



Newham London

# Carpenters Residents' Charter

A residents' charter for council tenants,  
resident leaseholders and freeholders

*This charter covers the following properties;*

Biggerstaff Road, Carpenters Road, Dennison Point, Doran Walk, Gibbins Road,  
James Riley Point, Jupp Road, Jupp Road West, Kennard Road, Lund Point,  
Roshier Close, Warton Road, Wilmer Lee Close.



[www.newham.gov.uk/carpenters](http://www.newham.gov.uk/carpenters)  
020 3373 0956

[www.carpenterstmo.org.uk](http://www.carpenterstmo.org.uk)  
020 8430 5273

# Foreword



I am pleased to present the new Carpenters Residents' Charter. This charter has been agreed after careful consultation and negotiations between the council and the Joint Residents Steering Group.

The Carpenters redevelopment will deliver major investment and long term benefits for the residents of Newham. However I appreciate that this will cause you disruption and will mean that you have to move your home. We will work closely with you to offer you choices and opportunities that are suitable to your

personal circumstances

I encourage you to read the charter and to contact your Independent Advisor if you have any questions.

This charter will make sure you understand your rights, our obligations and commitments.

Officers of the council are there to support you and will explain the rehousing process in detail. I want to reassure you that we will manage the process fairly and we will work with you to make sure that moving home is as smooth as possible.

A handwritten signature in black ink that reads "Robin Wales". The signature is written in a cursive, flowing style.

Sir Robin Wales  
Mayor of Newham

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## **Glossary**

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### Section One

#### 1. Principles of the charter

- 1.1 The Mayor of Newham has agreed this charter with the Carpenters Joint Residents Steering Group (Joint RSG) as a local policy for all secure council tenants, resident leaseholders, freeholders and members of their families who are living with them, who are required to move as part of the rehousing process. The charter follows the council's published Housing Allocations Policy for tenants. The charter outlines a fair and transparent process and the council's commitment to all residents who will be affected by the rehousing programme for the Carpenters Estate.
- 1.2 The term 'resident' as used in the charter is taken to mean council tenants, resident leaseholders and freeholders.
- 1.3 This charter is legally binding and enforceable as confirmed by the Mayor at Cabinet on 24th April 2012. The Director for Strategic Regeneration Planning and Olympic Legacy also confirmed at The Carpenters TMO board meeting on 22nd November 2011 that the charter would be a statement of intent between the council and the residents and would be honoured as a part of any development agreement going forward.
- 1.4 During the rehousing programme, a council project team will work with the Joint RSG in implementing the charter and rehousing process generally. The TMO, or its successor, will be expected to continue to support the Joint RSG to act as a body for consultation that will scrutinise the implementation of the Residents' Charter and associated issues. In particular, it will undertake a review of the charter at appropriate points.
- 1.5 The charter will be enforced by the council as and when the need arises, but will be subject to review by the Joint RSG. Changes will be made to the charter only after consultation and with the agreement of both the council and the Joint RSG. Amendments to the charter may be necessary where changes to legislation make part of it unworkable, out-dated or redundant. The council will delegate authority to an appropriate officer to authorise formal changes in line with the council's scheme of delegation.
- 1.6 The council will provide residents with all necessary facts and figures to make informed decisions. For example, the number of tenants who

want to leave the area, the number of tenants who want to stay in the locality or who will wish to exercise their 'Right to Return'. Sufficient affordable, social rented housing will be provided to enable residents to return should they so wish to as set out in 3.14 below.

- 1.7 Copies of this charter have been given to all affected residents of Carpenters Estate.
- 1.8 Copies of this charter are held at the TMO Office and on their website [www.carpenterstmo.org.uk](http://www.carpenterstmo.org.uk), and on the council's website ([www.newham.gov.uk/carpenters](http://www.newham.gov.uk/carpenters)). Clear information will be issued as and when the charter is reviewed.
- 1.9 The council will consult widely with all affected residents about the rehousing process during individual sessions (subject to relevant and justifiable confidentiality considerations) and hold group sessions with tenants, leaseholders and freeholders. These consultation sessions will also be attended by the Independent Adviser prior to the commencement of the rehousing process.

## **2. Joint Residents Steering Group (Joint RSG)**

- 1.10 The membership of the Joint Residents Steering Group (Joint RSG) is made up of 12 resident representatives plus two designated Carpenters TMO representatives. Additionally, there are two council officers and two designated local ward councillors, who are able to make and progress decisions subject to delegated authority and standing orders. The proportionality of the tenures on the Joint RSG will be reviewed and adjusted at regular intervals to reflect the numbers of each tenure present on the estate.
- 1.11 The Joint RSG will take the lead on all issues affecting residents during the regeneration period project but particularly for the rehousing process. Joint RSG meetings will be minuted and made available online at [www.carpenterstmo.org.uk](http://www.carpenterstmo.org.uk) in line with Freedom of Information guidelines.

