

RIGHT TO BUY POLICY

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Contents

1. Policy Statement.....	4
2. Definition.....	4
3. Aims.....	4
4. Relevant Legislation.....	4-5
5. Related Documents.....	5
6. Service Standards.....	5-6
7. Who is eligible.....	6-7
8. Joint Tenants and Family Members.....	7
9. Discount available.....	7-8
10. Exempt properties for the RTB.....	8-9
11. RTB Refusals.....	9
12. Valuations.....	9
13. Severance of garden land.....	10
14. Regeneration.....	10
15. RTB and repairs.....	10
16. Completion.....	11
17. If BMSDC delays the application.....	11
18. Statutory time limits.....	11
19. Tenant delay of sale.....	11-12
20. Repayment of discount.....	12-13
21. The use of discretionary powers on repayment of discount.....	13
22. Postponement of discount charge.....	13-14
23. Right of First Refusal.....	14-15
24. Monitoring and customer involvement.....	15
25. Redress.....	15
26. Review.....	15-16

1. Policy Statement

1.1 The Right to Buy (RTB) scheme gives secure tenants the right buy their home at a discount after they have been tenants for a certain period of time. The policy serves to ensure that all applications are administered within the legal framework and are completed using the statutory process which all landlords must adhere to.

2. Definition

2.1 The Statutory Right to Buy was initially introduced on 3 October 1980 as a result of the Housing Act 1980. The legal rules that apply to the Right to Buy are outlined under Relevant Legislation below.

2.2 The Right to Buy is the right of a secure tenant to purchase the freehold or long lease of the house or flat they reside in, subject to any exclusion or determinations made under the powers of this Act.

2.3 The tenant is entitled to buy the property after a qualifying period of either occupying public sector housing, armed forces accommodation or a mix of both, at a discount determined by the length of their qualifying period or the maximum discount allowed (which may be amended by Order). The current maximum discounts are between £16,000 and £38,000 depending on where the tenant lives.

2.4 The RTB scheme is governed by the Housing Act 1985.

3. Aims

- Babergh and Mid-Suffolk District Councils (BMSDC) operates the RTB scheme for its secure tenants in accordance with the law, regulations and good practice.
- BMSDC are committed to providing an efficient and effective service in processing RTB applications and report performance as a local performance indicator.
- BMSDC are committed to providing accurate and timely information to tenants exercising the RTB to ensure they fully understand the operation of the scheme.
- BMSDC will keep applicants informed of the progress of their application at all times.
- BMSDC will seek to ensure that full and accurate records of the processing of all RTB applications are maintained so that compliance with the relevant legislation can be clearly demonstrated.

4. Relevant Legislation

4.1 BMSDC recognises its duty to comply with current legislation and will operate this policy within the current statutory framework. In the event of conflict

between this policy and legislation, the requirements of legislation will take precedence over this policy:

Housing Act 1980 (Amended 1985)
Housing Acts 1985, 1996, 2002 and 2004
The Housing (Right to Buy) (Cost Floor) (England) Determination (1988)
Landlord and Tenant Act 1985
Landlord and Tenant Act 1987
Leasehold Reform Act 1993
Commonhold and Leasehold Reform Act 2002
Housing Act 2004
Housing and Regeneration Act 2008
Housing (Right to Buy) (Limit on Discount) (England) Order 2012.

Compliance with Legislation

- 4.2 BMSDC will seek to implement the Right to Buy in strict accordance with the rules, regulations and time limits set in the legislation.
- 4.3 The necessary information and assistance will be provided to ensure applicants understand the operation of the Right to Buy. This will include issuing information to tenants about their rights to purchase and information to applicants on the current legislation, regulations and rules applicable. In addition, the fact that initial costs are likely to be incurred by a secure tenant exercising the Right to Buy and that a secure tenant will be likely to have to make regular payments as an owner of a dwelling-house, such as a mortgage payment or building insurance.
- 4.4 BMSDC will keep accurate records of all applications to purchase to ensure that it complies with the legislation and will review its policy, procedures, documentation regularly to ensure that it complies with current law and good practice.

