

# **Residential Property Tribunals**

Determinations by Residential  
Property Tribunals as to whether a  
dwelling-house is particularly suitable  
for occupation by elderly persons

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## What will this Guidance tell me?

The purpose of this guidance is to explain the procedures that will be followed once an application has been made by a tenant under Paragraph 11 to Schedule 5 of the Housing Act 1985 (as amended) ("the Act") to a Residential Property Tribunal ("RPT") which is part of the Residential Property Tribunal Service (RPTS). A tenant who is in doubt as to whether an RPT can deal with their case should take independent legal advice from a solicitor, housing advisor or contact a Citizen's Advice Bureau.

## When can an application be made and what are the consequences?

An application to a RPT can be made by a tenant from a decision made by a Local Housing Authority ("LHA") or Housing Association ("HA") under Paragraph 11 to Schedule 5 of the Act. The Act, as amended gives the tenant the right to apply to a RPT for a determination as to whether their home is particularly suitable for occupation by elderly persons. **The application must be received by the RPT within 56 days of the LHA or HA serving notice on the tenant denying the right to buy on this ground. The RPT has no discretion to extend this time period.**

## What is a Residential Property Tribunal?

The RPT is a tribunal set up by law under the provisions of the Rent Act 1977 and the Housing Act 2004. It is an independent decision making body which is completely unconnected to the parties or any other public agency. The RPT looks at the whole application afresh. It will look at all of the evidence again and new evidence can be presented before the RPT.

RPT's are organised by Rent Assessment Panels which are part of the Residential Property Tribunal Service. There are five Panels in England. Their addresses can be found in the Annex.

## **Who will deal with the matter once an application has been made to a RPT?**

From the time that the application is received a number of different people will deal with the paperwork involved and the parties. These include the following:

### **The Clerks**

The clerks are the administrative staff who will deal with correspondence. When the application is received it is the clerk who will begin to process it. The clerk will continue to deal with the paperwork until the parties have received a final determination by a RPT in their case. The clerks are able to speak to parties about the processes and procedures relating to the application. They cannot give general legal advice or advise about the law relating to the application. Each Rent Assessment Panel has a Regional Manager who is responsible for the work of the clerks. Their names are included in the Annex.

### **The RPT Members**

There are two types of member:

1. The Chairman: he or she is appointed to be a Chairman by the Lord Chancellor. A Chairman may be a lawyer or a surveyor. Exceptionally, the chairman may be a lay person. The Chairman is responsible for the smooth running of the proceedings and will write up the reasons for the RPT's decision.
2. Other members: these are appointed by the Department for Communities and Local Government. Again, they may be lawyers or surveyors or lay people.

When a RPT is set up to consider an application there will usually be three or occasionally two, members including the Chairman. Exceptionally, where an application is to be decided on written evidence alone, without an oral hearing, a chairman sitting alone may make the decision (see page 7).

### **The Panel President**

Each Panel has a President, assisted by one or more Vice Presidents, who is responsible for the members and in particular decides which members should be appointed to hear and decide a particular case. They will not be involved in the decision unless they are a member of the RPT dealing with the case. Their names are given in the Annex.

### **What will happen after I have sent in my application?**

The clerk to the RPT will write to both parties to inform them that an application has been received. The parties will be asked if they are content for the application to be determined by "written representations" only or whether they would like to attend an oral hearing before which written representations may also be made. Unless either of the parties has requested a hearing the matter will be determined by way of written submissions made by the parties to the RPT.

If a hearing is held the parties are advised not to produce documentation for the first time at the hearing; otherwise the hearing will often need to be adjourned to enable the other party to consider the new evidence.

In some cases there may be uncertainty about whether an application is valid or whether in the circumstances a RPT has jurisdiction in respect of an application. For example it may be necessary to decide if an application has been received by the Tribunal on time. In such a case the parties will be notified and a hearing may be arranged to consider this preliminary issue. If the RPT decides that it does have jurisdiction it will go on to consider the main issue on the same date or at some future date to be arranged.

### **What is a hearing?**

When a hearing is arranged the RPT will convene at a particular time and place for the purpose of enabling both you and the other party or parties to put your cases to it. You can speak yourself or somebody else, whether professionally qualified or not, can speak for you. It could be a relative or friend for example. You will also be able to put questions to the other party or his or her representative if they are present. The RPT may also ask you some questions in order to make sure that it has all the relevant information to enable it to come to a decision.

