



Ipswich Borough Council

Decant Policy

1. Introduction

- 1.1 This policy sets out the approach Ipswich Borough Council will take to move tenants from its housing stock in the case of a remodel, disposal, demolition, in order for work to be carried out to their property and where it is not safe or possible for the tenant to remain while work is carried out. Or where the property is damaged in an emergency such as fire or flood.
- 1.2 A decant is where a tenant moves from their current home to another one, either temporarily or permanently.
- 1.3 Our 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, 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 of relevant circumstances and this will set out all appropriate arrangements.
- 1.4 If the household has home contents or other insurance, the tenant is advised to notify their insurance company(s) about the change of address due to decant.
- 1.5 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 income and recharge policy.

2. Scope

- 2.1 The scope of this policy is for tenants who decant from their property either temporarily or permanently to:
 - Ensure decants operate in a fair, equitable and reasonable manner, in accordance with the current allocations policy
 - Enable decants to be carried out to minimise disturbance to tenants
 - Establish a basis for making offers of support, both financial and practical, to tenants obliged to decant

- Minimise rent loss to the Council
- Ensure best use is made of the Council's resources

3. Eligibility

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

- Tenants, their family members, partners and spouses living in the affected property)

3.2 The Council will not rehouse unauthorised occupants, sub-tenants, lodgers, licensees, and other non-secure occupants. Those ineligible persons within the criteria of s 160ZA of the Localism Act 2011 and those deemed ineligible by the Secretary of State.

3.3 Owner-occupiers and leaseholders may be given assistance to find alternative accommodation in exceptional circumstances and the options available to them will depend on their individual circumstances and the equity available to them.

While the Council may not have the same duty to provide alternative accommodation to leaseholders as it may for its tenants in respect to temporary decants, we will provide suitable alternative accommodation where:

- there is an obligation under the terms of the lease;
- the decant is required as a result of the Council's action's, failure to act or negligence
- it may help facilitate the progress of essential works.

There may be circumstances where a leaseholder has rented out their property and therefore has a contractual arrangement with their tenant. In such cases, when decanting the tenant of the leaseholder, the leaseholder (being the Landlord) will need to make arrangements about rent, compensation or alternative accommodation. Any leaseholder being moved to alternative accommodation within the Council's own housing stock will be required to return to their principal home as soon as the works have been completed and it is available for occupation.

4. Legal context

4.1 The key legislation that relates to decants is as follows:

- Housing Act 1985, and Commonhold and Leasehold Reform Act 2002. If a decant is necessary, the Council has a legal obligation under Section 105 of the Housing Act 1985 to consult with tenants and leaseholders when they are substantially affected by changes to the management, improvement, or demolition of houses. Consultation must be at a time when proposals are still at an early stage and the Council will consult with all affected persons.
- The Council retains the legal right under Ground 10 or 10a of Schedule 2 of the Housing Act 1985 to commence possession proceedings as a last resort to

obtain possession of a property in order to carry out major works or refurbishments. This action will only be taken once all other alternatives have been explored.

- Possession would only be granted by a Court with the provision of suitable alternative accommodation.
- Housing Act 1988 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
- Land Compensation Act 1973 Section 30 of the Land Compensation Act 1973 sets out the provisions for the statutory Home Loss Payments to be made to compensate tenants for having to permanently move out of their home, subject to certain eligibility criteria
- This mandatory lump sum payment is reviewed annually and confirmed in the Home Loss Payments (Prescribed Amounts) England Regulations
- The Land Compensation Act 1973 Act also sets out guidance relating to the payment of Disturbance Allowances aimed at compensating tenants for the actual cost of moving from their home

Town and Country Planning Act 1990 If the Council decides to pursue compulsory purchase owner occupied property, then it will comply with current legislation covering the use of Compulsory Purchase Orders under the Town and Country Planning Act 1990 or the Housing Act 1985 (as amended by the Planning and Compulsory Purchase Act 2004).

