



## **The Northern Line Extension**

### **PURCHASE OF PROPERTY IN CASES OF HARDSHIP**



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## 1 Introduction

- 1.1 This paper explains Transport for London (**TfL**) policy on the discretionary purchase of properties in cases of hardship arising in consequence of its proposals to extend the Northern Line to Battersea (**the NLE Scheme**). This policy is referred to as the Hardship Policy.
- 1.2 It will be of particular relevance to property owners whose properties may be affected by the construction or prospect of construction of the NLE Scheme but which are otherwise not identified for compulsory acquisition by TfL for the purposes of the NLE Scheme.

## 2 Overview

- 2.1 The NLE Scheme is a proposal to extend the Northern line to Nine Elms and Battersea, as part of wider plans to regenerate the Vauxhall, Nine Elms and Battersea area.
- 2.2 In the spring of 2013, TfL intends to apply to the Secretary of State for Transport for an Order under the Transport and Works Act 1992. This Order will provide the necessary legal powers to enable the NLE Scheme to be constructed and operated including the power to compulsorily acquire land, including in some cases subsoil only.
- 2.3 TfL recognises that there may be those whose properties are not identified for compulsory acquisition for the NLE Scheme or are subject to subsoil acquisition only, but who may nonetheless consider that their properties will be seriously affected by the construction or prospect of construction of the NLE Scheme and that they will suffer hardship as a result.
- 2.4 Given this, in certain limited circumstances as more fully explained in this Hardship Policy, TfL may, on receipt of an application from a property owner requesting it to do so, offer to purchase a property even though it is not required for the NLE Scheme.
- 2.5 To qualify to have a property purchased by TfL under this Hardship Policy, an applicant must be able to demonstrate that they satisfy the following 6 qualifying criteria (referred to hereinafter as **the Qualifying Criteria**):

### **1 (Qualifying Interest):**

they must have a 'qualifying interest' in the property

### **2 (No Prior Knowledge):**

they must not have purchased their property interest at a time when they knew or should have known of the NLE Scheme



**3 (Property not required for the NLE Scheme):**

the property must not be identified for compulsory acquisition (whether in whole or in part excluding subsoil acquisition powers only) under the Transport and Works Act Order for which TfL has applied or obtained to authorise the NLE Scheme

**4 (Enjoyment of the Property):**

enjoyment of the property must be seriously affected by the construction or the prospect of construction of the NLE Scheme

**5 (Compelling Reason to Sell):**

they must have a compelling reason to sell their property interest; and

**6 (Efforts to sell):**

(save where the serious effect itself is the compelling reason to sell) they must have employed all reasonable endeavours to sell their property interest but been unable to do except at a price at least 15% lower than that for which it might reasonably have been expected to sell in the absence of the NLE Scheme.

- 2.6 Each criterion is explained in further detail in section 3 below.
- 2.7 If an applicant can demonstrate that it meets all 6 of the Qualifying Criteria, TfL will normally accept that hardship has arisen in consequence of the NLE Scheme and will offer to purchase that applicant's property interest on the basis and in accordance with the terms of this Hardship Policy.
- 2.8 This Hardship Policy will commence on the date TfL applies to the Secretary of State for Transport for a Transport and Works Act Order to authorise the NLE Scheme and it will continue to operate until the completion of construction works for the NLE Scheme.

**3. Qualifying Criteria**

**3.1 Qualifying interest**

Qualifying interests may be held by owner-occupiers of residential and small business properties or those with certain leasehold interests.

*Residential owner-occupier*

3.1.1 A residential owner-occupier in relation to a property means:



- a) an individual who occupies the whole or a substantial part of the property as a private dwelling in right of an owner's interest in it, and has so occupied the property or part of the property, as the case may be, during the whole of the period of six months ending with the date of service of an application under this TfL hardship policy; or
- b) if the whole or a substantial part of the property was unoccupied for a period of not more than 12 months ending with that date, an individual who so occupied the property or part of the property, as the case may be, during the whole of a period of six months ending immediately before the period when it was not occupied.

3.1.2 An owner's interest means a freehold or a tenancy granted for a term of years certain not less than three years of which remain unexpired on the date of service of an application under the TfL hardship policy.

*Business owner-occupier*

3.1.3 The definition of a business owner-occupier is the same as that of a residential owner occupier except that it relates to a property the annual rateable value of which does not exceed £34,800 (*This figure has been effective since 1 April 2010. TfL will automatically apply any future increases in the rateable value limits*).

