

# Gravesham Borough Council – Tenant & Leaseholder Decant Policy

## Document Control

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| Responsible Department | Housing  |
| Author                 | Jody Bulman, Service Manager (Housing Landlord Services) |
| Consultation           |  |

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## **1. Introduction**

In line with the Corporate Plan 2019-2023, Gravesham Borough Council strives to make the best use of its stock and deliver new homes that allow residents and their families' to stay and grow in the borough. To deliver this objective, it can mean that on occasions decanting (moving residents from their home) is necessary to allow for major refurbishment and/or demolitions, to allow work to be carried out in a property where it would be unsafe for a tenant to remain in the property whilst the work was carried out or in cases of emergency.

Reference in this policy to 'The Council' means Gravesham Borough Council.

## **2. Purpose statement**

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

The property that the tenant or leaseholder moves to may be Council owned, a Registered Provider (RP) property or privately owned. The tenant or leaseholder may also decide to arrange their own accommodation on a temporary basis with friends or family.

The purpose of the Decant Policy is to outline the process the Council will follow when a tenant or leaseholder is required to move out of their property, either temporarily or permanently. It may also involve anything from moving an individual household to managing a programme of decants across a large number of properties over a long period of time.

## **3. Policy Aims**

The Policy sets out the provisions the Council has in place for decanting tenants and leaseholders from their current properties.

The aims of this policy for those decanting both temporarily and permanently are:

- To ensure the decant process is fair and reasonable and in accordance with the current allocations scheme.
- To carry out the decant with the minimal possible disturbance for tenants and leaseholders.
- To consult with tenants and leaseholders at the earliest opportunity and to continue to engage throughout the decant process.
- To provide an assessed offer of support both financial and practical for tenants and leaseholders.
- To enable to the Council to make best use of its stock through timely improvements, remodelling, redevelopment and disposal.

## **4. Scope of Policy**

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

- Tenants living in the affected property 12 months prior to the date of agreement for the regeneration or development scheme.
- Tenant's family members, partners and spouses living in the affected property 12 months prior to the date of agreement for the regeneration or development scheme, (including children).
- Tenants, tenant's family members, partners and spouses living in the affected property in need of rehousing irrespective of the length of tenancy where work

needs to be carried out in the property and it would be unsafe for the tenant to remain or in the event of an emergency.

- Leaseholders

This policy does not apply to and the Council will not rehouse unauthorised occupants, private tenants; sub-tenants; lodgers; non-resident landlords, and licensees.

## **5. Legislation and Guidance**

### **5.1 Related Policies**

- GBC Corporate Plan 2019-23
- GBC Corporate Debt Policy
- GBC Compensation for tenants' improvements Policy.
- GBC Housing Allocations Policy.
- GBC Corporate Refund Procedure.
- GBC Housing Under-Occupation Policy
- GBC Comprehensive Equality Policy
- GBC Rechargeable Repairs & Maintenance Policy

### **5.2 Legal Framework**

- Land Compensation Act 1973
- The Home Loss Payments (Prescribed Amounts) (England) Regulations 2020
- Housing Act 1985
- Housing Act 1996
- Acquisition of Land Act 1981
- Planning and Compensation Act 1991

This policy was correct at the date of issue and has been drafted according to current legislation. Any subsequent changes in legislation or best practice will be adhered to and included in future updates.

## **6. Policy Statement**

Moving home is a stressful time for anyone and we understand that the process of decanting can be stressful for households that are required to move and we will do as much as possible to ensure that the process is the least stressful as possible.

### **6.1 The Decant Programme**

The decant programme will be used to both move tenants and leaseholders on a temporary or permanent basis as follows:

#### **6.1.1 An Emergency Decant**

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 Bed and Breakfast accommodation. If the tenant does not have their own insurance or if it is not covered within the policy, they may be rehoused in temporary accommodation by the Council, as is deemed to be appropriate. Once the extent of the damage has been assessed, a decant plan can be devised taking account

all relevant circumstances and this will set out all appropriate arrangements. Where damage has been caused by the actions or inactions of the tenant resulting in decanting, the tenant(s) will be recharged for any costs associated with the refurbishment in line with the recharge policy.

