



# Decant Policy

## 1.0 Purpose and scope

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This policy sets out Notting Hill Genesis' (NHG) approach to decanting tenants and homeowners.

This policy applies to all tenants, homeowners and licensees who live in properties owned and managed by NHG.

This policy aims to:

- Provide information and clear guidance about when tenants and homeowners may be required to move to enable works to be carried out
- Ensure that tenants and homeowners receive the appropriate payments they are entitled to
- Ensure stakeholders and housing partners are made aware of decisions regarding disposal or major refurbishment of stock where tenants and homeowners need to be decanted.

### Exclusions

The liability for damage for tenants' personal possessions during storage is not covered in this policy. This will rest with the nominated contractor's insurers.

## 2.0 Definitions

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Where this policy refers to 'we' or 'us', this means NHG.

**Resident** – the default term used for any NHG's tenants or leaseholders. When appropriate, this policy will specify whether it applies solely to tenants or homeowners.

**Tenant** – an individual renting out a property where NHG is the landlord or freeholder. For the purpose of this policy we do not consider the tenant of a NHG's leaseholder or freeholder an NHG tenant.

**Homeowner** – an individual who has purchased an equity share (shared owner) or the whole (homeowner) of the property where NHG are the landlord or freeholder.

**Freeholder** – an individual or company which owns the freehold of the building.

**Decant** - when a resident is required to move from their principal home due to an emergency, planned works or because of the demolition or sale of their property.

**Emergency decant** - a move required following an emergency such as a flood or fire.

**Planned decant** – a move required to enable works to be undertaken, with the intention of the tenant or homeowner returning to the property as soon as the works are completed.

**Permanent decant** - when a tenant or homeowner is required to move out of the property with no intention for them to return to the property.

**Remedial work**- refers to planned decants, where we carry out the repair or major improvement works to a property.

**Decant property** - a property temporarily occupied by a tenant on a licence whilst improvements or major repairs are carried out to their normal home which they are unable to occupy.

**Home loss payment** - a statutory sum to compensate tenants and homeowners for the permanent loss of their home if they are forced to move.

**Disturbance payment** – statutory payments given to tenants and homeowners to cover the reasonable expenses of moving home.

### 3.0 General principles

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We aim to carry out improvement works and major repairs whilst the resident remains in their home.

We will decide on a case by case basis whether it is reasonable to ask the resident to remain in their home or be decanted. When making a decision we will:

- Consider residents health, safety and wellbeing, any vulnerabilities and moving arrangements before proceeding with the decant process
- Follow the latest Covid-19 government guidance.

If issues arise around health and safety of either the resident or the contractor and the works cannot be completed with the resident in occupation, we will arrange alternative accommodation.

The wishes and needs of each resident are taken into the consideration. However, the final decision of whether to decant the resident will always remain with NHG.

### 4.0 When a decant can happen

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We may require a tenant or homeowner to move due to redevelopment and regeneration of an area, major works or for emergency reasons.

As a rule, a tenant or homeowner will require a temporary move unless one or more of the following conditions apply:

- The property is to be sold
- The property is to be demolished
- The property is to be enlarged or reduced
- Our solicitors and/or health and safety specialists advise a permanent move is required.

Where we decide to decant, we involve the resident from the outset and keep them informed throughout the decant process. We aim at ensuring that the decant process is managed by the Local Officer. In some instances, e.g. mass decant, this might not be possible, and a dedicated project manager might need to be appointed.

We will inform the resident as soon as they can return to their property and, when dealing with tenants, we will organise the arrangements for their move.

## **5.0 Emergency decants**

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Emergency decants are necessary when an event makes the property uninhabitable. Examples of emergencies include but are not limited to:

- Interruption of vital services to property e.g. water or electricity supply
- Fire
- Major structural issues
- Repairs required to communal areas that would prevent access to the property.

### **5.1 Tenants**

In emergency situations we may require a tenant to move to alternative accommodation.

We will assist tenants where possible but also encourage them to approach their Local Authority to seek assistance and declare themselves homeless.

