

# Right to Buy & Right to Acquire Policy

**Date written:** May 2010

**Date(s) reviewed:** May 2012, May 2015, July 2018, September 2021

**Last Executive/Board reviewed (approved) date:** N/A

**Purpose:** To set out Bernicia's approach to the processing of tenant's Right to Buy and Right to Acquire claims

**Scope:** All Bernicia Right to Buy and Right to Acquire enquiries and claims

**Definitions:** The Right to Buy (RTB) scheme enables tenants who hold Secure or Assured (with Preserved RTB only) tenancies to purchase their home at a discount. The allowable discount is determined by the number of years they have held a public sector tenancy, subject to a maximum discount cap.

The Right to Acquire (RTA) scheme applies to tenants who hold an Assured tenancy of a property which was built or bought by a Housing Association after 1 April 1997 (and funded through a social housing grant provided by the Housing Corporation or Local Council). Or alternatively transferred from a Local Council to a Housing Association after 1 April 1997. The discount for the North East of England is currently set at £9,000.

Qualifying tenants can claim the RTB or RTA if they have been a public sector tenant for a minimum of three years, not necessarily three consecutive years. Public sector tenants include those who have lived in properties provided by a Local Authority, Housing Association, the armed services or a public body like an NHS Trust.

**Associated documents:** Tenancy agreements, RTB/RTA prescribed forms

**Date for review:** September 2024

**Responsibility:** Home Ownership Manager

**Departments for mandatory read:** Home Ownership Team

## Policy

### 1. Introduction

- 1.1 Bernicia recognises the importance of helping tenants to make the right choices relating to exercising their Right to Buy (RTB) or Right to Acquire (RTA).
- 1.2 Buying a home can be a complicated process, especially for first time buyers. Our RTB and RTA policy exists to assist tenants, offering good quality help and advice before, during and after their purchase.
- 1.3 We are committed to an efficient and effective service that helps tenants understand their legislative rights so that they can make informed decisions.
- 1.4 We are committed to ensuring that we process applications within legal timescales and will monitor our performance.

### 2. Policy statements

- 2.1 We will provide tenants with comprehensive information explaining the RTB and RTA processes. This will be above and beyond our statutory requirements.
- 2.2 If tenants contact us prior to submitting a RTB or RTA claim they will be made aware if they are not a qualifying tenant or if the property is ineligible for sale. Examples of ineligible properties are those located in designated rural areas, properties which are particularly suitable for the elderly or supported housing needs.
- 2.3 If tenants contact us prior to submitting a RTB or RTA claim, we will ensure that they are made aware of the implications of purchasing their home. If tenants submit a RTB or RTA claim without prior contact with Bernicia (claim forms are publicly available), we will also make them aware of the same information as part of the claim process: -
  - We will explain to tenants the services they will no longer receive from Bernicia, should they purchase their property. In particular servicing and routine or emergency repairs.

- We will explain to tenants that once their RTB or RTA claim has been received we will only carry out essential repairs and required servicing to their property. In addition, their property will be removed from any planned improvement works (full repairs and any planned works will be reinstated should their claim be withdrawn).
  - We will explain to tenants the requirements to pay back all/some of the discount they receive, if they sell their home within the first 5 years of ownership.
  - We will explain the Right of Refusal under Section 156A of the Housing Act 2004, requiring that the property is offered to Bernicia to buy back within the first 10 years of ownership.
  - We will warn tenants about the practices of some mortgage or finance companies. However, we will not recommend any products or lenders.
- 2.4 Current legislation allows up to three members of the applicant's family to be included in the claim, providing they have resided at the property for the last 12 months.
- 2.5 Where legal action has commenced relating to rent arrears, anti-social behaviour or any other breach of tenancy, we will deny or suspend a RTB or RTA claim (in the event the action is instigated after the RTB or RTA has been admitted).
- 2.6 When a RTB or RTA claim has been submitted by a tenant, only essential repairs will be carried out and the property will be removed from any improvement or other planned programmes of work. Essential repairs will be in accordance with keeping the property wind, watertight and in a habitable condition, in line with a tenant's Right to Repair: -
- Roof leaks/missing tiles or slates
  - Dangerous chimney stack/pots
  - Overflow gushing
  - Broken windows, cracked windows should be inspected to ascertain cause of damage
  - Significant water penetration at doors and windows
  - Blocked flue to open fire or boiler
  - Blocked or leaking foul drains, soil stacks or toilet pans
  - Toilets not flushing
  - Blocked bath, basin or sink
  - Total or partial loss of electric power
  - Insecure external window, door or lock (including window safety catches)
  - Leaks or flooding from water or heating pipes, tanks or cistern
  - Total or partial loss of gas supply
  - Total or partial loss of space or water heating

