

Committee: Housing Management & Almshouses Sub-Committee	Dated: 17/04/2023
Subject: Duration of Right to Buy Leases (HRA)	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	4
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	£
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain's Department?	N/A
Report of: Executive Director of Community & Children's Services	For Decision
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Summary

The Right to Buy for Secure tenants was introduced by the Housing Act 1980, later superseded by the Housing Act 1985. The first Right to Buy purchase by a City Corporation tenant was completed in December 1981. In accordance with the provisions of the 1980 and 1985 Acts, the first lease in each block was granted for a term of 125 years from the date of completion, with subsequent leases in the same block being granted for a term ending on the same day as the first lease. This meant that the second and subsequent leases granted in each block, while granted for 125 years, would last for a term of less than 125 years and all leases in each block would theoretically end on the same date.

By the late 1980s, most of our residential blocks had seen their first Right to Buy sale complete. Applicants in these blocks are now being offered leases with under 90 years remaining, which creates difficulties for applicants seeking to apply for a mortgage to enable them to exercise their Right to Buy. It is recommended that the policy is varied to grant 125 years on all new leases from the date of completion.

Recommendation

Members are asked to:

- Endorse the recommendation in paragraph 13 of this report, namely to grant leases for a term of 125 years from the date of completion, effective immediately

Main Report

Background

1. Secure tenants have the right to purchase their home at a discounted rate once they have held the tenancy for three years. Of the City Corporation's 2,828 homes managed under the Housing Revenue Account, 949 have been sold through the Right to Buy.
2. The Right to Buy was originally introduced by the Housing Act 1980; the Right to Buy provisions of the 1980 Act were superseded by the Housing Act 1985, Part V. This legislation provides for a strict process that must be followed by local authority landlords once it is established that a Secure tenant claiming the Right to Buy is eligible to do so.
3. Schedule VI of the 1985 Act provides that the lease granted to a Right to Buy purchaser must be for a term of no less than 125 years, however this is qualified as follows. If a lease is to be granted for a property in a building containing two or more dwellings, and the landlord has already granted a lease for one of them, the new lease *may* be for a term which ends on the same date as that of the first lease granted.
4. Landlords therefore had a choice; to grant 125 years to every Right to Buy purchaser upon completion, or to grant 125 years from the date of the first lease created in the relevant building. The City Corporation opted for the latter course when the Right to Buy legislation was originally passed.
5. Since the first Right to Buy lease was granted by the City Corporation in December 1981 (on Golden Lane Estate), this practice has been followed for all Right to Buy sales. This was common practice amongst landlords of residential developments to ensure that all the leases in a building fell in at the same time, thus facilitating redevelopment. However, since the late 1980s, legislation has been introduced to give tenants under long leases security of tenure, so these redevelopment opportunities have been largely rendered inoperative. Central Government did not address the issues caused for landlords who had been using the discretionary right to have all leases in a building ending on the same date. It is therefore up to landlords to reconsider their policies this regard.
6. The 1980s saw a high number of Right to Buy sales by the City Corporation; of the 56 residential blocks under our management which are eligible for Right to Buy, 48 saw their first Right to Buy lease granted in the 1980s.

Current Position

7. The current position is that, for purchasers living in most blocks of flats managed by the City Corporation, leases are being granted with 90 years or under remaining. For those blocks where the first lease was granted in the early 1980s, the lease term being offered is as low as 84 or 85 years remaining. This has led to difficulties in prospective Right to Buy purchasers securing mortgage

offers, which is leading to an increased officer workload in fielding enquiries about the current policy.

