

Preserved Right to Buy, Right to Acquire and Voluntary Right to Buy Policy

1.0 SCOPE

Purpose

- 1.1. This document sets out whg's Policy towards administering the Preserved Right to Buy (PRTB), Voluntary Right to Buy (VRTB) and Right to Acquire (RTA) schemes.

Legal and regulatory framework

- 1.2. The following legislation contains the framework in which to operate the PRTB, RTA and VRTB schemes:
 - Housing Act 1985, Schedule 5
 - Housing Act 1988, Part V
 - The Housing (Preservation of Right to Buy) Regulations 1993
 - Housing Act 1996, Chapter II
 - The Housing (Right to Acquire) Regulations 1997
 - Housing Act 2004, Part VI
 - Localism Act 2011
 - Charities Act 2011
 - Housing (RTB) (Limit on Discount) Order 2013
 - Housing and Planning Act 2016
 - Ministry of Housing, Communities and Local Government VRTB Guidance
- 1.3. The VRTB is referenced in the Housing and Planning Act 2016 but as a voluntary scheme the operating framework is contained within this Policy, associated procedures and the Ministry of Housing, Communities and Local Government (MHCLG) guidance.

- 1.4. The PRTB, RTA or VRTB is the right of a tenant to purchase the freehold of the house or long lease of the apartment they reside in. The customer is entitled to buy the property after a qualifying period of occupying either public sector or armed forces accommodation, or a mix of both. The discount awarded depends upon the number of qualifying years and the scheme under which the property is purchased. The discount and details of how to calculate it are set out in legislation and associated statutory instruments.
- 1.5. To access any of the schemes, the customer must be occupying the home as their only and principal home. Family members will only be included in an application to buy if they can provide evidence that they have been resident at the property for at least 12 months prior to the application. Family members can be added or removed to PRTB and RTA applications at any stage of the process, but any amendments to a VRTB application will result in the application being voided and a new application will need to be started.
- 1.6. Customers do not qualify for the PRTB, RTA or VRTB in the circumstances listed in Appendix 1 and 2.
- 1.7. This Policy does not apply to customers who have one of the following tenancies:
 - Market Rent
 - Rent to Buy
 - Starter/one year fixed term probationary
 - Mortgage Rescue
 - Assured Shorthold Periodic Temporary
- 1.8. The Social Housing Regulator's Governance and Financial Viability Standard requires that Governance arrangements protect social housing assets and that resources are managed effectively to ensure viability is maintained and that social housing assets are not put at undue risk. Whilst there is a statutory requirement for eligible properties to be sold to eligible customers under the PRTB and RTA and a voluntary agreement in relation to the VRTB, this Policy seeks to protect social housing assets where possible.

2.0 POLICY STATEMENT

Proving the Qualifying Period

- 2.1. For all schemes, customers are required to prove their length of qualifying tenancies. The following will be considered as proof of residency:
 - Electoral register copies
 - Council Tax bills
 - Utility bills
 - Wage slips
 - Benefit letters
 - Bank statements

- 2.2. We will not accept statutory declarations where the customer makes a declaration confirming length of tenancies.

The Preserved Right to Buy

- 2.3. To be eligible for the statutory RTB a customer must be a secure tenant and have held a secure tenancy with a Registered Provider of social housing for at least three years. The three year period does not have to be successive. Any time spent as a non-tenant adult (from age 16 onwards) in a parental home where they later succeed to the tenancy, will be included. None of the exclusions at Appendix 1 must apply.
- 2.4. Customers who were secure tenants of Walsall Council, and who transferred to whg or WATMOS Community Homes under the stock transfer in 2003, have the PRTB, so long as they have continued to be an assured tenant (with the PRTB) with either landlord.

The Right to Acquire

- 2.5. To be eligible for the RTA a customer must have held an assured tenancy (not including assured shorthold) with a Registered Provider of social housing for at least three years. The property must have been built or acquired by whg with grant funding or transferred to whg from a council. The three year period does not have to be successive and any previous secure tenancies held with a Registered Provider will count towards the qualification period and discount. Any time spent as a non-tenant adult (from age 16 onwards) in a parental home where they later succeed to the tenancy, will be included. None of the exclusions at Appendix 1 must apply.

