

PRESERVED RIGHT TO BUY POLICY

Responsible Officer

Director of Customer Services

Aim of the Policy

This policy aims to ensure that Preserved Right to Buy applications are processed fairly, accurately and in accordance with the relevant legislation.

Policy Scope

The Right to Buy scheme is a policy in the United Kingdom which gives *secure tenants* of councils and some *assured tenants* of housing associations the legal right to buy, at a large discount, the home they are living in. Introductory tenants are not eligible for the Preserved Right to Buy (PRTB). All PRTB applications received will be processed and managed by Specialist Housing Services.

The Policy

Eligibility for Preserved Right to Buy

To be eligible for the preserved right to buy, ex-council tenants whose homes were transferred to Phoenix Community Housing on 3rd December 2007 need to:

- Hold an assured tenancy with preserved rights.
- Have been a public sector tenant for a minimum of three years, this need not be consecutive years.
- Reside in their current property as their main or principal home and done so at the date of stock transfer on the 3rd December 2007.
- Live in a property that is self contained.

Tenants who meet the criteria are able to make joint applications for the Preserved Right to Buy with:

- The joint tenant (if the tenancy is joint).
- A spouse or civil partner.
- Up to three family members, if they have resided in the property as their main or principal home for a minimum of 12 consecutive months prior to the application.

Exclusions

- Tenants who are subject to a possession order (outright or suspended) and regardless of whether any suspended possession order has been breached.
- An undischarged bankrupt, someone with a petition pending, or where there is an arrangement with creditors but money still owed.
- If the tenancy is a demoted tenancy.
- If a notice of demolition has been served.
- Tenants with rent arrears will be required to clear them before the purchase is completed.
- Tenants who obtained a tenancy with Phoenix Community Housing after 3rd December 2007 do not have the Preserved Right to Buy but may be able to exercise the Right to Acquire.
- Some properties may be excluded from the Right to Buy, for example if the property is designated as a dwelling suitable for elderly persons.

Preserved Right to Buy Discounts

Tenants exercising the Preserved Right to Buy are entitled to a discount on the purchase price of their home. The discount available to eligible tenants is prescribed by legislation and Phoenix will ensure that the correct discount is applied to each application.

Timescales

Phoenix aims to process Preserved Right to Buy applications within legislative timescales.

Fraud Prevention & Money Laundering

Phoenix will use practicable resources available to prevent the acceptance of fraudulent applications and to prevent properties being purchased by a third, ineligible party.

Right to Buy fraud occurs in any case where:

- A tenant has applied for or completed, the purchase of a socially rented home under the right to buy scheme, and
- Has misrepresented their circumstances to either gain a discount they are not entitled to, or exercised the right to buy when they are not entitled to it.

Ineligible third parties include:

- Family members who fraudulently claim to be residing in the property, and
- Companies or Persons who gift the purchasing funds to the eligible tenant with an agreement or intention for the property to transfer ownership at a later date, or where the gift granting party earns interest from the eligible tenant on the gifted funds.

Where fraudulent activity has been evidenced Phoenix will allocate available resources to prosecute the parties involved to the fullest extent of the law and recover the property.

Repairs following the acceptance of a PRTB application

Once a tenant has been accepted for the Right to Buy, only repairs that are necessary to maintain health and safety will be carried out to the home. The normal repairs service will resume if an application is withdrawn.

Selling a home where PRTB has been exercised

Once purchased there are restrictions on the sale of the home for a period after the Preserved Right to Buy has been exercised:

- **Within five years** – A proportion of the discount will have to be repaid to Phoenix Community Housing. The amount repayable is calculated based on the discount as a percentage of the value of the property and how long has passed since the property was sold under the Preserved Right to Buy.
- **Within ten years** – The property must first be offered to Phoenix Community Housing. Only after we have declined our right of first refusal – usually within eight weeks of the offer being made - can the property be placed for sale on the open market.

