



**North East  
Derbyshire**  
District Council

# **Right to Buy – Buy Back Policy**

(January 2024)

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***We speak your language***

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Polish

***Mówimy Twoim językiem***

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French

***Nous parlons votre langue***

---

Spanish

***Hablamos su idioma***

---

Slovak

***Rozprávame Vaším jazykom***

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Chinese

**我们会说你的语言**

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## CONTROL SHEET FOR [Right to Buy Back Policy]

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## 1. Introduction

- 1.1 The Right to Buy scheme is a government incentive which gives eligible social housing tenants the right to buy their home at a discount on the market value, meaning lower than the price it would sell on the open market. To buy under this scheme applicants must have been a secure public sector tenant for at least 3 years.
- 1.2 The Housing Act 2004 introduced the Right of First Refusal by implementing The Housing (Right of First Refusal) (England) Regulations 2005 which came into force in August 2005.
- 1.3 The regulations became effective for people who received their offer notice for Right to Buy or Right to Acquire after 18th January 2005.
- 1.4 The regulation stipulates that Right to Buy owners who wish to resell or dispose of the property within 10 years from the date of the original purchase (whether freehold or leasehold) will in the first instance have to offer the property to the former landlord (or to another social landlord) at full market value, this being the Council. However a reduced purchase price may apply due to the owners discount repayment liability where applicable. (See part 5.9).
- 1.5 This document sets out the Council's policy for repurchasing homes bought from the Council either through a voluntary sale or under the provision of the Right to Buy, which includes the repurchase of properties offered to the Council under the Right of First Refusal obligation.
- 1.6 The policy also provides criteria that may be applied when considering purchasing former Council homes purchased outside the 10 year period or properties that were not former Council homes.
- 1.7 The policy and procedures outlined in this document have been split into two sections for ease of use, which are;
  - **Section A - Right of First Refusal policy and procedures**  
(Properties brought under the Right to Buy scheme and are for resale within 10 years from the date of the original purchase)
  - **Section B – Former council properties outside the 10 year purchase period**  
(Council properties purchased outside the 10 year period (or properties that were not former Council homes) and do not fall within the Right of First Refusal legislation)

## 2. Scope

- 2.1 The policy will provide a framework in delivering the Council's statutory duties under housing and related legislation when repurchasing properties that were bought under the Right to Buy scheme and will have due regard to the following, as an example;
  - Housing Act 1985 (s156A)

- Landlord and Tenant Act 1985 and 1987
- Housing and Planning Act 1986
- Leasehold Reform, Housing and Urban Development Act 1993
- Housing Act 1996
- The Housing (Right of First Refusal) (England) Regulations 2005

- 2.2 This policy may also be used when considering purchasing properties that were not originally bought through the right to buy scheme which will enable regeneration and housing growth in line with the Affordable Social Housing Acquisitions and Disposals Policy.
- 2.3 The procedures and the delegated decision making process in the policy will be adhered to when potential properties are offered for sale or identified by the Council or Rykneld Homes Limited including through a third party, for example estate agent, or property Auction.

### 3. Principles

- 3.1 The policy will link to the Council Plan by creating;

A place to live that people value;

- Develop and continually improve the quality and range of housing, providing comfortable homes for residents that meet their needs.

We will work to achieve this through our assets:

- Explore housing development and regeneration opportunities.
- Asset rationalisation programmes.

And through delivery:

- Build, acquire and facilitate delivery of sustainable and affordable homes across the district.

And through improvement:

- Increase the number of sustainable and affordable homes across the district.

And through our partners:

- Enable housing growth across tenures to meet the housing need.
- Consult on planning applications for new developments.

- 3.1 The Policy will also have due regard to the Councils and Rykneld Homes policies and strategies, including the;

- Affordable Social Housing Acquisitions and Disposals Policy
- Empty Properties Strategy
- Housing Strategy
- Asset Management Strategy

## **4. Statement**

### **4.1 See Section A - Right of First Refusal policy and procedures**

For properties brought under the Right to Buy scheme and is for resale within 10 years from the date of the original purchase.

