

Tamworth Borough Council
Decant Policy & Operating Procedure

September 2023

Documentation Master Sheet
Amendments to this Document are Detailed Below

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1	13.02.2023	First Draft			SF/JG
2	31.08.23	Following TM comments	Appendix added		SF/LC
3	05.09.23	Second draft	Procedure guide added for temporary decants		SF/LC
4	06.09.23	Following TM comments	Home loss calculations added		SF/LC
5	14.09.23	Following Tenants Consultative Group	Purpose explained and feedback comments gathered		SF/LC

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1. Introduction

1.1 This policy sets out the approach Tamworth Borough Council takes to moving residents from its' housing stock in order for work to be carried out to their property and where it is not safe or possible for the resident to remain while work is carried out or where it is damaged in an emergency such as fire or flood or where a decision has been made to remodel, redevelop or dispose of the property.

1.2 This policy will focus on two types of decants, temporary or permanent.

For this policy the following definitions apply

Decanting: A move required due to permanent or temporary loss of a home as a result of demolition, decommissioning, redevelopment, re-designation of, or similar works to, that dwelling.

Decommissioning- the process whereby a council property will no longer be used for its current purpose as a result of demolition, redevelopment, re-designation of, or similar works to, that dwelling.

A decant is where a resident moves from their current home to another one, either temporarily or permanently. The resident may also decide to arrange their own accommodation or choose to stay with friends or family.

1.3 This policy sets out the Council's approach for Tamworth Borough Council tenants who are asked to leave their home by the Council.

1.3.1 On a permanent basis in order for neighbourhood regeneration to take place

1.3.2 On a temporary basis in order for the Council to carry out works to the property and where it has been agreed by the Council that the property would be unfit for occupation during these works

1.4 This policy also applies to owner occupiers whose homes are being purchased by Tamworth Borough Council in order to progress neighbourhood regeneration. Re-housing owner occupiers will only be considered in limited circumstances where the Council acquires the property using compulsory purchase orders for example the Acquisition of Land Act 1981 and the Land Compensation Act 1973.

1.5 This policy details the re-housing priorities using, for guidance, the criteria set out in the Council's Allocations Policy to try to meet people's needs and wishes on their re-housing.

1.6 This policy will be reviewed every 3 years unless required earlier due to regulatory or legislative change, or as an outcome of learning which materially affects the content of this document.

2 Aims

Where possible, the Council will carry out works whilst the tenant remains in their home. However, there will be certain situations when this is not possible. Where this is the case, we will arrange to move the tenant(s).

The Council acknowledges that moving home is a stressful experience, especially where households may feel their options are limited. This policy seeks to ensure that all decants are carried out appropriately and efficiently with minimum stress and difficulty to the occupier, as follows:

- 2.1 To ensure decants operate in a fair, equitable and reasonable manner in accordance with the Allocations Policy
- 2.2 To provide effective consultation and feedback for occupiers affected by decanting from council owned housing stock at the earliest opportunity and throughout the process
- 2.3 To ensure fairness and equality of opportunity in the re-housing of affected tenants
- 2.4 To provide choice to customers
- 2.5 To minimise the disturbance to households.
- 2.6 To complement the council's wider regeneration agenda
- 2.7 To set out the support on offer resulting from home loss and or disturbance to households obliged to decant
- 2.8 To minimise the rent loss to the Council by having a joint approach to decants in line with the current Allocations Policy and the development/refurbishment process
- 2.9 To enable the Council to make best use of stock through timely access for refurbishment work or where a decision has been made for demolition

3 Eligibility for re-housing under this policy

3.1 This policy relates to Tamworth Borough Council households where the Council has agreed to re-house:

- 3.1.1 On a permanent basis in order for neighbourhood regeneration to take place;
- 3.1.2 On a temporary basis in order for the Council to carry out substantial or urgent works to the property and where it has been agreed by the Council that the property would be unfit for overnight occupation during works

- 3.2 This policy also applies to owner occupiers whose homes are being purchased voluntarily or by compulsory purchase by Tamworth Borough Council in order to progress neighbourhood regeneration.
- 3.3 Tenants will be eligible for re-housing if the property being decommissioned is occupied as their only or principal home at the time of the Council's decision to take forward the regeneration project and they are still residing at the property as their principal home at the time of re-housing.
- 3.4 Tenants are not eligible for assistance under this policy and will not be re-housed if the Council obtains an outright possession order against the tenant which has been issued by a court for a breach of tenancy ie. anti-social behaviour or if the tenant is guilty of tenancy related fraud (unless the Council has determined exceptional circumstances apply). This does not apply to suspended possession orders or orders suspended on terms (i.e. rent arrears with a payment plan).
- 3.5 Everyone to be housed under this policy must provide adequate information for officers to decide what their housing needs and requirements are. It is expected that the usual way of providing this information would be to complete a housing application form. These housing needs and requirements will be determined by officers using for guidance the criteria set out in the Council's Allocation Policy and this policy.
- 3.6 This policy does not include unauthorised occupants, squatters, sub-tenants, lodgers, licensees and other non-secure occupants who are dealt with under separate council policies.

4. Temporary/Emergency Decants

- 4.1 Occasionally, a temporary decant is required in the event of an emergency situation rather than a programme of works. Council officers will assist the tenant to liaise with family and friends or assist with necessary housing arrangements.
- 4.2 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 is expected to check their own insurance policy to see if this would support a move to temporary accommodation.
- 4.3 The Tenancy Sustainment Officer, upon being notified of a decant being required by the Repairs Team, will make an assessment of your housing needs and complete a Decant Request Form (see Appendix 1) and provide 3 quotes for costs i.e. B&B/removals, etc. In the first instance, the officer will encourage the tenant to stay with family/friends. If you stay with family/friends while we carry out the repairs, you may be entitled to receive compensation. Where this is not possible, other options and costs will be considered.
- 4.4 In the event of an emergency situation, a tenant may be temporarily decanted initially on a short term basis. A plan will then be developed taking account of individual circumstances including customer needs, the extent of the damage

and anticipated repair timescales for resolution with the intention of them returning to the property as soon as possible. Temporary decants could be within a range of temporary unit including nightly paid bed and breakfast accommodation or self contained Tamworth Borough Council Stock.

