

Report for: Cabinet Member Signing

Title: Temporary Moves (Decant) Policy

Report authorised by: Director of Placemaking & Housing

Lead Officer: Robbie Erbmann, Assistant Director for Housing

Ward(s) affected: All

**Report for Key/
Non-Key Decision:** Key

1 Describe the issue under consideration.

- 1.1 This report seeks approval of the revised Decant Policy which sets out the offer to secure tenants and resident leaseholders who need to temporarily move out of their home in order for repairs to be undertaken. The policy also sets out our responsibilities and actions for officers who support these moves.
- 1.2 This policy will apply to all secure tenants (including introductory tenants) and (where the Council has accepted responsibility) to Council's resident leaseholders who need to temporarily move out of their current home for repairs to be undertaken.
- 1.3 The policy does not apply to the provision of alternative accommodation for resident leaseholders who are asked to move permanently due to estate renewal works nor to those with other tenures such as the tenants of leaseholders.
- 1.4 It is also proposed that the '*Decant Policy*' is renamed to appropriately describe the policy. The revised policy is therefore to be called '*Temporary Moves (Decant) policy*'.

2 Recommendations

- 2.1 Cabinet is asked to: -
- a) Approve the proposed Temporary Moves (Decant) policy at Appendix 1.
 - b) Approved the Decant Payments Schedule at Appendix 2.
 - c) Delegate any minor amendments to the Decant Payments Schedule to the Assistant Director Housing Management in consultation with the Cabinet Member.
 - d) Delegate approval of the Decant Panel Terms of Reference to the Assistant Director Housing Management with the Cabinet Member.

3 Reasons for decision

- 3.1 Where repairs are cannot be carried out safely with a tenant in occupation, the Council has a duty to provide alternative accommodation to secure tenants so that works can be undertaken.
- 3.2 Temporary moves can be very disruptive to the tenants. This policy therefore seeks to minimise that disruption and sets out the types of accommodation which might be offered as well as the payments which can be made to ensure that the tenant is not financially disadvantaged.
- 3.3 The policy also seeks to clarify the Council's response for resident leaseholders where the liability for alternative accommodation falls under the Council's responsibility and is not covered by building insurance.

4 Alternative options considered.

The Council could continue to use the current Decant Policy.

- 4.1 This option was rejected as it does not clearly set out the accommodation which officers can make available, what payments the tenants can expect to receive and does not apply to leaseholders.

5 Background information

The current Decant Policy

- 5.1 The current Decant Policy was developed as a Homes for Haringey policy when Home for Haringey was an Arm's Length Management Organisation providing management services to the Council's housing stock. On 1 June 2022, these services were brought back in-house to be delivered directly by the Council.

Damp and Mould

- 5.2 This policy is being updated as part of the Council's response to the recommendations in the Housing Ombudsman's 'Spotlight on Damp and Mould' report. The policy is also being renamed as the 'Temporary Moves (Decant) Policy' so to clearly describe the policies objectives.
- 5.3 This policy is intended to cover all potential decant circumstances and to ensure that tenants who have damp and mould or other hazardous conditions in their homes are given clear commitments, processes, and payments.

Policy Aims

- 5.4 The policy aims are to:
 - Set out the Council's offer with clear commitments to secure tenants and to residential leaseholders (see Appendix 3 & 4 respectively)
 - Create one policy which covers both tenants and leaseholders.

- Bring a consistent approach to offers of temporary moves by re-instating the specialist ‘Decants Panel’ to assess and decide on each case.
- Provide a clear description of the accommodation that may be offered, the tenure of their temporary home and rent payments.
- Support tenants and residential leaseholders by introducing new payments.
- Centralise the monitoring of the temporary moves process to minimise the time tenants and leaseholders need to spend away from their home.

Leaseholders

- 5.5 The policy also provides guidance on the Council’s approach where a resident leaseholder needs to vacate their home due to works. In nearly all case, the costs of alternative accommodation will be covered by a building insurance claim. In these cases, the Leasehold team will advise the leaseholder on how to make claim.
- 5.6 However, on rare occasions there may be instances where the building insurance does not cover alternative accommodation. In these circumstances, the responsibility will be determined by the terms of the lease and the Council will advise the leaseholder whether they or the Council are responsible for these costs.

The Decants Panel

- 5.7 The current policy sets out a broad approach to decanting properties with decisions made by the ‘Decants Panel’ which is comprised of Senior Managers from Housing Management, Repairs and Technical teams and from Housing Demand/Allocations.
- 5.8 The Panel will also consist of senior managers from the Leasehold service (where there is a leasehold case to consider) and/or Sheltered Housing service (where the tenant is already in sheltered housing or where the tenant has expressed an interest in ether a temporary or permanent move to sheltered housing or its guest rooms).
- 5.9 The Panel’s role is to consider all cases where a surveyor believes that the tenant or leaseholder’s needs to vacate their entire home for works to be carried out unless the works are likely to be less than 2 weeks and a temporary stay in hotel or bed and breakfast would be appropriate.
- 5.10 The Panel will consider both the technical nature of the work and the tenant’s household and circumstances. The Panel will also take into consideration the alternative accommodation available.
- 5.11 In recent years the Decants Panel has been merged with the Decisions Panel However, this policy seeks to reinstate the role of the Decants Panel as a separate specialist body which will not only decide on Decants but also monitor their progress.

