



Shared Ownership Policy

Help to Buy

April 2023

MONITORING, APPROVAL AND REVIEW	
Lead Officer / Author	Joel Owen/ Keith McFarlane
Version Nu/Date	WIP
Version Notes	April 2023
Publication	Public
Consultation	Colleagues, Customers, and the Leadership/Executive Team
Equality Analysis	
Approved by	LT April 2023
Policy Review	The Policy will be reviewed every 3 years or in line with legislative or regulatory changes. Due: February 2026
Electronic File Location	S:drive/hsg-general/policies, strategies, and assurance/current policies FCHO intranet FCHO Website or available on request
Copy available from	Anne Challoner, Head of Assurance

Shared Ownership Policy

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1. What is the Purpose of this Policy?

- 1.1 This Policy sets out how First Choice Homes Oldham (FCHO) will manage shared ownership properties.

2. Context

- 2.1 Shared ownership gives those who cannot afford to buy a home outright the opportunity to buy a home.
- 2.2 Leaseholders pay rent on the percentage of the property that they do not own. The amount of rent paid is agreed and fixed at the outset, and there is a maximum amount by which it can increase each year. The more of the property they own, the lower their rental payments will be.
- 2.3 Over time shared owners can purchase more shares in their property – this is known as ‘staircasing’. This can be done at any time after initial purchase, and it will reduce the amount of rent they pay as the percentage share they own increases.
- 2.4 The shared owner raises the funds to purchase their share in the normal manner. For example, through some savings and / or possibly some family assistance, but primarily by taking out a mortgage from a bank or building society. It is not an absolute requirement that a purchaser must fund the acquisition with a mortgage, but it is the usual route of purchase.
- 2.5 All applicants must be able to demonstrate that they have the means to afford and sustain home ownership in the longer term.
- 2.6 Shared owners must satisfy certain eligibility criteria to qualify for shared ownership products.
- 2.7 There is a new model of shared ownership which applies to shared ownership homes delivered as part of a provider’s new 2021 to 2026 contract with Homes England and receiving grant confirmation from Homes England on or after 1 April 2021.
- 2.8 The Government has introduced the new Right to Shared Ownership, which will give the vast majority of social tenants, living in new rented homes delivered by the Affordable Homes Programme 2021-26, the opportunity to purchase a stake in their home and then purchase further shares when they can afford to do so.

3. Scope

- 3.1 This Policy sets out how FCHO manages Help to Buy Shared Ownership and includes key information, which FCHO must follow to satisfy the Housing Regulator who could audit the process.
- 3.2 This Policy should be read in conjunction with the [Capital Funding Guide: Shared Ownership](#), and [Regulator of Social Housing \(RSH\) guidance](#), and the property's lease.
- 3.3 This Policy covers shared ownership properties built using grant periods 2016-21 and 2021-26.

4. Policy Details

4.1 Eligibility

To be eligible to purchase a shared ownership home, applicants must have a gross household income of less than £80,000 and be otherwise unable to purchase a suitable property for their housing needs on the open market. Shared ownership is aimed at first time buyers, however existing shared owners and those who are no longer home owners due to a relationship breakdown may be eligible. FCHO must direct all households that are interested in accessing shared ownership to the relevant Help to Buy Agent for their locality, with whom the applicant must register. Homes should be available on a first come, first served basis to shared ownership applicants providing that they meet the relevant eligibility and affordability criteria.

Section 106 of the Town and Country Planning Act 1990 agreements may also stipulate further qualifying criteria. Where this is applicable details of the criteria should be written into the lease.

4.2 Equity Share

Except on:

- Older Persons Shared Ownership schemes which are capped at 75% with no rent on the unsold share.
- Rural Restricted Staircasing schemes and Protected Area schemes where it is often capped at 80% with no rent on the unsold share.

The staircasing provisions given in the lease must allow staircasing to 100% where the properties have been built using Homes England grant funding.

Grant Funded 2016–21 - The initial share must be a minimum of 25% and no more than 75%.

Grant Funded 2021–26 - The Capital Funding Guide gives FCHO discretion to reduce the initial share to 10%.

A decision to exercise this discretion must be made at development appraisal.

4.3 Application

All households interested in Help to buy: Shared Ownership must be registered with the designated help to buy agents covering the Northwest of England.

Help To Buy Agents will undertake an initial headline eligibility assessment at application stage.

Independently of the Help To Buy Agents, FCHO, Fabric Living (FL) must carry out the initial eligibility assessment on application and assess the applicant's ability to sustain homeownership in the longer term. The assessment must be carried out, on behalf of FCHO, by a Mortgage Adviser (or Independent Financial Advisor), experienced to a suitable level to undertake these assessments.

