

Voluntary Right to Buy and Portability Policy

PART ONE

About this Policy

Directorate	Portfolio Investment
Policy Sponsor	Ian Jackson, Executive Director of Portfolio Investment
Policy Owner	Nick Worboys, Director of Development and Sales
Policy Author	Christopher Parkinson, Corporate Sales Manager
Key target Audiences	This policy applies to all employees of Longhurst Group who may be asked to give advice to tenants regarding their eligibility for the VRTB Pilot including Asset Sales Officers, Housing Officers and the Customer Service Advisors.
Related Policies	Complaints Sales Right To Buy
Legal & Regulatory compliance	The Longhurst Group have signed up to the Voluntary Right to Buy scheme with the Ministry of Housing, Communities and Local Government (MHCLG) which is underpinned by the Housing and Planning Act 2018 This Policy is compliant with the mandatory terms as detailed within the National Housing Federations (NHF) Voluntary Right to Buy Guidance document.
Approved by	Executive / Homes Board
Approval date	16 th August 2018
Published date	16 August 2018
Effective date	16 August 2018
Review frequency	Annual

Contents

<u>PART ONE</u>	1
<u>About this Policy</u>	1
<u>Contents</u>	2
Summary	
<u>Introduction</u>	3

<u>PART TWO</u>	3
<u>Policy</u>	3
<u>Intent</u>	3
<u>Principles</u>	3
<u>Scope</u>	4
<u>Policy details</u>	4
<u>Managing Policy</u>	9
<u>Roles and responsibilities</u>	12
<u>Monitoring, evaluation and review</u>	12
<u>Equality and Diversity</u>	13
<u>Summary of local variations</u>	13

<u>PART THREE</u>	16
<u>Appendices</u>	16

Summary

The purpose of this policy is to ensure that the Voluntary Right to Buy Scheme, is delivered in a fair and consistent way across the organisation to all of its tenants. All applications will be processed in accordance with the Ministry of Housing, Communities and Local Government (MHCLG) Guidance Document.

Introduction

In its 2015 manifesto, the Government made a commitment to extend the Right to Buy (RTB) to Housing Association tenants. In September 2015, the NHF, on behalf of the housing association sector, made an offer to government to extend RTB level discounts to eligible tenants through a voluntary rather than statutory approach.

The offer was accepted by the Government in 2015. As a result of the agreement the Housing and Planning Act 2016 was drafted to enact only what was necessary to enable the Secretary of State to underpin the agreement. This includes powers to compensate private registered providers for the cost of discount; and home ownership criteria that creates an expectation that all housing associations will provide a home ownership offer to their tenants and this will be monitored by the Regulator.

Whilst the key features of the scheme including the application of discounts available remain the same as the statutory Right to Buy scheme, the Voluntary Right to Buy (VRTB) scheme is distinguishable in that participating Associations have greater discretion not to sell certain types of accommodation either because of the properties location, purpose and or design.

In those circumstances, participating housing associations will offer tenants the opportunity to use their discount to buy an alternative home from either their own or another association's stock. This is known as a 'Portable Discount'.

The Longhurst Group (LG) have signed up to the VRTB scheme and will operate the scheme in compliance with the Mandatory Terms as set out in the MHCLG VRtB guidance.

PART TWO

Policy

Intent

The purpose of this policy is to ensure that the Voluntary Right to Buy Scheme, including Portability is delivered consistently across the organisation

That all tenants are treated fairly and all applications are processed in accordance with the MHCLG Guidance Document.

Principles

LG have signed up to the Voluntary agreement and this document outlines the Groups policy in relation

to promoting the Voluntary Right to Buy scheme. In delivering the scheme:

- We will ensure that we provide clear and timely communication to our tenants to allow them to make informed choices under this policy.
- Our communication strategy will remain in step with the MHCLG guidance and basic principles.
- We will support our staff by ensuring that they are provided with the relevant tools, training and information to deliver a fair and efficient process with due regard to the Group Equality and Diversity principles.
- We will ensure that our tenants who are unable to purchase their current home are offered one reasonable alternative offer in line with our Portability Policy. We will adhere to the Mandatory terms of the Voluntary Right to Buy agreement as set out in the MHCLG guidance notes.
- We will ensure that we oversee a robust application process which incorporates effective tenancy verification and anti-fraud measures to ensure the appropriate use of public funds.

