Decant policy

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# Scope

This policy outlines Ealing Council’s approach to moving council tenants and leaseholders (inclusive of lawful sub-tenants) from their home to enable work to be carried out and where it is not safe or possible for the tenants or leaseholders and their household to remain.

In line with legislation and existing best practice, assistance, and rehousing, where appropriate, will be offered to tenants and leaseholders, their family members, partners, spouses, and children who are permanent members of the household.

The types of decants covered by this policy are:

* unplanned – emergency temporary (up to 1 month)
* unplanned – non-emergency temporary (up to 6 months)
* planned – temporary (up to 12 months)

Planned permanent decants are excluded from this policy as they are covered in the allocations policy.

# Aims

The aims of this policy are to:

* enable decants to be carried out with the minimal disturbance to tenants and leaseholders
* ensure decants operate in a fair, just and reasonable manner
* deliver simple but effective negotiation and feedback with tenants and leaseholders that need to be decanted at the earliest opportunity and throughout the process
* outline the support, both financial and practical, provided to tenants and leaseholders who are required to decant
* minimise rent loss to the council and to ensure that the best use is made of our housing stock
* improve the condition of our tenants and leaseholders’ homes whilst keeping the disruption to a minimum

# Policy statement

Under this policy, all consultation, feedback, and communication will be termed ‘tenant or leaseholder liaison’. This includes all aspects of working with affected persons during refurbishment and improvement work, engaging with other linked services such as housing management; tenant or leaseholder steering groups; tenant or leaseholder associations; regeneration and housing; income management; repairs services; homeownership; housing benefits; housing advice and council tax.

We will move tenants and/or leaseholders out of their home only when it is not safe or possible for the tenants or leaseholders to remain in their home. This policy covers the occasions when we will ‘decant’ tenants and leaseholders on a temporary basis.

We are committed to working with our tenants and leaseholders to find a suitable temporary alternative home for them within the borough unless by mutual consent the tenants or leaseholders wish to move out of the borough.

We acknowledge that moving home can be a stressful experience, especially when the choice of options are limited. This policy ensures that decants are carried out appropriately, efficiently, within agreed timescales where possible and with the minimum of stress and difficulty.

# Support we provide

At the start of the process, the neighbourhood team or equivalent will carry out a temporary decant accommodation needs assessment, which will make sure we take any needs into account.

We will endeavour to offer the same size accommodation as currently being occupied or smaller by consent if the household is under-occupying, particularly if this will speed up the process of finding an alternative property.

There is a difficult balance to strike between moving the household quickly so that we can commence any work, and finding a temporary home that fully meets the households needs. We will always try to take all the needs of the household into account. We accept with the demand for council housing in the borough at a premium, we may ask tenants and leaseholders to be flexible with their temporary accommodation. Wherever possible all decant accommodation offers will be made on a like for like basis, except where the above applies.

The council will make removal arrangements or cover the costs, as well as paying for all associated moving expenses, including disconnection and reconnection of appliances. Where tenants and leaseholders are able, we will ask them to pack for themselves.

Where required and subject to eligibility, we will provide financial assistance towards the move for tenants and leaseholders in the following manner:

* disturbance payments - approved by the council prior to incurring costs for example redirection of mail, disconnection and reconnection of telephone landlines, disconnection and reconnection of broadband, extra utility costs where a fixed price contract cannot be moved
  + discretionary payments - will be considered by the council to cover reasonable costs associated as a result of the decant move

None of the above payments shall be used to pay off any debts or arrears owed by the tenant or leaseholder.

Where applicable and subject to the works, we will advise the leaseholder if they need to make a claim on their building insurance or if the council will cover the costs of the alternative accommodation.

Where the council has accepted liability, we will provide the leaseholder with a budget for alternative accommodation of the same size and confirm what other payments or support we can offer.

# Temporary ‘decant’ homes

It is our aim to make sure that all eligible tenants and leaseholders are made ‘reasonable’ and ‘suitable’ offers for a temporary home based on their accommodation requirements and within a reasonable timescale to enable work to proceed.

‘Reasonable’ and ‘suitable’ will take into account the needs of the tenants or leaseholders as well as the availability of stock and demands from other households whom the council has a legal duty to accommodate.

There may on a rare occasion be a legitimate reason for a tenant or leaseholder to ask us to consider another suitable and appropriate home for them. We will endeavour to strike a balance between the need to move out of the current home and the accommodation needs of the household. We recognise it can be a difficult time for all concerned.

In the unlikely event that we have made 2 reasonable and appropriate temporary home offers, and the tenant or leaseholder has refused these offers, we will apply to the court to exclude the tenant or leaseholder (as applicable) and their household from living at the property until any essential work has been carried out.

If the court has agreed to the injunction or request of any order having equivalent effect, we will provide a final offer, which will be the last property previously offered, that met the household’s bedroom needs assessment and is as close to their areas of preference as possible.

We reserve the right to commence possession proceedings in appropriate circumstances.

All temporary accommodation shall be occupied by way of a license and shall exclude secure tenancy rights. The tenancy or lease at their main and principal home continues with the rental and any other liability. At the end of the license period, the tenant or leaseholder shall surrender their rights to the temporary accommodation and return to their main home.

We recognise some tenants or leaseholders will have specific needs such as disability equipment and home adaptations. If a property is not suitable, we will assess the need and viability of making provisional adjustments to the temporary home, so the decant can take place, safely. We will involve other agencies such as occupational health or hospital discharge teams to support with this.

We recognise that some tenants may already be on the transfer register and will want their move to be permanent. Given the shortage of homes and large number of households on the waiting list, it is not possible or fair to automatically offer a permanent home as this will be unfair to the other households on the housing register.

