

DECANT POLICY

Approved on	November 2023
Reviewed	August 2024
Next review date	November 2026

1. Introduction

- 1.1 There are occasions when West of Scotland Housing Association requires tenants to leave their homes on either a permanent or temporary basis. Typically, this occurs when the Association requires vacant possession of a property to undertake essential or emergency repairs (e.g. fire, flood damage), improvements or adaptations. A permanent move can be required where a property has been earmarked for demolition or redevelopment. In such circumstances the Association has responsibilities to provide advice and support to the tenant about their housing options which are likely to involve rehousing in alternative accommodation provided by the Association or another housing provider.
- 1.2 The Land Compensation (Scotland) Act 1973 established the principle that tenants should be compensated for the disturbance and personal upset involved in having to make an involuntary move. The Land Compensation (Scotland) Act 1973 sets out the basis for landlords to make Home Loss and Disturbance Payments to tenants and residents. The legislation applies to situations where the tenant cannot return to their original home, i.e. the move is permanent. In certain circumstances it may also be the case that owners will require decanting. The arrangements that apply to owners will be decided separately from that set out in this policy but taking full account of the Association's legal responsibilities.
- 1.3 It is accepted practice by RSLs that tenants requiring to be decanted for a temporary period should also receive compensation for the inconvenience suffered. The exception to this may be in situations where the tenant has through a deliberate or reckless act, for example fire raising or flooding made the property uninhabitable. The Association may in such cases decide not to award compensation and may also seek to recover its costs and /or the property through legal action.

2. Policy aims and objectives

- 2.1 Requirements of the policy
 - to manage decant proceedings in a consistent, fair and equitable manner, taking full account of the Association's statutory obligations
 - to provide a service that is responsive to tenants needs
 - to provide a basis for making reasonable compensation and assistance to tenant, recognising the need for prompt payments in cases of financial hardship
 - to provide alternative accommodation that meets the Associations' letting standards and the specific needs of the tenant including adaptations
 - to minimize the time and inconvenience for a tenant in temporary accommodation
 - minimise rent loss.

3. Equalities

- 3.1 We will not unfairly discriminate against any person within the protected characteristic groups as contained within the Equality Act 2010. To ensure equal access to the information contained in this policy for all, we are happy to provide copies in Braille, in larger print, translated into other languages or on tape to you or anybody that you know upon request and where practicable.
- 3.2 The Association through the Decant Policy will act to provide services in a manner that encourages equality and complies with all relevant equalities requirements. Tenant's physical, emotional and support needs will be considered in determining an appropriate decant that actively mitigates discrimination, direct or indirect, based on the protected characteristics.
- 3.3 As with all Association policies and practices, the Association will adhere to Outcome 1 of the Scottish Social Housing Charter (*Equalities*):

'Social Landlords perform in all aspects of their housing services so that every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services'.

4. Legal and Good Practice Framework

- 4.1 Section 31 of the Housing (Scotland) Act 2010 introduced the Scottish Social Housing Charter which sets the standards and outcomes that all Social landlords should aim to achieve when performing their housing activities. The Scottish Social Housing Charter came into effect on the 1st April 2012 and this sets out 16 standards and outcomes that all social landlords should aim to achieve when delivering housing services. The Charter was reviewed during 2016. The revised charter was approved by Parliament and has been in effect since the 1st April 2017. The relevant Outcomes associated to this policy are:

- Outcome 1 (Equalities)
As per section 3.3
- Outcome 2 (Communication)
'Social Landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides'.
- Outcome 4 (Quality of Housing)
'Social landlords manage their businesses so that tenants' homes, as a minimum, meet the Scottish Housing Quality Standard (*SHQS*) when they are allocated; are always clean, tidy and in a good state of repair; and also meet the Energy Efficiency Standard for Social Housing (*EESH*) by December 2020'.

