

Preserved Right-To-Buy & Right-To-Acquire Policy

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| Originator: | Policy and Strategy Team |
| Executive Management Team Approval Date: | October 2019 |
| Review date: | October 2022 |

| 1 | Introduction |
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| 1.1 | One Vision Housing (OVH) aims to provide homes that meet demand in safe and sustainable communities. In order to achieve part of this objective, OVH intends to create communities where there are a mixture of tenure types. |
| 1.2 | This Policy sets out the arrangements OVH has in place to facilitate those who are eligible to exercise the 'Preserved Right To Buy' (PRTB) or 'Right To Acquire' (RTA) for their OVH property. |
| 1.3 | The Policy also covers the arrangements that are in place for OVH to 'buy-back' properties that have been sold under the PRTB or RTA schemes. |
| 1.4 | In facilitating this Policy OVH will comply with the relevant legislation including: <ul style="list-style-type: none"> • The Housing Act 1985 • The Preservation of Right To Buy Regulations 1993 • The Housing (Right to Acquire) Regulations 1997 • Statutory Instrument 2002 (1091) • The Housing and Regeneration Act 2008 • The Localism Act 2011 • The Housing (Right to Buy) (Limit on Discount) (England) Order 2013 • The Capital Funding Guide • The Money laundering Regulations 2017 |
| 1.5 | Operation of this Policy also ensures compliance with the Regulatory Framework for Social Housing adopted by the Regulator for Social Housing (RSH), including: <ul style="list-style-type: none"> • Registered providers shall manage their resources effectively to ensure their viability is maintained • Treat all tenants with fairness and respect • Demonstrate that they understand the different needs of their tenants, including in |

- relation to the equality strands and tenants with additional support needs
- They shall meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation

1.6 Access and Communication

1.6.1 OVH is committed to ensuring that our services are accessible to everyone. OVH will seek alternative methods of access and service delivery where barriers, perceived or real may exist, that may make it difficult for people to work for us or use our services.

1.7 Equality, Diversity and Human Rights

1.7.1 OVH is committed to ensuring that no person or group of persons will be treated less favourably than another person or group of persons and will carry out our duty with positive regard for the following core strands of equality; Age, Disability, Gender, Race, Gender Re-assignment, Sexual Orientation, Religion and/or Belief, Marriage and Civil Partnership, Maternity and Pregnancy.

1.7.2 OVH also recognises that some people experience disadvantage due to their socio economic circumstances, employment status, class, appearance, responsibility for dependants, unrelated criminal activities, being HIV positive or with AIDS, or any other matter which causes a person to be treated with injustice.

1.7.3 OVH will also ensure that all services and actions are delivered within the context of current Human Rights legislation. Staff and others with whom we work, will adhere to the central principles of the Human Rights Act (1998).

1.8 Complying with the Money Laundering Regulations 2017

1.8.1 OVH will ensure there is a designated person on the Board of Management that has responsibility for ensuring compliance with the Money Laundering Regulations 2017 and that they have received appropriate training and guidance to fulfil this role effectively.

1.8.1 The designated Board member will seek assurance that OVH has appropriate procedures in place to check the provenance of any large payments that are received or offered in relation to OVH financial transactions. This will apply especially where customers or third parties have difficulties in explaining the origins of the finances and will make appropriate alerts in conjunction with the Money Laundering Reporting Officer, as required. For full details see the OVH Anti-Fraud, Corruption and Money Laundering Policy.