#### **6.1.2 A one-move decant:**

A tenant is moved to alternative permanent accommodation on the same or equivalent tenancy terms as their current property.

Adult children within the household, who are eligible household members, may be offered the option to move into a separate property or properties that meets their housing need.

Tenants who opt for a permanent move will be considered as a high priority and the Council will seek to meet expressed preferences for area and type of property taking into account that the requests are reasonable and suit their needs.

Where a property is owned by the resident and it is due to be demolished, the Council will pay the owners the market value of their home plus a home loss payment. Homeowners will be expected to secure their own alternative accommodation rather than being rehoused by the Council.

#### **6.1.3 A temporary decant:**

A tenant is moved to a suitable but short-term property until a permanent property is available. The tenant will have a 'Right to Return' to the newly developed regeneration area. The Council will take into account the tenant's needs and reasonable requirements regarding the location of the temporary home.

Where it is reasonable, tenants who accept an offer of a transfer on a temporary basis may be allowed to change their mind and remain permanently in the new dwelling and receive the home loss payment.

#### **6.1.4 Phased development and decanting**

It is possible that development will happen in phases with some blocks or houses being demolished or redeveloped before others.

The construction phasing of the scheme may mean that tenants are unable to move directly into a new home on the estate as new units will not be ready until later in the redevelopment process. In these circumstances tenants will have the opportunity to move to another home either temporarily or permanently.

On schemes where demolition and construction happen in separate phases, we expect that some tenants in the latter phases will have access to new homes from earlier phases and will not require temporary rehousing.

#### **6.1.5 Decanting Leaseholders**

Leaseholders will be given the same high priority as a tenant.

If a leaseholder's home is due to be redeveloped or demolished, the Council will pay the owners the market value of their home plus a home loss payment.

Where the property is to be refurbished the leaseholder will be able to return to the property.

## **7. Engaging with tenants and leaseholders**

The Council recognise that communication is key to successful management of a decant process and as much notification as possible will be given to tenants and leaseholders.

The Council will ensure that we:

- Consult tenants and leaseholders at an early stage.
- Keep tenants and leaseholders informed.
- Provide a 'tenant/leaseholder liaison' as a single point of contact.
- Help and / or advice in closing down utility accounts and commencing new accounts.
- Help and / or advice on notifying change of address.
- Provide a package of support both before and after the move tailored to individual needs.
- Advise what entitlement there is to disturbance and home loss payments (where appropriate).
- Inform tenants/leaseholders of how to appeal a Council decision or complaint about the level of service they receive.

Communications will be accessible and may include letters, resident meetings, provision of Frequently Asked Questions Leaflet, Home Visits and Drop In sessions.

## **8. Allocating property to decanting tenants**

Every effort will be made to re-house a tenant in the area of their choice. The criteria upon what basis alternative accommodation is deemed suitable will be determined in accordance with the Council's Housing Allocations Scheme and will be based on the assessed bedroom need of the household and not the size of accommodation currently occupied. Medical needs will also be assessed in accordance with the Council's current Allocations Scheme. Tenants required to move will be given a high priority on the Council's Housing Register or will have the benefit of a direct let.

Unless the property is to be sold, demolished, or substantially changed, the tenant should be offered the opportunity to return to the dwelling retaining the tenancy whilst works take place and be paid removal expenses.

Where accommodation is to be redeveloped or refurbished, tenants will be given priority to return to suitable alternative accommodation on the redeveloped scheme should sufficient new accommodation of the type required be available.

Where tenants wish to move to another part of the Borough, the Council will use its reasonable endeavours to assist in finding suitable alternative accommodation in their preferred location. This will be subject to the supply of suitable accommodation in the area of their choice.

In appropriate cases, under-occupying tenants may be persuaded to relinquish their right to return by the offer of compensation under Gravesham Borough Council's Housing Under-Occupation Policy that applies to tenants moving to smaller properties, as well as by the offer of the home loss payment.