*Leasehold interests*

3.1.4 In the case of leasehold interests the applicant must also be able to assign or sublet the whole of his or her interest and any necessary consent from the landlord must be obtained first. An application under the hardship policy will not be accepted where it would not be possible for an acquirer to comply with the terms of a lease, e.g. a covenant to continue trading.

**3.2 No Prior Knowledge**

3.2.1 An applicant must have purchased their property interest at a time when they did not know, or could not reasonably be expected to have known, of TfL's proposals to construct the NLE Scheme.

3.2.2 This Hardship Policy will therefore not normally apply to those who bought their property interest after the date on which TfL submits an application to the Secretary of State for Transport for



a Transport and Works Act Order to authorise the NLE Scheme. After this date the extent of information in the public domain will be such that purchasers can reasonably be expected to foresee the effect the NLE Scheme might have upon the enjoyment of properties within the close vicinity.

3.2.3 In the event that any changes are made to the NLE Scheme following the submission of an application for a Transport and Works Act Order, an applicant will be deemed to have been aware of such changes from the date that TfL first publicises them.

### **3.3 Property not required for the NLE Scheme**

3.3.1 The property to which the application relates must not be identified for compulsory acquisition, whether in whole or in part, for the NLE Scheme (*subject to the exception at 3.3.3 for subsoil acquisition only*).

3.3.2 Persons holding a qualifying interest in property which is identified for compulsory acquisition at surface level will have the statutory right to serve a blight notice upon TfL requesting it to acquire the whole of the interest in the affected property. Under these circumstances the use of the hardship policy would be unnecessary.

3.3.3 Where a property is subject to subsoil acquisition only (e.g. for the construction of running tunnels or for a utility diversion), the applicant will be exempted from the requirements of this Criterion 3 and may be eligible for purchase under this policy providing they can demonstrate that they meet the remaining 5 criteria.

### **3.4 Enjoyment of the Property**

#### *Enjoyment seriously affected by the NLE Scheme*

3.4.1 Enjoyment of the property in question must be seriously affected by the construction, or prospect of construction, of the NLE Scheme. Whilst each case will be considered on its merits it is most likely that any serious effect upon the enjoyment of the property will be caused by one or more of the following: noise, vibration, dust, artificial lighting and obstruction to a right of way or access. An applicant must specify in its application to TfL the cause of the serious effect, and provide evidence to demonstrate it. Applicants must also provide such further



information about the serious effect as may reasonably be required by TfL.

3.4.2 For an effect on the enjoyment of a property to be considered serious it must be sustained over a period of time of not less than three months and not be transitory or trivial in character.

3.4.3 In considering whether an applicant meets this criterion, TfL shall have regard to:

a) any works of attenuation or mitigation that have been, or are proposed to be, undertaken as part of the NLE Scheme; and / or

b) whether a claim for compensation under section 10 of the Compulsory Purchase Act 1965 (the 1965 Act) would provide adequate redress for the hardship claimed.

3.4.4 This hardship policy will not apply if compensation under section 10 of the 1965 Act has already been assessed and paid; but the fact that an applicant might be entitled to payment of compensation, were they to make such a claim, will not necessarily exclude a successful application under this hardship policy. For example, where the payment of compensation under section 10 is not considered by TfL to provide adequate redress for the serious effect of the NLE Scheme on the enjoyment of the applicant's property, a successful application might be made under this Hardship Policy.

### **3.5 Compelling Reason to Sell**

3.5.1 An applicant must demonstrate that there is a compelling reason to sell their property on the basis of one or more of the four grounds set down below and that save for circumstances falling under paragraph 3.5.2(d) hardship will occur if a sale is not possible before the conclusion of construction of the NLE Scheme.

3.5.2 The following grounds might constitute compelling reasons to sell property for the purposes of this hardship policy:

a) a need to move to larger or different premises (e.g. the need to accommodate a larger household or to move home for employment or business purposes)

b) financial pressures that require the sale of the property (e.g. the need to realise assets as part of a divorce settlement or in connection with a business or due to a threat of repossession)



- c) the applicant, or a dependant living with the applicant, has developed a medical condition which necessitates selling and which is not related to the proposed scheme (e.g. a disability which prevents a person from negotiating stairs)
- d) where the serious effect itself is cited by the applicant as the compelling reason to sell:
  - i. the applicant, or a dependant living with the applicant, has a medical condition which is likely to be severely aggravated by physical factors caused by the NLE Scheme construction works, e.g. noise or dust, or
  - ii. if the carrying out of the NLE Scheme construction works does or is predicted by TfL to affect the enjoyment of the property for a continuous period of not less than three months to such an extent that continued occupation of that property is not reasonably practicable.

