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## **Deed of Postponement**

**SER-POL-29**

**Version 3.0**

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**Date approved: 29 July 2019**

**Approved by: Chief Executive**

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## **1. Policy Objectives**

- 1.1 The objective of this policy is to ensure that Southway protects its interest in properties sold under the Right to Buy or Right to Acquire and that customers are not allowed to “over stretch” their financial resources.
- 1.2 Southway is a responsible landlord and we are committed to ensuring that our customers are aware of any risk associated with taking out additional borrowing.
- 1.3 For the purposes of this policy the term Right to Buy includes the Preserved Right to Buy, Right to Acquire, Voluntary Right to Buy and any other homeownership scheme where a discount has been granted.

## **2. Additional Borrowing**

- 2.1 A customer who has purchased their home and is still within the repayment discount period must seek the consent of Southway before they can re-mortgage or apply for additional borrowing.
- 2.2 The Trust cannot refuse the customer’s request provided the additional borrowing is for an approved purpose as specified in section 156 of the Housing Act 1985 (as amended by Section 120 Leasehold Reform, Housing and Urban Development Act 1993).
- 2.3 If the request for additional borrowing is being made during the home purchase application process then the applicant requires a letter of postponement.
- 2.4 If the request is being made within the five-year discount repayment period (but after completion of the purchase a deed of postponement is required).

## **3. Effect of the Deed or Letter of Postponement**

- 3.1 When a customer exercises their Right to Buy Southway’s interest is automatically registered as a second charge. In the event that the property is repossessed the repayment of the mortgage would automatically take priority. A deed or letter of postponement is a legal document requiring Southway to reduce its interest in the property to a third charge.
- 3.2 This means that in the event of the property being repossessed the mortgage lender would recover the remaining mortgage amount first (first charge) any

additional borrowing would be recovered second (second charge) and any repayment of discount sums would be paid to Southway third (third charge), if sufficient funds were available.

- 3.3 By agreeing to a deed or letter of postponement Southway is risking its interest in the property and therefore the Trust will limit the amount of additional borrowing it will approve.

## **4. Agreeing to a Deed or Letter of Postponement**

- 4.1 The Trust will only agree to a Deed or Letter of Postponement in the following circumstances:

- A formal request is made by the lending institution
- The applicant provides a full market valuation for the property carried out by a RICS qualified surveyor
- The applicant provides evidence for what the money will be used for
- If the application is for home improvements three quotes are provided
- The applicant provides proof of the balance of the mortgage on the property
- The applicant consents to a credit check of all persons named on the deeds
- Southway is permitted to inspect any home improvements within 6 months of the work being completed
- The applicant pays the current administration fee and any legal fees

- 4.2 Deeds or Letter of Postponements will not be approved for kitchen appliances, garden landscaping, conservatories, or any other alteration that is prohibited by the lease or transfer document.

- 4.3 The Trust will only approve additional borrowing if there remains enough equity in the property to repay the discount to the Trust. If there is not enough equity to repay the discount, then the request will be denied.

- 4.4 All requests for Deeds or Letters of Postponement will be submitted to the Sales & Commercial Property Team who will ensure that the above criteria are met before submitting requests to the Trusts solicitors

- 4.5 A deed of postponement calculator will be used to check that all criteria has been met and that sufficient equity will be available to repay the discount.

- 4.6 Where the applicant is seeking to borrow more than 15% of the value of the property, the Strategic Director, People & Places will be asked to check the criteria has been met and sign off the application.

- 4.7 Once the Trust is satisfied that the above criteria are met the Deed or Letter will be drafted by a solicitor and signed by a Director
  
- 4.8 No Deed or Letter of Postponement will be approved without being reviewed by the Trusts solicitors.
  
- 4.9 Appeals against a deed of postponement decision or requests for the Trust to act outside of this policy will be heard by the Chief Executive whose decision is final.

<b>POLICY REVIEW HISTORY</b>	
<i>To be completed during each review</i>	
<b>Previous versions</b> (version number – approved by – approval date – title if different)  e.g. V1 – Board – 04/11/2013	
<b>Date of last EIA:</b>	N/A
<b>Review lead by:</b>	Natalie Lewis, Southway Homes Manager
<b>Main points or amendments made and reasons</b>	
<ul style="list-style-type: none"> <li>▪ Removal of 5% cap and introduction of there being enough equity to cover the discount repayment amount</li> <li>▪ Introduced need for RICS valuation to avoid valuations being provided based on internet searches</li> </ul>	
<b>Next review due:</b>	<b>Q2 2021/22</b>
<b>Approval level:</b>	<b>Chief Executive</b>