



# Decant Policy

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## **1.0 Scope**

The Decant Policy sets out the approach that Broxtowe Borough Council takes to moving residents temporarily in order for work to be carried out to their property and where it is not safe or possible for the resident to remain in the property while work is carried out or where it is damaged in an emergency, such as fire or flood.

A decant can on occasions be a permanent move, such as when a property cannot be repaired economically and/or has been earmarked for demolition or disposal.

The policy only applies to Council properties and tenants and not leaseholders. If emergency housing is required as a result of a civil emergency or similar, this policy does not apply.

## **2.0 Purpose**

The purpose of a decant is to allow for the Council to carry out essential works that cannot be completed with the tenant in situ. The policy outlines the Council's approach to this.

## **3.0 Aims and Objectives**

The aims and objectives of the policy are:

- To enable decants to be carried out with minimal disruption and disturbance to residents
- To establish the requirement to consult effectively and provide regular feedback to residents who are affected by a decant
- To establish a framework in which the Council provides assistance, whether practical or financial, to residents affected by the need to decant
- To ensure that decants are managed in a fair, equitable and reasonable manner
- To establish a basis of approval for a decant to take place
- To enable the Council to make best use of its stock through timely access for improvement and development works or where a decision is made for demolition or disposal
- To minimise rent loss to the Council by having a joint approach between Housing Repairs, Capital Works and Housing Operations.

## **4.0 Regulatory Code and Legal Framework**

The Landlord and Tenant Act 1985

The Housing Act 1985

Land Compensation Act 1973

Gas Safety (Installation and Use) Regulations 1998

Electrical Equipment (Safety) Regulations 1994

## **5.0 Policy Outline**

### **5.1 Reasons for a decant**

A decant is where a tenant moves from their original property to another one, either temporarily or permanently. Decants will be considered in the following circumstances:

- The property requires works that makes it potentially unsafe or potentially unhealthy for the tenant to remain
- The property is in a condition that makes it uninhabitable
- Improvements are required to a property that are too significant to complete with the tenant in occupation. (The Council will take account of a tenant's individual circumstances when making this decision.)
- The property affected is subject to a redevelopment programme or where demolition is required.

### **5.2 Rehousing options**

#### Emergency Decants

Where an unexpected event has caused a property to become uninhabitable, the Council will use its responsibilities in accordance with the Housing Act 1996 Part 7 to rehouse residents in temporary accommodation, which could be by the usage of Bed and Breakfast. If the issue with the property can be remedied and returned to in a period of less than 2 weeks, then the Council will consider the continuation of the usage of temporary accommodation for this period.

#### Short Term Decants

Where decants do not arise in an emergency but are short term, a period that is likely going to be less than 8 weeks, the Council will either choose to use appropriate temporary accommodation. The Council will work to avoid the usage of Bed and Breakfast for short term decants.

The Council will identify a property from its own stock or a Registered Provider for the tenant to move into temporarily. The Council will consider the Housing Allocations Policy with regard to the size and type of property used as a decant property. Where possible the decant will be located in the same area as the current property to minimise disruption to the tenant.

On occasions due to the availability of stock, temporary decant properties may be in a different location and of a different size to the current property. The decant tenant will not be decanted to a property that will result in overcrowding.

If a tenant refuses their initial decant offer and it is considered a reasonable suggestion of accommodation, the Housing Operations Manager, or an appropriate deputy, will decide if additional alternative decant properties should be found.

If the decant is considered absolutely necessary and the tenant refuses more than 3 offers that are considered reasonable by the Housing Operations Manager, or an appropriate deputy, and there is no reasonable prospect of the works being completed with the tenant in occupation, then the Council will consider possession proceedings.

### Permanent Decants

Where a decant involves a permanent move because of disposal or demolition of the original property, the Council will assist tenants in accessing the Homeseach Scheme and assess their application in accordance with the Allocations Policy. They will be assessed as Band 1 to reflect the urgency of their circumstances.

The permanent decant property will be offered on equivalent tenancy terms and will be treated as a new letting. Tenancy rights will not be affected wherever possible. If a property is sourced that would result in a change to the rights of a tenant, such as moving to specialist accommodation that affects the Right to Buy, the tenant will be informed of this at the point of the offer being made. If the decant is considered absolutely necessary and the tenant refuses more than 3 offers that are considered reasonable by the Housing Operations Manager, or an appropriate deputy, the Council will consider possession proceedings.

## **5.3 Conducting a decant**

Properties that will be used as part of a decant will be inspected and made ready to let in accordance with the letting standard. It will be treated as a standard void property.

In an emergency or short term decant, no rent or Council Tax will be charged on the decant property but will continue to be charged on the original property. It will be the tenant's responsibility to update any relevant agencies and claims.

In an emergency or short term decant, the tenant will not sign a tenancy agreement for the decant property but will occupy the property under a Decant Agreement outlined in the Decant Procedure.

An emergency or short term decant does not count as a new letting of the property. The tenant remains liable for the services and rent at their original tenancy, which they will be returning to.

