



Right to Buy Policy

1. Introduction

- 1.1 This policy outlines the way in which Medway Council (the Council) Landlord services will control and manage Right to Buy (RTB) applications in line with the latest legislation governing this process.

2. Purpose

- 2.1 The specific objectives of the Right to Buy (RTB) Policy are to ensure that Housing Services:
 - 2.1.1 complies with current legislation and good practice;
 - 2.1.2 sell homes to people who have a legal right to purchase them;
 - 2.1.3 provides tenants with a fair, well informed and efficient RTB service.

3. Scope

- 3.1 The Right to Buy (RTB) scheme is provided for in statute (Housing Act 1985) and gives secure tenants of a RTB landlord the right to purchase the home they occupy at a discount, subject to them meeting the eligible criteria.
- 3.2 This policy applies to Medway Council Landlord services and its current tenants.

4. Legislation and Guidance

4.1 External

- 4.1.1 Housing Act 1985 Part V (as amended)
- 4.1.2 Property Misdescriptions Act 1991
- 4.1.3 Right to Buy A guide for local authorities (DCLG) April 2018
- 4.1.4 The Deregulation Act 2015
- 4.1.5 www.communities.gov.uk/righttobuy

4.2 Internal

- 4.2.1 Financial Regulations and Delegated Authorities
- 4.2.2 The Right to Buy Procedures
- 4.2.3 Medway Council Tenancy Agreement(s)

5. Appendices

- 5.1 Appendix 1 – RTB Discount

6. Policy

- 6.1 Landlord services recognises its duty to comply with current legislation and will operate its Right to Buy (RTB) process in line with the current statutory framework and current good practice guidelines.
- 6.2 Landlord services will provide clear information leaflets on the RTB process, but strongly advises that people seek their own legal advice.

6.3 Right to Buy (RTB) applications

- 6.4 Tenants must make RTB applications to Landlord services via a RTB1 form.
- 6.5 Landlord services will send the applicant(s) a RTB2 form stating whether they have the RTB within 4 weeks of receipt of a RTB1 form or within 8 weeks if the applicant(s) has had a tenancy with any other landlord which is needed to meet the minimum statutory qualifying period.
- 6.6 Landlord services will inform the applicant(s) in writing of any decision to refuse their request for RTB in line with statutory requirements
- 6.7 Once the RTB2 form has been sent out Landlord services will send the applicant(s) a Section 125 offer notice which gives the purchase price and terms and conditions of the sale. This will be within 8 weeks for a freehold property (house/bungalow) or 12 weeks if the property is leasehold (flat/maisonette). In cases where houses and bungalows are also leasehold the time limit of 12 weeks will also apply.
- 6.8 The tenant in response to the section 125 notice may request a revaluation if they disagree with the valuation given in the section 125 notice. This request must be in writing and must be served on Medway Council Landlord services within three months of the date that the section 125 notice was served on the tenant. The clock starts ticking from the date that the section 125 notice is served. Where a District Valuation is appealed to, the clock would stop, allowing the District Valuer four weeks from the service of the tenant's notice to make a decision.
- 6.9 With regards to point 6.8 the applicant(s) has 12 weeks upon receipt to decline or accept the Section 125 offer and must do so in writing.
- 6.10 If the applicant(s) fails to respond to the Section 125 offer Landlord services will send them a TRB17 notice giving them a final 28 days in which to respond.
- 6.11 If no response is received to this final reminder, the RTB application will be considered withdrawn.
- 6.12 If the applicant(s) delays the sale after accepting their offer to purchase and more than 3 months have passed from the date of the Section 125 offer notice, Medway Council may serve a First Notice to Complete on the applicant(s).
- 6.13 If the applicant(s) does not respond to the First Notice, Medway Council may then serve a Final Notice to complete on the applicant which allows for a further 56 days in which to complete the sale.
- 6.14 If Medway Council does not receive a response from the applicant(s) by the expiry date of the Final Notice the RTB application will be cancelled.
- 6.15 If the applicant(s) has applied to exercise the Right to Buy their home and believes that Medway Council has in some way delayed the

process, they are able to use the delay procedures prescribed in government legislation.

6.16 Qualifying for the Right to Buy (RTB)

6.17 To be eligible for the RTB the applicant(s) must fulfil the following criteria

- 6.17.1 be a secure tenant with a minimum of 3 years qualifying public sector tenancy (these periods do not need to be consecutive and can be made up from any present and previous relevant public sector tenancies);
- 6.17.2 be using their current property as their main or principal home;
- 6.17.3 live in a home that is self-contained (e.g. does not rely on shared bathing or cooking facilities).

