

Right to Buy and Right to Acquire Policy

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Right to Buy and Right to Acquire Policy	
1 Policy Information	2
2 Policy Statement	3
3 Policy Aims	3
4 Right to Buy and Right to Acquire	3
4.1 Right to Buy	3
4.2 Preserved Right to Buy	3
4.3 Right to Acquire	3
4.4 Who has the Right to Buy?	4
4.5 Who has the Right to Acquire?	4
4.6 Right to Buy Discount Scheme	5
4.7 Right to Acquire Discount Scheme	5
4.8 Reductions to RTB Discount	5
4.9 Repayment of Discount	5
4.10 Previous Purchases	6
4.11 Right of First Refusal	6
4.12 Reinvestment in Affordable Homes	6
4.13 Leaseholders	6
4.14 Affordability	6
4.15 Photo Voltaic panels	7
5 Customer Standards & Performance Monitoring	7
6 Policy Review Considerations	8
6.1 Equality Analysis	8
6.2 Policy Assessment	8
6.3 Customer Influence	8
7 Statutory and Legislative Framework	8
8 Links to other policies	8

1 Policy Information

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Responsible Director	Director of Finance
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Right to Buy and Right to Acquire Policy

2 Policy Statement

This policy sets out SLH's aims, obligations, and requirements in respect of the Right to Buy (RTB) and Right to Acquire (RTA) processes. SLH strive to be clear, consistent, and fair in our approach and compliant with relevant law and best practice.

3 Policy Aims

The aims of this policy are to:

- Comply with the law and reflect best practice
- Ensure that each application is treated fairly
- Contribute to sustainable, diverse and balanced communities
- Ensure the policy is clear to customers and colleagues
- Ensure net receipts from sales are invested in new affordable homes

4 Right to Buy and Right to Acquire

Once an application to buy a home is made, SLH will ensure that the home is taken out of any planned improvement programme. The home may be reinstated where the application to buy is withdrawn or fails.

4.1 Right to Buy

Under the Government's RTB Scheme, qualifying tenants can buy their home at a price lower than the full market value. This is possible through a discount scheme. For the purposes of this policy, a home is a self-contained house or flat which is a tenant's only or principal home. A home usually includes any gardens and garages.

The Government has plans to extend RTB to more housing association tenants and launched an initial pilot of voluntary RTB (VRTB), in which 5 housing associations took part, this pilot closed October 2016. In the Autumn budget of 2017 a regional pilot was announced in the Midlands and launched on 16 August 2018, an evaluation was published 8 February 2021. No date has been announced for the roll out of the VRTB. If VRTB is rolled out in Merseyside, this policy will be updated to reflect any new announcements about the scheme.

The Government announced on 9 June 2022 – via a speech made by the Prime Minister – that it plans to extend the RTB Scheme to all housing association tenants, with the Government pledging to build a new social home for every one sold. No further substantive details have been announced at this stage but this policy will be updated to reflect the changes if and when they are made.

4.2 Preserved Right to Buy

The Preserved RTB exists for qualifying tenants of housing associations, such as SLH, whose home was transferred from council ownership as part of a voluntary transfer of stock. As at 16 April 2024 we have 978 properties that can be bought under the preserved right to buy scheme.

4.3 Right to Acquire

The RTA exists to enable assured qualifying tenants of housing associations to buy their home at a price lower than the full market value if the dwelling was provided with "public money", i.e. it was funded in whole or in part by grant assistance. This is possible through

a discount scheme. As at 16 April 2024 we have 2,485 properties that can be bought under the right to acquire scheme.

4.4 **Who has the Right to Buy?**

All secure tenants with at least three years as a public sector tenant (this includes SLH) can buy their home either in their own name or jointly with a joint tenant or up to three family members who have lived with them for 12 months or more.

However, a tenant, or a family member, cannot buy their home if any of the following apply:

- They have breached their tenancy resulting in the right being suspended. For example, if the tenant is in rent arrears SLH will not be required to convey the property under the RTB if the tenant has failed to pay rent or any other payment due from them as a tenant for four weeks after it has been lawfully demanded.
- They have broken the terms of a suspended possession order made by the court.
- A court makes a possession order which says that they must leave their home
- They have been fraudulent
- They are an undischarged bankrupt
- They have a bankruptcy petition pending against them
- They have an arrangement with creditors and still owe them money

There are some exceptions to the types of home that qualify:

- Homes due to be demolished and subject to a final demolition order pursuant to the Housing Act 1985 and served by SLH before completion
- Sheltered accommodation and properties adapted for the disabled
- Homes on land bought for development used temporarily for housing
- Homes of employees where occupancy is needed to be near to their employment
- Defective dwellings

A landlord can also refuse to sell a home that is suitable for occupation by the elderly, however the tenant may appeal this decision and ask the First-tier Tribunal (Property Chamber – Residential) to decide if the decision to refuse the sale is correct. If SLH refuse to sell a property because we feel it is suitable for occupation by the elderly, the tenant must appeal the decision within 56 days of SLH refusing their application to buy their home (the RTB2 date).

