

12. AMENDED DECANT POLICY (HOUSING, MAGGIE WARD)

Synopsis of report:

This Committee approved a new Decant Policy in September 2020. In order to facilitate major works programmes where some residents may need to leave their homes temporarily this report proposes an amended Decant Policy which enables the use of licences and subsistence payments.

This report requests approval for the use of short-term licences to occupy for these 5 to 9-day occupations to ensure the Council can achieve vacant possession to proceed with the next scheduled decant.

Members are asked to approve the level of subsistence payments which will be approved for decants in specific circumstances where there are no available cooking facilities.

Recommendation(s):

Members approve:

- (i) The amended Decant Policy enabling the use of Licences to occupy for short term decants.**
- (ii) Daily subsistence allowances of £15 per day per adult and children over 13, and £7.50 per child aged 1 to 12 where a temporary decant accommodation has no cooking facilities.**
- (iii) The level of subsistence payments to be within the Decant Procedure and to be reviewed and agreed by the Corporate Head of Housing in future to ensure they are inline with inflation etc.**

1. **Context of report**

- 1.1 The Council has an approved Decant Policy which outlines the process where a tenant is required to leave their home either temporarily or permanently. A new policy was approved in September 2020 and this report introduces amendments to the Decant Policy at Appendix F to address the need for a temporary decant programme during major works or incidents.

2. **Report**

- 2.1 In situations where a very short term decant is required there should be arrangements in place for an appropriate agreement to occupy which can be ended as required by the Council without recourse to lengthy legal proceedings.
- 2.2 Occasionally a tenant may be out of their property for a short period and is accommodated by friends or family or in a hotel. Where such a decant is required and a subsistence payment is applicable this will be £15 per adult and children aged 13 and over, and £7.50 per day per child aged 1 to 12.
- 2.3 Where an RBC tenant cannot occupy their tenancy and needs to move to an alternative property on a temporary basis they will be offered a licence to occupy or non-secure tenancy, the type of tenancy to be offered will be considered based on the potential period of the decant as well as purpose of the decant.
- 2.4 In situations such as fire, flood or major works the RBC tenant is usually given a non-secure tenancy but for a decant programme which involves

residents moving in and out within a few days a license to occupy is more appropriate.

- 2.5 If a tenant fails to give up possession of the temporary accommodation, let under a non-secure tenancy, the Council can issue proceedings in the County Court under Ground 8 of Schedule 2 to the Housing Act 1985.
- 2.6 If a tenant fails to give up possession of temporary accommodation given on a licence to occupy; the Council will be able to obtain possession of the property without a court order provided notice has been given in line with the terms of the licence.
- 2.7 It will be essential to have the ability to end the temporary accommodation immediately in the unlikely event that someone does not move out when required in order to avoid delays to a programme and subsequent additional costs.
- 2.8 All actions with regard to ending licences will be proportionate and consider the circumstances of the resident at the time, who will be required to move back to their own property or a suitable alternative depending if works are completed.

3. Resource implications

- 3.1 The costs associated with Decants will be covered within existing budgets unless they are in excess of agreed finance in which case a report will be bought to this Committee.

4. Legal implications

- 4.1 Using appropriate licences to occupy for what are very short durations, of 5 to 9 days, where the authority has an existing landlord-tenant relationship from another property means the Protection from Eviction Act 1977 s3 should not apply and possession can be regained informally, without the need to serve a notice to quit or obtain a court order.

5. Equality implications

- 5.1 No equality Implications have been identified in this report.

6. Environmental/Sustainability/Biodiversity implications

- 6.1 None

7. Conclusions

- 7.1 Members are asked to approve the amendments to the Decant Policy to enable the use licenses to occupy for short term decants and where subsistence is agreed to be paid at £15 per adult and children aged 13 and over and £7.50 per child aged 1 to 12 per day.