Scope

This policy applies to all employees of Longhurst Group.

Lead responsibility lies with the Asset Sales Team, however members of the Housing, Operational Finance, Property Services and Customer Service Team will all be involved in delivering aspects of this policy. The terms “Longhurst Group” and “the Group” incorporate all member companies and subsidiaries.

Policy details

Mandatory Terms

Some of the criteria set out in the MHCLG guidance are mandatory under the terms by which the Government has agreed to pay compensation for the discount. This policy and the associated processes will take account of these mandatory terms. As set out in Table 1 overleaf:

Table 1- Voluntary Right To Buy- Mandatory Grounds

You must...

- You **must** publish your local policy setting out the circumstances under which you intend to operate your discretion not to sell.
- You **must** publish your local policy for porting the discount.
- You **must** ensure that the terms of local policies on discretion and portability are clear and transparent to tenants.
- You **must offer** the tenant the opportunity to use their discount to purchase an alternative property from either your own or another association's stock if the tenant is unable to buy their current home.
- You **must** record in real time any applications that do not proceed.
- You (or an agent acting on your behalf) **must** carry out a document check - at application stage – with all applicants, to ensure that all those purchasing have the necessary immigration status to be eligible to buy the property.
- If the tenant ports their discount to a property owned by another landlord, that landlord **must** satisfy themselves that the immigration checks have been carried out before completing the sale.
- Where a tenant is purchasing via portability, you **must** amend the address on the Homes England IMS.
- You **must** confirm the completion of the sale on IMS.

You must not...

- You **must not** accept any applications that do not have a unique reference number (URN).
- You **must not** offer a portable discount on a property on the open market.
- You **must not** allow ineligible tenants to proceed with a purchase.

Informing tenants

We will publish the details of the VRTB pilot scheme via our website.

Reimbursement of discount

The MHCLG will reimburse LG in full for the discount given on the completion of each sale under the regional pilot. The discount will match that under the statutory Right to Buy under the Housing Act 1985.

Legal charge

For the statutory Right to Buy scheme, a statutory framework is in place to ensure that where the tenant has borrowed against the property, the landlord's ability to enforce repayment of the discount where the conditions of the discount are breached has priority over other lenders. This statutory framework does not apply for the voluntary scheme.

For the purposes of the regional pilot, a 'legal charge' has been drafted by lawyers, which replicates the statutory framework for the Right to Buy as closely as possible. This document provides the landlord with sufficient legal protection to enforce repayment of the discount where conditions of the discount

are breached. This document **must** be completed by tenants at the point of completion. Tenants **must** then apply to register the charge at the Land Registry and within 21 days of completion, and provide a copy of the registered title to the housing association.

Eligibility

Tenants are eligible if:

- They can prove they have been a tenant of social or affordable housing for at least 3 years (this need not have been with the same landlord or continuous).
- They currently hold an un-demoted secure tenancy, an un-demoted assured tenancy or fixed term 'flexible' tenancy of 2 years or more.
- They have the right to reside in the UK, and can demonstrate that they meet the immigration status checks
- They currently have the Right to Acquire; Tenants will also retain this right.

Tenants are not eligible if:

- They have the preserved RTB or statutory Right to Buy.
- At the time of application they hold a periodic assured short hold tenancy, an assured shorthold tenancy for a fixed term of less than 2 years or are a licensee
- they do not have the right to reside in the UK, and cannot demonstrate that they meet the immigration status checks
- They became a tenant of their existing home through the mortgage rescue scheme and remain on the original fixed term tenancy.
- They are tenants of alms houses or fully mutual co-operatives.
- They have any rent arrears at the point of application or purchase completion.
- They or any joint applicants are subject to bankruptcy proceedings or unfulfilled credit arrangements
- They have committed Anti-Social Behaviour as defined in the Paragraph 11 of Schedule 11 to the Anti-Social Behaviour, Crime and Policing Act 2014 (see Annex) and the housing association has initiated legal proceedings as a result of this. Tenants would become eligible if such legal proceedings were withdrawn or discontinued;
- They are currently subject to legal proceedings, e.g. injunction proceedings have been issued or a notice of seeking possession (NOSP) has been served. Tenants would become eligible if such legal proceedings were withdrawn or discontinued, or if the landlord failed to send papers to the court for issue within 6 months of expiry of the NOSP, or the landlord loses the case in court (including following any appeal);
- They already own a property even if it is not their principal residence at the point of purchase
- They hold an assured fixed term tenancy where the term (as originally granted, not the unexpired portion of it) is 21 years or more
- They hold an assured tenancy for a single room in a shared house

