

## Decant Policy

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## 1.Purpose

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The Decant Policy is to be used when regenerating or redeveloping the Council's housing stock. It aims to meet the needs of the Council and its residents when it is necessary to move households in order to facilitate development works.

The Decant Policy aims to provide housing regeneration schemes with a clear approach to manage decant proceedings in an efficient and fair manner. It provides an outline process by which to deliver vacant possession of properties.

It is intended as a good practice standard for all social housing providers in the Royal Borough, and it is hoped Housing Associations will look to use this document when carrying out regeneration in the Royal Borough.

### ***Housing in Kensington and Chelsea***

1.1 Kensington and Chelsea is one of the most desirable places to live in the UK. This popularity comes at a price and the average price of a property in the Royal Borough is nearly five times that of the national average and over two and a half times the London average.

1.2 The local market housing conditions of high demand coupled with high prices and a limited supply of available land, means there is a lack of new supply. There is a low turnover within existing social housing stock, and high incidence of over-crowding and non-dependent adults living with their parents.

1.3 The Council is strongly committed to provide a mix of housing that caters for a variety of needs. Our Core Strategy, *Building on Success*, aims to achieve a 'diversity of housing' through delivering 'affordable and market housing, residential amenity and estate renewal'. These are the Planning policies from the Core Strategy that apply here.

### ***Policy CO6***

*Our strategic objective to have a diversity of housing is that at a local level it will cater for a variety of housing needs of Borough residents, and is built for adaptability and to a high quality.*

***Building on Success, the Royal Borough's Core Strategy (2010 - 2020)***

### ***Policy CH 4 Estate Renewal***

*The Council will require that where the redevelopment of social rented housing*

*estates is proposed, a compelling case is demonstrated that the long term benefits outweigh the considerable uncertainty and disruption such projects will cause.*

***Building on Success, the Royal Borough's Core Strategy (2010 - 2020)*<sup>1</sup>**

1.4 The Core Strategy defines, but does not limit, areas for regeneration to :  
'areas are designated in the London Plan (2008), one of which covers parts of North Kensington and the north of Hammersmith. They are the wards in greatest socio-economic need, defined on the basis of the 20 per cent most deprived wards in the London Index'<sup>2</sup>.

1.5 In our Community Strategy, we set out our goals for homes and housing in the Royal Borough as follows:

***Homes and Housing : Our Goal***

*A borough with outstanding quality of housing, across all tenures, which is sustainable and enables a diverse population to live as part of the same community.*

*To achieve this we will:*

- *improve the quality of housing across all tenures;*
- *increase the type and number of homes to build mixed, balanced and sustainable communities;*
- *provide a range of housing and support options to prevent homelessness and promote mobility;*
- *ensure continuous improvement in the delivery and performance of housing and support services; and improve the energy efficiency of dwellings and encourage sustainable development.*

***Community Strategy 2008 - 2018***

1.6 In addition to our planning and spatial strategies, the Council's *Cabinet Business Plan: Better City Life*, states that we "want the Royal Borough to be a place where people of all ages and backgrounds wish to live and from where they can contribute to London's success". We will achieve this by:

- ***'Really Good Services'***  
*Setting high standards for ourselves and for others. Using public money wisely.*

<sup>1</sup> A copy of our Core Strategy can be found using the following link:  
<http://www.rbkc.gov.uk/planningandconservation/planningpolicy/corestrategy.aspx>

<sup>2</sup> Royal Borough of Kensington and Chelsea, Core Strategy, p474

- ***‘Responding to Residents’***  
*Listening to and leading the Royal Borough’s diverse population.*
- ***‘Renewing the Legacy’***  
*Investing in the public buildings and places that make the Royal Borough special*

***Cabinet Business Plan 2010 -2013***

1.7 Renewing the legacy of the Royal Borough’s housing is part of the way of achieving these objectives and maintaining the vibrant and diverse communities of the Royal Borough. The findings of the recent Stock Options Review show that to increase the investment in housing and therefore to renew the housing legacy, regeneration should be considered along with other recommendations.

1.8 The Decant Policy is intended to be applied borough-wide to ensure equity and good practice, and should be used for all regeneration schemes in the Royal Borough, whilst allowing sufficient flexibility to be adapted to the needs and circumstances of each individual regeneration scheme.

