



---

**Buy back of properties sold under Right to Buy**

---

**Housing Landlord**

---

**January 2013**

---

<b>Version Control</b>	Version 1
<b>Status of Policy</b>	<b>Draft</b>
<b>Sponsor</b>	Elliott Brooks, Assistant Director, Housing Landlord
<b>Author/Reviewer</b>	Simon Smith, Asset Team Leader
<b>Approved</b>	
<b>Review Date</b>	

## **1. Scope of policy**

- 1.1 This policy sets out the Council's approach to the buy back of properties previously sold under Right to Buy.
- 1.2 The policy applies to all properties sold by Dacorum Borough Council under Right to Buy since 18 January 2005 (when new legislation came into affect).

## **2.0 Policy context**

In recent years take up of Right to Buy in Dacorum has been low. In April 2012 the Government implemented policy changes which increased the maximum discount to £75,000. Previously the highest available discount in Dacorum was £34,000. This is likely to lead to an increase in Right to Buy applications.

The Council has opted to retain the proceeds from its future Right to Buy sales. Retained receipts will be used to contribute to new affordable housing, up to a maximum of 30% of the total programme cost.

## **3.0 Objectives and principles of the policy**

- 3.1 The purpose of this policy is to set out the Council's approach in respect of the buy back of properties previously sold under Right to Buy.
- 3.2 The aims of the policy are:
  - To maximise the supply of affordable housing within Dacorum
  - To comply with current legislation and regulatory requirements
  - To provide a clear statement of the service standards to which the Council will work

## **4.0 Legislation**

- 4.1 The Right to Buy scheme was introduced by the Housing Act 1980 and amended by the Housing Act 1985. Under part five on the Housing Act 1985 secure tenants were permitted to buy their homes (with some exceptions) from their local authority landlord.
- 4.2 The Housing Act 2004, which came into force in 2005 made several significant changes to the Right to Buy scheme, including extending the qualifying period for a tenant wishing to purchase their home from two to five years. The period during which a property could not be sold without the owner paying back a proportion of their discount was also increased from three to five years.
- 4.3 The Housing Act 2004 also introduced a requirement for owners wishing to sell their property within ten years of purchasing under Right to Buy to offer the property back to the Council before placing it on the open market. The Housing (Right of first refusal) (England)

Regulations 2005 set out the procedures owners wishing to sell their property are required to follow.

## **5.0 Equality and Diversity**

5.1 We will ensure that this policy is applied fairly and consistently to all our customers. We will not directly or indirectly discriminate against any person or group of people because of their race, religion, age, gender, marital status, sexual orientation, disability or any other grounds set out in our Equality and Diversity policy.

5.2 This policy and any other related publications of Dacorum Borough Council are available on request in other formats (e.g. in an alternative language, in Braille, on tape, in large type).

## **6.0 Review of policy**

This policy will be reviewed every two years or sooner if necessary and following consultation with tenants.

## **7.0 Right of first refusal**

7.1 All properties sold under the Right to Buy (freehold and leasehold) since 18 January 2005 are bounded by the covenant the 'Right of First Refusal'. If the owner wishes to sell their property within 10 years of purchase they must first offer the property back to their former landlord (the Council).

7.2 The owner wishing to sell the property must submit an Offer Notice to the Council which should:

- a. Be in writing
- b. State the wish to sell the property, giving its full postal address
- c. State that there is a covenant requiring the property to be offered first to the Council
- d. Specify whether the property is a house, a flat or maisonette;
  - Specify the number of bedrooms
  - Give details of the heating system
  - Specify any improvements or structural changes which have been made since purchase

7.3 The Council will send an acknowledgement of receipt within 5 working days. This acknowledgement will specify the date on which the Offer Notice was received and give more details regarding the Right of First Refusal.

7.4 In accordance with the criteria set out in 8.0 the Property and Place Group Manager will decide whether:

- a) The Council wishes to accept the offer and purchase the property
- b) The property should be offered to another nominated housing association in the area for purchase
- c) The offer should be rejected

7.5 If the Council wishes to accept the offer it will confirm this to the owner within 8 weeks of receipt of the Offer Notice. The Council will ask its nominated valuer to value the property. This must be agreed between both parties. If no agreement can be made the value will be determined by the District Valuer.