Should a tenant be interested in types of tenancy other than for social rent then advice and assistance will be offered to help the tenant secure such a move.

## **9. Alternative housing for Leaseholders**

As with tenants, leaseholders will be considered a high priority for a permanent move. Where a property is owned by the resident and it is due to be redeveloped or demolished, the Council will pay the owners the market value of their home plus a home loss payment. Homeowners receive a home loss payment of 10% of the market value of their home, between the minimum and the maximum rate as set by the Government. These amounts are set out by law in the Land Compensation Act 1973 and Home Loss Payments (prescribed payments) Regulations 2020).

When a leaseholder's property is to be redeveloped, and they are not able to afford to buy a suitable alternative home on the open market, the Council will offer advice and assistance to secure shared ownership, equity share or another form of intermediate housing. Where the property is to be refurbished the leaseholder will be able to return to the property.

## **10. Support to move**

The Council is committed to supporting tenants and leaseholders to move home if their property will be demolished or subject to a major refurbishment as part of a regeneration scheme. The Council will provide support to help tenants and leaseholders to move through the rehousing process, with as little disruption as possible.

Support can be provided to those tenants and leaseholders who need it in the form of:

- Assistance with registering on the Council's Housing Registers.
- Assistance to view alternative accommodation.
- Assistance with completing forms relating to change of address.
- Assistance with rearranging care or support if applicable.
- Where no friends or family are available, arranging packing and removals.
- Clearance of unwanted items.
- Arranging lifting and refitting of carpets and curtains.

The level of support required will be assessed on an individual basis.

## **11. Compensation Payments**

There are two types of compensation payment that a tenant or leaseholder may be entitled to when being decanted from their property.

### **11.1 Home Loss Payment**

A Home Loss Payment is designed to compensate people for the distress and inconvenience of having to move home at a time not of their choosing. Home loss payments are set at a flat rate by legislation. In England, the amount is currently £6,500. For leaseholders who are entitled to 10% of the property value, a minimum payment of £6,500 and a maximum payment of £65,000 will be given.

- A Home Loss Payment will not be paid to any household whose tenancy began less than 12 months before the date of the decision to decant.
- Tenants moving on a permanent basis may also be entitled to compensation for improvements that they have made to the original property in accordance with GBC's Compensation for Tenants Improvements Policy.
- Home Loss Payment is only payable where a displacement is compulsory and of a permanent nature.

- Where a person entitled to a payment dies before making a claim, any person (not a minor) who lived in the dwelling as an only or main residence for at least 12 months before the date of displacement can make the claim in the deceased person's place.
- Claims must be made in writing within five years of displacement.
- Payment must be made within three months of the date of the claim, on the date of displacement, or on the date the market value has been agreed or finally determined, whichever is the later.
- Any money owed to the Council, including but not limited to, rent arrears, council tax and any recharges will be deducted from the Home Loss Payment in accordance with the Council's Corporate Refund Procedure.
- Any rent arrears or other money owed to the Council will be deducted from any home loss payment made. Deductions will not be made from disturbance payments, other than with the agreement of the resident, which will be sought first.

### **11.2 Disturbance Payment**

Disturbance payments cover reasonable expenses involved in moving. These will be paid, regardless of length of tenancy, to tenants and leaseholders who are decanted. The Council will pay for two moves where a resident takes up an option to return to the original dwelling.

Expenses payments are intended to financially compensate the displaced tenant and leaseholder for the actual expenses associated with the need to move. The tenant and leaseholder should be in no better or worse position after displacement than before, but will only be reimbursed for actual losses and should ensure that those are mitigated as far as possible. Tenants and leaseholders should obtain three competitive quotes – for example, from removal contractors. The Council will not reimburse expenses where value for money cannot be demonstrated.