5. Related Documents

- Data Protection Policy
- BMSDC Prevention of Financial Crime Policy
- Right to Buy Procedure

6. Service Standards

6.1 In addition to BMSDC corporate service standards, there are additional standards in relation to the Right to Buy service.

The main standards that the service aims to deliver are given below:

- We will provide the tenant with a RTB Information Pack within 3 days of a request.

- We will provide advice and guidance to help RTB applicants understand the law and their rights relating to RTB and leasehold issues.
- To send the tenant a RTB2 form (stating whether they have the Right to Buy) within the statutory time limit of 4 weeks of receiving the application or within 8 weeks, if the tenant has had a tenancy with any other landlord.
- We will send the tenant a Section 125 Offer Notice giving details of the price, terms and conditions, estimated service charges payable, any structural defects known to the Council within the statutory time limit. The time limit for this is normally 8 weeks for a freehold property (house/bungalow). If the property is leasehold (flat/maisonette) the time limit is 12 weeks. In a few cases, houses and bungalows are also leasehold and the time limit of 12 weeks will also apply where this is the case
- A Notice of Intention must be included in the S125 Offer which gives the tenant 12 weeks from the date of the offer to respond.
- The tenant must state in writing whether they wish to proceed with the Right to Buy and accept the offer or withdraw their application using the Notice of Intention (S125D).
- If no reply has been received to the S125 Offer Notice after 12 weeks a Default Notice will be sent to tenants giving them another 28 days to respond. If there is no response, the application will be cancelled and a letter sent confirming that the application has been cancelled and advising the tenant that they may re-apply in the future. BMSDC have the discretion to extend the 28-day default notice period whilst the application is still in effect (i.e. before it expires).
- The tenant can make an appointment with the Home Ownership Officer either at the Council Offices or ask the Home Ownership Officer to visit them at home or call them, to discuss their application during normal hours of Council business or to discuss the right to buy policy and procedure. If the tenant wishes to visit the Council Offices it is best for them to ring beforehand to make sure someone from the Home Ownership Section is in to deal with their enquiry. (Once the tenant has appointed a legal representative we can only advise the tenant on the progress of the application. All other matters must be referred to their legal representative).
- We will explain the tenant's responsibilities and consequences of home ownership and in relation to leaseholders, their rights and obligations as a leaseholder and their ongoing obligations in relation to service charges.
- To ensure that until the tenant's application and other details are passed to the Council's Shared Legal Team they will have an individual named officer who will be responsible for the processing and administration of their application.
- We will make sure all customers are treated fairly and equally and make information available in several different formats and languages.

7. Who is eligible?

7.1 Tenants must have at least three years secure tenancy with a public sector landlord. Most commonly a tenancy with a council or housing association.

- 7.2 The qualifying period can be made up from the present and any previous relevant public sector tenancies. These periods do not need to be consecutive.
- 7.3 The property must be their only or principal home and is self-contained.
- 7.4 Any land let together with the home (for example, gardens or garages on the property's land) will usually be treated as part of the home. Garages rented separately from BMSDC cannot be purchased.
- 7.5 Applying for the Right to Buy is free of charge and it is not necessary to pay a company to deal with your claim.
- 7.5 There is nothing in the Act that limits the number of times a secure tenant(s) can apply to exercise the Right to Buy.

8. Joint Tenants and Family Members

- 8.1 Where a tenancy is issued in joint names, all tenants named must sign the RTB1. If this is not completed, BMSDC must contact the tenants and arrange for the form to be completed correctly.
- 8.2 Only one of the joint tenants has to be living at the property as their only or principal home. The tenant living away from the property may agree for the remaining tenant to purchase the property on their own, provided they sign the relevant section of the form. If one or more of the tenants does not signify their agreement, the other tenant(s) will not be able to exercise their Right to Buy, and the application will be denied.
- 8.3 Current Right to Buy legislation provides that a tenant can exercise his right to buy, if he/she so wishes, together with up to 3 'relevant family members' acting as joint purchasers, providing they are over 18 and have been resident at the property for 12 months; or where these requirements are not satisfied, at the landlords discretion. BMSDC will allow no discretion regarding time spent with the secure tenant. Family members wishing to share in the tenant's Right to Buy must provide proof that they have been resident continuously with the secure tenant for at least 12 months prior to the right to Buy application being received.
- 8.4 The legislation defines which members of a tenant's family can join the Application to Purchase. BMSDC will only allow members of the family within the definitions to join the Application to Purchase.