- 4.5 If the property can be made good, the tenant will be treated as a temporary decant under this policy including their ability to qualify for a disturbance payment (where applicable). The Council will usually arrange your removals including disconnection and reconnection of your cooker and washing machine in lieu of any disturbance payment.
- 4.6 In offering temporary accommodation, the Council will consult with the tenant and take into account:
 - 4.6.1 the size of the accommodation and the means of the family
 - 4.6.2 the distance of the accommodation from the tenant and the household's place of work or education
 - 4.6.3 any health and wellbeing needs evidenced by the tenant and/or their household

The Council will try to provide the tenant with choice in regards to the temporary accommodation offered to them, but cannot guarantee choice will be provided. In some circumstances, the Council may make one direct offer of suitable accommodation only.

- 4.7 Where the tenant moves temporarily to an alternative Council property and will be returning to their original home, they will be offered a Contractual licence agreement (see Appendix 2) to occupy the temporary home for the duration of the works. Their tenancy will remain as their substantive and principal dwelling (refer to section 11.53 of the Allocations Policy).
- 4.8 If a tenant moves into accommodation not owned by Tamworth Borough Council (such as a hotel, bed and breakfast, private property or other home not owned by us) they will need to continue to pay rent (including claiming Housing Benefit) for their original home and the Council will cover the cost of the temporary accommodation and any relevant expenses relating to this stay.
- 4.9 A tenant may be able to leave their belongings in their original home. This will be subject to Council agreement and left at the tenants' risk. The tenant will be responsible for ensuring their belongings are adequately insured. As part of the support provided by the Tenancy Sustainment Officer, an inventory and photographs will be taken of any items left at the address and the tenant asked to sign a disclaimer that they are in agreement to leave the listed items. (see Appendix 3)
- 4.10 There may be occasions when a temporary decant becomes permanent, if for example, the level of work required is so great that the property has to be demolished or redeveloped, or if the tenant has been moved on a temporary basis but it is subsequently agreed by all parties that the new property is more appropriate for them to remain in. These will be considered on an individual basis.

- 4.11 Where damage has been caused by the actions or inactions of the tenant/s and/or their family resulting in decanting, the tenant(s) will be recharged for any costs associated with the refurbishment in line with the recharge policy.
- 4.12 It will be the responsibility of the Tenancy Sustainment Officer to manage the decant and any associated tenancy related issues. The Tenancy Sustainment Officer will liaise with the relevant contractors undertaking the work, ensuring that the tenant is updated with anticipated return dates.
- 4.13 It is the responsibility of the Homes Manager to secure a property upon receipt on the Decant Request form. The Homes Manager will consider the size of the property, anticipated duration of the decant and the availability of suitable properties, reporting back to the Tenancy Sustainment Officer. The Homes Manager will authorise any financial payments in relation to removals and connection of white goods on Efin, using the 'Tenant Removals' budget. It is the responsibility of the Tenancy Sustainment Officer to obtain quotes and raise orders through the Council's business support teams.
- 4.14 Once confirmation of the decant start date has been sent by the Tenancy Sustainment Officer, the Void and Allocations Team will set up a 'Decant' tenancy type on Orchard, this will begin on the first Monday of the Decant. The purpose of this tenancy type is to ensure that internal colleagues within Housing have accurate information about the temporary address and to ensure that figures relating to void, vacant properties are correctly reflected. The 'Decant' tenancy type will be for reporting purpose only, no rent processing function will be triggered. Upon notification from the Tenancy Sustainment Officer that the decant has ended and the tenancy returned to their substantive tenancy, Void and Allocations will end the 'Decant' tenancy on Orchard.
- 4.15 In order to ensure the effective management of active decants, a business objects report will be produced from Orchard monthly, which the Homes Manager will share with Tenancy Sustainment colleagues. This report will highlight any active decants, giving the Tenancy Sustainment Officer an opportunity to update all parties on the progress of the decant.

5. Communication and Consultation

- 5.1 Any regeneration scheme or major refurbishment project will require communication and the Council will ensure all affected residents have details of how to contact the Council in relation to proposals and works.
- 5.2 The Council has a duty to consult and actively engage with all Council tenanted households. Initial consultation with tenants must take place while proposals are at an early stage. The Council has a legal obligation under Section 105 of the Housing Act 1985 to consult with tenants where they are substantially affected by a matter of housing management. Tenant's views must be considered prior to making any decisions on proposals.

- 5.3 Consultation and communication with home owners will generally occur alongside that carried out with council tenants.
- 5.4 Information concerning a refurbishment or regeneration scheme will be made available to all households at an early stage and further detailed information will be shared as soon as it is available. This information will include details of the works, timescales and phases, if appropriate.
- 5.5 Formal consultation will be carried out in accordance with current legislation and tenants will be given a minimum of 28 days in which to respond. These time periods are in addition to any formal periods of notice which have to be given. During this consultation period, all households will be visited or contacted by an officer of the Council and will receive advice and information on:
- What the regeneration/refurbishment of the area is about and why it is being undertaken;
 - When it will be done;
 - The decanting policy and process;
 - What re-housing options are available and how to apply or progress your preferred housing option;
 - Whether there are any requirements for aids or adaptations to support the move;
 - What the Council will do to help households prepare for decanting; and
 - Named contact details of officers
 - Owner occupiers will be given specific advice on how the Council wishes to involve their properties in any scheme and the process that will be followed.
- 5.6 The Council will carry out an Equality Impact Assessment in relation to each regeneration scheme and the use of this policy. Action will be taken to mitigate the impact of any negative outcomes identified.
- 5.7 The consultation process outlined does not apply to residents being decanted in an emergency situation where the health and safety of residents is the priority.

6. Notice period and possession

Households will be given as long a period of notice of the need to move home that is possible. This period of notice will be in line with current legal minimum requirements.

For those with whom we can reach agreement, the period of notice can be agreed between the Council and the tenant. It will then be included in the documents used for this agreement.

