



DECANT POLICY

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1. INTRODUCTION

This policy covers situations where residents of Dartford Borough Council, will lose their home permanently due to the demolition, redevelopment, re-designation of, or similar works to, that dwelling. This is whether the action is due to planned work, or to an emergency situation. This policy does not apply to commercial or industrial property that may be affected by the decommissioning scheme.

This policy recognises the huge impact that moving home can have on people's lives, especially where the move is not through choice. The Policy therefore aims to provide a thorough understanding of the decant process; what levels of compensation might be offered, and the practical help that the Council can provide to any residents that might be affected.

We will deal with rehousing priorities using, for guidance, the criteria set out in the Council's Allocations Policy and in this policy, and try to meet people's needs and wishes on their rehousing as best we can. If it is possible to give tenants or residents the choice of returning to the site they had to move from, then they will be given that choice.

It is recognised that this policy may affect our performance on voids (empty properties). Whilst every effort will be made to limit this, it is recognised that the needs of people losing their home takes precedence and we may have to hold certain properties empty for longer than we otherwise would.

DEFINITIONS

"We", "us" or "our" as used in this policy, means Dartford Borough Council as the landlord or the freeholder of the property concerned.

"Tenant" as used in this policy, means a tenant of Dartford Borough Council, unless it specifically states otherwise.

All references in this policy to tenants (Council or private), residents, owner occupiers, leaseholders, and housing applicants, only applies to people who are having to move out of their home due to a decommissioning scheme, unless it specifically states otherwise. It is usually expected that this will be Council housing stock, or leasehold property that was purchased from the Council (usually under the "right to buy" scheme), for which the Council owns the freehold.

"Current legislation" means legislation current at the date of this policy.

"Kent Homechoice" means the choice-based lettings system currently used by Dartford Borough Council.

"In writing" includes the use of suitable alternative formats for people with a sensory, physical, or mental impairment(s).

2. CONSULTATION AND INFORMATION

TENANT AND RESIDENT CONSULTATION AND INVOLVEMENT

Tenant and resident consultation and involvement will fulfil any legislative requirements. In a non-emergency situation, this consultation will be completed before it is necessary for anyone to move out. Consultation that forms part of the process of granting planning permission for the scheme does not form part of this policy. For information on this please contact the Council's planning officers in the Development Control Team. Major decant projects (i.e. those involving more than four properties) will involve Local Borough Councillors who will be sent copies of letters consulting residents, and will be invited to any formal consultation meetings with residents. The outcome of the consultation will be reported back to the tenants and residents in an appropriate format, and without identifying comments made by individual respondents. Councillors will be advised through the Council's usual democratic processes.

Council tenants

We have an informal consultation with tenants and residents first, giving general information and to gauge general opinion. This consultation period will be for a minimum of 28 days unless exceptional circumstances have arisen. For Council tenants Part 5, section 105 of the Housing Act 1985 (as amended) covers "consultation on matters of housing management". This includes the decommissioning of Council housing stock.

This legislation requires a reasonable amount of time to consult with all Council tenants. We will also do this with residents who are not Council tenants. The formal s.105 consultation period will be in accordance with current legislation, and will be for a minimum of 28 days. These time periods are in addition to any formal periods of notice which have to be given. During this consultation period, tenants will be informed of the Council's proposals for the scheme, including the phasing of work to minimise disruption, and will be able to make their views known to the Council within this specified period. These representations shall be considered before the Council makes its final decision on this matter. If possession proceedings are being brought under ground 10A of the Housing Act 1985 (as amended), i.e. "The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State ...", we will consult with tenants as a pre-condition of obtaining approval of the scheme concerned. As part of this process we will serve written notice of the scheme on every affected tenant under Schedule 2, Part 5 of the Housing Act 1985 (as amended). The tenants then have a minimum 28 days consultation period. The Council must consider these representations before applying to the Secretary of State for approval of the scheme, and the Secretary of State must also consider the representations from the tenants before coming to a decision on the scheme.

Once the Council has come to a decision on the scheme, it will then come to a decision on the process to use to gain possession of the properties concerned. The first option will be to come to a voluntary agreement on this with the tenants concerned. If voluntary agreement does not prove possible,

then the Council has two options to use: the compulsory purchase of the tenants interests in the property (this is likely to be the option taken on most decommissioning schemes) or the gaining of possession orders in the County Court (under the Housing Act 1985, as amended)

Owners, leaseholders, and private tenants of residential properties

In general, this consultation will happen alongside that carried out with our tenants. This is even though we have no statutory obligation to consult these groups outside of the planning, or the compulsory purchase, processes.

PROVIDING INFORMATION

Any provision of information to tenants and residents will be done in line with legislative requirements. Any information provided to people living in the same block, scheme or street will be provided simultaneously, or almost so. In general, it is expected that an open meeting(s) for all residents, with carers, family members, or advocates as necessary, will be held. Information will also be provided in writing and, as required, in other accessible formats. Carers, family members or advocates can receive a copy of any correspondence, and information provided, with the formal consent of the resident concerned. Regarding major decant projects involving more than four properties Local Borough Councillors will be sent copies of letters and information on the scheme being sent to residents in general, and will be invited to any formal residents meetings.