Voluntary Right to Buy

- 2.6. To be eligible for the VRTB a customer must have held a tenancy with a Registered Provider of social housing for at least three years none of the exclusions at Appendix 2 must apply. The three year period does not have to be successive. Any time spent as a non-tenant adult in a parental home where they later succeed to the tenancy, will not be included.
- 2.7. whg will be given full compensation from the Government for the amount of discount each qualifying customer receives under the VRTB. whg will use the compensation to replace homes sold under the VRTB, contributing to the national one for one replacement requirement. Replacement homes do not have to be the same property type, tenure or in the same area as the ones they are replacing, except for homes transferred to whg by Walsall Council under the stock transfer agreement. Any of those homes sold must be replaced with social housing in Walsall.
- 2.8. Customers wishing to exercise the VRTB will be required to pay an application fee. The amount of the fee is set by Government. The application fee will be taken once it has been confirmed that the customer is eligible for

the VRTB and is refundable to the customer on completion of the sale. It is not refundable if the sale does not complete.

- 2.9 No application will be considered without the customer first registering on the Government's Tenant Portal where they will be allocated a Unique Reference Number (URN) if they are selected by the Government's tenant portal system. The application will not proceed with whg without the URN.

Porting to another property (VRTB only)

- 2.10. Where the property that the qualifying customer is applying to buy is included in the list of exemptions at Appendix 3, the customer will have the option to port to a suitable alternative property. whg will determine suitability based on property type, size and locality and will make one offer only (this includes offers made via choose & move, HomeSwapper or by another landlord).
- 2.11. A 'suitable alternative property' will be deemed as a property which has the same number of bedrooms, except where the property being ported from has three or more bedrooms and the customer's household does not require that number of bedrooms. In that circumstance, the number of bedrooms needed will be determined by whg's Allocations Policy. Where possible, a suitable alternative property will be in the same or nearby geographical area taking into account proximity to work and schools if relevant. The property must not be an exempt property under the VRTB scheme.
- 2.12. Where improvements have been made in the customer's current home, including decorating, alterations, fixtures and fittings, they will be disregarded when identifying a suitable alternative property. whg will not be responsible for either compensating or replacing these improvements unless legally required to do so.
- 2.13. If the porting customer requires aids or adaptations in the alternative property it will be their responsibility to arrange for funding and installation after they have purchased it. whg may consider reasonable adjustment by allowing the applicant to remain in their existing home until the sale is completed if it already contains adaptations and the new home does not and the customer can demonstrate these are needed to reasonably occupy the home.
- 2.14. whg has no obligation to find the customer a suitable alternative home to port to, but will try to facilitate a move where possible. Porting to another property will generally be facilitated through choose & move in line with the Portability Procedure at Appendix 4, with a Gold Band priority being awarded for a period of six months. If no suitable alternative property has been found within the six months period, whg's role in trying to facilitate porting will be discharged.
- 2.15. Porting outside the Walsall borough will be facilitated through a partnership approach with other RPs if it cannot be facilitated within whg's own stock.
- 2.16. Where a customer ports to another property, the discount will be calculated

on the property ported to. If a customer is porting to a property owned by another housing association, the process and eligible properties will be determined by that association's portable discount policy.

- 2.17. whg will operate an approach of 'move and buy' for porting customer. This means that the customer will port to the alternative property and then continue with the VRTB purchase. Customers are expected to play an active role in identifying a suitable alternative property.
- 2.18. Where porting can be achieved and a mortgage secured within three months from the porting process commencing, the VRTB application will be dealt with on the existing application. Where however this is not possible, the application must be voided and the customer must re-register for the VRTB once they have moved into the property they are porting to. If no suitable alternative property has been found within six months, whg's role in trying to facilitate it will be closed.
- 2.19. The customer will be given the same type of tenancy for the property they port to as they had in the property they ported from.