(To Resolve)

Background papers

Housing Committee report, September 2020

Decant Policy

Runnymede Borough Council

Approved:

Review Due:

Contents

Decant Policy	1
Runnymede Borough Council	1
1. Introduction	3
Decanting definition	3
Policy	3
Consultation.....	3
2. Aims of the policy	4
3. Eligibility criteria	4
4. Legal Context	5
Notice Period	5
Right to Buy	5
5. Temporary Decants	6
6. Permanent Decants	8
Consultation	8
Finding a new permanent home	9
The rehousing process.....	11
Home Ownership Options	12
7. Financial Matters	13
Property purchase payment	13
Home Loss Payment.....	13
Disturbance allowance payment	15
8. Practical Help	16
Assistance with using Choice Based Lettings	16
Assistance Viewing properties	17
Housing Benefit/Universal Credit claims.....	17
Clearance of unwanted items	17
Packing and removals.....	17
Households with support needs	17
Advising of new address	17
9. Managing Empty Properties and Garages	18
10. Complaints or Disputes	18
11. Equalities implications	18
12. Monitoring and review	18

1. Introduction

Decanting definition

- 1.1 This is a legal definition used to explain the process where residents are required to move from their homes, either in an emergency, temporarily or permanently. Decants are usually necessary in an emergency such as a fire, flood or other natural disaster or when a property is in need of major structural repair work, it needs to be refurbished, modernised, or where the property is designated for demolition or disposal. Temporary decants are where the resident is required to move out for the works to be completed before returning.

Policy

- 1.2 This policy sets out the approach Runnymede Borough Council will take to moving residents from its housing stock in circumstances where the home cannot be occupied for example, due to an emergency such as a fire or flood or a tenant will lose their home due to a planned demolition or refurbishment. This policy also includes provision for owner occupiers, occupiers of private sector housing and residents of other social landlords in the event of a regeneration scheme by the Council that includes their home.
- 1.3 Runnymede Borough Council recognises the vast impact that moving home can have on people's lives, especially where the move is not out of choice. The Council will support affected residents to move and will assist with financial payments where appropriate.
- 1.4 The Council will support qualifying residents to be rehoused using the criteria in the current Allocations Policy. Whilst we will take into account household preferences where appropriate, residents will be rehoused according to their need assessed in accordance with the Council's policy.
- 1.5 This policy may affect the Council's performance on voids (empty properties). Whilst every effort will be made to limit this, it is recognised that the needs of people losing their homes takes precedence and it is recognised that certain properties may be held empty for longer than would otherwise be the case.

Consultation

- 1.6 This policy aims to ensure that decants are carried out appropriately and efficiently with the minimum stress and difficulty. If a decant is necessary, the Council has a legal obligation under Section 105 of the Housing Act 1985 to consult with secure residents when they are substantially affected by a housing management matter. Consultation must be at a time when proposals are still at an early stage and the Council will consult with all tenants and affected persons wherever possible and consider any representations from them before taking a decision.

2. Aims of the policy

- 2.1 This policy sets out the Council's decant process and the levels of compensation offered in specific instances. The policy also outlines the practical help that the Council can provide to any residents that may be affected.
- 2.2 The aims of the policy for residents decanting both temporarily and permanently are:
- To ensure decants operate in a fair, equitable and reasonable manner, in accordance with the Allocations Policy.
 - To deliver simple but effective consultation and feedback with decanting residents at the earliest opportunity and throughout the process.
 - To cause the least possible disturbance to residents who are obliged to decant.
 - To enable the Council to make best use of stock through timely access for improvement, development and remodelling work or where a decision has been made for disposal.

3. Qualifying criteria

- 3.1 In line with the legislation and existing best practice, the following people will be eligible for assistance and possible rehousing: Residents, their family members, partners, spouses, all of which should have been living in the affected property (or a previous tenancy) for 12 months prior to the date of agreement for the regeneration or development scheme (including children).
- 3.2 For a temporary decant only those people registered as part of the household at the time the decant need is identified will be included in the bedroom need calculation.
- 3.3 In accordance with the current allocations policy, all households requesting assistance to move, will be assessed and verified by our corporate fraud team to ensure fairness and transparency. All fraudulent applications will be considered for prosecution.
- 3.4 The Council will not rehouse unauthorised occupants, sub-residents, lodgers, licensees and other non-secure occupants. The Council will not rehouse, ineligible persons in accordance with eligibility regulations and the housing legislation.