## **3. Independent advice**

- 1.12 All residents affected by the rehousing programme will have access to independent advice funded by the council throughout the regeneration project. This will be available to both individuals and relevant groups.

1.13 Resident leaseholders and freeholders will also benefit from the additional services of a:

- A. Valuation Surveyor to help negotiate the sale of the existing home to the council and the purchase of a replacement property
- B. Legal Conveyancer to sell the existing home to the council and purchase a new home.

## Section Two

### 1. Commitment to all council tenants

- 2.1 As a general principle that guides the rehousing process, the council will ensure that regardless of the choices that tenants wish to make, the following commitments will be upheld;
- A. Anyone who wishes to be rehoused as a council tenant will be allowed to do so through the Choice Based Lettings (CBL) Scheme.
  - B. Residents who wish to remain in the Stratford area (or wish to return to the site of the original Carpenters Estate) will be able to do so. Sufficient affordable, rented social housing will be provided to honour this commitment, both to existing tenants but also those tenants who have already been decanted off the estate. The council will do this by ring fencing suitable properties that become available and offering tenants from the estate advanced options to bid for them. (See Section Three under 'Rehousing options and standards' and 'Right to Return' for council tenants).
  - C. Any tenant who is currently under-occupying their home can be offered a property with the same number of bedrooms as their home, on the understanding that the same property type will be offered. This means that if a tenant lives in Lund Point or Dennison Point, they would be offered a tower block home with lifts.
  - D. All tenants to be decanted will be awarded top band 'priority status' under the Choice Based Lettings (CBL) Scheme.
  - E. Tenants rehoused as a result of being decanted from the estate will only be offered 'traditionally set social rent' homes where the rent charging is related to the 'target rent' and not the up to 80% of market rent charging formula of the new 2012 Localism Act.

## 2. Direct offers to council tenants

2.2 All tenants will receive at least two 'reasonable' offers from the council in line with their requirements unless they successfully bid and accept a property through the Choice Based Lettings (CBL) Scheme. This does not include offers by registered providers such as Housing Associations unless it is an *'Enhanced Rights negotiated Assured Tenancy'* where the tenancy rights mirror the key rights of the 'secure' council tenancy. This is to ensure that tenants are not worse off should they choose to be decanted into that sector. Tenants due for decanting will be awarded top priority in allocations. This reflects that relocation is necessary as part of the regeneration scheme and not a transfer request by individual tenants.

## 3. Assessment criteria for direct offers to council tenants

2.3 When the council makes a direct offer to a tenant, it should first take into consideration the tenant's needs based on the following list as far as possible. It should also be balanced against the type of property being offered and the individual preferences of the tenant;

- A. The property must be situated in the general area of preference that has been selected by the tenant. A list of areas, in addition to the borough of Newham, which can be selected are provided in an appendix to the charter. The council will give tenants sufficient information regarding forthcoming Newham Council properties as well as homes elsewhere in London (through the GLA Pan London Mobility Scheme and East London Sub Region) along with the contact details of relevant officers who can provide further information and advice. Contact details for the current named Newham CBL officer and officer responsible for the decant will routinely be made available both as an appendix to the charter but also to residents in homes to be decanted.
- B. It should be of similar proximity to public transport as the current property (where required)
- C. It should be within easy proximity to doctor (where specifically required)
- D. It should be within similar proximity to general shopping amenities as the current property
- E. It should be near to other family members, if required for support or to provide care

- F. It should have a balcony if the current property has one (blocks only)
- G. A garage or designated off street parking area should be provided if there is one in use with the current property (blocks only)
- H. It should be close to friends (where specifically required/requested)
- I. It should be close to a solicitor (where specifically required)
- J. Tenants should be allowed to have pets in the premises, where it is reasonable and appropriate and permission has been sought
- K. It must be no higher than the current floor unless the tenant specifically wishes (blocks only). Full consideration should be given to the preference of the tenant as regards floor level
- L. Where the tenant has mobility problems, there should be easy access
- M. If a tenant is vulnerable, a full assessment of property's suitability should be undertaken before offering that property
- N. Any other issues identified by the tenant prior to receiving the offer. Tenants will be given the opportunity

to make representations before an offer is made.

- 2.4 Tenants will not be refused further offers if they do not accept the first one. They will be made an unlimited number of offers, but only if they can demonstrate that offers they have refused were unreasonable and did not suit their requirements. The council undertakes to take into consideration all issues that are key to residents in respect of allocation.

## Section Three

### 1. Rehousing options and standards

- 3.1 The council guarantees that anyone who wishes to remain a council tenant and choose a council property will be allowed to do so through the Choice Based Lettings Scheme and that sufficient reasonable time will be allowed for tenants to consider options before indicating their choice. The council also guarantees that council tenants will be able to choose and bid for equivalent or better accommodation than they presently occupy.
- 3.2 Where tenants express the wish to remain council tenants, they will be given a guarantee during the bidding period that bidding for council homes only will not be deemed unreasonable.