Exceptions to discount repayment

Where the legislation permits discretionary decisions to be made by the Landlord, any such decisions will be made by the Director of Finance and Director of Customer Services. Any requests will only be considered in exceptional circumstances.

Examples of circumstances where discretion might be justified include the following. In each case, it will normally be necessary to establish both the facts justifying a move, and that such a move could not take place unless part or all of the repayable discount were to be waived.

- (a) where an owner of the property wishes to move because otherwise he or she and/or other family members (especially children) face a demonstrable threat of violence or of significant harm; for example, due to:
 - relationship breakdowns involving actual or threatened domestic violence
 - racial, religious, homophobic or any other kind of harassment
 - extreme anti-social behaviour, such as persistent drug dealing in an adjoining or nearby property
- (b) where the sudden onset of a severe medical condition or serious deterioration of an existing condition makes a move essential on medical grounds;
- (c) where an early move is essential to return to employment; for instance where an individual has a firm offer of a job in another area and would thereby be able to return to work, either:
 - after long term unemployment; or
 - after having been made redundant, when their skills are such that there is no prospect of getting another job locally.
- (d) where a traumatic personal event (for example, sudden bereavement) makes a move essential for emotional or psychological reasons.

Discount Repayment Request

Requests must be made in writing. We will respond to requests within 28 days of receipt.

You can appeal the decision with the Chief Executive if there are new facts that were not presented in the original application. The appeal must be submitted within 21 days, following receipt of the decision. The outcome of your appeal will be notified to you within 10 working days of receipt of the appeal.

In most cases a decision not to demand repayment will lead to a net cost to the public purse. We will at all times fulfil our fiduciary duty in a way which is accountable to local people and must consider that, under the Homes and Communities Agency's regulatory code, we are required to protect public money.

Proceeds

Proceeds from the sale of homes through the Preserved Right to Buy will be re-invested within Phoenix to provide new housing for affordable rent.

Monitoring and review

This policy will be reviewed every three years or sooner whenever there are changes to legislation, good practice or other learning.

This policy will be monitored through annual performance reports and Key Performance Indicators.

Legislation

- Housing Act 1985
- The Housing (Preservation of Right to Buy) Regulations 1993 (Statutory Instrument 2241), Schedule 6
- Housing Act 2004
- Equality Act 2010
- Prevention of Social Housing Fraud Act 2013
- General Data Protection Regulation 2016
- Money Laundering Regulations 2017
- Data Protection Act 2018
- Coronavirus Act 2020

Reference to other documents and associated policies and procedures

Including:

- Anti-Money Laundering Policy and Procedure
- Community Empowerment and Engagement Strategy
- Customer Access Strategy
- Data Protection Policy
- Equality and Diversity Charter
- Home Ownership Handbook
- Home Ownership Charter
- Leasehold Management Policy
- Leaseholder Hardship Buy Back Policy
- London Borough of Lewisham Preserved Right to Buy Agreement
- Phoenix Standards
- Rent Arrears Policy
- Right to Acquire Policy
- Right to Buy Procedure
- Tenancy / Lease Agreement

Definitions

Term/acronym	Description
Tenant	Secure tenants whose homes were transferred to Phoenix Community Housing by virtue of the stock transfer on 03/12/2007.
Phoenix	Phoenix Community Housing.

PRTB	Preserved Right to Buy.
------	-------------------------

Document Type:	Policy
Title:	Preserved Right to Buy Policy
Author:	Head of Specialist Housing Services
Department Owned By:	Specialist Housing Services
Data Protection Impact Assessment:	No
Equalities Impact Assessment:	No
Approval Date:	2022-05-26
Approved By:	Board
Implementation Date:	2022-05-30
Status:	FINAL
Version No:	V3
Last updated:	2022-05-11
Issue Date:	2022-05-11
File Path:	S:\Policies and Procedures Manual\Department- CS Specialist Housing Services\Right to Buy\CS Right to Buy Policy FINAL V3 May 2021.docx