1.9 This Policy should be read in conjunction with the following:

- OVH Residential Leaseholders Policy
- OVH Anti-Fraud, Corruption and Money Laundering Policy

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| 2 | Statement of Intent |
| 2.1 | As a responsible landlord and significant ‘place shaper’ OVH aims to encourage low cost home ownership options for its tenants to create mixed, balanced communities in the areas in which it operates. |
| 2.2 | In operating this Policy OVH will meet all of its legal requirements in respect of PRTB, RTA and buy-back options. In meeting these requirements, OVH will also seek to achieve value for money for the continued delivery of excellent landlord services to its customers and investment in new and existing social housing. |
| 2.3 | OVH will ensure tenants are aware of their rights in regard to purchasing their OVH homes, at sign-up when the tenancy begins, by providing accessible information on its website and post application meetings for potential leaseholders after Section 125 (A notice which is sent out within 8 weeks of the RTB2 Form being sent out when eligibility is proved) has been issued. |
| 2.4 | OVH will ensure that all tenants who pursue PRTB and RTA options make informed choices and are aware of the financial responsibilities associated with home ownership and will advise them to seek independent legal and financial advice before committing to the process. |
| 2.5 | OVH will deal with any requests to process PRTB and RTA options efficiently and will respond within the timescales stipulated in the relevant legislation. |
| 2.6 | OVH will comply with all reporting requirements in regard to PRTB and RTA to the Regulator of Social Housing and to lenders. |
| 3 | Policy |
| 3.1 | Preserved Right To Buy (PRTB) |
| 3.1.1 | The PRTB only exists for tenants who previously held a secure tenancy with Sefton Metropolitan Borough Council at the time of the large scale voluntary transfer to OVH (30th October 2006) and have been an assured tenant of OVH continuously from this date. This right may also still apply if the tenant has subsequently transferred to another OVH property. |
| 3.1.2 | The PRTB will be lost if a tenant gives up an OVH tenancy for any length of time or if they have had their assured tenancy demoted to a starter tenancy as a result of anti-social behaviour (if the tenancy is subsequently restored to an assured tenancy the PRTB will be reinstated). |
| 3.1.3 | <p>There are also a number of exceptions for the right of tenants to exercise the PRTB. Tenants will not be allowed to purchase their OVH properties if any of the following circumstances apply:</p> <ul style="list-style-type: none"> • The property is designated as ‘sheltered’ (where it is one of a group of dwellings that are specifically designated as ‘Category 2’ - for the provision of Independent Living accommodation) |

- The property has been identified for demolition and a Demolition Order has been served on the tenant (lasting Seven years)
- The property is let as temporary accommodation for any reason
- The property is designed and has features making it suitable for people who are physically disabled, or for occupation by people suffering from a mental disorder or is particular suitable for elderly residents
- The property was first let before 1st January 1990 and has features particularly suitable for elderly persons
- The applicant has a bankruptcy petition pending or is an undischarged bankrupt
- The applicant has made a composition agreement with creditors and the terms of which remain unfulfilled
- The tenancy has been demoted or there is actual date for eviction
- The tenancy is a starter tenancy or has been demoted to a starter tenancy (and for the period that the demotion is in place)
- The property was acquired by OVH with grant assistance prior to 1st April 1997
- The property was acquired by OVH with loans (with no grant assistance) at any point or where OVH has not always held the freehold interest (exception to this rule would apply if leaseholders had exercised a collective right to enfranchisement)

3.1.4 Tenants that qualify for the PRTB will be entitled to a discount on the purchase price of their OVH property, the market value of which is determined by an independent evaluation (see PRTB process outlined below in section 3.1.10).

3.1.5 The discount will be calculated on the length of time that the applicant has spent within social housing (note qualifying periods do not have to be consecutive or in the same OVH rented property but must be for a minimum qualifying period of 3 years). Discounts may also apply where a person lived in a parents' house after the age of 16 and later became the tenant of that property or in housing provided by the armed forces.

3.1.6 After the initial qualifying period of between 3 and 5 years, eligible tenants can receive 35% discount on houses and 50% discounts on flats, with additional discounts per years in the tenancy i.e. 1% on houses and 2% on flats for each year of tenancy up to a maximum of 70 percent as outlined below:

| Qualifying Period in Years | Discount % for Houses | Discount % for Flats |
|----------------------------|-----------------------|----------------------|
| 3-5 years | 35 | 50 |
| 10 | 40 | 60 |
| 15 | 45 | 70 |
| 20 | 50 | 70 |
| 25 | 55 | 70 |
| 30 | 60 | 70 |
| 35 | 65 | 70 |
| 40 | 70 | 70 |
| Over 40 | 70 | 70 |

3.1.7 As from the 2nd April 2012 the maximum discount available for all OVH tenants with a PRTB has been set by Government, in the Housing (Right to Buy) (Limit on Discount) (England) Order 2012. The maximum discount as at 2019 is £82,800. This will increase each year in line with the Consumer Price Index.

