

Select Committee on the Environment 25th January 2010

Housing Applications from Owner Occupiers and Former Owner Occupiers

Purpose of Report

1. To inform Members of the Group of a query raised by an Elected Member, and to invite Members' views on this and related issues.

Background

2. The case was raised by an Elected Member of a former council tenant who purchased their home under the Right to Buy and subsequently transferred ownership to other family members. The original tenant/purchaser remained living in the property as a lodger, and has now applied for housing.
3. The Lettings Policy states that in these circumstances the applicant will be assessed on the basis of their housing needs but may only be allocated a flat or maisonette. Typically, the applicants to which this policy applies are older people who have bought a house under the Right to Buy, have transferred ownership to a son or daughter, and who now require a bungalow.
4. In this particular case, the applicant was not happy to accept a flat or maisonette, and approached their local Councillor. The Councillor has asked us to advise whether an owner occupier who purchased on the open market as opposed to under the Right to Buy would have been treated in the same way. The Councillor put forward that it is unfair to treat Right to Buy Purchasers differently from open market purchasers.
5. There is currently no rule that owner-occupiers who have purchased on the open market and then transferred ownership are limited to flats and maisonettes. There are, however, some equity rules that apply equally to RTB purchasers and open market purchasers.
6. The equity rules are such that
 - a) We will examine the equity released by anyone who owns a property or who has ceased to own a property within the last five years
 - b) If the equity would be sufficient to pay a deposit and one months rent on a suitable private property, then the applicant will have "less preference" for council housing. The effect of "less preference" is that they drop down the waiting list and are behind other applicants with housing need. If they have no housing need themselves, then they are behind other applicants with no housing need.
 - c) Applicants for sheltered housing are considered individually and on their own merit by Adult Social Care Services.

7. The Councillor was therefore correct to identify that there is a difference in treatment between RTB purchasers and open market purchasers who transfer ownership whilst still living in the property
 - a) For five years following the transfer, both would be less preference unless they had virtually no equity in their home, and the RTB purchaser would also be limited to flats and maisonettes. Bungalows are sometimes available to people with less preference, especially if they have steps to access.
 - b) After five years, equity would cease to be considered. Both applicants would be considered solely on their housing need, but the RTB purchaser would be limited to flats and maisonettes, whereas the open market purchaser would not.
 - c) Both purchasers would at all times be treated equally if they needed sheltered housing.
8. On first consideration of this policy, it might be assumed that the different treatment of RTB purchasers was originally intended to reflect that they had obtained the benefit of the RTB discount and then chosen to pass on that benefit (and home) and start again.
9. However, in order to give full consideration to the issue raised, copies have been obtained of the original report and minute giving effect to the rule that RTB purchasers who transfer ownership should be limited to flats and maisonettes. The issue was considered amongst other allocations issues by the then Housing Committee on Monday 4th November 1996. At that time, the equity rules only applied to people who still owned a property, and it is clear from the report that the flat/maisonette rule was designed to prevent RTB purchasers transferring ownership and immediately obtaining a bungalow.
10. Since then, the equity rules have changed to include properties sold or transferred within the previous five years.

Issues for Consideration.

11. This matter was first submitted for discussion at the Cross Party Working Group on Choice Based Lettings. Members agreed that the different treatment of RTB and open market purchasers is inequitable, and that a policy change should be considered. The two options debated were
 - a) That the restriction to flats and maisonettes for former RTB purchasers should be abolished, and that they be considered equally with open market purchasers
 - b) That the restriction to flats and maisonettes should apply equally to RTB and open market purchasers who transfer ownership whilst still living in the propertyHowever, the Working Group was unable to reach a consensus view, and felt that debate at Select Committee was the appropriate way forward..
12. In the meantime, a further related issue has been identified. Historically, people who owned a property and applied for council housing have been asked to sign an "Intent to Sell" form. Recently, there has been an increasing number of cases where applicants wish to be considered for council housing but have no immediate plans to sell their property, because they have little or no equity in it. These are often associated with matrimonial breakdown, and examples have

included

- a) The partner without care of the children remaining in the owner-occupied property, in which case the partner with the children will generally ask for a house. This is potentially contentious because when council tenants separate, the rule is that only one party may have a house and the other may only have a flat or maisonette.
 - b) The former matrimonial home being rented out on an Assured Shorthold Tenancy until it can be sold and the mortgage cleared.
13. Demand for council housing exceeds supply, and there is particularly high demand for houses and bungalows. It is therefore prudent to have restrictions in place to give preference to those who do not have other options. There is an established process to deal with exceptions and appeals where there is good reason to relax the policy in a particular case.

Recommendations

14. It is therefore recommended that the general policy should be
- a) Council properties should not be allocated to people who own or jointly own a property
 - b) Anyone who transfers ownership of a property should only be considered for flats or maisonettes
15. Views of the Select Committee are requested to help inform the Cabinet Member and Director of Adult, Community and Housing Services as to the need to amend policy.



Linda Sanders
Director Adult, Community and Housing Services

Contact Officer: Sian Evans, Head of Housing Options
Telephone: 01384 812021
Email: sian.evans@dudley.gov.uk