- Outcome 5 (Repairs, Maintenance and Improvements)
'Social Landlords manage their businesses so that tenant's homes are well maintained, with repairs and improvements carried out when required, and tenants are given reasonable choices about when work is done'.
 - Outcome 13 (Value for Money)
'Social landlords manage all aspects of their business so that tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay'.
- 4.2 The Housing Scotland Act 2001, covering Scottish Secure Tenancy Agreements (SST), puts Landlords under an obligation to ensure that the house is kept wind, watertight and habitable.
- 4.3 This policy is aligned to Standards 2, 3 and 5 of the Scottish Housing Regulator's (SHR) Regulation Framework:
- Standard 2
'The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities'.
 - Standard 3
'The RSL manages its resources to ensure its financial well-being while maintaining rents at a level that tenants can afford to pay'.
 - Standard 5
'The RSL conducts its affairs with honesty and integrity'

5. Roles and responsibilities

- 5.1 This section outlines the roles and responsibilities in relation to the policy for all staff.

Director of Housing and Community Services

- Ensure effective implementation of this policy and supporting procedures;

Housing Manager

- Will ensure staff are aware of and comply with The Association's policy and supporting procedures.

6. One-way permanent moves

6.1 Where the tenant is required to move on a permanent basis there is likely to be an entitlement to Statutory Home Loss and Disturbance payments providing the following criteria are met:

- residency at the property for a minimum of 12 months prior to the date of displacement
- the move is permanent
- the claimant is a tenant or a spouse with occupancy rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 or any person with 'interest in the dwelling house'.

6.2. In addition to the above the claimant's removal must be as a consequence of one of the following events:

- compulsory acquisition of the property by a body with compulsory powers
- demolition of a dangerous building or a closing order granted under the Housing (Scotland) Act 1987 as amended
- significant improvement or redevelopment by the Association
- court order for recovery of possession proceedings by the Association, which requires suitable alternative accommodation to be made available to the tenant (this provision applies only to secure tenants.)

6.3 Home Loss and Disturbance Payments will be made to tenants where the qualifying criteria are met (see Appendix 1). For non-qualifying tenants the Association will at its discretion provide equivalent support and assistance to that outlined in Appendix One but there will not be an entitlement to a Home Loss payment.

7. Temporary moves where the tenant is to move back

7.1 A temporary move or decant covers the situation where a tenant is required to move from their home for a temporary period, to enable work to be carried out, with the intention that the same tenant moves back to the property when the work is completed. The decant home will in most situations be provided in another property owned by the Association and selected to meet the needs of the decanted household in terms of size and location.

7.2 If the tenant's principal home no longer suits the households needs, for example they are overcrowded, under occupying or have medical needs that require a different property type then the tenant can be considered for a permanent move to the decanted address, and this should be discussed with their Housing Officer and considered under the Association's Allocations Policy.

- 7.3 The Association will ensure that wherever possible any emergency accommodation will meet the needs of any tenant and their household for the duration of the decant process. Where suitable accommodation cannot be immediately found the Association will as a last resort secure accommodation in a local Premier Inn hotel with an appropriate number of rooms to meet the size of the household. Details of Premier Inn Hotels can be found in Appendix Three. In these instances, tenants will either have their meals paid in advance by WSHA at the time of booking or be provided with £20 per person per day towards their food costs. Any stay in a hotel should be for a minimal period and will be reviewed by the Housing Team weekly until suitable alternative accommodation can be found in our own housing stock.
- 7.4 Tenants with pets should refer to appendix three for emergency housing arrangements and advice.
- 7.5 If the tenant/household member has medical requirements that cannot be met through the Premier Inn, then other accommodation can be booked as temporary accommodation until suitable accommodation can be found in our own housing stock e.g. if wheelchair accessible hotel room is required or other specially adapted equipment required that cannot be accommodated in a Premier Inn.
- 7.6 The Association will ensure in so far as it is reasonable to do so to meet the needs and preferences of the decanted tenant and ensure decant flats and houses conform to our lettable standards as set out in the Association's Allocation Policy.
- 7.7 The Association will make certain allowances towards the costs incurred by the tenant moving to decant accommodation and these are set out in Appendix Two. The Association will ensure that appropriate advice is provided and that the tenant should not be financially disadvantaged because of potentially higher living and transport costs while in temporary decant accommodation including hotels or B & B. The tenant will remain liable for the rent at their principal home not the decanted property. The arrangements for Housing Benefit (HB) or Universal Credit (UC) entitlement for decanted tenants will be addressed by the Association and appropriate advice and assistance given to the tenant concerning HB or UC entitlement while temporarily removed from their home. Council Tax liability is transferred to the decant address with the likelihood of an exemption for liability being given at the permanent home if it remains unoccupied.
- 7.8 If the tenant wishes to move with no assistance from the Association by sourcing their own emergency accommodation e.g. Airbnb or hotel of their preference the Association will pay up to £1000 per week to cover accommodation costs including any meals required until a property within our own housing stock is sourced. This amount may increase depending on the size or type of accommodation needed. The tenant will be required to book the accommodation in their own name and hand in receipts to the Association