## 5.4 Compensation and costs

In the event of a permanent move, the tenant could be entitled to Home Loss payments.

Home loss payments are applicable where there is:

- A compulsory acquisition of an interest in the dwelling
- The making of a housing order in respect of the dwelling
- An acquisition of the dwelling and land by an authority possessing compulsory purchase powers.

Home loss payments could be claimed if the tenant has occupied the property as their sole residence for a period of one year prior to displacement and/or the tenant is a Secure or Fixed Term Tenant.

The current amount of Home Loss Payment in accordance with The Home Loss Payments (Prescribed Amounts) (England) Regulations 2018 is £6,300. These payments are increased annually.

In the event that the tenant does not qualify for Home Loss Payments, they could qualify for disturbance payments. The criteria for where disturbance payments could be applied for is similar in terms of compulsory acquisition or housing orders. It is possible to qualify for both.

Disturbance payments cover 'reasonable expenses' incurred by the entitled person during moving.

Tenants should not incur unnecessary costs as a result of a decant. The Council will assist the tenant with moving essential items from one property to another. If some items are required to be stored, the Council should consider the request and provide appropriate safe and secure storage accordingly.

The tenant should retain receipts for any costs and these will be considered by the Council and should be refunded at the Council's discretion, if the costs are considered necessary.

The Council will not cover the costs of, or provide any household items, such as toiletries and other products, or food at the new property.

The Council will consider the reimbursement of travel expenses where a decant has been necessary to an area that is a significant distance, more than five miles, in addition to their normal journeys to school or employment. Tenants wishing to make a claim for this must demonstrate the hardship by providing income details and showing receipts or tickets etc.

The Council will consider the following works to assist the tenant in the event of a decant:

- The removal of furniture and assistance with packing by supplying boxes

- The storage of belongings
- Removal vans
- The lifting and refitting of carpets or flooring in their permanent home
- Fitting of carpets or flooring in the decant address
- The refitting of curtains or blinds in the permanent home and decant address. If additional blinds or curtains are required in the decant address, the Council will consider the supply of these.
- The redirection of post
- Disconnection or moving of kitchen appliances from the permanent home to the decant address and back.
- Cost of the kennelling of pets that cannot be housed as part of the decant
- Any other request from the tenant that is considered reasonable by the Head of Housing or Housing Operations Manager.

Any payments as a result of any Home Loss are subject to deduction of any outstanding debt to the local authority.

## **5.5 Communication and Liaison**

The Council recognises that moving home in any circumstance can be a stressful experience. The Decant Policy aims to ensure that decants are carried out efficiently with minimal stress and hardship caused to the decanting tenant.

It may be necessary in certain circumstances to consult with tenants in accordance with Section 105 of the Housing Act 1985. If this is considered appropriate, the Council will engage with tenants at the earliest possible charge and allow the tenants the statutory timescales in accordance with the Act.

Liaison throughout the decant process is essential and will be led by the appointed Housing Officer. All relevant teams will engage positively with the tenants and will be responsive to their concerns.

On short term or permanent decants, the Council will ensure that the following information is communicated to affected tenants:

- Details of the project being undertaken
- The proposed start dates (if known) and the anticipated duration of the work
- A copy of the policy and associated procedures
- How a property will be identified
- Confirmation of the help and support that the Council will provide
- A named contact or contacts for the duration of the project

If the tenant should require any further advice or assistance in relation to the decant process or their options, the Council should signpost them to the Housing Options Team, Citizens Advice Bureau, Law Centre or a Solicitor.

## **5.6 Returning to the property following works**

The services provided to the tenant by the Council as part of moving them out to the decant property should be replicated to assist in moving them back. The Council will

confirm in writing the date that the works will be completed and when the decant property will need to be vacated by.

If the tenant refuses to move back to their property, the Council will make an application to the Court for their eviction from the decant property. This action will not affect their original tenancy.

If the tenant does wish to stay in the decant property, the request should be made to the Housing Operations Manager or Head of Housing. The Council may consider a 'direct let' in accordance with the Housing Allocations Policy or alternatively require the tenant to return to their original tenancy. There should be no betterment in terms of property type or size as a result of a decant.

In these circumstances, the Council will consider whether costs incurred as part of the decant are all now appropriate. If any costs are to be recharged, this is at the approval of the Housing Operations Manager or the Head of Housing.

## **5.7 New housing developments**

If the Council has decanted tenants because of demolition with a view to new housing being built in the location, the Council will offer the tenant a property on the new development subject to them meeting the allocation criteria of the properties being built.

## **6.0 Related Policies, Procedures and Guidelines**

This policy should be read in conjunction with the:

- Allocations Policy
- Decant procedure
- Repairs Policy
- Repairs procedures
- Tenancy Management Policy
- Tenure Policy

## **7.0 Review**

This policy will be reviewed every 3 years unless there are significant changes in legislation.

## **8.0 Document History and Approval**

<b>Date</b>	<b>Version</b>	<b>Committee Name</b>
4/12/18	1.0	Housing Committee