9. Discount Available

- 9.1 The Right to Buy scheme gives tenants a discount on the market value of their home. The amount of discount depends on how long they have been a tenant.
- 9.2 Previously held tenancies with other Local Authorities, Armed Forces Accommodation and certain other Housing Associations will be considered to

determine whether tenants have the Right to Buy and how much discount should be paid.

- 9.3 The discount will take into consideration the type of property i.e. flat or house and the market value of the home.
- 9.4 If the tenant exercising their Right to Buy was a secure tenant for a minimum of three years the discount available will be 35% for a house or bungalow or 50% for a flat for three, four and five years tenancy.
- 9.5 The tenant of a house or bungalow will be eligible for 1% more discount for each extra year they have lived in the property. This will be up to a maximum of 70%.
- 9.6 The tenant of a flat will be eligible for 2% more discount for each extra year they have lived in the property. This will be up to a maximum of 70%.
- 9.7 If two tenants are exercising their Right to Buy jointly the tenant with the longest qualifying period will qualify for the higher rate of discount.
- 9.8 Whatever percentage someone would be eligible for they cannot receive more than the maximum discount allowed.
- 9.9 The maximum discount that BMSDC can offer is £34,000 (as at the time of policy approval but will change accordingly to any level set under Order by the Government). The maximum discount will no longer increase annually in line with the Consumer Price Index (CPI).
- 9.10 The discount may also be limited by a rule called the 'Cost Floor'. This means that BMSDC cannot sell a property for less than what it has cost to build it, purchase it or what the council has spent on it to repair or maintain it over the previous 10 years. (15 years if the property was built or acquired after 1st April 2012)
- 9.11 If the cost of works carried out over a 10-year period is greater than the market value of the property there will be no discount.
- 9.12 BMSDC will not be able to consider, for discount purposes, any period when a tenancy was demoted due to an anti-social behaviour order.
- 9.13 If the tenant had previously received a discount through the Right to Buy scheme, the amount of discount they previously received will be deducted from their current discount if they buy another property under the scheme.

10. Exempt properties from the Right to Buy

- 10.1 Some properties are exempt from the Right to Buy. These include dwellings occupied in connection with a tenant's employment, housing specially provided

for older people and (in some cases) people with disabilities, properties used for temporary or homeless accommodation.

10.2 BMSDC will apply the criteria relating to denial on grounds of suitability for elderly persons (and in some cases disabled persons) to all property. MSDC and BDC will deny applications where the application meets the criteria for denial of the Application to Purchase.

10.3 Full details are available in the DLUHC publication 'Your Right to Buy Your Home'.

10.4 Any tenant with an introductory tenancy or people who part owns their home will not qualify for RTB

10.5 Properties that are designated to be demolished. Once a property has become subject to an Initial Demolition Notice the Right to Buy cannot be completed.

Demoted Tenancies

10.6 BMSDC will take action against anti-social behaviour including demotion orders. Where a demotion order is granted, the ability to purchase is lost for the duration of the order. BMSDC will not sell a property where a demotion order is in place.

10.7 The period of the demotion order is to be excluded from the calculation of qualifying periods and discount.

11. RTB Refusals

11.1 A tenant will not be able to buy if:

- The courts have issued a possession order to leave their home
- There is a bankruptcy petition against the tenant, or a debt relief order is in force against the tenant or one of the persons to whom the right to buy belongs, or the tenant or that person is an undischarged bankrupt.
- They have been served notice that we intend to demolish their home within a specific period

12. Valuations

12.1 RTB valuations will always be carried out by an independent valuer in accordance with the requirements of the legislation. The valuation will be at the date on which their RTB application (RTB1) is received. The price is based on local market value, minus the cost/value of any improvements that the tenants have made to the property themselves. The tenant has the right for their property to be re-valued by the District Valuer should they not be satisfied with the valuation. The District Valuer's valuation will over-ride BMSDC's valuation whether it is higher or lower.

