

Appendix One - Decanting Policy – Southend Council

1. Introduction

This Decant Policy is to be used when regenerating or redeveloping the Council's housing stock.

The Decant Policy aims to provide housing regeneration schemes with a clear approach to manage decant proceedings in an efficient and fair manner. It provides an outline process by which to deliver vacant possession of properties. The Council recognises that moving home is a stressful time for anyone but for households that are required to move temporarily it is likely to be even more disruptive.

2. Decant Policy

This policy covers all tenants where regeneration of occupied housing is proposed. Appendix 1 outlines the relevant legislation covering the Council's obligations in this regard.

This Decant Policy should be used once a Cabinet decision has been made to progress with a regeneration project. Initial consultation will include asking tenants and leaseholders to complete a Survey form that outlines their household's housing need. More detailed consultation will take place once the Council has made a formal decision to progress with the regeneration project.

3. Decant Programme

The Decant Programme will be used to either move tenants on a temporary basis whilst permanent accommodation is built (resulting in a temporary decant), or to move directly to permanent accommodation from their current home.

A permanent decant is when a resident is moved out of their property to another property where they will remain permanently.

A temporary decant is when a resident is moved to a property temporarily until a permanent property is available.

4. Eligibility Criteria

In line with the legislation and existing best practice, the following people will be eligible for assistance and possible re-housing:-

- Tenants living in the affected property 12 months prior to the date of agreement for the regeneration scheme or who are identified as eligible through the Needs Survey.
- Family members (including children) living at the property with the tenant 12 months prior to the date of agreement for the regeneration scheme or who are identified as eligible through the Needs Survey.

- Partners and spouses living at the property with the tenant 12 months prior to the date of agreement for the regeneration scheme or who are identified as eligible through the Needs Survey .

The Council will not re-house unauthorised occupants, sub-tenants, lodgers, licensees or any other non-secure occupants.

5. Needs Survey

A Needs Survey of the regeneration site will be completed to understand the specific requirements of the proposed regeneration and to ensure a suitable decant programme is followed. This will be completed as soon as possible after the Cabinet decision to progress with the regeneration has been made.

The Needs Survey results will be updated during the course of the regeneration programme until the decanting occurs, and should be carried out as frequently as determined necessary for each regeneration scheme.

6. Home-loss Payments and Disturbance Package

Authorised Tenants meeting the criteria as detailed in Section 4 above are entitled to Home-loss Payment and Disturbance Payments.

Home-loss Payments are statutory payments, which are paid to tenants following a compulsory purchase order or displacement by housing orders, and are not to pay for the cost of moving, as detailed in Sections 29-33 of Land Compensation Act 1973. Tenants will receive a flat rate of £5,800 as from 1st August 2016 (subject to review). To qualify, the property must be the Tenant's only or main residence for a year prior to the date of displacement.

Home-loss Payment Procedure

The following payment procedure will be agreed for each regeneration scheme in accordance with the Decant Policy. It will include the following:-

- Payments will be made directly to the resident.
- Claims can be made for up to 6 years after the offer of accommodation, and must be paid within 3 months of receiving the claim. Under the Land Compensation Act 1973, there is a right of appeal to the Lands Tribunal.
- Rent, Service Charge, Council Tax, Business Rate arrears can be offset against any Home-loss payment, and the decision to do so will be decided for each individual regeneration scheme.

Disturbance Payments

In addition to the one off Homeless Payments the Council will also meet reasonable Disturbance Payments to financially compensate the displaced tenant for expenses associated with the need to move.