6.18 Joint tenancies

6.19 Where a tenancy is issued in joint names, all tenants must be named in and sign the RTB1 application.

6.20 Only one of the joint tenants has to be living at the property as their only or principal home. The other tenant(s) may live away from the property and retain their Right to Buy (RTB) or agree to the other tenant(s) buying without them joining in, provided they indicate on and sign the application form in the appropriate place.

6.21 If one or more of the tenants does not signify their agreement, the other tenant(s) will not be able to exercise their RTB and the application will be denied.

6.22 Court Orders affecting eligibility

6.23 Any tenant or family member who is subject to one of the following orders will not be allowed to join in the Right to Buy:

- 6.23.1 Possession order with a fixed date - including Suspended Possession Order
- 6.23.2 Ground 2 criminal nuisance order
- 6.23.3 Right to Buy suspension order
- 6.23.4 Bankruptcy order or has a bankruptcy petition pending
- 6.23.5 Demotion order

6.24 If the application is denied because one of the above orders is in place, the applicant(s) will be required to submit a new RTB1 once the term of that order has been satisfied if they wish to continue with the RTB.

6.25 Property exemptions

6.26 The 1985 Housing Act exempts the following types of property from the Right to Buy:

- 6.26.1 Elderly persons dwelling;
- 6.26.2 Dwelling houses for persons of pensionable age;
- 6.26.3 Dwellings for disabled persons;
- 6.26.4 Dwellings for people suffering from a mental disorder;
- 6.26.5 Property scheduled for demolition.

6.27 In order for a property to be exempt from the Right to Buy it must meet the exact criteria set out in the 1985 Housing Act.

6.28 Family members

6.29 Certain family members have the right to join in a Right to Buy (RTB) application as per Sections 123 and 186 of the Housing Act 1985.

6.30 Family members will be automatically excluded from the RTB if they are subject to any of the Court Orders detailed in para 6.21.

6.31 Repairs to a property once a Right to Buy (RTB) application has been accepted

6.32 Landlord services will only carry out emergency repairs to properties once a RTB application has been received. Landlord repairing obligations under the RTB are limited to 'Wind and Water tight', health and safety (e.g. gas servicing and safety works) and Right to Repair. This will all cease on confirmation of the sale. Tenants will be advised of this on submitting a RTB application.

6.33 Properties will also be removed from the capital works programme once a RTB application has been received.

6.34 Please refer to the responsive repairs policy for information on repair responsibilities to leasehold properties.

6.35 Flats and length of leases

6.36 Where any RTB application is made for a flat, the length of term for the new lease will be the standard 125 years. This does not apply to freehold properties.

6.37 Right to Buy (RTB) and Valuations

6.38 RTB valuations will always be carried out by an independent valuer. The valuation will be at the date on which their RTB application (RTB1) is received. Any tenant improvements stated on the RTB1 form will be advised to the valuer for consideration prior to the valuation.

6.39 The applicant(s) has the right to obtain an independent valuation from the District Valuer, should they not be satisfied with the valuation. The District Valuer's valuation will be binding on Medway Council and the applicant(s) regardless of whether it is higher or lower than the original valuation.

6.40 In the case of flats, Landlord services will advise the valuer and in the Section 125 notice the tenant of any estimated service charges relating to the flat on an annual basis and will include an indication of any major work projects/costs that may occur within the first 5 years of ownership.

6.41 Right to Buy (RTB) discount

6.42 The percentage of discount the applicant(s) receives is dependent upon the number of full confirmed years they have held their tenancy/tenancies.

6.43 For House/Bungalow (freehold) sales the applicant is awarded a 35% discount for the minimum 3 year qualifying period. The discount remains at 35% for the 4th and 5th year. There is then a further 1% for each additional complete year of confirmed tenancy, up to a maximum of 40 years which will give a maximum of a 70% discount.