4. Legal Context

Notice Period

- 4.1 Households will be given as much notice as possible if their home has been identified as a potential decant. It will be explained to residents, homeowners and private landlords that the Council will require vacant possession of their property.
- 4.2 For those willing to enter into a voluntary agreement, the period of notice can be agreed between the Council and the tenant or property owner, however this period of notice will be at least in line with legal requirements.
- 4.3 For Council tenants where a voluntary agreement cannot be reached, the Council will decide either to pursue a possession order for an individual unit or a compulsory purchase order. Compulsory purchase is likely to be the option taken on decommissioning of housing schemes.
- 4.4 If the Council needs to apply for a Possession Order for a Council tenant, the court will determine when the tenant will need to leave the property. For owners of property and private residents, unless a voluntary agreement has been reached with them, the Council will pursue a compulsory purchase order. Should the Council pursue a compulsory purchase then it will comply with the legislation governing this at the time of the purchase.

Right to Buy

- 4.5 The Council is permitted to stop the right to buy in certain circumstances. The decision whether to do this for each property will be taken by the Corporate Head of Housing.
- 4.6 Under the Housing Act 1985, Schedule 5, Exceptions to the right to buy, paras 13-16 'Dwelling house due to be demolished within 24 months', the right to buy of any affected Council housing stock will be suspended from the date an initial demolition notice is served on the Council tenant(s) concerned. The right to buy will remain suspended for as long as the notice remains in force and this means that the Council is not required to complete a right to buy transaction.
- 4.7 The Council will have decided exactly what properties are to be included in a demolition scheme and are required to serve a notice where it intends to demolish the property concerned within 5 years, giving the reasons and time scale for demolition. The serving of a final demolition notice extinguishes the right to buy on these properties completely.
- 4.8 Any prospective right to buy purchases which are underway but have not completed will not proceed once the final demolition notice is served. No new right to buy applications on these properties will be accepted. The tenant may have a right to compensation for certain expenses already incurred in the right to buy process. The Council will pay these expenses as required by current

legislation. Compensation may include relevant legal fees, surveyor fees and other disbursements which have already been paid.

- 4.9 In order to serve the final demolition notice the Council 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.

5. Temporary Decants

- 5.1 In most situations a Council tenant will be able to remain whilst works are carried out to their home, however in certain circumstances it may be necessary to move residents temporarily whilst works are being carried out. For example, there is a need for extensive works to the property either internal or external, such as the property has been severely damaged due to a fire or flood or if the property is structurally unsafe for persons to live in whilst remedial works are undertaken. In the majority of temporary decants residents will return to their original properties following restoration works. In some instances, the needs of the household may have changed in which case homelessness legislation or the Transfer policy may supersede the Decant Policy and rehousing into alternative accommodation is facilitated.
- 5.2 When a household is required to temporarily vacate their home on a short-term basis, the tenant may wish to consider alternatives such as making arrangements to stay with friends or family. Where the anticipated length of scheduled works is only a matter of days these alternatives may be better for the tenant, but if such arrangements are not possible the Council will consider options such as Bed and Breakfast accommodation.
- 5.3 If hotel or bed and breakfast accommodation is provided for the period of decant, due to no other alternative being available, the Council will assist with daily subsistence payments at a maximum daily rate of £15 for adults and children over 13, £7.50 for children from 1 up to and including 12 years of age. This will be payable only for registered members of the household and will be paid directly into the bank of the tenant whilst the household is out of their property.
- 5.4 Where the works are scheduled to take a few weeks then alternate accommodation may be offered. The move is likely to be strictly temporary, with the tenant moving back to their principal home as soon as the work is complete and the home is available.
- 5.5 We will use either a licence to occupy or non-secure tenancy to manage the tenant's occupation period in temporary accommodation. It is likely that a licence will be used for extremely short term decants but this will be at the discretion of the Housing Services Manager or Head of Housing & Business Planning.