- In cases where it is necessary to move tenants twice, Disturbance Payments may need to be paid twice.
- Removal costs from the current home to the new home, will be paid directly to the Council's approved removal firm. For vulnerable residents, this might include additional support, such as furniture packing and unpacking.
- Telephone and internet disconnection and reconnection.
- Disconnection of any television aerials or satellite dishes connected either to an existing television or that allows the proper operation of television equipment. Reconnection will only apply with the express approval of the landlord at the new address. New homes may have television aerials and systems installed as part of the specification.
- Washing machine, cooker, dishwasher and plumbed fridge disconnection and reconnections will be carried out by the Council's removal firm's operatives (who must be suitably qualified to the appropriate trade standards).
- It is expected that relocating residents will refit curtains, carpets and furnishings however if this is not possible then reasonable replacement costs will be covered by the Disturbance Payment.
- Any extra costs of new school uniform if moved to a different area, which necessitates a change of school (supported by letters from the respective schools).
- Other reasonable costs incurred by the tenant if approved in writing by the Council prior to the cost being incurred.
- Any costs incurred will need to be evidenced through receipts and up to a maximum amounts of £1000 per household.

Disturbance Payment Procedure

The following payment procedure will be agreed for each regeneration scheme in accordance with the Decant Policy. It will include the following:-

- Payments will be made directly to the tenant.
- Claims can be made for up to 6 years after the offer of accommodation, and must be paid within 3 months of receiving the claim. Under the Land Compensation Act 1973, there is a right of appeal to the Lands Tribunal.
- Rent, Service Charge, Council Tax, Business Rate arrears cannot be offset against any Disturbance Payments.

7. Alternative Accommodation – permanent or temporary

Tenants will be given priority to move to another Council or Housing Association property. They will be eligible for Home-loss Payments and the Disturbance Allowances to facilitate the move. Tenants will be given priority for alternative permanent housing which meets the household's requirements, and if the tenant currently under occupies their property by 1 bedroom this will be allowed for on any properties they want to move to. For working age people on a low income or Housing Benefit/Universal Credit this may result in an additional spare room subsidy to be met by the tenant. If the current tenant's household is overcrowded they will be able to move to larger accommodation which meets the current needs of their household.

Wherever possible it will be the intention to minimise the need for a temporary move but if a tenant is willing to move to other temporary accommodation while the regeneration takes place they will be considered for a new home based on the same criteria as above in accordance with their requirements.

Any specific adaptations to the property for anyone in the household will be provided in the new temporary or permanent home and will be in addition to the Home-loss and Disturbance allowances.

8. Gaining possession

Once the Council has come to a decision on a regeneration scheme, it will offer alternative accommodation in line with this Policy. However if a tenant needs to move to enable the scheme to be progressed then Legal action to gain possession of tenanted properties will be used as a last resort. Where a resident refuses to move, or has refused the offer of other suitable alternative accommodation, the Council has the legal right to gain possession of the property for decanting and redevelopment purposes. The two grounds for possession relevant to regeneration are Grounds 10 and 10A (following approval from the Secretary of State) of Schedule 2 of the Housing Act 1985:-

Ground 10:

"The Landlord intends, within a reasonable time of obtaining possession of the dwelling-house:

- a) to demolish or reconstruct the building or part of the building comprising the dwelling-house, or*
- b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house, and cannot reasonably do so without obtaining possession of the dwelling-house."*

Ground 10A

"The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the Homes and Communities Agency in accordance with Part V of this schedule and the landlord intends within a reasonable

time of obtaining possession to dispose of the dwelling-house in accordance with the scheme" or

"Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of that dwelling-house."

9. Equality Impact Assessment

The Council will carry out an Equality Impact Assessment of any regeneration scheme.

10. Appeals

The Council has a three-stage complaints process, which can be used in relation to appeals against the application of this policy www.southend.gov.uk/complaints

Appendix One – Legislation

The list of legislation below is to be consulted when carrying out decanting and using this policy:

- Homelessness Act 2002
- Housing Acts 1985, 1996 and 2004
- Housing and Regeneration Act 2008
- Human Rights Act 1998
- Land Compensation Act 1973
- Planning and Compulsory Purchase Act 2004
- Town and Country Planning Act 1990
- Housing and Planning Act 2016
- Equalities Act 2010
- Care Act 2014