Unique Reference Number (URN)

Before an applicant can become eligible and LG can process an application the tenant must log their interest on the Government Portal and be accepted onto the funding programme. Once they have done this they will receive a unique reference number, which must be noted on the online application form.

Online forms received without this URN cannot be accepted and will be declined. A new application will have to be submitted by the applicant.

Tenants will be advised that the issuing of a URN is not a guarantee of funding being available. Throughout various stages of the process, confirmation will be sought from Homes England on the availability of funding.

Tenant Verification

All tenants must agree to purchase the property or sign the VRTB application form to say that they do not wish to be included in the purchase.

All signatures will be checked against the Tenancy Agreement. If there is any discrepancy then the tenant/s will be asked to provide further evidence such as a Passport or Driving Licence. Tenants may also be asked to come into a local LG office with ID and sign in front of an LG staff member.

If the tenant/signature can not be verified then the application will be suspended until it has been. If verification has not occurred after 4 weeks the application will be cancelled.

Sharing Family Members (SFM)

If the tenant is applying jointly with a spouse, civil partner and/or up to 3 family members they must:

- Demonstrate that it is the main home of every applicant
- Prove that it has been their residence for at least 12 months

No joint applicant will be added to or removed from the application during the process without voiding the application requiring a re-application by the tenant.

It will be the responsibility of the tenant to prove the qualification of any sharing family member (SFM). Proof of residency will include:

- P45, P60 or payslip
- Current benefit or pension claim letter, book or card
- A utility or council tax bill
- Bank or credit card statement
- Mobile phone bill

Doctor's letters and Statutory Declarations will not be accepted.

If an application is received which includes a SFM but the relevant evidence is not included the SFM will be denied.

Qualifying Period

The qualifying period, and the period on which discount will be calculated, will include:

- Non-consecutive periods as public sector tenants
- All un-demoted secure or un demoted assured tenancies
- Fixed term assured short hold tenancies
- Completed probationary periods

- Periods spent as a public sector licensee (e.g. almshouses, MOD tenant)
- Periods as an assured shorthold tenant with a registered provider in an affordable housing product.

It will be the tenant's responsibility to provide evidence of any tenancies held with other public bodies. The tenant will be expected to provide either:

- A letter from the landlord confirming the tenancy start and end date and the name of the tenants.
- A copy of the rent card showing the names of the tenants and the start and end date of the tenancy.

If neither of the above is available then LG will accept a Statutory Declaration but only when accompanied by:

- A copy of the electoral register confirming occupancy during the period being claimed.
- A letter from the landlord confirming the property was in their ownership during the period being claimed.

Exempt Properties

Under the voluntary scheme Longhurst Groups Board of Directors has exercised discretion and decided not to sell a range of properties. Appendix A outlines the circumstances when a property will not be sold and the rationale for that decision.

Portability (The Portable Discount)

Where the property that the customer is applying to buy is included in the list of exemptions at Appendix A, the customer will have the right to port to another property suitable for their needs.

- Only Longhurst Group can initiate the porting process. At this point the applicant will be required to confirm their intention to port their discount to an alternative property.
- Applicants who decline the opportunity to port their discount or do not indicate whether they wish to port their discount will have their right to buy application cancelled.
- Applicants who confirm they wish to exercise the discount porting process will have their application paused for a period of 3 months while an alternative property is identified.
- Porting to another property will be facilitated through a partnership approach if it cannot be facilitated within LGs own stock
- LG will work with applicants to identify 1 suitable alternative
- When a suitable property is identified, LG will offer this property to the porting applicant. To avoid unnecessary rent loss on the empty property the offer will specify the timeframe for the customer to accept or decline the porting offer. This will be no less than 48 hours.
- Should a suitable alternative property not be accepted within the 3-month timeline the VRtB application will be cancelled.
- Should LG fail to identify a suitable alternative within the 3-month timeline, a further 3 months will be granted. At the end of this period should no property be identified the VRtB application will be cancelled.

