

Voluntary Right to Buy and Portability Policy

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3. **Reference Documents including links**
- Right to Buy Policy
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4. **Legislative Requirements including links**
- Housing and Planning Act 2016
 - 1985 Housing Act Part V section 125 and S171A
 - Housing And Planning Act 1986
 - Housing Act 2004 Sections 180 – 189
 - The Housing (Right to Buy) (limit on discount) (England) order 2014
 - Public Sector Landlord list
 - Housing (Right to Buy)(Cost Floor)(England) Determination 1999 (no hyperlink available)
 - Housing Act 1985 as amended by the Deregulation Bill 2014-15 <http://services.parliament.uk/bills/2013-14/deregulation.html>
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5. **Contact**
- For queries about this Policy please contact Helen Williams – Commercial Property Team
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Introduction

The **Voluntary Right to Buy (VRTB)** scheme is a pilot scheme enabling eligible customers to purchase the home they rent from Bromford with a discount off the full market value. The discount is calculated based on the number of years spent as a public sector tenant, with a cap on the maximum available discount.

This policy should be read in conjunction with the Right to Buy policy which covers the Statutory Right to Buy and Preserved Right to Buy schemes and the Right to Acquire policy which covers the Statutory Right to Acquire scheme.

Reference to 'customer' throughout this policy is intended to mean the 'tenant' who is named as the tenant or joint tenant on the current tenancy agreement with Bromford

Applicant eligibility

Customers who are eligible for either the Statutory Right to Buy or Preserved Right to Buy Scheme are not eligible to apply for the Voluntary Right to Buy and should refer to the Right to Buy Policy.

Customers who are eligible for the Statutory Right to Acquire scheme may apply to purchase under either the Right to Acquire scheme or the VRTB scheme. Customers will be advised of the options available at the time of enquiry/ application.

Under VRTB the following tenancy conditions must be met:

- The customer must hold a **current** assured or assured shorthold tenancy with Bromford
- The customer must have passed their probationary tenancy period
- If an assured shorthold tenancy is held this must be for a fixed term of at least 2 years

In all cases:

- The customer must have held public sector tenancies for at least 3 years and their current housing association home must have been their main home for at least 12 months
- The duration of other *public sector tenancies* may count towards the qualifying period. Where the application is a joint application no additional time can be accrued for other family members joining in the purchase. It is the customer's responsibility to provide evidence of former tenancies with other public sector landlords. In exceptional circumstances where no evidence of tenancy can be provided a Statutory Declaration may be considered
- The tenancies do not have to be continuous, nor does the total period of tenancy have to be immediately before the application to buy is submitted – i.e. a customer can include tenancy periods from previous public sector landlords and this is not time limited

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- The probationary period can be counted towards the total years of tenancy held
 - The customer and any family members joining in the application must not be subject to bankruptcy proceedings or unfulfilled credit arrangements. The applicant is asked to declare this at the time of application
 - The customer(s) can purchase the property with additional members of the family over the age of 18. The purchase may be with a) someone who shares the tenancy b) a spouse or civil partner c) up to 3 family members who can evidence they have lived in the property as their main home for the last 12 months.
 - Each purchaser must evidence having lived in the property for the last 12 months and a family member is defined as either the spouse or civil partner, or person living with the qualifying person as if they were civil partners or the tenant's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece. It is each applicant's responsibility to provide evidence of any tenancies held with other public sector landlords. In the event evidence can not be obtained – a statutory declaration may be accepted subject to a copy of the electoral register also being available.
 - All applicants must be party to the purchase at completion of sale
 - The customer's rent account may not be in arrears at the time of application or on completion of purchase
 - The customer(s) and any joint applicant purchasing do not already own a property even if it is not their principle residence at the time of purchase
 - Customers must not have demonstrated anti- social behaviour as defined in Paragraph 11 of Schedule 11 to the Anti-Social Behaviour Crime and Policing Act 2014 where legal proceedings have been initiated
 - Customers must not be subject to legal proceedings – e.g. an injunction or notice seeking possession
 - Customers who hold an assured fixed term tenancy whether the term as original granted is for 21 years or more will not be eligible
 - Customers must have the right to reside in the United Kingdom and be able to demonstrate that they meet the immigration status checks

- Customers living in shared ownership properties are not eligible to apply
- Customers living in temporary accommodation with a licence agreement are not eligible to apply
- Customers living in sheltered or supported accommodation are not eligible to apply

Any application will be subject to the customer and any joining applicants agreeing to a home visit being undertaken for tenancy, identity and immigration status checks. The application will be cancelled within 8 weeks if checks have not been carried out.

