



RIGHT TO BUY POLICY

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The Scottish Housing Regulator Performance Standard AS 5.1

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1. INTRODUCTION

- 1.1 The following document details how the Right to Buy (RTB) will apply in Scotland after the introduction of the changes contained in the Housing (Scotland) Act 2001 and how RTB applications will be assessed and progressed by Cordale Housing Association for our rented stock.
- 1.2 In producing this policy the Association has taken into account The Scottish Housing Regulator Performance Standards and Assessment Criteria for Social Landlords (**AS 5.1**): - *'We sell houses fairly and efficiently through the Right to Buy Scheme. We follow the terms of the tenancy agreement and relevant legislation.'*
- 1.3 Cordale will follow the guidance given in SFHA's Right to Buy Manual (revised April 2005) and the legal requirements of the Housing (Scotland) Act 2001.

2. EQUAL OPPORTUNITIES

- 2.1 In line with the Association's commitment to equal opportunities, this policy can be made available free of charge in a variety of formats, including large print, translated into another language or on audio tape.

3. ELIGIBILITY FOR THE RIGHT TO BUY

- 3.1 Section 61 of the 1987 Act modified by the 2001 Act specifies that to be eligible for the RTB, tenants must have a Scottish Secure Tenancy Agreement.

4. CALCULATION OF DISCOUNT

- 4.1 For modernised RTB (tenancies which commenced from or with no right to buy prior to 30th September 2002) there is no distinction in discount between houses and flats. There is a minimum discount of 20% following the 5-year qualifying period, which increases by 1% for every year of occupation of a relevant house to a maximum of 35% of the market value or £15000 which is the lower.

- 4.2 Tenants who had a RTB entitlement before the introduction of the SST will continue to have their discounts calculated in line with the pre 2001 Act provisions for as long as they remain in their tenancies. Internal transfer tenants after 30th September 2002 will lose their preserved RTB and convert to modernised RTB.
- 4.3 Tenants (who have the PRTB – tenancy at 30th September 2002) and who live in houses will be eligible for discount of 32% of the market value of the house after 2 years tenancy increased by 1% per annum to a maximum of 60% after 30 year tenancy.
- 4.4 For those tenants living in flats (with PRTB) discount starts at 44% of the market value of the house increasing by 2% per annum to a maximum of 70% after 15 years tenancy.

5. COST FLOOR RULES

- 5.1 If the property has been built or modernised over the last 10 years, and incurred capital and repair costs that exceed £5000 this may affect (increase) the purchase price of the property. (Note that only that portion of repair costs which is greater than £5500 will count). Where the amount incurred on the building or improving the property is greater than its market value, the Association must sell the property at that market value.
- 5.2 To calculate the ten-year period, the starting date is the beginning of the financial year which was current ten years before the application to buy was served.

6. RECOVERY OF DISCOUNT

- 6.1 Where a discount is to be given on the purchase price, the formal offer to sell will be conditional on the purchaser granting a standard security in favour of the landlord, obliging the purchaser to meet repayment or proportional repayment of the discount amount in the event of a resale taking place within 3 years from the date of service of a notice of acceptance by the purchaser.

6.2 Claw back of discount will apply as follows.

If property sold within 1st year 100% of discount must be repaid.

If property sold within 2nd year 66% of discount must be repaid.

If property sold within 3rd year 33% of discount must be repaid.

6.3 In calculating relevant period the date of service by the tenant of a notice accepting the offer to sell will be the date from which the recovery period is determined.

E.g. Tenant accepts formal offer to sell on 1st December 2000 and settlement concluded on 1st February 2001. For discount recovery purposes the relevant period would be 1st December 2000 – 30th November 2003.

6.4 Claw back would not apply in the event of a house sale made by the executor of a deceased owner. E.g. where property sold as part of the winding up of an estate.

7. LIMITATIONS ON THE RIGHT TO BUY

7.1 There are a number of specific limitations which apply in respect of RTB which include:

- A limitation on the RTB from RSL's known as the 10-year exemption.
- Limitation on RTB for tenants with arrears of rent or council tax.
- A limitation on RTB for tenants subject to a recovery of possession on conduct grounds.

8. 10 YEAR EXEMPTION

8.1 Section 44 of the Act has the effect of delaying the extension of the RTB to certain tenants for a period of up to 10 years from the date when the new SST and RTB provisions were introduced.

During this 10-year period, tenants affected by this exemption will be able to count time in this tenancy towards the qualifying period and discount entitlement but will not be able to exercise their RTB as long as they remain in the house in question.