5. Emergency decants

- 5.1 An emergency decant occurs when a tenant's property becomes uninhabitable due to an immediate risk to health and safety (for example, due to storm damage, fire, or flood). The household will be offered temporary accommodation if they are not able to stay with family or friends. This would usually be bed and breakfast accommodation. Although the Council will try to source accommodation in the local area, this may not be possible.
- 5.2 If the emergency situation occurs out of office hours, and the tenant cannot go to family or friends, we will arrange emergency temporary accommodation until a full assessment can be made on the next working day.
- 5.3 Appropriate support and assistance with the intention of them returning to the property as soon as it becomes habitable will be provided. IBC will meet agreed reasonable disturbance costs.

- 5.4 The tenant must make appropriate arrangements for any pets and ensure that they are not abandoned in the property after they have moved out.

6. Temporary decants

- 6.1 A temporary move occurs when major repairs and improvement works mean that it is not reasonable or possible for the household to remain in the property for the duration of the works.
- 6.2 The household will be offered temporary accommodation and appropriate support and assistance with the intention of them returning to the property as soon as the work is completed to a point where the property is habitable. Some work may still be required that can be done safely and practicably with the tenant in resident. IBC will meet agreed reasonable disturbance costs.

7. Permanent decants

- 7.1 When a permanent decant occurs these are dealt with as a management move to a suitable available property, for example:
- Where the property is to be demolished
 - Where a property requires substantial remedial works, and where Housing Services may not be in a position to do the works quickly
 - Where major repairs and improvement works are planned, and the tenant(s) chooses not to return to the property.
- 7.2 If permanently decanted the tenant will be offered the same security of tenure and will be required to sign a new tenancy agreement. The tenant will need to formally end their tenancy on the property they have decanted from. This may be by surrender or by serving Notice to Quit, as agreed by the Council.
- 7.3 The tenant will be expected to pack up their own belongings unless they are vulnerable or have special needs, in which case a packing service will be arranged.
- 7.4 Tenants must ensure that they have taken steps to ensure that their fridges and freezers are cleaned.
- 7.5 The Council will take responsibility for ensuring that gas appliances are disconnected and made safe by a qualified 'gas safe' engineer. Electrics are made safe as appropriate to the situation.
- 7.6 If the tenant is being transferred to alternative accommodation, they will be responsible for clearing their belongings from the property and for giving vacant possession of that property.

- 7.7 Any items left behind will be cleared and there will not be any opportunity to reclaim them, or to claim compensation to the value of them.
- 7.8 The cost of clearance and disposal of any such items will also be recharged to the tenant. The tenant is required to provide access to contractors, as necessary before any move takes place.
- 7.9 They must also take responsibility for their own fixtures and fittings or DIY improvements, unless the property is to be demolished, in which case they must sign a disclaimer stating that they do not require any compensation for the loss of these items.
- 7.10 There will be a pre-void visit where such items will be identified, and the tenant informed about the work that is required before they move out.
- 7.11 Failure to undertake such work could result in the tenant being recharged, in accordance with the appropriate policy.
- 7.12 The tenant is expected to make other members of their household aware of the decant arrangements and to move on the agreed date. In addition, they must make appropriate arrangements for any pets and ensure that they are not abandoned in the property after they have moved out.

8. Allocations Policy Assessment

- 8.1 All tenants needing to move, whether temporary or permanent will be required to register on Choice Based Lettings. This is to ensure fairness and equality with other residents in the district seeking accommodation and to ensure stock remains available for the Council to discharge its duties under current Homelessness Legislation.

