



Right to Buy Policy

SER-POL-18

Version 6.0

Date approved: 10th March 2023

Approved by: Chief Executive

1. Introduction

- 1.1 The objective of this policy is to allow Southway Housing Trust (Manchester) Limited (Southway) to effectively manage and process applications from tenants for the Right to Buy and Right to Acquire.
- 1.2 Secure Tenants who were subject to the stock transfer from Manchester City Council to Southway were issued Assured Tenancies with the Preserved Right to Buy (PRTB). The legislative requirements in respect of the PRTB are set out in the Housing Act 1985 and Southway Housing Trust will adhere to the legislation at all times.
- 1.3 Those who have become tenants of Southway since transfer – including those becoming so by way of mutual exchange – will not have a PRTB within their Tenancy Agreement. They may, however, have one of the following:
- The Right to Acquire (RTA). The legislative requirements in respect of the RTA are set out in the Housing Act 2004. Southway Housing Trust will adhere to the legislation at all times.
- 1.4 This policy sets out how Southway will manage the RTB & RTA homeownership process, taking account of:
- The statutory obligations of both parties,
 - Southway’s standards of customer care, and
 - The duty of Southway to manage its resources integrally and efficiently.
- 1.5 Southway will ensure that its tenants have information available to them to understand their rights and the risks they face in buying a home. This will be via the website and through links to the Governments own website <https://www.ownyourhome.gov.uk/>

2. Requirements of the Applicant

- 2.1 To purchase their home a tenant must fulfil certain conditions set out in the RTB & RTA legislation and Southway will apply these strictly. These include that the tenant must:
- (a) Be using the property as their only or principal home.
 - (b) Not be subject to any possession order.

- (c) Not be subject to bankruptcy proceedings.
- (d) Not hold the tenancy in connection with employment.
- (e) Have spent the qualifying period in qualifying accommodation.

3. Applications

3.1 Southway will act in accordance with statutory guidelines, which state:

- Once an application is received, a landlord should advise an applicant of eligibility within 4 weeks. 8 weeks if you have been with your current landlord for less than 3 years.
- Once eligibility is confirmed, a formal offer needs to be sent within 8 weeks (for a freehold property) or 12 weeks (for a leasehold property).

3.2 Southway will ensure that we meet these statutory deadlines.

3.3 Southway will accept applications by post or online provide documents have original signatories.

3.4 All applications must be fully completed and be accompanied by a fully completed home buyer's declaration form.

3.5 Where an application is submitted electronically all applicants will be asked to sign a copy of the application at the pre-sale visit. All signatures will be checked and verified against office records.

3.6 Thorough checks of the application will be carried out prior to a Pre-sale to ensure it is all completed accurately and completely and to confirm as far as possible the eligibility of the applications to the RTB or RTA.

3.7 Thorough checks of the tenancy history will be carried out prior to a Pre-Sale to ensure as far as possible eligibility.

4. Pre-Sale Interviews

4.1 Each applicant will be required to attend a pre-sale interview. The aim of this review will be to ensure that the purchaser has fully considered the costs and responsibilities associated with buying and running an owned home.

4.2 Southway will carry out specific presale checks to determine the origin of the applicant(s) and their entitlement to purchase their home.

4.3 These will include:

- Identity and occupancy checks.
- Tenancy history audit.
- Credit checks.
- Insolvency checks.

4.4 pre-sale interviews will take place either in the office, at the subject property or via Zoom or similar internet-based video chat platforms. The actual visit will depend on the result of initial checks carried out on the applicants and the tenancy. All applicants must be present during the visit or call.

4.5 No application will proceed to the next stage of the home purchase process unless this interview has been carried out. If a pre-sale interview cannot be carried out within the first 3 weeks after an application has been received, the application will be cancelled and a new application will need to be submitted.

4.6 Southway will carry out all reasonable checks to verify historical tenancies being claimed. This will include writing to other housing provider(s) detailed on the application form, and considering evidence submitted by the applicant. If Southway is unable to verify a tenancy within the statutory period, then only verified tenancies will be included in the discount calculation.

5. Proof of Occupancy and Funds

5.1 All applicants are required to provide proof of occupancy; the required proof will be specified in advance of the pre-sale interview and must be made available before or at the interview .

5.2 If the required proof is not available at the pre-sale and is not provided within three weeks of the application date, the application will be denied and a new application will need to be made.

5.3 All applications must be accompanied by a homebuyer's declaration; this will include confirmation that the home buyer has appropriate funds to complete the purchase.