- 3.3 Tenants who are currently over-crowded will be able to bid for the correct size of property.
- 3.4 In families with adult children, the family should be given the choice of being decanted into separate tenancies. Each household would, in these circumstances, be rehoused in accommodation with the correct number of bedrooms for their household size need.
- 3.5 The council will guarantee to rehouse any lawful occupant remaining in the property, after the death of the tenant awaiting decant, providing that person has resided there as their principle residence for a minimum of 12 months.
- 3.6 Tenants who live in a property which is too large for their needs and choose to be rehoused into a smaller home, will be offered a property of their choice and be entitled to an additional financial incentive of £1,000 per bedroom given up. This is on the understanding that a single person will be barred from bidding for houses that are prioritized for families.
- 3.7 Tenants who require adaptations to their property due to disability or to the disability of a family member will be given a commitment that this will be carried out before they are required to move into a property. Any necessary adaptations will be carried out in consultation with the user and with the advice of appropriate professionals such as an Occupational Therapist.
- 3.8 All Newham Council properties offered will meet the 'lettable standard' and tenants will be informed whether the Decent Homes standard works have been carried out.
- 3.9 Where the tenant bids for a home with a Registered Provider such as a Housing Association or an out of borough property, the council undertakes to negotiate with the landlord of the property to enable the tenant to under-occupy the property.
- 3.10 The council will provide all possible advice, information and support to tenants seeking to be rehoused outside the borough.
- 3.11 All tenants needing to be decanted will be given independent advice regarding the statutory and contractual differences between the terms and conditions of tenancy agreements with the council and Registered Provider Housing Association sector.

3.12 All tenants will be informed on the 'Right to Acquire' and other purchase opportunities during the bidding or direct offer period.

## 2. 'Right to Return' for council tenants

3.13 The council is committed to the 'Right to Return' and tenants who are decanted from the Carpenters Estate will have a contractual 'Right to Return' to the site of the redeveloped original Carpenters Estate site or to a property in the Stratford locality.

3.14 The council will confirm the detail and timing of the 'Right to Return' once a development scheme has been agreed. The 'Right to Return' will remain subject to availability and also subject to the understanding that any future development on the site of the existing Carpenters Estate is likely to be of a higher density than exists at present. There is no expectation that houses with gardens will be re-provided on the original Carpenters Estate land. To mitigate the loss of houses in the future development, the council has committed to ring fence family size dwellings for decanted Carpenters tenants within neighbouring developments in the Stratford area.

3.15 The council is committed to prioritising its allocation rights in a number of ways. This will include East Village homes, the Athletes Village for the 2012 Games, which will be available for viewing from October 2012 and available for letting from circa June 2013. This development includes all sizes but specifically a number of three and four bedroom family homes. The council will prioritise the lettings of the family-size homes in this development to Carpenters decants wishing to exercise a 'Right to Return' to the Stratford area. This commitment also extends to any other social rented, affordable housing development that might occur in the Stratford area within a reasonable time scale. One that has been identified is a new development being planned for Bridgewater Road although the projected development timing is currently unknown.

3.16 The council will reimburse tenants choosing to exercise their 'Right to Return' from the home they have been originally decanted into. A discretionary package of (limited)

Disturbance Payments will cover the following costs:

- removal van
- disconnecting and reconnecting cooker
- disconnecting and reconnecting phone lines
- refitting carpets and curtains but not purchase of replacement carpet and curtains.

**Note: this package is not a statutory entitlement. It is included as a discretionary contractual commitment to help make things financially easier for decanted tenants choosing to return.**

3.17 Tenants decanted from the Carpenters Estate while waiting to return to the new development on the original site or another local development will, if they are housed in a council property, benefit from an additional clause in their Tenancy Agreement which contractually gives them an opportunity to exercise their 'Right to Return' during a defined future period. This additional clause provides further individual enforceability of the 'Right to Return'.

3.18 Tenants who choose to return to a proposed new build scheme on the estate will have the opportunity to be involved in the design of their properties.

3.19 Any new, affordable, social rented homes built in the new development on the Carpenters Estate site will be required to comply with the following minimum space standards:

1 bed / 2 person flat	53 m <sup>2</sup>
2 bed / 4 person flat	80 m <sup>2</sup>
2 bed / 4 person house	85 m <sup>2</sup>
3 bed / 6 person property	96 m <sup>2</sup>
4 bed / 8 person property	120 m <sup>2</sup>

These recommended space standards are specifically drawn from the good practice example of housing stock transfers in London.

## Section Four

### 1. Compensation for decanted tenants

4.1 The guiding principle in this charter is that residents should be offered homes that are equivalent to or better than what they currently have. The council is in any case committed to the general principle that no tenant should be worse off as a result of the rehousing process. This is an important commitment in respect of paying compensation for the reasonable costs of being rehoused. The council will discuss with each tenant needing to be decanted their individual, reasonable costs of removal at the time of being rehoused and agree a schedule of costs with each household.