### **4.2 See Section B – Former council properties outside the 10 year purchase period**

For Council properties purchased outside the 10 year period (or properties that were not former Council homes) and do not fall within the Right of First Refusal legislation.

## **Section A**

## **5. Right of First Refusal**

5.1 The Housing Act 2004 introduced the Right of First Refusal by implementing The Housing (Right of First Refusal) (England) Regulations 2005 which came into force in August 2005.

5.2 The regulations became effective for people who received their offer notice for Right to Buy or Right to Acquire after 18th January 2005.

5.3 The regulation stipulates that Right to Buy owners who wish to resell or dispose of the property within 10 years from the date of the original purchase (whether freehold or leasehold) will in the first instance have to offer the property to the former landlord (or to another social landlord) at full market value, this being the Council.

### **5.4 Right to Buy Discounts for Context**

5.5 Eligible tenants can purchase Council Owned properties under the Right to Buy Scheme at a discount which are set by law and cannot be changed by individual Councils. The discount is tapered therefore the longer the tenancy, the bigger the discount, discounts increase each year in line with any inflation.

5.6 There are different discounts for different properties, as of 1 April 2022, these were set at;

- Houses - 35% discount for a 3 – 5 year public sector tenant, after 5 years the discount will increase by 1% for every extra year up to a maximum of 70% – or £96,000 (whichever is lower) across England (except London)
- Flats - 50% discount for a 3 – 5 year public sector tenant, after 5 years the discount will increase by 2% for every extra year up to a maximum of 70% – or £96,000 (whichever is lower) across England (except London)

### **5.7 Owners Selling a Previous Right to Buy Property**

- 5.8 Owners can sell their home at any time, however if they wish to sell within 5 years of the original purchase date then the Council will have a right to ask for repayment of all or part of the discount, this is at the Council's discretion. Regulations have been put in place for the discount proportion to be repaid and the actual price would depend on the current valuation of the property.
- 5.9 The discount proportion is as follows;
- 1st year - The whole discount will have to be repaid
  - 2nd year - Four fifths must be repaid
  - 3rd year - Three fifths must be repaid
  - 4th year - Two fifths must be repaid
  - 5th year - One fifth must be repaid
- 5.10 There is no legislation that states the Council must buy the property back, however this policy will be used by the Council in consultation with Rykneld Homes Ltd to consider repurchasing properties under this scheme.
- 5.11 The owner in the first instance should send an "Offer Notice" or write to the Council, either by letter or email, to make an offer of sale. This notice must include;
- The full postal address
  - State that the covenant on the property requires the Council to be offered the first refusal of purchase
  - The property type and size
  - The type of the property's heating system
  - Specify any improvements or structural changes which have been made since the original purchase
  - Return address for the correspondence
- 5.12 The Council will send an "Acknowledgement of receipt of offer notice" which is a statutory requirement and must include the following:
- specify the date of receipt of the offer notice; and
  - explain the effect of regulations in simple terms, which are;
    - Acceptance notices
    - Rejection notices
    - Nomination of another person to accept an offer
    - Disposal of property and requirement for further offer notice
    - Time limit for completion of purchase
- 5.13 **Right of First Refusal Offer**
- 5.14 In line with legislation when an "Offer Notice" or letter is received requesting the sale of a property under the Right of First Refusal obligation the Council can either;
- Buy the property back
  - Refuse to buy the property back, in which case it can then be sold on the open market, however discount repayments may apply as per part 5.9.
  - Nominate another housing provider in the area to purchase the property i.e. a Registered Provider (RHL will be given first refusal) (see part 5.31)



5.15 A purchase under the Right of First Refusal obligation will be made in line with the requirements of the legislation which are;

