



# RIGHT TO ACQUIRE AND PRESERVED RIGHT TO BUY POLICY

Originator:	Policy and Strategy Team
Approval date:	July 2019
Review date:	July 2022

1	Introduction
1.1	Pine Court Housing Association (PCHA) aims to provide homes that meet demand in safe and sustainable communities. In order to achieve part of this objective, PCHA intends to create communities where there are a mixture of tenure types.
1.2	This Policy sets out the arrangements PCHA has in place to facilitate those who are eligible to exercise the 'Right To Acquire' (RTA) their PCHA property and a small number of tenants that have a 'Preserved Right To Buy' (PRTB).
1.3	The Policy also covers the arrangements that are in place for PCHA to 'buy-back' properties that have been sold under RTA or PRTB.
1.4	In facilitating this Policy, PCHA will comply with the relevant legislation and regulatory guidance including: <ul style="list-style-type: none"> <li>• The Housing Act 1985 (as amended)</li> <li>• The Housing Act 1996</li> <li>• The Housing (Right to Acquire) Regulations 1997</li> <li>• The Housing and Regeneration Act 2008</li> <li>• The Localism Act 2011</li> <li>• Statutory Instrument 2002 (1091)</li> <li>• The Capital Funding Guide</li> <li>• The Money Laundering Regulations 2017</li> </ul>
1.5	Operation of this Policy also ensures compliance with the Regulatory Framework for Social Housing adopted by the Regulator for Social Housing, including: <ul style="list-style-type: none"> <li>• Registered providers shall manage their resources effectively to ensure their viability is maintained</li> </ul>

- 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 PCHA is committed to ensuring that our services are accessible to everyone. PCHA 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 PCHA or use its services.

## 1.7 Equality, Diversity and Human Rights

1.7.1 PCHA 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 Identity / Gender Expression, Sexual Orientation, Religion and/or Belief, Marriage and Civil Partnership, Maternity and Pregnancy.

1.7.2 PCHA 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 PCHA will also ensure that all services and actions are delivered within the context of current Human Rights legislation. PCHA will endeavour to ensure staff and others with whom it works, will adhere to the central principles of the Human Rights Act (1998).

## 1.8 Complying with the Money Laundering Regulations 2017

1.8.1 PCHA 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.

1.8.2 The designated Board member will seek assurance that PCHA has appropriate procedures in place to check the provenance of any large payments that are received or offered in relation to PCHA financial transactions.

1.8.3 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.

This Policy should be read in conjunction with the following:

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

<b>2</b>	<b>Statement of intent</b>
2.1	As a responsible landlord and significant ‘place shaper’ PCHA 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 PCHA will meet all of its legal requirements in respect of RTA, PRTB and buy-back options. In meeting these requirements, PCHA 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	PCHA will ensure tenants are aware of their rights in regard to purchasing their PCHA homes, at sign-up when the tenancy begins, by providing accessible information on its website and by responding promptly to any queries raised on the RTA / PRTB process, application or eligibility queries.
2.4	PCHA will ensure that all tenants who pursue RTA / PRTB 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	PCHA will deal with any requests to process RTA /PRTB options efficiently and will respond within the timescales stipulated in the relevant legislation.
2.6	PCHA will comply with all reporting requirements in regard to RTA to the Regulator of Social Housing and to lenders.
<b>3</b>	<b>Policy</b>
3.1	PCHA manage a small number of properties on ‘Secure Tenancies’ where a Preserved Right To Buy exists. Should any tenant with this right wish to pursue the option to purchase their property, PCHA will provide advice and assistance on an individual basis including the procedural steps (similar to those outlined in 3.6.4 below) and the levels of any discount that might apply.
3.1.1	The remainder of this Policy sets out the provisions that PCHA operate for a much larger cohort of tenants that have the RTA.
3.2	<b>Tenant Eligibility</b>
3.2.1	The RTA applies to PCHA tenants that have been a public sector tenant (either housing association or local authority tenant) for a minimum of three complete years.
3.2.2	Time in a public sector tenancy does not need to be consecutive (i.e. it does not need to be a continuous period of three years) and may include time spent living in properties owned by all public sector landlords, not restricted to PCHA tenancies.
3.2.3	RTA is only available to PCHA tenants who hold an assured tenancy or assured shorthold tenancy with a fixed term of at least two years beginning on or after 1 <sup>st</sup> April 2012 (this includes properties let at ‘Affordable Rent’. Tenants will not be able to exercise RTA during a ‘Starter Tenancy’ period, although this will count towards qualifying time in tenancy.