1.9 It is consistent with the principles and objectives of the Council as set out in:

- The Core Strategy (LDF)
- The Community Strategy
- The Allocations Policy
- The Draft Housing Strategy

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## **2 Policy Statement**

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- 2.1. 'Decanting' is a term used to explain the process where residents are compelled to move from their homes because either their landlord or an authority with compulsory purchase powers has redevelopment plans for their home.
- 2.2. The Decant Policy is to be used where necessary to enable housing regeneration to occur within the Royal Borough. It will not be used in cases of emergency repairs, where existing procedures for decanting for repair purposes will be used.
- 2.3. Responsibility for housing decanted tenants, leaseholders and freeholders lies with the landlord of the affected residents, though this does not prevent re-housing into another landlords' property where this meets residents' needs and is agreed by them. This document details the Council's policy to decanting affected residents to which the Council is the landlord.
- 2.4. It outlines a managed decanting process, which offers alternative accommodation (where appropriate and in line with the Allocations Policy) as well as compensating for expenses incurred, disturbance and inconvenience, in line with legal requirements and existing best practice.
- 2.5. Reference is made to the Allocations Policy where applicable, and these references are subject to review in line with changes made to the Allocation Policy.
- 2.6. The policy will ensure no person will receive less favourable treatment on the grounds of race, gender, religion or belief, age, sexual orientation, physical disability, appearance, economic status or marital status.
- 2.7. This policy will be reviewed regularly, to reflect changes in the levels of payments and to ensure it is consistent with the Allocations Policy.

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### **3 Legal Framework**

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3.1. This policy covers all tenants, leaseholders, freeholders and other residents on sites where regeneration of occupied housing is proposed.

3.2. The list of legislation below is to be consulted when carrying out decanting and using this policy:

- Homelessness Act 2002
- Housing Act 1985
- Housing Act 1996
- Housing Act 2004
- Housing and Regeneration Act 2008
- Human Rights Act 1998
- Land Compensation Act 1973
- Planning and Compulsory Purchase Act 2004
- Town and Country Planning Act 1990

3.3. The legislation covers both local housing authority options and powers, as well as resident rights and powers.

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#### **4. The Decant Programme**

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- 4.1. This Decant Policy should be used once a Cabinet decision has been made to progress with a regeneration project. Consultation and discussion with residents will have happened before this decision is taken.
- 4.2. The Decant Programme will provide the means to manage the decant process for residents affected by the proposed regeneration scheme, ensuring suitable priority and time is given for this process and all legal requirements are fulfilled.
- 4.3. The Decant Programme is split into the different tenures, with a section applicable to eligible tenants and a section for freeholders and leaseholders.

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## **5. The Decant Programme - tenants**

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5.1 The Decant Programme will be used to either move tenants on a temporary basis whilst permanent accommodation is built (resulting in a temporary decant), or to move directly to permanent accommodation from their current home.

- A *permanent decant* is when a resident is moved out of their property to another property where they will remain permanently.
- A *temporary decant* is when a resident is moved to a property temporarily until a permanent property is available.

### **Needs Survey**

5.2 A full Housing Needs Survey of the affected regeneration site should be completed to understand the specific requirements of the proposed regeneration and to ensure a suitable decant programme is followed. This should be completed as soon as possible after the Cabinet decision to progress with the regeneration.

5.3 The Housing Needs Survey results will need to be updated during the course of the regeneration programme until the decanting occurs, and should be carried out as frequently as determined necessary for each regeneration scheme.

### **Qualifications and exclusions**

5.4 In line with the legislation and existing best practice, the following people will be eligible for assistance and possible re-housing:

- Tenants living in the affected property 12 months prior to the date of agreement for the regeneration scheme or who are identified as eligible through a Housing Needs Survey
- Family members (including children) living at the property with the tenant 12 months prior to the date of agreement for the regeneration scheme or who are identified as eligible through a Housing Needs Survey
- Partners and spouses living at the property with the tenant 12 months prior to the date of agreement for the regeneration scheme or who are identified as eligible through a Housing Needs Survey

5.5 The Council will not re-house unauthorised occupants, sub-tenants, lodgers, licensees and other non-secure occupants.