- The Council must purchase a property at the full market value (if this cannot be agreed then the District Valuation Office will be assigned to value the property and both parties must agree).
- The Council must accept the offer of the property within 8 weeks (12 weeks for flats) of receiving notification from the owner.
- Acceptance of an offer must be by acceptance notice confirming that the Council wants to purchase the property.
- Once the offer is accepted the Council has to enter into a binding contract with the owner within 12 weeks after the date on which the acceptance notice is served on the owner or no later than 4 weeks after the receipt of written notification from the owner that they are ready to complete.
- If the time limits are not met the owner can sell the property on the open market

#### 5.16 **Financing**

5.17 There must be sufficient funding to proceed with the purchase which must be ascertained before any formal decision can be made and the owner notified.

5.18 If no funding is available then an offer of sale request will be denied and the owner will be notified in writing within 10 working days, the property then can be sold on the open market.

#### 5.19 **Assessment Criteria Guidance**

5.20 The Council will consider all requests received from home owners and conduct an assessment in consultation with RHL, giving priority to properties that meet the Councils corporate aims.

5.21 The Council's procedure to implement the Right of First Refusal legislation is shown via the procedure chart in Appendix 1.

5.22 When considering repurchasing a property a viability assessment will be conducted and how the use of the property will be determined, this can include, for example:

- to let within the Council's housing stock
- to let as specialist housing
- for Private Sector Leasing (PSL) in partnership with a Registered Provider
- to demolish for regeneration/development purposes
- to nominate to another housing provider to purchase

5.23 Properties within the following categories will be given priority:

- Properties located in high/medium housing demand areas
- Properties that enable regeneration
- Properties that enable development opportunities
- Properties that are long term empty

- Properties that are suitable for current housing schemes such as PSL
- Flats within council owned blocks

5.24 The Council in consultation with RHL will determine if the property to purchase is a viable investment by assessing if the property is value for money when taking into consideration;

- Properties for housing stock, including;
  - the purchase price,
  - the value of any repairs/improvements required to bring the property up to a lettable standard,
  - the rent which the property would generate, and
  - if there is any repayable discount by the owner.
- Properties for regeneration/development purposes, including;
  - the purchase price
  - how it will contribute to the wider scheme,
  - how it will contribute to the community,
  - how this would generate revenue, and
  - how this would enable housing growth.

5.25 Assessments will be carried out to each property on its own merit by the Council's Housing Strategy team in Partnership with Rykneld Homes Limited (RHL) using various resources to determine viability.

5.26 Each property will be fully inspected by Rykneld Homes Ltd in conjunction with NEDDC engineers to ensure value and any works required. The assessed cost of the works will be off set against the value of the property to assess viability of purchase, however the full market value must be offered if the purchase is to proceed.

5.27 The Council reserves its right to refuse to buy a property and each property will be assessed on its own merit using the assessment criteria as a guide, set out in this policy.

5.28 If the Council refuses to buy the property a rejection notice must be served as soon as the decision has been made not to purchase or nominate to another organisation (no later than 8 weeks). The rejection notice must;

- be in writing; and
- state that the Council is rejecting the offer to purchase the property.

5.29 Properties which are deemed to be of defective construction under the provision of the Housing Defects Act 1984 will only normally be considered for wider regeneration/development purposes, however in exceptional circumstances the Council may agree to a purchase if the property is structurally sound and it is financially viable. Where flats are of a non-traditional construction but in a Council owned block special consideration may be given.

