

# Item 5

## REPORT TO CABINET

30<sup>th</sup> November 2006

### REPORT OF DIRECTOR OF HOUSING AND DIRECTOR OF NEIGHBOURHOOD SERVICES

#### Portfolio Housing

#### Implementation of changes to the Right to Buy Legislation

#### 1. SUMMARY

- 1.1 On the 21<sup>st</sup> September 2006 Cabinet considered a report on a number of changes to legislation around Right to Buys (RTBs) and the management of Anti Social Behaviour (ASB) set out in the Housing Act 2004 and the Anti Social Behaviour Act 2003.
- 1.2 The changes to the RTB scheme are in two key areas. The first relates to the Council's option to exercise the first right of refusal to buyback a property purchased under the RTB provisions after the 15<sup>th</sup> August 2005. The second allows the Council to waive the claw back of the RTB discount in certain circumstances. This report sets out policy for the effective implementation of the powers. A separate report will be present on the changes to management of ASB in January 2007.

#### 2. RECOMMENDATIONS

1. That the Director of Housing in consultation with the Director of Neighborhood Services is authorised to agree the repurchase of properties sold in accordance with the Right to Buy requirements after the 15<sup>th</sup> August 2005, subject to the requirements set out in paragraph 3.2 of this report.
2. That the Director of Housing is authorised to agree the waiving of the claw back of the Right to Buy discount subject to the requirements set out in paragraph 4.2 of this report.

#### 3.0 **RIGHT TO BUY – First right of refusal**

- 3.1 The Housing Act 2004 amends the Housing Act 1985 and makes further changes to the Right to Buy rules, as part of the Governments drive to modernise the system.
- 3.2 The right of first refusal applies to properties sold under the RTB requirements after the 15<sup>th</sup> August 2005 and resold within 10 years of purchase. The Council must be notified that the property is to be sold and has a statutory timescale of 8 weeks to respond to this notification. To allow the effective management of this process it is recommended that the power to exercise the option to repurchase is delegated to

the Director of Housing in consultation with the Director of Neighborhood Services. The repurchase of any property under these provisions will be considered in the following circumstances:-

- Demand for the type of housing in the area where the property is located extra consideration will be given in relation to those properties that are in short supply in the housing stock i.e. 4 bed roomed houses.
- The impact of the option to repurchase properties to support the delivery of the master plan in the three priority area of the Borough.
- The condition of the property to be repurchased and any substantial impact on delivery of the decent homes programme.
- The financial impact of any decision to repurchase the property on the Housing Revenue Account. Consultation will be undertaken with the Director of Resources on this issue.

#### **4.0 RIGHT TO BUY – Power not to require the repayment of the claw back**

4.1 Section 185 of the Housing Act 2004 clarifies that Local Authorities now have discretion not to demand that former tenants should repay part or all of the discount they received. It is for each Local Authority to decide whether the circumstances in any particular case would justify the exercise of this discretion under s.155 of the Housing Act 1985 as amended. However, the Government considers that this is most likely to be justified in circumstances where repayment would lead to demonstrable personal hardship.

4.2 The Council would wish to exercise its power in the following circumstances: (In each case, it will normally be necessary to establish both the facts justifying a move, and that such a move could not take place unless part or the entire repayable discount were to be waived);

- Where an owner of the property wishes to move because otherwise he or she and/or other family members (especially children) face demonstrable threat of violence or of significant harm; for example, due to:
  - a) Relationship breakdowns involving actual or threatened domestic violence;
  - b) Racial, faith, homophobic or any other kind of harassment;
  - c) Extreme anti-social behaviour, such as persistent drug dealing in an adjoining or nearby property;
- Where the sudden onset of a severe medical condition or serious deterioration of an existing condition makes a move essential on medical grounds;
- Where an early move is essential to return to employment; for instance where an individual has a firm offer of a job in another area and would thereby be able to return to work; either:
  - a) After long term unemployment; or
  - b) After having been made redundant, when his/her skills are such that there is no prospect of getting another job locally.

- Where a traumatic personal event (for example, sudden bereavement) makes a move essential for emotional or psychological reasons.

It is envisaged that this discretionary power will only be used in exceptional circumstances and that this is not an exhaustive list of the circumstances where the Council may wish to consider the use of its powers in these matters.

- 4.3 To ensure the effective operation of these powers it is recommended that they are delegated to the Director of Housing. If the event of a refusal to exercise the discretion amendments have been made to the constitution to give the Housing Review Panel/Appeals Panel power to determine an appeal from a decision of the Director of Housing.

## **5.0 RESOURCE IMPLICATIONS**

- 5.1 The cost incurred from exercise either of these provisions would have to be met from the Housing Revenue Account.

## **6. CONSULTATIONS**

- 6.1 Due to the statutory nature of these changes consultation has been carried out with the Borough Solicitor.

## **6. OTHER MATERIAL CONSIDERATIONS**

### **Links to Corporate Ambitions / Values**

- 6.1 The Community Strategy for Sedgefield Borough has adopted 4 key outcomes for the Borough one of which is *“a Borough with strong communities where people can access the housing and services they want in attractive and safe neighbourhoods.”* The Borough Council's ambitions mirror the Community Strategy's outcomes and the implementation of this policy in appropriate cases can contribute to the delivery of this ambition.

#### Health & Safety

"No additional implications have been identified".

#### Equality & Diversity

Full account will be taken of the Council's obligation to promote equality and diversity in the development of this project.

#### Legal & Constitutional

Consultation on the report has been undertaken with the Borough Solicitor.

## **7. OVERVIEW AND SCRUTINY IMPLICATIONS**

- 7.1 There are no Overview and Scrutiny implications of this report.

## **8. LIST OF APPENDICES**

- 8.1 None

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**Wards:** West Ward

**Key Decision Validation:**

Not a key decision

**Background Papers:**

Cabinet Report 21st September 2006

**Examination by Statutory Officers**

	Yes	Not Applicable
1. The report has been examined by the Councils Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Councils S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>