who will then pay the tenant/accommodation. The Association is not liable for any unpaid bills or damages at the accommodation. The Association will not continue to pay for this accommodation after a property is sourced in our own housing stock and is ready to move into.

- 7.9 If the tenant wishes to stay with family/friends we will pay a one-off payment to the tenant up to the value of £1000 based on receipts being received to confirm tenant/household expenses until a property within our own housing stock is sourced. The Association will not continue to pay for this accommodation after a property is sourced in our own housing stock and is ready to move into. Additional costs as detailed in Appendix 2 will be included in the payment.
- 7.10 If the Association is unable to secure its own alternative accommodation due to adaptations being required, specialist accommodation may need to be sourced with the assistance of social work department/other support agencies. Additional costs will still be covered as necessary as detailed in Appendix 2.
- 7.11 If the Association is unable to secure its own alternative accommodation due to the needs of the tenant/household e.g. property needs to be close to school or essential support network, accommodation will be offered in line with what we have available and travel expenses will be covered by us. When a property then does become available in the tenant's preferred area we will move the tenant at the earliest opportunity.
- 7.12 Each Housing Officer has a discretionary budget that they can use throughout the year. This budget is to allow the Housing Officer to assist tenants who are in crisis and to improve the wellbeing of tenants. In some circumstances it may be appropriate for Housing Officers to consider using this budget when a tenant has been decanted in an emergency.
- 7.13 When a tenant is required to be decanted through no fault of their own an ex-gratia payment for the inconvenience suffered will be paid to the tenant in line with the calculation detailed in Appendix 2.
- 7.14 There is a key difference in how the Association will deal with **Emergency Decants**, where the tenant needs to move immediately and **Non-Emergency Decants** where a plan can be put in place and the tenant decanted, if necessary, at the appropriate time.

In such situations our procedure will emphasise that a meeting between Housing Management and Maintenance teams will take place, before we contact any tenant. This process will:

- a. Review the options open to WSHA to resolve a maintenance issue through short and/or long term solutions and the necessity of the tenant having to move to undertake works.

- b. Once we have agreed what the options are, we will **consult with tenants on the possibility that they may have to (or wish to) be decanted** and at the same time consult also with owners in mixed tenure blocks on their potential share of works, where relevant.
- c. Finally, we will confirm the maintenance option we will proceed with after discussions with tenants and owners (where necessary) and then advise the tenant on whether they can remain in their home or require to be decanted.