- 5.12 Although many tenants may prefer a permanent move, the new policy clarifies that moves will be temporary and that they will be expected to return to their original home once works have been completed. However, the Policy does retain the current option of a permanent move where a tenant is under-occupying their current home subject to approval by the Panel. The Policy also permits permanent offers to those who wish to move to sheltered housing.
- 5.13 Where a property has been offered as a permanent move, the tenant will have the right to return to their original home should they wish but the tenant will need to accept the offer as a permanent move at the time of viewing. Once accepted as a permanent move, tenants will not be allowed to return to their original home.
- 5.14 Any properties accepted as permanent will be treated as a transfer and tenants will not be eligible for payments set out under this policy.

Tenure offered to tenants in their alternative accommodation.

- 5.15 Where another council owned property is used as alternative accommodation while the works are being undertaken, the current policy asks the tenant to sign a new Secure Tenancy and that they will be liable for the rent at that property. Where the offer is not made permanently, the tenants are expected to sign a disclaimer that they will return to their original home.
- 5.16 While the disclaimer signed by the tenant will assist where a tenant refuses to leave the alternative accommodation, issuing tenants with a second secure tenancy means that the Council would be required to take legal action against the "secure tenancy".
- 5.17 Issuing a new secure tenancy can also lead to confusion over the legal status in the new property and it is therefore proposed that a license is issued instead.
- 5.18 As well as issuing a second secure tenancy, the current policy makes the tenant liable for the rent for the new property. This can cause difficulties where the rent for the new property is different and a requirement for new housing benefit claims. It can also make repayment plans set out in Court orders more complex with more than one account running.
- 5.19 It is therefore proposed that the tenants are only offered a 'rent free' licence of the alternative address and retain rent payments for their permanent home.

Accommodation options and payments offered to tenants.

- 5.20 The current policy does not give guidance on the type of property which tenants can expect and does not set out what expenses the Council will meet.
- 5.21 The proposed policy therefore seeks to clarify the accommodation options which will be considered by the Panel, the decision-making process and what support the Council will offer. This includes subsistence payments for food costs to those without cooking facilities in hotels or bed and breakfasts, and payments to those who make their own arrangements with friends and family.

Short term accommodation organised by the tenant.

- 5.22 For short-term placements, the tenant may choose to make their own arrangements with their family or friends.
- 5.23 Unlike tenants who do not make their own arrangements, the current policy does not provide any support or payments to these tenants and so the proposed policy introduces the following payments:
- An Inconvenience Payment (see Decant Payments Schedule)
 - Reasonable travel costs to re-locate and to return to their original home.
 - Meeting other reasonable costs of re-locating as agreed with the Housing Officer.
- 5.24 Although absent from the property, the tenants will be expected to maintain rent payments for their original home while they are absent. This can be paid through a continued housing benefit claim or from the Inconvenience Payment.
- 5.25 Any proposals made will need to be reasonable and Housing Officers will be expected to make suitable checks where there are child welfare or other concerns.

Short-term accommodation provided by the Council.

- 5.26 Where the tenant is only expected to move out for less than 2 weeks, and where the tenant is unable to make their own arrangements, an offer of a room or rooms in a hotel or Bed & Breakfast may be made without referral to the Decant Panel. However, there will be cases when vulnerabilities will mean that hotel accommodation is unsuitable. In this case, a referral may be made to the Decant Panel to consider more appropriate options.
- 5.27 For longer moves, or where there are exceptional circumstances, the accommodation offered will be decided by the Decants Panel who will consider each case on its merits. The Panel may also consider alternative arrangements the tenant proposes.
- 5.28 For shorter-term moves, the property offered is likely to be a hotel or Bed & Breakfast, but the Panel may also consider other options such as serviced apartments where applicable.
- 5.29 Where the tenant is over-50 or there are high support needs, offers may also include sheltered housing, its guest rooms or respite care.

Longer-term accommodation provided by the Council.

5.30 For longer-term moves this will be to a self-contained home. For smaller properties (1 to 3 bedrooms) the alternative address will be of the same size as their current home unless they already have spare bedrooms. In which case, they will be offered a property which meets the needs of the household. However, given the urgency to undertake work and the very low number of larger properties (4+ bedrooms) available, the Council may ask household members from larger properties may need to share rooms until they are able to return to their home.

Impact on the Housing Allocations Policy

5.31 A temporary move under a licence agreement is not Allocation of Housing and so pursuant to s159 Housing Act 1996. The Housing Allocations Policy is currently being reviewed and will be updated to reflect this.

