

Title: Housing Decant Policy
Lead Officer: Lisa Barker
Portfolio Holder: Councillor Matecki
Wards of the District directly affected: All

Summary

The decant policy sets out the assistance available when it is necessary to move residents from their current home into temporary or permanent alternative accommodation in order to facilitate major repairs, modernisation, regeneration, or redevelopment works such as where the property is to be demolished. This process is referred to as decanting.

This policy does not apply to commercial or industrial property and does not include residents moving due to transfers at their own request, mutual exchanges or choosing to end their tenancy.

Recommendation(s)

- (1)** That Cabinet approves the policy at appendix 1 of this report.
 - (2)** That Cabinet delegates authority to the Head of Housing Services in consultation with the Homes Health and Wellbeing Portfolio Holder to make minor changes to the policy that are required to ensure it remains in line with best practice, Government Guidance and delivers clarity and consistency across the policy.
 - (3)** That Cabinet delegates authority to the Head of Housing Services in consultation with the Homes Health and Wellbeing Portfolio Holder to agree discretionary payments and discretionary compensation in respect of decant activities.
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1 Background/Information

- 1.1 The policy outlines arrangements for the rehousing and financial compensation of residents in line with the Council's allocation policy and legal requirements in order to deliver vacant possession of affected properties and ensure effective use of resources. The policy supports specific plans to be applied to decant requirements where necessary to meet the particular needs and circumstances of individual estates, redevelopment schemes and works programmes.
- 1.2 The aims and objectives of the policy are to:
 - Explain the circumstances in which a tenant will be required to move
 - Ensure disturbance and home loss payments are made consistently and fairly
 - Explain what levels of compensation and practical help might be offered
 - Set out criteria for allocating vacancies to households who are required to move
 - Minimise disruption to households affected
 - Protect our most vulnerable residents.

- Clarify decision making processes
- 1.3 In an emergency or where major repairs or improvements are required, necessitating the tenant to move out temporarily to enable works to be undertaken, the Head of Housing or their nominated representative will approve decant arrangements under their existing general management powers.
- 1.4 In the event that a property or properties are to be demolished as part of a regeneration scheme or when properties have exceeded their useful life, the policy will apply once Cabinet approval has been given to proceed with the proposal (unless the property is deemed to be in an unsafe condition in which case, arrangements will be made on a temporary basis). Cabinet may, when approving such a scheme, supplement or amend the approach provided for by the policy if that is considered necessary to comply with legal requirements, address issues identified by an equalities impact assessment or to ensure the efficient implementation of the scheme. The approach to decanting will take into account scheme proposals, works requirements, and where possible will incorporate residents' choices to be rehoused temporarily or permanently, and residents' rehousing needs and preferences. Decant projects will be underpinned by a housing needs survey of all affected residents and households and, for new or redevelopment schemes, a lettings plan where appropriate.
- 1.5 Consultation with affected residents will be undertaken by Housing Officers who will manage communication and consultation with residents and provide the first point of contact for advice and support for all households affected by the decanting project.
- 1.6 The decant policy will provide the means to manage the decant process for residents affected by the proposed schemes, ensuring suitable priority and time is given for this process and all legal requirements are fulfilled.
- 1.7 Providing the ability for minor changes to be made by officers to the policy enables legislative and good practice changes to be swiftly incorporated.
- 1.8 There is room within the policy for some discretionary payment and partial payments in advance. It is proposed that these decisions are delegated for expedience and to act upon the situations of individual households.

2 Alternative Options available to Cabinet

- 2.1 Where significant repairs, major improvements or demolition is required as the property is no longer fit for purpose, there may be no alternative option available other than to decant household/s to enable works to take place.
- 2.2 In the case of regeneration schemes, these would not be viable without residents being temporarily or permanently rehoused.
- 2.3 It would be an option not to have a policy and to exercise discretion on a case-by-case basis outside any framework of guidance. However, that would not be transparent and accountable and would risk unlawfulness, unpredictability, and unfairness.
- 2.4 It would also be an option to have a policy that offered only the minimum provision required by statute. However, that could impede the delivery of schemes, cause undue hardship, and risk a breach of human rights and equalities obligations.

3 Consultation and Member's comments

- 3.1 None.

4 Implications of the proposal

4.1 Legal/Human Rights Implications

4.1.1 The Housing Allocations Scheme (Home Choice) must comply with the requirements of Part VI of the Housing Act 1996 and regulations made under Part VI by the Government. However, Part VI does not apply to where temporary accommodation is provided without the grant of new tenancy, where the transfer of existing Council tenants is initiated by the Council for management purposes, and where a duty arises to secure suitable alternative accommodation under section 39 of the Land Compensation Act 1973 (which includes certain cases where the Council is using compulsory purchase powers or prohibition/demolition orders or decanting right to buy leaseholders). The practical effect is that in most cases Part VI will not apply to decanting arrangements.

4.1.2 The Allocations Scheme does award preference to Council tenants who must permanently move from their existing home because they are in a clearance or regeneration area and are to be demolished or subject to major works, but it does not apply to any other case where transfers are initiated for management purposes. It also awards similar preference to owner-occupiers whose homes are being compulsorily purchased and to eligible people who are homeless or threatened with homelessness. However, beyond these arrangements, the Allocations Scheme does not make provision for the decanting of residents and it is the purpose of the proposed decant policy to fill that policy gap and provide a single comprehensive guide for those who are affected by major works.