- 3.1.8 Under the 'cost floor rules', tenants will not be entitled to any discount where the amount OVH has invested in maintaining or improving the property (over the last fifteen years) is greater than the independent market valuation price or where the 'cost floor' is greater than the sale price after discount.
- 3.1.9 If any person that shares the PRTB application has previously received a discount (under PRTB or RTA) this amount or the aggregate amount, if more than one person has received a discount, will be deducted from the discount available.
- 3.1.10 OVH will make specialist advice and assistance available for any tenant that believes they may have a PRTB. This will include, where required, one-to-one interviews to discuss eligibility and the process of making an application which includes the following steps:

(1) Tenants that believe they are eligible for PRTB should complete a Right to Buy claim form (**Form RTB1**) – available by contacting OVH Customer Service Centre on **0300 365 1111** or via <https://www.gov.uk/right-to-acquire-buying-housing-association-home>.

The original request for RTA can be made in writing without using the RTB1 and OVH will accept the date this is received as the start of the process. For an application to proceed, however, an RTB1 form will subsequently need to be completed.



(2) OVH will complete a response notice (Form RTB2) determining if the tenant is eligible for PRTB (within 4 weeks of receipt of the (Form RTB1). Tenants not satisfied with OVH's response can access the Complaints and Appeals Policy to have the decision / action reviewed. Tenants can also approach the First-Tier Tribunal (Property Chamber - Residential Property)

If for any reason the property is not suitable i.e. it is excluded (see 3.1.3) or is not suitable for the applicants family size (either overcrowded or under-occupied) OVH may, but is not obliged, to offer the applicant an alternative property from its naturally occurring void properties. Applicants would be under no obligation to accept the alternative property offered.



(3) Provided eligibility is agreed OVH will send out a (**Section 125 Notice**) within 8 weeks of the RTB2 form being sent out (if the property that is subject of the application is a house) or within 12 weeks (if the property is a leasehold property i.e. OVH will retain the freehold). The Section 125 Notice will outline:

- A description of the property that is subject of the application (including for leasehold accommodation a measurement of property boundaries)
- A purchase price of current market value (based on an independent valuation that OVH will organise) less any discount applicable
- An estimate of any services charges (if applicable) that the applicant would

- have to pay and any improvement costs for a five year period after purchase
- A description of any structural defects OVH is aware of
- Any conditions that OVH deem as necessary to allow the sale to go ahead (e.g. clearing of any rent arrears owed on the property)

If an applicant for PRTB is not satisfied with the valuation provided by OVH they must request a '**determination of value**' within 12 weeks of receiving the section 125 Notice. On receipt of request for a determination of value, OVH will contact the District Valuer for further evaluation of the price to be paid for the property and OVH will write to the applicant with this information as soon as is reasonably practical, providing a new **Section 125 Notice**.

The District Valuer's determination is usually final and can only be challenged if there are 'significant factual errors' or they 'failed to take account of representations' made by either the applicant or OVH. The applicant will have 28 days of receiving the revised **Section 125 Notice** to mount such an appeal and must inform OVH of their actions.



(4) If the applicant accepts the valuation in the **Section 125 Notice** (either original or revised following determination by District Valuer) they must inform OVH within 12 weeks of their decision to proceed with the sale by returning the **Form of Acceptance**.

Once the 12 weeks reply period has expired, OVH will write to the applicant to request their final decision and if no reply is received within 28 days the application will be discontinued (OVH will only offer a reasonable extension if extenuating circumstances can be proved e.g. the applicant has been receiving hospital treatment).



(5) Once a **Form of Acceptance** has been received, OVH will allow the applicant a reasonable amount of time to secure a mortgage or other finance required to purchase the property (and will advise the applicant to obtain their own survey and seek legal advice).