9. Rehousing Options

- 9.1 Where it is not possible for a tenant to return to their original allocated property following works to the property the tenant will be responsible for bidding for properties on Choice Based Lettings.
- 9.2 Suitable alternative accommodation should provide the tenant with equivalent security of tenure (if council property) and where possible is similar in regard to rent, size, situation etc. as required under Schedule 2, Part III of the Housing Act 1988 and meets the tenants' needs. We cannot guarantee same locations and this would be dependant on options available on Choice based letting.
- 9.3 Where the tenant is currently under occupying, they will normally be offered a smaller property that meets their current needs. Tenant Incentive Scheme would not apply if Disturbance payments or Home Loss payments have been agreed.
- 9.4 However, cases may be considered where there are exceptional circumstances which may warrant the offer of a larger property. Similarly, where a tenant is overcrowded in their current property and has an assessed need on the Council's Housing Register, a larger property than they currently occupy may be offered. The

accommodation offered must be available as a separate dwelling and provide the same security of tenure as they have previously enjoyed.

10. Choice of area and accommodation type

- 10.1 The Council will aim to house the tenant in an area of their choice where they have family, work or schools are attended in the local area. But where this is not possible a permanent decant will be offered within any suitable Council property in Ipswich.

11. Offers

- 11.1 Where a resident has not bid within the timescale and has had the support to do so the Council retains the right to bid on their behalf and make a suitable offer of accommodation on this basis.

12. Compensation and Costs

- 12.1 The Council has the discretion to make financial assistance towards tenants' removal expenses under the Housing Act 1985 when tenants are temporarily decanted to other Council property.
- 12.2 This would be called a 'Disturbance Payment'.

13. Home Loss Payments for Council Tenants

- 13.1 A Home Loss payment is a statutory payment made to compensate tenants for having to permanently move out of their home and may be given in addition to the statutory disturbance payment referred to above.
- 13.2 It is **not** payable for tenants who temporarily move out of their home and are able to return to their original property once the work is completed. However, if their area is being demolished and rebuilt and they return, they would be entitled to Home Loss as they would be returning to a totally new home.
- 13.3 This mandatory lump sum payment is fixed by Section 30 of the Land Compensation Act 1973. **The Government reviews the figure annually in October.** Tenants would become eligible for Home Loss payment following a formal decision to demolish, remove or dispose of their homes.
- 13.4 Tenants have the option of transferring prior to this based on their rehousing needs. However, if they do so, they would not be entitled to any form of compensation (Home Loss or Disturbance).
- 13.5 The home loss payment is limited to one per household, not per tenant. Joint tenants will therefore receive one payment between them.

14. Quantifiable Loss Payments (for both Temporary and Permanent Moves)

- 14.1 Quantifiable loss payments cover 'reasonable expenses' involved in moving for Tenants that are being moved permanently.
- 14.2 The Council will accept disturbance allowance costs within the scope of this policy for temporary and emergency decants.
- 14.3 In lieu of a disturbance allowance, the Council will normally meet all reasonable costs that are incurred as a direct consequence of any decant.
- 14.4 This will be in the form of direct payments to the suppliers or providers of services, wherever possible, to ensure that tenants are not out of pocket as a consequence of the decant.
- 14.5 Where the tenant makes the initial payment and claims reimbursement from the Council, receipts or reasonable evidence must be provided for all costs before payment is made.
- 14.6 Disturbance payments are not intended to be a complete guide to the law and should not be regarded as a substitute for professional legal advice.

15. Measuring performance

- 15.1 Performance in relation to the implementation of this policy will be monitored through the following performance indicators:
 - Number of customers decanted
 - Customer satisfaction with decants
 - Total spend on decants, broken down by disturbance payments and Home Loss Payments
 - Number of complaints received and upheld or partially upheld complaint

16. Review of this policy

- 16.1 The policy will be reviewed every three years in consultation with tenant representatives, staff, and other stakeholders unless there are any reasons, such as legislative changes, requiring that it be reviewed earlier.

Version Number	Signed off by	Written/Amended by	Last updated/reviewed	Date of next Review
1	Cllr Ross (portfolio Holder)	Arron Samson		