The application criteria and affordability assessment must be carried out as per the guidance issued by Homes England. Homes England have an affordability calculator which can be used to establish the maximum share an applicant can afford. The calculator is available on the Government website to use. The final calculation sheet must be kept on file for audit purposes.

FCHO/FL will encourage applicants to purchase the maximum share that they can afford from the outset. However, the various costs involved in purchasing and the costs of moving should be taken into account. This will depend on individual circumstances and there may be legitimate reasons why some purchasers should be allowed to retain a higher level of savings than others.

FCHO/FL must then ensure that a further rigorous financial assessment is carried out taking into account savings, access to capital or any other assets, and outgoings, to assess the affordability of the purchase.

An eligible applicant who wishes to buy a home with someone else can only proceed on the condition that all joint applicants become joint owners.

Anyone joining in the application who already owns, or part owns a home must sell it at the time of jointly buying through Help to Buy: Shared Ownership.

Armed forces personnel must be given priority as per Homes England guidance.

4.4 Property Valuation

FCHO must approve valuations from a Royal Institute of Chartered Surveyors qualified independent valuer at the initial sales stage and on staircasing.

The valuer must assume the following

- The sale is for the freehold interest, or where the provider's interest is leasehold, a 990-year lease or such lesser term of years as FCHO holds
- The sale is an open market sale
- A shared ownership lease has not been granted
- The sale is to be with vacant possession

The lease makes provision for the resolution of disagreement or dispute that may arise, between FCHO and the leaseholder, in respect of choosing a valuer. See specific lease for details.

Valuations expire after three months.

FCHO has discretion to extend the three-month period to six months in cases where there has been a delay which is outside the leaseholders or FCHO's control, for example, if documents are lost in the post or there are legal delays.

Where discretion is applied, documentary evidence explaining the reasons for waiving the three-month validity period must be kept on file.

Grant Funded 2021-26 - for 1% staircasing transactions the valuation is calculated using the Land Registry's House Price Index. The detail of this methodology is contained within the lease.

FCHO must provide shared owners with this updated valuation (for the purposes of 1% gradual staircasing only) at least once per year, and at any other point the shared owner requests to purchase an additional 1%. FCHO must demonstrate how the estimated valuation has been calculated.

For assurance and audit purposes property valuations will be approved reviewed and signed off by the FCHO Development Team before a staircasing offer is made.

4.5 Consent to Mortgage and additional borrowing

The shared ownership lease requires shared owners to seek FCHO approval in advance of any remortgage or further secured borrowing.

FCHO will only approve additional borrowing if it is:

- To buy further shares in the property.
- To buy out a partner who no longer lives with the shared owner.
- To finance home improvements, or maintenance works required under the terms of the lease.

FCHO will not approve a loan if the total debt then exceeds the value of the share owned. This will include any sums a lender has paid in the past in respect of rent or service charge arrears.

FCHO will charge an administration fee for considering and approving further advances.

FCHO will not agree to postpone / demote its legal charge in favour of any additional loan.

If consent is not requested by the mortgage lender, or the request is not approved, then this will invalidate the Mortgagee Protection Clause.

To prevent the lender benefiting from deemed consent, a log of consents granted will be kept by the FCHO Legal Department.

If the mortgage lender approaches FCHO for retrospective consent, only if the shared owner is not in breach of their lease, will the consent be granted.

4.6 The Lease

The Government approved model leases must form the basis of all leases granted by FCHO to ensure acceptance by lenders so the purchaser can obtain a mortgage. All variants of the model leases, covering houses and flats, are given in the Capital Funding Guide: Shared Ownership.

Solicitors will advise on the drafting of the lease and FCHO will approve the final versions of leases for flats and those for houses on a development. The drafting of the leases will be coordinated by the Development Manager.

The following clauses known as fundamental clauses, are mandatory:

- Alienation Provisions (sales procedures, part or full, subletting)
- Mortgage Protection Clause
- Rent Review
- Staircasing Provision
- Right of First Refusal (final staircasing pre-emption Right)
- Designated Protected Areas only – Protected Area Provision
- Service Charge Clause – only where charged.

Where service charge is payable service charge provisions should be written into the lease.

If at any time FCHO chooses to use a non-standard form of lease the Shared Ownership Lease must include the fundamental clauses. In addition, the lease must be acceptable to lenders, so the buyer is able to secure a mortgage.

Grant Funded 2016-21 The length of the lease must be a minimum of 99 years for houses and 125 years for flats.