It is expected that each decommissioning scheme, where people are required to move home, will have a designated decant officer who will support and advise tenants and residents throughout. This means from the time tenants and residents are first informed of the scheme, to the time they are settling in to their new home.

INFORMING OTHER AGENCIES

A list of all heads of affected households, and their addresses, will be sent to KCC Social services so that they can check if any of these households contain any of their clients.

TEMPORARY ACCOMMODATION

It may only be necessary to move tenants temporarily whilst works are being carried out. In this case alternative to decants must be considered:

- Making arrangements to stay with family or friends (for which the tenants will be compensated)
- Providing temporary accommodation such as Bed and Breakfast, caravans, hotels, guest houses
- Paying for tenants to go on holiday

Consideration must be given to the length of time the works are scheduled for. If the work will only take a few days to complete then it may be cheaper and simpler to consider the options above, however, if the work is estimated to take a few weeks then a more permanent offer of accommodation must be offered with a 'right to return'.

In this case, the move would be strictly temporary, with the tenant(s) moving back to their principal home as soon as the works have been completed and the home is available.

If the tenant fails to give up possession of the temporary accommodation Dartford Borough Council has a Ground for Possession available under Ground 8 of Schedule 2 to the Housing Act 1985.

3. LEGAL CONTEXT

NOTICE PERIOD

People will be given as long a period of notice of the need to move home that is possible. This period of notice will also be at least in line with legal requirements. For those with whom we can reach agreement, the period of notice can be agreed between the Council and the tenant or property owner. It will then be included in the documents used for this agreement. With Council tenants, where a voluntary agreement cannot be reached, the Council will decide either to pursue a compulsory purchase order or a possession order. Compulsory purchase is likely to be the option taken on most decommissioning schemes. For owners of property and private tenants, unless we have reached a voluntary agreement with them, we will pursue a compulsory purchase order. If we need to apply for a Possession Order for a Council tenant, then it is the court that will decide when the tenant will need to leave the property. Current legislation governing this is the Housing Act 1985 (as amended) - grounds 10 or 10A of Schedule 2.

If the Council decides to pursue compulsory purchase then we will comply with current legislation covering the use of Compulsory Purchase Orders under the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004). This legislation governs the length of notice to be given.

ACTION AND SANCTIONS THAT WILL APPLY IF A VOLUNTARY AGREEMENT IS NOT REACHED, OR IF A HOUSEHOLD REFUSES TO MOVE

It will be made clear to tenants and residents that the Council requires vacant possession of their homes or, in the case of private landlords, their residential property. The first option for the Council will be to try to come to a voluntary agreement on the arrangements for moving out with those concerned. If it is not possible to come to a voluntary agreement, the Council will take appropriate legal action to gain possession of the properties concerned.

THE “RIGHT TO BUY” OF ANY AFFECTED COUNCIL HOUSING STOCK

The Council has the right to halt the right to buy in certain circumstances. The decision whether to do this will be taken by the Strategic Director. We will do this in accordance with current legislation which allows for the following:

Initial demolition notice

Under current legislation, i.e. the Housing Act 2004, sections 182 and 183, the “right to buy” of any affected Council housing stock will be suspended from the date we serve an initial demolition notice on the Council tenant(s) concerned. It will stay suspended for as long as this notice remains in force. The suspension of any right to buy claim means, in law, that the Council cannot be required to complete the transaction.

Before this notice is served we will have decided exactly what properties are to be included in the scheme concerned. This notice is served where we intend to demolish the property concerned within 5 years. It will include the reasons, and the timescales, for the demolition.

Final demolition notice

The service of a final demolition notice, under current legislation, extinguishes the “right to buy” these properties completely. Any prospective “right to buy” purchases which are underway, but have not completed, will not now proceed. No new right to buy application on these properties will be accepted. In order to serve it we must have agreed to, or be entitled to, acquire all the affected properties. In effect this means the notice can only be served once plans for the scheme are well advanced. This notice is only served where demolition is expected within 2 years.

Right to buy expenses

The tenant may have a right to compensation for certain expenses already incurred in the right to buy process. We will pay these expenses where required to by current legislation, currently the Housing Act 2004. This compensation includes relevant legal fees, surveyors fees, and other disbursements which have already been paid. These will be paid back to the tenant.

4. FINDING A NEW HOME

WHO WE WILL REHOUSE UNDER THIS POLICY

This policy specifically relates to those who have to leave their home because it is being decommissioned, and who we have agreed to rehouse because of this. Other housing applicants are dealt with solely under the Council’s Allocations Policy. Everyone to be housed under this policy must provide adequate information for officers to decide what their housing needs and requirements are. It is expected that the usual way of providing this information would be to complete a housing application form. These housing needs and requirements will be determined by officers using for guidance the criteria set out in the Council’s Allocations Policy and this policy.

Everyone due to be housed under this policy must be registered on the Council’s Choice Based Lettings scheme.

This policy does not include unauthorised occupants or squatters, who are dealt with under separate Council policies.

