

WELWYN HATFIELD BOROUGH COUNCIL
CABINET HOUSING PANEL – 5 MARCH 2018
REPORT OF THE EXECUTIVE DIRECTOR (HOUSING AND COMMUNITIES)

DECANT POLICY – COUNCIL TENANTS AND LEASEHOLDERS

1 Executive Summary

- 1.1 This report recommends the adoption of the Decant Policy set out at Appendix A
- 1.2 A ‘decant’ is where a resident is required to move from their permanent home into alternative accommodation because of an unexpected or planned event – for example major repair issue; major improvements or disposal/redevelopment of their property. A ‘decant’ can be for a temporary period or a permanent move.
- 1.3 This draft policy sets out the help offered by the council in order to support tenants/leaseholders with this move.

2 Recommendation(s)

- 2.1 Members consider and provide comments on the draft Decant Policy in advance of consultation with the council’s Tenant Panel.
- 2.2 Subject to consultation with the Tenant Panel, Members recommend the adoption of the Decant Policy - as set out at Appendix A - to Cabinet, with the outcome of the consultation to be reported back to Cabinet for its consideration.
- 2.3 Members recommend to Cabinet that delegated authority is given to the Executive Director (Housing and Communities), in consultation with the Executive Member, Planning, Housing and Community , to review and amend as appropriate the sums set out in Appendix One to the Policy ,on an annual basis.

3 Explanation

- 3.1 The Decant policy (attached at Appendix A) applies to council tenants, leaseholders, legal tenants of council leaseholders where major improvements or demolition/redevelopment are planned; council tenants, leaseholders and legal tenants of council leaseholders who experience unexpected damage or major repair requirements to their property which means they have to move out
- 3.2 The Policy sets out the circumstances in which a tenant/leaseholder or sub tenant may be decanted; what tenants and residents can expect if they are required to move from their home; what financial compensation will be paid and the likely options for rehousing that the council may offer
- 3.3 Prior to making a decision to decant a property, the housing team will take account of the composition of the household, their needs and preferences; the likely time periods involved; the suitability of alternative accommodation and where there is major works involved – the level of disruption and costs of the work with the household resident vs if they are moved out.

- 3.4 Ultimately it will be the council's decision as to whether a decant is necessary. There will be the following types of decant:

Unplanned – emergency temporary (for example a major flood within the property)

Unplanned – temporary (non-emergency) (for example a requirement to replace large areas of flooring, which is required but not an emergency)

Unplanned – permanent (for example a major structural issue, such as subsidence which requires the property to be vacated and will take a long period of time to resolve)

Planned – temporary (for example a major repair or refurbishment which will require the tenant to move out whilst it is completed)

Planned – permanent (for example a full redevelopment of the property)

- 3.5 The Policy document sets out how the council will approach the decant process in each of these scenarios and what help and support the council will offer.

Implications

4 Legal Implication(s)

- 4.1 Under Section 29 Land Compensation Act 1973, as amended by Paragraph 3, Schedule 15 Housing Act 2004 a person may be entitled to home loss payment (subject to limitations on entitlement) where s/he is displaced from a dwelling on any land as a result of the

- compulsory purchase of the property
- making of a housing order in respect of the dwelling (i.e. prohibition order under Part 1 of the Housing Act 2004 or a demolition order)
- redevelopment of land or improvement of any dwelling on land previously acquired or appropriated by an authority possessing compulsory purchase powers and currently held by such an authority
- redevelopment or improvement by a registered social landlord
- making of an order for possession because the landlord (in the case of a secure tenancy) intends to demolish or redevelop the dwelling or carry out extensive work, or the area is to be sold and redeveloped

- 4.2 A person will not qualify for a home loss payment unless the following conditions are satisfied:

- the applicant must have been in occupation of the dwelling as her/his only or main residence throughout a one-year period ending on the date of displacement, and
- that occupation must be as a result of an interest or right in the property.

