



Mansfield
District Council

Mansfield District Council

Housing

Discretionary Compensation Policy

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CONTENTS

1. Scope and Purpose
2. How compensation is managed
3. Exclusions and exemptions
4. Types of compensation
5. Non-financial remedies
6. Receiving compensation and making a complaint
7. Appeals / reviews
8. Monitoring

1. SCOPE AND PURPOSE

- 1.1. Mansfield District Council (MDC) is committed to consistently providing a high quality service to all customers, although we recognise there may be times when services do not always meet the Council's high standards and customers are inconvenienced.
- 1.2. MDC is a member of the Housing Ombudsman Scheme and as such, it has introduced this policy as part of its commitment to compliance with the Housing Ombudsman's Complaint Handling Code for member landlords.
- 1.3. Where a complaint is justified, an apology may be sufficient to correct any inconvenience caused. However, the MDC recognises that where there is evidence that a complainant may have suffered loss or injustice, other remedial action may also need to be considered, including financial compensation.
- 1.4. This policy sets out the circumstances in which MDC will consider an award of Compensation and use of its power to make discretionary payments, in its capacity as a residential landlord.
- 1.5. This policy does not apply in circumstances where MDC is a commercial landlord, or to circumstances involving other non-housing/non-residential land owned or controlled by the Council.
- 1.6. This policy applies to:
 - Council Tenants (where the issues relate to housing).
 - Leaseholders where MDC is Landlord (including shared owners).
 - Individuals who live close to, or are affected by, a property we own or manage in our capacity as residential landlord.
 - Individuals who have approached MDC as homeless, or who are registering a housing need
- 1.7. This list is not exhaustive and at the sole discretion of MDC, we may choose to apply this policy in any other circumstances relating to Housing.

2.0 HOW COMPENSATION IS MANAGED

- 2.1 MDC applies the following principles when managing claims under this policy:
 - a) MDC and the contractors acting on our behalf, aim to provide a good quality service to all our customers. When we fail to meet these standards and commitments, we will take reasonable action to put this right as quickly as possible.
 - b) In the majority of cases where MDC identifies a fault or failing, an apology, alongside rectification of the issue which caused the complaint to be made, will be entirely sufficient. However, there may be some

cases where MDC considers it appropriate to offer compensation in addition. Any consideration to compensation will be undertaken in accordance with the Housing Ombudsman Remedy Guidance (2022) [Guidance on remedies \(housing-ombudsman.org.uk\)](https://www.housing-ombudsman.org.uk/Guidance-on-remedies)

- c) MDC may consider practical action to provide all or part of a reasonable solution to the service failure as well, or instead, of any other remedy.
- d) MDC and the contractors working on our behalf, will deploy a set of agreed service standards and try to address issues as soon as possible to prevent complaints
- e) When considering what is reasonable and proportionate, we will take into consideration factors such as, at what point we knew about a situation and whether we acted in line with our policies, as well as whether anyone else, including the complainant, may have contributed towards the issue or delay.
- f) Residents should always make a claim on their own contents insurance where there has been damage to their belongings. If the tenant's insurers believe that we are responsible, they can submit a claim to our insurers by contacting us for their details.
- g) MDC recommends that all tenants take out contents insurance – advice is provided at the outset of the tenancy and is also available on MDC's website

2.2 In assessing potential remedies, due consideration will be given to the guidance set out within the Housing Ombudsman's Complaint Handling Code guidance on remedies.

3 EXCLUSIONS AND EXEMPTIONS

3.1 This policy is not intended to be used to duplicate or enhance payments or claims, which exist separately. Accordingly, this policy will not apply in the following circumstances:

- (a) Where there is a legal claim, or where someone has threatened or may make a legal claim for housing disrepair.
- (b) Where there is a legal claim, or where someone has threatened or may make a legal claim for injury, loss or damage, which may be on the basis of insurance, or otherwise.
- (c) As an appeal process or to request a different outcome, for any of the matters referred to at (a) or (b).
- (f) Loss or damage to possessions where there is evidence that this is as a result of a deliberate act, or the failure to take reasonable actions to remedy an issue, except where the loss or damage is directly attributable to the actions of the Council or a contractor(s) acting on the Council's behalf.

- (g) Mandatory compensation claims
 - (h) Where MDC has acted appropriately to resolve an issue but external factors beyond the Council's control (for example; severe weather, inability to gain access to the property, or other issues not within MDC's control) have delayed or prevented the issue from being resolved in a more timely manner.
 - (i) Where tenants have not reported issues to MDC promptly, or at all, or where the tenant is responsible for the loss or delay of a service.
- 3.2 Each case will be considered on its merits, in line with MDC's policies and the guidance from the Ombudsman, and MDC may choose, at its sole discretion, to consider a remedy under this policy even where these exclusions apply.
- 3.3 Any decision to use this policy, and any decision made under this policy, will strictly not be an admission of liability or concession on behalf of MDC, in relation to any claim or legal proceedings.
- 3.4 The existence of this policy does not limit or restrict the right of any person to issue legal proceedings, if they consider they have a claim. However, MDC may decline to offer compensation under this policy, if it considers such sum may be duplicative of any alleged loss or damage claimed, or potentially recoverable under any other process.
- 3.5 This policy is designed to work alongside MDC's Complaints policy, relating solely to housing issues, to resolve complaints fairly and consistently. This policy has been written in line with the Ombudsmen's' dispute resolution principles and expanded to reflect MDC's general approach to dealing with reports of dissatisfaction:

4 TYPES OF COMPENSATION

- 4.1 There are two types of compensation payment:
- 1. Mandatory (statutory and contractual)
 - 2. Discretionary payments (for time and trouble/distress and inconvenience).
- 4.2 It is important that tenants or those interacting with housing services are compensated fairly where there is a failure to deliver to the standards expected, and that funds are spent appropriately.
- 4.3 This policy does not govern decisions relating to any form of mandatory compensation including:
- **Disturbance Payments**- are statutory payments under the Housing Act 1985 (Part II, Section 26) the Council has discretion to give financial assistance towards tenants' removal expenses.
 - **Home loss payments** - a statutory payment made to tenants or owner-occupiers who have lived in their property for a minimum of

12 months and are required to move home permanently because of redevelopment or demolition of their home. Payment is only payable where a displacement (move) is compulsory.