- All porting tenants are advised that MHCLG funding is ring-fenced for 'live' applications and subject to availability.

Properties eligible for porting a discount to

A 'suitable alternative property' will be deemed as a property which is the same property type and has the same number of bedrooms. Where possible, it will be in the same or nearby geographical area taking into account proximity to work and schools if relevant. The property must also be eligible for purchase under the voluntary right to buy scheme.

Porting applicants are not permitted to purchase a home of a different type or that has more bedrooms than they currently occupy unless it is a home that LG has already made a decision to divest of and sell.

Where improvements have been made in the applicants current home, and this includes decorating, alterations, fixtures and fittings, this will be disregarded when identifying a suitable alternative. Longhurst Group will not be responsible for either compensating or replacing these improvements unless legally required to do so.

If the porting applicant requires aids or adaptations in the alternative home it will be their responsibility to arrange for funding and installation after they have purchased the home. Longhurst Group may consider reasonable adjustment by allowing the applicant to remain in their existing home until the sale is completed if the existing home already contains adaptations and the new home does not and the customer can demonstrate these are needed to reasonably occupy the home.

Discount calculation:

Valuations and discount calculations will be based on the property that the applicant ports their discount to and not the originating property.

Application Fee

When an application has been admitted, the tenant will be required to pay a fee of £250. The application cannot proceed, and a valuer cannot be appointed, until this fee is paid.

The fee can only be paid by debit or credit card directly to LG. Cheques will not be accepted. Following appointment of a RICS qualified valuer, if the tenant chooses not to proceed the fee is non refundable. The fee is also refundable on successful completion of the sale.

Valuing the Property

Valuations will be carried out by a RICS qualified valuer. LG will give the tenant a choice of 3 valuers approved by LG. The tenant will choose one of the valuers from the 3 provided and confirm their choice of valuer within 3 working days.

The valuer will survey the property and mark out the boundary lines. It is the tenant's responsibility to identify any outlying buildings such as garages or sheds that should be included in sale; these will be verified by Longhurst Group.

Disputing the Valuation

The tenant has the right to dispute the valuation. The second valuation must be carried out by a valuer from the original list and the cost must be met by the tenant.

If LG disputes the valuation then there will be no additional cost to the customer for the second valuation.

Repairs after Valuation

No repairs will be carried out to the property once the application fee has been received unless they are required for Longhurst Group to comply with:

- Section 11 Landlord and Tenant Act 1985
- Environmental Protection Act 1990
- Section 4 Defective Premises Act 1972

No planned improvement works will be undertaken to the property once the application fee has been received.

Calculating the Discount

For each complete year of confirmed tenancy, the tenant is entitled to receive a discount based on a percentage of the open market value of the property. The monetary value of this percentage is deducted from the market valuation of the property.

Freehold

The tenant will be awarded a 35% discount if they have been a public sector tenant for between 3 and 5 years.

After 5 years, the discount goes up by 1% for every extra year you've been a public sector tenant, up to a maximum of 70% – or £80,900 across England and £108,000 in London boroughs (whichever is lower).

The tenant is awarded 35% discount for the first 5 years of the minimum qualifying period of 10 years and a further 1% for each additional complete year of tenancy up to a maximum of 70% or £78,600, whichever is the lower.

Leases

The tenants will be awarded a 50% discount if they have been a public sector tenant for between 3 and 5 years.

After 5 years, the discount goes up by 2% for every extra year you've been a public sector tenant, up to a maximum of 70% – or £80,900 across England and £108,000 in London boroughs (whichever is lower).

It is the tenant's responsibility to provide evidence of any tenancies held with other public bodies that they wish to be taken into consideration for the calculation of discount. The tenant should provide either:

- A letter from the landlord confirming the tenancy start and end date and the name of the tenants.

