



## **Right to Buy Policy**

Housing, Communities and Economic Development

## POLICY MANAGEMENT

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# Right To Buy Policy

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# Right to Buy Policy

## 1.0 Introduction

- 1.1 This Policy sets out Nuneaton and Bedworth Borough Councils procedures in processing right to buy applications.
- 2.1 The Policy will ensure that processing of all RTB1 (Right to Buy) applications is undertaken in accordance to meet with the relevant legislation and regulations requirements.

## 2.0 Purpose

- 2.1 The purpose of this Policy is to ensure that all applications received are processed accurately, fairly and response communications are issued in accordance with the Government lead response timeframes, legislation and eligibility criteria.

## 3.0 Legislation & Regulations

- 3.1 Nuneaton and Bedworth Borough Council operates the Right to Buy scheme for its secure tenants in accordance with regulations and time limits set out in the relevant Government legislation and regulations:

- Housing Act 1980 (Amended 1985).
- Housing Act (1988, 1996, 2004).
- Housing (Right to Acquire) Regulations 1997.
- The Housing (Right to Buy) (Cost Floor) (England) Determination (1998).
- The Housing (Preservation of the Right to Buy) Amendment) Regulations (1999).
- Housing and Regeneration Act 2008.
- The Government Housing Strategy for England (Laying the foundations 2011).
- Housing (Right to Buy) (Limit on Discount) (England) Order 2012.
- The Equality Act 2010
- Ministry of Housing, Communities & Local Government - Right to Buy a guide for local authorities

## **4.0 Operational Principles**

4.1 Nuneaton and Bedworth Borough Council will ensure it follows the principles listed below, to assist in the effective delivery of the scheme:

- Commitment to provide an efficient and effective service in processing Right to Buy applications, adhering to the relevant response timeframes.
- Seek to provide such information and assistance as is necessary, to ensure that tenants exercising and or their family members sharing their Right to Buy, fully understand the process of the scheme.
- Applicants will kept informed of the progress of their application at all times to meet with the Government published key response timeframes.
- Full and accurate records of the processing of all Right to Buy applications will be maintained in order that compliance with the relevant legislation can be clearly demonstrated.
- This Policy sets out the Council's approach to its discretion to allow persons who meet the requirements or a relevant family member, but who are not resident at the property for the full 12 months prior to applying, to join in a Right to Buy application.
- Assist to reduce the incidences of tenants making hasty decisions to buy their property. It is therefore intended to safeguard the interests of potentially vulnerable tenants.
- Will provide tenants with clear and easily understood communications in progression to their application.
- Will provide essential financial information to tenants who intend to purchase a leasehold property, ensuring they fully understand the financial implication and the changes from a tenancy agreement to that of a lease agreement. These include for example, service charge implications for annual service charge and Section 20 major works.

## **5.0 Council Responsibilities**

5.1 Nuneaton and Bedworth Borough Council legal services will act on behalf of the Council in the processing of Right to Buy sales once the tenant accepts their Section 125 offer.

5.2 Nuneaton and Bedworth Borough Council will appoint and pay for a Royal Institute of Chartered Surveyors (RICS) accredited surveyor to undertake the initial right to buy property valuation.

5.3 The Council will provide a limited repair service when a tenant submits a right to buy application. The Council will ensure it maintains the heating, water and sanitation

services at the property, along with keeping the main dwelling water tight whilst the tenant has made their application to purchase.

- 5.4 The Council will obtain a signed authority to disclose form from the applicants and, will progress with enquiries to seek confirmation of any previous tenancy history with a view to include any eligible years within the overall discount entitlement. Ultimately it is the tenant's responsibility to provide such evidence in relation to all historic tenancies held, in the event that the Councils enquiries do not provide a conclusive outcome. The Council will then review any supporting evidence on a case by case basis.
- 5.5 The Council will issue the right to buy offer notice based on the confirmed total number of eligible years discount, applying the principle that only complete years of tenancy can be used. However, we will add together partial years from different tenancies to make up a complete year where applicable.

## **6.0 Tenant Responsibilities**

- 6.1 Tenants must appoint and pay for their own Solicitor or a Licensed Conveyancer to undertake their legal conveyancing necessary to assist with their purchase
- 6.2 It is the tenant's responsibility to seek and pay for any specialist advice including arranging independent surveys which may be required to assist in the purchase of their home.
- 6.3 Tenants will be required to provide evidence/proof of previous tenancies held, which the Council can consider in their overall discount entitlement.
- 6.4 It is the responsibility of the tenant to appreciate the different types of property tenures - freehold and leasehold - and fully consider the effects of the lease or deed covenants.
- 6.5 If the property is sold as Leasehold, then service charges will apply. It is the responsibility of the tenant to enquire and understand the future cost implications of annual and major works service charges.
- 6.6 Where a property is deemed as non-traditional construction type, it is the tenant's responsibility before the sale takes place, to consider the purchase regarding mortgage availability and the future resale conditions of the property.