### **Assessment Criteria**

5.6 Assistance and re-housing will only apply to tenants and authorised household members identified as part of the Housing Needs Survey.

5.7 Authorised tenants are entitled to Home Loss Payment and Disturbance Payments, as detailed in Section 5.



5.8 The size of a property allocated will depend upon the number and ages of the individuals who are deemed to be authorised occupants at the time of the move, and the size of their current property.

5.9 In line with the current Allocations Policy, the size of accommodation needed is determined using the table below. The current Allocations Policy defines an adult living as part of a household as a person aged 21 years or over. However, for the purposes of the Decant Policy, the definition of an adult is someone aged 18 years.

	1 person	Couple	2 adults not living as a couple	One adult or a couple plus:					
				1 child or other adult	2 children of the same sex aged under 18	2 children of opposite sexes aged under 10	2 children of opposite sexes, one or both aged over 10	3 children	4 or more children
<b>Studio flat</b>	X	X							
<b>One bed</b>	X	X							
<b>Two bed</b>			X	X	X	X			
<b>Three bed</b>							X	X	X
<b>Four or more bedrooms</b>									X

5.10 Points will be awarded in line with the current Allocations Policy, which awards points for the redevelopment of homes (as detailed below). In line with the pointing system used, local residency points and any additional need points will be awarded.

### **3.5 Redevelopment of homes**

These points will be awarded to Council and social landlord tenants who have to leave their existing accommodation permanently because it is being demolished for redevelopment or significantly refurbished, and where the Council has an agreed decant programme in operation. The terms of any moves will be set out in a separate offer to affected tenants and leaseholders. Decanting tenants will be supported to find alternative accommodation, and where necessary direct offers will be made (see Section 4.10).

**Housing Allocation Policy 2010**

- 5.11 Extra bedrooms may be allocated in line with the current Allocations Policy and where the Housing Needs Survey identifies a need for an additional bedroom.
- 5.12 Single person households occupying a one bedroom flat at the time of decanting will be eligible for a one bedroom flat under the Decant Policy. It will not be expected they move into a studio flat.
- 5.13 Households under-occupying by more than one bedroom at the time of allocation may be offered a new property one single bedroom greater than the Allocation Scheme would normally allow. Households moving to a smaller property will be offered additional support and assistance, which might include flooring and decoration for example, in line with current policy as set out in the Allocations Policy and the procedures used by the Housing Opportunities Team.
- 5.14 Medical need will be assessed in line with the current Allocations Policy (as detailed in Part III of Section 6 below), for all residents who have identified a medical need on the Housing Needs Survey. Where a previous medical assessment has been carried out, the Council reserve the right to seek a new medical assessment.
- 5.15 Expectant mothers who at time of their move live in a one bedroom property may be given a two bedroom property (subject to proof of pregnancy and an Estimated Delivery Date).
- 5.16 Non-dependent Adults**  
There is a duty to re-house non-dependent adults, which include the adult children of households, if they fall within the eligibility criteria detailed in the section 5.4 (pg 8).
- 5.17 Non-dependent adults may be offered the option, which they can choose to take, to move into a separate property which meets their housing need.
- 5.18 It is recommended that non-dependent adults must leave the property first to avoid the necessity of legal action to remove them later in the process. If a non-dependent adult remains in the affected property when other members of the household have been re-housed, an agreement must be made to ensure vacant possession of the property when needed.
- 5.19 Hidden Households**  
'Hidden households' are separate households which exist within a known household, for example an adult child of the tenant who lives at the tenant's property with their own spouse or partner, and child/ children.
- 5.20 Any hidden households identified through the Housing Needs Survey may be offered the opportunity to move into a separate property which will meet their housing needs.
- 5.21 The size of property allocated to an identified hidden household will be decided through the current Allocations Policy.

#### **5.22 Service tenancies**

All residents with service tenancies, for example resident caretakers, will be offered re-housing on the same terms as their current arrangements.

### **Re-housing tenants**

#### **5.23 Offers of accommodation**

Offers of accommodation will be made following the Housing Needs Survey and any subsequent medical assessment(s), to ensure accommodation meets the requirements of the households.

5.24 Extra assistance will be offered in line with the Disturbance Payments and any specific packages put together as part of each specific regeneration scheme.