Existing Council tenants

Under this policy we will rehouse any Council tenant who will be displaced by a scheme to decommission the housing stock they live in, with one exception. This guarantee does not apply to anyone who we have been awarded an outright possession order against, by a court, for a breach of their tenancy conditions. Any such household will not be rehoused under this policy.

Owners of residential property who live elsewhere

Owners who live elsewhere, for example because they rent out the affected property, will receive financial compensation in accordance with current legislation. As they do not live in the affected property as their only or principal home, they will not be offered alternative accommodation under this policy. Any concerns about whether or not an owner is living at a property as their only or principal home will be verified by relevant enquiries.

Owner-occupiers of residential property

It is not expected that we will have to rehouse many owner-occupiers under this policy. This is due to the advice they will receive to help them find an alternative property, the home loss compensation and disturbance payments they will receive, and the likely availability of low cost home ownership options. Any owner-occupier who applies for rehousing under this policy will need to be living at the property as their only or principal home at the time of the public notification of the Council's decision to take forward the regeneration project/scheme, and they are still there at the time of the rehousing. They will be considered on a case-by-case basis by the Housing Options and Advice Manager. Any concerns about whether or not an owner is living at a property as their only or principal home will be verified by relevant enquiries.

Applying for housing under this policy does not affect any general application to the housing list that an owner occupier may have made, as this will be dealt with in the usual way under the Council's Allocations Policy.

Private tenants of affected properties

Private tenants will be given advice and assistance by our housing advice service, if necessary, to find alternative privately rented accommodation. If they are within any categories or groups that we might have to assist under current homelessness legislation, then we will assess their application under that legislation.

For any private tenant who agrees to it, we will pass their details to our Housing Options and Advice team to allow for early prevention work with that household so they can avoid becoming homeless. It is however, still the responsibility of any private tenant concerned to make any formal application to the Council. If they do so make such an application, they will be assessed in the usual way, in accordance with homelessness legislation and government codes of guidance.

It will be identified early on in the process, whether there are any legal restrictions on the landlord being able to end a private tenancy (for example, notice periods required in a contract), as these may affect the decant process and timetable. A compulsory purchase order will, however, bring any such private tenancy agreements to an end.

This policy does not affect any general application to the housing register that the private tenant may have made, as this will be dealt with in the usual way under the Council's Allocations Policy it is the applicant's responsibility to advise the Council of any change in their circumstances, including a change of address. The decant officer can help them to do this.

APPLYING FOR HOUSING

Everyone due to be rehoused under this policy must provide adequate information for officers to decide what their housing needs and requirements are. It is expected that the usual way of providing this information would be to complete a housing application form. The decant officer will help people as necessary, to provide this rehousing information. The housing needs and requirements of those to be rehoused under this policy will be determined by officers using for guidance the criteria set out in the Council's Allocations Policy and in this policy. It is expected that these applications will be processed as a matter of urgency, and the applicants promptly advised of the outcome. Everyone to be housed under this policy must be registered on the Council's housing register.

If there is any question over a person's eligibility for a secure tenancy due to their immigration status, relevant details will be passed to the Council's solicitors to enable them to check this. Each decommissioning scheme, where people are required to move home, will have a dedicated decant officer who will give advice, and support people through this process as appropriate. It is expected that a higher level of support will be needed if designated accommodation for older people is affected.

WHEN WE WILL START TO REHOUSE AFFECTED HOUSEHOLDS

We will make every endeavour to rehouse tenants and residents within as short a time-span as possible. This is so that people are not left on the affected site for long once their fellow residents start to move out.

A decant timetable, or decant plan, will be set on an individual scheme basis so that all affected households, and all other involved parties, are aware of the deadlines involved. Whilst we will do what we can to rehouse people in this situation quickly, it will also be in the interests of tenants and residents to consider properties and areas that give a realistic chance of rehousing within the timescales allowed.

Property in the process of, or awaiting, being decommissioned, with people still living on the affected site, will be provided with appropriate security measures to keep tenants, residents, and the property itself as safe and secure as is reasonably possible.

THE LEVEL OF HOUSING PRIORITY TO BE GIVEN

All tenants and residents accepted under this policy will be placed in Band A3 as decant applicants in accordance with the Allocations Policy, under 'Allocations not covered by Part V1 of the Housing Act 1996'. Each application under this policy is to be approved by the Housing Options and Advice Manager. Priority is awarded to enable a move to take place in a planned way, but as quickly as possible, to facilitate the forthcoming decommissioning work.

Priority will be given on a short term basis for an initial four months. Any extension of this time-period will need to be approved by the Housing Manager above.

REDESIGNATING HOUSING

This section only applies where the housing scheme, block or property is being redesignated, e.g. from supported housing to general needs stock, and where people are not required to move home. It also applies to Council tenants only. The tenants concerned will be advised in writing of this provision. A record will also be kept by the Council of all tenants that this may apply to, so that their eligibility for this section of policy is clear even if they do not apply for it for two years.

If any affected Council tenants, within 2 years from the date the redesignation begins, wish to move to another property with the same designation their home used to have, e.g. to move back into supported housing, then they will be given priority as “decant” applicants in accordance with the Allocations Policy. Each application under this policy is to be approved by the appropriate Housing Manager.