If the tenant is delaying the sale after accepting their offer to purchase, and more than 3 months have passed from the date of the **Section 125 or Section 128 notice was sent**, OVH will send a warning letter (**Section 140 Notice**) to the applicant requesting completion of the purchase within 8 weeks.

If after 8 weeks has elapsed no completion has been finalised a further warning letter (**Section 141 Notice**) will be sent allowing a final period of 8 weeks for completion to be finalised. If a completion is not finalised within this time OVH will discontinue the application to purchase and no further action will be taken.

If within the prescribed timescales outlined above OVH receives instruction from the applicants' solicitor or licensed conveyancer that the sale is to proceed, OVH legal team will send to the solicitor necessary legal documentation to complete the sale.

Note

If OVH fail to comply with the timescales outlined above in providing the **RTB2 Form** or the **Section 125 Notice**, applicants for PRTB may be entitled to a 'refund of rent'. Applicants requesting such refund should first complete an 'initial notice of delay form' (**FORM RTB 6**) allowing OVH 1 month to rectify any delay.

Provided OVH does not serve a counter notice or still fails to respond, the applicant can then serve an 'operative notice of delay' (**Form RTB 8**) to obtain their refund. Applicants wishing to pursue this option should contact OVH direct on **0300 365 1111**.

NB: The refund for rent can only be claimed if the sale is completed and is deducted from the sale price at completion stage.

- 3.1.11 Where at least one person listed on an OVH tenancy meets the criteria outlined above in 3.1.1 they may share the PRTB with up to three members of their family (provided they have resided at the property as their principle home for the preceding 12 months to the submission of the **Form RTB1**). If OVH consents to this request, for the purposes of PRTB the additional household members will be classed as joint tenants.
- 3.1.12 In respect of the above, family members are classed as a spouse, or person living as a spouse, parent, grandparent, child (including stepchild or children born to unmarried parents), grandchild, brother, sister, uncle, aunt, nephew or niece.
- 3.1.13 Where there is a joint tenancy the application for PRTB can be made by one tenant only provided the other tenant agrees but may not proceed if one or other of the tenants objects.
- 3.1.14 Once a tenant submits a PTRB application by completing **Form RTB1**, OVH will not carry out any routine repairs to the property, including any aids and adaptations works or any planned investment work whilst the application is still live. Whilst a PRTB is being processed, OVH will carry out emergency repairs only where there is a threat to health and safety of individuals or the security of the property.
- 3.2 **Right To Acquire (RTA)**
- 3.2.1 For OVH, the RTA applies to assured tenants only and is available to those that have held a public sector tenancy (with OVH or other public sector landlords) for at least three years. Tenancies that count towards qualifying periods, need not be continuous.
- 3.2.2 The RTA is not available to Starter tenants of OVH or those that due to breaches of tenancy conditions have had their starter tenancy extended or an assured tenancy demoted.
- 3.2.3 The process for RTA and PRTB are largely the same and the clauses outlined above in 3.1.3, 3.1.9 – 3.1.14 are the same (note forms have the identification **RTA** rather than **RTB**).
- 3.2.4 The major difference between the PRTB and the RTA schemes is the discount available which is a fixed cash amount determined by the Secretary of State. For OVH tenants applying for RTA discount the maximum amount available is £9,000 (unless restrictions apply).

3.2.5 If applicants for RTA are currently occupying properties that are unsuitable for their needs and do not make the best use of OVH stock, OVH may offer alternative properties but is not obliged to) if they are available at the time of the application. Where this occurs the applicant is under no obligation to accept alternative property offers.

3.4 **Anti-Fraud Measures Specific for OVH’s Right-to Buy and Right-to-Acquire**

3.4.1 OVH will take a proactive approach to prevent right-to-buy and right-to-acquire fraud. This will involve ensuring that robust checks are in place to validate customer’s and their families’ eligibility for the scheme.