Where a voluntary agreement cannot be reached, the Council will pursue a possession order. If we need to apply for a Possession Order for a council tenant, then it is the court that will decide when the tenant will need to leave the property. As at the date of this policy the legislation governing this is the Housing Act 1985 (as amended) – Schedule 2 – grounds 10 & 11 (see below).

Ground 10

The landlord intends, within a reasonable time of obtaining possession of the dwelling-house—

(a) to demolish or reconstruct the building or part of the building comprising the dwelling-house, or

(b) to carry out work on that building or on land let together with, and thus treated as part of, the dwelling-house,

and cannot reasonably do so without obtaining possession of the dwelling-house

Ground 10A

- The dwelling-house is in an area which is the subject of a redevelopment scheme approved by the Secretary of State or the Regulator of Social Housing in accordance with Part V of this Schedule and the landlord intends within a reasonable time of obtaining possession to dispose of the dwelling-house in accordance with the scheme.

or

- Part of the dwelling-house is in such an area and the landlord intends within a reasonable time of obtaining possession to dispose of that part in accordance with the scheme and for that purpose reasonably requires possession of the dwelling-house.

7. Housing Needs Assessment

- 7.1 Once a formal decision has been made by a meeting of Cabinet to proceed with a programme of investment requiring the decanting of tenants, a full housing

needs assessment will be completed of all impacted households to understand the housing needs of customers affected by the proposals

- 7.2 Every household affected by the scheme will be visited by an officer of the Council where their options will be discussed and an application made to join the housing register. This visit will include an assessment of support needs to ensure records are updated to reflect the household's current needs and a property inspection.
- 7.3 The housing needs and requirements of those to be re-housed under this policy will be determined by officers using for guidance the criteria set out in the council's Allocation Policy and in this policy.
- 7.4 If there is any question over a person's eligibility for a secure tenancy due to their immigration status, relevant details will be passed to the council's solicitors to enable them to check this.
- 7.5 Each decommissioning scheme, where people are required to move home, will have a dedicated officer who will give advice, and support people through this process as appropriate. It is expected that a higher level of support will be needed if designated accommodation for older people is affected.
- 7.6 Each decommissioning scheme, where people are required to move home, will have an officer who will advise and support people through the processes involved in finding a new home including, as necessary, the use of *Finding a Home*.
- 7.7 All tenants accepted under this policy will be awarded Band 1+ in accordance with the Councils Allocations Policy. Priority is awarded to enable a move to take place in a planned way, but as quickly as possible, to facilitate the decommissioning work. The date of registration and eligibility for the housing list, for households being re-housed under this policy is the date on which a final demolition notice is served.
- 7.8 Where needs are assessed as the same priority within this band, applicants will be placed in date order from when they were accepted into the band. For applicants with the same band date, a weighting system will be applied to prioritise offers of accommodation, in order to maintain a fair and transparent allocation.

Weighting factors	Score	Priority rating
Need to move to a particular locality in the Borough to prevent any disruption in their child/ren's education	1	Extremely high
Need to move to a particular locality in the Borough to give and/or receive care and support	2	High

Need to move to a particular locality in the Borough due to work commitments	2	High
Where we have evidence from the Police or Social Services to support that a particular locality would place the applicant (s) at risk	2	High

Scores will be added together for an overall weighting score.

- 7.9 Applicants will be restricted to two tenancy offer refusals after which they will be directly matched to the next available suitable property. This is to enable an offer of accommodation to be made as soon as possible and reflects the urgency of the applicants re-housing need.

Applicants will be asked their reasons for refusal. If they feel the offer of accommodation was considered unreasonable they must provide details to the Homes Manager who will make the decision, on the reasonableness of the offer within 5 working days. The offer of the property will be held open whilst the decision is being made. If the decision is that the offer was not reasonable the applicant can continue to bid. If the review decision is that the offer was reasonable the applicants can take up the tenancy or continue to refuse the offer. If they continue to refuse the reasonable offer this will lead to Band 1+ status being withdrawn. In addition it is likely the council will take legal action for possession of the property.

8. Re-housing principles and options

- 8.1 The Council will seek to apply the following principles when considering decanting customers;
- 8.1.1 To support households to move home with as little disruption as possible
 - 8.1.2 To help households select the right re-housing option for them which will result in either permanent or temporary re-housing
 - 8.1.3 To help households remain in their locality if they wish (pending availability within the required timescale) with an opportunity of a new build property where regeneration is taking place, subject to the properties being of the appropriate size and type
 - 8.1.4 To help households being asked to move from their home temporarily to return to their home after works are completed where this is desired by the tenant

- 8.2 Applicants will be able to bid on eligible properties advertised through the council's choice based letting scheme 'Finding A Home' and will be invited to bid for themselves; offering them the opportunity to express preference in choice in property type and areas for re-housing.
- 8.3 Where Council tenants refuse two formal offers of suitable alternative accommodation, either on a temporary or permanent basis, the council will exercise its' legal right to seek possession.
- 8.4 Where a tenant is identified as vulnerable due to physical, sensory or mental health impairment and likely to have difficulty with a move, they may be offered additional support during the decant process. This may include assistance with packing, help on the day of the move and additional support with bidding for properties and viewings.
- 8.5 Tenants who have aids and adaptations in their homes will have their needs met in their new home in accordance with the Council's disabled facilities obligations. The Council will work with occupational health professionals to ensure needs are assessed correctly and works are specified to meet the recommendations. Where possible, direct matches will be found for households moving to maximise the investment made by Tamworth Borough Council in adapting properties.
- 8.6 Households being re-housed into Council Housing under this policy will be awarded a property of the size and type they are eligible for under the Allocations Policy. This is therefore not necessarily a property of the same size and type they are currently living in.
- 8.7 Council tenants who are living in a property designated as pet suitable (with an enclosed garden to which they have sole use of and a separate entrance to their property) and have a pet at the time of notification of decommissioning will be offered another "pet suitable" property using the criteria set out in the Council's Allocation Policy and this policy, or they will be able to bid for one using *Finding a Home*, Tamworth Borough Councils choice based letting service. To note a 'pet suitable' property can be defined as a property with an enclosed garden for sole use, a shared or communal garden.

