**Ashfield District Council**

**Decant Policy**

**April 2024**

1. **Introduction**

Ashfield District Council (ADC) as a landlord is obliged under the terms of its tenancy agreement to keep the structure and outside of its tenanted properties, including communal areas in good repair.

Improvement works including major repairs will normally be carried out whilst the tenant remains in their home. There may be situations, such as those when the health and safety of the tenant would be at risk or the works are extensive, when works cannot be carried out with the tenant at the property. Where this is the case, ADC will arrange to move the tenant and their household. This process is referred to as decanting and this will be done on either a temporary or permanent basis, depending on the nature of the works.

## Purpose of policy

The purpose of this policy is to set out the approach that Ashfield District Council will take when moving tenants from their home to enable work to be carried out and where it is not safe or possible for the tenant (s) and their household to remain.

## Aims of policy

The aims of this policy are to:

## To ensure decants operate in fair, equitable and reasonable manner.

## Provide tenants with a clear process for decant and rehousing, to ensure their options are clearly explained and that they are aware of their rights and responsibilities and those of ADC.

## To enable decants to be carried out with the minimal disturbance to tenants.

* To outline the support, both financial and practical, provided to tenants who are required to decant.
* To minimise rent loss to ADC and to ensure that the best use is made of ADC’s resources.
* Ensure statutory compliance with relevant legislation, including the requirement for tenants to be compensated when home loss applies.

## Scope of policy

ADC will offer assistance and rehousing, where appropriate, to existing ADC tenants, their family members, partners, spouses and children.

ADC will not rehouse unauthorised occupants, sub-tenants, lodgers and others who do not reside with the tenant on a long term (min 12 months) or permanent basis.

## Legal context

The key legislation that relates to decants is as follows:

* Housing Act 1985

If a decant is necessary, ADC has a legal obligation under Section 105 of the Housing Act 1985 to consult with tenants when they are substantially affected. Consultation must be at a time when proposals are still at an early stage and ADC will consult with all affected persons.

ADC retains the legal right under Ground 10 or 10a of Part II 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 and reasonable offers of rehousing rejected. Possession would only be granted by a Court with the provision of suitable alternative accommodation, as defined by Part V of Schedule 2 of the housing Act 1985.

* 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.

## Types of decant

Decants will generally fall in to one of the following categories:

* Emergency
* Planned (Temporary)
* Planned (Permanent)

## Emergency Decant

## An emergency decant is usually required when an unexpected event has caused the property to be uninhabitable such as a fire or flood and arrangements need to be made quickly to provide alternative accommodation. In these situations, ADC will assist the tenant in finding alternative accommodation. This may include but is not limited to:

## - Encouraging them to stay with friends or family - Sourcing Bed and breakfast / hotel type accommodation (board only) - Sourcing alternative ADC accommodation - Sourcing private rental accommodation

## In any emergency the priority will be to secure alternative accommodation for the tenant affected. Once this has been resolved, a full assessment of the work required at the property and the future housing requirements of the tenant will be conducted.

## Each case will be reviewed on an individual basis, to ensure appropriate steps have been taken to address the tenant’s needs and that suitable alternative accommodation has been found. Whilst ADC will consider factors such as schools, place of employment etc, there cannot be a guarantee that the emergency accommodation provided will meet all requirements. Similarly, ADC will do as much as possible to meet the needs of disabled tenants and those in need of an adapted home, but compromise may be required on the grounds of urgency.

## Rent and service charges on the permanent tenanted home needs to continue to be paid as ADC is still providing accommodation. If the tenant does not pay the rent and service charges, ADC may take tenancy action on the grounds of non-payment of rent. Rent will not be due on the decant property whilst there is an intention for the tenant to return to their tenanted home.

Similarly, the tenant will continue to be liable for other charges, such as water, gas, electricity, broadband, etc, at their permanent tenanted home. ADC will cover reasonable additional costs in the decant property.

