

Low Cost Home Ownership/Special Schemes – instructions and guidance for conveyancers

These instructions and guidance for conveyancers cover the main schemes available and the requirements over and above our normal conveyancing instructions for the scheme to be accepted. Page 1 of 4

Please note that where a scheme contains provisions identified in these instructions as unacceptable, the waiving of these provisions where the mortgagee is in possession does not make the scheme acceptable. It must be assessed on the basis of the restrictions placed on the owner. Also, any restrictions applied to a sale by a mortgagee in possession must be no more onerous than those affecting owners.

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i). Equity Loans / Equity Share Loans / Mortgage Top-Up Loans

Typically, although not exclusively, secured by second charge. The loan may be granted as an equity share agreement repayable as a percentage of the property value but we also accept loan agreements that are not equity share. These are sometimes described as Mortgage Top-Up loans.

1. For at least 5 years there must be no requirement to repay the loan (except where the property is sold or the borrower is in breach of the terms of the loan agreement) and in this period there must be no interest charged on the loan in addition to the equity share appreciation.
2. We require first charge over the property.
3. The price must not be restricted and there must be no other scheme applicable to the property as described in sections iii) or iv) below.

Where required by the subsequent charge lender you can confirm to them on our behalf that, while they still have the subsequent charge against the property, we will not proceed with any offer to lend additional monies without their agreement to postponing their charge to the additional lending.

ii). Other Affordable Housing Initiatives – resale price covenant schemes/restrictive covenants/section 106 agreements

Where the scheme does not meet our requirements as detailed in 1 to 7 below, the property is not an acceptable security for Nationwide and you should advise us accordingly.

1. **Restrictions on Purchasers or Occupiers with no Nomination or Marketing Process** – Where the property is subject to a restriction that only allows it to be purchased or occupied by someone living or working in a specified area this is acceptable but please report the specific wording of the restriction to the Issuing Office and check with them that the property has been valued accordingly. Restrictions relating to purchasers being in housing need, not being able to afford to purchase on the open market or having income less than a certain amount are not acceptable to us.
2. **Nomination or Marketing Process** - If nomination rights or restrictions on marketing the property exist the Nomination or Marketing Process can include a restriction regarding housing need, not being able to afford on the open market or income limits but the owner must have the right to sell on the open market free of the Nomination or Marketing Process with no restriction on who can purchase or occupy the property if there has been no exchange of contracts within 6 months (26 weeks) of the start of the process.
3. **Purchase Price (if restricted)** – The purchase price must be the defined percentage of the full open market value and must not be assessed against any house price index figure, multiple of local income or any other figure. Please report the percentage to the Issuing Office and check with them that the property has been valued accordingly. The applicants must not be paying any additional monies for the purchase.
4. **Pre-emption rights** - If the agreement includes a pre-emption right applicable on resale:-

- (a) i) the owner must be permitted to sell free of the pre-emption right if the sale under pre-emption is not completed within 3 months of the date the owner gave notice of intention to sell or
ii) where the pre-emption is part of a nomination/marketing procedure the owner must be permitted to sell free of the pre-emption right within 3 months of when the pre-emption becomes operative;
- (b) the price for the sale under pre-emption must be either the full open market price or the price in accordance with the price restriction and must be payable on completion;
- (c) no deductions are to be made from the price.

5. **Wholly owned** – The property must be wholly owned by the Purchaser(s) alone and not held on trust for others.

6. **Compulsory buyout of the price restriction** – The scheme must not require the compulsory buyout of the price restriction within a specified period unless there has been any breach of the scheme restrictions.

7. **Payment on assignment/surrender** - The owner must not be required to make any payment on assignment/surrender other than a reasonable amount (maximum 2% of sale price) in respect of valuation, legal and administrative costs. There must be no payment on surrender or assignment to a sinking fund. n.b sinking funds may be acceptable on some sheltered housing schemes – see section iii

8. **Combination of schemes** - Where the property is also subject to a scheme described in iii) or iv) below, then any additional instructions contained in these sections, which are relevant to the purchase, will also apply. Where the price is not restricted the scheme can be combined with a loan in accordance with i) Equity Loans / Equity Share Loans /Mortgage Top-Up Loans above and the additional instructions for this scheme will also apply.

iii). Sheltered Housing

The developments are normally for elderly or disabled occupation and are accordingly subject to additional restrictions.

1. Where the property is subject to age or other restrictions specific to sheltered housing, on purchasers or occupiers of the property, please check with the Issuing Office to ensure they were aware of the scheme and its restrictions when considering the application and issuing the offer. Do not proceed until this confirmation has been obtained.
2. If you consider any of the maintenance/service charge/ground rent/sinking fund/fees on resale or any other clauses specified in the lease to be unduly onerous, please forward a summary of your concerns to the Issuing Office for further consideration.
3. Where the property is also subject to any resale price covenant schemes/restrictive covenants/section 106 agreements as documented in section ii) above, then any additional instructions contained therein, which are relevant to the purchase, will also apply.

iv). Shared Ownership – England & Wales

Please note that for shared ownership cases in Scotland and Northern Ireland, specific conditions are included in the Mortgage Offer

