



Annex A

Decant Policy

2019

[Draft]

Housing Services

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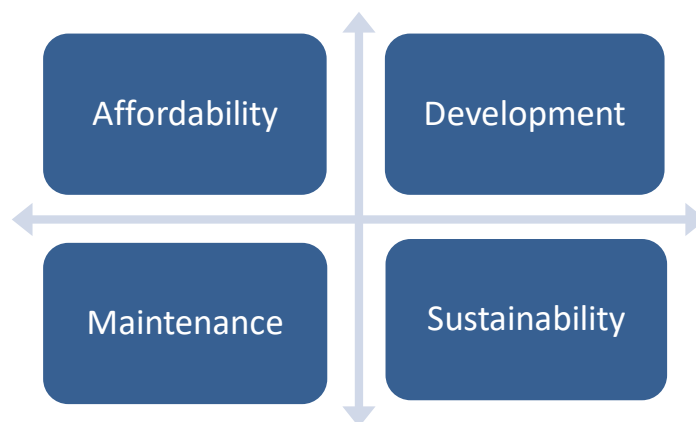
INTRODUCTION

Brentwood Borough Council ('the Council') is committed, as a stock-holding Local Authority and social landlord, to ensuring the effective maintenance of its housing stock, estates, open spaces and communal areas.

The Council seeks to maintain and extend the life of its stock wherever possible. However, there will be times when existing buildings or schemes will need to be either renovated or renewed. To allow for this existing residents may have to be moved which is why a clear and transparent 'Decant Policy' is required.

Our residents should be reassured by our commitment to ensuring the promotion of residents health and well-being, alongside the provision of current and future social and affordable housing within the Borough.

Mrs Angela Abbott
Housing Services Manager



Scope and Purpose

Why have a Decant Policy?



All residents of Council accommodation should have information about how their homes are maintained, including confidence in the process should they need to move to an alternative.

The Decant Policy is relevant to tenants and provides direction as to how any individual, communal or group decants will be undertaken. It also provides direction on how private home owners/tenants will be engaged with concerning development schemes.



All Councils and social landlords must operate viable businesses with adequate recourse to financial resources to meet current and future business and financial commitments.



The Council seeks to continue to provide good-quality housing services for residents and prospective residents. We must aim to deliver continuous improvements and value for money in our services. Service provision is subject to challenge and change. The wishes of residents and others must be balanced against available resources within a clear framework.

What is a Decant?

What does this policy cover?

A 'decant' is where a resident [of Brentwood Borough Council] is required to move temporarily or permanently from their home. This policy concerns properties and lands owned by the Council in its 'Housing Revenue Account' (HRA – see glossary).

A decant may be due to demolition or redevelopment of that dwelling or area, it may also be due to planned work or emergency situations.

This policy primarily deals with situations where residents of Brentwood Borough Council will permanently lose their home. A short section is included in relation to emergency and temporary decants.

The Council will deal with rehousing priorities using, for guidance, the criteria set out in the current Allocations Policy and in this Policy. The Council will try to meet a household's needs and wishes on their rehousing as best it can given available resources.

Consultation

Tenant and resident consultation and involvement will comply with all legal requirements. In a non-emergency situation, the consultation will be completed before it is necessary for anyone to move. Consultation that forms part of the planning process does not form part of this Policy. For such information please contact the Council's planning officers or review the Council website at www.brentwood.gov.uk.

Major decant projects will involve Local Borough Councillors who will be sent copies of letters consulting residents, and will be invited to any formal consultation meetings with residents. The outcome of the consultation will be reported back to the tenants and residents in an appropriate format, and without identifying comments made by individual respondents. Councillors will be advised through the Council's usual democratic processes.

Tenants will be consulted informally, for a period of not less than 28 days save where exceptional circumstances arise.

Consultation for tenants is as per Part IV, section 105 of the Housing Act 1985 (as amended).

A reasonable amount of time will be given to the consultation and will include non-tenants where relevant. The formal s.105 consultation period will be for a minimum of 28 days.

If Court possession proceedings are being brought under the Housing Act 1985 then consultation will occur as a pre-condition of obtaining approval of the scheme from the Secretary of State. A written notice of the scheme will be served on all affected tenants under Schedule 2, Part 5 of the Act. Tenants have a minimum of 28 days to respond to the consultation.

The Council will seek to obtain voluntary agreement with tenants to relocate wherever possible. If this does not prove possible then the Council may seek to evict the tenant on grounds in the Housing Act 1985 or seek to compulsorily purchase the a legal interest in the property.

