

Report for: Homes Policy Development Group

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| Date of Meeting: | 28 January 2025 |
| Subject: | MID DEVON HOUSING RIGHT TO BUY POLICY |
| Cabinet Member: | Cllr Simon Clist Cabinet Member for Housing and Property |
| Responsible Officer: | Simon Newcombe – Head of Housing and Health |
| Exempt: | None which are Exempt from publication under paragraph 3, Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) |
| Wards Affected: | All |
| Enclosures: | Annex A – Right to Buy Policy Annex B – Right to Buy Policy Equality Impact Assessment |

Section 1 – Summary and Recommendation(s)

Under the statutory Transparency, Influence and Accountability Standard set by the Regulator of Social Housing (RSH), landlords must be open with tenants and treat them with fairness. Although the terms and process that enable tenants to acquire their council homes under Right to Buy (RTB) is largely set by legislation, it is important that Mid Devon Housing (MDH) have a clear point of reference through a specific policy available for tenants.

There have also been some key recent legal changes to RTB policy nationally which makes it timely to have an up to date policy in place.

This report therefore presents a new policy that outlines Mid Devon Housing's (MDH) approach to managing tenants' RTB of their council homes. It also covers specific additional scenarios for properties sold under RTB, including:

- **Right of First Refusal:** MDH's process for deciding on repurchase offers for properties resold within ten years of the original RTB purchase
- **RTB Discount Repayment:** The MDH procedure for reviewing requests to waive discount repayments if the property is sold within five years of purchase
- **Covenant Removal:** Restrictions to keep former council properties affordable for local buyers, with removal considered only in exceptional cases

Recommendation:

That the PDG recommends that Cabinet recommends that Council adopt the Right to Buy Policy and Equality Impact Assessment contained in Annexes A and B respectively

Section 2 – Report

1 Introduction

- 1.1 Under Part V of the Housing Act (1985), RTB allows secure council tenants to purchase their rented homes with a discount based on caps set nationally and tenancy duration.
- 1.2 MDH has a dedicated team that takes receipt of and processes applications for the RTB of Council housing stock. This is done in-conjunction with the Council's Legal services team who lead on all conveyancing matters on behalf of the Council.
- 1.3 While MDH adheres to national legal requirements, this report clarifies discretionary elements to ensure consistent and efficient handling.
- 1.4 The Housing (Right to Buy) (Limits on Discount) (England) Order 2024 was introduced by the Government and came into force on 21 November 2024. This set a limit on the amount of discount that would be awarded to tenants. For Mid Devon (South West) tenants the maximum discount which can be applied is £30,000 and represents a significant reduction in available discount in comparison with previous legislation.
- 1.5 The maximum discount a MDH tenant can now get is whichever the lower is of:
 - 70% of the value of the property
 - the maximum discount for the region

2 Right of First Refusal

- 2.1 Properties sold under RTB since 2005 carry a right of first refusal covenant, requiring owners to offer their home back to the Council if they sell within ten years.

2.2 In all cases, MDH's decision to make use of its powers to buy properties will be determined by the following factors:

- a) The property must previously have been sold by the council under the RTB and be available for purchase free of encumbrances;

AND

- b) Purchase of the property would free up land or enable access to a site suitable for the development of more council housing or other affordable housing;

OR

- c) Housing need and demand is established for the type of property being offered and in the area in which it is located; and
- d) The initial cost of any refurbishment work required to bring the property up to MDH's lettable standard is relatively minimal; and
- e) The property has a potential positive overall financial impact on the HRA Business Plan in the long-term

2.3 There may be additional, property specific circumstances where a decision is made to buy-back a previous RTB property e.g. acquiring a leasehold property where the Council already holds the property freehold and other residential units within the block.

2.4 Where the Council wishes to purchase a property it has been offered, it must agree the market value with the owner through a competent, independent property valuation. If a price cannot be agreed through this process it will be determined by the District Valuer (the Government will pay the costs of employing a District Valuer).

2.5 The Operations Manager assesses repurchase proposals in line with policy criteria, with final approval sought from the Head of Housing and Health in consultation with the Cabinet Member for Housing and Property.