- 5.6 For extremely short term decants, those less than two weeks, where household services, such as broadband, are not disconnected and reconnected at the decant property we will provide access to the internet via another method.
- 5.7 Residents that have a garage license are able to end this temporarily, if necessary, and it will be held open for them until they return home.
- 5.8 Residents who have to temporarily decant will be offered a Disturbance Allowance but will not be eligible for a Home Loss Payment. For further information on disturbance allowance payments please see Section 7. Financial Matters of this policy.
- 5.9 For residents who are moved temporarily and will be returning to their principal home, the Council will meet the reasonable costs of the following where receipts and/or supporting evidence are provided in the form of a disturbance allowance:
- Reasonable removal costs and/or storage of furniture
 - Redirection of mail
 - Reconnection of landline telephone and transfer of existing telephone number
 - Reasonable costs towards replacement and refitting of floor coverings when appropriate to the required works
 - Reimbursement of a maximum of three days loss of earnings or annual leave for the purpose of moving from and returning to the resident's principle home
 - Any reasonable assistance required for vulnerable residents
 - Any other reasonable costs resulting from being required to move at the Council's discretion
- 5.10 The Council is entitled to refuse to pay costs that are considered to be 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 tenant concerned, or the Council can apply to the Upper Tribunal (Lands Chamber) for a decision.
- 5.11 A document will be made available to a tenant prior to the move outlining applicable costs and the need to discuss any additional expenditure or high costs with an officer prior to a commitment being made.
- 5.12 On occasions the Council may provide furnished temporary accommodation, but if this is not available the Council will procure a removal company for decanting households and the level of reimbursement for removals will be capped at this cost if the tenant(s) decide to use an alternative company.
- 5.13 If a tenant fails to comply by moving to a decant property, such as where this is required in order to complete urgent or major works, we will seek a County Court Injunction to enforce a temporary move.
- 5.14 If a tenant fails to give up possession of the temporary accommodation the Council can issue proceedings in the County Court under Ground 8 of Schedule 2 to the Housing Act 1985.

- 5.15 If a tenant fails to give up possession of temporary accommodation let on a licence to occupy, the Council is entitled to obtain possession of the property without a court order so long as notice has been given in line with the terms of the licence.

6. Permanent Decants

Consultation

Consultation and information

- 6.1 Tenant and resident consultation and involvement on planned projects such as redevelopment and regeneration will meet legislative requirements and will start before any scheme is finalised. In situations that are not an emergency, consultation will be completed before it is necessary for anyone to move. The outcome of the consultation will be reported back to the residents in an appropriate format and without identifying any individual respondents. Councillors will be involved with the consultation through the Council's usual democratic process. Representations received will be considered when decisions are taken,

Consultation with council residents

- 6.2 Runnymede Borough Council will have informal consultation with residents first, providing general information and to gauge general opinion. This consultation will be for a minimum of 28 days unless exceptional circumstances apply.
- 6.3 Part 4, section 105 of the Housing Act 1985 (as amended) covers consultation on matters of housing management and the decommissioning of Council housing stock. This legislation requires a reasonable amount of time to consult with secure tenants, which the authority will apply to all affected Council residents. The formal consultation will be in accordance with the legislation current at that time and will be for a minimum of 28 days. These time periods are in addition to any formal periods of notice that must be given.
- 6.4 During consultation residents 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 the specified period. These representations shall be considered before the Council makes its final decision.
- 6.5 If possession proceedings are being brought under Schedule 2, 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. The Council will consult with residents as a pre-condition of obtaining approval of the scheme concerned.
- 6.6 As part of this process a written notice of the schedule will be served on every affected tenant under Schedule 2, Part 5 of the Housing Act 1985 (as amended). Residents have a minimum of 28 days to respond to the

consultation. The Council must consider any representations before applying to the Secretary of State for approval of the scheme and the Secretary of State must also consider the representations before making a decision.

- 6.7 Once a decision to proceed has been made, consideration will be given to the processes used to gain possession of the properties concerned. The first option will be to come to a voluntary agreement with the residents. If this is not agreeable with the tenant then the Council has two options, to compulsorily purchase the resident's interest in the property or the gaining of possession orders in the County Court (under the Housing Act 1985, as amended).

Consultation with Owners, leaseholders and private residents of residential properties

- 6.8 In the majority of instances, this consultation will take place alongside that carried out with Council tenants, even though the Council have no statutory obligation to consult with these groups outside of planning requirements or the compulsory purchase process.

Provision of information

- 6.9 Information for residents will be provided in line with legislative requirements. In general, it is expected that an open meeting(s) for all residents, with family, carers or advocates as necessary, will be held.
- 6.10 Information will also be available in writing and as required in accessible formats. Carers, family members and advocates can request a copy of any correspondence and information provided with the formal consent of the resident concerned. For major decant projects that involve more than four properties, local ward Councillors will be sent copies of the letters and information about the scheme and will be invited to any formal residents' meetings.
- 6.11 Where people are required to move from their homes, they will be able to access information, advice and support from their Area Housing Manager.