## **7.0 Performance Standards**

- 7.1 The performance standards that Nuneaton and Bedworth Borough Council aims to achieve in relation to processing Right to Buy applications are as follows. The following letters are issued by the Housing Team as part of the initial application processes:
- Issue the RTB2 form (notifying tenants whether their application has been accepted, denied or partly denied) within 4 weeks of receiving the RTB1 form, eight weeks if the three-year qualifying period needs to be confirmed by another Public Sector Landlord.
  - Issue offer notices within 8 weeks of issuing form RTB2 for a house, 12 weeks for a flat or maisonette.

- Submit a counter notice within 4 weeks of receipt of form RTB6 (from tenant giving initial notice of delay) explaining the reasons for the delay.
- If no reply has been received to the Section 125 offer letter after 12 weeks following issue, then a reminder will be sent to the tenant(s) by Nuneaton and Bedworth Borough Council giving a final 28 days to respond.
- If there is no response upon expiry of the 28 day notice letter period the application will be cancelled and a final letter sent to the tenant(s) confirming that their right to buy application has been withdrawn.

7.2 When the tenant(s) have accepted their Section 125 notice and the hard copy right to buy file has been handed over to the Council's legal services team for purchase, the following letters are issued by the Council's Legal Services team when they have no contact from the tenant(s) or their appointed legal representative:

- Where 16 weeks have elapsed from the original date of Section 125 offer letter, a notice letter will be issued to the applicant(s) providing a period of 56 days for them to make contact and complete the Right to Buy purchase.
- If there is no reply received from this 16 week letter, then a final notice letter will be sent giving a final 56 days to make contact, after which, the offer will be withdrawn.
- In extenuating circumstances, an additional period of 28 days may be allowed at any stage of the above process.

## **8.0 Regeneration**

8.1 Nuneaton and Bedworth Borough Council reserves the right to serve Demolition Notices under the Housing Act 2004, upon properties in specified neighbourhoods as part of any regeneration programme. Once an initial Demolition Notice has been served, Nuneaton and Bedworth Borough Council (as the Landlord) has the power to suspend any Right to Buy application before the sale is completed for a period of up to 5 years.

8.2 If a final Demolition Notice is served during the 5-year period, the right to buy is no longer available to any tenant of that property and any suspended Right to Buy applications in respect of that property will not be completed. The individual retains the right to apply to buy any other property belonging to Nuneaton and Bedworth Borough Council that they may subsequently occupy, so long as all other legislative criteria are met.

## **9.0 Repurchase of Properties**

9.1 Leases and Deeds consider a buy back first refusal offer covenants, in accordance with Section 188 of the Housing Act 2004. Any individual's request to buy-back a property

previously sold under Right to Buy will be dealt with and considered on a case-by-case basis.

## **10.0 Discount Waiver**

10.1 In some scenarios, property sales may be exempt from the repayment of the discount, depending upon the circumstances surrounding the sale. An individual's request to waive the discount will be reviewed and considered on a case-by-case basis at the discretion of the Director of Housing, Communities & Economic Development on behalf of Nuneaton and Bedworth Borough Council.

## **11.0 Legislation and Family Members**

11.1 The Right to Buy is protected by the Housing Act 1985. The legislation provides landlords with the discretion to allow persons who meet the requirements, or a relevant family member but who are not resident at the property for the full 12 months prior to applying, to join in a Right to Buy application.

11.2 Section 123 of the Act allows a tenant to include not more than three family members who are not joint tenants but who occupy the dwelling house as their only or principal home to share the Right to Buy.

11.3 Where the member of the tenant's family shares the Right to Buy with the tenant, the right belongs to the tenant and those members jointly and, they shall be treated as joint tenants in the conveyance. This means all the names will appear on all of the conveyancing documents.

