

Melton Borough Council: Right to Buy Policy January 2021

DRAFT

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1. Policy Purpose

This Right to Buy Policy statement sets out Melton Borough Council's position as a landlord in relation to Right to Buy issues. It seeks to adopt a responsible approach which balances the business needs of the Council with its statutory responsibilities.

2. Scope

The policy covers all Right to Buy applications received by the Council in respect of its housing stock contained within the Housing Revenue Account.

3. Context

3.1 What is the Right to Buy?

The Right to Buy scheme helps eligible council tenants in England to buy their home with a discount. It is a statutory right of Secure tenants. From May 2015, the eligibility criterion was reduced from five years public sector tenancy to three. This means Secure tenants who have been a public sector tenant for three years can apply to buy their home.

3.2 Financing the Right to Buy

There is nothing in law that specifies how a Right to Buy purchase can be financed. A family member (or someone else) can provide the funding for the purchase. However, legal ownership of the property can only be in the names of the eligible tenant(s) and other eligible applicants.

Joint applications for the Right to Buy are relatively common; in addition to joint tenants, the Right to Buy may be shared with:

- Spouses or civil partners; and
- Up to 3 family members who have lived with the tenant(s) for the past 12 months.

3.3 Discount

Any period spent in as a public sector tenant, including armed forces accommodation, can count towards the three year qualifying period for Right to Buy and the qualifying period for the discount.

The following discount levels apply in relation to eligible tenancies:

| House | Flat |
|---|--|
| 3, 4 and 5 years - 35% | 3, 4 and 5 years - 50% |
| 6 years - 36% | 6 years - 52% |
| 7 years - 37% | 7 years - 54% |
| Discount will continue to increase by 1% for every complete year of tenancy, up to a maximum 40 years - 70% | Discount will continue to increase by 2% for every complete year of tenancy, up to a maximum of 15 years - 70% |

4. Right to Buy Sales and Business Planning

The Right to Buy has an impact on the Council's income as a landlord and consequently its ability to plan its business. Right to Buy sales are assumed to be at XX per year from 2019/20. In the financial year 2018/19 a total of XX council properties were sold through RTB. Of the £X market value of the properties sold, the Council received £Y after the discount was awarded to purchasing tenants. The Council pooled £Z to central government (including mortgage pooling) and retained £A for investment within the housing capital programme. An indicative rent loss figure for XX properties would be £YY a year (based on an indicative rent of £ZZ per week over 52 weeks).

5. Risk

The risk to the Council's income and its ability to plan its business is clear from section 4.

Additionally, the Council is exposed to the risk posed by fraudulent Right to Buy application. This risk is managed through:

- a) Identity checks (this includes household members wishing to be included in the application);
- b) Verification of claimed tenancies (discount); and
- c) Additional checks on the financing of the purchase.

There is also the potential of family members taking advantage of being able to purchase a heavily discounted property, and the tenant inadvertently putting their home at risk / unwittingly entering into a deferred resale agreement and triggering the repayment of the discount.

6. Specific Policy Areas

Naturally, the Council will act lawfully at all times and absolutely respect the statutory rights of tenants. However, where the Council has options it will choose to act reasonably but robustly to protect its rental income and assets.

6.1 Rural Exemption

Section 157 of the Housing Act 1985 provides that local authorities in certain areas can impose certain restrictions on the subsequent resale of homes acquired under the Right to Buy scheme. The areas concerned are:

- a) National Parks,
- b) Areas of Outstanding Natural Beauty, and
- c) areas designated by the Secretary of State as 'rural'.

Local authorities may apply to have specified areas designated as 'rural'. These areas might be a whole district or part of a district. When an application is submitted, an assessment is made for each parish in the area for which designation is sought. The criteria are that:

- a) There should be a population density of no more than two persons per hectare, and
- b) Towns with more than 3,000 inhabitants are ineligible.

The first criterion (the density test) can be applied flexibly. For example, some parishes just over these limits may be designated in order to avoid a 'patchwork' situation where some parishes are designated while others, broadly similar, are excluded.

The Council will apply to the Secretary of State to obtain the rural exemption designation in all areas of the district where it is applicable.

6.2 Right to Buy Applications

6.2.1 Eligibility and Discount

The Council will ensure that it follows the correct legal procedure, but the Council will robustly check both the eligibility and qualifying tenancies (discount) of Right to Buy applicants. It will work with applicants and keep them informed throughout the Right to Buy process, but will expect applicants to provide clear and unambiguous evidence of their eligibility and qualifying tenancies. Admittance of the Right to Buy and qualifying period must be authorised by the Tenancy Services Manager or, in their absence, the Director of Housing and Communities.

6.2.2 Family Members

The Council will allow family members to share the Right to Buy, but only where the qualifying criterion is met and evidence is provided. This must be authorised by the Tenancy Services Manager or, in their absence, the Director of Housing and Communities.

6.2.3 Valuation

Works undertaken by the tenant without the written permission of the Council will be discounted for the purposes of the valuation. If approval has not been sought and granted, the valuers will not be requested to disregard the added value these improvements may give to the property's market value.

The property will be valued in its condition at the date the application and offered for sale on that basis. Once an application is received no improvements to the property which could increase its value will be carried out, with the property removed from any planned maintenance programmes, such as replacement windows, rewiring or structural

improvements. Only essential repairs which could threaten the occupants or the property if not carried out will continue through the buying process.