5.25 Qualifying households will be given a 'bidding window' of up to 12 months prior to the need to move, in which they can bid for suitable alternative accommodation through the Council's choice-based lettings scheme. This timeframe may alter with each regeneration scheme, and any changes to this timeframe must be publicised.

5.26 Once the bidding window has closed, suitable accommodation will be offered directly to the qualifying households.

5.27 After the refusal of a direct offer, possession proceedings will be followed to ensure vacant possession of the property within a timely fashion to permit the regeneration scheme to proceed.

### **Type of Tenancy**

5.28 Affected tenants will be given new tenancies when they move which are for the same term as the tenancy held before decanting. This means if an affected tenant held a lifetime tenancy, the new tenancy resulting from decanting will be a lifetime tenancy, unless it is a temporary decant, and in this case the final move to a permanent property will be a lifetime tenancy.

### **Local Lettings Plans**

5.29 The Housing Allocations Policy allows local lettings and scheme specific plans to be made. A local lettings plan or scheme specific plan may be set up when the Decant Policy is used, in order to ensure that decanted households have the opportunity to remain in their community.

## **5. Local lettings and scheme specific plans**

Local lettings plans will be used exceptionally, where the application of the general allocations policy is not adequate to meet the Borough's requirements in an area. A local lettings plan identifies particular needs of a small area within the Borough, or of a new housing scheme or redevelopment, and seeks to use the allocation of housing to ensure that the community will be as sustainable as possible.

Local lettings may be used to:

- Enable new schemes to be allocated to a mixture of tenants in order to develop a sustainable community
- Enable an existing community to become more sustainable, for example, by encouraging more working families to move into the area
- Enable sensitive lettings on schemes which have had high levels of anti-social behaviour
- Enable households to return to an area they left for redevelopment to take place.

This list is not exhaustive and local lettings plans may be agreed in other circumstances where there is evidence that the local community would benefit from such a plan and there is no significant adverse impact on other communities. The equalities impact of local lettings schemes will be considered before they are agreed. All local lettings and scheme specific plans will have clear criteria, which are openly published. When a property which is being advertised under the Home Connections scheme is subject to a local lettings plan, this will be stated clearly on the advert. Any local lettings plan will be agreed for a limited time, after which it will be reviewed, and lettings will revert to the main policy if possible.

## **Housing Allocation Policy 2010**

### **Gaining possession**

5.30 Once the Council has come to a decision on a regeneration scheme, it will offer accommodation in line with the above section and the current Allocations Policy.

5.31 Legal action to gain possession of tenanted properties will be a last resort.

5.32 Where a resident refuses to move, or has refused the offer of other suitable alternative accommodation, the Council has the legal right to gain possession of the property for decanting and redevelopment purposes.

5.33 Where the Council is the landlord, a Senior Delegated Officer will decide whether or not the offer of alternative accommodation was suitable according to the Council and therefore start possession proceedings.

- 5.34 The two grounds for possession relevant to regeneration are Grounds 10 and 10A (following approval from the Secretary of State) of Schedule 2 of the Housing Act 1985.

**Ground 10:**

*"The Landlord intends, within a reasonable time of obtaining possession of the dwelling-house:*

*a) to demolish or reconstruct the building or part of the building comprising the dwelling-house, or*

*b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house,*

*and cannot reasonably do so without obtaining possession of the dwelling-house."*

**Ground 10A**

*"The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the Housing Corporation in accordance with Part V of this schedule and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme" or*

*"Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of that dwelling-house."*

- 5.35 Notices will be served on these grounds to ensure vacant possession of the properties. The Court has discretion on whether to order possession, and needs to be satisfied that suitable alternative accommodation is available at the date of the hearing.

**5.36 Tenancies in breach**

. Proceedings against tenants in breach must be pursued separately to the Decant Programme, up until the end of the tenancy.

**5.37 Suspension of Right to Buy**

The "Right to Buy" of any affected council housing stock will be suspended from the date an initial demolition notice is served on the tenants concerned as defined in the Housing Act 1985 Section 138 A-C and Schedule 5 paragraph 13 – 16.

**Appeals process**

- 5.38 Tenants can appeal against the size of property allocated to them. This will follow the procedure laid out in the Allocations Policy.