PROPERTY SIZE AND ELIGIBILITY

People who are permanent members of affected households, including tenants and owner occupiers will be given priority as decant applicants in accordance with the Allocations Policy. This means that they will be well placed for making a successful bid for a property. However, people will only be taken into account for rehousing purposes, including assessing the size and type of property the household is eligible for, if they occupied the premises as their only or principal home at the time of the public notification of the Council’s decision to take forward the regeneration project/scheme and they are still there at the time of rehousing.

Households being rehoused under this policy will only be able to bid for a property of the size and type they are eligible for under the Allocations Policy. This is therefore not necessarily for a property of the same size and type they are currently living in

AREA CHOICE AND LOCATION

People accepted for rehousing under this policy, will be able to bid for another home using Kent Homechoice. The exceptions to this are if the numbers concerned are too large, or timescales too short, to enable rehousing through Kent Homechoice within the timescales required. In these cases, in any emergency situation, or where a person is unable to easily use Kent Homechoice given their particular circumstances, direct offers of accommodation will be made.

In this case they should have as much choice of area and location as possible, subject to their choices giving a realistic chance of rehousing within the timescales allowed. Under current legislation, if we have to apply for possession of the property under Grounds 10 or 10A of the Housing Act 1985 (as amended), we will be able to satisfy the court that there is a reasonable property (“suitable alternative accommodation”) for the household to move to before the possession order takes effect.

We will aim to ensure that one household on their own is not left in an otherwise empty block of flats. However we cannot do this if that household has not moved because they would not consider, or have refused, property that would have enabled them to have moved within a reasonable time period. If it is reasonably possible to give tenants or residents the choice of returning to the site they decanted from, then they will be given that choice. For example, if the new affordable housing on the site is of a suitable size and type for them. If there is a choice to return to the site, then this will be agreed with any involved social landlord at the earliest possible stage. This choice will be made available to people when they are advised of the timetable for the decommissioning, unless there are very exceptional circumstances for not doing so, for example an emergency situation.

In order that people may make an informed decision on whether to return to the site, they should be given the following information as far in advance as possible of their having to make that decision:

- What type and size of property they could expect to be offered
- Whether this property will be owned by the Council or an RSL
- If the new tenancy agreement will have different requirements from their current one, e.g. on car parking, where washing can be dried, any different clauses on rent arrears, etc.
- What the layout and appearance of the site will be
- What, if any, extra compensation, disturbance allowance or assistance with the move will they get if they move home twice, in order to return to the original site after being decanted.

APPLICANTS WHO WANT TO RETURN TO THE ORIGINAL SITE

There is no statutory right to return to a site that has been redeveloped, but we will offer this as an option to the original tenants whenever it is reasonably possible to do so.

EXTRA TIME ALLOWED TO MOVE

For disabled tenants, or disabled members of a tenant's household, if the new property does not need any adaptations work to enable the tenant to move in, three weeks is considered to be a suitable time period to allow for moving in, before rent becomes due. The Council will need to approve any time in addition to those three weeks.

If adaptations are needed to the new property before the tenant can move in, and this work will take longer than three weeks, the tenant is expected to move in as soon as those particular adaptations are finished, due to the extra time they have had to prepare for the move while waiting for the adaptations to be done.

To ensure consistency with the policy as applied to Council tenants waiting to move into adapted properties, the tenant will need to sign an undertaking to the Council agreeing to accept the property once the adaptations have been carried out.

ADAPTATIONS AND NEEDS ASSESSMENTS

Needs assessments will be done at the earliest possible stage, for all the affected tenants and residents due to move into another Council, or into a rented housing association property, to establish whether anyone will need adaptations to be made to their next home. The decision on what adaptations, if any, are needed is the responsibility of the Council, in consultation with a designated occupational therapist.

TYPES OF TENANCIES

People being rehoused will be advised of the type of tenancy they will be granted if they are to be rehoused into Council or housing association property, and what this means for them in practice. Tenancies will be granted in accordance with current legislation and any other policy that comes into force following any legislative changes. An existing secure Council tenant, moving to another Council tenancy, will be given another secure tenancy. If they move to a housing association property they will be given the equivalent assured tenancy or any other tenancy that the Housing Association introduces.

An existing introductory Council tenant, moving to another Council tenancy, will be granted another introductory tenancy for the remainder of their probationary period. If they move to a housing association property they may be granted an assured shorthold tenancy in accordance with the policy of that landlord. In this situation, provided there are no tenancy issues, it will convert to an assured tenancy at the end of their probationary period.

An existing demoted Council tenant will, if they transfer to another Council property, no longer be a demoted tenant. They will be granted an introductory tenancy of their new home, as immediately prior to their move they were no longer a secure tenant. The review date for this introductory tenancy will be set at the 12 month anniversary of the start of the new tenancy. If moving to a housing association, they may initially be given a shorthold assured tenancy in accordance with the policy of that landlord.

When rehousing demoted Council tenants the housing association will be advised that they were demoted as a sanction in response to their antisocial behaviour, and what that behaviour was. If an owner, or a private tenant, of an affected property, is being permanently rehoused into Council property they will be granted an introductory tenancy for the full 12 months probationary period. If they move into a housing association property instead, they may be granted a shorthold assured tenancy for a probationary period in accordance with the policy of that landlord. In this situation, provided there are no tenancy issues, it will convert to an assured (or other) tenancy at the end of their probationary period.