Acceptance of the offer will be carried out in writing through the issuing of an Acceptance Notice.

7.6 If the nominated housing association wishes to accept the offer, they must state this unequivocally in writing.

Acceptance of an offer will be carried out in writing through the issuing of an Acceptance Notice.

7.7 If the Council (and any nominated housing association) do not wish to accept the offer a Rejection Notice will be served as soon as possible.

7.8 If the Council has not served an Acceptance Notice or Rejection Notice within 8 weeks of the receipt of the Offer Notice the owner may proceed with selling the property as they see fit.

7.9 If a period of 12 months expires and the owner and not sold the property and then subsequently wishes to do so they must serve a fresh Offer Notice to the Council first.

## **8.0 Completion of purchase**

8.1 If an offer to purchase the property is made by the Council or nominated housing association a binding contract must be entered into with the owner:

- No later than 12 weeks after the date on which the Acceptance Notice is served on the owner or
- No later than 4 weeks after receipt of written confirmation from the owner that they are ready to complete (*whichever is later*)

## **9.0 Buy back criteria**

9.1 The Council's decision to make use of its right to buy back a property when offered by a former tenant will be determined by the following factors:

- a) Purchase of the property would free up land or enable access to a site suitable for development of affordable housing **or**
- b) Housing need and demand is established for the type of property being offered and the area in which it is located. The cost of any refurbishment work required to bring the property up to the Council's Lettable Standard is minimal.

9.2 Properties meeting either of the above criteria will only be considered for purchase where capital funds have been identified for this purpose by the Property and Place Group Manager.

## **10.0 Financial considerations**

10.1 The financial resources available for this policy will be dependent on the ability of the HRA Business Plan to fund any acquisitions. The proposed increase in the new build plans for Dacorum Borough Council may limit the funds available to acquire properties. Properties will be considered on a case by case basis and any decision to buy back a property will be subject to approval by the Assistant Director of Housing Landlord.

10.2 The Council must have available funds to purchase a property.

10.3 The cost of any works required to bring the sold property up to the Council's Lettable Standard would be deducted from the proceeds of the sale.

## **11.0 Re-payment of discounts**

11.1 Should an application for the Council to buy back the property be made within five years of completion in accordance with the Housing Act 2004 the owner will be required to pay back a percentage of the discount applied on a sliding scale (see table below).

Property sold after 1 year	100% discount must be re-paid
Property sold during second year	80% of discount must be re-paid
Property sold during third year	60% of discount must be repaid
Property sold during fourth year	40% of discount must be re-paid
Property sold during fifth year	20% of discount must be re-paid
Property sold after five years	No repayment of discount required

11.2 The amount of discount to be repaid if you sell within 5 years of purchase will be a percentage of the re-sale property, disregarding the value of any improvements. For example, if the property was valued at £100,000 at the time of purchase and the tenant received a discount of £20,000 that means their discount was 20%.

As illustrated by the table above, if the property was valued at £120,000 at the point at which the owner wished to sell and this was within 2 years of purchase they would be required to pay back 80% of the percentage discount they received i.e £19,200 (80% of £24,000 which is 20% of £120,000).

Certain sales of transfers are exempt from the requirement to re-pay discount eg. transfers between certain family members. In addition if the owner would face hardship by having to repay the discount, and their circumstances justify it, the Council may decide not to ask them to pay some or all of what they owe.

## **12.0 Appeals procedure**

12.1 Appeals must be received within 28 days of the decision letter.

12.2 Where the appeal is in respect of how the policy and procedure have been applied the Property and Place Group Manager will investigate the matter and respond.

12.3 Appeals against decisions will be considered by the Assistant Director of Housing Landlord whose decision is final.

## **13.0 Communicating the policy to staff**

- Staff involved in the implementation of the policy will receive a copy.
- A copy of the policy will be placed on the Housing Shared Drive (P Drive).
- Any amendments to the policy will be communicated to all staff involved in implementing the policy.

## **14.0 Communicating the policy to customers**

The policy will be available on request. A copy will also be placed on the Right to Buy section of our website.