- 4.2 The two principal compensations that tenants being decanted can claim are:
- A. Home Loss Payment
  - B. Disturbance Payments.
- 4.3 Tenants who are currently under-occupying will also qualify for the council's £1,000 per bedroom downsizing incentive.
- 4.4 Some tenants may also qualify for compensation under the 'Right to Improvement' regulations. (See point 4.9 below).
- 4.5 Tenants exercising a later 'Right to Return' will be offered an additional limited financial relocation package. (See point 3.16 under 'Right to Return' for details).
- 4.7 Home Loss Payment is currently set at £4,700 by Parliament for tenants being decanted. Government reviews this amount every year from 1st September but there has been no change since 1st September 2008. The Independent Adviser and/or the council will be responsible for ensuring that any change is communicated to the Joint RSG, the TMO and the tenants.
- 4.8 Home Loss Payment is paid directly by the council to the tenant. The council can offset the Home Loss Payment against any corporate debts owed by the tenant to them. This can include rent arrears, housing benefit overpayments and council tax. Tenants will be made aware of the position prior to any offer being made.

## 2. Home Loss Payment for decanted tenants

- 4.6 All secure tenants who have lived in the home for at least a year are entitled, as a statutory right binding on the council, to a Home Loss Payment if they are permanently displaced as a result of the landlord's development proposals. This is without prejudice to their contractual 'Right to Return' to the same area, whether they later choose to exercise it or not.
- 4.9 **Compensation for improvements carried out by the tenant at their own expense.** Where tenants have made, with prior consent of the council, certain defined improvements to their homes, the council will agree a reasonable compensation package based on the council's current published policy on the 'Right to Improvement'.

### 3. Disturbance Payment for decanted tenants

4.10 “Every cost can be considered on its merits and should be recoverable if a natural, direct and reasonable consequence of being disturbed” in this case, rehoused. This is the definition used for Disturbance Payment in the **Compulsory Purchase and Compensation Booklet 4: Compensation to Residential Owners and Occupiers** issued by Communities and Local Government ([www.communities.gov.uk/publications](http://www.communities.gov.uk/publications)).

4.11 The council commits to make Disturbance Payments to tenants (and leaseholders and freeholders) being decanted under the provisions of section 37 of the 1973 Land Compensation Act. The council can choose legally to make payments under the alternative 1985 Housing Act, Section 26 but this route does not provide tenants (or leaseholders and freeholders) with a right to have an independent assessment of their reasonable claim. Claimants generally get less compensation via this route.

4.12 The 1973 Land Compensation Act legislation provides for tenants to be able to seek an independent assessment of their reasonable costs

in respect of being rehoused. This independent assessment would take place at the Upper Chamber Lands Tribunal.

4.13 It is for the tenant to make and justify the individual claim.

4.14 The council will seek to maximize the use of direct payment of such costs to the company(s) or utility(s) providing the service, so as to minimize the tenant needing to fund the expense himself/herself and then claim retrospectively for it. This direct payment engagement by the council also provides for the council to have a better control over value for money and the quality of the contractor.

**Unlike Home Loss Payment, Disturbance Payments will not be offset against any corporate debts owed to the council by the tenant.**

4.15 The council will pay the following eligible Disturbance Payment costs:

A. Hire of a professional removals company with the appropriate insurance cover to guard against damage in removals transit. The council will recruit and engage the company and then settle the cost directly. For the benefit of elderly and/

- or isolated, vulnerable tenants and/or tenants with a disability, the removals company will provide a full packing and unpacking service. Removal tea chests will be dropped off at the home to be decanted one week before the day of removal.
- B. Re-direction of mail for period of 12 months.
  - C. Disconnection and reconnection of cooker. (Must use a registered Gas Safe Engineer if it is a gas cooker. Council to recruit and pay directly). Note that it is sometimes necessary to claim for the cost of a new (electric) cooker if the new home only has electric (not uncommon in modern blocks of flats) and the tenant has a gas cooker. Another example of where it may be necessary to claim for a new cooker is if the Gas Safe Engineer refuses to re-connect an existing gas cooker that does not have the required Flame Supervision Device (FSD) safety device fitted to the appliance. This regulation only came in in very recent years. It is not enforced in existing homes, only when a person moves. In these circumstances the tenant can claim for a 'reasonable' replacement medium range cooker as agreed with the council.
  - D. Washing machine and dishwasher. (Council to recruit plumber and pay directly).
  - E. Disconnection and reconnection of phone line and extensions. This sometimes necessitates laying of cables and lines. The council can make arrangement to pay BT directly.
  - F. Disconnection and reconnection of computer services. This may involve laying of cables in the new home and any cost of relocating internet facilities. Cost has to be quantified and related to the actual move.
  - G. Re-connection of existing satellite dish for TV reception, if there is not a dish or communal system in place in the new home.
  - H. The cost of dismantling and then re-assembling any garden storage shed. In practice, it is generally more realistic to purchase a new shed than seek to dismantle and re-assemble an existing shed.
  - I. The cost of new school uniforms if, as a result of being decanted to another area, it is necessary for a child (or children) to move school.
  - J. Refitting existing carpets or laminates wood flooring into the new home. The

