

DEED OF POSTPONEMENT POLICY

PROCEDURE/POLICY GUIDANCE

The objective of this procedure/policy is to ensure that Westmorland and Furness Council protects its interest in properties sold under the Right to Buy or Right to Acquire and that customers are not allowed to “over stretch” their financial resources.

Westmorland and Furness Council is a responsible landlord and we are committed to ensuring that our customers are aware of any risk associated with taking out additional borrowing.

Additional Borrowing

A customer who has purchased their home using the Right to Buy and is still within the repayment discount period, must seek the consent of Westmorland and Furness Council before they can re-mortgage or apply for additional borrowing.

The Council cannot refuse the customers’ request provided the additional borrowing is for an approved purpose as specified in section 156 of the Housing Act 1985 (as amended).

The approved purposes are:-

- To enable a re-mortgage with a different lender, without extra borrowing;
- For leaseholders, to pay for service charges;
- To make an interim or final payment if the customer only owns part of the property; and
- To pay for works to the property.

If the request for additional borrowing is being made during the Right to Buy application process then the applicant requires a letter of postponement.

If the request is being made within the five year discount repayment period (but after completion of the Right to Buy) a deed of postponement is required.

Effect of the Deed or Letter of Postponement

When a customer exercises their Right to Buy Westmorland and Furness Council’s interest is automatically registered as a second charge. In the event that the property is repossessed the repayment of the mortgage would automatically take priority. A deed or letter of postponement is a legal document requiring Westmorland and Furness Council to reduce its interest in the property to a third charge.

This means that in the event of the property being repossessed the mortgage lender would recover the remaining mortgage amount first (first charge) any additional borrowing would be recovered second (second charge) and any repayment of discount sums would be paid to Westmorland and Furness Council third (third charge), if sufficient funds were available.

By agreeing to a deed or letter of postponement Westmorland and Furness Council is risking its interest in the property and therefore the Council will limit the amount of additional borrowing it will approve.

Agreeing to a Deed or Letter of Postponement

The Council will only agree to a Deed or Letter of Postponement in the following circumstances:

- A formal request is made by an approved lending institution;
- The applicant provides the current market value of the property;
- The applicant provides evidence of the existing mortgage amount;
- The applicant provides evidence for what the money will be used for;
- If the application is for works to the property two quotes must be provided;
- The Council is permitted to inspect any works to the property within 6 months of the work being completed; and
- The applicant pays the current administration fee and any legal fees

Deeds or Letter of Postponements will not be approved for kitchen appliances, garden landscaping, conservatories, or any other alteration that is prohibited by the lease.

Where a further advance is made without the consent of the council, postponement will only be granted where it is possible for the owner and lender to evidence use for approved purposes and advance by approved lender.