

The Housing (Right to Buy)

Information to Secure Tenants
(England) Order 2005





The Housing (Right to Buy) Information to Secure Tenants (England) Order 2005.

On 26 July 2005 the above Order concerning Right to Buy came into force. The order requires landlords who let homes under secure tenancies to publish specified information in relation to the order.

This document is to help you understand your rights and provides you with important information if you are considering exercising your right to buy your home.

Under the Right to Buy scheme, a secure tenant has the right to buy their home at a price lower than the full market price. This is because the length of time you have been a tenant entitles you to a discount.

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Buying a home is a major commitment. If you wish to exercise your right to buy it is recommended that you seek independent legal and financial advice about your individual circumstances and to help deal with the legal process of buying a home.

You should also seek independent advice about the different types of mortgage that are available.



1. The circumstances in which the Right to Buy can and cannot be exercised

The Housing Act 2004 introduced a number of changes to the Right to Buy scheme. The changes apply to all NEW tenants since 18 January 2005.

If you are a secure tenant, and your tenancy existed before 18 January 2005 (previous tenancies also count if they have been continuous) you have the Right to Buy after two years. If your secure tenancy started on or after 18 January 2005 you will have the Right to Buy after three years. This is known as the 'qualifying period'.

An introductory tenant does not have the Right to Buy while he or she is an introductory tenant but will gain it (subject to the normal conditions) once the tenancy has become secure at the end of the trial period. The period during which the tenant was an introductory tenant occupying the dwelling house as his/her principal home counts towards the tenants qualifying period. You will only be able to purchase under the Right to Buy scheme if the property is your only home and it is self-contained.

You may be able to buy jointly with up to 3 members of your family who are not themselves tenants, or with someone who is a joint tenant so long as it is your/their only or principal home. If you are applying to buy jointly with other tenants, only one tenant need satisfy this requirement. The agreement of any tenant not wishing to buy must be obtained before you claim your Right to Buy.



They should indicate their agreement to the sale going ahead without them by ticking the box indicating that they are not buying on page 2 Part Band signing the relevant part on page 11 of the RTB1 (application) form.



Any land (for example gardens and garages) that is let together with your home will usually be treated as part of your home for the purchase.

There are some circumstances where you may be refused the Right to Buy, these are known as 'exceptions'. If your home is suitable for occupation by the elderly taking into account its location, size, design, heating and other features you may not have the Right to Buy. In addition, the property must have been let to you or to your predecessor in title for occupation by a person aged 60 or more, whether this was you or another person and the property was first let before 1 January 1990.



If this happens, and you disagree with our decision, you have up to 56 days to appeal to a First-tier Tribunal. The tribunal will decide if our decision is correct. Sheltered housing for the elderly, the physically disabled, the mentally ill or the mentally disabled is treated differently from homes suitable for occupation by the elderly.

'Sheltered housing' normally means that the property is one of a group of such dwellings, that a warden service is provided, and that there is a common room nearby. Housing for the disabled means a property that is one of a group with features that are substantially different from those of ordinary homes and with special facilities nearby.

If the Council intends to demolish your home an 'initial demolition notice' may be served. This notice is valid for up to five years and suspends the Councils' obligation to complete a Right to Buy purchase. If you have already applied for the Right to Buy you can still complete if the demolition does not take place. If the Council serves a 'final demolition notice' any existing Right to Buy claims are ended and no new applications can be made.

You can not buy your home if a court has made a possession order which says that you must leave your home on a date specified in the order. Where the order is suspended and you have complied with the conditions attached to the suspended order and you do not have to give up possession, you can still exercise the Right to Buy. However, if you have failed to comply with the conditions attached to a suspended order for possession, the tenancy ends and the order becomes enforceable unless we waive the breach.

In addition, you can not buy your home if any of the persons to whom the Right to Buy belongs has a bankruptcy petition pending, is an undischarged bankrupt or has made a composition arrangement with his/her creditors, the terms of which remain to be fulfilled.

If the Council has applied to the county court for an order to demote your secure tenancy under the provisions of in the Anti-Social Behaviour Act 2003, the Right to Buy is suspended. If the tenancy is demoted while a right to buy application is in progress, we will not have to complete the sale. Any period of time spent as a demoted tenant will not count for the qualifying period for Right to Buy or discount.

If your home falls into one of these groups we may refuse you the Right to Buy.

Remember, you must be a SECURE tenant to qualify for the Right to Buy. Introductory tenants, assured tenants, tied tenants and demoted tenants do not qualify and applications will be refused.