5. HOME OWNERSHIP OPTIONS

LOW COST HOME OWNERSHIP SCHEMES

Low cost home ownership schemes include shared ownership, shared equity, “homebuy”, and part buy/part rent schemes.

Where low cost home ownership is available on the original site then residents wishing to return there will be given information about it. Those who are eligible for the scheme(s) on the original site are to be given priority for the properties concerned. All residents affected by the decommissioning scheme will be given general information about low cost home ownership options as part of the information they will receive on their rehousing options.

HELP FOR OWNER OCCUPIERS

Consideration will be given to paying home loss compensation in advance in order to help the owner concerned to remain in home ownership. Advice and information will be given to owners about the low cost home ownership options available to them. They will be given individual (non-financial) support and assistance to pursue these options. Households who want to return to the original site will have first choice of available properties.

6. FINANCIAL MATTERS

PROPERTY PURCHASE PAYMENT

The first option for the Council will be to try to come to a voluntary agreement on the valuation and purchase of the property concerned. If it is not possible to come to a voluntary agreement, the Council will use the mechanisms provided by current legislation dealing with compulsory purchase.

The amount paid for the purchase of the property concerned will not affect the amount of home loss or disturbance allowance, or disturbance payments, paid to affected owner occupiers.

HOME LOSS COMPENSATION

Home loss compensation is a sum paid to a tenant or owner occupier to reflect and recognise the distress and discomfort of having to move out of their home. As such this is paid in addition to a disturbance allowance or payments. Home loss compensation is paid only once. Home loss compensation will be paid according to the relevant legislation. Currently, this is the Land Compensation Act 1973 and the Planning Compensation Act 1991. The processing of claims will also be dealt with in accordance with the Council’s financial regulations. Where the Council requires a tenant or owner occupier to move home to enable the decommissioning of Council property, it will in most cases pay home loss compensation. Trespassers and squatters will not be paid home loss compensation.

Claiming home loss compensation

A home loss payment must be claimed in writing or, for disabled people, in an equivalent format. It is expected that people will be given advice and assistance to make such an application, as it is a legal requirement. The

amount paid is laid down in law. The time limit for claiming home loss compensation is the statutory limitation of six years.

A home loss payment will be paid within three months of application, and provided the household has moved from the original property. Consideration may be given to paying home loss compensation in advance in cases of exceptional hardship, or in order to help an owner occupier to remain in home ownership.

If there is a dispute that cannot be settled by an appeal to the Council's property valuers, regarding entitlement to home loss compensation, the case will be heard in the county court.

Housing and Council Tax Benefit Claimants

National housing benefit regulations state that home loss compensation is counted as capital for housing and Council tax benefit purposes.

It is the legal responsibility of housing benefit and Council tax benefit claimants to advise the housing and Council tax benefits service as soon as they receive this increase to their capital. We will remind them of this legal duty when the payment is made.

In order to assist this process, a list of recipients of home loss compensation, paid due to the decommissioning of Council housing stock, will be disclosed to the housing and Council tax benefit service. This is because the money involved can affect a person's benefit entitlement, and it is therefore reasonable for this information to be shared in this way. The following sections concern how home loss compensation applies specifically to each tenure group.

Tenants of Dartford Borough Council

Currently, home loss compensation is paid as a lump sum. For a tenant it is £4700 (as of March 2010). It will be paid only once, and will be paid to the statutory tenant. Only one payment is made to joint tenants.

A tenant will qualify for home loss compensation if:

- ➔ They have occupied that accommodation as their only or main residence for a minimum period of one year

and

- ➔ They have to move out of the property permanently, either because of improvement or development works that we will be carrying out, or because their home is being demolished

or

- ➔ They have to move out temporarily to allow for the extensive re-modelling or re-designing of their home, and they will return to a dwelling that is wholly different in character to their original one. This means to a dwelling that has lost its original identity. For example, a tenant who moved out of a three bedroom dwelling and returned to one that had been re-modelled into a one bedroom dwelling.

Home loss compensation is subject to the tenant giving up their tenancy of the property to be decommissioned (i.e. subject to the tenant losing their home). As such it will only be payable once the tenant has handed in the keys of their old property to the Council, unless in exceptional circumstances. Before any home loss compensation is paid to a tenant, the Council will look to deducting any housing debts owed to the Council from this payment. The Council will not deduct any housing debts from any disturbance allowance or disturbance payments.

A housing debt is one which arises from our “tenant/landlord” relationship. Rent arrears, heating charge arrears, service charge arrears, supporting people sheltered charge, and unpaid maintenance recovery charges are housing debts. Council Tax debts are not housing debts, and so will not be deducted from this payment.

A tenant will not qualify for any home loss compensation payment if:

- They are living in the affected property on a temporary tenancy through homelessness, and have been living there as their only or main residence for less than a year.
- They are there on a decant move from another address, and have been living at the property concerned, as their only or main residence, for less than a year.
- They moved in after the decision to carry out the decommissioning work was formally made by the Council, and they were advised in writing of this decision.