Each claim will be individually assessed and payment will normally be made to address the cost of:

- Removal contractors' expenses
- Temporary storage of possessions and furniture
- Disconnection and reconnection for TV aerials, internet access, telephone, cooker, plumbed in washing machine and other installations to be agreed prior to removal.
- The cost of moving or replacing any adaptations related to disability.
- The cost of alterations to existing soft furnishings (e.g. carpet and curtains) or the loss incurred in not being able to re-use them.
- Re-direction of mail.
- Arranging the removal of items that are no longer wanted
- Any additional insurance premiums related to the move

Tenants who are evicted on grounds of rent arrears, nuisance or any other breach of the conditions of tenancy after the decision to decant has been taken, will not be paid home loss or disturbance payments.



## **12. Refusal to move**

The Council will aim to negotiate alternative accommodation with tenants and leaseholders who are required to move. Any refusal by a tenant or leaseholder must be reasonable and supported by evidence.

Where tenants refuse the offers of suitable alternative accommodation and in circumstances where rehousing by negotiation and voluntary agreement has not been possible, the Council will exercise its legal right to seek possession. To be successful the Council will need to be able to demonstrate that suitable alternative accommodation is available for the tenant to move to.

If agreement cannot be reached with a leaseholder the Council is able to pursue a compulsory purchase of the property in line with policy.

## **13. Right to Buy Implications**

Eligibility for Right to Buy should not be affected by either a temporary or permanent decant. Tenants with decant priority will be consulted as to concerns about the potential to acquire the new dwelling under the Right to Buy. Tenants will be invited at the time of registration to decide among the following options:

- Where they currently occupy a property which benefits from the Right to Buy, will the decanted property also benefit from the Right to Buy;
- Where they currently occupy a property which benefits from the Right to Buy they may decide to be considered for other properties regardless of whether they benefit from the Right to Buy or not;
- Where they currently occupy a property that does not benefit from the Right to Buy they may request consideration for a property that is guaranteed.

## **14. Suspension of the Right to Buy**

The Right to Buy of any affected council housing stock will be suspended from the date an Initial Demolition Notice is served on the tenants concerned as defined in the Housing Act 1985 Section 138 A-C and Schedule 5.

An Initial Demolition Notice also suspends any Right to Buy applications that have been submitted by qualifying tenants whilst proposals for regeneration are being considered or progressed to the point where a Final Demolition Notice is served.

If you have already applied for the Right to Buy your home, your application will be suspended whilst regeneration plans progress. If, at any point, the plans change and your home is not to be demolished, a Revocation Notice will be served. At this point, you could still complete your purchase.

You can still make a Right to Buy application when an Initial Demolition Notice is in effect on your home, but the sale process will be suspended until a Final Demolition Notice has been served.

If you have established a valid claim to exercise the Right to Buy before an Initial Demolition Notice is served, you have 3 months in which to claim compensation for reasonable expenditure connected with the conveyancing process.

## **15. Complaints/Appeals Procedure**

Any appeals decisions made under this policy and complaints will be considered in accordance with the Council's Corporate Complaints Procedure.

#### **16. Discretion**

The Director of Housing, may exercise their discretion to depart from this policy due to the exceptional individual circumstances of the case.

#### **17. Equality and Diversity**

This Policy works in conjunction with the Council's Equality Policy.

Gravesham Borough Council is committed to treating people with dignity and respect. This applies to colleagues, tenants and members, all of whom undertake not to discriminate directly or indirectly or victimise because of race, colour, ethnic or national origin, nationality, citizenship, sex, sexual orientation, marital status, disability, age, religion or political persuasion.

All information/ literature will be made available in other formats, or translated upon request.

The Council is committed to addressing issues of financial inclusiveness by referencing its Vulnerability Policies.

Front line staff will signpost customers to external advice agencies providing additional help and support with regard to equalities, ensuring full use of available resources.

Appointments arranged to discuss issues covered by this policy will be made reflecting awareness of cultural and religious holidays and celebrations. Alternative dates/times for attendance will be offered should the suggested date/time conflict with a cultural or religious celebration.

This policy has satisfied an Equalities Impact Assessment, which has been carried out in line with the Equalities Act 2010.