- 5.39 For decanting programmes the bidding window period specified for a regeneration scheme will supersede any other bidding period specified in the Allocations Policy.

5.40 Further guidance on appeals can be found in Compulsory Purchase Guidance Booklets 1 and 4.

### **Financial Implications**

5.41 For residential properties two forms of payment will be payable to tenants under this policy:

- Home Loss payment
- Disturbance payment

### **Home Loss Payments**

5.42 Home Loss Payments are statutory payments, which are paid to freeholders, leaseholders and tenants following a compulsory purchase order or displacement by housing orders, and are not to pay for the cost of moving, as detailed in Sections 29-33 of Land Compensation Act 1973.

5.43 Home Loss payments are subject to maximum and minimum thresholds. Tenants receive a flat rate of £4,700 (subject to review), which is equal to the minimum payment to owner-occupiers. To qualify, the property must be the claimant's only or main residence for a year prior to the date of displacement.

5.44 Given the thresholds are subject to change annually by the Secretary of State, the levels of payment will be reviewed each time this policy is used.

### **Home Loss Payment Procedure**

5.45 A suitable payment procedure will be agreed for each regeneration scheme using the Decant Policy. It will typically include the following:

- i. Payments will be made directly to the resident.
- ii. Claims can be made for up to 6 years after the offer of accommodation, and must be paid within 3 months of receiving the claim. Under the Land Compensation Act 1973, there is a right of appeal to the Lands Tribunal.
- iii. Tenants may be entitled to an advance payment of at least part of the total payment.
- iv. Arrears can be offset against any Home Loss payment, and the decision to do so will be decided for each individual regeneration scheme. This includes rent arrears for tenants.

### **Disturbance Payments**

5.46 Disturbance Payments are made to financially compensate the displaced tenant, freeholder or leaseholder for expenses associated with the need to move.

5.47 Disturbance Payments will be made under the Land Compensation Act 1973.

5.48 In cases where it is necessary to move tenants and leaseholders twice, Disturbance Payments may need to be paid twice.

5.49 Disturbance Payments will be paid to tenants to cover reasonable costs associated with moving, and the list of items for which payment is considered reasonable under the Land Compensation Act 1973 is shown below. Given that this policy is borough-wide, specific regeneration schemes may alter or extend the list below, in accordance with the housing needs survey carried out and the nature of the regeneration proposed.

- Removal costs from the current home to the new home, which will be paid directly to the Council's approved removal firm or where the tenant obtains two estimates which have been approved by the Council prior to the move. For vulnerable residents, this might include additional support, such as furniture packing and unpacking.
- Redirection of mail for each authorised surname living at the address.
- Telephone and internet disconnection and reconnection, including additional lines.
- Disconnection of any television aerials or satellite dishes connected either to an existing television or that allows the proper operation of television equipment. Reconnection will only apply with the express approval of the landlord at the new address. New homes may have television aerials and systems installed as part of the specification.
- Washing machine, cooker, dishwasher and plumbed fridge disconnection and reconnections to be carried out by the removal firm's operatives (who must be suitably qualified to the appropriate trade standards).
- Curtain and Carpets options: It is generally expected that relocating residents will refit existing carpets wherever possible, and the costs of this will be covered by the Disturbance Payment. However, where this is not possible, the cost of new carpets to an equivalent standard will be covered through the Disturbance Payment. The existing carpet will be assessed and a quote obtained based on this. Any additional rooms in the new home will be carpeted, but the cost will be deducted from the Home Loss Payment.
- Special locks and alarm refitting if these are currently fitted at the old property. They must be dismantled and refitted by a qualified locksmith or recognised Alarm Company and all locks and alarms must meet the relevant British standard for security. Front door and window grilles would not be covered.
- Home improvements that have been notified and approved by the Council, less the cost of depreciation.

- Dismantling and re-fitting of fitted resident owned furniture (such as kitchen units and wardrobes).
- Any extra costs of new school uniform if moved to a different area, which necessitates a change of school (supported by letters from the respective schools).
- Where the costs of adaptations in the old home were previously met by the tenant, the Council will reimburse the tenant subject to relevant receipts being available.
- Reimbursements for wage or salary loss on the day of the removal, provided loss of earnings is certified by the employer, for up to 2 members of the households.
- Other reasonable costs incurred by the tenant if approved in writing by the Council prior to the cost being incurred, for example travel to viewings, replacement of sheds and outside furniture which cannot be dismantled, etc.

