooms or services for unreasonable periods, compensation based on the rent may be made in addition to any other compensation payable.

Compensation for the loss of a room or facility only applies when Customer has not been temporarily decanted by MSV.

If customer pays us rent, the following calculations will be used when there has been a loss of rooms or facilities due to maintenance or repair. If Customers do not pay rent a standard £30 payment will be made.

Rooms or service lost	Compensation due
Living room (after 10 working days)	20% weekly net rent
Bedroom (if used, and after 10 working days)	20% weekly net rent
Kitchen (after 72 hours)	20% weekly net rent
Bathroom (after 72 hours)	20% weekly net rent
Loss of heating (after the first 48 hours during October to March only)	10% weekly net rent
Loss of hot water (after the first 48 hours)	10% weekly net rent
No sanitary provision of any kind (after 24 hours), no supply of cold water either from a tank or rising main, no habitable rooms (after the first 72 hours)	100% weekly net rent
Total loss of electricity supply (after 72 hours)	100% weekly rent

MSV would not pay compensation for the loss of a room during improvement works even if those works went beyond the timescales in the policy. Only if the timescale was unreasonable due to the poor performance of the contractor would MSV pay compensation.

Key communal facilities

When lifts, entry phones or communal lighting is out of order for more than 28 days in two months, MSV will offer £25.00 & VAT

Other claims for compensation are at the discretion of MSV and the assessment should be based on reasonableness.

Any staff member dealing with a formal or informal complaint may at any stage decide compensation is appropriate. This may be a payment or reduction in charge. This Compensation Policy should be consulted before any offer is made to the customer.

Financial authorisation limits are outlined below.

Where a reasonable resolution exceeds the limit of the person dealing with the matter they are responsible for seeking authorisation from a higher level to resolve.

Authorisation of discretionary compensation payments must follow the limits set below:

- ✓ Manager dealing with resolution of complaint and claim – up to £250
 - Instead of standard £25 & VAT for a missed appointment
 - Flowers
- ✓ Head of Service - up to £500
- ✓ Director – up to £3000
- ✓ Chief Executive between £3000 - £10,000
- ✓ Board & Committee – over £10,000

Appendix 2 Compensation for Improvements

Customers may be entitled to claim compensation for certain improvements they have made to their home at the end of their tenancy. Claims must be submitted at least 28 days before their tenancy ends. To claim compensation tenants must have fully complied with the following conditions:

- Obtained 3 quotes for the improvement and MSV agreed with the price and choice of contractor
- Our written permission was requested and obtained
- All building regulations and planning permission consents were obtained (if applicable) and fully complied with
- The improvement was post inspected by MSV and was to an acceptable standard

The amount of compensation will depend on the cost of the improvement and the quality, condition and age of the improvement. Customers can claim compensation for the cost of materials and employed labour but not for removable appliances, decoration or their own labour. The amount payable will be to a maximum of £3000 for any one improvement but claims cannot be submitted for improvements that are £100 or less in value. The amount of compensation payable is calculated taking into account depreciation of the improvement using the formula $C \times (1 - Y/N)$ where

C = cost of improvement work minus any grant or other funding

N = notional life of the improvement

Y = number of years starting on the date on which the improvement was completed and ending on the tenancy end date (part of a year shall be counted as a year)

Improvements that can be claimed for and for their notional lives are:

Type of improvement	Improvement must be no older than
Install bath or shower	12 years
Install wash basin	12 years
Install wc	12 years
Fit kitchen sink	10 years
Fit kitchen units	10 years
Fit work surfaces for food preparation	10 years
Install space or water heating	12 years
Fit thermostatic radiator valves	7 years
Insulation of pipes, water tank or cylinder	10 years
Loft or cavity wall insulation	20 years
Draft proofing of external doors & windows	8 years
Double glazing or other external window replacement or secondary glazing	20 years
Rewiring or the provision of power and lighting or other electrical fittings (including smoke detectors)	15 years
Any object which improves security of the property but excluding burglar alarms	10 years

MSV may make adjustments after the calculation by making an offer above or below the cost minus depreciation to reflect certain factors including if the deterioration in the quality of the improvement is greater than provided for its notional life or if the quality is considered to be significantly high. In cases where a customer installs a measure that does not have a notional life defined above we may be willing to consider compensation and will make an estimate of its notional life based on any product information available at that time.

Appendix 3 List of qualifying repairs

Where there is an immediate danger to the health and safety of someone in the property, MSV will aim to respond as soon as possible within 24 hours.

Examples where we aim to respond within 24 hours.

- Total loss of power
- Total blockage of only toilet
- Insecure windows and doors – on ground floor
- Floods causing structural damage
- Dangerous structures

Examples of non emergency or appointable repairs.

- Leaks as opposed to floods
- Fire alarm or smoke detector failure
- Total loss or significant partial loss of heating and /or hot water (October 31 – May 1)
- Major sewerage blockage
- Lift failure

Routine repairs completed within 90 days

- Fencing repairs.
- Kitchen cupboard doors or drawer front
- Holes in internal doors.

Appendix 4 – Equality Impact Assessment (EIA)

Name of Policy: Compensation

Date of Assessment / Review: September 2019 Author: P Carmody

Who are the main stakeholders in relation to the function?	All service users and customers	
Who will be consulted and what types of consultation will be carried out?	Customers via Focus Group and remotely Leadership Team via email welcoming feedback	
Could the function have a differential impact on:	What evidence exists to support your analysis?	
Racial Groups	Yes	Some customers may have less understanding of the English language and so be unaware of the process.
Gender or gender reassignment	No	
Disabled people	No	Customers with severe disability may not have capacity to understand the process.
Age	No	
Sexuality	No	
Religion or belief	No	
Any other protected or vulnerable characteristic including marriage or civil partnerships, pregnancy or maternity?	No	
<p>If the answer is NO to <u>all</u> questions and no differential treatment has been found there is no requirement for a full Equality Impact Assessment. Please go back regularly and review the cycle.</p> <p>If the answer is YES to any of the questions please complete the rest of the form.</p>		
In what areas could the differential identified be considered to have an adverse impact in this function and what solutions will be introduced to overcome these adverse impacts?	Ensure compensation leaflet has a strapline for customers who need information in a different language. Ensure management agents support providers are aware of compensation procedure. Availability of language line and translation service to assist customers meet language needs,	
In what areas could the differential identified be considered a positive impact in this function and what strategies will be introduced to safeguard and spread these positive impacts?		
Which Action Plans have these solutions/strategies been transferred into?	Equality and Diversity Strategy Action Plan (MHG) / equivalent for SV until we agree a MSV equality action plan	

Ratified by: Committee/ Board / Delegated Approval

Date: