
EXEMPTION FROM THE RIGHT TO BUY OF DWELLINGS THAT ARE PARTICULARLY SUITABLE FOR OCCUPATION BY ELDERLY PERSONS

1 SUMMARY

- 1.1 This report seeks Members views on proposed changes to the guidance already given on exemption criteria from Right to Buy on dwellings that are particularly suitable for occupation by elderly persons.
- 1.2 The consultation document asks 14 questions and these are appended together with an officer response.

2 INTRODUCTION

- 2.1 The Right to Buy scheme started in 1980 and several exclusions have been prescribed in legislation allowing landlords to deny a tenant the Right to Buy. One exclusion provides for landlords to retain housing which is “particularly suitable for occupation by elderly people”.
- 2.2 Under paragraph 11 of Schedule 5 of the Housing Act 1985, a social tenant can be denied the Right to Buy if the landlord considers that the property concerned is particularly suitable for occupation by elderly persons. A tenant who is denied the Right to Buy on these grounds has a right of appeal to the Secretary of State.
- 2.3 In 1993 a circular was issued which provided guidance to social landlords on the requirements of paragraph 11 of schedule 5. Decisions by them and by the Secretary of State are based on this guidance.
- 2.4 The number of appeals by tenants rose from 179 in 1996 to 431 in 2003 so the Office of the Deputy Prime Minister (ODPM) have decided to review the guidance with the aim of reducing the scope for uncertainty and hence for disagreement between landlords and tenants.
- 2.5 Because the number of appeals has risen steadily, it was suggested that the current guidance might be ambiguous, confusing to both landlords and tenants and out-of-date. It is for this reason that the Government has decided to revisit the guidance.
- 2.6 The Housing Bill proposes that appeals by tenants against being denied the Right to Buy should, in future, be determined by a residential property tribunal rather than by the Secretary of State.

3 CURRENT GUIDANCE AND PROPOSED CHANGES

3.1 Current Guidance

In determining a property's suitability as accommodation for elderly people, the current guidance regards location, size, design and heating system amongst others, but disregards any features provided by the tenant or a predecessor in title.

The Secretary of State mainly looks at whether the dwelling has easy access by foot, is on one level (if not, whether it can be accessed via a lift), has no more than 2 bedrooms, has adequate arrangements for heating the living area together with at least 1 bedroom and also is reasonably located for convenient access to shops and public transport.

3.2 Who will be affected

The changes will affect all Local Authorities and Housing Associations whose tenants have the Right to Buy and any tenant applying to buy their home under the Right to Buy scheme, if their landlord considers the dwelling to be "particularly suitable for occupation by elderly persons".

3.3 Proposals

It is clear that many tenants do not understand the implications of the provision currently included in the Act that properties are excluded from the Right to Buy if they are particularly suitable for occupation by elderly people. Tenants are then aggrieved when they are denied the Right to Buy on these grounds.

The statutory rules will not change but the circular issued in 1993 will be updated. This update is intended to support the transfer of jurisdiction and to benefit both tenants and landlords by providing clearer guidance. A copy of the full consultation document has been placed in the Members Library, Civic Suite, Rayleigh.

4 RISK IMPLICATIONS

4.1 Strategic Risk

The Council has 460 properties designated for pensioner occupation and so excluded from Right to Buy provisions. It is hoped to preserve these for social housing.

5 RESPONSE TO CONSULTATION

- 5.1 It is important that the Council's views are conveyed to the ODPM. Although just outside the consultation date (because of the August recess) the ODPM have agreed to accept our late submission.

6 RECOMMENDATION

- 6.1 It is proposed that the Committee **RESOLVES**

To agree a response to the consultation, based on the suggested officer response appended to the report.

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Background Papers:

None

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Appendix

- 1 What information do you consider that landlords should give their tenants about the exclusion from the Right to Buy of homes that are particularly suitable for occupation by elderly persons? Should landlords tell tenants that their homes are considered to be 'particularly suitable' and, if so, should tenants be told when the property is offered to them?

Tenants should be given a simple leaflet with their 'Welcome Pack' which refers to a clause in their Tenancy Agreement restricting the Right to Buy.

- 2 Do you consider the proposed new definition of an elderly person in the context of the Right to Buy scheme to be appropriate? If not, what alternative would you prefer?

It is proposed that a dwelling should be particularly suitable for occupation by: 'elderly people who are still capable of independent living despite some physical limitations owing to age, but not those who are frail or severely disabled'.

- 3 Do you think that garden size should be taken into account when the suitability or otherwise of properties for occupation by elderly persons is being determined? Which of the 2 options do you prefer?

The circular might state that a large garden would not, in itself, render a property unsuitable for an elderly person.

- 4 Do you agree that issues relating to steps, handrails, ramps, paths and pavements should be taken into account when considering access to a dwelling?

Yes

- 5 If not, what factors do you consider should be taken into account?

- 6 Do you agree that dwellings with internal aids such as low steps and stairlifts should be considered to be suitable for occupation by elderly persons?

*It is proposed to amend the wording to:
"the Secretary of State is unlikely to regard a dwelling with two or more floors as being particularly suitable for occupation by an elderly person. However, he may be prepared to make exceptions for dwellings with*

two or three internal steps, or with stairlifts or similar devices provided by the landlord.”

This new wording is adequate.

- 7 If not, do you consider that dwellings are only suitable for elderly persons if the accommodation is entirely on one level?
- 8 Do you agree that lifts must be available at all times (except for very short periods of routine maintenance or occasional breakdowns)? Do you also agree with the reworded guidance? If not, what alternative would you suggest?

The suggested rewording would read

‘in the case of a flat above ground floor level, there should be access by a lift which is available at all times (except for very short periods of routine maintenance or occasional breakdowns).’

This new wording is adequate.

- 9 What level of heating and what types of heating systems do you think would be adequate and appropriate for an elderly person, and hence should be cited in this context in an updated circular?

The proposed amended wording would read

‘there should be heating arrangements which function reliably and provide heat to at least the living room and one bedroom. There should also be the capacity to safely provide heating to these rooms overnight.’

This new wording is adequate.

- 10 What is the greatest distance an elderly person who is still capable of independent living can reasonably be expected to walk to the nearest shop selling basic food items and to the nearest public transport stop?

Since the issue of the circular in 1993, a set of principles have been developed which state that ‘in an urban area, the dwelling should be located no more than half a mile (804 m) from both the nearest shop selling basic food items and the nearest public transport stop.’

This is supported.

- 11 What do you think constitutes an ‘appropriate’ transport service for an elderly person?

A regular reliable bus service covering the area and passing through or terminating in a principal town or city.

- 12 What would be a reasonable number of shopping opportunities per week?

Since the issue of the circular in 1993, a set of principles have been developed which state that 'in a rural area.....public transport should be available...frequently enough to provide at least three opportunities for shopping each week.'

This is still supported.

- 13 Do you think that there should be a requirement for reasonable access to local doctors, dentists and post offices? If so, how might this requirement be worded?

This should be deleted in view of the fact that many doctors and dentists now operate from group practice or at central surgeries and the Post Office has a declared programme of closure.

- 14 How long and steep a gradient do you consider that an elderly person who is still capable of independent living can reasonably be expected to negotiate regularly?

A number of appeals have been decided in favour of tenants on the ground that a gradient along the way to the nearest shop or public transport stop was too steep.

A gradient of 1 in 20 (as for wheelchair ramps) would be appropriate and for no longer than 800 meters.