8. Action by the Association if tenant refuses to move and / or return

- 8.1 Emergency hotel or similar accommodation is only provided as a temporary measure. Tenants will be moved from their hotel (or similar) accommodation as soon as a suitable property is sourced from our own housing stock. Hotel or similar accommodation will not normally be considered a long term decant option.
- 8.2 Once a tenant moves to a decant property within our housing stock tenants will sign a decant agreement (see appendix four) that confirms this property is only for temporary use and tenants have no legal rights to remain in the property. When the tenanted property is ready for re-occupation tenants will require to move at their earliest convenience. If tenants have specific support needs to aid the safe and quick return to their home these should be discussed with the Housing Officer.
- 8.3 If the tenant is claiming their home contents insurance for loss and damages, for example of floor coverings and household/personal items, this claim should be started immediately and should not hold up a move back to the tenanted property.
- 8.4 If agreement cannot be reached concerning decanting, the Association is entitled to serve Notice of its Intention to Raise Proceedings, citing Ground 10 Schedule 2 Part 1 of the Housing (Scotland) Act 2001. Under Section 16 (6) of the Act it is a Mandatory Grounds for possession to be granted where suitable alternative accommodation is made available.
- 8.5 Legal action will only be taken as a last resort and every effort will be made to find a suitable solution both at decant and moving back stages.
- 8.6 Tenants may find that their tenanted home may still have some non emergency repairs requiring to be complete when we recommend that they move back to their home. Access to complete these repairs will be made with the tenant at a time suitable for them but these repairs should not delay a move back as long as the property is reasonably fit for human habitation.

9. Confidentiality and General Data Protection Regulations (GDPR)

- 9.1 The Association is fully committed to compliance with the requirements of the General Data Protection Regulations (EU) 2016/679 (GDPR), which came into force on 25 May 2018. The Association will therefore follow procedures that aim to ensure that all employees, Board members, contractors, agents, consultants, partners or other persons involved in the work of the Association and who have access to any personal data held by or on behalf of the Association, are fully aware of and abide by their duties and responsibilities under GDPR.
- 9.2 Personal information will be treated in accordance with the Association's Data Protection Policy.

10 Complaints

Any tenant who is dissatisfied with their decant process can submit a complaint in line with the Association's complaints procedure.

11. Review

- 11.1 This Policy will be reviewed every three years from the date of implementation.

Appendix 1

Assistance provided to a tenant making a one-way compulsory move to a new tenancy.

This should only be used where a property is being demolished or is part of another programme which means the tenant is unable to return.

Schedule of statutory payments

1. Home Loss Payment £1500

2. Disturbance payments

At cost to the Association furniture removal, mail redirection, telephone disconnections and reconnections, gas and electrical disconnection and reconnection, electrical goods/ white goods disconnection and reconnection, disconnection and reconnection of TV aerial/ satellite/cable mail redirection for up to 12 months.

3. Replacement allowances for floor coverings, laminate flooring and curtains and other fitments

Tenants are encouraged to take out home contents insurance at the start of the tenancy and if this is in place tenants should make a claim through their insurance for damages to furniture, flooring and other personal items.

When a tenant does not have insurance, at the discretion of the Association payments may be made taking into account the condition of floor and window coverings and any changes to room or window sizes or a requirement to repair and replace damage caused by moving house.

If the Association is arranging for floor and window coverings we will use our registered contractor/supplier and the tenant will be able to choose from a range of samples.

Appendix 2

Assistance provided in moving to decant accommodation and then returning to the permanent tenancy.

1. The Association will organise and pay for the following:

- Furniture removal and storage if required
- Mail redirection where required – please note access to the property will not be possible during the works as the property will be considered a building site
- Telephone disconnections and reconnections
- Gas and electrical disconnection and reconnection
- Electrical goods/ white goods disconnection and reconnection
- Disconnection and reconnection of TV aerial/ satellite/ cable
- Lock change will take place as tenant access will not be permitted during the works as the property will be considered a building site
- Security on doors and/or windows if required

2. A decant property will have the following:

- Fitted carpets
- Vinyl floor covering in kitchen and bathroom
- Cooker (if required)
- Curtains and blinds (if required)
- Be reasonably decorated
- Other essential items as needed, assessed on an individual basis e.g. beds due to flooding damage

3. Ex-gratia payments for tenant's requiring to be decanted for a temporary period of time

If the reason for the decant is not the fault of the tenant e.g. structural damage, flooding caused by wear and tear, flooding from another property, accidental or planned improvement works by the Association, the tenant will be entitled to an ex-gratia payment over and above the disturbance payments.

