

Decant Policy

Introduction

1.1 The Council aims to maintain and improve its homes to a high standard and to develop high quality housing.

1.2 As a result, the Council sometimes need to move tenants out of their principal homes so that major repairs or improvements can take place. The Council refer to this as a 'decant'.

1.3 A decant is where a resident moves from their current home to another one, either temporarily or permanently.

1.4 Improvement works and major repairs will normally be carried out whilst the tenant remains in their home. However, there will be certain situations, such as those when the health and safety of the tenant would be at risk or the works are extensive, when works cannot be carried out with the tenant in the property.

1.5 Residents are advised to take out their own home contents insurance. Residents will be advised of insurance options in case a decant situation emerges.

1.6 Where this is the case, the Council will arrange to move the tenant and their household. This will either be done on a temporary or permanent basis, depending on the nature of the works and the tenant will normally be given this option.

Roles, responsibilities, and authority

2.1 The Director of Housing and the Landlord Services Lead are responsible for the implementation of this policy. Various housing staff are responsible for activities relating to decants. Specific roles are set out in the procedures that support this policy.

Aims of policy

3.1 The aims of this policy are:

- To ensure decants operate in a fair, equitable and reasonable manner.
- To provide ongoing and proactive communication to tenants who need to be decanted ensuring simple but effective consultation and feedback at the earliest opportunity and throughout the process.
- To enable decants to be carried out with the minimal disturbance to tenants.
- To outline the support, both financial and practical, provided to tenants who are required to decant.
- To minimise rent loss to the Council and to ensure that the best use is made of the Council's resources.

- Offering tenants a clean and safe environment

Scope

4.1 In line with the legislation and existing best practice, the following people will be eligible for assistance and possible rehousing

- Tenants
- their family members
- partners, and spouses
- Children

4.2 The Council will not rehouse unauthorised occupants, sub-tenants, lodgers, licensees, and other non-secure occupants.

4.3 Owner-occupiers and leaseholders may be given assistance to find alternative accommodation in exceptional circumstances and the options available to them will depend on their individual circumstances. and the equity available to them.

4.4 The Council may not be able to guarantee large households the option of being rehoused together in one temporary decant property but this will remain our principal aim in such circumstances.

4.5 If a tenant refuses to be temporarily decanted, the Council may take legal proceedings including an injunction to exclude the tenant and their household from living at the property until any essential work has been carried out or commencing possession proceedings in appropriate circumstances.

4.6 The Council is not legally responsible for finding alternative accommodation for household pets in the case of a decant but will always make sure that assistance to animals for which the tenant has obtained permission are accommodated.

4.7 The Council will ensure that residents who require guide dogs and assistant animals will be accommodated in properties where the guide dogs and assisted animals can reside with the resident

4.8 The Council will provide specific and tailor-made assistance to vulnerable residents who need to be decanted including helping with packing and unpacking belongings. The Council will be sensitive and empathetic to all residents who are being decanted in such circumstances.

Legal context

5.1 The key legislation that relates to decants is as follows:

Housing Act 1985:

5.2 The Council has a legal obligation under Section 105 of the Housing Act 1985 ([Housing Act 1985](#)) to consult with tenants when they are substantially affected, such as maintenance, improvement, or demolition of dwellings or changes to management arrangements. If a decant is likely to be necessary, the consultation will take place when proposals are still at an early stage and the Council will consult with all affected persons.

Housing Act 1985:

5.3 Part IV of Schedule 2 of the Housing Act 1985 ([Housing Act 1985](#)) provides the criteria for when accommodation will be suitable alternative accommodation. This should provide the tenant with equivalent security of tenure and be similar in regard to rent, size, and needs and means of the tenant. .

5.4 Ground 8 of Schedule 2 of the Housing Act 1985 provides the ground for seeking possession of the decant property once works have been completed on the tenant's principal home and is again available for occupation by the tenant.

Land Compensation Act 1973:

5.5 Section 30 of the Land Compensation Act 1973 ([Land Compensation Act 1973](#)) sets out the provisions for the statutory Home Loss Payments to be made to compensate tenants for having to permanently move out of their home, subject to certain eligibility criteria. This mandatory lump sum payment is reviewed periodically and confirmed in the Home Loss Payments (Prescribed Amounts) England Regulations.

5.6 The Land Compensation Act 1973 Act also sets out guidance relating to the payment of Disturbance Allowances aimed at compensating tenants for the actual cost of moving from their home.