The Council will honour the valuation of the independent surveyor; it will expect a tenant who disagrees with the valuation to seek the review of the district valuer.

6.2.4 Notice Periods

The Council will seek to serve the relevant notices to either accept the offer or to complete the Right to Buy without delay (i.e. the tenants must complete the sale or the application lapses). Notices must be authorised by the Tenancy Services Manager or, in their absence, the Director of Housing and Communities.

6.2.5 Completion

The Council is not bound to complete the sale if there are more than four weeks' arrears and it expects no outstanding rental debt at completion. However, each case will be considered individually having regard to the reason why rent (or any other payment) remains outstanding. Completion with rent arrears can only be authorised by the Tenancy Services Manager or, in their absence, the Director of Housing and Communities, and only in exceptional circumstances.

6.2.6 Mortgage and Financial Assistance

The Council will not offer mortgages or other financial assistance to Right to Buy applicants.

6.3 Post Right to Buy Options

6.3.1 Right of First Refusal

The only discretion the Council has with regard to the right of first refusal is whether to exercise the right to "buy back" the property. Consideration will be given to:

- a) funding;
- b) housing need and demand;
- c) location; any likely refurbishment and the costs thereof; and
- d) if the purchase represents value for money in the context of the Housing Revenue Account Business Plan.

The Housing Asset Manager or, in their absence, the Director of Housing and Communities will consider offers of buy back in the first instance and obtain an independent valuation of the property. Subject to this valuation, either, inform the applicant in writing that the Council does not wish to exercise the right of first refusal, or, following the property acquisition procedure, and seek approval in line with the Council's Constitution.

6.3.2 Discount waiver on resale

Any request to exercise the discretion to waive repayment of the discount will be considered on its merits, but it is only expected to apply in exceptional circumstances. It will be necessary to establish both the facts justifying the move and that the move could not take place unless all or part of the discount repayable were waived. The Council will follow the Ministry of Housing and Local Government's guidance which includes examples of where the use of discretion may be justified. This decision to waive a covenant will be taken in accordance with the Council's Constitution.

6.3.3 Covenants on Works to the Property

The Housing Asset Manager or, in their absence, the Head of Housing and Property Services will consider requests for permission to undertake work; permission will not be unreasonably withheld, but the Council may impose conditions to any permissions granted to ensure its assets are protected and no costs are incurred to the Council.

7. Extra Checks to request - working document

In order for the Council to process the application in line with the legislation governing the Right to Buy scheme and that surrounding Data Protection and Fraud and Money Laundering, Melton will require tenants to complete the following information.

Please verify the identity and permanent address of all applicants
 Please provide us with details of;
 National Insurance number(s)

| Tenant Name | NI Number |
|--------------------|-----------|
| 1) | |
| 2) | |
| Family Member Name | |
| 1) | |
| 2) | |
| 3) | |

Do you (or a family member living with you) own, or have an interest in, another property in the UK? Yes/No

If Yes please give details

.....

We are required to comply with the Money Laundering Regulations and to policies adopted worldwide by financial and government authorities, preventing the use of laundering systems to disguise the proceeds of crime.

Please give details of how you wish to finance the purchase of your property through the Right to Buy scheme:

Will you require a mortgage in full or in part payment of the sale price?

Full mortgage Part mortgage No mortgage required

Buy to Let mortgage

Name of mortgage provider if known

.....

Are you receiving a financial gift to purchase the property? Yes/No

If Yes please give details.....

.....

Will the property be paid for by an inheritance?

Yes/No

If Yes please give details

.....
.....

Are you using savings to pay for the property?

All savings Part savings No savings being used

If All or Part savings are being used, please give details

.....
.....

Please give details of any other means being used to pay for the property purchase:

.....
.....
.....

.....
Any tenant or family member who is subject to certain Court Orders (or who have a Court Hearing date pending) will not be eligible for the Right to Buy scheme until such time as the Order has ended.

Are you currently subject to (or have a Court Hearing date pending) for any of the following Court Orders?

| | Court Order in place | Court Hearing date pending | No Court Order |
|-----------------------------|----------------------|----------------------------|----------------|
| Bankruptcy* | | | |
| Possession Order | | | |
| Demotion of tenancy | | | |
| Anti-Social Behaviour Order | | | |

*For more details on the Bankruptcy option, please see the notes below.

BANKRUPTCY

In order to comply with Section 121 of the Housing Act 1985, we need to establish any person(s) to whom the Right to Buy belongs who may be an undischarged bankrupt (or have made a composition or arrangement with his/her creditors) the terms of which remain unfulfilled, or who have a bankruptcy petition or receiving order pending. This is because in these circumstances the Right to Buy cannot be exercised until such an order or arrangement has been discharged.

DECLARATION AND SIGNATURES

I/we grant permission to Melton Borough Council to make any enquiries necessary in order to confirm information specified in this form. To the best of my knowledge and belief the information given in this form is true, complete and correct. I understand that by giving false or misleading information or by omitting information for the purpose of gaining the Right to Buy, it may be regarded as a criminal offence and action may be taken against me.

Signed (Tenant 1)
Signed (Tenant 2)
Signed (Family member 1)
Signed (Family member 2)
Signed (Family member 3)
Date