3 Repayment of Discount

3.1 Discount repayment may be waived in exceptional cases, such as:

- Medical conditions requiring relocation
- Financial hardship that limits ability to repay the discount

3.2 Applicants must provide relevant financial or medical documentation for review.

3.3 The Operations Manager or the Head of Housing and Health makes waiver decision recommendations following policy guidelines, again in consultation with the Cabinet Member for Housing and Property.

4 Removal of Covenant

- 4.1 MDH will not normally waive its right to a covenant and potential Right to Buy and owners should be aware that the restrictions imposed may affect the future sale of their home which may not sell at full market value or take longer than average to sell.
- 4.2 If a property with such a restriction has remained unsold for 12 months or more, MDH may consider relaxing the restriction if it is shown that the covenant is the reason the property remains unsold. MDH will not consider relaxing the restriction if the property has been unsold due to an inflated market valuation.
- 4.3 The Operations Manager or the Head of Housing and Health will make a determination on whether the covenant may be removed. If so approval will be sought from the Corporate Manager in consultation with the Cabinet Member for Housing and Property.

5 Historical Information

- 5.1 It should be noted that purchases can take many months or over a year to complete.
- 5.2 No. of RTB Applications received in 2023/24 = 22
 - 10 have been sold and 1 application is still active
 - 2 Applications were denied
 - 9 Applications were withdrawn
- 5.3 No of RTB Applications received to date in 2024/25 = 53
 - 4 have been sold and 38 are still active
 - 3 Applications were denied
 - 8 Applications were withdrawn
- 5.4 No of RTB Applications received post 21/11/2024 = 3

NB: Two of these applications came in on 21/11/2024 so just missed the cut off for consideration under the old legislation and just one application has been received after 21/11/2024.

6 Policy review

- 6.1 MDH will review this Policy every 5 years and as required to address legislative, regulatory, best practice or operational issues. However the Head of Housing and Health is given delegated authority to make minor amendments to the Policy as required by legislative changes, formal guidance or local operational considerations.
- 6.2 In addition to those legal changes already recently introduced, it is noted that the Government is undertaking a wider review of national (England) policy on RTB which may result in further changes. As such, this policy will be automatically reviewed once the national review has concluded.

6.3 Where material or significant amendments are required the policy will receive a full review and will be brought back to the Homes PDG and Cabinet for consideration. Full tenant consultation will also take place on any non-legislative changes.

7 Recommendation

7.1 In accordance with the above, the following recommendation is made:

- That the PDG recommends to Cabinet that it recommends to Council that the MDH Right to Buy Policy and Equality Impact Assessment be adopted (Annexes A and B respectively).

Financial Implications

A decision to buy back a former RTB property can only be made if a capital budget is available and approved for this purpose within the Housing Capital Programme.

Decisions to waive some or all of the RTB discount will be made in consultation with Operational Managers, Corporate Managers and the Cabinet Member for Housing and Property as this will result in a net cost to the Housing Revenue Account.

Legal Implications

The RTB scheme is governed by the Housing Act 1985 and subsequent amendments, with regulations for repurchase and discount limits. MDH complies with the Housing (Right of First Refusal) Regulations 2005 and the recent discount cap introduced in November 2024.

Risk Assessment

A clearly defined policy minimises the risk of legal and financial repercussions by ensuring MDH meets legislative timeframes.

Impact on Climate Change

There is no impact on Climate Change

Equalities Impact Assessment

MDH's housing policies ensure fair and consistent service delivery, addressing tenant diversity to meet regulatory standards. Information is available in accessible formats, and multiple routes for complaints are provided per the Housing Ombudsman's guidelines.

The Equalities Impact Assessment for this policy attached to this report in Annex B.

Relationship to Corporate Plan

The Corporate Plan includes advocating for changes to RTB policies, though MDH complies fully with current laws and must support tenants wishing to exercise this right.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 15 January 2025

Statutory Officer: Maria de Leiburne

Agreed on behalf of the Monitoring Officer

Date: 15 January 2025

Chief Officer: Richard Marsh

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 14th January 2025

Performance and risk:

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 09 January 2025

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Simon Newcombe, Head of Housing and Health

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Background papers:

[Right to Buy – Owning your Council Home](#)

[Housing Act 1985 – Part V](#)

[The Housing \(Right to Buy\) \(Limits on Discount\) \(England\) Order 2024](#)