- A copy of the rent card showing the names of the tenants and the start and end date of the tenancy.

If neither of the above is available then LG will accept a Statutory Declaration but only when accompanied by:

- A copy of the electoral register confirming occupancy during the period being claimed.
- A letter from the landlord confirming the property was in their ownership during the period being claimed

Funding

An application can only proceed if the funding is available. Funding must be checked at two stages in the application:

- Before the valuation is requested
- Before the formal Offer is made to the tenant

Offer Notice

Once the valuation has been received LG will serve a Notice on the tenant confirming the valuation, discount and selling price. If the property is leasehold, the Notice will also confirm details of service charges and an estimate of costs of services and works expected over the next 5 years.

Completing the Sale

The tenant must confirm in writing that they wish to proceed with the sale. Confirmation must include details of the solicitor acting and how the purchase is being funded.

If the tenant is securing a mortgage, the lender must be registered with the Financial Conduct Authority. If it is a cash purchase then the tenant must provide evidence of how this is being funded, for example, copies of bank statements, supporting letters and I.D.

Completion cannot take place unless the rent account is clear. All arrears must be paid prior to completion.

No delay Notices will be sent to the tenant. Timescales will be clearly outlined throughout the process and it is the tenant's responsibility to ensure these are adhered to. Failure to adhere to the timescales will mean the application is automatically cancelled.

Repayment of Discount

The voluntary scheme sets out where a discount will be repayable on a sliding scale if the property is sold within a set number of years from the date of sale or where the tenant chooses to sublet the property. Longhurst Group will explain this requirement during the purchase process and a charge will be placed on the title deed when the property is sold.

Discounts will also be repayable if the tenant is found to be in breach of terms of the sale, lease or is found to have committed fraud.

Appealing VRtB decisions made by Longhurst Group

If the tenant disputes a decision made by Longhurst Group then this should initially go to the Asset Sales Manager (ASM) for investigation. The ASM will check the policy and procedure and ensure that this has been followed; if it has then the appeal will not be upheld.

If a decision has been made that falls outside of the policy or procedure then this will be investigated by the Corporate Sales Manager (CSM) who will confirm if the tenant has been treated fairly and reasonably. If it is found that the appeal should be upheld then the CSM will provide an appropriate and proportionate remedy.

If the tenant is still not satisfied then they can appeal to Ombudsman or an Agent as appointed by the MHCLG.

Fraud and exploitation

If at any time during the application process we suspect fraud or money laundering, we will suspend the application to carry out investigations without penalty. We will aim to expedite investigations as quickly as possible and complete enquiries within a reasonable time. It is reasonable for the tenant to expect such investigations to take no longer than 6 months.

Audit Assurance

As the Government is funding the Voluntary Right to Buy Pilot compensation payments from the public purse, it is necessary to provide assurance to ensure that procedural requirements have been met to support a claim for payment as part of the Voluntary Right to Buy. This audit assurance will be captured as part of Homes England's existing Compliance Audit Framework

Homes England's Compliance Audit is carried out via a selection of random standardised audit checks made by provider-appointed Independent Auditors on an agreed sample of schemes. All audits will be completed on line and a sample selection is automated through Homes England's Investment Management System (IMS).

Roles and responsibilities

MHCLG

The MHCLG will set the terms on which it will pay compensation to housing associations for the value of the discount, and will manage the available budget, including halting transactions for a period, if necessary.

Homes England

Homes England (HE) will operate the data system and administer payments to housing associations to cover the cost and will be responsible for compliance audit (including the calculation of the discount).

National Housing Federation

The federation will work with its members to support housing associations to implement the VRTB pilot and will work with the government to ensure that the system remains fit for purpose.

Housing Ombudsman

The Housing Ombudsman will deal with complaints in accordance with the Housing Ombudsman Scheme.

Monitoring, evaluation and review

We will log and monitor all applications received through Pro-Book in accordance with the guidance and provide reports to the Executive Team and the Homes Board on a quarterly basis.

Audit assurance will be captured as part of Homes England's existing Compliance Audit Framework

Equality and Diversity

This Policy requires all staff operating the VRtB scheme to provide services in line with this policy in an open, transparent and fair way to enable tenants to make informed choices in regards to this scheme irrespective of age, disability or any of the other protected characteristics.