Owners, Leaseholders and Private Tenants

In general, consultation with homeowners will happen alongside that carried out with council tenants, even though the Council may have no statutory obligation to consult with these groups outside of planning or the compulsory purchase processes.

For owners of property and private tenants, unless a voluntary agreement has been reached with them, the Council will pursue a compulsory purchase order.

If the Council decides to pursue compulsory purchase then it will comply with current legislation covering the use of Compulsory Purchase Orders under the Town and Country Planning Act 1990 or the Housing Act 1985 (as amended by the Planning and Compulsory Purchase Act 2004). This legislation governs the length of notice to be given. (See the 'Private Ownership' section below for more details).

Provision of Information

If any multiple decant is necessary (temporary or permanent) then every qualifying person(s) will be allocated a designated Officer and invited to discuss the situation at the start of any project. Individual decants will also be dealt with similarly.

We will seek to discuss:

- What the proposed project is and why it is being undertaken.
- When it will be done, or likely timescales.
- The decant policy and process (tenants and qualifying owner occupiers only).
- What choices there are and how these can be made.
- What we will do to help tenants prepare for any work and support whilst this work is being carried out.
- Named contact officer for the duration of the programme.
- Owner occupiers will be given specific advice on how the Council wishes to involve their properties in any scheme and the process that will be followed



Emergency Decants (1 to 14 days)

Where an unexpected event has caused a property to become uninhabitable the Council will seek to ensure immediate alternate accommodation is accessible.

The decision on whether a property is inhabitable will be made by the Housing Services Manager who will have regard to professional/expert advice and opinion.

Whilst every endeavour will be made to provide “like for like” accommodation in the short term accommodation which would not be fit for a longer term decant may be offered where no other properties are available.

In emergency situations accommodation offered may include, depending on availability:

- ☐ Council stock
- ☐ Council stock – shared facilities
- ☐ Bed & breakfast accommodation (which may be out of Borough)
- ☐ Sheltered Housing Guest Room

Tenants will also be supported to check to see if their home insurance may cover the cost of the above and/or if it would provide financial provision for alternatives. Tenants also have the option of staying with friends or relatives in the interim. Rent would be frozen in this instance.

Temporary Decants (14 days +)

Temporary decants may be in any one of the above accommodation types, depending on availability and suitability. The Council will work with the tenant and offer the most suitable accommodation from available resources.

Where appropriate, tenants will have a separate written licence to occupy their decant property. Provision for removal of any items/possessions at risk from works will be made by the Council where reasonable to do so.

Tenants will have the rent on their property put to zero, but will have to pay the rent of the decant property. The amount will be capped so no decant rent is higher than the original rent.

Discretionary Payments: The Housing Services Manager has the discretion to authorise payments relating to compensation or financial assistance. Payments will only be made where VAT registered receipts are received for good/services required due to the decant.

Permanent Decant – Tenants Your Needs

We recognise changing home may be stressful.

The Council will:

- ✓ **Work closely** with affected residents to ensure any required move is as stress-free as possible.
- ✓ **Ensure** that residents are kept fully informed as to any changes which affect them.
- ✓ **Appoint** a named point of contact for affected residents
- ✓ **Endeavour** to ensure that residents personal, health and emotional well-being is protected at all times.
- ✓ **Complete** a housing needs assessment with affected residents (including a Sheltered Housing Assessment for older residents and/or those with high-level medical needs where relevant).



Your Housing - Tenants

Where will I be moved to and how does it work?

- ❑ For a small-scale decant we would ordinarily make direct-offers of accommodation, having considered the tenants' immediate housing and personal needs.
- ❑ Any direct offer will be made as allowed for by paragraphs 116-117 of the Allocations Policy 2014 (or any subsequent replacement policy).
- ❑ Large-scale decants may be subject to further Local lettings Plans or revised Allocations Policies. In those circumstances use of the Choice-Based Lettings system may be undertaken with a scheme of additional points allocated.
- ❑ Offers of alternate accommodation will be for a similar size property within the Borough, considering where possible any location preference the tenant may have.
- ❑ The new tenancy would ordinarily be 'like for like'. Therefore, if a tenant currently has a Secure Tenancy they would retain this. Any Joint Tenancy would remain; however, the household will not be eligible for more than one new property as a single household. Only current permanent members of the household will form part of the re-housing process.
- ❑ If a tenant is under-occupying their existing accommodation (as per the meaning within the extant Allocations Policy) then the tenant will be offered the opportunity to 'down-size' to a more suitable accommodation. Any down-sizing may attract the additional 'under-occupation allowance' (minus any housing debts owing to the Council). Under this policy the Council will not require a tenant to downsize; however this provision may be superseded by any Committee approved site-specific Local lettings plan in the future.
- ❑ The Council wants to work with any affected household to ensure a mutually agreeable move is achieved. If however a resident refuses to move or does not ultimately agree to a reasonable offer of alternate accommodation, then the Council would be forced to seek an eviction. In such an event there would be no duty to provide further accommodation and legal costs may be sought against the tenant.
- ❑ The Council **does not want to evict** any tenant given the above. We want to work with tenants to achieve a successful outcome for their continued housing. The Council will make every endeavour to rehouse tenants and residents within as short a time-span as possible.