general expectation is that tenants are expected to maximize the take up and refit of their existing carpets or laminate/wood flooring. The council will recruit and provide a local carpet fitting service to assist with this. This is a standard, eligible cost. However it is often the case that it is not always possible or reasonable to refit existing carpets or laminates/wood flooring due to different sizes and layouts. In this circumstance, the tenant can claim for extra replacement carpet or laminate/wood flooring to a value not exceeding £20 per m<sup>2</sup>. The council will pay the fitter directly. The fitter can also advise whether the claim for extra carpet or laminate/wood flooring is reasonable.

If the move is to a flat, the tenant can also claim up to £10 per m<sup>2</sup>. for dense quality underlay for the carpet or laminate/wood flooring.

- K. Refitting existing curtains into the new home. The general expectation is that tenants are expected to maximize the refitting of existing curtains into the new home. This may involve having curtains taken up if that is practical. The cost of doing this taking up and refitting is a standard, eligible cost. However it is not always practical or possible for this refitting to take place due to different size windows. Many

new developments have windows that feature floor to ceiling glass, and existing curtains and often their curtain rails are not possible to relocate. In this circumstance the tenant can choose to purchase and claim for reasonable 'middle range' lined curtains to the value of £15 per m<sup>2</sup> or the council can make available the opportunity to choose from a range of standard lined curtains from an agreed/nominated company that sells curtains.

The council, as part of its service to decanting tenants, may recommend, in the interests of obtaining 'best value', a local curtain firm where tenants could do this 'middle range' curtain choosing. The separate associated cost of having to purchase different size curtain rails and net curtains is also a standard, eligible cost.

The cost to be claimed must be 'reasonable' and it is for the tenant to be able to justify this element of the claim. Recording of the dimensions of the windows in both homes can be very helpful in this respect.

- L. The council also commits itself to a flat rate discretionary general Disturbance Payment of £200 to every tenant, to compensate for

the range of small otherwise unclaimed, associated costs with the move. This figure is raised to £250 for those tenants over 60. (This discretionary payment is only available to tenants, not leaseholders or freeholders)

4.16 The above list is not exhaustive.

Tenants can claim for other costs if they can demonstrate the cost was incurred as a direct consequence of being decanted. If a tenant is dissatisfied with what they are offered by way of Disturbance Payment Compensation, they can make an application to the Upper Chamber Lands Tribunal for an independent assessment of their reasonable costs. The Lands Tribunal case ***Johnson v Paddington Churches HA (2005)*** is the most relevant, recent case about disputed Disturbance Payment.

4.17 Further guidance on the issue of what is eligible to claim for under Disturbance Payments is available in the Communities and Local Government (CLG) free publication ***Compulsory Purchase and Compensation Booklet 4: Compensation to Residential Owners and Occupiers*** (pages 16-18). This booklet is available from the CLG publications department (Tel: 0870 1226 237) and can be

downloaded from their website ([www.communities.gov.uk/publications](http://www.communities.gov.uk/publications)). The TMO Office also keep a hard copy. The booklet is particularly useful in relation to Disturbance Payment costs if the tenant (or a leaseholder or freeholder needing to re-purchase) elects to buy a home at the time of being decanted.

## Section Five

### 1. Leaseholders and freeholders to be decanted

5.1 The council will negotiate with a representative group known as the Joint Residents Steering Group (Joint RSG) (see point 1.10). This is the recognized body for consultation on the estate. The Joint RSG also operates a dedicated leaseholders Sub Group to represent the interests of leaseholders and a dedicated freeholders Sub Group to represent the interests of freeholders.

5.2 The council will compensate resident and non-resident leaseholders and freeholders in accordance with guidance set out in the Communities and Local Government's ***Compulsory Purchase and Compensation Booklet 4: Compensation to Residential Owners and Occupiers*** and ***Compulsory Purchase and Compensation Booklet 1:***



### **Compulsory Purchase Procedure.**

This recognizes that leaseholders and freeholders are being unwillingly displaced and that valuation will proceed on the basis of assuming that there is a market value not reduced by any proposal of development. Advice may also be sought from the Compulsory Purchase Association (Tel: 0118 9873345) and the Royal Institute of Chartered Surveyors (RICS) whose valuation principles of property transaction underpin the payment of compensation. RICS also offer a limited freephone help line. In addition, the Land Compensation Manual, used by some authorities, is available on the internet, but only in a limited form.

- 5.3 The council warrants that the Compulsory Purchase Order (CPO) route will only be used where all other avenues (i.e voluntary purchase) have been exhausted.

## **2. Consultation with leaseholders and freeholders**

- 5.4 The council undertakes to consult with leaseholders and freeholders both individually and collectively through the Joint RSG and its leaseholders Sub Group and freeholders Sub Group so that leaseholders and freeholders are able to maximize their choices in respect of their future homes.