### **What are written representations?**

These are any comments made in writing to the RPT about why the right to buy should or should not be refused on the ground relied on. You can also send any other documents in support of your case. Any representations that are made by you or anybody on your behalf will be copied to the other party. Each of you will thus be given an opportunity to comment on any representations that are made by the other. You will also be asked to provide a copy of any written tenancy agreement under which the property is let if this has not already been supplied.

### **Will the RPT visit and inspect the premises?**

Yes if requested by either party or the RPT considers it necessary. A visit will only take place on a date and at an approximate time notified to the parties. With the permission of the tenant the RPT will normally want to inspect the inside of the property as well as the outside and any common parts. The landlord is entitled to be present with the tenant's permission. An inspection will usually be on the day of the hearing or decision. If the RPT is unable to gain access at the appointed time it may decide to make another appointment and adjourn the matter until then. Alternatively it may decide that it has sufficient information, including that obtained from an external inspection, to be able to go ahead and make a decision in the absence of an internal inspection.

### **Can the parties say anything at the inspection?**

Both parties can draw attention to any physical aspect of the property that they wish the RPT to see, but not to make any oral representations (see above). Representations must be kept for the hearing (if any) or have been made in writing (see above). Thus it is quite acceptable for a tenant to point out, for example, an improvement that is referred to in the tenant's written representations that have been copied to the parties. By contrast it would, for example, not be permissible for the RPT, at the inspection, to listen to representations as to the suitability or otherwise of your home for use by the elderly.

### Paper determinations

Following receipt of an application the RPT will write to the parties asking them to reply stating whether they would prefer an oral hearing. Unless either party asks for a hearing the matter will be determined by way of written submissions made by the parties to the RPT. (You should note that exceptionally the RPT may itself decide to hold a hearing whether or not the parties request one).

### What happens where a hearing is not to be held?

The RPT will inspect the property where this is necessary or requested and then meet to consider its decision, usually on the same day. It will look at any written representations made by the parties and also have regard to its own relevant knowledge and experience.

### If a hearing is held is the RPT a court and will ordinary court procedures be followed?

No. Tribunals such as Residential Property Tribunals are decision-making bodies set up especially by Parliament to enable certain types of disagreements such as yours to be dealt with speedily and cheaply in a way that avoids the formality and cost that surrounds ordinary court proceedings.

Hearings are usually held in a convenient local building which may be the Tribunal Office where appropriate. Hearings are open to the public, although usually only the parties and their representatives (including a friend or relative), the tribunal and the clerk will be present. The proceedings are orderly but informal.

The tenant is asked to put his or her case. They can be questioned by the other party (the LA, HA or its representative) who can then put his or her case and be questioned in turn. The sole purpose of the proceedings is to enable both parties to put their case to the RPT in their own words or through somebody else acting on their behalf. The Chairman will seek to ensure that nobody is at a disadvantage by not being represented. He or she will make sure

that both parties understand what the other party is saying. The RPT may ask questions of a party present to make sure that it has all the necessary facts. A party present can also put questions to the RPT.

### **What happens if one or both of us does not attend the hearing?**

The RPT will usually go ahead and make a decision even if one or both parties do not attend.

### **Can a hearing be postponed or adjourned by the RPT?**

Yes. You have the right to ask the RPT to postpone or adjourn a hearing and indeed the tribunal might decide to do this of its own accord. However, it will be done only if there is good reason and the RPT considers that one or both parties are not unfairly affected.

### **Can a tenant withdraw his or her application?**

The Act does not provide for this as such. However, the RPT will not continue with a determination if (a) the tenant gives notice in writing that he/she no longer requires a determination or (b) the landlord gives notice in writing withdrawing the denial of right to buy on the ground set within para 11. of Schedule 5 to the 1985 Act.

### How will the RPT make its decision?

The RPT will decide whether it has jurisdiction (see Part 2 above). This may take the form of a preliminary hearing. If it decides that it does have jurisdiction the RPT will then proceed, to decide whether the landlord may deny the tenant's right to buy on the grounds that the property is particularly suitable for occupation by elderly persons (under paragraph 11 of Schedule 5 to the Housing Act 1985).