Tenants returning to a new Housing Development

All tenants who have been decanted from their homes retain the option to return to the new development site, if a suitable property is available.

Where it is not anticipated that similar properties are to be built, or within a reasonable time frame of less than 3 years, then tenants will be notified that the move is permanent with no option to return.

Where possible the right to return will be granted to tenants who were in occupation at the time of the initial home visit and who have made it clear to the appointed Officer that they may want to return to the area that they were supported to decant from. Returning tenants will be able to choose the property they wish to return to (subject to clauses regarding bedroom needs) in accordance with their length of tenancy prior to being decanted.

The tenants with the longest tenancy will be given first choice, and so on until all returning tenants have been rehoused.

Remaining properties will be allocated in accordance with the Council's current allocations policy, giving regard to s106 and local lettings agreements where they exist.

In the case of specialist accommodation this will be assessed and allocated according to need and will not be subject to the tenant choice above.



Your Finances - Tenants

The Council understands that moving home will likely incur additional financial expenses, as well as inconvenience and potential distress. Accordingly, you may be eligible for the financial compensation.

Home Loss Compensation (Tenants)

- This is a sum payable to an eligible tenant to reflect and recognise the distress and discomfort of having to move from your home. Such a payment is made once only and only to authorised tenants. Unauthorised occupants and squatters will not be paid home loss compensation. Deduction for housing debts owed to the Council **will** be made from any home loss payment due.
- To claim a Home Loss payment, the tenant must do so in writing, or, for disabled people, in an equivalent format. The amount payable is laid down in law and will be paid within three months of application, **provided that the household has moved from the original property and returned the keys to it. Further deductions for tenant damage may also be made as per the Recharges Policy.**
- For the purposes of section 30 (2) of the Land Compensation Act 1973 the prescribed amount of home loss payment is £6,300 (or as stipulated in the relevant Regulation in force).
- The payment will be made as a lump sum and only one payment is made to joint tenants, not one each.
- A tenant will qualify for a home loss payment if a) they have occupied that accommodation as their only or main residence for a minimum period of one year AND b) if they have moved out permanently, either because of improvement or development works that we will be carrying out, or because their home is being demolished.

Disturbance Payments (Tenants)

The Council will pay to a tenant the reasonable financial costs incurred and any losses sustained in connection with having to move home. This is paid in addition to Home Loss Compensation (if you are eligible for that).

Tenants will be eligible for Disturbance Payments regardless of eligibility for Home Loss Compensation.

Disturbance Payments will be paid in accordance with current legislation. Currently this is under the Land Compensation Act 1973. Unauthorised occupants and squatters will not be paid any Disturbance Payments.

A Disturbance Payment should be equal to expenses *‘needed to be removed from the land’*.

Disturbance Payments are individual payments made for each eligible item, rather than a global figure. In effect paying for the reasonable costs relating to household items that must be moved out of, or disconnected from, the old property and moved into, or refitted or reconnected in, the next one. These items must belong to the household concerned. Any Council owned fittings/items are not included.

Below are the items that the Council will usually cover. In exceptional circumstances where a household has exceptional needs arising then consideration will be given to paying for other exceptional items on an individual basis.

- ✓ Removal costs
- ✓ Removal and re-fitting of fixtures and fittings, for example grab rails (where independently purchased)
- ✓ Disconnection and reconnection of tenant’s own cooker, washing machine and dishwasher (where essential and possible)
- ✓ Decorating rooms which need it
- ✓ Assistance for vulnerable tenants with notifying utilities/council tax/service providers of change of address.
- ✓ Assistance for vulnerable tenants with packing and unpacking of personal effects
- ✓ Redirection of mail
- ✓ Reconnection of landline telephone and internet connection

The above list is not exhaustive, and households may claim other reasonable costs associated with the move. Disturbance Payments will only be made after a valid receipt, showing VAT where applicable, is received for each item claimed for.

Disturbance Payments will be paid only once. Any housing debts owed to the Council will **not** be deducted from disturbance payments.