Customers should be aware that given the housing stock we have available to us, the need for a "pet suitable" property is likely to prolong the period of time taken to find an appropriate property for them. If due to the scarcity of "pet suitable property" a suitable property cannot be found, consideration may need to be given for people to bid for, or be offered, properties they would not usually be eligible for. However this would only be after all other routes to re-housing have been exhausted.

- 8.8 Tenants will be required to provide access to their home to contractors as necessary. There will be a pre-void inspection to identify any outstanding works required before moving out. Failure to undertake such work may result in a recharge to the tenant.

- 8.9 Tenants re-housed under this policy will retain the same security of tenure enjoyed under their previous tenancy with the council where possible. However, tenants who opt to move to a property owned by another landlord will be subject to that landlord's rent, service charge, tenancy terms and conditions. Rights gained under secure tenancy arrangements cannot be transferred to non-council owned properties.
- 8.10 Tenants will have the right to downsize and benefit from the Council's Incentive to Move scheme. Tenants affected will receive Band 1 priority status.
- 8.11 It is the responsibility of each tenant to make other members of the 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 they are not abandoned in the property after they have moved out.
- 8.12 The Council encourages tenants to have home contents insurance. If a tenant has home contents or other insurance, the tenant is advised to notify their insurance company as their circumstances change.
- 8.13 Once a property has been accepted, the tenant(s) will surrender their original tenancy and sign a new agreement for the property they move into.
- 8.14 Returning to the original site *subject to consultation*

If it is reasonably possible to give tenants or residents the choice of returning to the site they decanted from, then they will be given that choice. For example, if the new social housing on the site is of a suitable size and type for them. This choice will be made available to people when they are advised of the timetable for the decommissioning, unless there are very exceptional circumstances for not doing so, for example an emergency situation.

In order that people may make an informed decision on whether to return to the site, they should be given the following information as far in advance as possible of their having to make that decision:-

- What type and size of property they could expect to be offered.
- Whether this property will be owned by the council or an RP, and what an RP is.
- If the new tenancy agreement will have different requirements from their current one, e.g. on car parking, where washing can be dried, any different clauses on rent arrears, etc.
- What the layout and appearance of the site will be.
- What, if any, compensation, disturbance allowance or assistance with the move will they get if they move home twice, in order to return to the original site after being decanted.

8.15 Priority allocation for returning to housing on the original site

This concerns situations where there are not enough new properties in total, or not enough of the particular size and type that people are eligible for.

Applicants who are eligible, and who wish to pursue the option, should be offered the first choice of buying into any low cost home ownership option on the site.

Under this policy, people can be offered property of the size and type they are eligible for with reference to the Allocation Policy.

With regard to the rented properties on the site, where there are fewer of a particular size or type of property than returning applicants for them, this will be determined by a local lettings plan.

8.16 Moving to a privately rented property.

Due to the limited stock, it may suit households needs better to move into a privately rented property. If a household chooses this option the following will be fully explained to them

- the change in tenure type, the advantages and disadvantages of this.

- the status of their application if they should reapply to Tamworth Borough Council for housing at a later date.

- the implications this may have on any housing benefit claim they may be making from the new property.

Assistance will be provided in finding a suitable private rented property and where required, the Councils bond scheme can be used to assist with a deposit. Where it is an advantage for the Council to do so, additional support or payments may be made. For example where the re-housing of a household is delaying the progress of the decommissioning activity.

8.17 Moving into homeownership or low cost homeownership

Low cost home ownership schemes include shared ownership, shared equity, and part buy/part rent schemes.

Where low cost home ownership is available on the original site then residents wishing to return there will be given information about it. Those who are eligible for the scheme(s) on the original site are to be given priority for the properties concerned, as one way of helping to promote a cohesive community there.

All residents affected by the decommissioning scheme will be given general information about low cost home ownership options as part of the information they will receive on their re-housing options.

Tenants wishing to explore this option will be given help and assistance from the Council.

If a tenant decides to move into owner occupation the following will be fully explained to them,

-the change in tenure type, the advantages and disadvantages of this, including repairing liabilities of owner occupied housing.

-the status of their application if they should reapply to Tamworth Borough Council for housing at a later date including the discharging of our duty to house.

8.18 Households who require social housing in another area

In some cases households will want to move to alternative social housing outside of the Tamworth area. Help and assistance will be provided to help the tenant apply to other areas

8.19 Financially incentivising applicants to lodge with family and friends

It may be desirable to financially incentivise applicants to lodge temporarily with family or friends until permanent re-housing can be found. The accommodation must be suitable and not cause over crowding, affordability issues or homelessness. With under-occupation likely to be a key consideration for people as they face benefit changes, some residents have indicated this would be favourable as it helps to fully occupy properties in the short term.

9. Financial Compensation

9.1 There are two types of payments that tenants and home owners will be entitled to under the policy:

9.1.1 Home loss payment; and

9.1.2 Disturbance compensation payment

9.2 Home loss compensation is a sum paid to a Council tenant to reflect and recognise the distress and discomfort of having to move out of their home. As such this is paid in addition to a disturbance allowance or payments. Home loss compensation is paid only once per household

9.3 The level of home loss payment is set by the Government in accordance with the Planning and Compensations Act 1991, the Land Compensation Act 1973 and Home loss Payments (Prescribed Amounts) (England) Regulations (2023). The level is reviewed annually.

9.4 The Council will pay statutory financial compensation to those affected by the decommissioning of their housing and may also award discretionary compensation but this would be decided on a scheme-by-scheme basis. The

processing of claims will also be dealt with in accordance with the Council's financial regulations. If there are any statutory home loss/disturbance payments these would be considered out of any corresponding regeneration schemes and would not be met from core revenue budgets.

- 9.5 This regulation applies where the date of displacement is on or after 1st October 2023. For the purposes of section 30(1) of the Land Compensation Act 1973—
- (a) the prescribed maximum amount of home loss payment for owner occupiers is £81,000; and
 - (b) the prescribed minimum amount of home loss payment for owner occupiers is £8,100.