Grant Funded 2021-26 - The length of lease must be 990 years.

The lease must include a Mortgage Protection Clause (MPC) in order for lenders to approve a mortgage. The MPC protects the lender from financial loss.

Section 106 of the Town and Country Planning Act 1990 application criteria should be given in the lease where applicable.

4.7 Rent Setting

Shared ownership leases are assured tenancies and as a result are not subject to rent control under the Rent Act 1977.

FCHO will apply a rent of 2.75% of the value of the unsold equity as recommended by Homes England unless approval by the Development Director has been given permission to charge above 2.75% up to 3%, the maximum possible.

In setting rents FCHO must have regard to the affordability of the total housing expenditure to the residents including:

- Mortgage costs
- Rent and
- Service charges (including the cost of management and insurance)

The rent will be adjusted on 1 April each year and notified to leaseholders 30 days before the rent is due to increase.

Annual rent increases are limited to the Retail Price Index (RPI) plus 0.5%, using the RPI figure for September published annually.

Note: the change introduced from April 2015 for calculating target rent incorporating the Consumer Price Index (CPI) does not apply to the annual rent increases for shared ownership properties.

When the RPI figure for the specified month is nil or negative, the RSH requires that any rent increase to be limited to a maximum of 0.5%.

Increases may be set below this figure; a rent increase not applied; or where considered appropriate by the landlord a rent reduction may be applied.

When the RPI figure for the specified month is nil or negative and FCHO choose not to apply an increase, the RSH does not consider this a breach of the fundamental clause and will not consider grant recovery on these grounds.

FCHO will adhere to the voluntary rent cap agreed by the sector (National Housing Federation led) and has capped rent increases for shared ownership properties at 7% for 2023/24.

The Specified Rent is reduced when the shared owner purchases further equity (staircases). The new rent is calculated as the unowned percentage equity x the current Gross Rent (as per the latest Rent Review).

No rent is due after the shared owner staircases to 100%, however service charges remain payable, where applicable.

Information relating to rent calculation must be kept in the property file for audit purposes.

4.8 Extending the Lease

The right to an extension of the lease is outlined in the Leasehold Reform, Housing and Urban Development Act 1993 (as amended).

This right is not currently available to shared owners under legislation, however FCHO does allow lease extensions by shared owners under a discretionary process wherever possible.

A shared owner will be charged 100% of the cost of the lease extension regardless of the amount of share owned in the property and allow for this as an improvement in future resales or staircasing valuations.

FCHO will grant lease extensions of 90 years to add to the remaining unexpired term of the existing lease with nil ground rent.

FCHO will charge reasonable administration costs and will pass on the valuation and legal charges incurred during the process.

FCHO is not able to grant lease extensions that exceed any head leases.

4.9 Service Charge

Shared ownership leases must include a Service Charge clause where charges apply.

FCHO charges Variable Service Charges in accordance with the lease.

The service charge is set prior to the start of the financial year, based on an estimate of the costs to be incurred that year. Following the end of the financial year, the actual costs are balanced against the amounts charged and an annual accounts statement issued to leaseholders detailing the costs of each service charge heading and any resultant surplus or deficit.

Annual Accounts Statements will be issued to leaseholders prior to 30 September each year for the previous financial year.

Surpluses will be credited to leaseholder payment accounts. Deficits will be charged via invoices due for payment within 28 days.

FCHO will charge an administration fee for the management of the services.

Properties sold freehold, or leasehold may include an estate charge to pay for the upkeep of communal land on the estate. Information about this will be contained in the lease or transfer.

Information relating to service charge calculation must be kept in the property file for audit purposes.

4.10 Rent and Service Charge Arrears

The rent and service charge will be collected as per FCHO's rents arrears policy which includes approaching a mortgage lender (where applicable) to request that they pay the debt on behalf of the leaseholder.

Payment of arrears is underwritten by the Mortgage Protection Clause.

To help protect FCHO from financial loss, a financial impact risk assessment will be carried out before approaching a shared owner's lender to pay their client's arrears. This risk assessment will include checking whether FCHO gave consent to the mortgage offer, any previous debts paid by the lender and the impact of this on the value of the equity retained by FCHO.

Where leaseholders have accrued significant debts, they are encouraged to seek independent financial advice. FCHO will provide guidance and signposting to relevant agencies including:

- Citizens Advice Bureaux
- Department for Works and Pensions
- Homes England for Service Charge Loans (where applicable).

FCHO will accept arrears repayment agreements on an interest free basis. Arrears should be repaid within the shortest timescale possible and span a maximum of 12 months. Longer repayment periods may be agreed but only in exceptional circumstances and subject to FCHO's financial licensing arrangements.