3.5.3 An application for hardship must be supported by satisfactory written evidence relevant to the ground on which the application is based and in the case of applications based upon ground c) or d)(i) above, this must include satisfactory written medical evidence.

3.5.4 Ground d) is directly related to the NLE Scheme construction works (and not the prospect of those construction works). Where a successful application is made on reliance of ground d)(i) or (ii), TfL will not make an offer to buy the property earlier than nine months in advance of the start of NLE Scheme construction works in the vicinity of the property in question. If an application under this ground is made early in the life of the NLE Scheme the applicant may be asked to reapply later.

3.5.5 Ground d)(ii) applies where there has been or is predicted by TfL to be hardship for a continuous period of at least three months. The TfL Noise and Vibration Policy (*see the NLE Construction Noise and Vibration Mitigation Scheme*) provides for noise insulation or temporary re-housing where there may be a serious noise effect on the occupation of a dwelling for a shorter period. That Policy normally applies only to residential property and does not include a requirement for the enjoyment of a dwelling to be affected for a three month period.

### **3.6 Efforts to Sell**

3.6.1 Save where an applicant is claiming hardship arises by virtue of ground d) described in section 3.5 above (i.e. where the serious effect itself is cited as the compelling reason to sell), they must



also demonstrate that they have employed all reasonable endeavours to sell the property and still not received an offer within 15% of its unaffected market value (that is the price it would most likely have achieved, other than for the NLE Scheme).

- 3.6.2 To satisfy this criterion, the property must have been exposed to the market in the most appropriate manner to effect its disposal at the best price reasonably obtainable. The length of exposure may vary with market conditions, but must be sufficient to allow the property to be brought to the attention of an adequate number of potential purchasers.
- 3.6.3 The property should not be marketed at a price which would have been unreasonably high in the absence of the NLE Scheme. The applicant should be able to demonstrate that the asking price reflects professional advice as to value and is realistic and competitive for the market it is in.
- 3.6.4 An applicant must also provide evidence of its marketing efforts and of the inability to sell unless at a discount of at least 15% of the unaffected market value (not the asking price) of the property in the absence of the NLE scheme. To establish this it will normally be necessary for the applicant to instruct at least one recognised estate agent for at least 6 months.

## **4 Application Process**

The application process is summarised below.

### **4.1 Submitting an application**

- 4.1.1 Persons wishing to apply to TfL pursuant to this Hardship Policy should complete the Application Form attached and submit it, together with all relevant supporting evidence to:

Operational Property Manager  
 Operational Property  
 Commercial Development  
 Transport for London  
 5<sup>th</sup> Floor  
 84 Eccleston Square  
 London SW1V 1PX

- 4.1.2 It is the applicant's responsibility to demonstrate why they believe they meet the 6 Qualifying Criteria described in this Hardship Policy. Applicants are therefore strongly advised to submit *as much evidence as possible* in support of their application and, where appropriate, provide a short narrative to



explain the relevance of the evidence submitted to the information provided in the application form.

- 4.1.3 Evidence submitted might include title information, utility bills, medical records, bank statements, correspondence with estate agents or employers or such other information as may be relevant to the grounds on which the application has been based.

## **4.2 Acknowledgement of the application**

- 4.2.1 TfL staff will acknowledge receipt of each application and carry out an initial review to ensure that the application form is complete and contains the required information. If information or evidence is quite apparently missing, TfL staff will usually contact the applicant and ask them to provide it although it is not the responsibility of TfL staff to compile evidence on the applicant's behalf. As mentioned above, it is the applicant's responsibility to demonstrate their circumstances.
- 4.2.2 It is likely that any estate agent(s) referred to within the application will be contacted and other information provided may also be independently verified.

## **4.3 Consideration of the Application**

- 4.3.1 TfL will establish a panel of three individuals (**the Panel**) who will consider each application received under this Hardship Policy. The majority of members of each Panel will be independent of TfL and London Underground Limited.
- 4.3.2 Following acknowledgement of receipt of an application and any initial enquiries of an applicant as regards missing information or evidence, TfL staff will submit a completed application to the Panel who will consider the application against the 6 Qualifying Criteria set down in this Policy.
- 4.3.3 Where the Panel considers it necessary to do so for the purposes of ascertaining whether an applicant's efforts to sell their property were reasonable, it may arrange for the instruction of two firms of independent professionally qualified valuers to undertake the valuation exercise set out in section 5 of this Policy.
- 4.3.4 Following consideration of an application, the Panel will make a written recommendation to TfL, advising it whether to either accept or refuse the application.