- Some leases do not contain the right to purchase additional shares and/or impose a maximum limit on the percentage that can be owned. This is acceptable to us and we do not need to be advised separately.
 - The Lease must meet the minimum requirements detailed below and must not contain any unduly onerous covenants:
1. **Percentage Share** – If the percentage of the property purchased differs from that stated on our Mortgage Offer, you must inform the Issuing Office and await further instructions before contracts are exchanged.
 2. **Premium Price** - The purchase price must be the defined percentage of the full open market value. The applicants must not be paying any additional monies for the purchase
 3. **Valuations required under the terms of the lease** – if the value is set by the District Valuer it is acceptable. If the value is set other than by this mechanism, it must allow for the valuation of the property to be undertaken by an independent expert in the event of disagreement. The District Valuer or a valuer appointed by the Chairman of the RICS is acceptable as an independent expert.
 4. **Mortgagee Protection Clause** - If the Landlord is a Registered Social Landlord, the Lease must contain a Mortgagee Protection Clause in the Housing Corporation or Homes & Communities Agency standard form applicable at the time the lease was granted.
 5. **Consent to Mortgage** - The Landlord's consent to our mortgage or assignment of the lease must be obtained prior to completion (in the case of an assignment where required by the lease) and sent to Nationwide Building Society, Mortgage Servicing at Kings Park Road, Moulton Park, Northampton NN3 6NW (DX 12499 NORTHAMPTON), as soon as possible following completion.
 6. **Granting of the Lease** - The Lease must be granted to the Purchaser(s) alone, not to the Landlord and Purchaser(s) to be held on trust.
 7. **Possession Undertaking** - The attached undertaking (appendix 1) must be signed by the Landlord prior to completion (with the exception of Local Authorities (as defined in Schedule 1, Part1 paragraph 12(2) of the Housing Act 1988)) and forwarded to our Deeds Control (see 5 above) as soon as possible following completion.
 8. **Purchase of Additional Shares** - The Lease must not require the compulsory purchase of additional shares within specified periods unless the lease has been assigned in breach of nomination provisions.
 9. **Nomination or Marketing Process** - If nomination rights or restrictions on marketing the property exist, the owner must have the right to assign the lease on the open market free of the Nomination or Marketing Process, with no restriction on who can purchase or occupy the property if the landlord fails to nominate or the nominee fails to exchange contracts, or the marketing restriction has not resulted in exchange of contracts within 6 months (26 weeks) from the date the Leaseholder gave notice to the Landlord of intention to sell.
 10. **Right to Surrender/Assign** - If the Lease gives the Landlord the right to take surrender or an assignment of the Lease:-
 - (a) the Leaseholder must be permitted to assign free of the pre-emption rights if the Landlord fails to take a surrender/assignment within 3 months of the Leaseholder's initial written notice offering a surrender/assignment;
 - (b) the consideration for the surrender/assignment must be payable on completion;
 - (c) the only deductions that may be made from the consideration for the surrender/assignment are sums due under the Lease. The Lease must not permit the Landlord to deduct other sums due from the Leaseholder (e.g. under a mortgage or charge even if our mortgage has priority).
 - (d) If the Lease contains a Mortgagee Protection Clause, the guarantee must apply on surrender/assignment.
 11. **Payment on Assignment/Surrender** - The Lease must not require the Leaseholder to make a payment to the landlord on assignment/surrender other than arrears of rent or service charge and a reasonable amount (maximum 2% of sale price) in respect of valuation, legal and administrative costs. There must be no payment on surrender or assignment to a sinking fund. n.b sinking funds may be acceptable on some sheltered housing schemes – see section iii
 12. **Rent Review** - Rent reviews should not allow for increases of more than 2% above either the Retail Prices Index or the Average Earnings Index or by 5%, whichever is the greater. It is acceptable for the rent to increase in line with local authority rent increases. The Lease must not link the rent to the Landlord's funding costs.
 13. **Combination of schemes** - Where the property is also subject to any restrictions/covenants/section 106 requirements as documented in section ii) above, then any additional instructions contained therein, which are relevant to the purchase, will also apply.

Appendix 1

<Name of Solicitor >
<Address of Solicitor>
<Address of Solicitor>
<Address of Solicitor>
<Address of Solicitor>
<Postcode>

<Name of Landlord >
<Address of Landlord>
<Address of Landlord>
<Address of Landlord>
<Address of Landlord>
<Postcode>

<date>

Dear Sir/Madam

Re: <insert applicant name and security address>

Leaseholder:
Borrower:
Landlord:
Property:
Lease:
Lender:
Mortgage Account No:

Nationwide Building Society has been asked to provide a mortgage for the purchase of the above property and requires your agreement to the undertaking below. **This undertaking must be returned to the solicitor named above.**

In the consideration of the Lender granting the Borrower a mortgage on the property, the Landlord undertakes not to commence any proceedings for obtaining possession of the Property under any of the grounds in Schedule 2 of the Housing Act 1988 without:-

- (a) giving the Lender not less than 28 days notice in writing of their intention to commence proceedings; and
- (b) if within such a period of 28 days (or within such other period specified in the notice period, if longer), the Lender indicates in writing to the Landlord that it wishes to remedy such breach, **or is going to take such action as may be necessary to resolve the problem complained of by the Landlord**, giving the Lender such time as may be reasonable (in view of the nature and extent of the breach/problem) to take such action

Signed.....

Dated.....

You should retain the attached copy of this undertaking as it details below the address where any notice should be sent:

Nationwide Building Society
Leasehold Team
Lending Control Legal Services
Nationwide House
Swindon
SN38 1NW

Yours faithfully

<Solicitor signature>

Appendix 1

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