### **Disturbance Payment Procedure**

5.50 A suitable payment procedure will be agreed by each regeneration scheme using the Decant Policy. It should include the following:

- i. Payments will be made directly to the resident.
- ii. The tenant or resident leaseholder or freeholder will have to complete a Claim for Disturbance Payment form for any legitimate expenses they incur in relation to moving home, enclosing receipts or proof of expenses.

### **Appeals**

5.51 The Council has a three-stage complaints process, which can be used in relation to appeals against the application of this policy.



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## **6. The Decant Programme - Leaseholders**

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- 6.1. This Decant Policy should be used once a Cabinet decision has been made to progress with a regeneration project. Consultation and discussion with residents will have happened before this decision is taken.

### **Assessment, qualifications and exclusions**

- 6.2. All leaseholders and freeholders will be entitled to receive the full market value of their property. The Council will enter into negotiations with leaseholders and freeholders to seek a voluntary arrangement to buy their home, which will normally include valuations by both the Council and the leaseholder or freeholder.
- 6.3. Leaseholders and freeholders will receive full market value plus any Home Loss Payment and Disturbance Payment to which they may be entitled (as detailed below), to allow them to buy a new property on the open market.

### **Re-housing Leaseholders and Freeholders**

- 6.4. Leaseholders who have been resident for 12 months prior to the date of eligibility and who do not own any other leasehold or freehold interests may qualify for assistance from the Council to take up other housing options. The options available to leaseholders will be decided at each regeneration scheme due to the site specific nature of this issue.
- 6.5. If assisted into another leasehold property, leaseholders and freeholders will be offered accommodation with the same number of bedrooms as they currently occupy.
- 6.6. The Council will not re-house unauthorised occupants, sub-tenants, lodgers, licensees and other non-secure occupants.

### **Gaining possession**

- 6.7. A voluntary agreement will be sought to acquire the property, with vacant possession. However if this cannot be obtained, a Compulsory Purchase Order (CPO) can be applied for under Section 226 of the Town and Country Planning Act 1990, detailed below:

***Compulsory acquisition of land for development and other planning purposes***

*(1) A local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area which—*

*(a) is suitable for and required in order to secure the carrying out of development, redevelopment or improvement; or*

*(b) is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.*

6.8. The Council will use informal negotiations with landowners in parallel with formal compulsory purchase order proceedings to increase the likelihood of acquiring the land. Given the length of time that CPO applications can take, for practical purposes the application for CPOs will take place at the same time as informal negotiations.

6.9. All regeneration schemes which propose a CPO must be justified on a number of grounds (including financial viability and the public interest) and consideration should be given to the rights of residents given under the Human Rights Act 1998.

**Offers of accommodation**

6.10. The duty to re-house leaseholders or freeholders only applies where 'suitable alternative residential accommodation on reasonable terms' is not available to the residential occupier (as detailed in Section 39 of the Land Compensation Act 1973). In most circumstances it is anticipated this will be achieved on the open market, through the purchasing of a new property.

6.11. In cases where there is a delay between the leaseholder receiving payment and being in a position to move into another property, an Assured Shorthold Tenancy may be provided for a fixed period of 6 months.

6.12. There is a possibility that existing leaseholders will not be able to purchase homes on the open market. Options may be offered to leaseholders and freeholders affected by regeneration to assist them into a new property and these options will be decided and consulted upon for each regeneration scheme which the Decant Policy uses. Options could include Shared Ownership and Retained Equity models.

6.13. Non-resident leaseholders and freeholders will not be offered options other than the full market value plus Home Loss Payments and Disturbance Payments, where applicable.

**Financial implications**

6.14. For residential properties, two forms of payment will be paid to tenants, leaseholders and freeholders under this policy:

- Home Loss payment
- Disturbance payment

### **Home Loss Payments**

6.15. Home Loss Payments are statutory payments, which are paid to freeholders, leaseholders and tenants following a compulsory purchase order or displacement by housing orders, and are not to pay for the cost of moving, as detailed in Sections 29 -33 of Land Compensation Act 1973.

