

# Policy

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A policy should be a short statement which describes in general terms or objectives what a service area's principles and key objectives are on a particular subject and should be no longer than a 2 pages in length. The aim of the policy is to give practical effect of the strategy it supports.

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## **Introduction**

The publication of Department of Communities and Local Government (DCLG)'s Five Year Action Plan in "Sustainable Communities: Building for the Future" in 2003 attempted to lay the foundations for "a wide range of measures to extend the opportunities for homeownership".

The current regulator for the housing sector – the Tenants Services Authority (TSA) – is looking to introduce its own National Standards from April 2010, which will be used as one of the main tools to regulate the sector. In the meantime, the TSA expect housing associations to continue to comply with the former regulator's – the Housing Corporation's - Regulatory Code and Guidance. This contains a regulatory requirement that housing associations have a sales policy.

This policy has been developed partly in response to the Government's expectations and to meet the statutory and regulatory requirements.

## **Aims / Objectives**

The aims of the Trust's Sales Policy as it relates to the (Preserved) Right to Buy and the Right to Acquire are:

- To ensure that statutory deadlines are met when processing sales
- To ensure that prospective purchasers are directed to impartial advice about homeownership responsibilities
- To provide guidance in circumstances where an alternative property might be offered to a tenant exercising the Right to Acquire.

## **Scope**

The Trust accepts that there are a number of different models of homeownership. This policy is primarily intended to cover house sales and how requests made under the (Preserved) Right to Buy and Right to Acquire are processed.

Policy requirements relating to leaseholders are dealt with by under separate Leasehold Management and Leasehold Consultation Policies.

## **Policy Statement**

The Trust will aim to provide a high quality service to all its customers making applications under this policy.

The Trust will also ensure that it acts legally, fairly and consistently to ensure that the interests of its customers are protected.

The Trust will comply as required with the requirements of housing legislation that relate to sales and applications made under the various right to purchase schemes – i.e. (Preserved) Right to Buy and Right to Acquire.

In dealing with any application that could result in the Trust selling property under any of the Low Cost Home Ownership (LCHO) and Right to Buy schemes, the Trust will ensure that it complies with the requirements of legislation enacted to protect consumers in the property market generally. Specifically:

- Consumer Credit Act 1974
- Estate Agents Act 1979
- Financial Services Act 1986
- Property Misdescriptions Act 1991
- Unfair Terms in Contracts Regulations 1999
- Housing Act 2004 - Home information Packs
- Consumer Credit Act 2006

Where necessary, the Trust will have due regard to the TSA's central source for guidance on HomeBuy, shared ownership, key worker schemes and Right to Acquire for landlords, when implementing this policy. This will include the Capital Funding Guide which will provides guidance to housing associations on running such schemes.

A separate procedure guide has been developed for dealing with applications made under the Right to Buy.

## **Responsibility**

The Director of Customer Services will have overall responsibility for the effective implementation of this policy.

Responsibility for the day to day implementation of dealing with applications received under the (Preserved) Right to Buy and Right to Acquire will rest with the Commercial Services Manager.

## **Service Standards**

When dealing with and processing any (Preserved) Right to Buy and Right to Acquire requests, the Trust will ensure that the statutory timescales laid down in the respective regulations are adhered to. This includes:

- The Trust will accept or deny the customer's application to purchase in 4 weeks, or 8 weeks if some of the qualifying period involves other tenancies.
- After accepting the customer's notice the Trust will provide an offer notice (S125) within 12 weeks for freehold or leasehold sales.
- The customer will have 12 weeks to accept the offer or withdraw from the sale, and this notice must be in writing
- If the customer does not respond at the end of this period the Trust will give the customer written notice of at least 28 days before withdrawing the application.

## **Performance Measures / Monitoring**

Levels of house sales, both current and projected, will be monitored by the Trust for the reasons stated in the Business Impact section below.

## **Consultation arrangements**

It has not been felt necessary to consult formally on the development of this policy as the sales process is entirely covered by statutory regulations. However previous RTB customers and those currently going through the process will be consulted as the Trust reviews and develops its procedures in support of this policy.

