



## **Property Purchase Policy (July 2019)**

### **1. Introduction**

This document sets out the Council's policy on, and approach to, assessing and potentially re-acquiring properties which are offered to the authority for potential purchase, whether former council houses or not.

It will be applied where homes previously bought from the Council via Right to Buy are later offered back to the Council for re-purchase. They may be offered back to the Council voluntarily, or under the provisions of the Right to Buy (Right of First Refusal) regulations which apply to properties bought from the Council in the last ten years.

As well as former council houses, the policy will also be applied to other potential property acquisitions, identified for example by the Empty Homes Team, who may also work with the Council Housing Growth Programme in future to identify long term empty properties which could be suitable for the Council to purchase to be re-let as council housing stock. These may or may not be former Council properties.

The criteria set out in this policy will be applied to ensure that all such acquisitions of properties are aligned to the key priorities of the Council.

### **2. Legislation**

The following legislation and regulations relate to former Right to Buy and/or private sector leasehold properties to which this policy is relevant.

- Housing Act 1985
- 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

### **3. Right of First Refusal**

As noted above, this policy will be applied when considering requests arising from The Housing (Right of First Refusal) (England) Regulations 2005.

These regulations stipulate that owners who bought their council home through a Right to Buy and who want to sell it in the 10 years following the original purchase date are required to make a first offer to the council.

All potential purchases will be dealt with in line with this repurchase policy.

However those to which the Right of First Refusal obligation applies will additionally have particular regard to the timescales and notification requirements of the legislation, which are summarised below:

- The Council must purchase the property at the market value.
- The Council must accept the offer of the property within eight weeks of receiving notification from the owner. Acceptance of the 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, or not later than 4 weeks following receipt of written notification from the owner that they are ready to complete, whichever is later.

If the time limits are not met the council loses its statutory right to re-purchase the property for the following 12 months and the owner is free to sell their property on the open market instead if they prefer.

#### **4. Council's Commitment**

In all cases, the Council will consider each request received from a home owner on its own merits. The property will be considered in line with this policy and with regard to the Council's strategic interests at the time of the request. They will be dealt with promptly and where the Council decides not to purchase the property the applicant will be informed in writing of the decision.

#### **5. The Policy**

The Council will consider all potential properties against the following criteria to determine whether the property is one it wishes to consider purchasing:-

a) **Housing Leeds priorities:**

- Priority will be given to properties that meet the strategic interests of the Council. Generally, this will be those that are located in areas where council housing supply is low and demand for council housing is high.

b) **Size/Type:**

- The property must be of a size and type which Housing Leeds confirm is in demand in that location, and which will therefore be easily let.
- The property will normally be a former Council property and /or within an area of existing Council housing stock, or within a regeneration area of the City

c) **Exclusions:**

Properties which are deemed to be of defective construction under the provision of the Housing Defects Act 1984 will only be considered if they have been improved to the BRE licensed repair standard or in other exceptional circumstances. An example could be if there is little prospect of a sale on the open market that will lead to the property being empty for a long period of time. This would typically apply to unimproved properties.

**d) Value for Money:**

A purchase request will only be considered where the property represents value for money taking into consideration:

- the market valuation
- the value of any repairs/improvements required to bring the property to lettable standard
- the rental income which the property would generate
- Any Right To Buy discount repayable by the seller where the property was bought from the Council within the past five years.

**e) Status Property/Individuals:**

In exceptional circumstances a property, where it is outside of the strategic interest of the Council and would not normally be considered for purchase, may be considered if:

- It is a former Council property or within a regeneration area of the city; and (?)
- The owner can show that they have made attempts to sell it on the open market which have failed; and
- The owner is making the request based upon one of the following criteria:
  - Financial (potential homeless case)
  - Need to move on medical grounds (self / family member)
  - Other (e.g. domestic violence that is being supported through the MARAC or other recognised process)

Unless the property is unsuitable for the family needs of the owner (e.g. due to its size or the medical requirements of a family member) consideration will normally only be given if they show a preference to remain in it as the tenant.