In circumstances where the move is for a short period of time (up to 10 working days) we may offer the tenant a cash incentive to stay with friends or relatives. If hotel or B&B accommodation is more convenient, we will cover the cost of the alternative accommodation and any agreed reasonable expenses. If a resident has been decanted to emergency accommodation, e.g. hotel, and it transpires that their property will not be liveable for longer than initially expected (10 working days), we will seek to relocate them into one of our void properties for an extended, albeit temporary, period of time.

### **5.2 Homeowners**

When a homeowner or a leaseholder is involved in an emergency decant, the onus is on them to organise their own emergency accommodation. Managers have discretion to reimburse the costs

of emergency accommodation when deemed necessary. Only in exceptional circumstances NHG will pay for emergency accommodation up front or support the process to organise one.

### **5.3 Support for residents**

NHG will support all residents who are decanted in an emergency. Depending on the situation this may include offering specialist support to affected residents by giving them access to NHG's health and wellbeing provider.

## **6.0 Planned decants**

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In the case of a planned move, we seek to decant the tenant or homeowner for the minimum time necessary to carry out the repair or improvement works.

### **6.1 Tenants**

Where we ask a tenant to move temporarily because of planned works they are entitled to one offer of suitable alternative accommodation (see Appendix 1).

Where tenants refuse offers of suitable alternative accommodation and where re-housing by negotiation and voluntary agreement has not been possible, NHG may exercise its legal right to seek possession or obtain an injunction.

### **6.2 Homeowners**

If remedial works are required, we will consult with the homeowner prior to any discussions around possible decanting and strive to seek the most equitable solution. In some cases, we may have a right to decant a homeowner to enable remedial works to be carried out under the terms of their individual lease.

If the homeowner refuses to move, and in doing so prevents us from discharging our repair and maintenance responsibilities (e.g. a homeowner refuse to move and prevents us from carrying out major works to the structure of the building), we will seek legal advice on the way forward.

## **7.0 Permanent decants**

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### **7.1 Tenants**

We may require a tenant to move permanently for any of the reasons stated in section 4.0 of this policy.

Permanent decants will be registered with the relevant Local Authority allocation scheme and awarded the appropriate priority as detailed in the [Allocations and lettings policy](#). Residents will have a set period in which to bid for a suitable property. If they are unsuccessful, we will make an offer of accommodation which must meet the test of suitable alternative accommodation.

Under-occupation may be permitted to the permanent decant property.

The tenant will retain their security of tenure at the permanent decant property.

Tenants who are asked to move on a permanent basis may be entitled to home loss and disturbance payments (see sections 10 to 12).

## **7.2 Homeowners**

Where we are working in partnership with a Local Authority to regenerate a community, and they exercise their powers of compulsory purchase, we agree jointly any responsibility for consulting and compensating homeowners and freeholders who may be affected.

Where a freeholder or a homeowner accepts the valuation for their existing property and the home loss payment, we expect them to make their own arrangements to find suitable accommodation.

NHG's Leaseholder Buy Back Policy sets out the circumstances where NHG will consider buying back a property from a leaseholder and how these decisions will be made.

## **8.0 Offers of alternative accommodation**

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### **8.1 Tenants**

Wherever possible, offers of alternative accommodation will be of the same size as the permanent accommodation.

Where a tenant is under-occupying their home, an offer may be made that is smaller than their existing home, but suitable for the needs of the household.

If the tenant is temporarily moved to a self-contained accommodation, they occupy this property only on a licence to occupy, which they must sign before moving into the property.

In all cases, NHG will make a single offer of suitable alternative accommodation, should this be refused we will consider taking legal action to compel the tenant to move. Throughout the legal action a suitable offer of alternative accommodation will be maintained to the tenant.

In practice, this may mean that a second offer is made to the tenant between their initial rejection and any court date. To minimise void costs, thought will be given as to whether a property should be kept empty as part of the original offer, or whether it is suitable for another tenant. In the case of the latter, a second property will need to be sourced.

## **9.0 Where NHG is not the landlord**

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Where we manage properties on behalf of another landlord, we will notify them of any decant. In those instances, NHG will follow the landlord's own Decant policy. However, if the landlord does not have a Decant policy in place, NHG staff will use the NHG Decants policy for guidance.