2. How to claim your Right to Buy

Making an application

You should first ask us for the Right to Buy claim form (Form RTB1), this is free. These forms are available from **Cannock Chase Council, Civic Centre, PO Box 28, Beecroft Road, Cannock, Staffordshire WS11 1BG**, Telephone **01543 462621** and all of Cannock Chase Council's Housing offices. Fill the form in carefully as this is the information we will use to decide if you have the Right to Buy and how much discount you will get. If you need any help in completing the form please contact us - we are happy to help.



Once we have received your claim form you will be sent a notice (Form RTB2), this notice tells you whether or not you have the Right to Buy. You should receive this notice within 4 weeks of us receiving your application (or 8 weeks if you have been the tenant of another landlord during part of the qualifying period).

If we deny your Right to Buy, we must provide you with an explanation.



Calculation of purchase price

If we admit the Right to Buy we will arrange for a valuation of your property to be carried out in order that we can calculate the purchase price. The purchase price is the market value at the time we received your application less the discount to which you are entitled. This means that the value of your home is frozen at the time of your application and, any increases or decreases in value between receipt of your application and impletion of the purchase will not change the price.

The valuation of a property for Right to Buy purposes depends on many factors, such as the location, size and desirability of the property. The whole property including the land, is valued and any potential development value is also taken into account to the extent that it affects the open market value. Location is the factor that affects the value of a property the most.

If you want to get an idea of how much your property is worth you could look in the Property Guide of the local press for properties for sale in your area and compare your home to them.



To reach a valuation the Council's valuer will visit your home and write a report describing the property. In determining the value, improvements you have made or your failure to keep the dwelling in good internal repair will be ignored for valuation purposes. You should give details of any improvements which you think may affect the valuation, eg. central heating, double glazing, a fitted kitchen or a new bathroom. The valuer also gathers details of other properties for sale, or those that have recently been sold in the same area and compares them to the Council property to reach a valuation.



Discount

The longer you have been a tenant the more discount you will get. However, there is currently a limit of £102,400, set by the Government, for properties in England (outside of London), this is called the 'maximum discount'.

If you were a tenant for more than two years before 18 January 2005 you qualify for a 32% discount on houses and 44% discount on flats.

If you are a new tenant since 18 January 2005 you must be a tenant for 3 years before you qualify for the right to buy. The discount after 3 years is 33% for houses and 46% for flats.

In each case the discount increases every year by 1% for houses and up to a maximum discount of 60% for houses and 70% for flats.

Remember though that you may not be awarded the full percentage discount you qualify for as it is capped at a maximum of £102,400 because of the 'maximum discount' rule.



Recovery of previous discount

If you have purchased under the Right to Buy scheme before, the amount of discount you got then will be deducted from your discount when you buy again. Where a discount was given to people jointly the amount of the reduction is divided by the number who shared it.

Cost Floor

Your discount might be reduced by a special rule called the cost floor. This may apply if we have recently spent money on repairing or maintaining your home. Under the cost floor, the discount you receive must not reduce the price you pay below what has been spent on repairing or maintaining it. If the cost of works carried out over the 10 year period is greater than the market value of your home, you will not receive any discount.

Section 125 Landlord's Offer Notice

If we agree to sell you your home you will receive a separate offer notice (Section 125 Notice). This notice tells you the price you will have to pay and the terms and conditions of the sale. We must serve the Section 125 Notice within 8 weeks of the admission or determination of your Right to Buy where the right is to buy the freehold or within 12 weeks where the right is to buy a leasehold interest (i.e. a flat or maisonette).

The Section 125 Notice is a very important document and will tell you five main things:

1. A description of the property
2. The price you will have to pay
3. An estimate of any service charges or improvement costs you will have to pay during the first five years if it is a flat or maisonette
4. Any structural defects known to us at the time of the sale
5. Terms and conditions attached to the sale.



Appealing to the District Valuer

When you receive your Section 125 Notice, you may feel that the valuation is too high. If so, you have a right to obtain an independent valuation from the District Valuer. Before doing so, you have to tell us within 3 months of receiving the Section 125 Notice that you want a 'determination of value' under Section 128 of the Housing Act 1985. Before making a determination the District Valuer will consider representations made to him by both parties.

The District Valuer's valuation will be the one that counts. Even if it is higher than that of the Council's Valuer, you will have to accept it or withdraw your application to buy your home.




Getting a Survey

Before you finally decide to buy, you should get an independent survey from a qualified surveyor. When you apply for a mortgage, the bank or building society will have a survey done but this is only to value your home. It may not uncover any structural problems that may exist.