Summary of local variations

Longhurst Group works in partnership with a wide range of Local Authority partners and will ensure that we maintain positive relationships through regular communication with regards to the VRtB scheme.

Regional variations may occur as a result of exemptions policy and or concerns regarding local housing strategic need.

Appendix A – Exempt Properties

The agreement sets out that there is a presumption that housing associations would sell the tenant the property in which they live. However, individual housing associations Boards have discretion not to sell the home under particular circumstances.

The Homes Board has resolved not to sell properties in the following circumstances:

Circumstances where discretion not to sell will be applied:	Rationale
Properties bequeathed for charitable or public benefit purposes and there are restrictive covenants or other legal agreements preventing the sale of the home.	Respecting the Restriction of use and avoiding the risk of subsequent legal action for breach.
Properties 'gifted' with covenants restricting the property for the sole purpose of social housing.	Respecting the Restriction of use and avoiding the risk of subsequent legal action for breach.
Where there are clear restrictive covenants in existing resident contracts around the protection of rural homes.(Designated Protected Areas)	Avoiding the risk of subsequent legal action for breach.
Where LG cannot grant a long enough lease (21 years for a house and 50 years for a flat). Or a lease prevents the creation of a further sub-lease.	Replicates statutory scheme. Avoids covenant breach.
Properties with major adaptation where no household member requires the adaptation. (Unless the adaption is obsolete or there is no identified housing register need for the particular adaptation in place.)	To ensure the investment Longhurst Group has made in providing the major adaptation to meet a specialist need is preserved. If the purchaser requires the adaptation the sale can proceed.
Tied accommodation occupied because the tenant is employed by a social landlord.	The property is provided for the purpose of housing employees working for Longhurst Group.
Flats including flats with internal, shared communal areas	To avoid the risk of long term management issues.
Properties due for demolition	A sale could prevent or delay a development or regeneration scheme.
Flatted properties identified for disposal including properties due for de-conversion then disposal. This may include flats located within a longer term disposal zone as part of our Asset Management Strategy.	Individual flat sales would prevent Longhurst Group disposing of whole buildings converted into flats. This will increase cost of sales (more individual sales) and potentially impact on valuations.
4,5,6 and 7 bedroom properties	Avoiding the risk of subsequent legal action for breach.
Properties with loan agreements that prevent the sale of the property.	To avoid default and subsequent cross default on loan agreements.
Properties where, after the application of cost floors, would lead to a loss when sold.	To protect Longhurst Group's financial strength by avoiding selling homes at a loss.

It should be noted there are a number of homes Longhurst Group owns that cannot be purchased through the voluntary scheme due the nature of these homes and that the customers living in these homes would not be eligible to participate in the scheme. This includes (but not an exhaustive list):

- Hostel and supported housing schemes where license agreements are issued.
- Sheltered Housing schemes where some level of support is being provided
- Intermediate Market Rent properties where an AST is issued.
- Market Rent properties where an AST is issued.
- Rent to Buy products where an AST is issued and different purchase arrangements are in place.
- Shared ownership properties where a lease is in place and different purchase arrangements are in place.
- In July 2018, the Government announced that new Government funding schemes would no longer be able to use public money for the sale of leasehold houses, it has therefore been agreed that all leasehold houses will be exempt from sale

PART THREE

Appendices

Policy Approval Control

Definitions

ASB Anti-Social Behaviour
DCLG Department for Communities and Local Government
HA Housing Association
LG Longhurst Group
MHCLG Ministry of Housing, Communities and Local Government
NHF National Housing Federation
NHO Neighbourhood Housing Officer
NSP Notice Seeking Possession
RTB Right to Buy
SFM Sharing Family Members
VRTB Voluntary Right to Buy

Process map(s)

Customer Journey
VRtB on-line application flowchart
VRtB process wheel
VRtB sales procedure
VRtB sales file check list

Protocols and documentation

Communication Strategy
VRtB calculator
VRtB letters

Risk Analysis

Equality Analysis

Environmental impact assessment

Policy Approval Control