For the purposes of section 30(2) of the Land Compensation Act 1973, the prescribed amount of home loss payment is £8,100 for local authority tenanted properties.

Note – Home loss payments can only be made when

- 9.5.1 the sale of an owner occupier or landlord's property is completed with vacant possession
 - 9.5.2 within 21 working days from the date at which the tenant decants on a permanent basis, and/or has formally agreed their new permanent or temporary home, and/or has signed a tenancy agreement for their new home or temporary home and ended their existing tenancy
- 9.6 Tamworth Borough Council's discretionary compensation is a disturbance allowance which will be determined as part of scheduled projects. . Discretionary payments are not an entitlement of tenants or home owners.

In the event that the Council tenant who is entitled to the Home Loss Payment dies before making a claim, any member of his household who is aged 18 or over or, held in trust, may claim provided that he/she satisfies the same residency criteria as the deceased and is a beneficiary in the estate of the deceased.

Trespassers and squatters will not be paid home loss compensation.

- 9.7 Claiming home loss compensation

The home loss payment must be claimed in writing. We will provide advice and assistance to make such an application. The amount paid is set out in law.

A tenant will qualify for home loss compensation if:

- a. They have occupied that accommodation as their only or main residence for a minimum period of one year

.... and

b. They have to move out of the property permanently, either because of improvement or development works that will be carried out, or because their home is being demolished.

Tenants, owner occupiers or landlords who have any Council related debt such as rent arrears, council tax arrears, housing benefit overpayments, court costs or rechargeable repairs costs will have these deducted directly from their home loss payment before the balance is paid. In addition, any recharges due to the Council from the owner, landlord or tenant on leaving their home will be deducted from the home loss payment. Tenants and owners must ensure when decanting from their property, that it is:

9.7.1 keys returned to the council with vacant possession

9.7.2 free from tenants' and owners' belongings and rubbish, including gardens and outhouses

9.7.3 the property condition has been assessed and any recharge for damage identified including gardens and fencing and agreement for payment is made for any damage

The time limit for claiming home loss compensation has a statutory limitation of six years. A home loss payment will be paid within three months of the applicant making an application for it providing the household has moved from the original property. If there is a dispute regarding entitlement to home loss compensation, the case will be heard in the county court.

A tenant will not qualify for any home loss compensation payment if they are living in the affected property on a temporary tenancy via the homeless team and have been living there as their only or main residence for less than a year.

In the case of a joint tenancy, home loss payment will be made only once per household and divided equally between tenants.

9.8 Universal Credit, housing and council tax benefit claimants

Housing benefit regulations state that home loss compensation is counted as capital for housing and council tax benefit purposes.

It is the legal responsibility of benefit and council tax benefit claimants to advise the Department of Works and Pensions (DWP) and council tax benefits service as soon as they receive this increase to their capital. We will remind claimants of this legal duty when the payment is made.

In order to assist this process, a list of recipients of home loss compensation, paid due to the decommissioning of council housing stock, will be disclosed to the relevant services. This is because the money involved can affect a person's benefit entitlement, and it is therefore reasonable for this information to be shared in this way.

If a tenant is due to move out temporarily, and then return to the original site, the home loss compensation payment will only be paid once, in accordance with legislation. The tenant will be advised of this provision before they make the decision as to whether to return to the original site or not.

Where the Council is re-designating its housing stock, and the tenant may choose to leave the property but does not have to, then home loss compensation will not be paid.

Where the tenant does not meet the criteria for home loss payment a discretionary amount, dependant upon and proportionate to the length and tenure type, may be made.

9.9 Disturbance allowance

This is what is paid to a Council tenant for the reasonable financial costs incurred, and any losses sustained, in connection with having to move home. As such this is paid in addition to the home loss compensation payment.

Disturbance allowances will be paid in accordance with current legislation. As at the date of this policy, this is the Land Compensation Act 1973. The processing of claims will also be dealt with in accordance with the Council's financial regulations.

Trespassers and squatters will not be paid any disturbance allowance.

A disturbance allowance is a lump sum, calculated to cover eligible items, paid to those required to move home.

In exceptional circumstances, for example a household with exceptional needs arising from a physical, sensory, or mental impairment, consideration will be given to paying for other items on an individual basis.

In effect paying for disturbance covers the reasonable costs relating to household items that have to be moved out of, or disconnected from, the old property and moved into, or refitted or reconnected in, the next one. These items must belong to the household concerned.

A one-off disturbance allowance will be made to each household. Any reasonable costs above the threshold will be paid after a valid receipt, showing VAT where this is applicable, is received for each item claimed for. All items within the original limit must be accounted for.

Disturbance payments for Tamworth tenants are as follows:

Property Size	Fixed Rate Disturbance payments
1 bed	£1,900
2 bed	£2,500
3 bed	£3,000

4 bed	£3,500
5+ bed	£3,800

If the Council carries out any disturbance related services such as fitting carpets, removal company services, etc. the cost will be deducted from the home loss payments (if the tenant is entitled to it) rather than the disturbance payment. The Council will provide for tenants a schedule of rates for different services it provides to ensure tenants are aware of the costs they may incur if they choose to use the Council's service.

The Council is entitled to refuse to pay all or any costs where it is felt that some of the claim is unreasonable.

If there is a dispute over whether the Council will pay for an item or an amount claimed for, and if agreement on this cannot be reached, then either the person concerned or the Council can apply to the Lands Tribunal for a decision on this.

The disturbance allowance includes an amount for removal costs. The Council can arrange removal services at the households request and the cost of these services will be deducted from the disturbance payment.

The Council can also provide reconnection services for washing machines, cookers and dishwashers by suitably qualified contractors for all Tamworth Borough Council tenants at cost. The cost of these services will be deducted from the disturbance allowance.

The Council will provide one rent free week on the new property if the property being moved to is a Tamworth Borough Council owned property. If the property being moved into is an RP or private rent the Council will provide one full weeks' rent payment. This will allow a week for the affected occupant to move.