- 5.5 Leaseholders and freeholders will be visited individually at least 2 years before the planned demolition of their property. In addition to individual meetings, the council will facilitate a group meeting with all leaseholders and freeholders prior to demolition in the same time frame.

- 5.6 A timetable of meetings with leaseholders and freeholders collectively and individually will be scheduled on the general and specific issues affecting them. The terms of reference of these meetings will be considered and agreed by the Joint RSG. In practice, it is likely that these meetings will be planned with the leaseholders Sub Group and the freeholders Sub Group.

## **3. Independent advice and services of a Valuation Surveyor and Legal Conveyancer**

- 5.7 The council will cover the cost of independent housing advice for all three tenures on the estate during the regeneration project but will also fund, for the specific benefit of leaseholders and freeholders, a Valuation Surveyor to assist with the negotiation of the sale of the existing home to the council and the re-purchase of a replacement home.

5.8 The respective Sub Committees for leaseholders and freeholders will interview and recruit their own Valuation Surveyor to carry out this service. The contract to engage such a firm will be held by the TMO and they will authorise payments as per the agreed contract. Leaseholders and freeholders are legally entitled to appoint their own adviser if they wish to on the understanding that the council will only pay for one service.

5.9 If a leaseholder or freeholder elects to have their own Valuation Surveyor, they need to agree the terms of payment with the council in advance. The council, through the TMO, will only pay for the services of one surveyor directly upon completion of sale(s) as per the contract terms. This cost is a standard eligible item of claim for leaseholders and freeholders under Disturbance Payments. The Valuation Surveyor is expected to be completely independent of the council and be registered as a member of the Royal Institute of Chartered Surveyors (RICS). Their performance is expected to be reviewed by the leaseholders Sub Group or the freeholders Sub Group and the TMO.

5.10 Leaseholders and freeholders can also hire the services of a Legal Conveyancer to conclude the legal

transactions necessary to sell the existing home to the council and purchase a replacement property.

5.11 The leaseholder or freeholder needs to agree with the council the level of charges that they are eligible for when they recruit a Legal Conveyancer.

#### 4. The valuation process

5.12

- A. The valuation of the property will be carried out by the leaseholders' (or freeholders') appointed Valuation Surveyor in line with RICS valuation principles and will represent a market value of a willing seller without any assumption of development.
- B. The council must demonstrate that its own agent in the valuation process has disregarded both the effects of the development scheme and the reason for the purchase.
- C. The valuation should reflect any development value in the property that would have existed in the absence of the scheme.
- D. The Valuation Surveyor will negotiate with the council and its appointed valuer to try to reach an agreement, based on relevant property comparables in the locality.

E. If agreement on valuations is not reached between the parties and the regeneration project progresses to a Compulsory Purchase Order (CPO) stage then it may be necessary to proceed to a Valuation Tribunal to resolve the valuation. This step will require careful consideration and the advice of the Valuation Surveyor at the time as it may also need the services of a Solicitor to take the claim forward. The council will not indemnify homeowners for the cost of going down that route.

## 5. Compensation for leaseholders and freeholders

### 5.13 Home Loss Payment

In addition to the market value, resident leaseholders and freeholders will be entitled to a further 10% up to maximum of £47,000, of the selling price value of their property to be sold.

5.14 This level of compensation is reviewed each year by the Government but there has been no change since 1st September 2008. In practice, the Communities and Local Government will review each year in June/July and if there is to be a change, Parliament will receive a Statutory Instrument that will take affect from 1st September.

5.15 The council and the Independent Adviser will notify all parties if there is a change to this compensation arrangement.

### 5.16 Non-resident leaseholders and freeholders

Non-resident leaseholders and freeholders are entitled to claim for a Basic Loss Payment equivalent to 7.5% of the selling market value. This payment was introduced by the **2004 Planning and Compulsory Purchase Act, section 106-110**. It is now inserted in the **1973 Land Compensation Act as section 33a to 33k**. It represents a payment to a person who has a qualifying interest in land, whose interest is acquired compulsorily and is not entitled to a Home Loss Payment in respect of any part of the interest.

5.17 Non-resident leaseholders and freeholders can also claim for limited Disturbance Payment costs in respect of incidental expenses or charges incurred in acquiring, within a period of one year of date of entry, an interest in other land in the UK.

5.18 Note that the council can choose to offset some of the Home Loss Payment against any corporate debts owed to the council by the leaseholder or the freeholder. This

may include such things as outstanding Council Tax and Service Charges owed to the council

## 6. Disturbance Payment for leaseholders and freeholders

5.19 As with tenants, all relevant circumstances are to be taken into account. “Every cost can be considered on its merits and should be recoverable if a natural, direct and reasonable consequence of being disturbed” (definition of Disturbance Payment from CLG publication **Compulsory Purchase and Compensation Booklet 4: Compensation to Residential Owners and Occupiers**).