The Council is entitled to refuse to pay all costs where it is felt that some of the claim is unreasonable. If there is a dispute, then either the person concerned, or the Council can apply to the Lands Tribunal (see Glossary) for a decision.

National housing benefit regulations state that disturbance payments are not counted as capital or income for housing and Council tax benefit purposes.

The 'Right to Buy' (RTB)- Existing Tenants

- The Council has the right to halt the right to buy of any affected council housing stock. If a tenant has an existing 'Right to Buy' application, we will discuss it further with them. Current legislation allows for the following:

Initial Demolition Notice

- RTB of any affected Council housing stock will be suspended from the date an initial demolition notice is served on the Council tenant(s) concerned. It will stay suspended for as long as this notice remains in force. The suspension of any right to buy claim means, in law, that the Council cannot be required to complete the transaction.
- Before this notice is served the Council will have decided exactly what properties are to be included in the scheme concerned. This notice is served where it is intended to demolish the property concerned within 5 years. It will include the reasons, and the timescales, for the demolition.

Final demolition notice

- The serving of a final demolition notice currently ends the RTB for these properties completely. Any prospective RTB purchases which are underway, but have not completed, will not proceed. No new right to buy application on these properties will be accepted.

Right to buy expenses

- 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 where required to by current legislation (currently the Housing Act 2004). This compensation includes relevant legal fees, surveyors fees, and other disbursements which have already been paid. These will be paid back to the tenant within a reasonable time period.

Practical Help to Move - Tenants

We recognise that tenants will require different levels of practical support and we are here to help.

- ✓ Tenants will be supported through the decant process by a dedicated member of staff who will be the main point of contact.
- ✓ The dedicated Officer will work closely with the Estates Management and Housing Options Teams to ensure the re-housing process goes as smoothly as possible.
- ✓ The dedicated Officer will play a key role in supporting households who have been identified as vulnerable and needing more support, working with support professionals where necessary.
- ✓ Additional practical support including organising removals, packing and un-packing, arranging the disconnection and reconnection of white goods and utility connections, will be made available to some of the most vulnerable tenants where applicable.
- ✓ Care Packages: The dedicated Officer will work with relevant providers with the aim of ensuring all elements of any care package remain operative during and after the move.
- ✓ Affected households will be given the opportunity of an accompanied viewing of any property that they are offered.
- ✓ Under the Housing Benefit rules, a resident can usually only receive Housing Benefit for the home they are living in. In certain circumstances they may be able to receive housing benefit on two properties for a period.

Home Owners

The Council may need to buy privately owned properties where they form an intrinsic part of a demolition scheme and/or wider development site.

The Council will always seek to purchase private properties through mutually agreed negotiation, however it may consider the use of compulsory purchase powers where appropriate.

Negotiated Purchases

The purchase price will be based on market values having been subject to relevant surveys and verification by an independent surveyor. The final purchase price and terms will be agreed by the Housing Services Manager and Head of Asset Management.

The Council will make its best endeavours to ensure that a fair and equitable financial arrangement is made. In addition the Council will provide practical support and assistance in obtaining alternate accommodation.

Compulsory Purchase Order ('CPO')

The Council will seek to identify everyone who has a legal interest in, or right to occupy, any privately owned land (i.e. freeholders, leaseholders, tenants and occupiers).

The Council would only seek a CPO as the last option and would serve relevant notices on every qualifying person. In case it is not possible to identify all such people before the CPO is made then the Council will also put up site notices.

If a relevant individual seeks to object to the making of the CPO the process is to object to the relevant Government Minister. In such an instance the objector is strongly advised to seek legal advice and/or assistance.

The formal legal process of applying for a CPO will be adhered to as per legal requirements and will require the authorisation of the relevant Committee, or as per delegated powers.

Where the Council acquires a property then it may terminate the lease under the terms of the tenancy by acquiring the freehold or any superior interest (such as a head lease) and serving notice to quit under the terms of the lease.

Compensation:

Compensation rules can be complex and this policy does not replace, supersede or enhance any statutory compensations payable.

CPO Purchase Price: The value of the land will be on the basis of its open market value without any increase or decrease attributable to the scheme of development.

The legal “principle of equivalence” applies, meaning that an affected party should be no worse off in financial terms after the acquisition but not better off either.

Fees: The reasonable surveyors fees incurred in preparing and negotiating a compensation settlement together with solicitors fees for any conveyancing will ordinarily be paid by the Council.

Disturbance Payments: (Only available to Owner-Occupiers)

Right to disturbance compensation is legally restricted to occupiers. There is a limited right for investment owners to recover their costs of reinvestment in a replacement property in certain circumstances.