8. Given that most leases initially granted ran for 125 years from the 1980s, this problem is becoming more acute and, in the coming three to five years, we will encounter a situation in which tenants are effectively unable to exercise their statutory rights in many cases. As leases reach the point of 80 years remaining, the likelihood of obtaining a mortgage is remote and lease extensions attract a 'marriage value' premium, which significantly increases the cost of extending a lease. This has potential reputational implications for the City Corporation and will likely generate significant complaints and enquiries from tenants and outside agencies.
9. In a recent case, a potential purchaser contacted the Ministry of Housing, Communities and Local Government (MHCLG) to object to the City Corporation's policy on Right to Buy leases, with the MHCLG requesting that we consider the policy and its impact on tenants wishing to exercise their statutory rights.
10. Members may wish to note that one of the main reasons for adopting the original policy, namely, to ensure a uniform reversion date for leases, was in effect overridden by subsequent legislation. The Leasehold Reform, Housing and Urban Development Act 1993 gave long leaseholders of two or more years' standing the right to extend their lease by a minimum of 90 years, for a premium, if certain conditions were met. This term is added onto the remaining lease term and many long leaseholders of the City Corporation have opted to exercise this right, meaning that reversion dates are no longer uniform in any case.
11. Given the reality of the situation now facing both potential purchasers and the City Corporation, Officers have discussed options for change and now ask Members to consider varying the historic policy on the grant of Right to Buy leases.
12. Any policy change would not affect leases already granted.

Options

13. Several options are open to Members:
 - i. Maintain the existing policy (granting 125 years from the first lease in the building)
 - ii. Maintain the existing policy but agree lease extensions as matters of private treaty between the City and its long lessees, thus obviating the need for compliance with two-year qualifying period imposed by legislation
 - iii. Grant all new Right to Buy leases for a term of 125 years from the date of completion

Proposals

14. It is recommended that option iii above is adopted.
15. Maintaining the existing policy (option (i)) is still within the provisions of the 1985 Act; however it would likely result in an increasing number of disputes in the coming years, and potential reputational damage to the City Corporation, which could be seen as effectively preventing tenants from exercising their statutory Right to Buy. This could be perceived as being unfair and potentially irrational.
16. Option (ii), allowing purchasers to extend their lease upon completion, is practised by the Barbican Estate in its open market sales. This may not address the issues outlined in option one, as it places the onus and financial burden on the tenant, which may itself be seen as an effective bar to them exercising the statutory Right to Buy. For context, the cost of extending a lease of a property worth £500,000, with 85 years remaining on the lease, is approximately £6,000 to £9,000.
17. Option (iii), granting 125-year leases from the date of completion, would address the immediate issues facing prospective purchasers and reduce the likelihood of protracted or costly disputes, which also place a burden on officer resources. It would also reduce the risk of challenge to our current policy. Members may think that this solution is the most pragmatic and it would be easily adopted by the City Corporation.

Key Data

18. Appendix One shows the first Right to Buy leases granted by residential block, with time remaining as of the date of this report. Members will note the significant number of blocks where the grant of a 125-year lease from the date specified now results in a remaining term of 90 years or less.
19. It may also be noted that the current difficulties will become more acute in the coming years as more applications are affected by the low time remaining on leases granted for 125 years from the early 1980s, leading to an increase in disputes and complaints.

Corporate & Strategic Implications

Strategic implications

20. Local authority landlords are expected to facilitate the Right to Buy scheme according to the timetable laid down in the Housing Act 1985. Central government policy for England emphasises Right to Buy as a route to home ownership and local authorities are expected to comply with statutory duties and associated guidance to enable eligible tenants to purchase their homes. The recommended course of action will enable the City Corporation to demonstrate compliance with these expectations.

Financial implications

21. There are no adverse financial implications. When properties are sold, the lease term is considered as part of the valuation. The recommended policy may result in

enhanced valuations and an increase in Right to Buy receipts, however this is not quantifiable at this stage.

Legal implications

22. The grant of 125-year leases from the date of completion is compliant with the Housing Act 1985. No other legal implications have been identified.

Conclusion

23. In accordance with the Housing Act 1985, the City Corporation's Right to Buy leases are currently granted for 125 years from the date of the first lease already granted in each building. This is now leading to complications for tenants seeking to exercise their statutory rights due to the remaining lease term falling below 90 years, an issue which will become more acute in the coming three to five years.

24. It is proposed that our current policy is changed to grant 125 years from the point of completion, on all new Right to Buy leases, effective immediately. Current leases will not be affected.

Appendices

- Appendix 1 – First Right to Buy sales by block

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