6.16. Home Loss payments are subject to maximum and minimum thresholds. Home Loss Payments equate to 10 per cent of the Market Value of the property (with a minimum payment of £4,700 and a maximum payment of £47,000(subject to review)). To qualify, the property must be the claimant's only or main residence for a year prior to date of displacement.

6.17. Given the thresholds are subject to change annually by the Secretary of State, the levels of payment will be reviewed each time this policy is used.

### **Home Loss Payment Procedure**

6.18. A suitable payment procedure will be agreed for each regeneration scheme using the Decant Policy. It will typically include the following:

- i. Payments will be made directly to the resident.
- ii. Claims can be made for up to 6 years after the offer of accommodation, and must be paid within 3 months of receiving the claim. Under the Land Compensation Act 1973, there is a right of appeal to the Lands Tribunal.
- iii. Leaseholders and freeholders are often entitled to an advance payment of at least part of the total payment.
- iv. Arrears can be offset against any Home Loss payment, and the decision to do so will be decided for each individual regeneration scheme. This includes service charge or major works arrears for leaseholders.

### **Disturbance Payments**

6.19. Disturbance Payments are made to financially compensate the displaced freeholder or leaseholder for expenses associated with the need to move.

6.20. Disturbance Payments will be made under Land Compensation Act 1973.

6.21. In cases where it is necessary to move leaseholders twice, Disturbance Payments may need to be paid twice.

6.22. Emergency payments may be made available to those who will need this payment to secure a new home.

6.23. In addition to the agreed components of the Disturbance Payment for tenants, leaseholders and freeholders are also entitled to claim any additional costs associated with selling their current property and purchasing a new one. The payment of these additional costs is dependent on the option taken by each individual leaseholder and freeholder in regards to re-housing, and can include:

- Solicitor's costs
- Conveyancing costs
- Surveyor's fees
- Stamp Duty Land Tax
- Land registry fees
- Local search fee
- Possible other associated costs with moving in addition to those offered as part of the Disturbance Payments for secure tenants.

#### **Disturbance Payment Procedure**

6.24. A suitable payment procedure will be agreed for each regeneration scheme using the Decant Policy. It will typically include the following:

- i. Payments will be made directly to the resident.
- ii. The resident leaseholder or freeholder will have to complete a Claim for Disturbance Payment form for any legitimate expenses they incur in relation to moving home, enclosing receipts or proof of expenses.

#### **Appeals**

6.25. The Council has a three-stage complaints process, which can be used in relation to appeals against the application of this policy.

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## **7. The Decant Programme – Additional Areas**

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### **Other residents**

#### **7.1. Private tenants of affected leaseholders and freeholders**

7.2. Private tenants may have a right to re-housing through homelessness legislation. In most circumstances it is anticipated that suitable alternative accommodation will be available on the open market. If a CPO is applied for, a notice will be served on the occupier and the owner.

#### **7.3. Non-authorised residents**

Non-authorised residents have no right to re-housing under the Decant Policy. This category includes sub-tenants, lodgers and licensees.

#### **7.4. Squatters**

The approach taken to squatters varies depending upon whether the Council has vacant possession of the property at the point when squatting is identified:

- Where the Council has control of a property or estate, it will use its powers as detailed in the relevant legislation to remove squatters.
- Where squatters are found in tenanted properties, the current procedure will be used to ensure vacant possession of the property.
- Squatters in leasehold properties will be the responsibility of the leaseholder. The Council will alert the leaseholder to the problem and if necessary action will be taken against the leaseholder. Any costs incurred by the Council in removing squatters from leasehold properties may be deducted from any compensation to be paid (Home Loss Payments).

### **Empty Properties**

7.5. If there is a time delay of more than 6 months between affected tenants moving out of an area and works beginning, the accommodation may be used for temporary accommodation.

### **Rights of Way**

7.6. Care must be taken to identify any possible Public or private Rights of Way around the regeneration site. This should include land that may not be part of the demolition, but from which Rights of Way lead to the area subject to regeneration. This can include footpaths to access points, as well as general footpaths. Consideration will need to be given if footpaths may have become Public Rights of Way through continued public use.