5.30 **Nomination of Another Person to Accept an Offer**

- 5.31 Regulation 8 of the Housing (Right of First Refusal) (England) Regulations 2005 states that the Council can nominate another person to accept the offer of sale.
- 5.32 The Council will reserve its right to nominate “another person” to accept the offer of sale (RHL will be given first refusal), however the Council will stipulate that any nomination must be to the benefit the community to help with housing need, comply with current housing schemes or enable development/regeneration.
- 5.33 The Council will only nominate to organisations registered as a social landlord, including Registered Housing Providers or other bodies who fulfil the landlord condition set out in [section 80\(4\) of the Housing Act 1985](#).
- 5.34 Before an organisation can be nominated to accept a particular offer of sale, the organisation must give their permission to be nominated in writing.
- 5.35 Any nomination decisions will be based on a property by property basis, including which suitable housing provider to nominate to.
- 5.36 **Delegation**
- 5.37 Once the assessment is complete a delegated decision will be drafted for approval by the Director of Finance and Resources (S151 Officer) and the Council’s Portfolio holder for Portfolio Holder for Housing and Community Safety (or Leader of Council), who will make the final decision to approve or refuse the sale offer or nomination to another housing provider.
- 5.38 **“Notice” Criteria**
- 5.39 All notices can be served either via email, post or by personal delivery.
- 5.40 **Appeals Procedure**
- 5.41 Appeals must be received within 28 days from the date of the decision notification and will be considered against how the policy or procedure has been implemented.
- 5.42 Where an applicant is appealing against how the policy and/or the procedures have been applied a Senior Officer will investigate the case and respond accordingly. If the owner is not satisfied with the decision the normal Council procedure will be implemented and the owner can appeal to the Local Government Ombudsman.
- 5.43 Under these circumstances the Council will still not be obligated to repurchase.

## **Section B**

### **6. Former council properties outside the 10 year purchase period**

- 6.1 Former Council owned properties that were originally purchased through the Right to Buy scheme but more than 10 years from the original purchase date are not obligated to the Right of First Refusal legislation. (See Section A).

- 6.2 These properties may be identified by correspondence (including email) being sent from owners offering to sell their property back to the Council, however properties may also include those identified by the Council or Rykneld Homes Limited including via a third party, for example through an Estate Agent or property Auction.
- 6.3 Properties under these circumstances are not governed by strict timeframes and legal notices associated with the Right of First Refusal legislation, therefore this is a more relaxed approach, including the price of the property which can be mutually agreed with the seller through negotiations.
- 6.4 The Council's Legal department will only need to be notified if a purchase has been agreed which they will then commence to approve the draft contract documentation, once received by the sellers Solicitors, and undertake the usual conveyancing process.
- 6.5 The Council's procedure to assess and purchase properties outside the 10 year purchase period (not subject to the Right of First Refusal legislation) will be in line with the procedures in Appendix 1.
- 6.6 **Financing**
- 6.7 There must be sufficient funding to proceed with the purchase which must be ascertained before any formal decision can be made.
- 6.8 If no funding is available then the owner will be notified by the Council that it does not wish to purchase the property.
- 6.9 **Assessment Criteria Guidance**
- 6.10 The assessment criteria for properties not originally sold within a 10 year period of resale will slightly differ from that in section A.
- 6.11 The Council will consider all offers of sale received and conduct an assessment in consultation with RHL, giving priority to properties that meet the Councils priorities.
- 6.12 When considering purchasing a property a viability assessment will be conducted and how the use of the property will be determined, this can include, for example:
- to let within the Council's housing stock
  - to let as specialist housing
  - for Private Sector Leasing (PSL) in partnership with a Registered Provider
  - to demolish for regeneration/development purposes
- 6.13 Properties within the following categories will be given priority:
- Properties located in high housing demand areas
  - Properties that enable regeneration
  - Properties that enable development opportunities
  - Properties that are long term empty
  - Properties that are suitable for current housing schemes such as PSL
  - Flats within council owned blocks