4.11 Sales and Resales

FL will administrator all new sales, resales, and the buying of further shares (staircasing).

FCHO Solicitors will carry out the shared ownership staircasing conveyancing following receipt of written instructions from FL.

Following a sale or resale following notification of completion the shared owner will be sent a welcome pack.

A shared owner's property must be sold as detailed in the lease.

Shared owners wanting to sell their share must contact FCHO who will then contact those who have previously expressed interest in shared ownership property.

The shared owners when informing FCHO of their intention to sell must also include a valuation of the property.

The lease to each property details the process, but generally it depends on when the Grant funding was administered. The criteria are as below: -

Grant Funded 2016–21: If after eight weeks FCHO has not managed to find a buyer the seller will then be given permission to sell their share on the open market.

Grant Funded 2016–26: If after four weeks FCHO has not managed to find a buyer the seller will then be given permission to sell their share on the open market.

After the end of the nomination period, a shared owner may sell the property as 100% ownership in one transaction, however FCHO requests that the property is also marketed as a shared ownership arrangement. (Note some leases do not allow 100% ownership).

All prospective shared owners must meet the eligibility criteria for shared ownership, regardless of whether they have been nominated by FCHO.

The shared owner's solicitor should ensure that a deed of covenant is entered into by a purchaser during the process of the sale.

FCHO will charge an administration fee to administer sales, resales and staircasing.

Agreed administration fees will be available to view on the internet and will be reviewed in March each year. Development and Legal Services will agree the administration fees to be charged.

Deposits on new build property will be set at £500 per property.

Where applicable, repayment of grant will be as given in the Capital Funding Guide. A process has been established to manage this.

As part of the sales administration the rent to buy properties built using grant funding will be highlighted on Northgate as per the Grant Notification Process.

4.12 Buying Further Shares (Staircasing)

Shared owners may increase the percentage share of the equity that they own at any time during the term of the Shared Ownership lease. This process is known as staircasing.

Details of the staircasing requirements are set out in the shared owner's lease.

Under the terms of Homes England's model lease, leaseholders have three months to complete their staircasing purchase from the date providers receive the valuation from the valuer.

The price paid for further shares is based on the full open market value. Additional guidance to valuating shares is given in the Capital Funding Guide.

FCHO will take into account any improvements made by a shared owner where records show permission was given for these. The amount that will be considered will not be the cost of the improvement work but any increased value the improvements have made to the property.

The leases make provision for the resolution of disagreement or dispute that may arise, between FCHO and the leaseholder, in respect of choosing a valuer.

The rent payable by the shared owner will be reduced on completion of the share purchase. Any service charges will remain unaltered.

Grant Funded 2016–21 - Staircasing in minimum 10% tranches until the maximum share as given in the lease is achieved.

Grant Funded 2021–26 - Staircasing of 5% possible staircasing with shareholders having option to purchase 1% increments in the first 15 years following initial purchase and following resale.

For further information refer to the lease and Capital Funding Guide: Shared Ownership

Flatted property which staircases to 100% remains leasehold and will continue to pay service charge as per the lease.

Houses staircasing to 100% will be sold freehold where FCHO is the freeholder.

Request to “reverse” staircase will be evaluated on a case by case basis and the decision fed back to the applicant.

For audit purposes the staircasing information should be kept in the shared owner’s property file.

1% Staircasing

Some shared owners have the right as determined by their lease, to purchase an additional 1% share each year for 15 years.

FCHO will write to the shared owner prior to April of each year, as required by the lease, to state the cost to purchase the additional 1% share.

The valuation of the 1% share will be the value stated in the lease and inflated annually by the House Price Index as published by Land Registry.

A shared owner may proceed to purchase the 1% share within 3 months of receiving the valuation, or may request a further valuation at any point in the year.

FCHO will not charge a fee for the administration of the 1% staircasing.

1% staircasing is operated separately and subject to an entirely different process than that of higher tranche staircasing.

Buy Back

Some shared ownership leases may include the option for FCHO to buy back the property under certain circumstances.

FCHO will only buy back properties when there is a good business case to do so and when funds are available.

FCHO will only buy back properties with vacant possession.

Where a Lender has repossessed a shared ownership property, FCHO will investigate buying back if the option exists. This would be on the basis of reducing FCHO's liability under the Mortgage Protection Clause and minimising rent loss.

Where a shared owner has financial difficulties and is likely to have the property repossessed at a court in the near future, FCHO may consider buying the property back.