4.3.5 In circumstances where the Panel recommends refusal of an application, it will give written reasons explaining why it does not consider an applicant to satisfy one or more of the 6 Qualifying Criteria set down in this Policy.

4.3.6 The Panel will send its written recommendation to TfL within 28 days from the date of receipt of all necessary information in connection with an application.

#### **4.4. Determination of an Application**

4.4.1 Following receipt of a recommendation from the Panel, TfL will determine the application.

4.4.2 In determining an application made pursuant to this Policy, TfL will have regard to the Panel's recommendation, including any reasons given for it, the terms of this Hardship Policy and the circumstances of the individual application.

4.4.3 TfL shall thereafter give written notification of its decision to an applicant. Where an application has been refused, this will include the reasons for refusal.

#### **4.5 Re-applying under the Hardship Scheme**

4.5.1 Where following an application to TfL pursuant to this Hardship Policy, an applicant receives a letter of rejection it remains open to that applicant to submit a further application. In such cases, however, TfL will normally expect an applicant to demonstrate that there has been a material change in their circumstances or that further information or evidence can be provided relevant to the reasons their earlier application was rejected.

### **5 Offers to Purchase**

5.1 If TfL accepts an application under this Hardship Policy, it will proceed as follows:

5.1.1 If not already undertaken at an earlier stage, two firms of independent professionally qualified valuers will be instructed, both of which will separately determine the market value of the qualifying interest in the property as at the date the application was received by TfL, assuming the absence of the NLE Scheme.

5.1.2 The instruction will be made in the joint names of TfL and the



applicant and the cost of obtaining the valuations will be met by TfL.

- 5.1.3 If the difference between the two independent valuations made under 5.1.1 is equal to or greater than 10% of the amount of the higher of the two valuations, the relevant valuation will be referred to an independent expert to be appointed by the President of the Royal Institution of Chartered Surveyors, whose assessment of value shall be final.
- 5.1.4 An offer to purchase the applicant's property interest will be made at a price which represents the average of the two independent valuations made under 5.1.1) above, or, if applicable, at the valuation made by the independent expert to be appointed by the President of the Royal Institution of Chartered Surveyors under 5.1.3.
- 5.2 Any offer made by TfL shall be subject to proof of an applicant's qualifying interest in the property continuing until the purchase by TfL is concluded.
- 5.3 The offer shall be open for acceptance by an applicant for one calendar month and shall be subject to exchange of contracts within six months.
- 5.4 If the compelling reason for the applicant to sell falls within paragraph 3.5.2 d) above then in addition to the market value of the applicant's qualifying interest, disturbance compensation, a home loss or basic loss payment and an occupier's loss payment, if applicable under the provisions of Part 3 of the Land Compensation Act 1973 (as amended) (which sets out the rules governing a claimant's entitlement to home loss, basic loss and occupier's loss payments) and reasonable surveyors' and legal fees will be payable. In all other cases of hardship payment will only be made for the market value of the applicant's qualifying interest.
- 5.5. An applicant may appeal against the assessment of disturbance or other compensation not based upon the market valuation of property within one month of that assessment by TfL. In the event of such an appeal, the assessment of compensation will be referred to an independent expert in compulsory purchase compensation appointed by the President of the Royal Institution of Chartered Surveyors. The independent expert shall give written reasons for his determination, which shall be final.

## 6 Exceptional Circumstances

- 6.1 Additionally, TfL will exceptionally consider providing assistance in cases of hardship falling outside this Policy on a case by case basis, having



regard to an individual's specific circumstances and the reasons why those circumstances do not otherwise fall within this Hardship Policy.