The following expenses will be covered by the Disturbance payment:

- Telephone and television disconnection and reconnection charges
- Removal expenses
- Redirection of mail for three months
- Disconnection and reconnection of cooker, washing machine, other appliances
- Cost of fitting and altering carpets and curtains
- New carpets where refitting is not practicable, e.g. foam backed carpet that has disintegrated
- Movement of fixtures and fittings such as fitted lights, TV brackets, fireplaces etc
- Redecorating new home including cost of materials

This list is not exhaustive.

If for any reason, the tenant does not move into the new property no further disturbance payment will be made and if the tenant goes on to downsize

permanently the disturbance payment will be deducted from the home loss payment.

This does not affect your statutory rights under repairs legislation for compensation.

Each decommissioning scheme will have a dedicated officer who will support and advise customers through this process as appropriate. If the tenant has moved into accommodation designated for older people, then the Independent Living Manager will support and assist them with this task as required.

9.10 Compulsory Purchase Powers in relation to home owners

If it's not possible to negotiate a purchase, the Council may consider the use of compulsory purchase powers. The Council will do this in accordance with current legislation governing the use of Compulsory Purchase Orders under the Town and Country Planning Act 1990 (as amended) and the payment of compensation in accordance with the Land Compensation Act 1973 and Planning and Compensation Act 1991. Throughout the process, the Council will continue to resolve the matter voluntarily between both parties.

10 Suspension of the Right to Buy:-

The Council has the right to halt the right to buy in certain circumstances. The decision whether to do this will be taken by the Council's Cabinet. We will do this in accordance with current legislation which, as at the date of this policy, allows for the following.

Initial demolition notice:-

Under current legislation, i.e. the Housing Act 2004, sections 182 and 183, the "right to buy" of any affected council housing stock will be suspended from the date we serve an initial demolition notice on the council tenant(s) concerned. It will stay suspended for as long as this notice remains in force. The suspension of any right to buy claim means, in law, that the Council cannot be required to complete the transaction.

Before this notice is served we will have decided exactly what properties are to be included in the scheme concerned. This notice is served where we intend to demolish the property concerned within 5 years. It will include the reasons, and the timescales, for the demolition.

Final demolition notice:-

The service of a final demolition notice, under current legislation, extinguishes the "right to buy" these properties completely. Any prospective "right to buy" purchases which are underway, but have not completed, will not now proceed.

No new right to buy application on these properties will be accepted.

In order to serve it we must have agreed to, or be entitled to, acquire all the affected properties. In effect this means the notice can only be served once plans for the scheme

are well advanced. This notice is only served where demolition is expected within 2 years.

10.1 Right to buy expenses

The tenant may have a right to compensation for certain expenses already incurred in the right to buy process. We will pay these expenses where required to by current legislation, as at the date of this policy the Housing Act 2004. This compensation includes relevant legal fees, surveyors fees, and other disbursements which have already been paid. These will be paid back to the tenant.

11 Disputes and appeals

11.1 Tenants have the right to appeal to the Council regarding the application of this policy. Appeals must be made by email or in writing within 10 days of any written notification setting out the reason why the tenant believes the decision is not in line with this policy. The appeal will be considered by a Director or Assistant Director and provide a response.

Tenants are also advised of the Council's complaints process and details if they are not satisfied with a serviced request.

11.2 If a home owner is dissatisfied with the amount of compensation offered under this policy, they should write to Tamworth Borough Council. In addition, they may have the right of appeal under the Land Compensation Act 1973 and claims should be made to the Upper Tribunal at:

Upper Tribunal (Lands Chamber)
5th floor, 7 Rolls Buildings
Fetter Lane, London EC4A 1NL
Email: lands@justice.gov.uk
Telephone: 020 7612 9710

12 Equality and Diversity

12.1 This policy seeks to ensure that households with differing needs and preferences are taken into account. This will be measured fairly by the officers completing the housing needs assessment at the beginning of the process, allowing us to:

12.1.1 identify those who may need more support

12.1.2 ensure tenants are kept informed in the way most appropriate to them;
and

12.1.3 Make suitable rehousing offers, with full consideration of any adaptations required

12.2 This policy is aligned to Tamworth Borough Council's Allocations Policy to ensure there is no detriment or advantage to households affected by the decant process.

Decant households will be treated fairly and equitably alongside applicants on the housing register, including those the Council has a statutory duty to re-house

- 12.3 The home-loss and disturbance compensation payments seek to ensure nobody is out of pocket or disadvantaged as a result of being required to move out of their home.
- 12.4 This policy has been produced with reference to the Equality Act 2010 and the Council's Public Sector Equality Duty.
- 12.5 This policy can be provided in other formats i.e. large print or Braille
- 12.6 This policy has been developed in consultation with customers.

13 Links to strategies, policies and legislation

13.1 This policy is linked to:

- Tamworth Borough Council Allocations Policy
- Tamworth Borough Council Tenancy Agreements
- Town and Country Planning Act 1990 (as amended)
- Land Compensation Act 1973
- Planning and Compensation Act 1991
- Home-loss Payments (Prescribed Amounts) (England) Regulations 2015

Decant Request Application

Process to follow:

1. Tenancy Sustainment Team to complete and pass to line manager for approval.
2. Upon approval line manager to send completed application to Homes Manager
3. Homes Manager to check availability and notify Tenancy Sustainment Team of options.
4. Tenancy Sustainment Team to pass completed order form (including budget code (HR2102 57040) to Business support team and request they raise the order.
5. Homes Manager to add decant to "Whiteboard" spreadsheet for monitoring.
6. Tenancy Sustainment Team to update weekly on progress and proposed end date.

NOTE: Copy of decant information to be sent to TSA for the Decant Tracker as part of all weekly updates.

DECANT TYPE:

Emergency	<input type="checkbox"/>
Planned	<input type="checkbox"/>
Date of application:	Click or tap to enter a date.
Requesting Officer:	
Officer to manage:	

TENANT & PROPERTY DETAILS:

NOTE: The details of the lead tenant to be completed in this section, this will be the main point of contact for us during the process.

