

PRESERVED RIGHT TO BUY AND RIGHT TO ACQUIRE POLICY

Reference: HSL/RTB&A/EJ/08 Approved: 09/07/08
Revised:

1 Statement of Intent

- 1.1 This policy meets the requirements of the Housing Corporation's Regulatory Codes 3.5 and 3.54, which state that Housing Associations must provide good quality housing services for residents and prospective tenants; by being responsive to the individual characteristics and circumstances of residents.
- 1.2 This policy reflects the Housing Corporation's guidance 3.5a and 3.5e which states that services are shaped around customers' needs, and residents who exercise a purchase right receive timely written information about their property.
- 1.3 Where a property which has been sold is a flat, Housing Solutions Leasehold Management Policy will apply.

2 Aims

- 2.1 Maidenhead and District Housing Association (the Association) will meet its statutory obligations to operate Right to Buy and Right to Acquire schemes in order to assist tenants who wish to own their own home.
- 2.2 Association tenants who were secure tenants of the Royal Borough of Windsor and Maidenhead (RBWM) at the time of transfer (1995) will retain the Right to Buy their homes as long as they meet the scheme's criteria. This is known as the 'Preserved Right to Buy' and is contained in Section 171 of the Housing Act 1985 (amended).
- 2.3 Association tenants who became tenants after stock transfer from the Council will be able to buy their home under the Government's 'Right to Acquire' scheme, as long as the property meets the scheme's criteria.
- 2.4 The Association will not sell any dwelling types where the criteria for exclusion from the Right to Buy / Acquire are met. This includes dwellings built for and let to the elderly, including sheltered accommodation.
- 2.5 The Association will allow family members, including non-married partners,

who are not joint tenants, to share the Right to Buy / Acquire, only if:

- a) the family member is a spouse or civil partner, or;
 - b) has been living at the property with the tenant for at least 12 months prior to making the application to buy.
- 2.6 In implementing this policy, Association staff will have due regard to the requirements of the Customer Care, Equality and Diversity policy and Data Protection policies.
- 2.7 The Association will not complete a sale where a tenant has failed to pay their rent or other charges are due. Solicitors will not be instructed to complete the sale until the debt has been cleared in full. The Association will instruct solicitors to stop the conveyance if arrears accrue following initial instruction where the debt is none payment of rent for more than 4 weeks.
- 2.8 Point 2.7 is in addition to the legal provisions preventing the exercise of the rights to buy by tolerated trespassers and tenants who are subject to bankruptcy action.
- 2.9 The Association will consider requests to waive the requirements to repay discount on disposals following Right to Buy / Acquire purchases that completed after 18 January 2005 – see Appendix A.
- 2.10 The Association will require that owners of properties purchased under the Right to Buy / Acquire offer the Association the right of first refusal to buy the property back if they plan to dispose of it. This applies to properties where the Right to Buy / Acquire application was made after 18 January 2005. (Section 188 Housing Act 2004).
- 2.11 The Association will issue demolition notices to prevent the Right to Buy / Acquire purchase of properties scheduled for demolition, when and where it is appropriate to do so. (Section 182 and 183 Housing Act 2004).
- 2.12 The Association reserves the right to apply to Court for a suspension order where there is evidence of anti-social behavior and if granted suspend the Right to Buy / Acquire. The Association also reserves the right not to complete a sale where an application to Court for a Demotion Order, Possession Order on anti-social grounds, or Suspension Order has been made. (Section 192 - 193 Housing Act 2004).
- 2.13 On request, the Association will provide written information to all tenants, intended to help individuals decide whether to exercise the Right to Buy / Acquire. The information will be updated as required. (Section 189 Housing Act 2004).

3 Implementation

- 3.1 The Association will keep within the designated timescales of the Right To Buy scheme and operate its Right to Buy and Right to Acquire Policy in accordance with legislative requirements.

- 3.2 The Association will advise applicants whether they meet the qualifying criteria to apply for the Right to Buy or Right to Acquire, and provide published information and the relevant application forms for applicants to complete within 3 working days.
- 3.3 The Association will conduct the necessary enquiries in accordance with its Data Protection Policy to establish the applicants' status and qualification for either of the two schemes before determining the outcome of the application.
- 3.4 The Association will inform all applicants in writing within agreed timescales whether or not their application has been accepted, and if so the price for the property.
- 3.5 The Association will operate its Right to Buy and Right to Acquire schemes in accordance with the Government's Cost Floor Rules.

3.6 **Former Council Tenants**

3.6.1 The Preserved Right to Buy

Former Council tenants will retain the Right to Buy as the Preserved Right to Buy;

- as long as the tenant occupies their home as their only or principal home; and
- the tenant would have had the Right to Buy if their landlord was the Council;

and one of the following statements also applies to the tenant;

- the tenant was a secure/introductory tenant of the Council at the time of transfer to the Association; or
- the tenancy was transferred by the previous tenant by assignment or under the will or intestacy of a secure tenant, and to a member of the family; or
- the tenant became a tenant by a court order made under the Matrimonial Causes Act 1973.

- 3.6.2 A person who is entitled to the Preserved Right to Buy will be entitled to a discount on the price of the property in accordance with Right to Buy legislation.
- 3.6.3 A tenant who is entitled to the Preserved Right to Buy will be able to exercise that right not only in relation to the property which he or she currently occupies, but also in relation to any property of the Association to which he or she subsequently transfers, providing that there is no gap in tenancies.

3.7 **Tenancy commenced after transfer**

- 3.7.1 Association tenants whose tenancy commenced after transfer will be entitled to the Right to Acquire where;

- the tenancy started before 18 January 2005; and
- they have been a tenant for over two years.

Or

The tenancy started after 18 January 2005; and

- they have been a tenant for over five years with either the Council and / or the Association.

3.7.2 A person who is entitled to the Right to Acquire will be entitled to a standard rate discount on the property, which is determined by legislation. A tenant who is entitled to the Right to Acquire will be able to exercise that right not only in relation to the property which he or she currently occupies, but also in relation to any property of the Association to which he or she subsequently moves, as long as the property qualifies.

3.7.3 The Association notes the option available under the Right to Acquire to offer tenants a choice of buying either their home or an alternative vacant property.

4 Transfer Agreement

4.1 The Association will implement the arrangements of the Transfer Agreement in relation to properties acquired from the Council and subsequently sold to sitting tenants.

5 Responsibility

5.1 The Leasehold Manager is responsible for the implementation of this Policy.

6 Equal Opportunities

6.1 Housing Solutions Group is committed to a policy of fair and equal treatment for all its members, tenants, employees and applicants, regardless of religion, sexual orientation, age, class, racial origin, sex, disability or marital status as determined in the Equality & Diversity Strategy.

7 Review

7.1 This policy will be reviewed on a three yearly basis or in response to changes in legislation, regulatory guidance, good practice or changes in other relevant Housing Solutions Group policy

APPENDIX A – DISCRETIONARY POWERS ON REPAYMENT OF DISCOUNT

Deciding requests

Decisions to be approved by the Group Financial Director.

When determining whether to waive discount repayment in full or part:

- each request will be considered on its individual merits;
- waiving or reducing discount repayment should only be considered in exceptional circumstances;
- decisions will be made within ten working days of all the required information being received. Decisions will be confirmed in writing;
- owners who are dissatisfied with the outcome of their request will be able to appeal through the Association's complaints procedure.