

**The Royal Borough of Kensington and
Chelsea**

Key Decision Report dated 14 July 2011

**For Decision by Councillor Timothy
Coleridge**

Cabinet Member for Housing and Property

**Report by the Executive Director for
Housing, Health and Adult Social Care**

ADOPTION OF THE DECANT POLICY

1.0 INTRODUCTION

- 1.1 This Key Decision Report recommends the adoption of the Decant Policy which will be implemented to support any regeneration activities which take place in the Borough.
- 1.2 The Decant Policy is to be used when regenerating or redeveloping the Council's housing stock. It aims to meet the needs of the Council and its residents when it is necessary to move households in order to facilitate development works.

2.0 BACKGROUND

- 2.1 'Decanting' is a term used to explain the process where residents are compelled to move from their homes because either their landlord or an authority with compulsory purchase powers has redevelopment plans for their home.
- 2.2 The Decant Policy aims to provide housing regeneration schemes with a clear approach to managing decant proceedings in an efficient and fair manner. It provides an outline process by which to deliver vacant possession of properties and thus allow important housing projects to proceed.
- 2.3 It outlines a managed decanting process, which offers alternative accommodation (where appropriate and in line with the Allocations Policy) as well as compensating for expenses incurred, disturbance

and inconvenience, in line with legal requirements and existing best practice.

3.0 THE DECANT POLICY IN SUMMARY

3.1 Purpose of the policy

3.1.1 The Decant Policy is intended to be applied when required borough-wide to ensure equity and good practice, and should be used for all regeneration schemes in the Royal Borough, whilst allowing sufficient flexibility to be adapted to the needs and circumstances of each individual regeneration scheme, through site specific plans.

3.1.2 This Decant Policy should be used once a Cabinet decision has been made to progress with a regeneration project. The Decant Policy is split into the different tenures, with a section applicable to affected tenants and a section for affected freeholders and leaseholders.

3.2 Tenants

3.2.1 Assessment and qualification under the Decant Programme

All tenants and family members who are deemed by the Council to be authorised occupants 12 months prior to the date that agreement is given for the regeneration scheme, (which will usually be the result of a Cabinet decision), or who are identified as eligible through a Housing Needs Survey (which will be completed to understand the specific needs of the proposed regeneration and will be updated during the course of the regeneration programme) will qualify to be re-housed. The Council will not re-house unauthorised occupants, sub-tenants, lodgers, licensees and other non-secure occupants.

The size of a property allocated will depend upon the number and ages of the individuals who are deemed to be authorised occupants at the time of the move, and the size of their current property, in line with the current Allocations Policy.

3.2.2 Re-housing

Qualifying households will be given a 'bidding window' of up to 12 months prior to the need to move, in which they can bid for suitable alternative accommodation through the Council's choice-based lettings scheme. This timeframe may alter with each regeneration scheme, and any changes to this timeframe must be publicised.

Once the bidding window has closed, suitable accommodation will be offered directly to the qualifying households.

After the refusal of a direct offer, possession proceedings will be followed to ensure vacant possession of the property within a timely fashion to permit the regeneration scheme to proceed.

3.2.3 Gaining Possession

Once the Council has come to a decision on a regeneration scheme, it will offer accommodation in line with the above section and the current Allocations Policy.

Legal action to gain possession of tenanted properties will be 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 redevelopment purposes

3.2.4 Home Loss Payments

Home Loss Payments are statutory payments, which are paid to freeholders, leaseholders and 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 the Land Compensation Act 1973.

Home Loss payments are subject to maximum and minimum thresholds. Tenants receive a flat rate of £4,700 (subject to review), which is equal to the minimum payment to owner-occupiers. To qualify, the property must be the claimant's only or main residence for a year prior to the date of displacement.

3.2.5 Disturbance Payments

Disturbance Payments are made to financially compensate the displaced tenant, freeholder or leaseholder for expenses associated with the need to move.

3.3 Leaseholders

3.3.1 Assessment and qualification under the Decant Programme

All leaseholders and freeholders will be entitled to receive the full market value of their property. The Council will enter into negotiations with leaseholders and freeholders to seek a voluntary arrangement to buy their home, which will normally include valuations by both the Council and the leaseholder or freeholder.

3.3.1 Re-housing

Leaseholders and freeholders will receive full market value plus any Home Loss Payment and Disturbance Payment to which they may be entitled (as detailed below), to allow them to buy a new property on the open market.

3.3.2 Gaining Possession

A voluntary agreement will be sought to acquire the property, with vacant possession. However if this cannot be obtained, a Compulsory Purchase Order (CPO) can be applied for under Section 226 of the Town and Country Planning Act 1990.

3.3.3 Home Loss Payments

Home Loss payments are subject to maximum and minimum thresholds. Home Loss Payments equate to 10 per cent of the Market Value of the property (with a minimum payment of £4,700 and a maximum payment of £47,000(subject to review)). To qualify, the property must be the claimant's only or main residence for a year prior to date of displacement.

3.3.4 Disturbance Payments

Disturbance Payments are made to financially compensate the displaced tenant, freeholder or leaseholder for expenses associated with the need to move.

3.4 Additional areas covered

Private tenants may have a right to re-housing through homelessness legislation. In most circumstances it is anticipated that suitable alternative accommodation will be achieved on the open market.

Non-authorized residents have no right to re-housing under the Decant Policy. This category includes sub-tenants, lodgers and licensees. Squatters will be removed from the property and sites secured.

Public rights of way will be suspended.

Occupiers of non-residential properties affected by a decant programme may have rights under the Land Compensation Act 1973.