In exceptional circumstances, such as when repairs are likely to take a longer time to complete than anticipated and the property is an appropriate accommodation match, consideration may be given to allowing the tenant to remain in the decant property on a permanent basis. This would be a voluntary arrangement, at the request of the tenant and with the approval of the appropriate ADC Executive Director.

## Planned (Temporary) Decant

It may be necessary to move tenants temporarily whilst works are being carried out. An example of works include:

* Extensive works to multiple rooms
* Severe flood damage
* Repairs to structurally unsafe property or unable to live in the property safely whilst works are being carried out.

Where planned repair work is required that cannot be carried out with the tenant in situ, but does not require them to leave immediately, temporary alternative accommodation will be arranged prior to the work being undertaken. In determining the type of accommodation to be used, consideration will be given to the likely time to complete the repair, the availability of suitable accommodation and the relative cost of each option.

Consideration will be given to the tenant’s needs and factors such as such as schools, places of employment etc, will be taken into account. Whilst ADC will be better placed to meet needs compared to an emergency decant, ADC cannot guarantee that the accommodation provided will meet all requirements.

Options that will be considered for temporary accommodation will include:

## - Encouraging them to stay with friends or family - Sourcing Bed and breakfast / hotel type accommodation (board only) - Sourcing alternative ADC accommodation - Sourcing private rental accommodation

The move will only last as long as it takes to complete the repair works back to a habitable standard.

Where required, ADC will assist in respect of the relocation, including helping to move essential items and making minor adaptations to make the decant property suitable, such as installing grab rails or a temporary ramp.

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Similarly, the tenant will continue to be liable for other charges, such as water, gas, electricity, broadband, etc, at their permanent tenanted home. ADC will cover reasonable additional costs in the decant property.

In exceptional circumstances, such as when repairs are likely to take a longer time to complete than anticipated and the property is an appropriate accommodation match, consideration may be given to allowing the tenant to remain in the decant property on a permanent basis. This would be a voluntary arrangement, at the request of the tenant and with the approval of appropriate ADC Director.

## Permanent Decant

A permanent decant may be necessary where it is planned to dispose of, demolish, remodel or redevelop the property. In these circumstances, ADC will carry out consultation and work closely with affected tenants and residents at all stages to support them through the process and help find suitable alternative accommodation.

For these decants, the following principles apply:

* Tenants will be given urgent priority through the lettings process.
* Existing tenants will normally be offered a new tenancy on a like for like basis. If the tenant is under occupying their current home, consideration will be given offering them a property suitable for their needs. ADC will match tenants to voids that become available and will make up to two offers of suitable alternative accommodation.
* If the decant is for the purpose of enabling new housing development on the site, ADC will discuss with the tenant the option of being rehoused in the new scheme if the planned accommodation is suitable for their needs.
* ADC will provide a package of support tailored to meet each households needs.

Where ADC has already started possession proceedings against a tenant, prior to the decant, legal action to end the tenancy will be considered.

The tenant will be responsible for maintaining rent and service charge payments on their permanent tenanted property until the move is finalised and the tenant formally terminates their tenancy, when they will become responsible for rent and service charge payments on their new home.

Where required, ADC will assist in respect of the relocation, including helping to move essential items and making minor adaptations to make the decant property suitable, such as installing grab rails or a temporary ramp.

## Other costs/assistance are as outlined in the Financial Support section.

## Refusing offers of accommodation

ADC will use their best endeavours to find alternative accommodation that is suitable for the tenant. In view of the limited number of ADC properties, it may not be able to find a property that meets all the tenant’s requirements.

Tenants have the right to refuse offers of accommodation. However, after two reasonable offers of accommodation have been made, ADC will make a final offer and this will be the first available property that meets the household’s bedroom and disability needs and is as close to their areas of preference as possible.

Where a tenant refuses to move or has refused the offers of other suitable alternative accommodation and other options are not feasible, ADC has the legal right to seek possession of the property for decanting purposes.