13. Severance of garden land

13.1 Garden land severances are driven by the need to identify and assemble sites suitable for social housing development, and by the need to identify and assemble surplus sites for sale to raise a capital receipt. This decision will be made by the Development Team.

13.2 A tenant has the right to enjoy all land that is let with the tenancy. In the past and with existing incumbent tenants this has been achieved by persuading Council tenants to voluntarily surrender parts of their garden. More recently, the Council's policy has been to sever areas of garden when a property becomes vacant and prior to re-letting. The incoming tenant is in receipt of a Tenancy Plan showing them the extent of their tenancy.

14. Regeneration

14.1 BMSDC reserves the right to serve demolition notices under the Housing Act 2004 on properties in specified in a regeneration programme. Once an initial demolition notice has been served, BMSDC has power to suspend any right to buy application before the sale is completed for a period of 7 years. If a final demolition notice is served during the 7-year period, the right to buy is no longer available to any tenant of that property and any suspended RTB applications in respect of that property will not be completed. The individual still retains the right to buy any other property belonging to BMSDC that they may subsequently occupy, so long as all other legislative criteria are met.

15. RTB and repairs

15.1 **If buying a house or bungalow:** The council will only carry out emergency repairs to the home whilst a Right to Buy claim remains 'live'. The work undertaken will be limited to those defined in the Tenants Agreement. Additionally, the home will be removed from planned maintenance and improvement programmes (such as replacement windows). Once the tenant has purchased their home they will become fully responsible for all repairs and improvements as a homeowner.

15.2 If the tenant withdraws from the Right to Buy, the property will be returned to the planned maintenance and improvement programmes.

15.3 **If buying a flat:** The council will only carry out essential repairs to the inside of a flat or maisonette whilst the Right to Buy claim remains 'live'. The block in which the flat or maisonette is situated may still be included in any repair or improvement programmes. If the tenant buys the flat before the works have been completed they will be liable for an apportioned cost of the works, based on the number of flats in the building. Details of the type of repairs or

improvements (and associated costs over the first five years) will be included in the Offer Notice.

16. Completion

16.1 At completion of RTB all rent monies and debts owed to the BMSDC council (for example, void recharges) must be fully paid upon completion of the RTB conveyance.

17. If BMSDC delays the application

17.1 Referring to the previous section, if BMSDC does not send the RTB 2 Notice or the Offer Notice within the relevant statutory time limits then the purchaser may qualify for a reduction in the purchase price.

17.2 To qualify for a reduction, they will need to complete an 'Initial Notice of Delay (Form RTB6). Stating why they think BMSDC has delayed their application, i.e. it has not served the RTB2 Notice or Offer Notice within the relevant statutory period. They must then allow BMSDC at least one calendar month in which to send the required Notice. If BMSDC still does not reply to this Notice then the tenant will be able to serve on BMSDC an 'Operative Notice of Delay' (Form RTB8). These forms are available from BMSDC on request. The purchase price of their home will then be reduced by an amount based on the rent actually paid during the period of delay.

17.3 If a tenant serves on BMSDC an 'Initial Notice of Delay' (RTB6) and BMSDC then sends the relevant Notice within the minimum period of one calendar month allowed in the RTB6 Notice, it will have complied with the 'Initial Notice of Delay' and they will not qualify for a reduction in the purchase price.

18. Statutory time limits that the tenant should comply with

18.1 From the date of the Offer Notice the tenant will have 12 weeks to accept the Offer Notice, withdraw their Right to Buy claim or ask for a determination of the value by the District Valuer. If they do not let BMSDC know how they wish to proceed within 12 weeks, BMSDC will serve a Default Notice, giving the tenant a further 28 days in which to accept BMSDCs' offer. If they do not respond to BMSDC within the 28 days, their Right to Buy claim will be withdrawn.