8.2 There are exceptions to the 10-year exemption rule: -

- Tenancies of houses built by RSL's after the introduction of the SST except for those cases where offer of Grant was made before the introduction of the SST agreement. Such houses would in any event be subject to the cost floor rules.
- Tenants who already had a preserved right to buy are also exempt.

9. ARREARS OF RENT AND COUNCIL TAX

- 9.1 The new Act contains provisions, which entitles landlords to refuse a RTB application where certain charges are in arrears and requires applicants to produce a certificate from the local authority demonstrating that they have no council tax, water or sewerage arrears.
- 9.2 Local authorities have a statutory requirement to provide on request a certificate giving confirmation that no council tax arrears exist and must issue this free of charge within 21 days of receiving any such request.
- 9.3 Refusal to sell can only be on the basis of arrears of council tax at the time of application and not if arrears arise subsequent of this.
- 9.4 Applications to purchase will be refused where rent arrears or arrears of council tax exist at the time of application.
- 9.5 Refusal to sell can only be made on the grounds of relevant outstanding rent arrears at the time of application and not if arrears arise subsequent to this.

10. TENANTS SUBJECT TO RECOVERY OF POSSESSION ON CONDUCT GROUNDS

- 10.1 Tenants do not have the Right to Buy while there are certain ongoing proceedings for recovery of possession. Applications to purchase through RTB will not be accepted if they are received after the landlord has commenced recovery of possession on any conduct grounds set out in paragraphs 1 – 7 of schedule 2 of the 2001 Act.
- 10.2 While repossession proceedings are ongoing the application will remain suspended and only reconsidered once the recovery of possession is finally determined. Proceedings will only be finally determined when either:
- The relevant notice has been withdrawn by the Association or expired in line with section 14(5) of the 2001 Act: or
 - The court has made a decision on the landlord's request and any appeals have been considered and dealt with.

11. OTHER GROUNDS FOR REFUSAL

- 11.1 The Association may also seek appropriate authority to refuse the application where: -
- The property has been specifically designed or adapted
 - The property is scheduled to be demolished
- 11.2 Where the right to buy application of a tenant has been refused the tenant may appeal to the Land Tribunal of Scotland.

12. REPAIRS

- 12.1 When an application for right to buy is submitted by a tenant, the right to buy process has begun. The Association at this stage has a minimum statutory obligation to keep the property wind and watertight.
- 12.2 Tenants who submit their right to buy application will be advised that repairs, other than those which are required to meet the statutory obligation, may not be carried out.

13. RISK MANAGEMENT

13.1 It is important that the Association identifies correctly those tenants with the preserved right to buy. This was done before signing up tenants to the new Scottish Secure Tenancy. The risks of getting this wrong would be unlawfully selling a house to a non-qualifying tenant or unlawfully denying a qualifying tenant the right to buy. These risks are mitigated by following the right to buy procedure which outlines rules for checking tenancy history with the Association and previous tenancies.

13.2 Other risks include: -

- Awarding the wrong discount to the tenant
- Failing to check for council tax/rent arrears/rechargeable repair costs
- Failure to properly identify where the cost floor rule applies

13.3 Again these risks are addressed by carefully following procedure and updating the procedure regularly in the light of new legislation and guidelines.

14. COMMITTEE REPORTING

14.1 The Depute Director will report on right to buy sales on a quarterly basis to the Housing Management & Maintenance Sub Committee detailing income from RTB sales, number of sales and time taken to complete sales.

15. COMPLAINTS

Cordale Housing Association aims to provide a first class service in all aspects of our service delivery. Despite our best efforts, errors and therefore, complaints are inevitable. If a tenant feels we have let them down, the complaints system serves as a safety valve for them to tell us about it and try to put it right.

The complaints procedure also gives us the chance to keep an eye on the quality of services we provide. Its key aim is to:

- Provide an easy and straightforward framework for service users to obtain information and record a complaint.

- Keep people informed about how their complaint is progressing.
- Provide a means to redress the complaint whenever possible.
- Improve service delivery by learning from and acting upon information obtained.

With tenant's help we can identify problems, resolve them quickly and prevent them from happening again.

Copies of the Complaints Policy & Procedure are available on request from the office.

16. INFORMATION AND CONSULTATION

16.1 The Right to Buy Policy will be available free to anyone who requests a copy. An information leaflet detailing the process will also be made available to tenants when enquiring about the RTB process. Information is also given to tenants via appropriate Scottish executive booklets, staff meeting with tenants, the website and newsletters.

16.2 Feedback will be asked for on the right to buy process through customer satisfaction surveys once an application has been concluded.

17. REVIEW OF RIGHT TO BUY POLICY

17.1 The Association will review its Allocation Policy every 3 years. The policy may be reviewed earlier subject to legislative, regulatory or best practice requirements.