Major Works

6.1 Where the Council needs to undertake major works, it will always aim to carry out necessary works without having to decant residents and will determine when relocation is required by carrying out a full assessment of the tenant's household and its needs.

6.2 In circumstances described in 6.1, the Council will consult with those affected as soon as it is apparent that a decant may be necessary and aim to make sure that any disruption to their lives is kept to a minimum. If it is decided that a decant is required, we firstly identify the needs of the tenant and their household in order to determine the most suitable available accommodation.

6.3 In many cases where a decant is required the Council will provide disturbance allowances to cover residents' out of pocket expenses.

6.4 In the case of redevelopment or demolition of properties, the Council will develop a decanting plan, which will include consultation with the affected residents so that their needs and wishes are considered and acted on.

6.5 The Council will endeavour to help tenants to return to their principal home and/or neighbourhood wherever possible. This may not always be possible and so where this cannot be achieved the Council will work with, and support the tenant(s), to provide options for alternative suitable accommodation. Tenants who must move due to major works will have a legal right to return to their home.

6.6 For every decant case, the Council will hold weekly decant management meetings. These meetings review key factors such as temporary moves, outstanding complaints, complex repairs, and the needs of vulnerable households. The purpose is to identify suitable alternative properties that meet the household's requirements and to ensure risks are managed effectively.

Emergency Decants

7.1 An emergency decant is usually required when an unexpected event such as a fire or flood has caused a tenant's home to be uninhabitable and the household needs to stay elsewhere. In these situations, we will give support to find alternative accommodation.

This may include but is not limited to:

- Staying with friends or family
- Hotel accommodation
- Private accommodation
- Other Council accommodation.

7.2 In any emergency, the priority will be the immediate safe relocation of the affected household. A full assessment will then be carried out to establish both the likely timescales for the property remaining uninhabitable and the housing need of the tenant and their permanent household members.

7.3 Each case will be considered individually to ensure appropriate steps are taken to address the tenant's needs and that suitable alternative accommodation has been found. Whilst we consider factors such as schools, place of employment etc, we cannot guarantee that the emergency accommodation provided will meet every request.

7.4 The tenant must continue to pay rent. We expect the tenant will pay the lower of the rent charge between the principal home and the alternative accommodation.

7.5 If the family or friends are not in Oxfordshire, 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.

7.6 If the emergency 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. Temporary accommodation will normally be arranged

through the Council's Housing Needs team. Whilst the Council will seek to provide temporary accommodation as near as possible to a tenant's home, this may not always be feasible and sometimes accommodation may be located outside Oxfordshire.

7.7 All Council tenants are advised to take out their own home contents insurance. In the event that there is a fire, flood or storm damage, the tenant would be expected to check their own insurance policy to see if this would support a temporary move to alternative accommodation, if required.

7.8 If the tenant does not have their own insurance, they will be rehoused in temporary accommodation by the Council. The extent of the damage will be assessed by the Council as quickly as possible to ascertain the timescale for repairs to be undertaken and the return of tenants to the property.

7.9 Where it is identified that the damage has been caused by the actions or inactions of the tenant and these result in the need for a decant, the tenant(s) may be recharged for any costs associated with the refurbishment.

Permanent Decants

8.1 A permanent decant may be required where the damage is so extensive that permanent rehousing is necessary such as, for example, after a major fire.

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

8.3 The type of accommodation provided will depend on the anticipated duration of the repair works.

Suitable Alternative Accommodation:

9.1 When offering alternative accommodation, we will try to find a property which suits the needs of the residents at that time. A permanent transfer should not provide tenants with a different size property to that of their principal home, except in cases where the tenant was statutorily overcrowded. If the tenant had been under occupying their home, we would offer a downsizing incentive payment in addition to the decant assistance payment.

9.2 Downsizing incentive payments also include the ability to claim for moving expenses.

Compensation and Costs

10.1 The Council has discretion to provide financial assistance towards tenants' removal expenses under the Housing Act 1985 when tenants are temporarily decanted to other Council property.

10.2 There are three types of payments that tenants will be entitled to under this policy:

- Disturbance Payments
- Home loss Payments

- Downsizing incentive Payments

Disturbance Payments

11.1 The purpose of disturbance payments is to ensure that the tenant(s) are not financially disadvantaged due to a decant. The Council, in consultation with the tenant, will cover reasonable expenses.