Compensation will be paid at a rate of £100 per month up to a maximum value of £500. This is usually paid as a lump sum when the tenant has returned to their tenancy.

Appendix 3

1.0 Emergency Hotel Accommodation

- 1.1 Premier Inn Hotels can be found in Glasgow, South Lanarkshire, North Lanarkshire, and Ayrshire. The Premier Inn website can be accessed using the following link to source best geographical location for tenant's needs - Premier Inn

Please note that dogs/pets are not accepted at Premier Inn Hotels

2.0 Tenants with Pets

- 2.1 Tenants will be asked to find pets temporary accommodation with family/friends and only where necessary will we look for emergency hotel accommodation with Travel Lodge who are a pet friendly hotel chain and have Hotels in Glasgow, Ayr, Kilmarnock, and Cumbernauld. Please note any damage caused by your pet will be re-charged to you.
- 1.2 You can access the travel lodge website here and search by geographical location for tenant's needs - <https://www.travelodge.co.uk/>
- 1.3 If pet friendly accommodation is not suitable or available via travel lodge tenants will be required to source their own accommodation and hand in receipts to the Association who will cover the cost at the same rate as a Travel Lodge which is approximately £150 per night for 2 adults sharing a room including meals.

3.0 Meals/Food

- 3.1 When available at the time of hotel booking meals should be booked for the tenant and household members.
- 3.2 If Meals are not possible at time of booking a £20 per person daily expense will be paid as soon as possible for the tenant and each household member (office hours will apply to arrange a bank transfer to the tenant) Tenant bank account and sort code will be needed to make the payments.
- 3.3 If meals are not available as part of the booking and a tenant has mobility or other health issues that prevent/make it extremely difficult for the tenant/household member to leave the emergency accommodation for food/meals and there is a restaurant on site then an additional food allowance may be awarded.

Appendix 4 – Decant Agreement

Decant agreement between:

West of Scotland Housing Association Limited, a charity registered in Scotland (Scottish Charity Number SC018486) registered under the Industrial and Provident Societies Act 1965 with registered number 1828 R(S) and having its registered office at Camlachie House, 40 Barrowfield Drive, Camlachie G40 3QH (hereinafter referred to as the “**Landlord**”); and

_____ (hereinafter referred to as the “**Occupier**”),

the Landlord and the Occupier each a “**Party**” and together referred to as the “**Parties**”.

Whereas:

- (A) the Occupier normally occupies the property at _____ (hereinafter referred to as the “**House**”) as his or her only or principal home under a Scottish secure tenancy agreement with the Landlord (hereinafter referred to as the “**Scottish Secure Tenancy Agreement**”);
- (B) the House is not available for occupation because of a large-scale refurbishment exercise which will necessitate building works being undertaken at or in relation to the House; and
- (C) the Landlord and the Occupier have agreed that the Landlord shall provide the Occupier with another house which the Occupier shall occupy on a temporary basis until such time as the House is available for occupation.

Now it is hereby agreed between the Parties as follows.

1. **Property**

The Landlord is the proprietor of _____ (hereinafter referred to as the “**Property**”).

2. **Period of occupancy and Rent**

- 2.1 The Landlord will allow the Occupier to occupy the Property, or such other property as the Landlord may from time to time determine, until such time as the Landlord determines that the House is available for occupation or until this Agreement is otherwise terminated in accordance with its terms.
- 2.2 At any time during the currency of this Agreement, the Landlord may upon giving the Occupier reasonable notice require the Occupier to move to any other property at the Landlord’s sole discretion.
- 2.3 This Agreement does not and is not intended to confer exclusive possession upon the Occupier nor to create the relationship of landlord and tenant between the Parties in respect of the occupation of the Property by the Occupier. This Agreement is not intended to create a Scottish secure tenancy, a short Scottish secure tenancy, a private residential tenancy or an assured tenancy between the Parties.
- 2.4 The Occupier hereby agrees that the House shall remain his or her only or principal home during the Occupier’s period of occupation of the Property in terms of this

Agreement.