**f) Financing:**

- Sufficient capital monies must be available to purchase the property in order for the request to proceed. If there are no resources the request will be declined
- Each party to meet its own legal costs

**g) Delegation**

In order that a prompt decision can be taken in respect of properties the Head of Council Housing Growth and the Head of Housing Management will have delegated approval to **reject** a request to purchase.

Any requests which are anticipated to proceed will be submitted for approval to offer to the Head of Council Housing Growth (following confirmation from the Head of Housing Management and Property & Contracts that the property is suitable for repurchase), and for approval to acquire to the Director of City Development.

**h) Consultation**

Housing Leeds will be consulted in relation to every request and the potential acquisition will only progress to valuation stage if they are supportive of potentially reacquiring it.

Local Ward Members will be advised of any acquisitions which are anticipated to progress in their ward areas. This will generally be once the acquisition price has been confirmed, finance checks are complete and there is a degree of confidence the transaction may progress.

The above factors will enable the Council Housing Growth Programme team to determine whether each potential acquisition should proceed. A recommendation will be submitted for approval to the Director of City Development.

**6. Application Process for Voluntary Offers  
(for Properties to which the Right of First Refusal Regulations apply see also section 7)**

- 6.1** An application must be submitted in writing/e-mail to the Council's Home Ownership Team before consideration will be given to a request (house.sales@leeds.gov.uk)
- 6.2** The Home Ownership Team will issue a proforma for completion to capture the property details, and they will contact the Council Housing Growth Programme and Housing Investment Planning to confirm whether they are potentially interested in acquiring the property.

- 6.3** If no capital spend is available for repurchase, a response will be sent to the owner promptly, and no later than 10 working days following the request being received, to advise the Council will not be pursuing the repurchase.
- 6.4** If applicable (i.e. if the property is former housing stock) a check will be made on Orchard/Keystone to determine the property construction type. If the property is of a “defective” construction type (Hsg Act 1984) and there are no exceptional circumstances, the request will be declined in writing (if necessary refer to the Council’s Building Control Manager for confirmation of the build type).
- 6.5** A check on the Land Registry will be made to determine any charges against the property (eg mortgages).
- 6.6** Upon receipt of the enquiry forms and all necessary documentary evidence from the applicant the repurchase request will be discussed with Housing Leeds to understand whether it is potentially suitable for acquisition in the context of current supply, demand, and strategic priorities.
- 6.7** If it is, then a desktop valuation exercise will be undertaken to provide an initial assessment of likely acquisition cost so that this can be considered in the context of the programme’s budget. An initial response will then be sent to the owner in writing to confirm whether the property is of potential interest, within 3 weeks of their enquiry form being received.
- 6.8** Where confirmation from Housing Leeds is received that the property is of a type which is in demand and could easily be let, and they would be interested in having the property in Council Housing Stock, and the initial cost estimate suggests the property could fall within applicable budgetary parameters, a property inspection will be arranged – which will be attended by officers from City Development and the Council’s Voids Team with a view to both valuing the property and also assessing the scope and likely cost of repairing/ refurbishing the property up to Council lettable standards.
- 6.9** Upon receipt of the valuation and the surveyor’s report on the level of repairs required, the Council Housing Growth Programme, with support from housing finance will:
- determine the rent which should be charged for the property; and
  - confirm whether the property represents a viable investment.
- 6.10** Where the finance checks confirm the acquisition is achievable within applicable budgetary parameters, and the viability check confirms it represents a viable investment (based on recovery of the total Capital Outlay within acceptable timescales) officers will request approval to make an offer on the property from the Head of the Council Housing Growth Programme.
- 6.11** Once approval to offer is secured, the owner will be advised of the offer price.

