

Draft Local Connection Restriction Policy

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PURPOSE OF POLICY

The Council is adopting a new policy under section 157 Housing Act 1985 to allow it to implement restrictions on sales of Council properties in defined rural areas following the Right to Buy, so that properties can only be sold to people with a local New Forest connection.

Over the years, Council properties in rural areas have significantly diminished, meaning that future generations are often not able to secure housing and have to move away from the area. The purpose of this policy is to ensure that local people continue to have access to housing which serves local needs and is more affordable than other market housing in the area.

A copy of s157 Housing Act 1985 is attached to this policy at Appendix 1.

THE RURAL AREAS COVERED BY THE POLICY

The policy applies to Council dwellings within the following designated areas:

- the area defined as the Perambulation of the New Forest
- the National Park area
- Areas of Outstanding Natural Beauty

The designated areas referred to above with currently owned Council stock include:

Boldre	East Boldre	Sway
Bramshaw	Ellingham, Harbridge and Ibsley	Whitsbury
Bransgore	Hale	Woodgreen
Brockenhurst	Lyndhurst	
Burley	Martin	
Calshot	Minstead	
Copythorne	Netley Marsh	
Damerham	Rockbourne	

The policy will also apply to any future new-build council dwellings that are subject to the Right to Buy within the designated areas.

HOW THE RESTRICTION WILL WORK

When a Council property is sold under the Right to Buy, the Council will impose a covenant under s157 of the Housing Act 1985, which requires the consent of the Council to any future disposal of that property.

The Council cannot withhold its consent if the disposal is to a person(s) who has lived or worked in the designated rural areas for the last 3 years.

The covenant will apply to both freehold and leasehold sales.

The covenant will also apply to the letting of the property (i.e. the granting of a tenancy or licence).

The Council's consent cannot be withheld if the letting is to a person(s)

- who has lived or worked in the rural areas for at least 3 years or,

- whose only or principal home is and throughout the duration of the tenancy or licence, remains the dwelling

The restriction will only be imposed on council properties sold within the protected areas from the time this Policy is adopted. It will not apply to past sales.

MAKING AN APPLICATION TO WAIVE THE RESTRICTION

Whilst the Council will not remove a local connection restriction, it will in exceptional circumstances consider requests to waive a restriction. If granted, this will allow an owner to sell or let the property to a person who does not meet the terms of the restriction. The Council will consider applications to waive the restrictions in the following situations:

PERSONAL CIRCUMSTANCES for purchasers or prospective tenants who have not lived or worked in the rural areas for the last 3 years, but can show strong connections through former residence or employment, or can demonstrate exceptional benefit to the wider community that would come about by living in the area.

OWNERS UNABLE TO SELL OR LET THEIR HOMES at a price that takes into account the s157 restriction. Evidence is required that the owner has marketed the property for sale or rent for at least 12 months.

SELLING A PROPERTY WITH A LOCAL OCCUPANCY RESTRICTION

If you are selling a property with a local occupancy restriction, you must make your Estate Agent aware of the restriction. Your agent should include information about the local occupancy restriction once they advertise the property for sale.

Once you have agreed a sale, it is the responsibility of the purchaser's solicitor to obtain the Council's permission for the buyers to proceed with their purchase.

GUIDANCE ON MAKING AN APPLICATION TO WAIVE A LOCAL CONNECTION RESTRICTION

You can make your request for the local connection restriction to be waived by contacting the Housing Strategy and Development Team by emailing housing.development@nfdc.gov.uk. Once the Council has all the necessary information, a decision will be made in consultation with the Portfolio Holder for Housing Services.

PLEASE NOTE THAT IF THE COUNCIL DECIDES TO WAIVE A LOCAL CONNECTION RESTRICTION, IT WILL DO SO ONLY FOR A SINGLE DISPOSAL; THE RESTRICTION WILL CONTINUE TO APPLY ON FUTURE SALES OR LETTINGS OF THE PROPERTY.

EXEMPTED DISPOSALS

S160 Housing Act 1985 lists a number of "exempted disposals" and if the transaction in question is an exempted disposal then the provisions of s157 would not apply to that transaction.

Exempted disposals include:

- Disposal under a will or an intestacy,
- Disposal between spouses (for example from a joint names of husband and wife to wife's sole name),
- Disposal to a member of the family* of the person making the disposal and that family member has resided with the seller throughout at least a 12 month period ending with the disposal,
- Sale or disposal of property in connection with matrimonial proceedings, or civil partnership proceedings,
- Orders as to financial provisions to be made from estate

*Family members include parent, child, grandchild, brother, sister, uncle, aunt, nephew, niece and including relationships by marriage, step-family members.

For further advice on the applicability of these exemptions, please contact the Housing Strategy and Development Team.

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APPENDIX 1
Section 157 Housing Act 1985

(1) Where in pursuance of this Part a conveyance or grant is executed by a local authority or a housing association ("the landlord") of a dwelling-house situated in

(a) a National Park,

(b) an area designated under section 82 of the Countryside and Rights of Way Act 2000 as an area of outstanding natural beauty, or

(c) an area designated by order of the Secretary of State as a rural area, the conveyance or grant may (subject to section 156A(8)) contain a covenant limiting the freedom of the tenant (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the dwelling-house in the manner specified below.

(2) The limitation is, that until such time (if any) as may be notified in writing by the landlord to the tenant or a successor in title of his

(a) there will be no relevant disposal which is not an exempted disposal without the written consent of the landlord; but that consent shall not be withheld if the disposal is to a person satisfying the condition stated in subsection (3) and

(b) there will be no disposal by way of tenancy or licence without the written consent of the landlord unless the disposal is to a person satisfying that condition or by a person whose only or principal home is and, throughout the duration of the tenancy or licence, remains the dwelling-house.

(3) The condition is that the person to whom the disposal is made (or, if it is made to more than one person, at least one of them) has, throughout the period of three years immediately preceding the application for consent or, in the case of a disposal by way of tenancy or licence, preceding the disposal

(a) had his place of work in a region designated by order of the Secretary of State which, or part of which, is comprised in the National Park or area, or

(b) had his only or principal home in such a region;

or has had the one in part or parts of that period and the other in the remainder; but the region need not have been the same throughout the period.

(4).....

(5).....

(6) A disposal in breach of such a covenant as is mentioned in subsection (1) is void and, so far as it relates to disposals by way of tenancy or licence, such a covenant may be enforced by the landlord as if

(a) the landlord were possessed of land adjacent to the house concerned; and

(b) the covenant were expressed to be made for the benefit of such adjacent land.

(6A) Any reference in the preceding provisions of this section to a disposal by way of tenancy or

licence does not include a reference to a relevant disposal or an exempted disposal.

(7) Where such a covenant imposes the limitation specified in subsection (2), the limitation is a local land charge and the Chief Land Registrar shall enter a restriction in the register of title reflecting the limitation.

(8) An order under this section

(a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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