11.4 In order for a family member to exercise their right to join in the Right to Buy, they must satisfy all three of the following requirements:

They must be a family member as defined by the Act in section 113 1) (a) who are specified as:

1. The spouse or civil partner of the tenant; or the tenant and that person live together as if they were husband and wife or civil partners, or The tenant's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece. The Act also specifies further at section 113 1) (b) how step relationships and relationships of half-blood or marriage are to be treated.
2. All family members should live at the property as their only or principal home.
3. All family members need to have been living at the property for 12 months immediately preceding the application, except in the case of spouses or civil partners where the 12 month residential requirement does not apply

All the above will require documentation and supporting evidence before an application can be processed and proceed. Failure to provide documentation will result in the family member denied to be part of the application



- 11.5 Nuneaton and Bedworth Borough Council could at its discretion allow persons who meet the requirement of a relevant family member, but who are not resident at the property for the full 12 months prior to application, to join in the right to buy application. Such requests would be reviewed by both the Senior Asset Management Officer and the Landlord Services Manager.
- 11.6 The Right to Buy cannot be exercised by the tenant or family members if they are subject to a pending bankruptcy petition, they have been made a bankrupt, they have a composition or arrangement with creditors outstanding, or they are subject to a debt relief order.
- 11.7 To promote responsible home ownership, the policy of Nuneaton and Bedworth Borough Council is that it will not normally exercise its discretion to allow persons who have been resident at the tenant's property for less than 12 months to share the tenant's Right to Buy. We will therefore not normally consent to applications to share the Right to Buy unless this condition is met. Evidence must be produced to clarify residency.

## **12.0 Eligible Discount**

- 12.1 Nuneaton and Bedworth Borough Council will also consider previously held tenancies that have been confirmed and evidenced, relating to other Local Authorities, Armed Forces Accommodation and eligible Housing Associations, when calculating a tenants overall eligible discount entitlement.
- 12.2 The discount applicable is determined by central Government Legislation and may change from time to time. Currently, a tenant exercising their Right to Buy will require a minimum of three years tenancy. The discount available for 3, 4 and 5 years tenancy is 35% for a house or bungalow or 50% for a flat or maisonette.
- 12.3 House sale tenants will be eligible for an additional 1% discount for each extra year they have lived in the property. This will be up to a maximum of 70%. Nuneaton and Bedworth Borough Council will also apply the relevant capped cash sum maximum as per regulations.
- 12.4 If the property is a flat, the tenant will be eligible for an additional 2% discount for each extra year they have lived in the property. This will be up to a maximum of 70%. Nuneaton and Bedworth Borough Council will also apply the relevant capped cash sum maximum as per regulations.
- 12.5 If a property is sold within five years of the date of purchase, some or the entire discount must be repaid back to Nuneaton and Bedworth Borough Council, as per legislation. The calculation for the repayment takes into account any change in the valuation of the property since it was purchased, together with the length of time since the property was purchased. The actual amount to be repaid will reduce by one-fifth for each of the five years remaining are required by current legislation as follows:
- In the first year: the entire discount - 100%
  - In the second year: four-fifths - 80%

- In the third year: three-fifths - 60%
- In the fourth year: two-fifths - 40%
- In the fifth year: one-fifth -20%

### **13.0 Alterations to the Property before Purchase.**

13.1 Where alterations to the Property have been carried out without Council permission (refer to the Tenant Alteration Policy and Tenancy Agreement), the Council will aim to provide any necessary retrospective permissions to comply with the covenants noted with the deed/lease documents

### **16.0 Escalation to the Valuation Agency Office**

14.1 Should a tenant wish to escalate a dispute or challenge following receipt of their Section 125 offer, they will need to place this request in writing. Nuneaton and Bedworth Borough Council will then escalate this request onto the Valuation Agency Office who will progress with their dispute.

14.2 Nuneaton and Bedworth Borough Council will ensure they supply all requested documents to the Valuation Office to assist them with the redetermination of the property valuation.

14.3 Following receipt of the outcome decision from the Valuation Agency Office, Nuneaton and Bedworth Borough Council will then reissue the tenants S125 Notice in accordance to the valuation figure supplied. The tenant will then have a further 12 weeks from the date of their reissued offer to decide if they wish to purchase.

### **15.0 Equality and Diversity**

15.1 This Policy applies to all tenant(s) who are considering exercising their Right to Buy for their home with or without family members sharing. Nuneaton and Bedworth Borough Council is committed to promoting equality of opportunity and to eliminating unlawful discrimination on the grounds of race, age, disability, gender, sexual orientation, religion, belief, class, financial status and any other difference that can lead to discrimination or unfair treatment fully considering the principles of the Equality Act 2010.

### **16.0 Review and Monitoring**

16.1 This policy will be reviewed every 3 years or upon notification of legislative changes sooner if required.