1. **Support for tenants**

## Practical support

Liaisionwith tenants affected will take place at the earliest opportunity in order to explain the process, including the support and options available. ADC will identify a dedicated officer who will be the tenant’s key point of contact in relation to the decant and who will be responsible for making sure that the moves go as smoothly as possible, this could be from Lettings, Repairs, Asset Investment or Tenancy Team, depending on the nature and length of the decant.

The officer will discuss the level of practical support required and will agree an action plan to ensure all needs are met where reasonably possible. Support could relate to the following;

* General advice regarding ADC services, including housing allocations and benefit claims
* General advice and assistance on how to move home;
* Assistance to view the property offered to them;
* Assistance to move furniture and possessions
* Clearance of unwanted items;
* Additional support for vulnerable residents.

During the decant period the officer will keep in contact with the tenant, to advise them of progress with the work and confirm that there are no issues with their current home.

How much can be planned and agreed in advance of a move will depend on whether it is an emergency or planned move.

* **Financial Support**

## Statutory Home Loss Payment and Disturbance Payment are two separate payments with different entitlement criteria. Both relate to tenants who are forced to move permanently out of their home, those who move on an emergency or temporary decant basis are not eligible.

## A Home Loss Payment is a fixed sum paid in recognition of the personal upset and distress caused to the customer by permanent displacement. Home Loss payments are a legal requirement under the Land Compensation Act 1973 and the Planning & Compensation Act 1991, but only if a customer is required to move permanently from their home. To be eligible for this payment, the following must apply:

## the secure tenant has been living in the property for one year before they have to be permanently decanted

## the tenant has been living in the property as their main or only residence

## the tenant is being required to move as a consequence of improvement or redevelopment (repairs, even if major, do not justify payment)

## The amount payable is governed by The Home Loss Payments (Prescribed Amounts) (England) Regulations. Any outstanding rent arrears or other debts owed to ADC will be deducted from the Home Loss Payment and credited to the customer’s rent or sub account. Payment for Disturbance Allowance is governed by the Land Compensation Act 1973. For joint tenancies, one Home Loss payment will be shared between both tenants. No other people resident in the home or required to move will receive one.

If a permanent decant is a voluntary decision because the tenant has a preference to move because of the repair work, the tenant will not be entitled to a Home Loss payment.

Similarly, disturbance payments are payable when a tenant is forced to move on a **permanent** basis**.** Compensation for disturbance is based on the principle of equivalence: the customer should receive reimbursement of costs incurred and payment for losses sustained as a result of moving from their property. The amount payable overall should result in the tenant being neither worse nor better off. Typically, instead of the tenant having to make payments in advance and claim monies back, ADC will organise and undertake the works themselves or pay contractors direct.

## Items which may be included in disturbance payments are listed below (the list is not exhaustive):

## cost of removals

## cost of altering soft furnishings, i.e. removal and refitting of carpets, altering curtains and blinds and refixing curtain rails

## cost of providing new curtains and carpets where those from the old home cannot be adapted to fit

## disconnection and reconnection costs for telephone, cooker, washing machine and other plumbing. (ADC will need to consider providing white goods, i.e. cooker/fridge/washing machine where customers move from housing where these are provided to properties where they are not)

## redirection of mail

## loss of wages where time off is unavoidable due to displacement

## cost of moving and re-erecting aerials and satellite dishes

## new school uniforms if children need to change school and associated costs

## storage of any belongings not able to be taken to the new home

## refitting alarms

## help towards the necessary costs of redecoration

* kennelling of pets

## Security of tenure

The tenant will retain security of tenure on their permanent home. In respect of the temporary decant property, the tenant may be asked to sign an agreement regarding their stay and will be afforded most of the same rights as they hold in their permanent home.

1. **Monitoring and Review**

The Assistant Director – Strategic Housing is responsible for monitoring the implementation of this policy.

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.