- **Compensation for Improvement payment** - is for Secure Council tenants who are approaching the end of their tenancy for previously approved 'qualifying improvements' they have made to the home. The compensation is only paid for specific types of improvements and can only be claimed at the end of the tenancy. Flexible tenants do not have a statutory right to make improvements or receive compensation for improvements made.
- **Right to Repair** - is a statutory compensation scheme which enables residents to have repairs listed in the legislation which cost no more than £250 completed quickly. The repairs included in the scheme are likely to affect the health, safety, or wellbeing of residents in addition to ensuring repairs are completed quickly, the scheme sets out compensation for delays where qualifying repairs have not been carried out within the prescribed timescale.

Discretionary Compensation

- 4.4 Discretionary compensation payments may be made to recognise the inconvenience caused by the service failure, and to show that MDC is committed to making amends and to restore good relations. It should be noted however that payment of compensation is not an admission of liability. MDC has no legal obligation to make this type of payment but has chosen to do so to compensate residents for any service failure.
- 4.5 Discretionary compensation is made on a case-by-case basis, generally with an amount not exceeding £600, except when recommendations by the relevant Ombudsman might indicate that this is necessary. Each case will be assessed on its own merit against the Housing Ombudsman's Remedy Guidance. There will be an approvals process (see Appendix 1) where payments in excess of £250 are required.
- 4.6 Examples of situations where discretionary compensation payments may be made include:
- Failure or delay providing a service, for example completing a repair;
 - Failure to meet target response times;
 - Not following MDC policies or procedures;
 - Poor complaint handling.

5. NON-FINANCIAL REMEDIES

5.1 MDC will always consider offering non-financial remedies in addition to, or instead of, financial awards if appropriate. These could include:

- The actions needed to put things right, such as carrying out a repair.
- Acknowledging when things have gone wrong.
- Providing a full response to explain why the service fell below the expected level.
- Apologising.
- Taking swift action if there has been a delay.
- Offering an additional service which would not usually be given, for example decorating.
- Inspecting work done and arranging remedial action.

5.2 In addition, MDC may:

- Review a policy or process where there is evidence of a flaw or gap (informing the tenant that this will be done).
- Offer staff guidance or training if there is evidence of failure (informing the tenant that this will be done).
- Take appropriate action against an employee or contractor.

6 RECEIVING COMPENSATION AND MAKING A COMPLAINT

6.1 Residents are actively encouraged to give feedback. If a service has not been delivered and residents are dissatisfied, MDC has a Complaints Policy which sets out the ways in which residents can make a complaint.

6.2 Whilst we strongly encourage customers to submit their complaint online at www.mansfield.gov.uk/council-councillors-democracy/complaints-1 so that issues can be handled by the relevant service area quickly. Customers can also make a complaint:

- In writing
- By telephone – 01632 463463
- By email – mdc@mansfield.gov.uk
- In person
- Through a representative or advocate (see section 4 of the policy)

6.2 Any person to whom this policy applies (or a representative acting on their behalf) may request that compensation is considered at any time throughout the complaints process.

6.3 The Head of Housing, Performance and / or a relevant Senior Manager with delegation to do so will assess all requests around compensation over £250 to make sure that requests are managed in a consistent way and are considered on a case-by-case basis on their own individual merit and delivered with the principles of the Housing Ombudsman remedies guidance in mind.

7 APPEALS / REVIEWS

- 7.1 Where MDC makes an offer following a claim for compensation, the customer will be invited to indicate their acceptance of the offer made in writing. The customer's right to request a review of the offer made will be confirmed in the decision letter.
- 7.2 If a customer requests for the offer to be reviewed, this will be considered by an alternative decision maker, in line with MDC's Complaints Policy. The outcome of this review will constitute the final internal decision; the decision letter will confirm the customer's rights to seek assistance via the relevant Ombudsman.
- 7.3 Where an offer of compensation is made as part of MDC's offered resolution to a Stage 1 complaint, the customer will have the right to request a review of the decision made or of the compensation offered; this will be confirmed in MDC's decision letter.
- 7.4 If a customer requests a review of the decision made or the compensation offered as a result of a Stage 1 complaint, this will be considered by a different officer under MDC's Stage 2 process, as confirmed in MDC's Complaints Policy. The outcome of this review will constitute the final internal decision; the decision letter will confirm the customer's rights to seek assistance via the relevant Ombudsman.

8 MONITORING AND REVIEW

- 8.1 All offers of compensation will be reported quarterly alongside the reporting of complaints performance to the Corporate Leadership Team (CLT) / Overview and Scrutiny Committee (OSC) (Communities).
- 8.2 Information on this policy and how we calculate compensation will be made available on Mansfield District Council's website.
- 8.3 This policy and its procedures will be reviewed in 1 years after the effective date, and thereafter once every five years. However, any changes in operations, legislation, regulations and guidelines may require reviews ahead of schedule.