- 6.44 For Flat (leasehold) sales the applicant is awarded a 50% discount for the minimum 3 year qualifying period. The discount remains at 50% for the 4th and 5th year. There is then a further 2% for each additional complete year of confirmed tenancy, up to a maximum of 15 years which will give a maximum of a 70% discount.
- 6.45 The maximum discount amount that can be applied to either freehold or leasehold properties in England is £82,800 with the exception of London boroughs where the maximum discount amount is £110,500. Please note these figures are correct as at the 2018/19 financial year. RTB regulations allow for a potential annual increase in line with the Consumer Prices Index (CPI) published by the Office of National Statistics (ONS), any change is effective from the 6th April yearly.
- 6.46 A full breakdown of the discount applied can found at Appendix1.
- 6.47 The applicants discount may be reduced by the 'cost floor' rule if the property has recently been purchased or built by Landlord services or we have spent money on repairing or maintaining it. The discount could be reduced to nil if the cost floor is more than the discount. If this happens, the applicant would pay the full market value for their home.
- 6.48 The cost floor period for council properties is either:
- 6.48.1 the 10 year period prior to receipt of the RTB application form: or
- 6.48.2 15 years if the property was built or acquired by Landlord services after 2 April 2012.
- 6.49 Properties due for demolition**
- 6.50 Secure tenants who apply to purchase through Right to Buy (RTB) whose homes are scheduled for possible demolition may be served with an "Initial Demolition Notice" by Housing Services. This will stop the RTB process and the application will be suspended.
- 6.51 If Landlord services issues a "Final Demolition Notice" this will have the effect of ending the applicant's RTB. The applicant may however be entitled to compensation for legal and other expenses which they have incurred.
- 6.52 Open Plan Frontages**
- 6.53 Where Medway Council retains the ownership of any open plan frontages, a request or application may be made in writing to the Council to purchase such land fronting a property (Frontage). Any such application will be dealt with on a discretionary case-by-case basis by officers.
- 6.54 Before consideration can be given to a request or application to purchase a Frontage, the applicant(s) must own the freehold of the property.
- 6.55 Planning permission is always required for change of use to a front garden and should be obtained from Medway Councils Planning Department.
- 6.56 Completion**

6.57 At the completion of a Right to Buy all costs and debts owing to Landlord services will need to be settled in full. If this does not occur then Landlord services does not have a legal duty to complete.

6.58 Rules governing the sale of a home where the Right to Buy (RTB) has been exercised

6.59 Applicants should note that there are certain restrictions on the sale of their home, for a certain period:

6.59.1 if the property is sold within 10 years the property must first be offered to Medway Council;

6.59.2 if the property is sold within 5 years a certain part of the discount will have to be repaid to Housing Services, with the amount depending on how long after the exercising of the RTB the property is sold and the amount of discount initially received. The repayment of discount will be a percentage of the market value of the property when it is resold within the first five years of purchase.

7. Role, Responsibilities and Authority

7.1 The Assistant Director Physical and Cultural Regeneration retains the overall responsibility for the implementation of this policy.

7.2 The Head of Housing Management is responsible for the operational delivery of this policy, the associated procedures and has the responsibility for ensuring that this policy complies with Regulatory and Legislative requirements.

8. Monitoring, Review and Evaluation

8.1 The Income and Welfare Reform Manager will monitor Right to Buy performance and application turnaround time. RTB performance will be monitored on a monthly and quarterly basis via the following performance indicators.

8.1.1 the number of applications received

8.1.2 the number refused

8.1.3 the number completed

8.1.4 the number not completed

8.1.5 the number processed within statutory timescales

8.2 This policy will be reviewed on a biennial basis or in line with legislative or regulatory changes.

| Policy Version Control Sheet |
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| <p>Policy Title: Right to Buy</p> <p>Policy Author(s): Home Ownership Officer, HRA Income Manager, Policy and Partnership officer</p> <p>This Version: April 2019</p> <p>Projected Date of Review: April 2020</p> <p>Cross References: Tenancy Management Policy, Repairs Policy, Right to Buy Back policy</p> <p>Amendments Made:</p> <p>This Version: April 2019 – Changes made to previous policy to ensure that it coincides with current legislation and to reflect discount in line with inflation as of 6th April 2019.</p> |

APPENDIX 1 RTB Discount¹

| Freehold sale – Houses, Bungalows | |
|--|---------------------------|
| Years of tenancy | % discount allowed |
| 3, 4 and 5 | 35 |
| 6 | 36 |
| 7 | 37 |
| 8 | 38 |
| 9 | 39 |
| 10 | 40 |
| 11 | 41 |
| 12 | 42 |
| 13 | 43 |
| 14 | 44 |
| 15 | 45 |
| 16 | 46 |
| 17 | 47 |
| 18 | 48 |
| 19 | 49 |
| 20 | 50 |
| 21 | 51 |
| 22 | 52 |
| 23 | 53 |
| 24 | 54 |
| 25 | 55 |
| 26 | 56 |
| 27 | 57 |
| 28 | 58 |
| 29 | 59 |
| 30 | 60 |
| 31 | 61 |
| 32 | 62 |
| 33 | 63 |
| 34 | 64 |
| 35 | 65 |
| 36 | 66 |
| 37 | 67 |
| 38 | 68 |
| 39 | 69 |
| 40 | 70-MAXIMUM DISCOUNT |

| Leasehold sale - Flats | |
|-------------------------------|---------------------------|
| Years of tenancy | % discount allowed |
| 3,4 and 5 | 50 |
| 6 | 52 |
| 7 | 54 |
| 8 | 56 |
| 9 | 58 |
| 10 | 60 |
| 11 | 62 |
| 12 | 64 |
| 13 | 66 |
| 14 | 68 |
| 15 | 70-MAXIMUM DISCOUNT |

¹ These discounts will be subject to point 6.44