Property valuations

- 2.20. Property valuations for the PRTB and RTA will be completed by a RICs certified surveyor identified and paid for by whg. If the customer disputes the valuation, whg will request another valuation from the District Valuer. The District Valuer's valuation will then be used in the offer notice to the customer, regardless of whether it is less or more than the original.
- 2.21. Property valuations for the VRTB will be completed by a surveyor from whg's list of local professional RICs certified surveyors, selected by the customer and paid for by whg. If the customer disputes the valuation, they can select an alternative surveyor off the list but they must pay for the new valuation. The second valuation will be the final valuation and will then be used in the offer notice to the customer, regardless of whether it is less or more than the original.

Disposals

- 2.22. PRTB, VRTB and RTA disposals (sales) do not have to be reported to the Social Housing Regulator nor do they require Charity Commission consent to be disposed of.
- 2.23. VRTB disposals however require approval from Trustees of the Board.

Repairs and Improvements

- 2.24. Once an application is submitted for any of the PRTB, RTA or VRTB schemes, no repairs or improvements will be completed at the property unless they are required for whg to comply with:

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

Prevention of Fraud

- 2.25. For the PRTB, RTA and VRTB schemes, all appropriate checks will be carried out by whg or whg's solicitors in order to prevent fraud or money laundering.

Post Sale

- 2.26. After a property has been sold under any of the schemes, the discount or a proportion of it is repayable if the property is sold within the first five years.
- 2.27. Where the property has been purchased under the VRTB scheme, the customer must not sub-let the property in the first five years else the discount or a proportion of it is repayable.
- 2.28. During the first ten years after purchasing the property, if the property is re-sold, whg has the right of first refusal. Any 'buy back' will be completed in line with the Acquisitions and Disposals Policy.

Complaints and appeals

- 2.29. Any complaints or appeals in relation to the RTB, VRTB or RTA schemes will be considered in line with whg's Customer Experience Policy. This includes where a customer is not able to buy the home they are living in due to it being exempt from the VRTB, or they are not satisfied with any offers of alternative suitable properties.

3.0 PERFORMANCE MEASURES

- 3.1. whg will measure the number of PRTB, RTA and VRTB applications and completions in order to project future sales.
- 3.2. whg will ensure that all applications for the PRTB, VRTB or RTA are processed fairly, consistently, accurately and within prescribed timescales. Timescales relating to the PRTB and RTA are set out in legislation. Those relating to the VRTB are set out in the VRTB Procedure.

4.0 MONITOR AND REVIEW

- 4.1. This Policy will be monitored by the Director of Housing and reviewed every three years by the Policy Group.

5.0 ASSOCIATED DOCUMENTS, POLICIES AND PROCEDURES

5.1. Documents, policies and procedures associated with this Policy are:

- Housing Act 1985, Schedule 5
- Housing Act 1988, Part V
- The Housing (Preservation of Right to Buy) Regulations 1993
- Housing Act 1996, Chapter II
- The Housing (Right to Acquire) Regulations 1997
- The Big Switch 2003
- Housing Act 2004, Part VI
- Localism Act 2011
- Housing (RTB) (Limit on Discount) Order 2013
- Housing and Planning Act 2016
- Aids and Adaptations Policy
- Allocations Policy
- Acquisitions and Disposals Policy
- Customer Experience Policy

APPENDIX 1

Exclusions to the PRTB and RTA

Customers do not qualify for the PRTB or RTA where:

- The property is one of a group that has been substantially built or adapted for physically disabled persons with social or other support services provided nearby
- The property is one of a group that are usually let to persons with a mental disorder and there is the provision of social or other support services nearby
- The property is one of a group where due to the location, size, design, heating systems and other features are usually let to persons over the age of 60 and there is a resident warden or non resident warden and common room
- There is a final demolition notice in force in respect of the property
- There is a court order for possession of the property
- There is an undischarged bankruptcy order, a pending bankruptcy petition, a debt relief order, or an outstanding arrangement with creditors
- The tenancy type is one of those listed at section 1.9 in this Policy

