First-time-buyer guidance

1. Introduction

1.1. Housing, provided on specifically designated land or through the sale of social housing stock, is available to first-time buyers to assist them in getting on the housing ladder.

1.2. This guidance is intended to help Islanders understand the circumstances in which they may be eligible to acquire property that is the subject of a first-time buyer restriction.

1.3. Three pieces of legislation are particularly relevant to the eligibility required to purchase or occupy homes that are provided specifically for first-time buyers:

- Control of Housing and Work (Jersey) Law 2012, which prioritises housing *"for people with strong connections or associations with Jersey and, more generally, in such a way that is in the best interests of the community in Jersey"*. Under this Law all residential property transactions are subject to restrictions on the ability to purchase property and live in it.

- Planning and Building (Jersey) Law 2002, which allows for the designation of "*land to be used to provide residential accommodation, whether it be accommodation for renting or accommodation for purchase, for persons who would otherwise have financial difficulties renting or acquiring residential accommodation in the general market for residential accommodation prevailing in Jersey*". This is the legal basis under which land is "rezoned" for the development of first-time buyer homes, and which enables specific restrictions about their use and occupation.

- Stamp Duties and Fees (Jersey) Law 1998, which *sets out the reduced duty rates applicable to first time buyers* (see Appendix). Purchases over £500,000 incur standard rates of stamp duty or Land Transaction Tax (LTT).

2. First Time Buyer status

2.1. Only a first-time buyer in Jersey can buy a property that has been specifically provided for first-time buyers.

2.2. First-time buyers can also access assisted home ownership schemes if they meet the qualifying rules of the scheme.

2.3. A person is a first-time buyer in Jersey if they:

(a) have never owned or had an interest in any residential property in Jersey or anywhere else in the world, including with a spouse or civil partner[1] and;

[1]Someone who has purchased a first time buyer property cannot subsequently enter joint ownership of the property with someone else who is not a first time buyer (including a spouse / civil partner).

(b) have 'Entitled' residential status under the Control of Housing and Work Law[2] or plan to buy property with an 'Entitled' spouse or civil partner, who have themselves never owned a residential property in Jersey or anywhere in the world and;

(c) are going to live in the property as their principal place of residence.

2.4. For the avoidance of doubt, a person who owns or has owned a property is not a first-time buyer. Ownership includes, but is not limited to:

- Prior or existing ownership (or part ownership) of any type of residential property, including freehold, flying-freehold, or share transfer classes of property.
- Prior or existing ownership of a residential property through inheritance or any other means.
- Prior or existing ownership of shares in a company by virtue of which someone has been given exclusive rights of occupancy over a residential property.
- Name is or has been on a mortgage or title deeds.
- If someone has benefit of a contract lease and any arrangement where the property has been held by a nominee or trustee for the benefit of an individual.

2.5. There are limited circumstances where the Minister for Housing and Communities ("the Minister") may exercise discretion to allow someone who is not a first-time buyer to purchase a home specifically provided for first-time buyers. This is covered in section 4 of this guidance.

3. First-time-buyer homes and the planning system

3.1. Where housing is delivered through the planning system for the specific provision of first-time-buyer homes, the award of planning permission is usually subject to restrictions – in the form of planning conditions or planning obligation agreements – which regulate their occupation and use for first-time buyers. The specific nature of these restrictions has changed over time as policies have responded to changing housing needs. Planning conditions and planning obligations are, however, attached to the land and the homes built on these sites may remain subject to the restrictions relating to their occupation and use in perpetuity, which may also affect their onward sale. House purchase schemes administered by social housing providers will also have additional qualifying criteria.

3.2. First-time-buyer homes are intended for owner-occupation and not for leasing out or use as second or holiday homes. The very limited circumstances where it may be possible to lease out a first-time-buyer home are covered in section 5 of this guidance.

3.3. Restrictions or requirements imposed by planning condition or planning obligation are enforceable under the Planning and Building (Jersey) Law 2002. Compliance with these requirements should be delivered through the due diligence of the conveyancing process associated with first-time-buyer sales.

3.4. It is also a common requirement of mortgage providers for a borrower to demonstrate compliance with all planning restrictions that apply to a property.

[2] Someone granted Entitled residential status under Regulations 2(1)(e) and 2(1)(f) of the Control of Housing and Work Law must have been continuously ordinarily resident in Jersey for a minimum of 10 years to be considered eligible to be a first-time buyer on grounds of their residential status.

3.5. Suspected infringements of first-time-buyer planning obligations should be referred to the Planning and Building Compliance Team (contact details in section 8).