3.2.4	Applications for RTA from joint tenants can proceed jointly or in the name of one party to the tenancy only, providing the other party agrees. If the other party does not agree the application will not be permitted to proceed.
3.2.5	Applications can be made with up to three members of the family who live with the tenant and have used the property as their principal home for the previous 12 months, at the time of application (proof will be required).
3.3	<b>Eligibility Exemptions - relating to the applicant(s)</b>
3.3.1	<p>Tenants who meet the above criteria may be exempt or suspended from proceeding with a RTA application if:</p> <ul style="list-style-type: none"> <li>• They have a bankruptcy petition pending or they are undischarged bankrupt</li> <li>• The applicant has made a composition agreement with creditors and the terms of which are unfulfilled</li> <li>• The applicant is subject to a court order for possession of the property</li> <li>• Applicants are subject to a 'Suspension Order' or 'Suspension Status' granted by the courts where PCHA has submitted evidence that a tenant, person living or visiting the property has engaged or threatened to engage in anti-social behaviour</li> <li>• A tenancy is a starter tenancy or has been demoted to a starter tenancy (and for the period that the demotion is in place)</li> </ul>
3.4	<b>Excluded Properties</b>
3.4.1	<p>Even when an applicant meets the eligibility criteria and no exemptions exist, they may not be able to pursue a RTA application if</p> <ul style="list-style-type: none"> <li>• The property is designated as 'sheltered' (where it is one of a group of dwellings that are specifically designated for the provision of Independent Living accommodation)</li> <li>• The property has been identified for demolition and a Demolition Order has been served on the tenant (lasting Seven years)</li> <li>• The property is let as temporary accommodation for any reason</li> <li>• 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 particularly suitable for elderly residents</li> <li>• The property was acquired by PCHA with grant assistance prior to 1<sup>st</sup> April 1997</li> <li>• The property was acquired by PCHA with loans (with no grant assistance) at any point or where PCHA has not always held the freehold interest (exception to this rule would apply if leaseholders had exercised a collective right to enfranchisement)</li> </ul>
3.5	<b>Discount</b>
3.5.1	Where the applicant meets the eligibility criteria (with no exemptions) and the property is not excluded, a discount towards the purchase of the property may be available.
3.5.2	The discount is a fixed amount set by the Secretary of State and for PCHA tenants would be a maximum of £9,000. If an applicant has previously received a discount to purchase a public sector tenancy the discount under RTA will be reduced by the amount previously received. If this is over £9,000 no RTA discount will be payable.

3.5.3 In the unlikely scenario where the RTA discount represents more than 50% of the market value of the property the maximum amount of discount will be capped at 50% of the value of the property.

### 3.6 Advice and Procedures

3.6.1 PCHA will make specialist advice and assistance available for any tenant that believes they may be entitled to RTA. This will include, where required, one-to-one interviews to discuss eligibility and the process of making an application.

3.6.2 PCHA will provide information on the potential costs of exercising the RTA including up-front-costs, an overview of the need to find purchase costs, the risks of repossession and any likely on-going costs, especially where the property is a flat and service charges will be payable.

3.6.3 All tenants considering making an application for RTA are advised to contact PCHA for an informal discussion in the first instance. Further information and advice is also available via:

- Citizens Advice Service
- Shelter
- Or local Law Centres Network
- Money Advice <https://www.moneyadvice.service.org.uk/en/categories/homes-and-mortgages>

3.6.4 Outlined below is an overview of the procedures in making a RTA application:

(1) Tenants that believe they are eligible for RTA should complete a Right to Acquire claim form (Form **RTA1**) – available by contacting PCHA on **0151 709 6978** 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 RTA1 and PCHA will accept the date this is received as the start of the process. For an application to proceed, however, an RTA1 form will subsequently need to be completed.



(2) PCHA will complete a response notice (Form **RTA2**) determining if the tenant is eligible for RTA (within **4 weeks** of receipt of the **RTA1** or tenants own form of notification). Tenants not satisfied with PCHA's response can access the Complaints and Appeals Policy to have the decision / action reviewed.

If for any reason the property is not suitable i.e. it is excluded (see **3.3**) or is not suitable for the applicants family size (either overcrowded or under-occupied) PCHA 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 PCHA will send out a (**Section 125 Notice**) within **8 weeks** of the RTA2 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. PCHA 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 PCHA 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 PCHA is aware of
- Any conditions that PCHA 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 RTA is not satisfied with the valuation provided by PCHA 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, PCHA will contact the District Valuer for further evaluation of the price to be paid for the property and PCHA 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 PCHA. The applicant will have **28 days** of receiving the revised **Section 125 Notice** to mount such an appeal and must inform PCHA 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 PCHA 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, PCHA will write to the applicant to request their final decision and if no reply is received within **28 days** the application will be discontinued (PCHA 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, PCHA 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** (where the

district valuer has provided an alternative valuation) was sent, PCHA 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 PCHA will discontinue the application to purchase and no further action will be taken.

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

**Note:**

If PCHA fail to comply with the timescales outlined above in providing the **RTA2 Form** or the **Section 125 Notice**, applicants for PRTA may be entitled to a 'refund of rent'. Applicants requesting such refund should first complete an 'initial notice of delay form' (**FORM RTA 6**) allowing PCHA **1 month** to rectify any delay.