FCHO will carry out a valuation of the property and will offer what is deemed to be the market value at the time. This may be reduced by any disrepair within the property, or any arrears that are owed.

4.13 Repair Liability

Leaseholders in flats pay service charge to maintain the structure and communal parts of the building, but have full repair responsibility for the demise after the defects liability period has elapsed.

Grant Funded 2016-21 - Shared owners of houses and flats have full repairing responsibility for their demise after the defects liability period has lapsed. See development brief relating to defect liability period.

Grant Funded 2021–26 – Shared owners can claim up to £500.00 per year in the first 10 years for the cost of some essential repairs. This is the Initial Repairs Period.

Initial Repairs Period

FCHO will consider all claims in accordance with the key information document for the home.

The shared owner must inform FCHO of the proposed repair work.

FCHO will determine if the works are essential and will respond within 7 days of the request.

FCHO may request supporting information such as photographs and surveys, or may inspect the property prior to issuing their decision.

Shared owners have the right to challenge the decision.

Challenges will be reviewed in a timely manner and in accordance with the requirements of the key information document for the home.

When a repair is agreed, the shared owner must arrange for and fund the repair using a Trustmark approved tradesperson.

The shared owner must produce a receipt for the works, upon which FCHO will make any payments due up to the allowance of £500 per year allowance.

FCHO will make payments within seven days of receipt of a claim so long as all the supporting documentation has been received.

Where the full years allowance is not claimed, a maximum of one years allowance will roll forward to the following year.

FCHO will provide an annual statement of the allowance used and the amount rolled forward (if applicable).

Alterations and Improvements

Shared owners are free to carry out minor works within their property, such as redecoration, renewal and general day to day maintenance.

Structural alterations or additions to the exterior or interior of the property are not allowed under the terms of the shared ownership lease.

Shared owners must obtain permission before any non-structural alterations or improvements are carried out.

FCHO will consider each application carefully and will seek to allow alterations wherever reasonable, however it is essential any works are not to the detriment of the building, the surrounding environment and neighbours.

Leaseholders should make their own enquiries as to any planning, building regulations or other statutory consents that may be required, and are responsible for obtaining these.

FCHO will charge a fee for the legal and administrative work associated with considering the application, granting / denying permission and reviewing the alterations.

Sub letting

Shared ownership leases do not generally allow for sub-letting, however requests made in the event of exceptional circumstances will be considered in line with government guidance.

Any consents to sub-letting will be on the condition that a tenant is given a fixed term tenancy for a period not exceeding 12 months.

FCHO will charge an administration fee for the consideration of sub-letting requests.

4.14 Refund of Grant

The Capital Funding Guide (CFG) sets out the basis for Registered Providers to calculate recoverable grant following one of the relevant events noted in the CFG.

The CFG sets out the procedures that must be followed by FCHO when a relevant event occurs in connection with grant-funded land or property.

The relevant events are defined in the Recovery of Capital Grants and Recycled Capital Grant Fund General Determination 2017 paragraph (7).

5. Key Information Documents for Purchasers

5.1 For shared ownership homes provided through the AHP 2021 to 2026 there is a separate key information document pack to be completed and presented by providers for the sale and resale of shared ownership homes.

5.2 The completed documents should be sent to the buyer's solicitor along with the Memorandum of Sale. Providers should obtain confirmation from the buyer's solicitor that these have been provided to the customer.

5.3 Key Information Documents for homes provided through AHP 2016 – 2021 are also available and should be issued to new purchasers as part of the resale process.

6. Document Retention

All documents will be retained electronically, including a copy of the signed lease, valuation and all correspondence.

7. Legislative or Other Guidelines

FCHO will ensure that this Policy complies with all relevant legislation and takes account of current best practice.

Relevant Legislation and Guidelines:

- RSH's Regulatory Framework
- Landlord and Tenant Act 1985, 1987
- Commonhold and Leasehold Reform Act 2002
- Leasehold Reform
- Urban Development Act 1993
- Various Landlord and Tenant legislation
- Capital Funding Guide / Homes England Guidance
- Council of Mortgage Lenders
- National Housing Federation
- Shared Ownership Joint Guidance for England October 2016

- Money Laundering Regulations.

8. **Links to FCHO's Corporate Plan and Policies**

Great Homes - Develop a range of high quality, affordable housing products to meet local needs.

The Policy should be used in conjunction with other relevant FCHO policies and procedures, which include:

- Tenancy Policy
- Rents Arrears Policy
- Leasehold Management Policy
- Equality, Diversity, and Inclusion (EDI) Strategy 2021
- Anti-Money Laundering Policy.