Arranging a Mortgage

Buying your home is a major undertaking and there are many factors to take into consideration before deciding which type of mortgage is the best for you. You may have to pay an application fee for a special type of deal plus, perhaps, an arrangement or completion fee when you finally take out the loan. Some lenders will also insist on a Mortgage Indemnity Guarantee (MIG). (If you would like further information regarding the types of mortgage which might be available to you, please ask us for a copy of our mortgage advice leaflet).



Remember, do not borrow more than you can afford to repay. Allow a safety margin for any changes in your financial circumstances.

RTB14- Tenant's response to landlord's offer notice From receiving the Section 125 Notice you have 12 weeks to tell us what you want to do. (If you have asked to have your house valued by the District Valuer, you must tell us what you want to do within 12 weeks of getting that valuation). You must tell us in writing if you intend to pursue the Right to Buy or withdraw the application. If you do not get in touch we will send you a reminder. If you do not reply to the reminder within 28 days we will assume that you do not want to proceed.

If you decide to proceed this is not final, you can still change your mind. But if you do not reply and then want to proceed at a later date you would have to reapply and your home would need to be re-valued. If the value of your home has gone up In the meantime, then you will have to pay the higher price.

Completion

When we receive your RTB14 we will Instruct our Legal Section to liaise with your solicitor to arrange completion. You can take the time you reasonably need to get a mortgage or legal advice. You can also take your time to consider the terms of the sale. However, if we don't hear from you for a long time, you may get a warning notice asking you to either complete the purchase or to discuss any problems. If you don't respond to this, you may receive a second notice asking you to complete the purchase within a certain time. If you don't do this, your application will be considered to have been withdrawn.

3. Delay Notice Procedures for Landlords and Tenants


Most sales go through quickly but sometimes there are problems or delays. If the Council does not send you the Form RTB 2 (the notice which tells you if you have the Right to Buy) or the Section 125 Notice (offer notice) within the time limits or is otherwise delaying the sale you may be entitled to a reduction in the purchase price.

To get this reduction you must complete an 'Initial Notice of Delay' (Form RTB 6) and send it to us. We then have at least one month to take the next step in the sale process. If we have already served you with a Response Notice or a Section 125 Notice or if there is no action we can take to speed up the sale we may send you a counter notice.

If we do not send you a counter notice within the time allowed, you can send us an Operative Notice of Delay (Form RTB 8).

The rent you pay while the delay goes on will then be taken off the price you have to pay for your home. Should we delay the sale again thereafter, you can repeat the procedure.

You can get the forms mentioned above by contacting the Right to Buy Section at **Cannock Chase Council, Civic Centre, PO Box 28, Beecroft Road, Cannock, Staffs WS111BG**, telephone **01543 462621** or from the Department for Communities and Local Government (the address is given at the end of this document).



If there are any other problems with the sale which cannot be settled amicably, you can get advice about your rights at a Citizens Advice Bureau or from a solicitor.



4. Selling later on

Repayment of discount

You can sell your home whenever you like but, if you wish to sell within the 'discount repayment period' you will usually have to repay some or all of the discount. The amount you repay will depend on when you made your application to buy.

If you applied for the Right to Buy before 18 January 2005 you will have to repay the following amount of discount:

Resale within 1 year	Repay 100% of discount
Resale within 2 years	Repay 66% of discount
Resale within 3 years	Repay 33% of discount
Resale after 3 years	No repayment of discount

If you applied for the Right to Buy after 18 January 2005 the 'discount repayment period' extends to five years as shown below:

Resale within 1 year	Repay 100% of discount
Resale within 2 years	Repay 80% of discount
Resale within 3 years	Repay 60% of discount
Resale within 4 years	Repay 40% of discount
Resale within 5 years	Repay 20% of discount
Resale after 5 years	No repayment of discount

In addition, on all Right to Buy applications received on or after 18 January 2005 any discount to be repaid is calculated as a percentage of the resale price. In real terms, this means that if the value of your property has increased and you choose to sell in the early years you could have to repay more discount in monetary terms than you originally received.

The requirement to repay discount is something that you should be aware of if you intend to resell a property in the early years of ownership. If there is more than one (non-exempt) disposal of the property during the relevant period the obligation to repay only arises on the first one.

Certain sales or transfers are exempt from the requirement to repay discount, e.g. transfers between certain family members disposal in pursuance of a Property Adjustment Order made in connection with matrimonial proceedings, inheritance under a will or on an intestacy.

From 18 January 2005 if, in advance of your purchase, or within the 'discount repayment period' you enter into an agreement to transfer your property to a third party in the future, then this will trigger repayment of your discount. Discount repayment is triggered from the date that you enter into the agreement.