**It is important to note that ground of denial provided by paragraph 11 does not apply unless the property was first let - to anybody - before 1 January 1990.**

Provided that the condition is satisfied the tenant does not have the Right to Buy if the home :

- is particularly suitable for occupation by elderly persons, taking into account its location, size, design, heating system and other features **and**
- was let to the tenant or a predecessor tenant (see below) for occupation by a person aged 60 or over, whether they were the tenant or not.

A 'predecessor tenant' means someone who was a tenant, before the applicant, under the same tenancy (for example the applicant's deceased husband or wife).

When considering if the home is 'particularly suitable', the RPT must ignore any feature that the applicant or a predecessor tenant has provided (for example, a central heating system).

The RPT will consider all other features of the home. Set out below are some of the features which an RPT may consider in deciding whether the home is particularly suitable such as whether:

- (a) there is access on foot to the home;
- (b) the accommodation is on one level;

- (c) in the case of a flat above ground floor level there is easy access by lift;
- (d) there are no more than two bedrooms;
- (e) the home has heating arrangements which function reliably and provide heat to at least the living room and one bedroom;
- (f) the home is located reasonably conveniently for shops and public transport, having regard to the nature of the area.

### **What points should I make in my written representations or at a hearing?**

You should point out anything that you consider would have a bearing on the RPT's decision. You can of course comment on anything that the other party has written or has said at any hearing or in written representations. If you have made improvements to the property it will help if you advise the RPT of these.

### **When will the RPT make its decision?**

Once the RPT is satisfied that it has all the necessary information it will decide whether paragraph 11 applies or not.

### **How will parties find out the RPT's decision?**

The clerk to the RPT will write to the parties and enclose the decision.

### **What is the effect of a determination by an RPT**

If the RPT determines that the home is particularly suitable for occupation by elderly persons then the tenant will not be allowed the Right to Buy the home. Alternatively, if the RPT determines that the home is not particularly suitable for occupation by elderly persons this does not automatically mean that the tenant will have the Right to Buy the home. The LHA or HA may claim that the Right to Buy does not arise for other reasons.

### **Is there a right of appeal against the RPT's reasons?**

You can make an application to the High Court, under the Tribunals and Inquiries Act 1992, if you consider that the RPT has made a mistake of law. You must do so within 28 days of the receipt of the decision or within such longer period as the High Court might permit. Alternatively, if you consider that there has been a breach of the rules of natural justice you could seek leave from the High Court to challenge the decision by way of a process known as "judicial review". Such leave should ordinarily be sought not later than three months from the above date. You should take legal advice if you consider that there might be grounds for High Court proceedings.

### **If I am unhappy with the administration of my case, to whom should I complain?**

If you have a complaint about the administration of your case you should write to the President of the Rent Assessment Panel in your

region. If you remain dissatisfied after receiving a reply from the President you can take the matter further by writing to:

RPTS  
The Corporate Unit  
3rd Floor 10 Alfred Place  
London  
WC1E 7LR

The complaint will then be referred to a committee constituted from the RPTS Management Board. However, the committee will not be able to alter or amend the decision in any way. A full reply will follow within 28 working days, or you will be advised of any delay. You are also entitled to ask your MP to request the Parliamentary Commissioner for Administration (the Ombudsman) to investigate your complaint.

### **Does the Human Rights Act 1998 apply to the RPT's proceedings?**

Yes. Parties to an application are entitled to the benefit of the provisions of the Human Rights Act 1998. In effect, this entitles them to have their case determined in accordance with the European Convention on Human Rights. Of particular relevance is Article 6 of the Convention, which provides that parties have the right to a fair hearing within a reasonable time and before an impartial tribunal. This includes their right to put their case and to question the case brought by the other party and to be given reasons for the decision of the RPT. Also relevant is Article 8, which provides that everyone has the right to respect for his private life i.e. his home and his correspondence – any internal inspection of the property will accordingly only be undertaken with the consent of the occupier. In making its decision an RPT is obliged to have regard to the rights embodied in the Convention and where possible to interpret legislation consistently with those rights.