## **10.0 Home loss payments**

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### **10.1 Tenants**

Home loss payments are payable under the terms of the Land Compensation Act 1973 and Planning and Compensation Act 1991. The eligibility criteria are detailed in Section 11 below.

The amount of compensation available under a home loss payment is determined by the latest annual update of The Home Loss Payments (Prescribed Amounts) (England) Regulations.

### **10.2 Resident homeowners/freeholders**

In addition to receiving a payment equal to the market value of their home, resident homeowners and freeholders receive a home loss payment of 10% of the market value of their home, between the minimum and maximum standard home loss payment as set out in the latest annual update of The Home Loss Payments (Prescribed Amounts) (England) Regulations.

Homeowners/freeholders who dispute the amount of home loss payment will be referred to the Upper Tribunal (Lands Chamber).

### **10.3 Non-resident homeowners/freeholders**

For non-resident homeowners or freeholders whose home is subject to a compulsory purchase order, compensation is subject to the negotiation process and legal advice.

In exceptional circumstances, we may make discretionary arrangements when deciding whether and how compensation we will pay.

## **11.0 Conditions of entitlement to statutory home loss payments**

### **11.1 Tenants and Homeowners**

In general, the resident will qualify for the statutory payment where:

- They have been in occupation of the dwelling or a substantial part of it, as their only or main residence throughout the period of one year ending with the date of displacement
- The property is their only or principal home
- The displacement is a direct result of the improvement or redevelopment of the property
- The displacement is permanent (or the resident will be moving to a new home)
- The displaced resident has been in occupation by virtue of a legal interest or right - this may include a previous period when the resident resided in the property under another person's tenancy (Tenants only)
- Compensation will only be paid to tenants who are moving at our request and would not have done so otherwise (Tenants only).

When a tenant's home is totally redeveloped (e.g. demolished and rebuilt), it is considered a permanent decant. This principle still applies if they return to the newly built property and the address is the same as previously.

For tenants who meet the conditions of entitlement to home loss but have been in occupation for less than a year, we may make a discretionary home loss payment similar to the current statutory sum. This payment will be made pro-rata, paid in respect of each month or part-month that the

tenant has been in occupation, up to a maximum figure set by the latest annual update of The Home Loss Payments (Prescribed Amounts) (England) Regulations'.

### **11.2 Joint Tenants**

Joint tenants are only entitled to one home loss payment per decant.

### **11.3 Lodgers and Licensees**

Lodgers and licensees do not qualify for home loss payments.

### **11.4 Sub-Tenants**

Sub-tenants do qualify for a home loss payment but if they share any accommodation with the tenant e.g. a kitchen, bathroom or living room, they are entitled only to a share of the home loss payment. If the Sub-tenant occupies a self-contained accommodation within the tenant's house a full home loss payment must be paid to each person.

## **12.0 Disturbance and other payments**

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Disturbance payments are payable under the Land Compensation Act 1973 to tenants permanently displaced from their home to enable redevelopment or improvement work to take place. The payment covers the reasonable expenses incurred in removal. This should leave the resident in no better or worse position than they were prior to the move.

To qualify for a statutory disturbance payment a tenant must have been in lawful possession on the date we acquired the land by agreement.

The amount payable will vary according to the circumstances of each case. It should equal the 'reasonable expenses incurred by the person displaced'. The tenant should be in no better or worse financial position after displacement and is entitled to claim only for actual losses, ensuring that these are mitigated as far as possible. Interest is payable on any amounts the tenant has spent from the day the expense was incurred to the day payment is made.

Tenants should receive a Disturbance Payment in addition to the Home Loss Payment.

Homeowners/Freeholders should receive a Disturbance Payment in addition to both the market value of their home and any Home Loss Payment.

Lodgers or those with a licence to occupy are not entitled to Disturbance Payments.

### **12.1 Other payments**

Where we require a tenant to move permanently and they are not eligible for statutory disturbance payments we will consider a discretionary disturbance payment in line with statutory disturbance payments.