Application of the policy

5.32 This policy will come into force following approval of this policy (subject to clearing) and will apply to any temporary decant moves made on or after that date.

5.33 The commitments, property types and the rent/tenancy arrangements set out in this policy will not apply to temporary moves commenced before this date. However, payments offered in the Decants Payment Schedule will be paid with effect from the first Monday after the policy comes into force with the exception of Inconvenience Payments offered to secure tenants making their own arrangements. These payments will not be paid where the tenant's rent account has no ongoing rent charged.

6 Contribution to strategic outcomes

- 6.1 This policy will enable the Council to improve the lives of Council tenants whose homes need significant repairs. This policy thus supports the Borough Plan 2019-2023 Priority 1 objective to drive up the quality of housing for everyone.
- 6.2 The policy also supports aim 2.1 in the draft Housing Strategy 2023-2028 of “Improving the quality of our Council housing”.

7 Statutory Officer Comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

Finance

- 7.1 Finance has been consulted in the drafting of this report. This temporary moves for planned repairs policy, amongst other things, makes clear the type of property which tenants can expect and sets out what expenses the Council will meet.
- 7.2 The current practice accommodates payments made where tenants are placed in hotels or bed & breakfast. The costs are contained within the existing Housing Revenue Account budgets.
- 7.3 An addition in this proposed policy is to cover cases where tenants make their own arrangements for accommodation.
- 7.4 The financial implication will be assessed when the number of tenants that will make their own arrangement for accommodation can be reasonably estimated.
- 7.5 There is a risk that this might lead to additional pressures on the budgets especially with so much focus on the issue of damp and mould.
- 7.6 This will be reviewed subsequently to ensure that there are adequate provisions in the HRA to accommodate the financial implications of the new policy.

Procurement

- 7.7 Strategic Procurement notes the contents of the reports and confirms there are no procurement related matters preventing the approval of the recommendations in this report.

Legal

- 7.8 The Head of Legal has been consulted in the preparation of this report and comments as follows.
- 7.9 The Council has statutory responsibilities under the Landlord and Tenant Act 1985, the Decent Homes Standard and the Housing Health and Safety Rating System (HHSRS) to ensure that properties are maintained and kept in a reasonable state of repair. The Council’s repairing obligations are also set out in its tenancy agreements and leases.

- 7.10 In order to meet its repairing obligations, the Council needs access to its properties and sometimes the necessary works cannot be undertaken with the tenant or leaseholder in occupation. On those occasions a decant may be necessary.
- 7.11 Where the Council fails to comply with its statutory or contractual repairing obligations, the tenant or lessee may have a right to take legal action for the disrepair to be remedied and also possibly to claim compensation.
- 7.12 The Decant Policy sets out the Council's approach to temporary decants, what tenants and leaseholders can expect in terms of provision and support and the decision-making process.
- 7.13 A temporary move under a licence agreement is not Allocation of Housing pursuant to s159 Housing Act 1996 and the Allocations Policy will need to be updated.

Equality

- 7.14 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
 - Advance equality of opportunity between people who share those protected characteristics and people who do not.
 - Foster good relations between people who share those characteristics and people who do not.
- 7.15 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.
- 7.16 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.
- 7.17 This decision relates to the provision of alternative accommodation to the Council's tenants and (where the Council is liable) resident leaseholders where they need to temporarily leave their home while repairs are being carried out.
- 7.18 The proposed policy formalises the current approach with clear Commitments to Secure tenants and to Resident Leaseholders, and describes the likely accommodation tenants may be offered, clarifies existing payments and introduces new payments.

- 7.19 The proposed policy switches the rent paying arrangements with tenants now continuing with rent payments on their secure tenancy at their principle home while being given a rent free license of the temporary address. This will simplify the current approach where tenants hold two tenancies, with rent payments made for the temporary address with no rent payments for the principle home.
- 7.20 As tenants are offered the same size property and so similar rent, this change should have no or minimal impact on the tenants financially and will simplify any rent repayment agreements agreed with the Council or issued by a court.
- 7.21 Lastly, the proposed policy reinstates the specialist Decants Panel as the offer making panel, replacing the current generic 'Decisions Panel'. This Panel will also monitor decants to ensure that they operate efficiently.
- 7.22 It should be noted that this is for the most part a formalisation and clarification of what has long been practised and is not a new policy. Although overall practise should become more consistent, residents should notice very little difference in service provision as a result of this policy. It has therefore not been necessary to conduct an EQIA.
- 7.23 Black people, older people, disabled people, women and people from a low socio-economic background are over-represented among current Council tenants. Therefore, improving consistency of service by clarifying and simplifying the temporary move process and offering new payments is likely to have a small positive impact on those with protected characteristics.

8 Use of Appendices

- Appendix 1 – The Temporary Moves (Decant) Policy.
- Appendix 2 – The Decant Payments Schedule
- Appendix 3 – Commitments to Secure Tenants
- Appendix 4 – Commitments to Leaseholders

9 Local Government (Access to Information) Act 1985