

Committee: Scrutiny 1
Date: 22 January 2003
Agenda Item No: 6
Title: Right to Buy Procedures
Author: Roz Millership (01799) 510516

Summary

- 1 This report provides the Committee with information on how the Council operates the Right to Buy (RTB) regulations.

Background

- 2 At its last meeting the Committee requested a report outlining the procedures operated by the Council regarding RTB applications.
- 3 The Housing Act 1985 gives the majority of Council tenants a statutory right to purchase their home at a price discounted in accordance with the length of time they have been public sector tenants. The principle obligations and procedural requirements this legislation imposes on the Council can only be changed by statute.

Legislative Framework

- 4 The legislative framework to which the Council must conform regarding the RTB is summarised as follows:

Most secure tenants have the right to buy:-

- the freehold interest if they live in a dwelling house
- a leasehold interest if they live in a flat

RTB can be exercised by:-

- the tenant; and
- up to three qualifying family members

RTB cannot be exercised if:-

- tenancy is less than two years in duration
- tenancy is non-secure
- there is an outstanding possession order against the tenant
- the tenant or relevant family member:-
 - is bankrupt or subject to bankruptcy proceedings
 - has made a composition or arrangement with creditors

Certain types of dwelling are excluded eg:

- houses let in connection with eg: employment
- certain dwellings that are built/adapted for the disabled
- accommodation for the elderly
- sheltered accommodation

Council has a statutory duty to:

- Admit or deny RTB within four weeks / eight weeks of claim
- Within eight / twelve weeks give Tenant offer showing:-
 - price of the dwelling
 - amount of relevant discount; and
 - service charge estimates for five years
- Convey freehold/grant lease if Tenant accepts offer
- Terms of sale/lease are governed by statute

Operating the RTB Scheme

- 5 There is a statutory requirement to provide the RTB Service and the Council must comply with complex procedures to ensure that the legislative framework of the RTB is adhered to. Tenants are sent booklets summarising the law relating to the scheme and details of all the procedures. If required officers will also provide home visits to explain the processes involved.
- 6 The Council has to consider many factors when operating the scheme some of which are summarised below:
- In addition to periods spent as a tenant with this Authority the Council can also count periods a tenant has spent in accommodation with other councils, public sector landlords and the armed forces. Other periods can also count, for example certain periods when the applicant was married to a secure tenant.
 - If the tenant is buying a house two years will entitle him or her to 32% off the market value of the property. For each additional complete year's tenancy another 1% discount up to a total of 60% can be claimed. If the tenant is buying a flat he or she has a basic 44% rising by 2% for each additional year's tenancy to a total of 70%. The maximum discount in the Uttlesford area is £34,000. There is a 'cost floor' which further restricts the discount if the Council has recently spent £5,000 or more on providing or improving the property
 - If the Council 'denies' the RTB, they are obliged to explain clearly why the tenant cannot buy
 - If the tenant feels that the Council has over-valued their home, he or she can appeal to the District Valuer for a revaluation within 12 weeks of the offer letter. Both sides are bound by the District Valuers determination of price
 - A fairly tight timetable is set out for the RTB process to be completed and the Council must ensure that the service is delivered within the timescales stipulated. If the Council delays the sale without good reason, the tenant's rent during the delay period is deducted from the purchase price
 - In certain circumstances the tenant can appeal to the Secretary of State for help or intervention to ensure that his or her RTB application is processed in accordance with the regulations
 - If a tenant resells the dwelling within three years, he or she must normally repay some or all of the discount on demand

- There is a requirement for the dwelling to be sold for the best possible price as it is a public sector asset

Stages Associated with the RTB Process

- 7 The RTB proceeds through different stages during which a series of notices, prescribed by the Secretary of State, are served by the Council. Appended to this report are very detailed flow sheets, which the Council strictly follows, showing the various stages and actions that are undertaken concerning each application.

STAGE 1 – Registration Stage

- Acknowledge receipt of RTB application
- Check tenancy/household details/property type
- Calculate years of tenancy
- Check for any planned maintenance works
- Prepare and Issue Response Notice

STAGE 2 – Valuation Stage

- Obtain valuation report
- Compare valuation with other properties on the open market
- Prepare Statement of Management and Service Charges for flats
- Calculate appropriate discount to be applied
- Prepare and Issue Offer Notice

STAGE 3 – Offer Stage

- Tenant agrees with Offer Notice – RTB proceeds to next stage
- Tenant disputes Offer Notice :
 - Request determination of value from District Valuer
 - Provide District Valuer with evidence of all comparable properties sold within the last six months in the area
 - Provide District Valuer with list of Council improvements to the property and all other relevant information
 - Issue new Offer Notice on receipt of determination of price (whether the price remains the same or changes)
- Tenant delays in responding to Offer Notice – issue reminders

STAGE 4 – Tenant Proceeding Stage

- Prepare Conveyance plans
- Prepare list of covenants (if applicable)

STAGE 5 – Conveyance Stage

- Send copy of conveyance plans and transfer documents to tenant's solicitors
- Send reminders if sale does not complete within one year of offer notice
- Complete sale

RECOMMENDED that the Committee notes the Right to Buy process as operated by the Council.

Background Papers : Housing Act 1985