## **Benchmark Analysis**

The Trust's performance in this area will be compared with other housing associations in its peer group particularly as part of any review.

## **Regulatory and/or Legal Compliance**

The current regulatory requirement states that housing association's Sales Policies should be "flexible, non-discriminatory and responsive to demand, while contributing to the need to be inclusive and the need to ensure sustainable communities."

The legislative framework within which the Trust's Sales Policy operates is as follows:

### 1) The Right to Buy

The 1980 Housing Act gave secure tenants of specific landlords the right to purchase their home at a price discounted in proportion to their length of residence as a public sector tenant - the Right to Buy. The provisions relating to the Right to Buy are now found in Part V of the Housing Act 1985, as amended by the Housing Act 2004.

There are a number of statutory instruments that set out designated rural areas where the Right to Buy rural condition applies.

### 2) The Preserved Right to Buy

The Preserved Right to Buy originates in Sections 171A-H of the Housing Act 1985, which defines circumstances in which the Right to Buy for secure tenants is preserved when there is a transfer of ownership to another landlord. To be eligible for the Preserved Right to Buy the conditions for a Right to Buy must have been met prior to the transfer. Its operation is currently governed by:

- Part V of the Housing Act 1985 as amended by the Housing Act 2004
- The Housing (Preservation of the Right to Buy) Regulations 1993
- The Housing (Preservation of the Right to Buy) Regulations 1999.

### 3) *The Right to Acquire*

The Right to Acquire was introduced in Sections 16 and 17 of the Housing Act 1996 to extend homeownership options to the tenants of housing associations whose homes have been developed with Social Housing Grant provided under the Housing Act 1996 (or from the disposal proceeds fund), or transferred from a local authority after 1 April 1997. Its operation is currently governed by:

- Part V of the Housing Act 1985
- The Housing (Right to Acquire) Regulations 1997 (SI 1997/619)
- Statutory instruments that set the fixed discount; this changes from time to time. The current discount orders for England is found within the Housing (Right to Acquire) (Discount) Order 2002 (SI 2002/1091)
- There are a number of statutory instruments that set out designated rural areas where the Right to Acquire cannot be exercised
- Housing Act 2004 (sections 180-189).

## **KLOEs affected**

The Audit Commission have produced a Specialist Function KLOE which links to this policy entitled "Management of Right to Buy, Right to Acquire and Home Ownership Services. This KLOE is relevant to:

- statutory Right to Buy for local authority tenants and the secure tenants of non-charitable housing associations;
- preserved Right to Buy for assured tenants transferred from local authorities to housing associations;
- Right to Acquire for homes purchased or developed with Social Housing Grant after 1 April 1997;
- homes purchased or developed for sale by housing associations with public subsidy.

This policy looks to ensure that the Trust meets the expectations set out within this KLOE.

## **Equality and Diversity Considerations**

By the effective implementation of this policy the Trust is providing more choice for those customers who wish to access different types of tenure. The Trust will ensure that this policy will be applied equitably and fairly to all of its customers.

As part of the Commercial Services Review carried out in Summer/Autumn 2009, an Equality Impact Assessment (EIA) for this policy was carried out. Any changes required to be made to the policy following the assessment have been incorporated accordingly.

The EIA concluded that the policy is not directly or indirectly discriminatory, primarily because the sales process is driven by statute.

## **Links to Strategies, Procedures and Associated Documents**

There are links from this policy to:

- Finance Strategy
- Financial Inclusion Strategy
- Treasury Management Strategy
- Property Buy Back Policy
- Leasehold Management Policy
- Leasehold Consultation Policy
- Procedure Guide for Applications under Right to Buy

## **Business Impact**

Levels of house sales, both current and projected, will be monitored by the Trust.

The Trust will normally arrange for external consultants to carry out an Annual Revaluation of its stock as part of its Business Planning process. Account will need to be taken of current and projected levels of house sales, as these can have implications on current and future levels of capital receipts received and on rent streams, which in turn will need to be factored into the Trust's Business Plan accordingly.

## **Self Assessment Compliance Statement (SACS) Considerations**

It is not envisaged that this policy will have any impact on the SACs document or that any changes/amendments will be required.