4.5 **Who has the Right to Acquire?**

The qualifying conditions for purchasing under the RTA scheme are similar to those mentioned in 4.4. The main difference being that this scheme is for properties that are either transferred from a local council to a housing association on or after 1 April 1997 or built or bought by a housing association on or after 1 April 1997 and funded wholly or partly through a social housing grant provided by the Housing Corporation/ Homes England or local council. This applies to the majority of SLH tenants who did not have a secure tenancy at the date of stock transfer (4 October 1999). For properties built by SLH the provision of an appropriate grant must be confirmed.

Right to Buy and Right to Acquire Policy

4.6 Right to Buy Discount Scheme

Tenants who qualify to buy their home under the scheme receive a discount against the price of the home. The discount is calculated as a percentage of the price of the home. The discount depends on the home type and is set out below;

Home Type	Minimum Discount	Maximum Discount
House/Bungalow	35%	70%
Flat	50%	70%

The minimum discount applies at between three and five years of tenancy. For houses, this increases by 1% for each extra year in tenancy up to a maximum percentage of 70% at 40 years in tenancy. For flats, this increases by 2% for each extra year up to a maximum percentage of 70% at 15 years in tenancy.

The maximum discount cannot be greater than £102,400.32 from April 2024 in either case (outside of London). The qualifying period does not have to be continuous and for joint tenants it is the higher of the two tenancy periods that is the basis for the discount. The maximum discount increases annually each April.

4.7 Right to Acquire Discount Scheme

Tenants who qualify to buy their home under the scheme receive a discount against the price of the home. The current discount is set at £9,000 for the Merseyside area by the Department of Communities & Local Government. However, the discount cannot exceed 50% of the market value of the premises.

4.8 Reductions to RTB Discount

The RTB discount may be reduced by a special rule called the 'cost floor'. The discount applied cannot reduce the price the tenant pays below the cost of any repairs or improvement works to the home completed within:

- 15 year period leading up to the sale if you are purchasing through the Preserved Right to buy or if the landlord acquired the property after 2 April 2012
- 10 year period if the landlord built or acquired the property before 2 April 2012.

4.9 Repayment of Discount

Whilst a home bought through the RTB or RTA scheme can be sold at any time, a repayment of discount will occur if the sale occurs within five years of the original purchase;

Time Period	Percentage to Repay
With 1 Year	100%
1-2 Years	80%
2-3 Years	60%
3-4 Years	40%
4-5 Years	20%
5+ Years	0%

The amount to be repaid is based on the resale value of the home disregarding the value of improvements. For example, if a home was valued at £100,000 at the time of purchase and the tenant received a discount of £20,000, their discount was 20%. If the home is then valued at £150,000 and the tenant wishes to sell it within the second year of purchase, they will have to repay £150,000 x 20% discount x 80% i.e. £24,000.

Certain sales or transfers are exempt from the requirement to repay discount, e.g. transfers between certain family members. In addition, if a tenant faces hardship by having to repay discount, and their circumstances justify it, SLH can decide not to ask the tenant to pay some or all of what they owe.

If in advance of their purchase, or within the discount repayment period, a tenant enters into an agreement to transfer the property to a third party in the future, then this will trigger repayment of the discount.

4.10 **Previous Purchases**

If a tenant has purchased under the RTB scheme before, the amount of discount received before will usually be deducted from the discount when the tenant buys again.

4.11 **Right of First Refusal**

Anyone selling a home within 10 years of purchasing it under the Right to Buy or Right to Acquire scheme must first offer the home to SLH. SLH is not, however, obliged to repurchase the home. Refer to SLH's Property Purchase Policy for further details.

4.12 **Reinvestment in Affordable Homes**

SLH is committed to preserving, as far as possible, the number of affordable homes it has available to let. The money received from properties sold through the RTB and RTA schemes will be reinvested in purchasing or developing new affordable homes for rent.

4.13 **Leaseholders**

In most cases, if a tenant purchases a house, they will purchase the freehold and own the property outright provided that SLH own the freehold in the first instance. If they purchase a flat or leasehold house, they will purchase a long lease, for a fixed period of usually 125 years. SLH will still own the block and will be responsible for the upkeep of the building as a whole and any communal areas.

Leaseholders will pay to SLH a service charge, to cover major repairs and the management and maintenance of the communal areas. SLH will provide an estimate of any service charges and cost of improvement works the tenant must pay for in the first five years of the lease.