- Unsafe electrical fittings, power or lighting sockets
- Total or partial loss of water supply
- Loose or detached banister or stair treads
- Dangerous floorboards
- Mechanical extractor fan in internal kitchen or bathroom not working

- 2.7 We will inform tenants within 4 weeks of receiving their claim form whether their RTB or RTA has been admitted or denied. This may be extended to 8 weeks if we are required to check tenancy details with other landlords or if any information is missing from the tenant's claim form. If denied, we will provide accurate details of why this is the case including copy demolition notices, if applicable. We will also ensure that tenants are aware of how to make an appeal, if the specific category for denial allows for this process. The right to appeal is set out in legislation and is not a Bernicia policy.
- 2.8 When a RTB or RTA has been admitted, we will arrange for a valuation to be undertaken by an independent RICS Registered Valuer. We will ensure that tenants are aware of their right to a review by the District Valuer if they disagree with the valuation. The District Valuer's decision will be binding, whether higher or lower than the original valuation.
- 2.9 We will ensure that an energy performance certificate is available, or an assessment is carried out and a certificate produced prior to sale.
- 2.10 The RTB discount is determined by the length of time spent as a public sector tenant, whether the property is a house or a flat and how much money Bernicia may have spent maintaining or improving the property (cost floor). The discount will be calculated on the number of years as a public sector tenant to the date that the claim is submitted. After discount, the property cannot be sold for less than the cost floor figure.
- 2.11 The RTA discount is based on a set amount per region. The current discount for the North East is £9,000 off the market value of the property.
- 2.12 The overall maximum allowable RTB discount and regional RTA set discount is determined by central government.
- 2.13 When issuing an Offer Notice, we will do so within 8 weeks of admitting the RTB or RTA in the case of a Freehold property and 12 weeks in the case of a Leasehold property.
- 2.14 We reserve the right to serve demolition notices under the Housing Act 2004 relating to any properties in Bernicia's ownership forming part of any regeneration programme. Once an initial demolition notice has been served, we will suspend any RTB or RTA claim for a period of up to 5 years.

- 2.15 If a final demolition notice is served during the 5-year period following suspension of a RTB or RTA, the claim will fully cease and the property will no longer be eligible for purchase.
- 2.16 In the case of a RTA claim, we reserve the right to offer an alternative property for sale within our stock. For example, if Bernicia intends to carry out works to the tenant's existing property as part of any regeneration programme.
- 2.17 We work in partnership with the Corporate Fraud Departments of Northumberland County Council and Durham County Council to ensure that all large-scale monetary transactions are conducted in accordance with Anti-Money Laundering Regulations and to prevent RTB/RTA fraud. Northumberland County Council covers all geographical areas in the North of our region and Durham County Council covers all areas South of our region, the divide is the River Tyne.
- 2.18 Following the issue of a S125 Offer Notice, if a tenant wishes to proceed with purchasing then they must send their Notice of Intention to the relevant Corporate Fraud Department along with ID documents and proof of their intended funding arrangements. In the case of purchase by way of mortgage, a copy of their full mortgage offer must be provided. In the case of a cash purchase their bank statements and/or statements of any other person who may be gifting them money must be provided. Bernicia's conveyancing solicitors will not be appointed until the Corporate Fraud Department has finalised their checks and confirmed to Bernicia that the sale may progress.
- 2.19 We will ensure that adequate RTB and RTA documentation is recorded for the purposes of Bernicia's auditing requirements.

### 3. Responsibility for implementation

- 3.1 Home Ownership Administrators and Officers will be responsible for following the policy in relation to processing RTB and RTA claims from receipt through to completion of sale.
- 3.2 The Home Ownership Manager will be responsible for the effective implementation of this policy and for ensuring staff are aware of and appropriately trained in Bernicia policies and procedures relating to the processing of RTB and RTA claims.
- 3.3 The Assistant Director – Development, will take overall responsibility for ensuring the policy is adhered to.

## 4. Actioning the policy

- 4.1 This policy will be actioned when processing RTB and RTA claims, between the date the claim is received and if applicable, the sale of the property.

## 5. Monitoring the policy

- 5.1 This policy will be monitored by the Home Ownership Manager and all claims and sales documentation will be recorded internally.

## 6. Resources

- 6.1 There should be no additional resources required in order to fulfil the commitments of this policy.

## 7. Equality and Diversity

- 7.1 An equality and diversity impact assessment has been undertaken in relation to this policy. In carrying out its services, we are committed to: -

- Treating all customers and employees positively regardless of any personal characteristics including gender, age, ethnicity, disability, sexuality, gender reassignment or religion
- Taking seriously all complaints and investigating and responding accordingly
- Using plain language and providing information in other languages, large print, audio and braille on request.