Tenants who have not lived in the affected property long enough to qualify in law for home loss compensation, may receive an ex-gratia lump sum goodwill payment. The amount to be compensated will be at the Council’s discretion. This only applies if they are not in the group of tenants who do not qualify for a home loss compensation payment, as listed above. If a tenant is due to move out temporarily, and then return to the original site, the home loss compensation payment will only be paid once, in accordance with legislation. The tenant will be advised of this provision before they make the decision as to whether to return to the original site or not. Where the Council is redesignating its housing stock, and the tenant may choose to leave the property but does not have to, then home loss compensation will not be paid.

Owner occupiers of affected properties:

Home loss compensation is paid as a lump sum. The amount payable to the owner of a freehold, or of a lease with at least three years unexpired, is 10% of the market value of their interest in the property. The maximum amount payable is £47,000 (as of March 2010). This payment is paid to the owner, and only one payment is made to joint owners. It is paid once only. Owners who do not live in the affected property they own, for example if they rent it to tenants, will not receive home loss compensation. The sale (“disposal”) of a property by the owner in accordance with, or in advance of, a Compulsory Purchase Order (CPO), will be classed as an “exempt disposal”, and the Right

to Buy discount will not be due to be repaid; in accordance with sub-sections 155, 160, and 161 of the Housing Act 1985.

Private tenants of residential property

Private tenants who have lived at the property as their only or main home for a minimum period of one year will receive home loss compensation. This will be at the same level as that paid to Dartford Borough Council tenants (see above in this section). Any concerns about whether or not a tenant is living at a property as their only or principal home will be verified by relevant enquiries. The non-resident owner of the property concerned (the private tenant's landlord) will not receive home loss compensation.

DISTURBANCE ALLOWANCES AND PAYMENTS:

This is what is paid to a tenant or owner occupier for the reasonable financial costs incurred, and any losses sustained, in connection with having to move home. As such this is paid in addition to home loss compensation. Where the Council requires a tenant or owner occupier to move home to enable the decommissioning of Council property, it will in most cases pay for their disturbance. Disturbance allowances and payments will be paid in accordance with current legislation. Currently, this is under the Land Compensation Act 1973. Trespassers and squatters will not be paid any disturbance allowance or disturbance payments.

Under Part 3 section 37 a 'Disturbance Payment' must also be made to tenants and leaseholders, which should be equal to expenses 'needed to remove from the land.' If anyone in the household has disabled facilities then the disturbance payment should also cover costs of providing/refitting disabled facilities in the new property.

A disturbance allowance is a lump sum, calculated to cover eligible items, paid to those required to move home. Disturbance payments are individual payments made for each eligible item.

The Council will usually pay in the form of a lump sum disturbance allowance which will be calculated to cover eligible items.

In exceptional circumstances, for example a household with exceptional needs arising from a physical, sensory, or mental impairment, consideration will be given to paying for other exceptional items on an individual basis. In effect paying for disturbance covers the reasonable costs relating to household items that have to be moved out of, or disconnected from, the old property and moved into, or refitted or reconnected in, the next one. These items must belong to the household concerned.

Below are the items that the Council will usually cover under a Disturbance payment.

- ➔ Removal and re-fitting of fixtures and fittings, for example bathroom cabinets, grab rails, towel rails, curtain poles/rails, shelving etc as deemed appropriate
- ➔ Lifting and refitting of carpets where possible.
- ➔ Disconnection and reconnection of tenants own cooker, washing machine, dishwasher etc (where essential)

- Decorating rooms which need it, tenants will be consulted on paint colour choices
- Ensure the garden area is safe for children to play in (for example - free of hazardous building material)
- Assistance for vulnerable tenants with notifying utilities/council tax/service providers of change of address
- Provision of a shower in a decant property (where a physical disability or frailty necessitates)
- Assistance for vulnerable tenants with packing and unpacking of personal effects

The Council will meet the cost of the following where receipts / supporting evidence are provided for a short term move:

- A maximum contribution of £600 toward replacement and refitting of floor coverings
- Furniture storage costs if applicable.
- Redirection of mail
- Removal/storage of furniture
- Reconnection of landline telephone and transfer of existing number
- Reimbursement of a maximum of three days loss of earnings/annual leave for the purpose of moving from and returning to tenant's principal home.

The list is not exhaustive, and people may claim repayment of other reasonable costs associated with their personal removal. Disturbance payments (not the lump sum allowance) will only be made after a valid receipt, showing VAT where this is applicable, is received for each item claimed for.

In cases of financial hardship, the Council may consider paying a removals company direct. Where this happens the Council will then deduct the amount paid to the company, from the disturbance allowance payment due to be made to the person concerned.

The Council is entitled to refuse to pay all costs where it is felt that some of the claim is unreasonable. If there is a dispute over whether the Council will pay for an item or an amount claimed for, and if agreement on this cannot be reached, then either the person concerned or the Council can apply to the Lands Tribunal for a decision on this.

Housing and Council Tax Benefit Claimants

National housing benefit regulations state that disturbance payments and allowances are not counted as capital or income for housing and Council tax benefit purposes. The following sections detail how the payment of a disturbance allowance or disturbance payments applies specifically to each tenure group.

