

Brentwood Borough Council

Decant Policy - Housing Service

June 2021

Introduction

This policy sets out how the Council's Housing Service will meet its obligations to tenants in the event of a decant being required. This policy covers the properties owned by the Council in the Housing Revenue Account (HRA) and temporary accommodation supplied by third parties.

This policy does not cover the detail associated with leaseholder decants or those decants covering freeholders due to the regeneration of a site, the detail of these will be addressed by an individual Meanwhile Offer for the area or site.

This policy does not apply to unauthorised occupants or lodgers or households who are occupying tenancies provided by the council.

When considering the decant of tenants, the move will be in accordance with the Council's Allocation Policy.

Scope

A decant is where a resident is required to move from their permanent home into alternative accommodation because of unexpected damage or major repair or improvement works that means the resident cannot remain in the property while the work is carried out, or when the property is to be disposed of or redeveloped.

It could be a permanent or temporary decant and may involve anything from moving one single household to managing a programme of decants across a large number of properties over a period of time.

The Council recognises that the decant process may be upsetting and stressful to residents. We will seek to minimise disruption to residents wherever we are able to so.

Residents affected by the decant process may have a legal right to compensation for the loss of their home and/or the costs of moving.

Decision to Decant

In deciding whether a decant is necessary we will consider.

- Household Size
- Needs, i.e., medical or disabilities
- Preferences, i.e.. Location, property type
- likely time periods involved
- suitability of alternative accommodation
- level of disruption
- relative cost of carrying out works with the household in situ against the cost of the decant.

The Council will involve and consult residents from the outset, but for our tenants, it is ultimately the Council's decision as to whether a tenant can remain in a property.

We will ensure that the tenant has received an offer of suitable alternative accommodation. However, if a tenant refuses to move, we will take appropriate legal action to obtain vacant possession.

Where a property is owned by the Council but managed by an agent or managed by the Council on behalf of another property owner, or the property is leased; the responsibility for decants will be managed in accordance with the management agreement or the terms of the lease. If the agreement or lease does not explicitly mention decant processes, the property owner and the managing agent/leaseholder (as applicable), will need to agree who will cover the costs of the 'decant' prior to any works being undertaken.

Types of Decant

The following defines the difference between a temporary and a permanent decant.

- **Temporary decant** when a resident is moved out to enable work or refurbishment of the property to be carried out with the intention of returning them to the property at the earliest opportunity.
- **Permanent decant** when a resident is moved out of their home and there is no intention of them returning to the property.

This policy covers 5 types of decant:

- **Unplanned Emergency Temporary Decant** – this is when the property becomes immediately uninhabitable, for example due to fire or flood. The tenant will be offered alternative emergency accommodation and assistance and the aim is for the tenant to return to the property as soon as it becomes habitable
- **Unplanned Non-Emergency Temporary Decant** - this is where the refurbishment of a property cannot be completed with the tenant in situ either due to the extent of the works being greater than planned or, due to the needs of the occupiers.
- **Unplanned Permanent Decant** - this is where the damage caused to the property by an incident (e.g., fire) is so extensive the property will be uninhabitable for a long period of time or needs to be demolished.
- **Planned Temporary Decant** – this is where major repairs and improvements are required and it is not reasonable for the tenant to remain in the property for the duration of the works, e.g., rectification of major building issues. The tenant will be offered appropriate alternative accommodation and assistance will be provided to the tenant to return to the property on completion of the works.
- **Planned Permanent Decant (Management Transfer)** – this applies when the property is to be demolished or has serious defects which render it uninhabitable for safety reasons leading to its eventual demolition or redevelopment. The tenant will be offered permanent alternative accommodation and assistance with the move. Any statutory payments due will be made.

Where an area is to be regenerated, the Council will develop a 'Meanwhile Offer' which will inform residents how we will engage with them in the process. This will include leaseholders and private residents.

Unplanned Emergency Temporary Decant

Where an unexpected event has caused a property to become uninhabitable (e.g., fire, flood, loss of water supply) the Council will seek to ensure immediate alternate emergency accommodation is accessible.

The decision on whether a property is inhabitable will have regard to professional advice and guidance, including from the emergency services.