6. Succession

- 6.1 Where a tenant has obtained their tenancy by way of statutory succession, they are permitted by legislation to count all years spent in the property continuously since the age of 16 towards their discount.
- 6.2 Southway will require all such applicants to prove they have occupied the subject property continuously as their only or principal home. If there was a gap of more than two years between periods of occupation, then only those periods since the gap count.
- 6.3 In all cases, any proof provided must be in original documents showing the applicant's full name and the address of the subject property. All documents must be dated.
- 6.4 The proof of residency/occupancy we can accept will be confirmed in writing to the applicant.
- 6.5 Southway will apply the relevant discount for all years that the applicant can successfully prove residency to the satisfaction of the officer.

7. Fraud

- 7.1 Southway is committed to the prevention and detection of fraud and may use and share information with colleagues from other registered housing providers, the Local Authority, Department for Work and Pensions and other departments that may help us to identify potential fraud.
- 7.2 Information sharing will be carried out in accordance with Southway's Data Protection and Information Sharing Policy.
- 7.3 Southway will aim to detect fraud in accordance with the measures outlined in our Tenancy Fraud Policy.
- 7.4 All applicants will be subject to a credit and insolvency check, as described above and carried out through NAFN or other service.
- 7.5 Where an applicant meets certain fraud triggers, enhanced checks will be carried out to ensure that any property sale is not completed fraudulently.
- 7.6 Southway reserves the right to suspend an application pending the conclusion of appropriate fraud checks.

7.7 Southway may take legal action against anyone found to be perpetuating homeownership fraud.

8. Capacity

8.1 Southway will try to ensure that our more vulnerable residents are safeguarded from entering into financial commitments they may find difficult to maintain or suffering from financial abuse.

8.2 If the Trust has reason to believe that the applicant (s) are unable to fully engage in the pre-sale or understand the homeownership process, we reserve the right to suspend the application pending further capacity checks. This may involve a referral being made for further assessment by our Community Support Team and / or a referral to Social Services.

8.3 If the outcome of further assessments concludes that the main applicant (s) cannot proceed with the application due to capacity issues, the application will be denied.

9. Rent Arrears and Housing Benefit / Universal Credit

9.1 Any tenant, who is subject to a current Possession Order, whether that is Suspended or Outright, will be denied the right to purchase their home. Once the conditions of a Possession Order have been satisfied, that right may be reinstated.

9.2 Where an applicant is in receipt of full or partial Housing Benefit or is in receipt of Universal Credit to meet the cost of their housing, the paying authority will be notified of the homeownership application and will be advised of any family members that have been included on the application form.

9.3 Where at any time an applicant is more than four weeks in rent arrears, Southway will not progress or complete any sale until all arrears are cleared. (For the avoidance of doubt, Southway will not allow rent arrears to be settled through the sale completion).

9.4 Southway will always recommend that applicants take independent financial and legal advice before undertaking to purchase their home.

10. Anti-Social Behaviour (ASB)

- 10.1 Southway will check all applicants, before an application is approved, against internal databases. Where one or more applicant is the subject of ASB action, and where statute allows in all the facts of the case, then Southway will act to suspend that tenant's eligibility, seeking an Order from the County Court if necessary.

11. Sharing the Purchase

- 11.1 The purchase may be shared with other members of the eligible tenant's family where and to the extent allowed by legislation.
- 11.2 Southway will carry out the pre-sale checks described above (at sections 4-10) on any shared applicant(s) to ensure they meet the home purchase requirements.
- 11.3 In all cases where the main applicant(s) is in receipt of Housing Benefit, any family member added to their application must be properly declared to the Local Authority or Universal Credit.
- 11.4 Where no declaration has been made, Southway will notify the Revenues and Benefits department and may use this non-disclosure to support its decision not to admit a shared purchaser onto the application.
- 11.5 Each family member wishing to share the purchase must provide the required amount of proof as specified in Southway's "Proving your Identity" leaflet. This includes providing proof that they are on the electoral register at the qualifying address.
- 11.6 Southway reserves the right to amend the documents required to prove occupancy and to ask for enhanced or additional proof.
- 11.7 If any family member wishing to share the purchase cannot meet the required quantum of proof, they will not be admitted to the application.

12. Excluded Properties

- 12.1 Properties that are excluded from sale under the PRTB and RTA are specified in the Housing Act 1985 and the Housing Act 2004, respectively.

- 12.2 Southway will check all properties against the exclusion criteria and where applicable, any application submitted will be denied. A check will be made on the Assets & Liabilities Register and Open Housing.

13. Alternative Homes

- 13.1 An applicant purchasing under the RTA may be offered an alternative property from within the Trusts existing stock in line with the RTA legislation.
- 13.2 If a property is excluded from sale under the PRTB or RTA, the Trust does not have to offer an alternative property from its stock. However, these applicants may want to consider alternative home buying options and will be given appropriate advice and guidance by the Commercial & Homeownership Team.