2.5 During the currency of this Agreement, the Occupier shall pay the Landlord rent of _____ per calendar month, such rent to be paid monthly in advance.

2.6 For the avoidance of doubt, references in this Agreement to the "Property" shall include the property referred to in Clause 1 above or such other property as the Landlord may from time to time determine.

3. Termination of agreement

3.1 This Agreement shall be terminated with immediate effect if at any time during the currency of this Agreement the Occupier contravenes or fails to comply with any of the provisions, conditions and restrictions contained in the Scottish Secure Tenancy Agreement.

3.2 Upon a determination by the Landlord that the House is available for occupation, the Landlord shall serve written notice upon the Occupier:

3.2.1 advising the Occupier that the House is available for occupation; and

3.2.2 requiring the Occupier to ensure that vacant possession of the Property is given to the Landlord on a date no later than [4 weeks] from the date of service of the notice.

3.3 In the event that the Occupier fails to give vacant possession of the Property to the Landlord in accordance with the terms of this Clause 3, the Landlord reserves the right to terminate the Scottish Secure Tenancy Agreement and to seek an order for possession of the Property.

3.4 In the event of termination of this Agreement in terms of this Clause 3, the Occupier hereby undertakes to indemnify and keep indemnified the Landlord against all losses, costs and expenses incurred by the Landlord as a consequence of any failure by the Occupier to give vacant possession of the Property to the Landlord in accordance with the terms of this Clause 3.

4. Assignment and sub-letting

The Occupier shall not be entitled to sub-let the Property or any part thereof or assign the Agreement or any part thereof without the express written consent of the Landlord.

5. Entitlement to uninterrupted occupation

Provided that the Occupier complies with his or her obligations under this Agreement and the Scottish Secure Tenancy Agreement, the Occupier shall be entitled to uninterrupted occupation and use of the Property for the duration of and in accordance with the terms of this Agreement.

6. Conditions of occupation of the Property

6.1 During the currency of this Agreement, the Property shall be taken to be the House and the Occupier shall occupy the Property as if it were the House.

6.2 The obligations of the Occupier under the Scottish Secure Tenancy Agreement in respect of the occupation by the Occupier of the House shall hereby be deemed to apply to the occupation by the Occupier of the Property and the Occupier shall at all

times comply with the terms of the Scottish Secure Tenancy Agreement in respect of its occupation of the Property.

6.3 The Occupier hereby accepts the Property as being at the date or last date of execution of this Agreement wind and watertight, habitable and in all other respects reasonably fit for human habitation.

6.4 For the avoidance of doubt:

6.3.1 any breach of or failure to comply with any of the provisions, conditions and restrictions contained in the Scottish Secure Tenancy Agreement by the Occupier shall constitute a breach of the terms of this Agreement; and

6.3.2 any breach of or failure to comply with any of the provisions, conditions and restrictions contained in this Agreement by the Occupier shall constitute a breach of the terms of the Scottish Secure Tenancy Agreement.

7. Access by the Landlord

The Occupier shall give the Landlord or its employees or agents access to the Property in the discharge of their responsibilities. Wherever possible, except in the event of emergency access being required, the Landlord will give the Occupier 24 hours' notice of access being required.

8. Ending the Agreement by mutual consent

This Agreement may be ended with immediate effect with the mutual written agreement of the Landlord and the Occupier. In witness whereof these presents on this and the preceding three pages are executed as follows:

For and on behalf of West of Scotland Housing Association Limited

At **40 Barrowfield Drive, Camlachie, G40 3QH**

On **DATE**

by X _____ Authorised Signatory

all before X _____ Witness

Full name _____

Address _____

Occupation _____

By the Occupier X _____

At **40 Barrowfield Drive, Camlachie, G40 3QH**

On **DATE**

all before X _____ Witness

Full name _____

Address _____

Occupation _____