- 6.12** In cases where there is a repayable RTB discount this would be deducted from the purchase price. The owner would also need to confirm in writing to confirm they agree to all debts due to the Council also being deducted from the sale price (eg Council Tax, Sundry Debtors etc).
- 6.13** The Council reserves the right to withdraw its offer to repurchase at anytime prior to exchange of contracts. Failure to agree terms of repurchase will result in the Council withdrawing its offer and it will not be liable for any costs which the owner may have incurred.
- 6.14** Officers in City Development will undertake the necessary negotiations on behalf of the Council for the purchase. Once the price has been agreed they will prepare a report for approval to acquire by the Director of City Development.
- 6.15** Where a request is made by a home owner to remain as tenant in the property and the criteria are met, the Council must have regard to the Allocations Policy. If the Council agrees that the owner may occupy the property as tenant, they will be offered the tenancy as an Introductory Tenancy and the local Housing Manager will undertake an induction interview on the implications of becoming a tenant. The applicant will be required to sign a tenancy agreement prior to completing the sale, where they are to remain as tenant in the property.

## **7. Properties to which the Right of First Refusal Regulations Apply**

- 7.1** The Council will consider all offers to repurchase properties which fall within the Right of First Refusal Regulations based upon the merits of each individual case and in line with this repurchase policy.
- 7.2** The Council will not nominate another Social Landlord to be the purchaser (as permitted by the Right of First Refusal Regulations) except where the property falls within a regeneration area being developed by a Social Landlord
- 7.3** Requests under the Right of First Refusal will be sent an acknowledgement letter by the Home Ownership Team within 5 working days of the request being received. They will also issue a formal 'offer template' to the owner for completion with the if the initial request did not provide all the information required by the Regulations.
- 7.4** Return of this offer proforma constitutes the formal 'offer' and the statutory 8 week period starts from this point in the process.
- 7.5** Details of the request will be forwarded by the Home Ownership Team to the Council Housing Growth Programme for determination as to whether the Council would wish to consider the repurchase of the property. The determination will be in line with the criteria and process set out above- and summarized below:-

- 7.5.1 If there is no budget available or the property is of a “defective” construction type and there are no exceptional circumstances, the request will be declined
- 7.5.2 Upon receipt of the formal offer, the request will be discussed with Housing Leeds to confirm whether it is potentially suitable for acquisition
- 7.5.3 If it is, then a desktop valuation exercise will be undertaken to provide an initial assessment of likely acquisition cost so that this can be considered in the context of available funding, the programme’s budget and any repayable RTB discount
- 7.5.4 Once these steps have been completed an initial response will be sent to the owner in writing to confirm whether or not the property is of potential interest. If it isn’t, the owner will be issued with a S156a which gives them permission to sell privately and is valid for 12 months. If it is of potential interest, the Council will issue a formal ‘acknowledgment’ and will arrange a visit to both value the property and also assess the scope and likely cost of repairing/ refurbishing the property up to Council lettable standards
- 7.5.5 Once the valuation and surveyor’s cost report are complete finance checks will confirm whether the property represents a viable investment
- 7.5.6 Assuming a positive outcome from the above, a recommendation to offer will be submitted for approval to the Head of the Council Housing Growth Programme
- 7.5.7 Once approval to offer is secured, legal services will issue a formal ‘acceptance’ notice which advises the owner of the market valuation. In the case of Right of First Refusal properties the purchase price must be full market value
- 7.5.8 In the case of right of first refusal properties, the offer to buy (which is known as ‘acceptance’ of the vendor’s ‘offer’ in this context) must be issued by the Council within 8 weeks of the formal offer being received. See section 3 for more details of applicable timescales
- 7.5.9 As with other properties, any repayable RTB discount or other debts to the council would be deducted from the sale price
- 7.5.10 The Council reserves the right to withdraw its offer to repurchase at anytime up to the exchange of legal contracts

## **8. Finance**

- 8.1 The purchase of properties will be met from the Council’s capital funding under either the Council Housing Growth Programme, Regeneration or

Housing Capital Programme budgets depending upon the purpose for which they are being acquired. The appropriate approvals will be obtained.

- 8.2** In the case of properties acquired by the Council Housing Growth programme to be re-let as Council Housing the initial repairs and refurbishment works to bring the properties up to lettable standard will be funded from the Programme budget.

## **9. Other Considerations**

- 9.1** There is no legislative or other obligation upon the Council to repurchase a property.
- 9.2** The Council will give consideration to each and every application on its own merits and in line with the criteria set out in this policy.