Tenant Name:	
Contact No.	
Tenants Address: This will be the address they are being decanted from	
Post Code:	
Property type:	
Does the property have adaptations? Only include if we need to consider these	<input type="checkbox"/>
Details of adaptation:	
Do they have any pets: Only include if we need to consider these in process:	<input type="checkbox"/>

Pets' details: Type(s) & Numbers	
--	--

Family composition: Provide details of all occupants	Name	Relationship	Age	Date of birth

Reason for decanting:	
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Investigation undertaken:	<input type="checkbox"/>
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NOTES: This section should explore if the resident(s) have access to their own alternative accommodation. Explore – Staying with Family, Friends etc. Alternatives should have been considered prior to decant requests being made.

WE CAN OFFER: For a period of up to 2 weeks, we can offer £25.00 per daily (maximum £350.00) if customer can stay with family/friends.

If payment is to be made to the customer, it will be made at the end of the decant period. The officer should add the customer as a creditor and place an order for payment to be sent by BACS.

Can they stay with friends or family?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Expand on all answers in details box below
Would they like to explore the payment of £25.00 per day from us?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	
Do they have contents insurance to cover temporary accommodation?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	

Details:			
Decant property requirements:			
Ground Floor:	<input type="checkbox"/>		
Level Access Shower:	<input type="checkbox"/>		
Location:	<input type="checkbox"/>		
Other I Details:			
Expected repairs completion time:			
Expected completion:			

If an emergency decant is required please provide quotes and location for accommodation:			
Info	Cost Per Night £'s	Provider	Location
Quote 1:			
Quote 2:			
Quote 3:			

Additional costs identified I Transport.	
This budget may cover a taxi if deemed necessary i.e tenant has disability needs	
Cost £'s:	
Details / Provider:	

If planned, please obtain quotes for removals:				
Info	Provider	Cost for removal £'s	Cost for return £'s	Cancellation Fee £'s
Quote 1:				
Quote 2:				
Quote 3:				

ORDER DETAILS

Decant license signed:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Date signed:	Click or tap to enter a date.			
Copy sent to	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>

Void & Allocations team:				
Confirmation of alternative accommodation by Voids & Allocations Team:				
	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
TA Address:				
Order raised via Decant Budget I HR2102 57040 This budget code must be on the order request				
Total Amount £'s:				

APPROVAL & SIGN OFF

Neighbourhood Resilience Manager:	
Print:	
Signature:	
Date:	Click or tap to enter a date.

Homes Manager:	
Print:	
Signature:	
Date:	Click or tap to enter a date.

Decant Licence

Tenancy Management Team

Name
Address of tenancy

DRAFT

Your ref:
Telephone number: 01827 709514
Please ask for:

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXX
XXXXXX
XXXXXX

Date XXX

Decant Licence | Temporary Accommodation

Dear XXXX,

Following discussions and recent correspondence we enclose a **Decant Licence** for your consideration. The licence, if you accept, grants permission for you to occupy **temporarily** XXXXXXXXXXXX. It does not give you a legal interest in the property nor does it confer secure tenancy rights. **For the avoidance of doubt your secure tenancy and associated rights remain at XXXXXXXXXXXX.**

As this temporary licence arrangement is to facilitate a move whilst disrepair works are undertaken at XXXXXXXXXXXX; we would draw your attention to the following important points:-

- The Housing Act (1985) as amended and relevant schedules set out the definition of a licence and secure tenancies.
- The decant licence is temporary permission to occupy for the period determined necessary to undertake the repair works on your secure tenancy at XXXXX XXXXXX only.
- As you remain a secure tenant at XXXXXXXX for the duration of the works – then the rights and obligations conferred on you and the Council (as the Landlord) will continue to apply. You should refer to your **tenancy agreement** in this regard .
- The decant licence for XXXXXXXXXXXX does not confer secure tenancy rights and it is not the Councils intention to create a secure tenancy – this protection is afforded to you under your secure tenancy rights at XXXXXXXXXXXX
- Your housing benefits entitlement will continue at XXXXXXXXXXXX where applicable and you should continue to ensure rent payments are met. Associated licence charges will be itemised and determined through your disrepair claim as no rent on XXXXX is charged as your rent payments remain unchanged at XXXXXX
- In line with the Councils decant arrangements we will make suitable arrangements for removals for your personal belongings by our contractors; this will include:
 - Collection of property from “Tenancy Address” to your temporary accommodation
 - Disconnection of white goods – Washing Machine and Cooker
 - Reconnection of the white good at the temporary address
 - Return of these items once works are completed to your “Tenancy Address”

- You will be responsible for packing the items prior to removals and unpacking on both journeys; and the **Council does not assume any liability for loss, damage or misplacement of items during this process.**
- You will have no access to your “Tenancy Address” throughout the decant period unless we have agreed and given written prior permission as works will be in progress and this is for your health and safety.

Once you have read the attached agreement; are satisfied with the details outlined then we can arrange to sign the licence agreement with you at XXXXXXXX.

We will notify housing benefits of your continued tenancy at XXXXXXXXX and your intention to return.

Yours faithfully

Estates & Tenancy Manager

DRAFT

Definitions as per 1985 Housing Act (as amended)

Tenancy Address – the address whereby I am a legal tenant currently and as highlighted within this particulars of the agreement set out below.

Temporary Address – the address that Tamworth Borough Council have identified as a suitable property for me to reside in on a temporary basis.

Decant – the process which this situation falls under.

Decant Licence – this document in its entirety.

Landlord – your landlord for both addresses will be Tamworth Borough Council.

Particulars of agreement

Tenancy Address:	
Property Type:	
Date Tenancy Started:	
Tenancy Type:	
Persons Named on Tenancy:	
Rent Account:	
Temporary Address:	
Date licence to commence:	
Duration of Licence:	
Notice to end Temporary Accommodation:	1 Week by landlord
Landlord Address:	Tamworth Borough Council Marmion House Lichfield Street Tamworth Staffs B79 7BZ
Contact for landlord:	
Contact Number:	
Contact Email Address:	

Declaration of terms

I xxxxxxxxx of xxxxxxxxx, agree to be decanted by Tamworth Borough Council to alternative Council accommodation at xxxxxxxxxxxxxxxxxxxxx.