The Council will seek to negotiate a Right to Return for as many affected eligible residents as possible, although this cannot be guaranteed.

Practical help may be offered to affected residents to assist with moving and the decanting process.

Any necessary adaptations to properties identified through the housing need assessment will be provided for decanted tenants, leaseholders and freeholders through the current Disability Facilities Grant procedure

The Decant Policy is attached in Appendix 1.

4.0 CONSULTATIONS

4.1 The Housing Department has been working closely with the TMO, Planning and Borough Development, Property Services, Legal Services and Finance to develop the draft policy.

4.2 Consultation ran from 10 January 2011 to 13 May 2011 and included the following:

- A presentation to the Housing Association Consultative Committee, and the draft policy being circulated to all Registered Providers with stock in the Royal Borough;
- The draft policy being placed on the Housing pages of the Council's website and an article in the TMO LINK magazine for residents;
- A presentation to all the Area Review Boards across the Borough between February and March 2011;
- A presentation to the Lancaster West Estate Management Board and two presentations to the TMO Board (the first presenting the draft policy, and the second highlighting the key points from the consultation and the resulting changes to the draft);
- All TMO registered Resident Associations and Compacts were written to and offered meetings, with several taking this offer up; and
- The draft policy was presented to Scrutiny Committee and a response was received from the Opposition Labour Group.

4.3 The comments received in the consultation period led to a number of changes taking place to the draft, including:

- Tenants in a one bedroom property at the time of the decant will be eligible for a one bedroom property rather than just a studio flat;
- Detail added to section 7.9 in regards to support available to vulnerable and disabled residents being decanted;
- Section 8 makes reference to consulting with existing community groups when developing specific decant details for a particular site;
- The policy makes clear that site specific decant plans must be used to complement this policy when it is used;

- Terms used in the policy are more clearly defined, including 'right to return', 'hidden household', and 'regeneration'; and
- Amendments have been made to reflect the proposed national changes to tenancies announced by Government since the draft was written.

4.4 A letter will be sent to all the residents who provided feedback to the consultation once the Key Decision has been agreed.

5.0 RISKS

5.1 The following risks have been identified in relation to the Decant Policy:

5.1.1 Financial risk

There are financial risks when using the Decant Policy regarding the cost of decanting tenants, the Home Loss Payments (which will most likely be paid at the maximum limit) and Disturbance Payment. The risk will be better understood when the policy is used for a regeneration scheme, and site specific plans are developed. This risk will be considered on a site specific level.

5.1.2 Lack of properties to decant residents into

Due to the low level of mobility within the socially rented stock within the borough and the limited number of leasehold properties which become void, there is a risk that there will not be enough properties to move those in need of decanting (if the regeneration does not allow the residents to transfer directly into the new development).

HQN (who developed the new Allocations Policy with the Housing department) carried out a modelling exercise using Kensington Housing Trust's Phase One at Wornington Green and the annual lettings for 2008/09 to determine the impact of a decanting programme on lettings. The conclusions of this modelling show that any increase in demand for larger units will have a significant impact on property availability. However, the decision to make a direct offer will remain with the Council who will be in a position to balance the competing demands between severely overcrowded households and those awaiting decanting if necessary.

5.1.3 Reputational risk

Given the nature of compulsory purchase powers and moving people from their homes for regeneration, there is a risk to the reputation of the Council. However, the purpose of the policy is to provide a borough-wide policy framework within which the Council can carry out managed decanting processes to enable regeneration

schemes to proceed. Extensive consultation will take place at a site specific level, which will take this risk into account.

5.1.4 Community cohesion

Regeneration activity and decanting tenants could lead to change in the composition of the community in the area affected. However, as detailed in our Core Strategy and Borough Investment Plan, regeneration activity is intended to create more mixed and sustainable communities. Local Lettings Plans are permitted under the new Allocations Policy, and the policy states the Council will seek to negotiate a Right to Return where possible.

6.0 FINANCIAL, LEGAL, SUSTAINABILITY, PERSONNEL AND EQUALITIES IMPLICATIONS

6.1 Financial Implications

The revenue and capital costs arising from a regeneration or redevelopment of the Council's housing stock will need to be identified prior to agreement being given to proceed with a project. These costs will include revenue costs associated with decanting tenants and leaseholders.

The options for funding these costs will vary between schemes and will be determined as part of the appraisal process for each specific project.

6.2 Legal

The Director of Legal Services advises that the legal implications are set out in the report and the draft policy.

6.3 Sustainability

There are no sustainability issues arising from this report.

6.4 Personnel

There are no personnel issues arising from this report.

6.5 Equalities

A full Equalities Impact Assessment has been carried out and is attached in Appendix 2. As the policy is a borough-wide policy on which site specific plans will be developed, which are reflective of the needs of the site being regenerated, when the policy is used Housing Needs Surveys will be carried out and plans will be developed which reflect the needs highlighted and use the decant policy to ensure those who need extra assistance receive it.

7.0 RECOMMENDATIONS

7.1 This Key Decision Report recommends the adoption of the Decant Policy.

FOR DECISION

**Laura Johnson
Head of Housing**

**Jean Daintith
Executive Director for Housing, Health and Adult Social Care**

FOR COMPLETION BY AUTHOR OF REPORT:

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Background papers:

Decant Policy
Equalities Impact Assessment

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FOR COMPLETION BY GOVERNANCE SERVICES:

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Cleared by Finance (officer's initials)	SM
Cleared by Legal (officer's initials)	DW

Appendix 1 – The Decant Policy

See attachment 1

Appendix 2 – Equality Impact Assessment

See attachment 2