

POLICY TITLE	Flexible Tenure Policy
POLICY NUMBER	JO/PO/03
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OFFICER RESPONSIBLE FOR REVIEW	Home Ownership Manager

FLEXIBLE TENURE POLICY

1 POLICY STATEMENT

- 1.1 Key strategic priorities for Erimus Housing (Erimus) and Tees Valley Housing (TVH) are the provision of affordable quality homes in communities where people want to live, and the growth and development of our asset base to provide opportunity and choice for current and future residents.
- 1.2 Erimus and TVH support the development of shared ownership as one element of promoting mixed and sustainable communities.
- 1.3 Erimus and TVH acknowledge that shared owners can encounter severe financial difficulties at any time which could result in repossession or the loss of their home. We support residents in financial difficulty in order to maximise the income available to them.
- 1.4 The policy for Flexible Tenure is set out in this document and represents the current capital funding guide relating to the use of Recycled Capital Grant Funding (RCGF).
- 1.5 Shared owners do not have the right or entitlement to Flexible Tenure. Any offer of Flexible Tenure is purely at the discretion of Erimus and TVH, and there should be sufficient funds within the RCGF to support any request/application. Nothing in this policy confers an obligation upon Erimus to re-purchase any equity.
- 1.6 Flexible Tenure may be offered by Erimus and TVH as a 'last resort' option only, after all other debt management solutions have been investigated by the shared owner and landlord.
- 1.7 This policy will be published on the Group's website and provided to customers as part of the initial sales information process.
- 1.8 The policy will be monitored and reviewed, as appropriate, when strategic, procedural or legislative changes occur or any significant changes are made by the Homes & Communities Agency (HCA) to the use of RCGF.

2 REFERENCES MATERIAL

2.1 The following reference material has been considered when compiling this policy:

- HCA, CML, NHF – Shared Ownership Joint Guidance for England;
- HCA – New Build HomeBuy;
- HCA – Capital Funding Guide.

Websites:

- Audit Commission – www.audit-commission.gov.uk
- HCA – www.homesandcommunities.co.uk
- National Housing Federation – www.housing.org.uk
- Department for Communities and Local Government – www.communities.gov.uk

3 DEFINITIONS

3 New Build HomeBuy: This is a Government initiative which allows the buyer to purchase a proportionate share of a new property, built with public sector subsidy. The minimum share purchased will be determined on a scheme by scheme basis.

3.2 Flexible Tenure: This is defined as the re-purchase of equity by a Housing Association (Registered Social Landlord) from a shared owner in financial difficulty, but not necessarily in arrears with his/her mortgage repayment. In the case of property specifically built as Shared Ownership for the Elderly, the re-purchase of equity to pay for essential repairs or maintenance if the leaseholder cannot afford to pay for the work. Flexible Tenure is not available for Leasehold Schemes for the Elderly (LSE), Shared Equity or Discount for Sale (DFS) schemes as the equity retained by the Landlord is fixed and does not attract a rental income.

3.3 Rental element: The revised rental payment will be attributable to the equity owned by the shared owner.

3.4 Reverse Staircasing: The re-purchase of equity from a shared owner by Erimus or TVH.

3.5 Market Value: The re-purchase of further shares will be at the open market value of the property at the time of purchase.

- 3.6 Shared Ownership: This is used in this policy as a generic term for Low Cost Home Ownership (LCHO) such as traditional shared ownership schemes, LSE, Shared Ownership for the Elderly, Shared Equity Schemes and DFS.
- 3.7 Section 106 Agreement: Local planning obligation for affordable housing.
- 3.8 Recycled Capital Grant Funding (RCGF): Social Housing Grant released on the sale of social housing properties which can be used for new social housing schemes or initiatives in accordance with HCA guidance.
- 3.9 Social Housing Grant (SHG): Funding allocated to Registered Social Landlord for the provision of affordable housing.

4 POLICY CONTENT

4.1 Objectives

- 4.1.1 To provide continuity for the shared owner and their immediate family when circumstances change which are outside their control. This could be due to the loss of a job and subsequent difficulty in obtaining further employment which leads to mortgage and/or rent arrears, or it could be a relationship breakdown or serious long-term illness. The aim is to prevent repossessions and the loss of their home.
- 4.1.2 To maintain a mixed and sustainable community through the retention of residents who may otherwise be forced to move, and averting a detrimental impact on direct or indirect support networks provided by or to the shared owner.
- 4.1.3 Flexible Tenure is not a means for the shared owner to alleviate self inflicted debts or to purchase desired goods and services through the release of equity, but could provide the means to pay for essential repairs or pay off rent or mortgage arrears in appropriate circumstances.

4.2 Policy Principles

- 4.2.1 The property does not have to have been funded with SHG or Housing Association Grant (HAG) and therefore all 'nil grant' units are included. It should also be remembered that there are sites where homes must be kept as affordable in perpetuity due to Section 106 Agreements, and this will override any request by a shared owner for full re-purchase.
- 4.2.2 Erimus and TVH cannot use RCGF funds to help shared owners release equity for any other purpose than avoiding threats to their ability to remain in their home.