Leaseholders can sell their home at any time during the lifetime of the lease and the purchaser buys what is left of the lease.

4.14 **Affordability**

Department for levelling up housing and Communities and Local Government's guide "Your Right To Buy Your Home" emphasises the financial commitment involved in buying a home, even at a discount, as well as the ongoing costs of maintaining the home. SLH shares this concern and whilst acknowledging the responsibility of the purchaser's solicitor to assess their client's financial circumstances, SLH will assess all applications in terms of their

Right to Buy and Right to Acquire Policy

affordability and transparency around who will be purchasing the home, (notwithstanding the rights of joint tenants and family members to share in the purchase).

SLH is mindful of the reputational risk of money laundering and proceeds of crime allegations in relation to the sale of our homes and will notify the relevant authorities of any suspicious activity.

4.15 Photo Voltaic panels

A number of SLH homes have Photo Voltaic panels on their roofs and when purchasing their homes, tenants must consider whether they wish to continue with the scheme.

If the tenant wishes to continue with the scheme they may:

- a) grant a lease of roof space to Avela Services and once you own your Property this lease will continue, and the solar panel system will still be owned by Avela Services and they will still be entitled to the benefit of the feed in tariff.or
- b) purchase the solar power system from Avela Services, (which will increase the sale price of their home to reflect the benefit of receiving the feed in tariff); or

If the tenant does not wish to continue with the scheme, they must allow access to their home in order remove the solar panel system.

5 Customer Standards & Performance Monitoring

SLH will respond to any customer queries, concerns, or complaints, or other feedback about this policy within the service standards contained in 'Our Promises', general best practice, and the law.

- Upon receipt of a RTB or RTA application (Form RTB1 or Form RTA1), SLH must issue a notice (RTB2 or RTA2) to the tenant confirming their RTB or RTA within four weeks of the date we received the RTB1 form, (or eight weeks if applicant has been a tenant for less than three years).
- If SLH agrees to sell their home to the tenant, we will issue an offer confirming the valuation of the property (based on a survey completed by a qualified surveyor), the amount of discount and the asking price including any reduction to cover the cost floor (relevant to RTB only). The offer will be issued within 8 weeks of the tenant saying yes if the freehold is being purchased or within 12 weeks if a leasehold is being purchased.
- The tenant must accept or decline the offer within twelve weeks of the offer. If no reply is received, SLH is entitled to serve a further notice on the tenant requiring them to serve a notice accepting or declining the offer within 28 days. If the tenant fails to do so within the 28 days (the period may be extended) the claim is deemed withdrawn.
- If the tenant thinks the valuation is too high, they can appeal to the District Valuer, but must advise SLH of their decision to appeal within twelve weeks of receiving the offer; they then have 4 weeks to put their case to the District Valuer.
- SLH will make tenants aware that the District Valuer's decision is final and that the final valuation may be higher or lower than the initial valuation. The tenant will have 12 weeks to accept or decline the district valuers offer.
- If the tenant disagrees with the District Valuer's valuation of the property, they have the right to withdraw their application.
- The conveyance of the freehold or grant of a lease under the RTB Scheme must be on the terms as prescribed by Schedule 6 of the Housing Act 1985.

- A first notice to complete must be served less than three months after service of the offer notice. The written notice requiring the tenant to complete must give at least 56 days. If the tenant does not complete within the period set in the first notice, SLH may serve a second notice (again, of at least 56 days). If the tenant does not comply with the second notice to complete, then the claim to exercise the RTB or RTA will be deemed withdrawn.

SLH will monitor all applications to ensure that we meet the regulatory deadlines in relation to RTB and RTA.

6 **Policy Review Considerations**

6.1 **Equality Analysis**

An equality analysis with tenants was completed to identify and respond to any adverse impacts the policy may have on particular groups. Outcomes have been included within this document.

6.2 **Policy Assessment**

A review of the previous policy on RTB and RTA was completed based on up to date legislation, information, and guidance issued by the Department for Communities and Local Government.

6.3 **Customer Influence**

Customers were involved in the review of the previous policy and of this revised policy including its procedure and communication which supports the implementation of this policy.

7 **Statutory and Legislative Framework**

The policy operates within the Regulator for Social Housing's regulatory framework for social housing in England.

The policy also operates within the following framework:

- Housing Acts 1985, 1996, 2004
- Housing Associations Act 1985
- Housing (Right to Acquire) Regulations 1997
- Housing and Regeneration Act 2008
- Housing and Planning Act 1986, 2016
- 'Your Right to Buy Your Home' – DCLG
- 'Reinvigorating Right to Buy and One for One replacement' - DCLG

8 **Links to other policies**

- Property Purchase Policy
- Repairs & Maintenance Policy
- Customer Feedback Policy