Proof of funding for the property will be required in all cases. Family members who haven't lived in the property can contribute to the purchase costs but they cannot acquire a stake in the property.

If any of the applicants change during the application process the application will be cancelled and a new application will need to be started and a new unique reference number obtained.

Property eligibility

The property must be the customer's only and principle home and must be a separate self-contained dwelling and designated as general needs housing.

Under the VRTB agreement there is an assumption that the customer can purchase the property they live in We will exercise our discretion not to sell in a limited number of prescribed circumstances. These are:

Properties not available for purchase and where we are unable to accept a VRTB application	Reason
If the property is not located within the pilot area. A full list of Local Authority areas in which the pilot will operate is available on our website or can be provided on request	Properties owned by Bromford but outside the West and East Midlands are not included within the Government pilot
Retirement living properties – for customers over the age of 55 with onsite facilities and a care provider providing care and support at the scheme	Only general needs rented accommodation is included within the Government pilot
Rooms in shared accommodation including in registered care homes	Only general needs rented accommodation is included within the Government pilot
Temporary accommodation providing emergency short stay housing to enable local	Only general needs rented accommodation is included within the Government pilot

authorities to discharge their statutory duty	
Supported housing properties with a commissioned care and/or support supporting people in place whether directly or agency managed My place accommodation – for customers with long term conditions where an intensive housing management service is provided and a tailored care package provided	Only general needs rented accommodation is included within the Government pilot
Properties let in connection with employment	These properties are required as homes for colleagues working for Bromford
Properties not available for purchase where a customer will be offered an alternative property to purchase in accordance with our Portability Policy	Reason
Flats where Bromford does not own the freehold of the property and does not have sufficient interest to grant a lease of at least 50 years for a flat from the date an application is received	This follows the requirements of the Statutory RTB scheme
Houses where Bromford does not own the freehold	Sales of leasehold houses are not permitted under the scheme
Properties where there is a restriction within a planning agreement – e.g. a Section 106 agreement which requires the property to remain as social housing in perpetuity to protect rural homes	The planning agreement prevents sale under a Voluntary Scheme
Properties where there is a restrictive covenant in place on the property preventing sale – e.g. restricting use to affordable/ social housing	The restrictive covenant prevents sale under a Voluntary Scheme
Properties in charge where lender consent cannot be obtained or properties	If lender consent cannot be obtained the property cannot be sold

charged to a lender where the conditions imposed by the lender to release the property from the charge are too onerous to facilitate an efficient sale or would mean that a sale would not be financially viable for Bromford	Not financially viable to sell
Properties situated in rural areas where the population count at the last census for the defined parish was less than 3000 properties	To ensure properties in short supply in rural areas are retained as affordable housing
Properties to be included in a programme for regeneration or disposal or for sale as part of a stock disposal programme	To prevent delays in sales
In circumstances where the total value of the property held on the capital asset register less any grant is higher than the independent valuation. The Total Value will include the cost of land, Building and current components	It is not commercially viable to sell these properties as they would be sold at a financial loss

Applicant priority

- All applications will be dealt with on a first come first served basis based on a **completed** application.
- A completed application will require:
a unique identification number obtained from the government portal, a fully completed and signed application form

Application Fees

A fixed fee of £250.00 will be payable after initial eligibility checks have been undertaken and before a valuation is carried out. This fee will be refundable within 1 month of application in the following circumstances:

- If the application cannot subsequently proceed due to our discretion policy not to sell the property
- The customer is not eligible

The fee is non-refundable if:

- the customer is eligible but does not proceed to completion
- the customer decides not to proceed after a valuation has been carried out and an offer made
- the customer enters the portability process but does not purchase an alternative property

The fee is refundable on successful completion of sale.

From the time of fee request, we will allow a period of 4 weeks for the fee to be paid before cancelling the application. An application cannot proceed and a valuation cannot be obtained until the fee has been paid.

Discount

The length of time a customer has held a public sector tenancy for determines the discount entitlement. The discount increases with the length of time spent as a tenant up to a maximum limit.

The discounts available are set in accordance with the statutory Right to Buy Scheme. These are:

- For freehold sales – a 35% discount for the first 5 years of the minimum qualifying period of 3 years and a further 1% for each additional complete year of confirmed tenancy up to a maximum of a 70% discount or £80,900 – whichever is lower
- For leasehold sales – a 50% discount for the first 5 years of the minimum qualifying period of 3 years and a further 2% for each additional complete year of confirmed tenancy up to a maximum of 70% discount or £80,900 – whichever is lower

The discount may not exceed the maximum cap which is £80,900 (as at April 2018)

If the customer has previously received a discount for Right to Buy or Right to Acquire from Bromford or another landlord that discount amount is deducted from the discount received under the new application.