7.7. If any Rights of Way exist in a proposed development area, these must be suspended at the same time as the Council applies for CPOs. Stopping Up Orders will be applied for if Public Rights of Way have been identified. Care must be taken to ensure the Royal Borough's Planning and Borough Development Department is aware of any suspended Rights of Way.

### **Non-residential properties**

7.8. Non-residential properties affected by a decant programme may have rights under the Land Compensation Act 1973. A full package will be offered at the time of CPO being applied for, and where required in law this will include appropriate advice, assistance and compensation.

### **Right to return**

7.9. The Council will seek to negotiate a Right to Return for as many affected eligible residents as possible. Right to Return means the right to return to the same area where the regeneration has taken place once the new properties have been built or redevelopment has taken place. This cannot be guaranteed and will depend on the particular circumstances of each individual regeneration scheme using this policy.

### **Practical help**

7.10. Practical help may be offered to affected residents in the following ways;

#### **General advice**

- General advice will be given, in conjunction with the Council's housing advice services, on
  - Housing options;
  - Accessing a solicitor, and getting information on their legal rights;
  - Benefits entitlement;
  - Completing forms and legal paperwork;
  - Assistance and advice on how to move home, the bidding process and viewings; and
  - The processes involved in compulsory (or voluntary) purchase.

#### **Assistance to view the property offered to them**

- Applicants may be offered the opportunity of assistance on an accompanied viewing of any property that they are offered.

#### **Housing benefit claims**

- If a tenant is in receipt of housing benefit, the Council will consider whether it can pay housing benefit on two homes at once, if there is a period of overlap in the moving process.

#### **Clearance of unwanted items**

- Assistance might be offered to help clear unwanted items from the properties, but the cost would be deducted from the Disturbance Payment.

#### **Support for vulnerable residents**

- If an eligible resident is an older person, or identified as being particularly vulnerable, for example due to physical, sensory or mental health impairment, and likely to have difficulty with the move, then extra support will be offered.

This may include packing and help on the day of the move, assistance to understand the bidding process and help with viewings.

- 7.11. The above is a recommended list which will be considered when regenerating an area, and each regeneration scheme has the flexibility to decide what practical support is offered to affected residents.

### **Empty properties on a regeneration site**

- 7.12. Following the decanting of secure tenants, the Council will consider placing households into units on the site on a temporary basis until the whole site has been vacated and works can begin.
- 7.13. It will be decided on a scheme by scheme basis at what stage the empty properties become the responsibility of the developer. This will include taking on the responsibility for the security of the site.
- 7.14. Before this agreed date, the Council will be responsible for its property. Action will be taken to ensure vacant possession and appropriate security measures will be applied to the empty properties and to the site as a whole.

### **Adaptations**

- 7.15. Any necessary adaptations to properties identified through the housing need assessment will be provided for decanted tenants, leaseholders and freeholders through the current Disability Facilities Grant procedure.
- 7.16. Existing adaptations will be taken into account and re-used where possible.
- 7.17. Priority will be given in line with our current Allocations Policy for affected residents with medical need.

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## **8. Consultation and Communication**

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### **8.1. Consultation when using the Decant Policy**

Consultation will take place as part of the regeneration scheme planning process, before a decision is taken to regenerate an area.

8.2. A separate consultation must take place in regards to decanting tenants, as detailed in Section 105 (consultation on matters of housing management) of the Housing Act 1985. It should take into account all resident's views, including eligible residents identified through the housing needs survey, leaseholders and freeholders.

8.3. Consultation processes should take into account existing resident groups and associations, as well as direct consultation with each household.

8.4. The consultation period will be in accordance with current legislation, and will be for a minimum of 28 days.

### **8.5. Site Specific Decant Plans**

The Decant Policy provides the base policy on which site specific plans must be developed. A site specific plan would need to finalise the following details, in consultation with residents:

- Local Lettings Plan (if applicable)
- Frequency of the Housing Needs Survey
- Length of the bidding window
- Options for leaseholders
- Right to Return
- Items to be covered by disturbance payments

### **8.6. Communications plan**

With every regeneration scheme and programme, it is necessary to produce a clear communication plan to ensure active resident awareness and involvement, in addition to statutory consultation.

### **8.7. Equal Opportunities**

8.8. An Equalities Impact Assessment, specific to the area of regeneration, will need to be completed when using the Decant Policy.