I understand this move is **Temporary**, while major repairs are undertaken to my “Tenancy Address”, as per section 1.6 of my tenancy agreement.

3.2.2 - If your property requires major works as defined by a Project Officer you may have to be moved into alternative temporary accommodation in order for the necessary works to be completed.

1.6 - Under normal circumstances you will be able to return to the property when the work has been completed.

The decant move has been arranged for <**Date Here**>, and I agree to the following: -

- I will not enter the property whilst the repair works are under way.
- While residing at **xxxxxxxxxxxxx under Licence** I understand that rent will continue to be charged at **xxxxxxxxxxxxxxxxxxxxx as this is my Secure Tenancy**. Any rent lost at Longfellow Walk arising because of the decant (or your part in any delay) will be part of the Councils final disrepair settlement.
- I understand that once any necessary works have been completed, I will return to **my "Tenancy Address"** on a date specified by Tamworth Borough Council.

While residing at the "Temporary Address I agree to abide by the terms and conditions of this decant licence and my tenancy agreement.

Furthermore, I understand that any breaches in my tenancy agreement and/or this decant licence could result in Tamworth Borough Council taking legal action against myself and/or my tenancy.

Signature of acceptance

Lead Tenant Name:	
Signature:	
Date:	

*Landlord Representative:	
Position Held:	
Signature:	
Date:	

***Note: Authorized signature for and on behalf of the landlord.**

Appendix 3- Decant Inventory

Decant Inventory

The inventory should only be completed if items are to be left if the property where work will be undertaken. This document should be completed by TBC staff member and the tenant, with a copy being sent to the tenant following the visit.

Tenancy Address	
------------------------	--

Room (bedroom/ kitchen e.g)	Item (washing machine, books, TV any other item not taken by the tenant)	General Condition

Statement

This property has been fully inspected by both Tamworth Borough Council and tenant and this inventory represents an accurate record of the state of items to be left at the property. Where necessary, dated photographs have been taken and copies provided to both landlord and tenant.

In signing this agreement you, as the tenant are accepting that all property left at this address is being left at your own risk and that Tamworth Borough Council take no responsibility for property damaged.

Signed (Tamworth Borough Council)	
Date	
Signed (tenant)	
Dates	

Appendix 4 - Return letter

Dear

Decant Property – Tamworth

As you are aware, Tamworth Borough Council agreed for you to be decanted to (Decant Address) to enable essential repairs to be carried out at (Tenant Address).

I am giving you notice that the repairs have now been completed and the property is ready for you to resume occupation.

The move will need to take place within the next (XX) working days, therefore, please contact me within the next 24 hours to agree the day for the removals back to (Tenants Address).

If you fail to contact me within the period stated above, I will have no option but to start legal proceedings against your tenancy.

Yours Sincerely

Tenancy Sustainment Officer

Marmion House
Lichfield St
Tamworth
Staffs
B79 7BZ

Tel: 01827 709514
Fax: 01827 709376

Appendix 5 – Equality Impact Assessment



Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?		
Date Conducted		
Name of Lead Officer and Service Area		
Commissioning Team (if applicable)		
Director Responsible for project/service area		
Who are the main stakeholders		
Describe what consultation has been undertaken. Who was involved and what was the outcome		
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)		
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	<input type="checkbox"/>
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it?	New	<input type="checkbox"/>

Indicate with an 'x' which applies	Existing	<input type="checkbox"/>
	Being reviewed	<input type="checkbox"/>
	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>

Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

Who will be affected and how?

Are there any other functions, policies or services linked to this impact assessment?

Yes No

If you answered 'Yes', please indicate what they are?

Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation)
Age	<input type="checkbox"/>	<input type="checkbox"/>	
Disability	<input type="checkbox"/>	<input type="checkbox"/>	
Gender Reassignment	<input type="checkbox"/>	<input type="checkbox"/>	
Marriage & Civil Partnership	<input type="checkbox"/>	<input type="checkbox"/>	

Pregnancy & Maternity	<input type="checkbox"/>	<input type="checkbox"/>	
Race	<input type="checkbox"/>	<input type="checkbox"/>	
Religion or belief	<input type="checkbox"/>	<input type="checkbox"/>	
Sexual orientation	<input type="checkbox"/>	<input type="checkbox"/>	
Sex	<input type="checkbox"/>	<input type="checkbox"/>	
Gypsy/Travelling Community	<input type="checkbox"/>	<input type="checkbox"/>	
Those with Caring/Dependent responsibilities	<input type="checkbox"/>	<input type="checkbox"/>	
Those having an offending past	<input type="checkbox"/>	<input type="checkbox"/>	
Children	<input type="checkbox"/>	<input type="checkbox"/>	
Vulnerable Adults	<input type="checkbox"/>	<input type="checkbox"/>	
Families	<input type="checkbox"/>	<input type="checkbox"/>	
Those who are homeless	<input type="checkbox"/>	<input type="checkbox"/>	
Those on low income	<input type="checkbox"/>	<input type="checkbox"/>	
Those with Drug or Alcohol problems	<input type="checkbox"/>	<input type="checkbox"/>	
Those with Mental Health issues	<input type="checkbox"/>	<input type="checkbox"/>	
Those with Physical Health issues	<input type="checkbox"/>	<input type="checkbox"/>	
Other (Please Detail)	<input type="checkbox"/>	<input type="checkbox"/>	

Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications

Impact Area	Details of the Impact	Action to reduce risk
<i>Eg: Families</i>	<i>Families no longer supported which may lead to a reduced standard of living & subsequent health issues</i>	<i>Signposting to other services. Look to external funding opportunities.</i>

Part 5 - Action Plan and Review

Detail in the plan below, actions that you have identified in your CIA, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome
	Outcomes and Actions entered onto Covalent			

Date of Review (If applicable)

DRAFT