Right of first refusal

If you purchase your home under the Right to Buy scheme on or after 18 January 2005 and you wish to resell or dispose of it within 10 years, you will be required to offer it either to the Council or to another social landlord in your area at full market value. The market value must be agreed between the parties or, if they are unable to agree, will be determined by the District Valuer (the cost of this will be covered by the Department for Communities and Local Government).

If your offer has not been accepted within 8 weeks, you will be free to sell the property on the open market.



5. Initial costs likely to be incurred by a secure tenant exercising the Right to buy

There are a number of costs associated with the purchase of your home.

Legal Costs

You are advised to employ a solicitor or licensed conveyancer to look after the legal side of things. The Citizens Advice Bureau can advise on local firms and your local library should have a list of the solicitors in your area and the type of work they do. Before employing anyone always ask how much their advice and services will cost as prices can vary greatly. In some cases you may be able to obtain a fixed cost for their work, this is much easier to budget for than employing someone on an hourly rate.

Survey Fees

You should always have a survey of your home done. The cost will be between £250 and £600, or maybe more if your home has any special problems. The survey will tell you of any defects, in general the more you pay the more detailed the survey will be. You can get more detail on surveys from the Royal Institution of Chartered Surveyors.

You should get a survey done after you receive your Section 125 Notice, as with legal assistance always ask how much it will cost before you ask anyone to go ahead with the survey.

Stamp Duty

Stamp Duty Land Tax is a tax people pay when they become homeowners. The duty is worked out at as a percentage of the price you pay for a property that is currently worth more than £125,000 and is payable on completion.

Costs associated with taking out a mortgage

If you take out a mortgage loan you may have to pay for the cost of arranging it. You will also have to pay a valuation fee which is on average £200-300. Ask your lender for information about all of the fees associated with taking out a mortgage, the costs will vary from product to product.

Land Registry Fees

There is a fee to be paid on completion to register you as the new owner of the property.



6. Regular payments you would have to make as a homeowner

Mortgage Repayments

Unless you are going to buy your home with cash you will need a mortgage. You will have to repay the mortgage, plus interest, by instalments (normally monthly).

Your lender will provide you with details of the monthly repayment amount but remember this can go up or down due to changes in interest rates.

You must be aware that if you are unable to keep up the repayments on your mortgage the lender may go to court to ask to take over your home (re-possession). The Council does not have to give you another tenancy if you lose your home in this way.

If you lost your income through unemployment, you would not normally receive Income Support for the first 9 months. The Income Support you would be entitled to claim would only be for the mortgage interest payments, and may not cover the full amount due.



Service Charges

If you buy a flat or maisonette you will usually purchase a long lease, normally 125 years. The block will still be owned by the Council, and they will be responsible for the upkeep of the building as a whole and of any communal areas and facilities.

As a leaseholder you will pay the Council a nominal ground rent of £10 a year. But you, and other leaseholders will have to pay service charges. These can be perhaps several hundreds of pounds each year, or much more if the block needs major repairs or improvements such as a new roof or new windows. The service charge represents your share of the Council's costs and these charges vary considerably.

There are two kinds of charge, annual charges for day-to-day maintenance, and major works service charges (lump sum costs).

When you agree to purchase your home the Council must give you an estimate of any service charges you will have to pay for the first 5 years of your lease.

Once an estimate has been given the Council can not charge more than this except to take account of inflation. There is no special limit to service charges after the first 5 years.

Insurance Costs

When you become a homeowner you should arrange for the property to have adequate buildings insurance, mortgage lenders may require this alongside the loan. If you buy a flat or maisonette, the Council will maintain buildings insurance and charge you for your share. You should ensure you have adequate contents insurance and any other cover your mortgage lender may require. You should also ensure that you have adequate cover for life assurance and mortgage payment protection Insurance.

Council Tax and Services

As a homeowner you will continue to be liable for the payment of council tax and the cost of water, sewerage, gas, electric and other utility services.

Maintenance Costs

As a homeowner you will become liable for the cost of the repair, maintenance and any Improvement to your home.



Useful addresses

**Government Office, for the West Midlands,
5 St Philips Place, Birmingham, B32PW
tel: 0121 352 5050**

**Residential Property, Tribunal Service, Head Office,
10 Alfred Place, London, WC1E 7LR
tel: 0845 600 3178**

You can obtain more information about your Right to Buy from
**Cannock Chase Council, Civic Centre, Beecroft Road, Cannock,
Staffordshire, WS111BG
tel: 01543 462621**

**Residential Property, Tribunal Service, 3rd Floor,
Temple Court, 35 Bull Street, Birmingham, B4 6AF**





**Cannock Chase Council Civic Centre,
Beecroft Road, Cannock, Staffordshire WS11 1BG**

tel **01543 462621**

www.cannockchasedc.gov.uk

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