Tenants of Dartford Borough Council

Disturbance payments will be paid only once. Any housing debts owed to the Council by a tenant will not be deducted from their disturbance allowance or

payments, the Council will however look to deducting these debts from their home loss compensation.

Owner occupiers of affected properties

Owner occupiers will receive disturbance allowance, or disturbance payments, in line with that made to tenants of Dartford Borough Council (see above in this section).

Private tenants of residential property

Private tenants who have lived in the property as their only or main home for a minimum of one year will receive a disturbance allowance or disturbance payments. This will be at the same level, and for the same items, as that paid to tenants of Dartford Borough Council (see above in this section). They will not receive any payment for fixtures and fittings provided or owned by their landlord.

Any concerns about whether or not a tenant is living at a property as their only or principal home will be verified by relevant enquiries and any concerns about whether or not a tenant is living at a property as their only or principal home will be verified by relevant enquiries.

The non-resident owner of the property concerned (the tenant's landlord) will not receive any disturbance payments or allowance.

7. PRACTICAL HELP

PRACTICAL HELP FOR COUNCIL TENANTS TO MOVE HOME

This help is in addition to the financial help of the home loss compensation and the disturbance payments. Each scheme will have a dedicated decant officer who will support and advise Council tenants through this process as appropriate.

Assistance with using the Kent Homechoice system

In situations where the Kent Homechoice system is being used to find people another home, then appropriate help and advice will be offered to those needing it in order to use the system effectively.

Assistance to view the property offered to them

Every applicant will be given the opportunity of 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. The decant officer will assist people in applying for with this. However, whether this can be paid is dependent on housing benefit regulations, as laid down by the government, in force at that time.

Packing and removals

The reasonable expenses of this will be met by a disturbance payment. Before the move is due, tenants will be provided with information on:

- ➔ The process of choosing a removal company, and booking a move.
- ➔ What is the tenant's responsibility to do, to be ready for the removal; for example, to empty, defrost, and clean their fridge and freezer before the removal company is due to arrive.
- ➔ What a removals company will not want to move, or will not be insured to; for example pets, jewellery, and hazardous chemicals, materials or items.
- ➔ What the tenant is responsible for removing to their new property (those items the removals company will not move, or be insured to).

For those who need (and agree to) this help, the decant officer will assist with the booking of the removal. In cases of financial hardship, the Council may consider paying a removal company direct. Where this happens the Council will then deduct the amount paid to the company, from the disturbance allowance payment due to be made to the person concerned.

Clearance of unwanted items

The tenant is responsible for clearing their belongings from the property and for ensuring vacant possession of that property. Any items left behind will be cleared and disposed of. Tenants will not be able to reclaim them, or the value of them, once they have been left in the property. The cost of clearance and disposal will be charged to the tenant. Everyone is to be advised of this in advance of the moving date.

Care packages

The decant officer will work with social services and the PCT with the aim of ensuring that all elements of any care package remain intact during and after the move. This could include, for example, day centre care, community nurse visits, or "meals on wheels".

Advising organisations of your new address

The tenant will be advised that it is their responsibility to tell everyone, and every organisation, who needs to know their new address. This includes advising Council Tax, Housing Benefits and the Benefits Agency. Each decommissioning scheme will have a decant officer who will support and advise them through this process as appropriate. If the tenant has moved into accommodation designated for older people, then the scheme manager or warden will support and assist them with this task as required.

Empty property standards

For tenants having to leave their original home due to a decommissioning scheme, it is expected that any Council or RSL property they sign-up for will be in an immediately liveable-in condition as regards its cleanliness, state of repair, and the condition of any garden, which will be cleared and cut back if necessary, before the new tenant moves in.

With regard to decorating, the new tenant's disturbance allowance will include the reasonable costs of decorating their new home. However the incoming tenant will be offered the option of having those rooms decorated which do not meet the decorating standard for re-let properties. The cost of this will be deducted from their disturbance allowance, and they will sign to agree this before the work is started. The new tenant will be given a reasonable choice of wallpaper and colours. As long as the property is in a liveable-in condition, the actual decorating can be done soon after the tenant has moved in, if the timescales of the decant process make this necessary. This means that these properties will, in some respects, be let to a more generous standard than that used for an ordinary letting.

We may review this standard on a case-by-case basis, for example where an incoming tenant is keen to do their own decorating or, with Council permission, to do some home improvements. Priority will be given to ensuring these properties are quickly brought to this standard. The project manager (or similar) will negotiate with any housing association whose property is to be let to people displaced by the scheme, to ensure that it is also in an immediately liveable condition as regards cleanliness, state of repair, and condition of any garden, and that these particular incoming tenants are also offered the option for decorating (as for Council properties above).

Tenants own fixtures, fittings, household appliances, carpets and curtains

The tenant's cooker and other household appliances can be disconnected from the old address and reconnected at the new one, in most cases by the Council, providing that they are safe to reconnect again. This will be at a charge to the tenant. Anyone who disconnects and reconnects any cooker or other household appliance must be registered to do such work in accordance with the appropriate legislation. Disturbance allowances and payments will cover the reasonable replacement costs of carpet or laminate flooring that cannot be moved, subject to certain conditions.