# Completion of works

When the works to tenants and leaseholders permanent homes have been completed, the housing officer will provide confirmation of the return date and confirm this in writing together with the date that they are required to leave the alternative accommodation.

At the end of the works and when safe to do so, the tenant or leaseholder will be permitted to move back to their principal home at which point any license agreement in respect to their temporary accommodation will be terminated and/or we will be absolved of any obligation to pay for any alternative accommodation.

If the tenant or leaseholder refuses to vacate the alternative accommodation, the council will take legal steps to acquire vacant possession inclusive of enforcement action and instructing bailiffs.

The council will be discharged of all obligations and liabilities once the temporary license for the alternative accommodation is terminated, and tenants or leaseholders will become responsible for all payments for the alternative accommodation until the property has been handed back. These payments will be in addition to those charged for the permanent home. Housing Benefit and Universal Credit housing allowance will not be paid on both addresses.

# Managing risk

We are committed to managing safety risks for our tenants, by moving them out of permanent homes promptly if their health is at risk.

All efforts must be made to manage the risk of leaving a tenant in a home if it is not fit for human habitation or when carrying out works.

The council must ensure that everyone on the housing register feels they are being treated fairly by maintaining a clear and transparent system in place

Where adaptations are required, we will make sure the temporary home has any equipment needed to make sure the temporary home is safe and suitable.

All Ealing Council homes used as temporary decants will meet our lettable standard and have floor coverings and either blinds or curtains at each window.

Hotel accommodation will be used for decants of less than one month provided the hotel meets the tenants or leaseholders needs, and they can be accommodated safely. We might use a hotel initially in an emergency whilst we are looking for a longer-term solution for a temporary home.

We will ensure decants occur in a timely manner to ensure costly contractual delays in rolling programmes of works are not incurred.

# Tenant and leaseholder engagement

Each household will discuss their essential requirements for their temporary accommodation with their Housing Officer using the Temporary Decant Accommodation Needs Form.

Any refurbishment requires tenants, leaseholders, contractors, officers, and councillors to work together. Co-ordination of communication and consultation will be carried out by the officer, regeneration officer, or project manager or equivalent who will be the main point of contact for tenant or leaseholders.

The housing officer, regeneration officer, project manager or equivalent will work closely with the appropriate officers in the repairs team and housing demand to make sure information is shared and to assist in providing the necessary support and advice to the tenant or leaseholder.

Tenants will not be charged any occupation charges for the alternative property while they are unable to return to their permanent home. Tenants will need to continue to pay the rent for their permanent home and to keep to any rent arrears repayment agreements. This is particularly important where the agreement is subject to a court order.

# Contractor engagement

Before the work starts, we will work with the contractor to design a scheme of work. This will help us know how long the work is going to take, and how long the ‘decant’ home will be required. We will share this scheme of work with the tenant or leaseholder.

We will provide monthly updates to the tenant or leaseholder on the progress of the work in their home, throughout the period they are in their ‘decant’ accommodation.

We will consult with leaseholders and shared owners about any major works under the Section 20 process, as detailed with the Landlord and Tenant Act 1985. Once it has been identified that a decant is required as part of the major works, we will start consultation on the proposed decant at the earliest opportunity.

The council does not have automatic right or responsibility to decant private tenants, this will be considered on a case-by-case basis.

In such circumstances, the council will negotiate directly with the leaseholder concerned.

# Diversity and inclusion

Ealing Council opposes all forms of discrimination, which cause a person to be treated unjustly including on the grounds of race, ethnic origin or nationality, disability, gender, sexuality, age, income, appearance, faith or religious belief or non-belief and responsibility for dependents.

This policy aims to show that all tenants’ and leaseholders’ differing needs and preferences are considered.

Central to this is the personal visit or telephone call that the housing officer, regeneration officer, project manager or equivalent makes to carry out a needs assessment at the beginning of the process, which allows the council to:

* identify those who may need more support
* ensure tenants and leaseholders are kept informed in the way most appropriate to them
* make suitable temporary accommodation offers, with full consideration made of adaptations required

Where it is necessary to decant a tenant or leaseholder, we will consider the needs of each individual and household – having regard to their protected characteristics – and where required, a support plan will be agreed for the decant process. This will include details of any additional assistance that the council has agreed to provide. If a disabled or vulnerable tenant is unable to move to temporary decant accommodation because we have been unable to find accommodation that meets their ability or other needs, we will work with them, when it is viable to do so, to assist them to vacate the rooms we need to work in while they remain safely in their home.

# Monitoring and review

We will track the progress of decants through a monthly decant meeting that will involve managers from housing management, repairs and other relevant departments.

This policy will be reviewed every 3 years, unless new legislation or good practice means it needs to be reviewed sooner.

# Governance

As a registered social landlord, we have a responsibility under the Tenancy Standard 2012 to make the best use of available housing, and the efficient use of our housing stock

# Legal framework

* + Land Compensation Act 1973
  + The Health and Safety at Work Act 1974
  + Housing Act 1985 Section 105
  + Housing Act 1988 Schedule 2 Part III (Schedule 2, Part III of the Housing Act 1988 provides a definition of suitable alternative accommodation. This should provide the tenant with equivalent security of tenure and be similar in regard to rent, size and situation.)
  + The Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994
  + Housing Act 2004
  + Equality Act 2010
  + Localism Act 2011 (ineligible persons)
  + Fitness for Human Habitation Act 2018
  + Property Safety Act 2022
  + Mental Capacity Act
  + Care Act
  + The Local Plan
  + Site specific planning permission
  + Lease agreements
  + S20 regulation

# Associated policies and procedures

Housing allocations

Lettings

Voids

Repairs

Tenancy management

Leaseholder management

Section 20

Lettable Standard