- 6.14 The Council in consultation with RHL will determine if the property to purchase is a viable investment by assessing if the property is value for money when taking into consideration;
- 6.15 Properties for housing stock, including;
- the purchase price,
  - the value of any repairs/improvements required to bring the property up to a lettable standard,
  - the rent which the property would generate, and
- 6.16 Properties for regeneration/development purposes, including;
- the purchase price
  - how it will contribute to the wider scheme,
  - how it will contribute to the community,
  - how this would generate revenue, and
  - how this would enable housing growth.
- 6.17 Assessments will be carried out to each property on its own merit by the Council's Housing Strategy team in Partnership with Rykneld Homes Limited (RHL) using various resources to determine viability.
- 6.18 Each property will be fully inspected by Rykneld Homes Ltd to ensure value and any works required.
- 6.19 The assessed cost of the works may be off set against the value of the property and a purchase price can be negotiated.
- 6.20 For the purpose of this policy, a definition in this instance is to restore to a good condition or replace something damaged, faulty, or worn.
- 6.21 The Council reserves its right to refuse to buy a property and each property will be assessed on its own merit using the assessment criteria as a guide, set out in this policy.
- 6.22 Properties which are deemed to be of defective construction under the provision of the Housing Defects Act 1984 will only normally be considered for wider regeneration/development purposes, however in exceptional circumstances the Council may agree to a purchase if the property is structurally sound and it is financially viable. Where flats are of a non-traditional construction but in a Council owned block special consideration may be given.
- 6.23 **Delegation**
- 6.24 Once the assessment is complete a delegated decision will be drafted for approval by the Director of Finance and Resources (S151 Officer) and the Council's Portfolio holder for Portfolio Holder for Housing and Community Safety (or Leader of Council), who will make the final decision to approve or refuse the sale offer.
- 6.25 **Purchase Agreed or Refused**

- 6.26 If the delegated decision is to agree to the purchase, at the negotiated price, the seller will be informed of the decision and the Council's Legal department will be notified to start the purchase through the usual legal process.
- 6.27 If the delegated decision is to refuse the purchase the seller will be notified and no further action is required.

## **7. Responsibility for Implementation**

- 7.1 For both sections A and B the Council working in partnership with Rykneld Homes Limited will be ultimately responsible for the implementation of this policy, however nominated Housing Providers will also have due regard and follow the procedures outlined in section A to comply with legislation. Home owners offering to sell their property back to the Council will also comply with this policy.

## **8. Appendices**

- Appendix 1 – Buy Back Procedure

## Buy Back Procedure

	Contact received from owner offering the property back to the Council – if received by other Departments forward to Housing Strategy immediately.
	Housing Strategy to forward (preferably by email) an Offer Notice form for completion by the owners and the Buy Back Information Document (Standard wording for the body of the email is used).
	NEDDC Housing Strategy Team receive the Offer Notice form completed by the owner, which is the legal written request to Buy Back the property.
	Housing Strategy to confirm receipt of Offer Notice to owner by forwarding an Acknowledgement Letter (by email), which includes informing them that an appointment will be made by RHL for a property inspection.  Share with RHL to ensure both organisations are aware of the potential Buy Back. Electronic folder created and all documents saved. Spreadsheet updated.
<b>Right of First Refusal - Offer to be refused or accepted within 8 weeks (12 weeks if a flat) from the date of the Acknowledgement Letter</b>	
	Housing Strategy to provide housing needs information which provides an overview of the current and planned housing provision, historic bidding and demand for Council properties in the ward and recommendation to proceed/not proceed with the Buy Back.
	If agreed in principle, RHL to co-ordinate the housing inspection with RHL Asset Management Team and NEDDC engineers. RHL to arrange an appointment for the inspection to be completed with the owners.
	RHL provide a copy of the report with recommendations to the Housing Strategy Team. Recommendations will also be based on: <ul style="list-style-type: none"> <li>• traditional v's non-traditional properties</li> <li>• what major capital workstreams may have been delivered to the locality</li> <li>• what future works may be in the pipeline</li> <li>• estimated cost of void works</li> </ul> Check all information on open housing.
	RHL to discuss with the senior management team before a formal decision is made and notify the Housing Strategy team.
	Housing Strategy and RHL to discuss report findings and agree a course of action whether to continue to seek to purchase or reject the Buy Back offer.
<b>Joint decision to not proceed</b>	
	Right of First Refusal Housing Strategy to send to the owner a: <ul style="list-style-type: none"> <li>• Rejection Letter, and;</li> <li>• Land Registry notification Letter, and;</li> <li>• Rejection Notice</li> </ul> (These documents legally give consent that the property can be sold on the open market). <ul style="list-style-type: none"> <li>• Forward the email and documents to RHL to confirm the property has been rejected and no further action is required</li> </ul> If outside the 10 year period; <ul style="list-style-type: none"> <li>• Notify owner that the Council does not wish to purchase the property</li> <li>• Copy RHL into the notification for their records</li> </ul>
<b>Joint decision to proceed:</b>	
	Housing Strategy to check available finance to purchase property
	Once RHL receives the confirmation to proceed from Housing Strategy, RHL's Home Ownership Officer will instruct the valuer (currently Barlows), either via email or telephone to arrange with the owner an appointment for a valuation of the property. NEDDC are responsible for payment of the valuation and Stephen Barlow invoices the Council direct.
	Valuation received and shared with Housing Strategy and owner informed by RHL verbally in the first instance then confirmed in writing.
	Once valuation completed; <ul style="list-style-type: none"> <li>• Housing Strategy to draft a Delegated Decision and forward to the Director of Finance and Resources (S151 Officer) to sign with the agreement of the Portfolio Holder for Housing and Community Safety</li> </ul> (If Statutory deadline approaching get a verbal decision in principle in the first instance to avoid delays).