TfL Ref:
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Transport for London / London Underground Limited

The Northern Line Extension

## APPLICATION FORM

Request for discretionary purchase under the TfL hardship policy

When completing this application form, please provide as much information and evidence as you can. This will help ensure that your application can be considered as quickly as possible. Where information is required and it is not provided, we will contact you and ask you to submit it. When sending supporting documentation, please send originals or copies certified by a solicitor or other appropriately qualified person. This form may be completed by the applicant or by an agent on the applicant's behalf

### 1. APPLICANT DETAILS

Name(s) of applicant(s)	1.
	2.
Address:	
Postcode:	
Telephone No:	
Email address:	

Request for purchase of property at *(if different from above address)*:

Address:	
Postcode:	



**2. QUALIFYING INTEREST**

**2(i) For residential or business owner-occupiers to complete**

I/We acquired a qualifying interest* in this property on the following date:	(date)
I/We own the freehold/leasehold. Date of expiry of lease if leasehold:	(date)

*\* See section 3.1 of the Hardship Policy. Proof of ownership and of residency should be included.*

**(ii) For representatives of a deceased person to complete**

I am/We are the personal representative(s) of the deceased person:	(name)
The deceased, to the best of my/our knowledge, acquired a qualifying interest in this property on the following date:	(date)
The deceased owned the freehold/leasehold interest. Date of expiry of lease if leasehold:	(date)

**(iii) For mortgagees to complete**

I am/We are entitled as mortgagee(s) by virtue of a power which has become exercisable to sell this interest. To the best of my/our knowledge, the person(s) entitled (otherwise than as mortgagee) to this qualifying interest, named below, acquired it on the following date:	
(name of person(s))	(date)



### 3. ENJOYMENT OF THE PROPERTY

**3(i)** It appears to me/us that enjoyment of this property is/will be seriously affected by the proposed construction work of TfL.

**(ii)** The factors which I/we think will cause serious effect are:



*Note: See paragraph 3.4 of the Hardship Policy for some of the factors which may cause serious effect.*

#### 4. EFFORTS TO SELL

*Note: if you have used an estate agent, he/she should be asked to complete section 4 of the form on your behalf.*

**4(i)** I/We have made reasonable efforts to sell this property at a realistic price, but have been unable to do so except at a substantial discount to market value.

I/We attach copies of the relevant press advertisement(s) and/or agent's hand-outs, together with a statement of the prices asked, with relevant dates where these are not given in enclosures.

#### **Details of Marketing**

Dates	How marketed (Estate agent, local paper etc)	Price asked



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I/We also indicate below details of any offers received and attach copies of any documents in which these offers were made.

**Details of offers received**

Dates	By whom made	Price offered

**OPTIONAL**

- (ii) The value of the property is, or is likely to be, diminished because of the proposals. I have listed below the valuation information attached in support of this request.



Dates	Description	Value

*Note: If you have stated in section 3 that you think that the value of the property is or will be seriously affected by the proposed scheme, you may submit and list here, your own valuation evidence with this application.*

**5. COMPELLING REASON TO SELL**

**5(i)** I/We set out below the reasons for needing to sell the property together with why, if I/we are unable to sell, this will result in hardship:



*Note: See paragraph 3.5 of the hardship policy for compelling reasons to sell. Normally hardship will be financial and full details should be included, with references to total assets and liabilities.*

- (ii) I/We expect an existing medical condition, details of which are given below, to be severely aggravated by the physical effects of the construction work of the railway:



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The doctor and/or specialist treating the condition is/are as follows:

Name of Doctor:	
Address:	
Postcode:	
Telephone No:	

Name of Specialist:	
Address:	
Postcode:	
Telephone No:	

I consent to my doctor and/or specialist(s) giving further medical information if requested by or on behalf of the Secretary of State.

Signed.....

*Note: See paragraphs 3.5.2(c) and 3.5.2(d)(i) of the Hardship Policy for scheme-related medical conditions. You should give the basic details of any illness or medical condition, its duration, and the doctor and/or specialist who is treating the*



*condition. You must attach a note from your doctor and/or specialist stating what the medical condition is and the physical factors that are likely to severely aggravate it.*

*Your attention is specifically drawn to the provision in paragraph 3.5.4 relating to deferment until nine months before the start of the construction of the works affecting the property.*

- 6** If you have made any other claims under the policies operated by TfL, or if mitigation works have been, or are due to be, undertaken by TfL for the benefit of your property, please provide full details here:

- 7** I/We certify that to the best of my/out knowledge the information given in this Form is correct. I/We therefore ask you to purchase my/our interest in this property.

**Signed**.....

**Name**.....

(Block Capitals)



**Signed**.....

**Name**.....

(Block Capitals)

**On behalf of:**.....

(Where acting as Agent)

**Date**.....

Please send this form, with all the information requested, to:

Operational Property Manager  
Operational Property  
Commercial Development  
Transport for London  
5<sup>th</sup> Floor  
84 Eccleston Square  
London SW1V 1PX

Please note that in some cases it may be necessary to seek further information from applicants before a decision is made.