5.20 It is recommended that leaseholders and freeholders keep a detailed record of losses sustained and costs incurred in connection with the acquisition of a replacement property. Residents should always keep all relevant documentary evidence such as receipts, invoices and fee quotes. The costs evidence is important because the onus is on the claimant to justify his or her claim.

5.21 Leaseholders should refer to the detail set out in Section Four, part three, ‘Disturbance Payments for decanted tenants’, item 4.9 sets out the individual items (A-L) that leaseholders

and freeholders, as well as tenants, can ordinarily claim from the council.

5.22 Only item L is not available to leaseholders or freeholders. This is the £200 (£250 if you are over 60) discretionary general Disturbance Payment for small unrecorded costs associated with the relocation.

5.23 The big difference for leaseholders and freeholders in respect of Disturbance Payments is that they can claim a much wider range of costs not normally incurred by tenants. These can include such costs as:

- Legal Fees arising from the acquisition of a replacement property
- Stamp Duty arising from the acquisition of a replacement property
- Surveyors fees arising from the acquisition of a replacement property
- Survey fee and costs in connection with the transfer of an existing mortgage or raising a new one
- Incidental costs of acquiring a replacement property

5.24 See CLG’s **Compulsory Purchase and Compensation Booklet 4: Compensation to Residential Owners and Occupiers** for further details. The section on eligible costs associated with changing mortgages is set out in points 2.56 to 2.58 (listed below), is illustrative of what can be

claimed by way of compensation;

*‘2.56 Losses may occur as a result of having to transfer a mortgage. Provided the losses flow as a direct and reasonable consequence of the acquisition, you will be entitled to compensation.*

*2.57 There may be circumstances where you have a mortgage which is fixed at a favourable rate which is more expensive. Where this is occurs, compensation is paid based on the difference between the net amount it would cost to repay the outstanding sum on the mortgage at the old rate and how much it would cost at the new rate.*

*2.58 If you have to buy a more expensive dwelling than the one which was compulsorily acquired you may have to take out a larger mortgage which your income cannot support. If the acquiring authority is the local council they may be willing to grant a special mortgage under which the repayment of the capital sum is deferred until a later date to be agreed.’*

**Compulsory Purchase and Compensation Booklet 4:  
Compensation for Residential Owners and Occupiers**

## **7. Purchase of a replacement home**

5.25

A. The intention is that leaseholders and freeholders will be no worse off following acquisition than they were before, unless of course they freely choose to purchase a more expensive property.

B. The council will pay all survey, legal and conveyancing costs of the purchase of a new home, providing those costs are deemed reasonable. These costs must be agreed with the council in advance.

C. In the event that the leaseholder or freeholder wishes, subject to affordability and availability, to buy into a new home on the redeveloped Carpenters Estate site, the council (and any developer partner) will make available a breakdown of the opportunities involved together with a breakdown of available properties by type, size and tenure, as well as the financial implications (price, service charge projections etc).

D. If however, the leaseholder (or a tenant or a freeholder) decides to purchase a leasehold owned property in the new build development on the original Carpenters Estate site, the developer manager (assuming it will not be the

council itself) will not be allowed to charge for the administration of the Lease any more than Newham Council do in any one year. This can be a valuable protection as leasehold management service charges are often much higher in the Registered Provider Housing Association field than what the council charges. Newham's policy in this area will be a protective benchmark.

## **8. Alternative options for leaseholders and freeholders**

5.26 The council acknowledges that there is no reason why leaseholders or freeholders, having to give up their homes as a result of redevelopment, should have to pay any more than they are at the moment unless of course they choose to purchase a higher value replacement property. Where a leaseholder or a freeholder indicates that they cannot afford to purchase an alternative property on the open market, the council will carry out an assessment of the leaseholder's or freeholder's financial circumstances. This financial assessment will determine the leaseholder's or the freeholder's ability to purchase an alternative home.

The following options can then be considered:

- A. The opportunity, informed by clear referenced and timely independent and council advice and assistance to purchase an alternative existing council home in similar or better specifications than the existing home and with similar or better facilities in the area. If there is a difference in the valuations of the existing and the replacement property, the purchaser can offer to conclude the transaction by a financial offer of balance settlement.
- B. The opportunity to purchase a council property which is of a higher value or larger, on a shared equity basis with the council or another development partner, retaining a percentage of the property until such time as the leaseholder or the freeholder can purchase the remainder of the property or sells the property.
- C. The opportunity to purchase properties in shared ownership schemes (where the leaseholder owner pays a subsidized rent on the part of the property he/she does not own) which are of the same size or larger than the existing property, subject to affordability.