4. Discretion applicable to purchase of first-time-buyer homes

4.1. Homes restricted for first-time buyers are a limited resource. The Minister therefore wishes to adhere to the principle that only Islanders who are first-time buyers, typically those in most need of assistance, can purchase such properties.

4.2. For this reason, anyone who is an existing property owner, or who has already benefitted financially from the sale of a residential property[3], will not normally qualify to purchase a property reserved for first-time buyers.

4.3. It is, however, recognised that there are limited exceptional circumstances where the Minister may exercise appropriate discretion to allow someone who is not a first-time buyer to purchase, occupy and use a property restricted to first-time buyers. These exceptional circumstances include the following considerations:

(a) **Inheritance:** Someone who is not a first-time buyer solely because they own or have owned some or all of a residential property that has been acquired through inheritance, where the inherited ownership does not provide them with a suitable unit of residential accommodation or yield a sufficient profit that would enable a purchase on the open market.

(b) **Relationship breakdown:** Someone who previously owned a property with a spouse or partner who had to sell the property because of a relationship breakdown or divorce where the splitting of previous household assets does not provide the new household with a suitable unit of residential accommodation or yield a sufficient profit that would enable a purchase on the open market.

(c) **Moving from a smaller first-time-buyer home to a larger one**: Someone who purchased their current home as a first-time buyer (consistent with this guidance), who then wishes to sell their existing home to buy a larger property that is restricted to first-time buyers. Typically, this exception is intended to allow a first-time buyer who purchased a flat to have the opportunity to buy a first-time-buyer house. This area of discretion is intended to encourage first-time buyers onto the property ladder without being penalised should they wish to move up the property ladder e.g., their personal circumstances change, and they need to move to a larger home.

- In these circumstances, someone who already owns a flat that is restricted to first-time buyers would, as expected, be required to sell to another first-time buyer.

- However, someone who has purchased an open market flat as a first-time buyer, would still be expected to sell their open market flat to a first-time buyer in order to benefit from Ministerial discretion to purchase a larger first-time-buyer home[4].

[3] This includes residential property anywhere in the world or any type of residential property in Jersey, including freehold, flying-freehold, or share transfer classes of property.
[4] It is accepted that the requirement to sell to a first-time buyer would lapse for all future sales of the open market property, unless a future vendor also wishes to receive Ministerial discretion to access a larger first-time buyer home.

4.4. Consent to purchase is unlikely to be offered to anyone who is not a first-time buyer whose circumstances fall outside of those described under para 4.3.

4.5. Someone may only request discretion to be given under one of the headings set out under para 4.3 and can only benefit from this discretion once.

4.6. In all circumstances, where the Minister is called upon to exercise discretion, the person would otherwise have financial difficulties purchasing a home in the open market for residential accommodation prevailing in Jersey and may be subject to extra financial tests. Assurances[5] or additional information as appropriate may be requested, including:

- confirmation of property valuation (share of property valuation)
- gross household income and current savings
- an assessment of assets such as land ownership
- number of family members in household
- equity (or expected equity) made from a sale
- deposit available towards a future purchase

4.7. If the first-time-buyer property that someone is seeking discretion to buy is subject to additional eligibility criteria (i.e., as part of a specific scheme), they will need to comply with the qualifying criteria of that scheme in the normal way.

4.8. Where someone who is not a first-time buyer and who has been given discretion to buy a first-time-buyer home, standard stamp duty or LTT rates will apply in all circumstances.

4.9. For the avoidance of doubt, the Minister is under no obligation to offer discretion to anyone who is not a first-time buyer who considers themselves to be in the circumstances set out under para 4.3.

4.10. The Minister for Housing and Communities is not able to offer discretion in respect of stamp duty liability.

5. Discretion applicable to leasing out of first-time-buyer homes

5.1. First-time-buyer homes are intended for owner-occupation and not for leasing out or use as second, holiday homes, short-term lets or full rental. First-time-buyer properties are there for Islanders who need help to own their home rather than to offer a rental investment opportunity.

5.2. It is understood that some first-time-buyer properties have controls in place that allow them to be leased out to another first-time buyer. This can be checked by researching the planning permission granted for the development at Planning and Building (gov.je) and also any restrictions listed in the Register of Planning Obligation Agreements. Leasing out this category of property, in accordance with the controls in place, would

[5] An assurance (verbal or written) from a law firm that confirms the circumstances of their client will be acceptable to Government of Jersey.

therefore be permissible. Checks may be undertaken to ensure any such homes have this specific exemption.