Interests that qualify are:

- any interest in the dwelling

- a right to occupy the dwellings as statutory tenant or under a restricted contract
 - a right to occupy the dwelling under a contract of employment
 - a right to occupy the dwelling under a licence where either it is a right to occupy as a protected occupier, or the statutory provisions relating to secure tenancies apply to the licence, or the licence is an assured agricultural occupancy, or where the statutory provisions relating to introductory tenancies apply to the licence
- 4.3 If an occupier has lived in the property for less than one year but has a legal interest and occupies the property as her/his only or main residence at the date of displacement, s/he may be entitled to a discretionary payment, not exceeding the amount of the mandatory payment.
- 4.4 Disturbance payments are made to compensate a residential occupier for reasonable expenses in moving from the house or land. People who do not qualify for a home loss payment, for example because they do not satisfy the residence requirement, may be entitled to a disturbance payment.
- 4.5 The situations in which a disturbance payment can be made are broadly the same as those for home loss payments. The main difference is that any acquisition of land by an authority with compulsory purchase powers is sufficient; the acquisition itself need not be compulsory. Qualification is cumulative and occupiers may be entitled to both home loss payments and disturbance payments.
- 4.6 Provisions on the permanence of the displacement are the same as for home loss payments. However, any acquisition by an authority possessing compulsory purchase powers will suffice for entitlement; the acquisition itself does not need to be compulsory. The provisions use the term 'house or building' not dwelling, which is the term for home loss payments.
- 4.7 Disturbance payments can be paid to someone who is in 'lawful possession' of the land. Lawful possession does not include lodgers or those with merely a licence to occupy.
- 4.8 Eligibility for disturbance payments is also affected by the reason for the displacement. Where the displacement is due to acquisition by a local authority possessing compulsory purchase powers, disturbance payments are only payable where the applicant is not entitled to compensation through any other Act. This does not include home loss payments, which are payable at the same time.
- 4.9 Even if there is no entitlement, local authorities have discretion to make a payment by way of compensation for disturbance
- 4.10 Disturbance payments cover 'reasonable expenses' incurred by the entitled person during moving. People who are displaced from properties that have been adapted for disabled people are entitled to the comparable cost of those modifications

5 Financial Implication(s)

- 5.1 The current statutory Home loss payment is £6100. This statutory sum is reviewed periodically by government.
- 5.2 Appendix One of the draft policy sets out the amounts payable to recompense disturbance to tenants, leaseholders and sub tenants. However this list may not be exhaustive and if other reasonable expenses are incurred by an occupier due

to displacement these may be considered or where there are exceptional circumstances the amounts payable may vary.

5.3 All payments to tenants and leaseholders are from the Housing Revenue Account

5.4 The costs associated with decanting residents will be met from existing budgets and/or where the decant is planned as part of a development project, the budget to meet these costs are included in the wider development costs.

6 Risk Management Implications

6.1 The risks related to this proposal are:

6.2 The Decant Policy provides clarity on how the council helps and supports occupiers who have to be either temporarily or permanently displaced. It also sets out the legal requirements. The Policy therefore ensures that the council is not incurring either a reputational or legal risk from not having a clear policy in this area.

7 Security & Terrorism Implication(s)

7.1 There are not implications arising from this policy

8 Procurement Implication(s)

8.1 There are not implications arising from this policy

9 Climate Change Implication(s)

9.1 There are not implications arising from this policy

10 Link to Corporate Priorities

10.1 The subject of this report is linked to the Council's Corporate Priority 'Meet the borough's housing needs', and specifically to the achievement of 'Plan for the housing needs of our communities'

11 Equality and Diversity

11.1 An Equality Impact Assessment (EIA) Screening has been carried out in connection with the proposals that are set out in this report

11.2 The impact across all groups is neutral. The Policy sets out clearly that individual needs will be considered and appropriate support and housing options will be provided, based on the assessment of need. This will be recorded in a support plan.

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Background papers to be listed (if applicable)

Appendices to be listed
Appendix A – Draft Decant Policy