- D. The opportunity to purchase a replacement property on an Equity Transfer basis. It is proposed that, in the first instance, the development Business Plan to redevelop the Carpenters Estate provide for 12 such Equity Transfer opportunities to be ring fenced to existing Carpenters leaseholders and freeholders. The council and the developer will be expected to produce a range of innovative Equity Transfer models for leaseholders and freeholders to consider so that they can avail themselves of an option that suits their financial circumstances.
- E. The developer will be required to offer a financial incentive to encourage existing homeowners who want to re-purchase a home in the new development so that they can stay as owner occupiers in their community. This may take the form of a financial discount on purchase only available to existing Carpenters Estate homeowners.
- F. The minimum capital injection by a homeowner into any Equity Share Scheme will normally be 50% of the value of the new home. It will be expected that applicants for the Equity Transfer option would need to commit the balance of their equity from the sale of their original home plus their Home Loss Payment.
- G. As more detail becomes available as to what a development partner is prepared to offer, this will be considered by the Joint Residents Steering Group and its sub groups for leaseholders and freeholders. Independent Advice on these options will be available. Details of these options will be appended to later versions of this charter and carefully explained to leaseholders and freeholders.
- 5.27 No leaseholder should be put in the position of having to revert back to a council tenancy. All endeavours will be made by the council to ensure that they are enabled to remain owners. The council will use all endeavours in securing replacement property in the private sector for the leaseholders and freeholders. Should however the financial assessment and advice conclude that the homeowner is unable to pursue any of the options listed above with the resources available to them, the council will then consider an application to revert to a council tenancy consistent with the council's Allocations Policy in respect of treating the rehousing of decants. Note; if this route is adopted, the leaseholder or freeholder will still be entitled to receive a full market value for the sale of their original home.

- 5.28 The council commits to researching alternative and innovative models of Equity Transfer that may be suitable and affordable to existing homeowners. This will involve checking on the legality and robustness of the product and this will be reported to, and consulted with, the Joint Residents Steering Group and its sub groups for leaseholders and freeholders.
- 5.29 A named officer will be appointed to assist each tenant, leaseholder or freeholder to exercise their rights as contained in this charter alongside the Independent Adviser service. This will also be facilitated through collective meetings, with an Independent Adviser present, to ensure fairness and transparency in all of the above.





## Glossary

**Adaptations:** additional works to a property for a tenant or family member with disabilities.

**Allocations Policy:** the formal policy adopted by the council for the letting of all properties.

**Affordable Rent:** a Government description of a model of rent setting introduced by the 2012 Localism Act which allows social landlords to charge up to 80% of market rents.

**Carpenters Tenant Management Organisation (TMO):** the managing agent of the council properties (tenants and leaseholders) on the estate. Does not include freehold properties.

**Charter:** the council's legal commitment to residents affected by the rehousing process.

**Choice Based Lettings (CBL):** the bidding method by which all properties (council and housing associations) are allocated to individuals.

**Compensation:** what you are entitled to as a direct consequence of the council deciding to move you.

**Compulsory Purchase Order (CPO):** the legal term under which the council may force the sale of a property.

**Compulsory Purchase Order Guidance:** publications issued by the Government's Department of Communities and Local Government that explains what the implications are for both the council and the resident occupier(s).

**Conveyancing:** the legal term used to describe the process of selling and buying a home.

**Decant status:** term used to describe the process where a resident is required to move because of the development wishes of the landlord.

**Decent Homes Standard:** the minimum standard identified by the Government which all social housing in England should achieve.

**Direct Offer:** an offer of a property to a tenant outside of the Choice Based Letting System.

**Disturbance Payment:** other reasonable costs associated with the move that will be covered by the council.

**Home Loss Payment:** the statutory entitlement that the council must pay to each tenant and resident homeowner.

**Independent advice:** advice available from the Tenant Participation Advisory Service (TPAS) independent advice agency engaged to provide independent impartial advice to all tenures.

**Joint Residents Steering Group (Joint RSG):** the body established by the council and Carpenters Tenant Management Organisation (TMO) to act as the official recognised body for consultation on the Carpenters Estate.

**Leaseholders:** the legal term for those residents who have purchased the long term interest of their flat, with the council retaining the freehold.

**Lettable Standard:** the condition of cleanliness and repair you can expect from your new home.

**New Build Scheme:** homes that have just been built and are available for rent, part buy or outright purchase.

**Over-crowding:** a tenant/family who requires more bedrooms in line with the Allocation Policy.

**Priority Status:** highest level of priority under the Choice Based Lettings System.

**Reasonable:** term used to describe whether a property is suitable to the needs of the resident to be rehoused.

**Rehousing process:** the term used to describe the council's decision to move (decant) all residents affected by the landlord's development proposals.

**'Right to Return':** those tenants who have been or are to be rehoused from the estate but to whom the council have contractually agreed can return to a new build property in the final development on the land currently known as the Carpenters Estate.

**Secure tenant:** the tenancy status set by an Act of Parliament.

**Social Rent:** an affordable, traditionally set rent calculated by the Target Rent formula set by the Government.

**Under-occupying:** a tenant/family who currently lives in a property with more bedrooms than required.

**Valuation:** the exercise of calculating the value of each property.

This residents charter has been facilitated by the Tenant Participation Advisory Service (TPAS)



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