Finding a new permanent home

- 6.12 This does not apply to temporary decants, only those who have to leave their home permanently. This policy also does not apply to unauthorised occupants or squatters or those residents who are subject to outright possession proceedings due to breaches of their tenancy.
- 6.13 Those housed under this policy must provide sufficient information and evidence for the Council to decide what their housing needs and requirements are. A household's housing needs will be assessed in line with this policy and the Allocations Policy. Households will only be allocated accommodation appropriate to their needs unless there are exceptional circumstances.

- 6.14 In order to be rehoused permanently, a household must be registered on the Council's Housing Register. To register, an online application must be completed.

Private residents of affected properties

- 6.15 Residents renting privately will be given advice and assistance by the Council's Housing Solutions Team to find alternative private rented accommodation. They will be assessed under the housing legislation current at that time to determine if there are any duties owed under that legislation.
- 6.16 The Council will, with consent, pass all private rented residents details to the Housing Solutions team to allow for early prevention work to avoid potential homelessness for this cohort of occupants, however it is still the responsibility of the private tenant concerned to make a formal application for assistance and they will need to be proactive in their own search for alternative housing. All approaches for assistance will be assessed in accordance with the homelessness legislation and code of guidance in force at the time of the approach.
- 6.17 This policy does not affect any general application the tenant may have already made to join the Council's Housing Register. This will be dealt with in the usual way in accordance with the Allocations Policy. It is the applicant's responsibility to notify the Council's allocations team of their change of circumstance.
- 6.18 At an early stage of the decant process it will be established if there are any legal restrictions on the landlord being able to end the private rented tenancy i.e. a legal notice period as this may impact the decant process and timetable, however a compulsory purchase order will bring any such private tenancy agreement to an end.

Owners of residential property who live elsewhere

- 6.19 Owners of affected properties who live elsewhere, for example because they rent out the property privately, will receive financial compensation in accordance with current legislation. As they do not live at the affected property they will not be entitled to 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

- 6.20 Owner Occupiers will be provided with advice to help them find an alternative property and will receive the relevant home loss compensation and disturbance payments.
- 6.21 If an owner occupier applies for rehousing under this policy they will need to be able to evidence that they had been 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 scheme and that they are still there at the time

of rehousing. Any concern about whether or not an owner occupier was living at the home at the time in question will be verified by relevant enquiries.

- 6.22 Applications for rehousing under this policy will be considered on a case by case basis by the Corporate Head of Housing. Applying for housing under this policy does not affect any general application for housing or homeless assistance and these will be dealt in the usual way in accordance with the allocations policy, code of guidance and homelessness legislation current at that time.

The rehousing process

- 6.23 Runnymede Borough Council will make every effort to rehouse residents within as short a time frame as possible following confirmation of the need to decant.
- 6.24 A decant timetable will be made available to all affected households and other involved parties so that they are aware of the timescales. Whilst the Council will endeavour to rehouse households quickly, it is also in the interest of the residents to consider all properties and areas so that there is a realistic chance of rehousing within the published timeframe. Information will be provided so that tenants have a realistic understanding of the possible pipeline of available properties and do not have unreasonable expectations.
- 6.25 Where residents are accepted under this policy for rehousing, they will, subject to eligibility, be accepted onto the Council's Housing Register and be placed into Band A, the highest band in accordance with the Allocations Policy. Priority to move is awarded to enable a move to take place quickly but in a planned way. This is to ensure fairness and equity with others seeking accommodation and to ensure housing remains available to the Council to discharge its duties under Homelessness Legislation. Applicants will need to bid for properties that they want to be considered for however in some circumstances a direct offer may be made.

Property Size, area choice and location

- 6.26 Households will only be rehoused in properties that meet their current needs in terms of size and type of property, in accordance with the Allocations Policy. Only in exceptional circumstances, agreed by the Corporate Head of Housing, would any resident currently under occupying their home be able to move to another property that does not meet their household needs.
- 6.27 Applicants accepted onto the housing register will be given as much choice of area and location as possible, subject to their choices having a realistic chance of rehousing. Whilst many residents may wish to remain locally to the previous home, this may not be possible in all cases. It is in the qualifying person(s) interest to take advantage of the bidding system as early as possible.
- 6.28 There is no statutory right for residents to return to the original site that they are decanted from, but the Council will offer this as an option whenever it is

reasonable to do so. Applicants cannot rely on this option for permanent rehousing.