18.2 If they disagree with the valuation provided by BMSDC they have the right to appeal to the District Valuer. If they wish the District Valuer to determine the value of the property they must put this in writing to BMSDC within 12 weeks from the date of the Offer Notice. From the date of the Revised Offer Notice (TRB 7) the tenant will have 12 weeks to accept the revised offer. If they do not respond to BMSDC within 28 days, their Right to Buy claim will be withdrawn.

19. If Tenant delays sale

- **Landlord's first notice to complete**

- 19.1 If a tenant is delaying the completion of the purchase after accepting their Offer to purchase and more than 3 months have passed from the date of the Section 125 Offer Notice or Section 128 Revised Offer Notice, the landlord may serve on the tenant a First Notice to Complete under S.140. The minimum period the landlord may give to the tenant to respond is 56 days. The landlord may give a longer period or extend time if that is reasonable.
- 19.2 The first notice requires the tenant if all relevant matters have been agreed or determined, to complete the transaction within a period of time stated in the notice, or if any relevant matters concerning the terms of the Right to Buy sale are outstanding, the notice requires the tenant to serve on the landlord within that period a written notice to that effect specifying the matters. The notice must inform the tenant of the effect of this section and of the effect of a landlord's second notice to complete under S141.
- 19.3 Notice to complete cannot be served when there are outstanding matters of dispute or uncertainty that need to be resolved. The landlord's preliminary notice to complete may not be served if a requirement for determination or redetermination of the value by the District Valuer has not been complied with, proceedings for the determination of any other relevant matter have not been disposed of, or any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.
- 19.4 If the tenant has not yet had the opportunity to give notice of intention, or the landlord has not yet given notice in default, it would be inappropriate to serve notice to complete.
- 19.5 The procedure in S140 applies where notwithstanding the tenant's notice of intention that he or she intends to proceed with the purchase, he or she does not in fact complete the purchase.

- **Landlord's second notice to complete**

- 19.6 If the tenant does not comply with the preliminary notice to complete the landlord may serve on him or her a further written notice under S141 which requires completion of the transaction within the stated period and states the effect if he or she fails to comply. The notice must give at least a further 56 days.
- 19.7 If the tenant does not comply with a landlord's notice under S141 the tenant's notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of the period given in the landlord's notice.

20. Repayment of Discount

- 20.1 Once purchased, the owner has the right to sell the property at any time.

However, the discount given on the purchase price must be repaid if there is a qualifying disposal within the relevant period (currently first five years) they will have to repay money to the landlord unless the disposal is an exempt disposal as defined in the legislation.

20.2 In some cases, they could repay more than they received in discount, as the amount payable is based on the market value of the property on the date of the disposal.

21. The use of discretionary powers on repayment of discount

21.1 There is discretion to waive part or the entire discount repayable at the time of disposal in circumstances set out in Guidance Note “Right to Buy – the use of discretionary powers on repayment of discount” published by The Office of the Deputy Prime Minister in January 2005.

21.2 Listed below are the circumstances where a landlord may consider it appropriate:

- i) where the owner of the property wishes to move because otherwise he or she and/or other family members (particularly children) face a demonstrable threat of violence or significant harm, for example due to
 - relationship breakdowns involving actual or threatened domestic violence
 - where the sudden onset of a severe medical condition or serious deterioration of an existing condition makes a move essential on medical grounds.
 - where a traumatic personal event (for example, sudden bereavement) makes a move essential for emotional or psychological reasons.
 - Where an early move is essential to return to employment; for example, where an individual has received a firm offer of a job in another area.

21.3 BMSDC will only waive discount in exceptional circumstances.

21.4 BMSDC will consider and assess such requests in line with the criteria set out in the Guidance.

22. Postponement of discount charge

22.1 The mortgage will be registered as a legal charge at Land Registry. The charge protecting the councils’ right to repayment of discount on an early sale will also be registered. The mortgage will be registered as first charge, thereby taking priority over the councils’ discount charge (which will be registered as a second charge), but only if the mortgage is obtained from an Approved Lending Institution. (This is known as Postponement of Charge).

