

RIGHT TO SHARED OWNERSHIP – Q&A FOR HOUSING ASSOCIATIONS

The Government has recently announced that it is proceeding with the controversial Right to Shared Ownership scheme. Initial guidance has been published, but this is sketchy in places and further detail is awaited. From what we know now, what does this Right to Shared Ownership mean for housing associations?

Q Who will benefit from the new Right to Shared Ownership?

Subject to exemptions and eligibility, the scheme will apply to tenants of all affordable and social rented homes built through the Homes England 2021-2026 Affordable Homes Programme.

Additional eligibility criteria include a minimum three years as a social tenant and 12 months residency in the subject property. The tenant will also have to satisfy the usual criteria for shared ownership e.g. income requirements and affordability/sustainability. Otherwise, the eligibility and exclusion criteria published so far seem broadly similar to those for Right to Acquire.

It is going to be very important for HAs to keep records of how individual homes were initially funded, as the applicable funding programme will be the first factor to consider on receipt of a tenant's application under the scheme.

Q Will there be any exceptions?

There will be exceptions and many of these are familiar from Right to Acquire. The Right to Shared Ownership will not apply to:

- homes in designated protected areas and on rural exemption sites;
- specialist homes for older, disabled and vulnerable people;
- almshouses or homes owned by a Community Land Trust or a co-operative housing association.

A cost floor exemption will also apply, so if the market valuation is below the total amount spent on building or acquiring the property (including the grant), then HAs may refuse the Right to Shared Ownership application. Additionally, there will be "exceptional exemptions" e.g. where sale would interfere with regeneration plans. Further detail on all of the exceptions is awaited from the Government.

Q Is HA participation in Right to Shared Ownership voluntary?

No. Right to Shared Ownership requirements will be a condition of grant funding under the 2021-2026 Affordable Homes programme. However, unlike Preserved Right to Buy and Right to Acquire where tenants' rights are enshrined in legislation, it seems that tenants will not have a *statutory* right to acquire a shared ownership lease. Will tenants have to rely on Homes England taking action against HAs who default on grant conditions?

Q What can tenants do if they disagree with a HA decision under the scheme?

As tenants won't have a statutory right to a shared ownership lease, tenants will potentially have very limited recourse if they disagree with a HA's decision. The Government has said that tenants will have the right to appeal a decision, but the detail is currently very scant.

Q Will the tenant get a discount?

No. Tenants will be able to buy a share of between 10% and 75% of their home and the price of the share will be based on a percentage of the full market value following an RICS valuation. There will be no discount to the price. The shared ownership lease will be granted on the New Model shared ownership terms.

Q Will the tenants benefit from the 10 year repair and maintenance grace period which is to apply under New Model Shared Ownership?

There is nothing to suggest the terms of the lease granted will be any different to the New Model, so on the face of it HAs will have to pick up the cost of repairs and maintenance for the first 10 years. This could have a significant cost impact for HAs, particularly if the right is exercised many years after the home was first built. Although it may be that the grace period will be reflected by an increase in market valuations, unless the Capital Funding Guide says that it must be disregarded. It may be that these issue will be covered off when the full Government guidance is published.

Q How will the tenant apply for to buy their home under the scheme?

The Government has said it will issue a standard application form for HAs to use and the onus will be on HAs to provide easily accessible information for tenants on how to submit an application.

This is potentially going to be a very confusing area for both tenants and HAs as eligibility is primarily based not on ownership or residency but the precise Government funding programme under which the home was built.

Q Will there be grant recovery on Right to Shared Ownership sales?

Yes. The Government has said it is still working on the grant recovery rules, but HAs should factor grant recovery into their business plans.

Q How long will the scheme last for?

The duration of the scheme is not currently clear.

Q When can we expect further guidance?

No timeframe has yet been given, but the Government has said that full guidance will be published in the Capital Funding Guide in due course.

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