- 4.2.3 The purchase of all of the remaining equity in the home is not required and the reverse staircasing could be down to a level as low as 25% of the current market value. Erimus and TVH will consider if the shared owner can afford the revised repayments, either at a low equity share or as an assured tenant.
- 4.2.4 The maximum amount payable by Erimus and TVH to a shared owner for the re-purchase of equity will be the appropriate percentage of the current open market value, determined by an independent qualified valuer. Should all the remaining equity be re-purchased, the offer price for the shared owners equity will reflect the expenditure required to bring the property up to a 'lettable' condition, in accordance with Decent Homes.
- 4.2.5 The shared owner is responsible to pay for the valuation of the property and his/her own legal fees. These fees may be deducted from the payment to the shared owner or the mortgagee on completion.
- 4.2.6 If a shared owner moves down (recent staircases) to a lower level of equity, the terms of the existing lease will continue, including the right to staircase up again. The rent will be adjusted pro-rata for the changed percentage rented and will comply with the existing rent policies and leave provision.
- 4.2.7 In the event the shared owner becomes an outright tenant, the shared ownership lease must be formally terminated and an assured tenancy agreement entered into on the same terms as any other tenancy agreement for rented housing let by Erimus and TVH. Should the property be re-possessed by a mortgage lender, Flexible Tenure will cease to be an option.
- 4.2.8 Before considering an offer of Flexible Tenure to a shared owner, Erimus and TVH will ensure that any offer is acceptable to the shared owner's mortgagee and confirmation must be obtained in writing.
- 4.2.9 In the event that a former shared owner becomes an assured tenant, they will not have the Right to Acquire (RTA) the property at a discount because the re-purchase will have been funded by the RCGF, not SHG. However, should their circumstances improve as a tenant, they may be eligible for any discount or incentive scheme facilitated by Erimus and TVH, such as Social HomeBuy with any eligibility period starting from the date the assured tenancy agreement was granted. Residents will not be offered a new shared ownership lease on their current home.
- 4.3 Applications
- 4.3.1 All initial enquiries/applications for Flexible Tenure must be made to Erimus and TVH Home Ownership Department. Erimus and TVH will acknowledge all requests for Flexible Tenure within 10 working days. Non eligible applicants will be advised in writing.

- 4.3.2 Eligible applicants will be invited to an interview to discuss their circumstances and will be asked to provide supporting evidence for assessment, in accordance with the policy principles and eligibility criteria as detailed in this policy.
- 4.3.3 Request for Flexible Tenure will be considered by the Home Ownership Manager in conjunction with other relevant departments and the shared owner will be notified of the decision in writing.
- 4.4 Eligibility
- 4.4.1 Shared owners do not have a right to Flexible Tenure and any offer of assistance is purely at the discretion of Erimus and TVH.
- 4.4.2 The shared owner must currently own less than 100% of the property. They must be paying rent on the unsold equity in the property. The term 'rent' excludes ground rent and service charges. Flexible Tenure is not available for other owner occupiers including former shared owners or those who have bought a property through a discount or incentive scheme such as Right to Buy (RTB), Right to Acquire (RTA) or the Social HomeBuy Scheme.
- 4.4.3 Erimus and TVH must be satisfied that the shared owner has explored and exhausted other options. The shared owner must produce suitable evidence to provide their difficulty with mortgage repayments although they need not already be in arrears. They must be able to show that other short and long-term options have been exhausted such as loan re-scheduling, or selling and moving to cheaper property within a reasonable travel to work area.
- 4.4.4 The shared owner will be assisted by Erimus and TVH to seek independent advice from debt counselling agencies such as Citizens Advice Bureau.
- 4.4.5 Erimus and TVH will consider and advise the shared owner of any housing/council tax benefit implications which may affect their future entitlements should equity be re-purchased.
- 4.4.6 Erimus and TVH will assess the ability of the shared owner to meet future repair and maintenance liabilities within their current property.
- 4.4.7 Flexible Tenure is not available for other types of Shared Ownership schemes such as Leasehold Scheme for the Elderly, Shared Equity and Discount for Sale/Restrictive Sale Covenant.
- 4.4.8 In the case of properties restricted for older persons the current income of the shared owner must be insufficient to maintain the home to an acceptable standard and it must be demonstrated that these repair or maintenance works are essential. In the case of shared owners in this category who own less than 75%, the shared owner should also demonstrate that they are unable to obtain or afford additional borrowing against the property.

5 EQUALITY AND DIVERSITY

- 5.1 Assistance will be provided to customers who enquire about Flexible Tenure. This includes assistance for those applicants who have language or literacy difficulties, and those with special needs i.e. applicants with physical disability related needs, major medical needs and older/vulnerable people. Where required, a home visit will be arranged.

6 CUSTOMER INVOLVEMENT AND CONSULTATION

- 6.1 Consultation has been undertaken with officers from Erimus and TVH.

7 MONITORING AND REVIEW

7.1 Monitoring

- 7.1.1 Erimus and TVH will review this policy, procedures and staff training needs at regular intervals in order to ensure best practice, achieve measurable results and continuous service improvement.

- 7.1.2 This policy and procedure will be automatically reviewed following policy or legislation change, as required by the HCA.

7.2 Review

- 7.2.1 Stakeholder groups will be involved and consulted in any review of this policy in-line with Erimus and TVH's policy on resident participation and consultation.

8 RESPONSIBILITY

- 8.1 It is the responsibility of the Chief Executive through the Head of Housing Services and senior officers to ensure that:

- All staff are aware of Erimus and TVH policies;
- All staff are trained on the policies;
- Monitoring of records is maintained;
- Customers are adequately informed of the policies;
- Appropriate action is taken against employees whose actions are inconsistent with this policy.

- 8.2 Erimus and TVH will develop procedures which will ensure effective implementation of this policy and provide training for staff to ensure they fully understand the wider issues surrounding shared ownership, and the surrounding legislative framework and procedures.

- 8.3 Housing Operations will be responsible for overseeing or co-ordinating the process, and will formally communicate with other relevant internal departments and personnel to ensure those involved in delivery are aware of their responsibility.
- 8.4 The Head of Housing Services will ensure that officers involved in the implementation of this policy are suitably skilled to deliver the required procedures to any agreed timescales.