Where we require a tenant to be moved temporarily or in an emergency we will, generally, pay all reasonable expenses agreed in advance. Examples of these additional expenses can be found in the relevant decant procedures.

Where a tenant has been moved temporarily to alternative accommodation, they will be responsible for the payment of council tax for that property. If the council tax is higher than that for their original property NHG will refund the difference to the tenant.

## **13.0 Rent charges and arrears**

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### **13.1 Tenants**

Where we provide alternative accommodation on a temporary basis, the tenant will still be responsible for the rent & service charge for their original (permanent) property. The rent and service charge for the alternative accommodation will be set to zero.

If the tenant makes their own accommodation arrangements, the rental charge on the permanent property will be set to zero.

Where we require the tenant with arrears to move permanently, the statutory home loss payment will be used to offset any outstanding money owed to NHG.

### **13.2 Homeowners**

Where we provide alternative accommodation, the homeowner will still be responsible for the rent and/or service charge for their original (permanent) property. The rent and service charge for the alternative accommodation will be set to zero.

If the tenant makes their own accommodation arrangements, the rental charge on the permanent property will be set to zero.

## **14.0 Right to return**

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### **14.1 Tenants**

In circumstances where a tenant has moved to a new property because their original property is being redeveloped, e.g. demolished and rebuilt, we may offer the right to return. If the tenant has been in the new property for more than 12 months and accepts the right to return to an equivalent property, this second move does not constitute a decant and therefore there is no entitlement to a further home loss payment, unless we compel the tenant to move. We will pay all agreed reasonable expenses for that second move.

## **15.0 Our approach**

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In writing this policy we have carried out assessments to ensure that we are considering:

- Equality, Diversity & Inclusion
- Privacy & Data Protection



We also carry out consultation with our staff, tenants and the wider community. If you'd like more information about this work, please get in touch with the Policy Team at [policy@nhg.org.uk](mailto:policy@nhg.org.uk)

### Document Control

<b>Author</b>	Michael Drozynski, Policy Officer
<b>Approval date</b>	11 <sup>th</sup> August 2021
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### Version Control

<b>Date</b>	<b>Amendment</b>	<b>Version</b>
January 2020	New Policy rolled out	v1.0
July 2020	Minor amendments agreed with ARCO	v1.1
December 2020	Covid-19 related statement added	v1.2
August 2021	Amendments made based on Paragon feedback	v1.3
March 2022	Removed COVID statement	V1.4

## **APPENDIX 1 – SUITABLE ALTERNATIVE ACCOMMODATION GUIDELINES**

### **Secure tenants**

If the resident refuses the offer of accommodation, we may seek possession under Ground 10 or 10A, Schedule 2 of the Housing Act 1985.

The ground is not subject to the requirement that it is reasonable to make an order, but suitable alternative accommodation must be available.

### Suitable alternative accommodation

The requirements are that the accommodation is 'reasonably suitable' taking into account the following:

- The nature of accommodation usually let by the landlord to persons with similar needs to the tenant
- Distance from place of work or education
- Needs and means of the family
- Distance from member of family who receives or provides support
- Terms compared to existing tenancy
- Provision of furniture, if furniture provided under existing tenancy.

### **Assured tenants**

If the resident refuses the offer of accommodation, we may seek possession under Ground 9 or 6, Schedule 2 of the Housing Act 1988.

Ground 9 is a discretionary ground and the court must also be satisfied that it is reasonable to make an order.

An alternative is to use Ground 6 of the Housing Act 1988 where the works involve demolition, reconstruction or other substantial works. This is a mandatory ground and suitable alternative accommodation does not have to be provided, although it is good practice to do so.

### **Suitable alternative accommodation**

The accommodation must be reasonably suitable to the needs of the tenant and their family as regards:

- Proximity to place of work; and *either*
- Similar as regards rental and extent to the accommodation provided in the neighbourhood by the local authority for persons whose needs are, in the opinion of the court, similar to those of the tenant and their family, *or*
- Reasonably suitable to the means of the tenant and to the needs of the tenant and his or her family as regards extent and character, *and*
- Provision of furniture, if furniture provided under existing tenancy.