Owner-occupiers are potentially entitled to financial compensation because of being ‘disturbed’ from the land.

Examples of items which can be claimed are:

- ✓ Removal expenses
- ✓ Legal fees arising from the acquisition of a replacement property
- ✓ Stamp duty arising from the acquisition of a replacement property
- ✓ Surveyor fees arising from the acquisition of a replacement property
- ✓ Survey fee and costs in connection with mortgage transference
- ✓ Special adaptations of replacement premises
- ✓ Disconnection and reconnection of utilities/.services (e.g. telephone, electricity)

The above is not an exhaustive list and every loss will be considered in its merits if it is a natural, direct and reasonable consequence of being disturbed.

Home Loss Compensation:

If the owner is actually living in the property they may be entitled to home loss compensation in addition to any other compensation due.

To qualify:

The individual has to be resident as the only or main dwelling for a period of not less than one year ending with the date they have to move out
The interest or right to occupy is a qualifying one.

Amount of Payment:

The freeholder/leaseholder (with at least 3 years unexpired term) is entitled to 10 per cent of the market value of their interest*, subject to a maximum payment of £63,000. Any other claimant is entitled to a flat rate of £6,300 (or as stipulated in the relevant Regulation in force).

*If there is more than one legal or beneficial owner of the property then the amount is divided between each party.

Re-Housing Tenants of Residential Owners

Where a private renting tenant loses their accommodation due to a voluntary sale or CPO then the Council may agree to re-house them in Council stock. Those individuals would need to be eligible as per the existing Allocations Policy, otherwise they will be assisted into privately rented accommodation.

The above does not restrict any rights that a household may have for prevention/relief of homelessness under the Homelessness Reduction Act 2017 or duties to assist under the Housing Act 1996.

If a tenant household is to be effected then the Council will signpost them to engage with the Housing Options team for support and advice.

Equality, Diversity and Well-Being

❖ Brentwood Borough Council actively works to ensure that its tenants, leaseholders and receive the services that are appropriate to them. The Council also strives to ensure that additional services can be provided to enable customers to access services which may be beneficial to their wellbeing and quality of life.

Confidentiality

❖ Under the Data Protection Act 2018 and the EU General Data Protection Regulation 2016 the Council complies with the six data protection principles. Further information is available online at www.brentwood.gov.uk (*Information About You*)

Publicising the Policy

❖ The policy will be available at the Town Hall in hard copy. The policy will also be made available online at www.brentwood.gov.uk.

Address for Service:

❖ For the sake of certainty this is:

Brentwood Borough Council
Town Hall, Ingrave Road, Brentwood, Essex, CM15 8AY

Glossary

[the] Council	Brentwood Borough Council.
Housing Benefit	A government benefit, currently administered by Local Authorities, which pays all or part of the rent and service charge for a property.
Housing Revenue Account ('HRA')	The account which Council rents and service charges are paid into. It is kept separate from other Council accounts, such as the General Fund. There are rules and restrictions on how money in the account can be spent and on how much the Council can borrow against it.
Land	Land includes buildings and structures. Existing interests and rights in land, such as freehold or leasehold together with any existing right can be compulsorily acquired either as a whole or in part.
Land Tribunal	The Government tribunal with jurisdiction which includes adjudication on disputed compensation for the compulsory acquisition of land.
Leaseholder	Named person(s) who hold a legal interest in land, mostly flats, for a set period of time. Ownership of the property returns to the freeholder (landlord) when the lease come to the end. The freeholder may be a private owner or the Council.
Local Authority	A county, county borough, district or London borough council <i>et al</i> established by Part IV of the Local Government Act 1985.
Major Repairs Works	Works, other than improvements or cyclical maintenance, to a dwelling owned by a provider in order to ensure the continued habitability of the dwelling. Part of the Miscellaneous Works category.

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Version Control

Item	Reason for Change	Version	Author	Date

Last Review Date: XXX XXXXX 2019

Next Review Date: XXX XXXX XXX 2022

Scope	All General Needs, Community Housing and Supported Housing Tenants and Leaseholders
Effective date	XX/XX/2019
Review date	XXXXXX
Signed Off	Housing Services Manager – Angela Abbott
Author	Interim Housing Policy Manager – Stuart Morris
Strategy Owner	Housing Services
Legislation	Housing Act 1985 Housing Act 1996 Housing Act 2004 Town and Country Planning Act 1990 Planning and Compulsory Purchase Act 2004 Land Compensation Act 1973 Homelessness Reduction Act 2017 Data Protection Act 2018 EU General Data Protection Regulation 2016 Local Government Act 1985
Consultation	General - Tenant Talkback.

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