- 6.29 Whilst we will support social housing residents to remain within the social housing sector, some applicants may wish to move into home ownership or the private rented sector. These applicants will be able to explore a range of housing options through the Council's Housing Solutions Team.

Adapted properties

- 6.30 A needs assessment will be conducted for each applicant in need of assistance with rehousing, including any need for adaptations to properties. The decision on what adaptations are required is the responsibility of the Council, in consultation with a designated Occupational Therapist.
- 6.31 Whilst all efforts will be made to locate a property that has the appropriate adaptations for the tenant, there will be occasions when additional adaptations are needed to the new property. Where appropriate the tenant would be expected to move into the new home whilst these works were undertaken. Where the works are required before the tenant is able to move in, the tenant will be expected to sign an undertaking to the Council agreeing to accept the property once the adaptations have been completed.

Types of tenancies

- 6.32 Tenancies will be granted in accordance with current legislation and the Council's Tenancy Policy. Households being rehoused will be advised of the type of tenancy they will be granted if they are to be rehoused into a Council or Registered Provider / Housing Association property and what this means for them.
- 6.33 An existing secure or flexible tenant moving to another Council property will be given another secure or flexible tenancy. If the tenant moves to a housing association, they will be given the equivalent security of tenure.
- 6.34 An existing Introductory Council tenant, moving to another Council property will be granted another introductory tenancy for the remainder of their probationary period. If they are moving to a housing association property, they may be offered an assured shorthold tenancy or a Starter Tenancy in accordance with the policy of that landlord. In this instance, provided that there are no breaches of the tenancy, it will be converted into an assured or flexible tenancy at the end of the probationary period.

Home Ownership Options

- 6.35 For those affected by the decommissioning of a scheme, they may wish to pursue home ownership as an alternative housing avenue. There are a number of low-cost home ownership schemes that may be available such as shared ownership and shared equity schemes. If a tenant would like more information on home ownership they can speak with the Housing Solutions

team on 01932 838838 or the shared ownership agent online
<https://www.ownyourhome.gov.uk/> and <https://helptobuyagent3.org.uk/>

- 6.36 Where low-cost home ownership is available on the original site, residents wishing to return will be given priority where possible, subject to their eligibility.

7. Financial Matters

Property purchase payment

- 7.1 The Council will try to come to a voluntary agreement on the valuation and purchase of the property. If it is not possible to come to an agreement voluntarily, the Council will use the mechanisms of compulsory purchase in accordance with the legislation current at that time.
- 7.2 The amount the Council pays for a property does not affect the amount of home loss or disturbance allowances that are paid to affected owner occupiers.

Home Loss Payment

- 7.3 Home loss payment or compensation is a sum of money paid to the tenant or owner occupier to reflect and recognise the distress and discomfort of having to move out of their home permanently. Home loss compensation is paid only once but can be paid in addition to a disturbance allowance.

Claiming home loss payment

- 7.4 It is a legal requirement that households are given advice and assistance to make a claim for a home loss payment and this claim must be made in writing. The time limit for claiming home loss compensation is the statutory limitation of six years.
- 7.5 A home loss payment will be paid within three months of application, provided households have moved from the original property. Consideration may be given to paying home loss payment in advance in exceptional circumstances and with the agreement of the Corporate Head of Housing, such as in order to assist an owner occupier to remain in home ownership.
- 7.6 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.

Impact on welfare benefits and council tax claimants

- 7.7 Home loss compensation is counted as capital for certain welfare benefits. The amount of compensation can affect a person's entitlement to benefit and it is therefore the legal responsibility of benefit claimants to advise the Universal Credit, housing benefit and council tax service as soon as they receive the increase to their capital.