Provided PCHA does not serve a **counter notice** or still fails to respond, the applicant can then serve an '**operative notice of delay**' (**Form RTA 8**) to obtain their refund. Applicants wishing to pursue this option should contact PCHA direct on **0151 709 6978**.

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

- 3.6.5 Once a tenant submits a RTA application, PCHA 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.
- 3.6.6 Whilst a PRTA is being processed, PCHA will carry out emergency repairs only where there is a threat to health and safety of individuals or the security of the property.
- 3.7 **Anti-Fraud Measures Specific to Right-to-Acquire**
- 3.7.1 PCHA 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.
- 3.7.2 PCHA will ensure that credit data is matched and applicants are required to provide photographic proof of identity. PCHA Housing Officers will personally carry out an enhanced check of the tenancy history and a tenancy audit of the applicant(s).
- 3.7.3 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.
- 3.7.4 No sale may be completed without a signed 'Anti-Fraud' form, which must be signed by a Housing Officer and the Senior Housing Officer to confirm that the checks have been carried out.

<p>3.8</p> <p>3.8.1</p> <p>3.8.2</p> <p>3.8.3</p> <p>3.8.4</p> <p>3.8.5</p> <p>3.8.6</p>	<p><b>Property Resale Arrangements</b></p> <p>If an owner decides to sell a property purchased under RTA within the first five years, they may have to repay all or a proportion of any discount they received.</p> <p>If sold within the first year all of the discount will be repayable, in addition 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.</p> <p>Repayments are on a sliding scale with time from the original date of sale as follows:</p> <ul style="list-style-type: none"> <li>• Within 2nd year of sale - 80% of discount</li> <li>• Within 3rd year of sale - 60% of discount</li> <li>• Within 4th year of sale - 40% of discount</li> <li>• Within 5th year of sale - 20% of discount</li> <li>• After 6 or more years - No repayments</li> </ul> <p>In exceptional circumstances, PCHA may consider waiving any repayment of discount for those selling RTA properties within the payback periods, where this is likely to cause personal hardship to the individuals concerned.</p> <p>It will be the responsibility of those wanting to sell to make PCHA aware of any detrimental impacts this may have on them and PCHA will need to meet with them to establish their personal circumstances before making any decision.</p> <p>PCHA is under no obligation to waive any payment of discount that is owed and final decisions will be made by the PCHA Departmental Management Team (PCHA DMT). Any decisions will be clearly communicated to the seller and reported in returns to Regulator of Social Housing.</p>
<p><b>4</b></p>	<p><b>Implementation</b></p>
<p>4.1</p>	<p>All PCHA staff need to be aware of the Right To Acquire and Preserved Right to Buy Policy to direct any customer queries that may arise. The following staff have specific responsibilities</p> <ul style="list-style-type: none"> <li>• <b>Housing Officers and Senior Housing Officer</b> - Processing applications and carrying out anti-fraud checks</li> <li>• <b>Senior Housing Officer and Director of Operations</b> - Dealing with any complaints or appeals</li> <li>• <b>DMT</b> - Decisions to waive repayment of discounts</li> </ul>
<p><b>5</b></p>	<p><b>Performance</b></p>
<p>5.1</p>	<p>PCHA will aim to process all RTA applications within permitted timescales (see 3.5.4) and will report to DMT on number of applications received and processed and level of any capital receipt generated through completed sales.</p>



<b>6</b>	<b>Consultation</b>		
6.1	All PCHA staff have been consulted on the development of this Policy. The PCHA Customer Empowerment Panel have also been consulted on this Policy.		
<b>7</b>	<b>Review</b>		
7.1	The Right To Acquire and Preserved Right to Buy Policy will be reviewed every three years from the date of the Operations Director's approval. The review process will ensure its continuing suitability, adequacy and effectiveness. The Policy will also be reviewed as required by the introduction of new legislation or regulation that impacts on PCHA's obligations in regard to Right To Acquire, changes to PCHA business practices or in the light of management system audits.		
<b>8</b>	<b>Equality Impact Assessment</b>		
8.1	Was a full Equality Impact Assessment (EIA) required?	No	
8.2	When was EIA conducted and by who?	An EIA Relevance Test was conducted by the Sovini Policy and Strategy Manager and the Sovini Policy Officer on 28-05-19	
8.3	Results of EIA	The EIA Relevance Test did not identify any differential or adverse impacts for any groups with protected characteristics through the operation of this Policy.	
<b>9</b>	<b>Scheme of delegation</b>		
9.1	Responsible committee for approving and monitoring implementation of the Policy and any amendments to it	PCHA DMT	
9.2	Responsible officer for formulating Policy and reporting to committee on its effective implementation	Operations Director-PCHA	
9.3	Responsible officer for formulating, reviewing and monitoring implementation of procedures	Operations Director-PCHA	
<b>10</b>	<b>Amendment log</b>		
Date of revision:		Reason for revision:	Consultation record:
Record of amendments:			
This is the first version of this Policy- Approved 16 <sup>th</sup> July 2019		Not applicable	See Section 6
			Not applicable