4.1.3 Parts of the proposed decant policy summarise specific statutory requirements, particularly the availability of home loss and disturbance payments and the duty to secure accommodation where section 39 of the Land Compensation Act 1973 applies. In areas of the policy where Cabinet has a discretion as to the arrangements to be made, it is necessary that the policy be fair and reasonable and respect equalities and human rights legislation. Article 8 of the European Convention on Human Rights requires respect for family life and the home and is engaged when residents are required to leave their home, or their home is compulsorily purchased. Whether an interference with this right is lawful will depend on the proportionality of the interference and that is influenced by the quality of the compensatory provision that is made for displaced residents by the Council. In addition to the general public sector equality duty, the Equalities Act 2010 also requires that when making strategic decisions Cabinet must have due regard to the desirability of reducing the inequalities of outcome which result from socio-economic disadvantage. The proposed policy has been designed with these considerations in mind but, to ensure that equalities implications are fully assessed according to the circumstances of particular schemes, the proposed policy also requires that an equalities impact assessment be carried out for each particular scheme.

4.2 Financial

4.2.1 The adoption of a Decant Policy will not in of itself have any financial implications for the Council. When considering possible regeneration projects however, each proposal will need to build in the costs of decanting, rent loss and compensation etc as part of its business case.

4.3 Council Plan

- 4.3.1 Health, Homes. Communities: The Decant Policy will enable the Council to improve the condition of its housing stock, reducing the number of homes that do not meet decent homes standards or which are no longer fit for purpose.
- 4.3.2 Green, Clean, Safe: Works undertaken to improve existing homes will enable improvements in insulation and energy usage thereby facilitating decarbonisation of the housing stock.
- 4.3.3 Infrastructure, Enterprise, Employment: The property improvements enabled by the Decant Policy will see those neighbourhoods improved and the cost of energy usage reduced for tenants.

4.4 **Environmental/Climate Change Implications**

- 4.4.1 The Decant Policy itself will not have any impacts but regeneration projects enabled by this policy will make a direct contribution to carbon reductions and energy usage.

4.5 **Analysis of the effects on Equality**

- 4.5.1 The Decant Policy itself will have a neutral impact on equalities.

4.6 **Data Protection**

- 4.6.1 There are no implications for data protection arising from this report.

4.7 **Health and Wellbeing**

- 4.7.1 The adoption of the decant policy will assist the Council to keep its tenants and residents safe and to improve the energy efficiency of the stock.

5 Risk Assessment

- 5.1 The risk of not adopting a Decant Policy is that tenants requiring urgent major repairs would be compelled to remain living in potentially unsafe conditions or that decisions would be inconsistent or unfair. As a consequence, the Council could breach legislative requirements.
- 5.2 No significant regeneration projects could be undertaken to improve existing housing in the Council's ownership that would require residents to move from their homes either permanently or temporarily.
- 5.3 Each regeneration project undertaken that makes use of the Decant Policy will impose risks and these would be set out for each proposal at the appropriate time.

6 Conclusion/Reasons for the Recommendation

- 6.1 The Council has ambitious plans to improve and develop its housing stock and some of these proposals are likely to require exiting tenants to move from their homes whilst the work is undertaken.
- 6.2 The work required with tenants to enable such work would not be possible without having a Decant Policy in place that clearly sets out the roles and responsibilities of the Council and its tenants.
- 6.3 From time-to-time properties are in need of urgent major repairs where it is not possible for the household to remain in situ. Recent examples include where high winds brought down trees which came down on the roof and where a vehicle left the road, crashing into a wall of a property rendering the property unsafe. The Policy identifies the assistance available in such situations.

Background papers:

Appendix 1 – Decant Policy

Supporting documents:

None

Report Information Sheet

Please complete and submit to Democratic Services with draft report

Committee/Date	10 February 2022	
Title of report	Housing Decant Policy	
Consultations undertaken		
Consultee *required	Date	Details of consultation /comments received
Ward Member(s)		
Portfolio Holder WDC & SDC *	17/01/22	Councillor Jan Matecki
Financial Services *	18/01/22	Victoria Bamber
Legal Services *	17/01/22	Mandeep Sahota, Ian Marriot (WMCC Legal Services)
Other Services		
Chief Executive(s)	18/01/22	Chris Elliot
Head of Service(s)	10/01/22	Lisa Barker
Section 151 Officer	18/01/22	Mike Snow
Monitoring Officer	18/01/22	Phil Grafton
CMT (WDC)	18/01/22	Andrew Jones
Leadership Co-ordination Group (WDC)	24/01/22	
Other organisations		
Final decision by this Committee or rec to another Ctte/Council?		Recommendation to :Cabinet / CouncilCommittee
Contrary to Policy/Budget framework		No
Does this report contain exempt info/Confidential? If so, which paragraph(s)?		No
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?		Yes, Forward Plan item 1272
Accessibility Checked?		Yes