With regard to fitting new carpets or laminate flooring at the new address, if the tenant is an older person, or would find it too difficult to organise due to a physical, sensory or mental impairment, then the Council or its contractor will undertake this, with the tenants consent. The cost will be deducted from any disturbance allowance or payment due. If the tenant is an older person, or has a physical, sensory or mental impairment and, because of this, is unable to take down and/or re-hang their curtains or window blinds, and has no-one to help them do this, then appropriate assistance will be given by the Council or its contractor. This can include:

- ➔ Altering curtain or blinds fixings to fit, if this is possible, but not altering the material of the curtains or blinds themselves.
- ➔ Fitting new curtains or blinds, with the tenants consent, and deducting the cost from any disturbance allowance or payment due.

Where this work is carried out by the Council, it will be done by an authorised member of staff or an approved contractor. Tenants taking their own fixtures

and fittings with them to their new address will need to obtain permission to re-install them from the Council or their new housing association landlord before any work is carried out.

Settling in

The decant officer (or equivalent) will visit on the day of the move to check all is running as smoothly as possible. Their contact details will be left with the tenant. They will also undertake an initial settling-in visit within five working days of the move. Provided the decant officer remains on site after the move, they will carry out a follow-up visit within fifteen working days of their initial settling-in visit. It is expected that they will visit several times in the following six months to check whether the household is settling-in. When they cease to be involved with the household they will pass their records on to the local housing office, or new housing association landlord concerned.

If the decant officer will not remain on site, then they will hand over their records to the housing officer who will carry out visits according to the above timetable.

More intensive support

If a tenant is an older person, or identified as being particularly vulnerable, for example due to a physical, sensory or mental impairment, and likely to have difficulty with the move because of this, then they are likely to need more support than the visits outlined in the paragraph on “Settling In”, above in this policy.

Those visits will still be carried out, but in addition, every attempt will be made to put together a tenancy support package to help them cope better with this situation, if the tenant agrees that they need this. This could, for example, could be carried out by a warden or scheme manager in a sheltered housing scheme, or by a floating support service. As part of this process, any agency already involved with the household will be contacted on their behalf, and asked to provide extra assistance to them. It is expected that this support be continued for particularly vulnerable or older people for up to six months after their move. It should only stop once the person is clearly coping with the move to their new home and its after-effects.

PRACTICAL HELP FOR OWNER OCCUPIERS TO MOVE HOME

We are not obliged by law to provide any practical assistance to owners to move home in this situation. However each decommissioning scheme, where people are required to move home, will have a decant officer who will support and advise any resident through this process, although they will not give financial or mortgage advice. The legal agreement with the Council for the purchase of their property will include the requirement to clear all belongings from the property. If the person is an older person, or identified as being particularly vulnerable, and likely to have difficulty with the move because of this, they will (with that person’s agreement) be referred to adult social services and/or an appropriate floating support service. General advice will be given for those who would like to receive it, in conjunction with the Council’s Housing teams, on:

- Housing options.
- Accessing a solicitor, and getting information on their legal rights.
- Benefits entitlement.
- Completing forms and legal paperwork.
- Checklist of what to do to move home.
- The processes involved in compulsory (or voluntary) purchase.
- Accessing financial advice, including ensuring they have somewhere safe to deposit any capital sums received.

8. MANAGING EMPTY PROPERTIES, GARAGES AND PARKING SPACES

MANAGING EMPTY PROPERTIES ON THE SITE

It will be decided on a scheme by scheme basis at what stage the empty properties become the responsibility of the developer or contractor carrying out the decommissioning scheme. This will include taking on the responsibility for the security of the site. Until then the Council will be responsible for its property. As soon as households begin to move from the affected site, appropriate security measures will be applied to the empty properties and to the site as a whole. This is to ensure that the safety of people remaining on the site, and those living nearby, is not compromised by the presence of the scheme.

GARAGES AND PARKING SPACES RENTED FROM THE COUNCIL BY AFFECTED HOUSEHOLDS

Every tenant who has a garage or designated parking space and moving home due to the decommissioning scheme will need to either give at least one week's notice to end their tenancy of, or update their address and contact details for, that garage or parking space.

If the tenant is moving temporarily and then returning to live at the site, then they can end that garage or parking space tenancy and have it held open for them until they move back to the site. While any garage or parking space is held open for them in this way, then the tenant concerned will not be able to use it or to permit anyone else to use it.

9. MONITORING

MONITORING THE DECANT PROCESS

It is expected that the rehousing of these tenants and residents will be monitored in order to keep a check on the progress and cost of their rehousing, and to be of use when planning for any future decommissioning schemes. This monitoring will be the responsibility of the Head of Housing who will be provided with any necessary statistics and information by the project manager, or other designated person. After they have moved, it is also expected that all decanted tenants will, where reasonable to do so, be asked their opinions on the following:

- ➔ Their new home, the standard it was offered to them in, and (if new build) its features.
- ➔ How they felt the decant process went.

The purpose of this is to learn from any issues raised and to assist in future planning of any redevelopment or decommissioning schemes.