3.4.2 OVH will ensure that credit data is matched and applicants are required to provide photographic proof of identity. OVH Neighbourhood Services Officers will personally carry out an enhanced check of the tenancy history and a tenancy audit of the applicant(s).

3.4.3 It is the responsibility of the purchaser’s solicitor to carry out anti-money laundering checks in accordance with the Solicitors Regulation Authority code of practice.

3.4.4 No sale may be completed without a signed ‘Anti-Fraud’ form, which must be signed by two Managers to confirm that the checks have been carried out.

3.5 **Property Resale Arrangements**

3.5.1 If having successfully purchased an OVH property under PRTB or RTA, the owner decides to sell or dispose of the property within 10 years, they must (as per the provisions set out in sales documents) offer OVH the first refusal of the property, although no obligation exists on OVH to purchase the property.

3.5.2 Each application will be considered on its own merits, having regard to the condition, size and location of the property. Regard will also be given to any financial impact to the organisation.

3.5.3 The sale price should be the full market value, to be agreed between the seller and OVH (incorporating any improvements made by the owner). If agreement cannot be reached between the parties, this will be determined by the District Valuer. If OVH does not respond to the offer to purchase within 8 weeks, the seller is free to sell on the open market.

3.5.4 If an owner decides to sell a property purchased under PRTB or RTA within the first five years, they may have to repay all or a proportion of any discount they received (the rate of the initial discount will be worked out on current market value e.g. if a seller received a 20% discount, they would have to repay 20% of the selling price). Repayments are on a sliding scale with time from the original date of sale as follows:

| Year of sale | Amount of discount to be repaid |
|-------------------------------------|---------------------------------|
| Within 1 st year of sale | All of discount |
| Within 2 nd year of sale | 80% of discount |
| Within 3 rd year of sale | 60% of discount |
| Within 4 th year of sale | 40% of discount |
| Within 5 th year of sale | 20% of discount |
| After 6 or more years | No repayments |

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| 3.5.5 | In exceptional circumstances, OVH may consider waiving any repayment of discount for those selling PRTB and RTA properties within the payback periods, where this is likely to cause personal hardship to the individuals concerned. |
| 3.5.6 | It will be the responsibility of those wanting to sell to make OVH aware of any detrimental impacts this may have on them and OVH will need to meet with them to establish their personal circumstances before making any decision. |
| 3.5.7 | OVH is under no obligation to waive any payment of discount that is owed and final decisions will be made by the OVH Executive Management Team (OVH EMT). Any decisions will be clearly communicated to the seller and reported in returns to the Housing Regulator, the RSH. |
| 3.6 | Additional Borrowing and Re-mortgaging |
| 3.6.1 | If a customer who is in the process of buying or has already completed the purchase of their home through PRTB or RTA (but they are still within the repayment discount period of 5 years) wants to apply for a re-mortgage or additional borrowing, they must seek consent from OVH. |
| 3.6.2 | OVH will grant consents for re-mortgages and additional borrowing with a deed or letter of postponement provided the additional money is used for the approved purposes as specified in section 156 of the Housing Act 1985 (as amended by section 120 Leasehold Reform, Housing and Urban Development Act,1993). |
| 3.6.3 | In order to minimise its interest in the property (i.e. any repayment of discount amount to OVH being relegated to ‘third charge’ following a sale of the property) at risk through the issue of ‘letter’ or ‘deed’ of postponement, OVH reserves the right to limit the amount of additional borrowing in relation to the current market value of the property. Each case will be assessed on its merits. |
| 3.6.4 | <p>OVH will only agree to a Deed or Letter of Postponement in the following circumstances:</p> <ul style="list-style-type: none"> • A formal request is made by the applicant’s lending body (mortgage provider) • The applicant provides the current market value of the property • The applicant provides evidence of what the money will be used for • If the application is for home improvements then three quotes are provided |
| 3.6.5 | OVH will approve deed or letter of postponement for additional borrowing or re-mortgage row up to 5% of the value of the property. The value of the property will be based on the market value at time of purchase. The 5% limit will apply for the five years after the sale of the property. |
| 3.6.6 | Once OVH agree that the criteria has been met, the Deed or Letter will be drafted and signed by the Leasehold and Commercial Property Manager or a senior member of staff. |
| 3.6.7 | A fee of £100 + VAT will be payable to OVH in order to prepare a Deed or Letter of postponement. |