Valuation

An independent RICS market valuation set at the date the initial application is received will be instructed. The valuer should be selected by the customer from our independent valuation panel.

It is expected that the valuation will be completed within 10 working days of instruction. In the event that the valuer is unable to make an appointment within a reasonable timescale or the customer does not attend the appointment, we reserve the right to cancel the application.

Where the customer disputes the valuation amount they shall be entitled to request an alternative valuation at their own expense by another R.I.C.S valuer on our panel. Both valuations will be considered with recourse to the valuer if appropriate. There is no further right of appeal against the valuation amount.

Only the initial valuation cost will be met by the Association.

Timescales

Initial Eligibility will be confirmed within 4 weeks of receipt of the application (or 8 weeks if we require applicants to provide evidence of tenancies with other landlords)

It should take no more than 12 weeks from the time of receipt of the application fee to making a formal offer to sell.

Once a formal offer is made the applicant will have 4 weeks in which to confirm acceptance of the offer. The offer will set out the property value, discount amount and sale price.

We will require written confirmation that the customer wishes to proceed together with confirmation of solicitors.

Where the application is progressing and solicitors are instructed, the completion of the purchase should take place within 3 months of the Offer Notice being served.

Evidence of source of funds will be required for all purchases in accordance with our Money Laundering Policy. If the property is being purchased with a mortgage, a copy of the mortgage offer will be required and the mortgage provider must be registered with the Financial Conduct Authority.

If completion does not take place within this period we reserve the right to cancel the application

If there is no response to the offer notice within 4 weeks the application will be cancelled

The rent account must be clear at the time of completion of sale.

Appeal

Customers can appeal against our decision not to sell them a property or against the decision to remove them from the portability process, if they feel we have not taken into account all relevant information or have made the decision unfairly.

Appeals must be made preferably in writing within 5 working days from the date of the decision not to offer letter.

An independent Manager who was not involved in the original decision will review the appeal. Customers will be notified of the outcome in writing within 15 working days or a mutually agreed timescale.

Any complaint will be considered in line with our Complaints Policy.

If a customer is not satisfied with the outcome of the appeal review, they should notify us within 5 working days from the date of the appeal response letter, the case would then be reviewed in line with our complaints policy.

Repairs	<p>Day to day repairs will continue on the property until completion of sale.</p> <p>Once the offer notice has been served the property will be omitted from any planned improvement works unless they are of an emergency nature or present a health and safety risk.</p>
Funding	<p>The cost of the discount will be reimbursed to Bromford by the Government. The purchase can only complete if there is sufficient funding available.</p> <p>Checks will be made by Bromford at key stages during the process to ensure funding remains available.</p>
Purchase	<p>On completion the property must be registered in the name of the purchasers. A family member (or someone else) could provide the funding for the purchase. However, legal ownership of the property can only be in the names of the eligible tenant/s and other eligible applicants. The tenant must be named on the freehold transfer or lease.</p> <p>A flat lease will ordinarily be granted for a 125 year term.</p> <p>If Bromford does not own the freehold a lease can only be granted for the term remaining on a head lease, for a minimum 21 year term on a house and 50 years for a flat.</p> <p>The lease commencement date for a flat will be the date of the first lease granted within the building by Bromford. This may result in less than a 125 year term and a lease extension may be required in the event that there are less than 70 years remaining on the lease. The property will be valued accordingly.</p>
Portability	<p>If a customer is eligible for VRTB but the property which they live in does not meet the qualifying criteria the customer may enter the portability process. This enables purchase of an alternative property either with ourselves or with another Housing Association with a discount.</p> <p>If the property is not located within the pilot area and/ or is not a general needs property – a portability offer will not be made and a VRTB application will not be considered.</p> <p>If this is the case we will work with the customer to offer the opportunity to use the discount to purchase an alternative property</p> <p>1 reasonable offer will be made by Bromford to customers in the porting process. In each case the tenant will be given 7 days to accept the offer. If the offer is refused, the customer will be removed from the portability process and the application cancelled. This is assuming Bromford have properties within the area in which the customer wishes to port their discount to.</p>

The customer will be able to remain within the portability process for a maximum of 12 months, or until 1 offer has been made if this is sooner. There is no guarantee of a suitable property becoming available within this time period.

There is no guarantee funding will still be available for the purchase for the duration of this period. Funding will only be held for a 3 month period, after which time the customer will need to reapply for an updated unique ID.