Every effort will be made to provide “like for like” accommodation in the short term however, this will dependent upon availability of alternative properties

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.

Where tenants have their own contents insurance the Council will assist them to check if the cost of the above and/or provide financial provision for them to consider alternative options.

Tenants also have the option of staying with friends or relatives to cover the period of the emergency decant and in this case the rent for their property would not be charged.

Where staying with family and friends is the preferred option, a daily allowance per household will be available to the tenant to compensate their relative or friend for the inconvenience and additional costs. In exceptional circumstances the council will consider whether a larger sum is appropriate. If the family or friends are not in the local area, we will also consider paying reasonable travel costs for the tenant to stay with them. The sum is payable per night and is intended to cover both food, drink and the accommodation, whilst alternative accommodation is secured.

If the situation occurs out of office hours, and the tenant cannot go to family or friends we will arrange emergency temporary accommodation until a full assessment can be made on the next working day (or up to three nights if it occurs during a Friday evening).

Once the situation has been assessed, the ‘decant ’may be classified as an unplanned non-emergency temporary decant (e.g., due to flooding), or an unplanned permanent decant (e.g. after a major fire where the property would have to be demolished).

Unplanned Temporary Decants (non-emergency)

Where unplanned repair work is required that cannot be carried out with the resident in situ, but requires the resident to vacate immediately, alternative temporary accommodation will be arranged when work is due to be completed. Consideration will be given to the likely timeframe to complete the repair, the availability of suitable accommodation and the relative costs of each option. For these decants, the following principles apply:

- The Council will seek to use its own supply of temporary accommodation wherever possible; if the Council is not able to provide temporary accommodation at our designated sites or this does not meet the needs of the household, the Council may use one of its own void properties. Where this is not available, we will consider a different option.
- The temporary transfer will be as long as it takes to complete the repair works.
- The tenant continues to hold the tenancy of their original home at all times.
- The temporary home supplied from our void stock is let on a temporary license, and the tenant has no right to remain in the decant property once work to their original home has concluded.

Unplanned Permanent Decants

A permanent decant may be required where the damage is so extensive that permanent rehousing is necessary e.g., a major fire.

A permanent decant will also be considered where the work is expected to take a long time i.e., more than 6 months and the tenant would prefer to move permanently.

Planned Temporary Decants

A planned temporary decant may be required where works such as damp proofing, structural works or asbestos removal are to be carried out and would leave the resident without basic facilities for a period of time or because of a health and safety requirement, but the resident will be able to return on completion of the works. For these decants, the following principles apply:

- The Council will use its own temporary accommodation wherever possible. If the Council is unable to provide temporary accommodation or this does not meet the needs of the household, the Council may use a void property.
- The move only lasts as long as it takes to complete the repair or improvement works.
- The tenant remains a tenant of their original home at all times.
- The temporary home from our void stock is let on a non-secure license, and the tenant has no permanent right to remain in the decant property
- The tenant will usually only be made one offer of temporary suitable alternative accommodation.

However, if the tenant wishes to remain permanently in the temporary decant accommodation, at its discretion, the Council may approve such a request, where for example the permanent move would address an existing housing need such as overcrowding under our Allocations policy, and there are no outstanding rent arrears or other breaches of tenancy. The decision would be made in accordance with the Council's Allocation Policy and any relevant nomination agreements.

Planned Permanent Decants

A permanent decant may be necessary where it is planned to either dispose of, demolish and/or redevelop the property, remodel the whole block or estate resulting in a different number or properties and/or property sizes, or to alter the property to the extent that it is no longer suitable for the existing tenants needs. The Council will work closely with affected tenants and residents at all stages to support them through the process and help find suitable alternative accommodation. The following principles apply:

- The Council's tenants who are required to move due to demolition and/or redevelopment are given urgent priority in line with the Housing Allocation Policy in order to facilitate a move as soon as possible.
- Where a new development is planned, residents may not automatically have the right to move to the new properties once built.
- Where the Council has already started possession proceedings against a tenant, prior to the decant, we will continue with the legal action to end the tenancy.
- Existing Council tenants will be offered a like for like tenancy. Where the tenant has a 5-year flexible tenancy, a new full 5-year tenancy will be offered.
- The Council will provide support tailored to meet each households needs.
- Tenants may be given priority to bid for the Council's properties but if they have not successfully bid in accordance with the time limited categories in the Allocations Policy, we will match tenants to voids that become available and make at least two offers of suitable alternative accommodation.