Annex  
RPT addresses

**Northern Rent Assessment Panel**

President: Martin Davey  
Regional Managers: Beatrice Whipp  
1st Floor  
5 New York Street  
Manchester M1 4JB

Tel: 0845 100 2614 or 01612 379 491  
Fax: 0161 237 3656

**Midland Rent Assessment Panel**

President: Simon Duffy  
Regional Manager: Maureen McCabe  
2nd Floor, Louisa House  
92 - 93 Edward Street  
Birmingham B1 2RA

Tel: 0845 100 2615 or 0121 236 7837  
Fax: 0121 236 9337

**Eastern Rent Assessment Panel**

President: Bruce Edgington  
Regional Manager: Mark Allbut  
Great Eastern House  
Tenison Road  
Cambridge CB1 2TR

Tel: 0845 100 2616 or 01223 505 112  
Fax: 01223 505116

### **London Rent Assessment Panel**

President: Siobhan McGrath  
Regional Manager: Donald Brown  
2nd Floor  
10 Alfred Place  
London WC1E 7LR

Tel: 020 7446 7700  
Fax: 020 7637 1250

### **Southern Rent Assessment Panel**

President: Robert Long  
Regional Manager: Jim May  
1st Floor,  
1 Market Avenue,  
Chichester PO19 1JU

Telephone: 0845 100 2617 or 01243 779 394  
Facsimile: 01243 779389

### **Corporate Unit**

Chief Executive: Michael Ross  
RPTS Corporate Unit  
3rd Floor  
10 Alfred Place  
London WC1E 7LR

Tel: 020 7446 7750  
Fax: 020 7580 5684

The contents of this publication are correct at the time of going to press. Please refer to the RPTS website for the current version.

## RPTS Booklets/Leaflets

Code	Description
<b>LVTL</b>	Are you a Landlord, Tenant or Lessee? Can the Leasehold Valuation Tribunal help you to resolve problems?
<b>GNL/10</b>	Are you a Landlord, Tenant or Leaseholder? Can the Residential Property Tribunal Service help you? It helps thousands every year.
<b>LE/4</b>	Leasehold Enfranchisement
<b>LVTB/3</b>	Leasehold Valuation Tribunal (LVT): Service Charges, Dispensation with Charge Consultation, Administration Charges, Variation of Leases, Right to Manage, Appointment of Manager, Landlord's choice of insurer, Forfeiture.
<b>FR/1</b>	Rent Assessment Committees: Fair Rents Guidance on procedure
<b>MR/2</b>	Rent Assessment Committees: Market Rents Guidance on procedure
<b>TA/5</b>	Tenants Associations
<b>HHSRS/9</b>	Housing Act 2004: Housing Health & Safety Rating System Application and Appeals relating to Improvement Notices, Prohibition Orders, Demolition Orders, Emergency Measures (Unfit Properties)
<b>EDMO/8</b>	Housing Act 2004: Applications and Appeals in Respect of Empty Dwelling Management Orders under the Housing Act 2004
<b>UWS/6</b>	Unhappy with our service? Here's what we'll do
<b>EOP</b>	Equal Opportunities Policy
<b>AR</b>	Annual Report
<b>DW</b>	Document Wallet
<b>RTB/7</b>	Residential Property Tribunals: Determinations by Residential Property Tribunals as to whether a dwelling-house is particularly suitable for occupation by elderly persons.
<b>CP</b>	Corporate Plan
<b>RPTS</b>	Property Matters: An introduction to RPTS. What to expect at a Rent Assessment Committee or Leasehold Valuation Tribunal (Video/DVD)
<b>HMOs/11</b>	Housing Act 2004: Application and appeals relating to Licensing of houses in multiple occupation (HMOs) Selective licensing of other residential accommodation
<b>MOs/12</b>	Application and appeals relating to interim and final Management Orders (MOs) under the Housing Act 2004
<b>Order From</b>	Yoro Edmond RPTS, 10 Alfred Place, London WC1E 7LR Tel: 020 7446 7757 Fax: 020 7580 5684 or 020 7637 1250 Email: yoro.edmond@communities.gsi.gov.uk



**Residential Property  
Tribunal Service**

10 Alfred Place  
London  
WC1E 7LR

Telephone: 020 7446 7700  
Facsimile: 020 7580 5684

**National Helpline**

0845 600 3178

**Website**

[www.rpts.gov.uk](http://www.rpts.gov.uk)

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