11.2 The Council will accept disturbance allowance costs based on invoices and receipts supplied by the tenant or contractor, or by approved estimates from the contractor.

Home Loss Payments for Council Tenants

12.1 A Home Loss Payment is a statutory payment made to compensate tenants for having to permanently move out of their home and will be paid in addition to the statutory disturbance payment referred to earlier in this policy.

12.2 It is not payable for tenants who temporarily move out of their home and are able to return to their original property once the work is completed. However, if their area is being demolished and rebuilt and they return, they would be entitled to Home Loss as they would be returning to a totally new home.

12.3 Tenants have the option of transferring prior to this based on their rehousing needs. However, if they do so, they would not be entitled to any form of compensation (Home Loss or Disturbance). The Council in recognition of the limited supply of available Council homes will make Home Loss payments to tenants who are already on the transfer list.

12.4 The Home Loss payment is for an eligible tenant/joint tenant who has lived in their property as their principal home for at least 12 months prior to the date of agreement for the scheme and is required to move out of their home permanently because of the property being demolished, sold or the scheme remodelled to remove their property.

12.5 In all circumstances the home loss payment is limited to one per household, not per tenant – joint tenants will therefore receive one payment between them.

12.6 In circumstances where there is suspected coercive behaviour including financial control from one of the joint tenants, the Council will fully investigate through a safeguarding process to ensure this is properly considered before any payments are made.

12.7 If a decision in principle has been agreed to refurbish, remodel, redevelop or dispose of a property, full support will be given to the tenant(s) in locating another council home.

12.8 If a tenant or tenants has rent arrears, home loss payments will not be used to clear the account unless the tenant requests this.

The Tenant's Role

13.1 Where a tenant is being decanted, they will be expected to pack up their own belongings unless they are vulnerable or have special needs in which case, a packing service will be arranged.

13.2 Tenants must ensure that they have taken steps to ensure that their fridges and freezers are cleaned, having been emptied and defrosted, if necessary, before the removal company is due to arrive.

13.3 If the tenant is being transferred to alternative accommodation, they will be responsible for clearing their belongings from the property and for giving vacant possession of that property. Any items left behind will be cleared and there will not be any opportunity to reclaim them, or to claim compensation to the value of them. The cost of clearance and disposal of any such items will be recharged.

13.4 The tenant is required to provide access to contractors, as necessary. They must also take responsibility for their own fixtures and fittings or DIY improvements, unless the property is to be demolished, in which case they could sign a disclaimer stating that they do not require any compensation for the loss of these items. There will be a pre-void visit where such items will be identified, and the tenant informed about the work that is required before they move out. Failure to undertake such work could result in the tenant being recharged.

13.5 The tenant is expected to make other members of their household aware of the decant arrangements and to move on the agreed date. In addition, they must make appropriate arrangements for any pets and ensure that they are not abandoned in the property after they have moved out.

13.6 If the household has home contents or other insurance, the tenant is advised to notify their insurance company about the change of address.

13.7 Tenants are expected to take appropriate steps to clear any areas where work is to be undertaken. If there are issues caused by disability or other factors these will be discussed with the Housing Officer to seek an appropriate supported outcome

Data

14.1 Data on all decants will be recorded on the Council's database and designated officers within the Council's Landlord Services will monitor the progress of decants on a weekly basis.

14.2 Data on decant must record:

- a) Date of decant
- b) Reason for the decanting of tenant(s)
- c) Where the tenant has moved to
- d) Vulnerabilities of household members
- e) Whether pets are affected by the move in respect of animal welfare

14.3 All data held will be in accordance with GDPR regulations pursuant to the Data Protection Act.

Equality and Diversity

15.1 The Council is committed to promoting equality, diversity, and inclusion in all housing services. We will ensure compliance with the Equality Act 2010 by treating all applicants and tenants fairly, with dignity and respect, and without unlawful discrimination. We will make reasonable adjustments for tenants with protected characteristics ensuring services are accessible to all.

Consultation, communication, and training

16.1 This policy will be made available to the Council's tenants and shared owners.

Monitoring and Performance Management

17.1 The Council or any successor local authority will review this policy in two years, when legislation changes or when a new local authority is established, whichever occurs the soonest, to ensure it reflects current legislation and the latest examples of best practices.

Procedure for managing complaints

18.1 A person who is dissatisfied with the application of this policy can ultimately raise the issue under the Council's complaints procedure.

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