Council residents

- 7.8 The mandatory lump sum paid to a tenant ending a tenancy is fixed by Section 30 of the Land Compensations Act 1973. This payment is only made once and will be paid to the statutory tenant or joint tenants.
- 7.9 In order to qualify for a home loss payment, the tenant must have occupied that accommodation as their only or main residence for a minimum of one year and they have to move out of the property permanently, either because of improvement or development works that will be carried out or because their home is being demolished. Alternatively, the payment can be made when 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 wholly different in character to their original one. For example, if the tenant has moved out of a three bedroom home and returned to a one bedroom dwelling.
- 7.10 Home loss payments are subject to the tenant giving up possession of their property and the payment will only be authorised once the tenant has handed back the keys, unless there is an exceptional circumstance.
- 7.11 If the tenant has any housing debts to the Council, these will be deducted from the home loss compensation payment before it is paid. Housing debts include rent arrears, outstanding loans for Magna Carta Lettings, heating charge arrears, service charge arrears and unpaid recovery charges for over paid benefit, rechargeable repairs etc.
- 7.12 A Council tenant will not qualify for a home loss payment if they are living in the affected property on a temporary tenancy, for example they have been placed there under a temporary duty and they have been living there for less than a year. They will not qualify for a payment if they have been decanted to the address from another property and have been living there as their main residence for less than a year. It will not be paid if they have moved in after the decision to carry out the decommissioning work was formally made by the Council and they were advised of this in writing. They will not qualify if they are being moved temporarily and will be returning to their principal home after the necessary works have been carried out to the property.
- 7.13 For residents who have not lived in the affected property for long enough to qualify for a home loss payment, they may receive an ex-gratia lump sum goodwill payment which would be substantially less than the statutory amount. This and the amount is at the discretion of the Council and only applies if they do not qualify for a home loss payment. If the arrangement was temporary an ex-gratia payment is very unlikely, but this policy makes provision for the Corporate Head of Housing to exercise discretion in exceptional circumstances.

Private sector residents

- 7.14 Private residents who have lived at the property as their main home for a minimum of one year prior to the decant will receive home loss compensation at the same level paid to Council residents. Any concern about whether or

not the tenant was living at the property will be verified by relevant enquiries. The non-resident landlord will not receive home loss compensation.

Home Owners

- 7.15 Home loss payments are paid as a lump sum and are only paid once, this is either to the owner or joint owners. 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, with a maximum payable of £53,000 (may vary depending on regulations at the time).
- 7.16 Owners that do not live in the affected property they own, for example they rent it out to a private tenant, will not receive home loss compensation. The sale of a property by the owner in accordance with, or in advance of, a Compulsory Purchase Order will be classed as an 'exempt disposal' and any remaining Right to Buy discount will not be due to be repaid; in accordance with subsections 155, 160 and 161 of the Housing Act 1985.

Disturbance allowance payment

- 7.17 Where the Council requires a tenant or owner occupier to move home, in most cases we will pay a disturbance allowance in accordance with current legislation. Trespassers and squatters will not be paid any disturbance payment.
- 7.18 Under Part 3, Section 37 of the Land Compensation Act 1973, a disturbance payment must also be made to residents and leaseholders, which should equal 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.
- 7.19 Disturbance allowance payments is a sum paid to the tenant or owner occupier for the reasonable costs incurred and any losses sustained due to having to move home. This can be paid in addition to home loss compensation. This is a lump sum calculated to cover eligible items paid to those who are required to move. The following are examples of items that the Council will usually cover as a disturbance payment when the move is permanent, but it will depend on the circumstances in each:
- The redirection of post
 - Lifting and refitting of carpets where possible
 - Removal and refitting of fixtures and fittings, such as bathroom cabinets, grab rails, towel rails, curtain poles, all as deemed appropriate
 - Decorating of rooms
 - Disconnection and reconnection of residents own cooker, dishwasher and washing machine, where this is essential
 - Making the garden safe for children, for example free from hazardous material
 - All reasonable assistance required for vulnerable residents
 - Provision of appropriate facilities where a physical disability or frailty necessitates

- Any other reasonable costs associated with the move at the discretion of the Council.

7.20 Applicants' requests for payment of goods and services will need to be made within six months of their moving date and payments will only be made when verified against supporting receipts. The Council retained the discretion to refuse to pay costs where it considers 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 agreement cannot be reached, then either the person concerned or the council can apply to the Upper Tribunal (Lands Chamber) for a decision.

7.21 The Council will arrange a removal company for the decant, the tenant can choose to contract with an alternative provider but the maximum contribution to this will be set at the cost of the company contracted to the Council.