Any offer made will take into account the following factors:

Geography:

- The location in which the buyer wishes to live. The replacement location does not need to be in the Midlands

Availability

The property offered may be

- An empty property owned by Bromford
- A property owned by Bromford where the existing tenant has served notice to leave the property
- A new build property in Bromford's development pipeline
- A property owned by Bromford which has been identified for sale

The property ported into must be of an equal level of demand as the property currently occupied. An offer may not be made of a property in areas where there is high property demand and/ or scarcity of property availability.

The responsibility for identifying an alternative property to port into is shared jointly with the customer. For example, the customer will be encouraged to identify a mutual exchange into an eligible property or to apply for a property they have identified via a Choice based lettings scheme.

The customer may identify a property owned by another Housing Association in which they wish to port their discount. The discount cannot be ported to a property on the open market

No offer will be made of a property which does not belong to this Association, where there are restrictive covenants preventing sale and/ or where lender consent cannot be obtained.

There is no guarantee a property will be available at the time of entering the portability process

Quality

- The offer made may for a property of the same size
- The number of bedrooms required, based on household occupants will be factored in and a smaller or larger property offered
- Any property offered will meet the Bromford ready to let standard
- We are not required to offer a 'like for like' property

Cost

- A new valuation will be carried out on the property to be ported into.
- Details of any major works required will be shared with the customer and factored into the purchase price
- Details of any ongoing service charges will be shared

The customer shares responsibility for identifying a property which they wish to purchase. This must be a property owned by Bromford or another Housing Association. The portable discount may not be used on the open market.

Both the purchase price and the discount will be based on the value of the property ported to.

Any portability offer made will be subject to the customer undertaking an affordability assessment to demonstrate they will be able to fund the purchase and evidencing proof of funds.

Any offer made will be conditional on the customer signing an agreement to buy. The customer will be expected to complete a purchase on a new build property within 1 month of build completion, subject to an offer having been made at least 1 month pre handover. Failure to complete a purchase within 1 month of handover may result in the offer being withdrawn

For a pre-owned property, the customer will be required to move into the property shortly after accepting the offer. A 2 year fixed term assured shorthold tenancy will be entered into pending completion of purchase. Rent would be payable on the property from the time of occupation until completion

There will be a requirement to complete the purchase within 6 months of taking on the tenancy. Where the purchase does not complete within this timescale, without valid reason we reserve the right to end the tenancy at the end of the term.

The property ported into must be one that is eligible for purchase under VRTB in accordance with either this policy of the VRTB policy of another Housing Association.

The customer will be removed from the VRTB process at the point where they enter the porting process. If no portability property is identified within 3 months of entering the process the customer will need to reapply through the government gateway. There is no guarantee funding will still be available to fund the discount at that time.

If an offer is refused and/ or no suitable property becomes available within a 12-month period we will have discharged our requirement to offer a portable discount. An extension of the 12 month period may be considered on a case by case basis.

Discount repayment

A discount is repayable if the property is sold or sublet within 5 years from the date of purchase in accordance with a legal charge put in place on completion of sale. The amount repayable is calculated as a proportion of the discount received.

In the 1 st year	all the % discount will be repaid
In year 2	80% of the discount will be repaid
In year 3	60% of the discount will be repaid
In year 4	40% of the discount will be repaid
In year 5	20% of the discount will be repaid

On a case by case basis we may exercise discretion not to require pay back of the discount in limited circumstances where if the property is being transferred to a member of the family – for example if:

- The property passes to a spouse or a family member who has resided in the property for at least 12 months before the date of disposal.
- The disposal is to a person who is inheriting the property.
- The property is being sublet to enable the owner to take up a short term employment offer elsewhere

If an agreement is entered into with a third party that involves selling the property to that third part in the future in exchange for funding the purchase, the customer will have to repay all or some of the discount

Postponement of charge

During the discount repayment period Bromford's right to repayment of discount has priority immediately after the mortgage lender's charge as this is the legal position.

Confirmation will be obtained from the solicitor before completion of the purchase that only an approved lender has been used to finance the purchase of the property. This must be a mortgage lender registered with the Financial Conduct Authority.

We will only consent to postpone our charge for the following purposes:

- To defray the cost of works to the property
- To defray the cost of service charges for works to the property's structure or communal areas.
- To defray the cost of service charge for insurance

Restrictions

Where the freeholder/ leaseholder wishes to sell their home within 10 years of it being bought under the Right to Buy, it must firstly be offered at market value to Bromford. A restriction on the sale of the property will be registered with the Land Registry.

If the property is in a designated rural area for Right to Buy purposes or a national park or a designated area of outstanding natural beauty, a covenant may be put in place to restrict the tenant or any successor

from onward sale other than to a person who has had their place of work or home, in the region for the previous 3 years

This policy will be subject to review in light of changes to the government's Voluntary Right to Buy framework.

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