Tenant Consultation

Tenant and resident consultation and involvement will comply with 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.

If a planned decant is necessary, then tenants will be allocated a designated Officer and invited to discuss the situation at the start of any project.

The Council 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 the Council 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.

Suitable Alternative Accommodation

Suitable alternative accommodation means accommodation which provides the tenant with the equivalent security of tenure and is similar with regards to rent, size, situation etc. as required under 'Schedule 2, Part III of the Housing Act 1988 and meets the tenants' needs as set out in the Council's Allocation Policy.

Where the tenant is currently under occupying, they will normally be offered a smaller property that meets their current needs, however the Council will consider cases where there are exceptional circumstances which may warrant the offer of a larger property.

Wherever possible we will offer like for like in that we will try not to move a tenant from a house to a flat or from a flat to house, but this depends on the availability of properties in the local area and whether it would unreasonably delay the planned works. A flat may be on a different floor from the tenants existing property. However, it will meet any mobility and access needs of the tenant and their household.

The Council will have regard to the tenants' stated preferences in terms of location and proximity to relatives or schools, but it will be deemed as suitable if it is of the appropriate size and the Council considers it a reasonable travel distance to the tenant and partners place of work.

Where the tenant has adult children permanently living with them who have expressed a wish to live independently and we are unable to find a large enough property, separate alternative accommodation may be offered to the adult child or children by agreement.

If the tenant refuses the offers of suitable alternative accommodation, or refuses to move at all, the Council will take appropriate legal action to gain vacant possession of the property and offer suitable alternative accommodation.

Not all circumstances can be easily covered in this policy and the Council will apply its discretion in making any further offers of accommodation or assistance where exceptional circumstances warrant it.

Financial Payments to Tenants

Under legislation, payments become due to tenants depending upon the permanent decant that is required. These payments include Home Loss Compensation and Disturbance Payments.

Where there are temporary decants due to emergencies or planned maintenance works, the Council can make discretionary payments to tenants. Each situation will be considered on its own merits.

Rent and Rent Arrears

For permanent decants the tenant will continue to pay rent until their tenancy ends at their permanent home.

If the tenant has arrears of rent or service charges, or other debt owed to the Council, these will be deducted from any Home Loss or Discretionary Payments due, with any remaining arrears being included in the new tenancy agreement as a former tenant arrears agreement.

While the tenant is temporarily decanted, they will continue to pay their rent at their permanent home and with no rent due on the temporary accommodation. Where the temporary accommodation does not provide access to cooking facilities e.g., a hotel, the tenant will receive compensation payments.

Where the rent of the decant property is lower than the rent at the permanent property we may refund the difference through a rent abatement.

If a temporary decant occurs at the time of an annual rent review, the rent on the permanent property will still be reviewed and changed and the relevant rent change notices served.

Leaseholders

For planned works we will consult leaseholders on any major works prior to any discussion regarding decants. The Council will seek legal advice if we are prevented from fulfilling our repair and maintenance obligations as a result of a leaseholder's refusal to consider a decant.

Where the Council has a statutory duty, leaseholders will be compensated for the loss of their home, otherwise they will be expected to recover their costs through their own insurance cover.

The conditions to receive Home Loss and Disturbance Payments are the same as for tenants i.e. the decant must be permanent due to redevelopment or improvement works and the owner or their sub tenant must have been living in the property for 12 months at the date of displacement .

Whilst the Council may not have the same duty to provide alternative accommodation to leaseholders as it may for its tenants in respect to temporary decants, the Council will provide suitable alternative accommodation where:

- There is an obligation under the terms of the lease.
- The decant is required as a result of the Council's action's, failure to act or negligence.
- It may help facilitate the progress of essential works

Where there is no obligation to provide alternative accommodation, we may charge the Leaseholder rent under a temporary tenancy.

Complaints

If any resident believes that they have not been treated in accordance with this policy, they may complain through the Council's Complaints Procedure.