- 22.2 If the mortgage has not been obtained from an Approved Lending Institution, the councils' discount charge will rank in priority over the mortgage. This will imply that BMSDC is entitled to its discount money, before the lender will be entitled to its money, if the purchaser defaults on their mortgage repayments and the lender takes steps to repossess their home within the first five years of purchase.
- 22.3 An approved lender is a bank, building society, insurance company or other lender that is regulated by the Financial Services Authority.
- 22.4 A loan or further advance from an approved lender which does not take immediate priority over BMSDCs' discount charge can only be postponed by written notice served on the approved lender by BMSDC and only in respect of the purchase price and home improvements.

23. Right of First Refusal

- 23.1 The Housing Act 2004 introduced the 'Right of First Refusal' (RFR) which requires that a covenant be imposed obliging the purchaser to offer back to BMSDC if it is sold within ten years of the original purchase. This requirement applies to both freehold and leasehold disposals.
- 23.2 BMSDC will consider requests to repurchase properties. Each opportunity to repurchase will be considered on its own merits and will include an assessment of housing need, affordability, and the condition of the property.
- 23.3 To repurchase under the Right of First Refusal, the council would be required to pay full market value of the property as well as any stamp duty and Legal Fees.
- 23.4 We would normally consider repurchasing properties which meet the following criteria:
- Availability of capital funds
 - A property which has had significant disabled adaptations which would meet the needs of an identified applicant with disabilities
 - A property which is particularly suitable for adaptation, again where this may meet the needs of an identified applicant with disabilities
 - A larger property (four or more bedrooms) suitable for a larger family where demand exists
 - A property in a specific location that could free up land or access to land, or otherwise facilitate affordable housing development
 - Additional costs for any refurbishment work are minimal i.e. to bring the property up to the Decent Homes Standard
 - The property represents value for money
 - Any other property, where for whatever reason, it may be in the Council's interests to repurchase and value for money can be clearly demonstrated.

If BMSDC do not wish to purchase the property, they will approach Registered Social Landlords in the area to see whether any would be interested in buying back under the RFR Regulations.

24. Monitoring and Customer involvement

24.1 BMSDC is committed to consult on the way in which the service is delivered subject to the requirements of legislation.

24.2 BMSDC will inform RTB customers of any future planned works in the pipeline that might affect their decision to buy.

24.3 BMSDC recognises the need to keep accurate and up to date records on RTB which is critical to ensure that tenants are able to receive their correct discounts and that BMSDC s' IT systems are kept up to date to avoid selling properties that the tenant is not qualified to purchase or that BMSDC carry out repairs or improvements to properties that are no longer in their ownership.

24.4 BMSDC maintains an electronic file for each RTB application. All correspondence with the tenant, solicitor and surveyor are kept together with the application and copies of Housing Services' actions and calculations. All enquiries will be recorded in the file to ensure a clear audit trail.

24.5 Monitoring information will be reported to the relevant management team and used for the MHCLG (Ministry of Housing, Communities and Local Government) quarterly returns on a yearly basis and will include the following:

- The number of applications received
- The number refused
- The number completed
- The number withdrawn
- The number processed within statutory timescales

24.6 Any changes to RTB legislation or Regulations will be notified to tenants through the Tenant's Own magazine and posted on BMSDC's websites.

25. Redress

25.1 Any tenant who has a complaint about the service provided will have the right to follow the BMSDC complaints Procedure. Further information on the complaints policy can be obtained from BMSDC, on the website or requesting a leaflet.

26. Review

26.1 This policy will be reviewed every three years or in line with legislative or regulatory changes.

Version	Date	Author	Rationale
1.0	2017	Home Ownership Officers	New policy
1.1	April 2026	Housing Services Manager	Formatting/ refreshment of text where required. Policy due for renewal every 3 years