	<p>Housing Strategy to send:</p> <ul style="list-style-type: none"> <li>• Email to owner with the valuation price of the property, with the attached;</li> <li>• Acceptance letter to owner</li> <li>• Acceptance Notice (only if Right of First Refusal)</li> </ul> <p>(These documents legally confirm that the Council accepts the owner's offer to Buy the Property back).</p>
	If owner is happy to accept the valuation and wishes to proceed then written acceptance (including via email) will be required to Housing Strategy.
	<p>Right of First Refusal - If the owner wants a re-determination of the valuation price a written request needs to be submitted to RHL who will make a request to the District Valuation Office.</p> <p>(If the Council or the Owner request that the District Valuation Office determine the value of the property in accordance with section 158 of the 1985 Act, the time from the date that the request is received by the District Valuer until the date that the determined value is notified to the parties shall be excluded from the 12 weeks statutory timeframes for completion purposes).</p>
	Once the re-determination is received by RHL they will forward the report to Housing Strategy.
	Once the District Valuation Office has valued the property that price must be agreed by both the Council and the Owner. No further valuations can be done.
	<b>Right of First Refusal - Once the offer is accepted the Council has to enter into a binding contract with the owner within 12 weeks after the date on which the acceptance notice is served or no later than 4 weeks after the receipt of written notification from the owner that they are ready to complete.</b>
	<p>Housing Strategy to inform legal to proceed with the purchase, forward the statutory legal notices, valuation report, Delegated Decision and agreements to purchase to show compliance with the Right of First Refusal legislation.</p> <p>If outside the 10 year period forward the offer form, valuation report and agreements to purchase to legal.</p>
	Housing Strategy to forward details of the Legal Officer acting as the Councils Conveyancer (currently Sally Ainsworth) to the owner.
	Legal will determine any RTB discount to be paid back taking account of any work that increased the value of the property (if within 5 years of the original RTB completion date).
	Legal to complete the sale.
	Once legal have completed the sale a Completion Certificate will be circulated across both organisations.
	Legal will arrange for the keys to be returned upon completion to a named person within RHL. (Currently Siobhan Browes or Olivia Kirk).
	Email sent by Home Ownership Team to Housing Patch, Voids, Property Services and Customer Services advising them that the property should be treated as a new void. Homeownership officer completes this process and passes the keys to the voids team.
	IT are informed to create an account on Open Housing.- Homeownership officer to arrange this and ensure on the system.
	Voids process commences.
	Home Ownership Officer updates all electronic records to reflect sale completion.

NEDDC Legal
NEDDC Housing Strategy
RHL