Impact on Universal Credit, housing benefit and council tax claimants

7.22 Disturbance payments are not counted as capital or income for housing benefit and council tax purposes and/or universal credit.

Council residents

7.23 Disturbance payments will only be paid once. The Council will not deduct any housing debts owed to the Council by the tenant from their disturbance allowance however these may be deducted from their home loss compensation if applicable.

Private sector residents

7.24 Private residents who have lived at the property as their main home for a minimum of one year prior to the decant will receive home loss compensation at the same level paid to Council residents. They will not receive any payment for fixtures and fittings provided or owned by their landlord. Any concern about whether or not the tenant was living at the property will be verified by relevant enquiries. The non-resident landlord will not receive home loss compensation.

Home Owners

7.25 Owner occupiers will receive a disturbance payment in line with the way payments are made to Runnymede Council residents.

8. Practical Help

Assistance with using Choice Based Lettings

8.1 Where a tenant has to leave their home permanently and they are required to register on the Councils Choice Based Lettings scheme, appropriate help and advice will be offered to enable them to use the system effectively.

Assistance Viewing properties

- 8.2 When a tenant has successfully bid for a property through the Allocations process or receive a direct offer, they will be invited to view the property. Every viewing of a social home will be accompanied by a housing officer.

Housing Benefit/Universal Credit claims

- 8.3 If a tenant is in receipt of a welfare benefit such as housing benefit or universal credit, the Council will consider whether it can pay benefit on two homes at the same time, if there is a period of overlap in the moving process. This will be considered in accordance with the Regulations in place at the time and may involve applying for a Discretionary Housing Payment. The Area Housing Manager for the tenant will provide assistance to people when applying for this.

Clearance of unwanted items

- 8.4 The tenant is responsible for removing and clearing all unwanted items from the property and ensuring vacant possession of the property. Any items that are left will be cleared and disposed of, for which residents will be recharged. Residents will not be able to reclaim left items or the value of them once they have been left in the property.

Packing and removals

- 8.5 The reasonable expenses of packing and removals will be met by the disturbance allowance as outlined in section Financial Matters of this policy. Before the move is due, tenant will be given advice on the process of choosing a removal company and booking a move. The Council retain the discretion to instruct removal firms on the individuals' behalf where appropriate.

Households with support needs

- 8.6 For those residents with support needs, the Area Housing Manager will work with Adult Social Care and/or any other relevant agencies to ensure that the support needs of household members are addressed, including ensuring all elements of any care package remain intact during and after the move.

Advising of new address

- 8.7 It is the tenant's responsibility to tell all relevant persons and organisations of their new address. This includes advising Council Tax, Housing Benefit and the department for work and pensions. If the tenant has moves into the Council's Independent Retirement Living (IRL), then the IRL manager will be able to provide support and assistance with these tasks as required.

9. Managing Empty Properties and Garages

- 9.1 Empty properties and garages will remain the responsibility of the Council until they are handed over to the developer or contractor carrying out the decommissioning. At the point of hand over the responsibility for the security of the site will also become the responsibility of the contractor, but until then, it will be for the Council to ensure appropriate security measures are in place. This is to ensure that the safety of people remaining on the site, and those living nearby is not compromised.

10. Complaints or Disputes

- 10.1 Any complaints about the application of this policy will be dealt with in accordance with the Council's complaints procedure.
- 10.2 If a resident is not satisfied with the amount they have been compensated through this policy, they may have the right to appeal under the Land Compensation Act 1973 and any claims should be made to the Upper Tribunal.

11. Equalities implications

- 11.1 In producing this document an Equality Impact Assessment (EIA) has been carried out and is available as a separate document. If you would like to see a copy of this please request this directly by emailing housingsolutions@runnymede.gov.uk or contacting Housing Solutions on 01932 838383.
- 11.2 An EIA is a way of assessing the impact, or likely impact, that a particular policy, procedure or decision will have on particular groups.

12. Monitoring and review

- 12.1 This policy will be reviewed to ensure that it is compliant with any changes to legislation or regulation to ensure that it is legally compliant and in the light of best practise.
- 12.2 As the result of any decants, these will be monitored and the outcomes of such decants will be reviewed to ensure any learning is shared and issues raised are used to improve and assist in future planning of redevelopment schemes.