APPENDIX 2

Exclusions to the VRTB

Customers do not qualify for the VRTB or to port to another property where:

- They have the PRTB
- They have chosen to use their RTA
- They have ever had a RTB/PRTB/VRTB/RTA discount at any point in the past
- They have any rent arrears at the point of application or whilst their application is being processed
- There is a court order for possession of the property
- There is an undischarged bankruptcy order, a pending bankruptcy petition, a debt relief order, or an outstanding arrangement with creditors
- There are ongoing investigations for breaches of tenancy including anti social behaviour
- They already own a property even if it is not their principal residence at the point of purchase.
- The tenancy type is one of those listed at section 1.9 in this Policy – porting to another property does not apply to these customers
- They are in supported housing property, including wellbeing or other older person schemes – this is due to supported housing being excluded from the scope of the VRTB pilot scheme by Government. Porting to another property does not apply to these properties

APPENDIX 3

Properties exempted from the VRTB

Some properties are exempt from whg's VRTB scheme. Customers wishing to purchase an exempt property will be supported to port to a reasonable alternative property.

Exemptions include the following for the reasons specified:

- *Bungalows* - these properties are designed specifically for older or vulnerable customers requiring level access accommodation. There is high demand for these property types and it is therefore important that they are retained in whg's social housing portfolio;
- *Properties with four or more bedrooms where the customer's household does not require that number of bedrooms* - these properties are in high demand and should be retained as social housing where the customer wishing to purchase does not need a property of that size. Customers will be supported to find a reasonable sized appropriate alternative to port to, with number of bedrooms needed being defined by whg's Allocations Policy;
- *Adapted properties where the customer's household does not need the adaptations* - this will protect the investment whg or the Council has made and will ensure that the adaptations continue to be used to meet the needs of disabled customers in the social rented sector. This will not include minor

adaptations as defined by the Aids and Adaptations Policy;

- *Properties built or acquired subject to Section 106 or other planning restrictions requiring them to be rented at a social or affordable rent in perpetuity* - this is to ensure that whg is protected from potential legal action for breach of planning restrictions, and that homes built specifically to address a shortage of affordable rented homes are retained in the social housing sector;
- *Homes where the cost floor is breached* - this is to ensure our investment and capital value in the home is safeguarded and retain financial strength in the business;
- *Rural properties where it is difficult to replace them* - this is to ensure the preservation of stock levels in those areas. ; and
- *Properties that have been identified in future demolition plans* – to protect whg from the cost of compulsory purchase to enable demolition.

Version control

Version	Version 1.2
Document author	Sarah Johnson
Document owner	Director of Housing
Legal advice	Shakespeares Solicitors May 2018
Consultation	whg Board September 2016
Approved by	Policy Group 20 June 2018 Whg Board 19 July 2018
Review Date	May 2020
Corporate Aim	Deliver high quality homes and services for our customers. Deliver a strong business, fit for today and prepared for tomorrow.
Equality analysis	Not required
Changes made	<p>The Policy has been amended to bring it in line with the current standard policy format.</p> <p>References to the MHCLG Guidance have been added.</p> <p>A new section has been added dealing with evidence required to prove residency.</p> <p>Statements have been added regarding successions and whether or not time spent as a non-tenant counts towards the qualification period.</p> <p>The qualification period for the VRTB has been amended to three years as required by Government.</p> <p>The section dealing with the VRTB and porting has been extended.</p> <p>A new section has been added dealing with repairs and improvements.</p>

	<p>A new section has been added dealing with property valuations.</p> <p>A new section has been added dealing with the prevention of fraud.</p> <p>A new section has been added dealing with disposals and the requirement for Trustee consent.</p> <p>A new section has been added dealing with post sale issues.</p> <p>Supported housing has been added to the list of exclusions from the VRTB at Appendix 2, and removed from the list of property exemptions at Appendix 3 where porting applies</p>
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