14. Land and Property to be included in the sale

- 14.1 An eligible tenant is entitled to buy only the land and property which was let to him/her under the tenancy. Southway may add further land at its own discretion, but this will be valued separately and will not be subject to any discount.
- 14.2 The boundaries of the property will be checked prior to the sale going ahead to ensure that only land included in the tenancy is included in the sale.
- 14.3 Subject to legal constraints, and where it is in its interests to do so, Southway will seek within the land sold the sole responsibility for all borders and boundaries to the purchaser.

15. The Discount

- 15.1 Southway will sell the properties at the statutory discount. A review of the discount needs to be carried out in January to determine the governments setting of the discount for the forthcoming financial year. The discount will apply based on the date any application is received.
- 15.2 In accordance with statute, the amount of discount will be reduced if the tenant has previously purchased under the RTB, PRTB, RTA or VRTB.
- 15.3 Southway will always take into account the Cost Floor when calculating the discount. The Trust will apply the cost floor rules in line with legislation.

16. The Offer Letter

- 16.1 If the tenant remains eligible when the valuation has been completed and the discount calculated, Southway will send the tenant an offer in the statutory format. The letter will include any information as specified in the legislation.
- 16.2 The offer letter will also include the plan of the property to be confirmed by the applicant.
- 16.3 Applicants must either accept the offer within statutory timescales or request a review of the valuation to the District Valuer – please refer to the Right to Buy/Right to Acquire Procedure.

17. Additional borrowing

- 17.1 The Trust will allow additional borrowing by way of either a Letter of Postponement or Deed of Postponement in line with legislation.
- 17.2 Please refer to the Additional Borrowing (Deed and Letter of Postponement) Policy and Procedure for all requests.

18. Completing the Sale

- 18.1 Southway will not pass any application to its legal advisers unless the purchaser can demonstrate that they have access to funds to complete the purchase.
- 18.2 If being facilitated by way of a mortgage, the purchaser must provide proof that they have a mortgage in place. At this stage a “mortgage in principle” will not be sufficient to prove that the funds are available. Only a confirmed mortgage offer will result in the file being passed to the conveyancing solicitors.
- 18.3 All applicants admitted to make the purchase must be included on the mortgage application.
- 18.4 If the purchase is being funded without mortgage finance (or similar) then the purchaser must prove that the funds are available If:
 - A. The tenant’s proposed funding includes a sum which is over the statutory threshold for money laundering purposes and which does not come from a financial institution known to Southway, and

- B. The tenant has not engaged for the conveyance a party (such as a solicitor) who is regarded as a Responsible Person within the terms of money laundering legislation, Southway reserves the right to suspend the processing of the sale until it is satisfied that any receipt of that sum would not be a breach of its own responsibilities under that legislation. Southway's solicitors will ensure the Anti-Money Laundering checks are carried out.

19. Time Limits

- 19.1 Where legislation allows, the Trust will serve delay notices on any applicant who delays the progression of their purchase beyond the timescales specified in the legislation.
- 19.2 Southway will achieve the various statutory deadlines placed upon itself at all times.

20. Waiver of Discount Recovery

- 20.1 Southway will normally exercise in full any statutory right to recover any part of the discount in the event of a subsequent resale of an ex-PRTB/RTA property.
- 20.2 It will only waive this right in exceptional circumstances, and as such must be agreed by the Chief Executive.
- 20.3 For the avoidance of doubt, Southway will not waive its rights in the following circumstances:
- (a) Where the re-sale is solely or mainly because of the death of the PRTB/RTA owner.
 - (b) Where the re-sale is part of a change in the nature of the relationship between those in the household, or between such and other people.
 - (c) Where the re-sale is prompted wholly or mainly by the financial circumstances of the PRTB/RTA owner.

21. Appeals and Complaints

- 21.1 For purchases under the PRTB, the appeal / delay process is specified in legislation. Any notices served on the Trust under the PRTB appeal process will be handled in line with legislation.
- 21.2 For purchases under the RTA there are no such appeals or delay procedures, and the Trust will act fairly in its processing of applications so as not to unduly delay or hinder the application.
- 21.3 Complaints or queries relating to the application of internal procedures, staff conduct, or discretionary processes will be handled in line with Southway's complaints policy.

| POLICY REVIEW HISTORY | |
|---|------------------------|
| <i>To be completed during each review</i> | |
| Previous versions (version number – approved by – approval date – title if different) | |
| Date of last EIA: | |
| Review lead by: | |
| Main points or amendments made and reasons | |
| Next review due: | Q1 2025/26 |
| Approval level: | Chief Executive |