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| 3.6.8 | Appeals or requests for OVH to act outside of this policy will be heard in line with our appeals policy. | |
| 4 | Implementation | |
| 4.1 | The Commercial Housing Team will be responsible for dealing with all enquiries in regard to home ownership and property buy-back. The Commercial Housing Team working in conjunction with the OVH legal advisors will also be responsible for processing any applications for home ownership and property repurchases once these have been approved by the Executive Management Team. | |
| 5 | Performance | |
| 5.1 | In operating this Policy OVH will aim to process: <ul style="list-style-type: none"> • 100% of all PRTB and RTA requests processed within timescales | |
| 5.2 | OVH will also provide: <ul style="list-style-type: none"> • A Report to EMT, RSH and Lenders on number of completions and any decisions to waive repayment of discount within payback period | |
| 6 | Consultation | |
| 6.1 | Specific staff consultation has taken place with those officers responsible for processing PRTB and RTA claims and whose role it is to provide information and reports to the EMT. | |
| 6.2 | All staff have been consulted in the development of this Policy. | |
| 6.3 | The Tenant Policy Review Group has also been consulted in the development of this Policy on 25/09/2019. | |
| 7 | Review | |
| 7.1 | The Policy will be reviewed every three years from the date of the Executive Management Team (EMT) approval or sooner if required by the introduction of new legislation / regulation affecting OVH's liabilities in regard to PRTB, RTA or buy-back options or as result of system audits. | |
| 8 | Equality Impact Assessment | |
| 8.1 | Was a full Equality Impact Assessment (EIA) required? | Yes |

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| 8.2 | When was EIA conducted and by who? | The EIA conducted by the then Home Ownership Co-ordinator and the Policy and Strategy Officer in 2013 is still valid for this Policy review. | |
| 8.3 | Results of EIA | <p>The EIA process did not identify any adverse or differential impacts for any group with protected characteristics as a result of the operation of this Policy. The main recommendations from the EIA were to:</p> <ul style="list-style-type: none"> • Review the internal staffing structure and ensure all requests for PRTB and RTA are dealt with expediently • Review and update all information that is available to customers on this issue to ensure it is correct in the light of legislative changes | |
| 9 | Scheme of Delegation | | |
| 9.1 | Responsible committee for approving and monitoring implementation of the policy and any amendments to it | Executive Management Team | |
| 9.2 | Responsible officer for formulating policy and reporting to committee on its effective implementation | Operations Director - Customer Support | |
| 9.3 | Responsible officer for formulating, reviewing and monitoring implementation of procedures | Operations Director - Customer Support | |
| 10 | Amendment Log | | |
| Date of revision: | Reason for revision: | Consultation record: | Record of amendments: |
| 27-02-2017 | In line with the Review Schedule | See section 6 | <p>The following are the key changes:</p> <ul style="list-style-type: none"> • The title of the Policy has changed from the 'OVH Home Ownership and Buy-back Policy' to the 'OVH Preserved Right- To-Buy & Right-To-Acquire Policy' • A change at 3.1.3 to clarify the point that tenants will not be allowed to purchase a property that is designed for the elderly, |

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| | | | <p>disabled and people with mental health issues or any other vulnerabilities</p> <ul style="list-style-type: none"> • A change at 3.1.6:- the five year qualifying period has now been reduced to 3 years. • A change at 4.1:-the 'Home Ownership Coordinator' has been replaced with the 'Commercial Housing Team' • A change at 3.4: any reference to Mortgage Rescue Scheme has been removed |
| 08/10/2019 | In line with changes to OVH business practices | See section 6 | <ul style="list-style-type: none"> • Inclusion of the OVH's provisions to grant consents to PRTB or RTA customers who want to apply for additional borrowing or re-mortgage on their property within the repayment discount period of 5 years |