5.3. It is, however, recognised that there may be limited circumstances where a first-time buyer owner occupier, whose property does not have controls in place (as described in para 5.2), may be able to lease out their home with the permission of the Minister. For the Minister to consider any such request, as a minimum, the following conditions would need to be met:

All first-time-buyer owners:

(d) The first-time buyer owner occupier must provide a compelling reason[6] for needing to vacate their home and renting it out (e.g., working off Island on a temporary duty) and;

(e) The first-time-buyer home must be leased out to someone who qualifies as a first-time buyer or who is on the Affordable Housing Gateway waiting list and;

(f) The owner must only lease out their home for a limited duration, and for not more than 3 years, with the intention of returning to live in the property.

5.4. Owner occupiers who have purchased their home through a scheme that is subject to the Assisted Home Ownership Schemes Eligibility Criteria will be required to meet additional criteria to rent out their home. Anyone in these circumstances can contact the Housing Advice Service in the first instance (contact details in section 8) who will refer the request to the relevant authority (e.g., Andium Homes) for consideration.

5.5. The Government of Jersey will retain a record of first-time-buyer owners who have been given discretion to rent out their homes as set out under paras 5.3 and 5.4. Suspected infringements around the leasing of first-time-buyer homes should be referred to the Planning and Building Compliance Team (contact details in section 8).

5.6. It is the responsibility of the owner wishing to rent out their first-time-buyer property to ensure they have all necessary additional permissions to lease out their home e.g., from mortgage lenders, insurers etc. Evidence may be requested that relevant permissions have been granted. Any discretion offered by the Minister (as set out in section 5) in no way removes these obligations from the owner who wishes to lease out their property.

5.7. Requests to lease out first-time-buyer homes are considered on a case-by-case basis. The Minister is under no obligation to allow first-time-buyer homes to be leased out.

5.8. First-time buyer owner occupiers who wish to take in a lodger do not require permission to do so. A lodger does not need to be a first-time buyer.

6. Responsibilities and due diligence

[6] The Minister and/or Government Officers representing The Minister will assess whether the reason given is enough to justify a first-time buyer home being leased out and may request additional evidence as needed.

6.1. Prospective first-time buyers should consider engaging the services of a lawyer or other qualified conveyancer, in good time, to conduct the necessary due diligence for the purchase of a property that is the subject of a first-time-buyer restriction.

6.2. Section 2 of this guidance sets out who is a first-time buyer in Jersey. It is the responsibility of the prospective first-time buyer to determine if they are a first-time buyer.

6.3. As the restrictions applicable to different first-time-buyer developments vary, it is the responsibility of the buyer to know what restrictions apply to the property they wish to purchase i.e., liaising with the vendor (or the agent acting on behalf of the vendor) to ensure that they have disclosed the conditions attached to the property. This due diligence should be completed before entering any significant commitments associated with a purchase. Appendix 2 sets out the main groups of first-time-buyer developments in Jersey.

6.4. Prospective first-time buyers should be mindful that the restrictions on many first-time-buyer properties in Jersey apply in perpetuity. The first-time-buyer restriction should assist the purchaser in terms of price as they will only be competing with other first-time-buyer households. However, if the first-time buyer subsequently sells the property, equally, the price at that time is likely to be below the full market price as potential purchasers are also limited to new first-time buyers.

6.5. It is important for prospective first-time buyers, working through their representative as needed, to ensure that the relevant planning conditions or restrictions are reflected in any contract of sale.

6.6. Section 4 of this guidance sets out the very limited circumstances where someone who is not a first-time buyer may be given discretion to purchase a first-time-buyer property. It is the responsibility of the prospective buyer to ensure they have the necessary permission to proceed with the purchase.

6.7. Section 5 of this guidance sets out conditions required for an owner-occupier of a first-time-buyer property to lease out their home for a limited time. It is the responsibility of the owner to ensure they have all the necessary permissions in place to be able to lease out their first-time-buyer property.

6.8. If a prospective first-time buyer, or someone given discretion to buy a first-time-buyer property, or an owner who wishes to lease out their first-time-buyer property, submits incomplete, inaccurate, or misleading information in respect to their status or their circumstances, it could impact negatively on the related property transaction or lease arrangements.

7. Review of criteria

7.1. The Minister reserves the right to expand, change or modify any element of this eligibility criteria, as and when required, to ensure that it continues to reflect housing need, capacity, and resources.

8. Contact

8.1. The Housing Advice Service is the point of contact for all first-time-buyer related queries or for requests for Ministerial consideration and can be contacted as follows:

Housing Advice Service
T 01534 444444
E **housingadvice@gov.je**
Monday to Friday 8.30am to 5pm

Customer and Local Services
PO Box 55
La Motte Street
St Helier
Jersey
JE4 8PE

8.2. Suspected infringements of first-time-buyer planning obligations should be directed to the Planning and Building Compliance Team, who can be contacted as follows:

Planning and Building Compliance
T 01534 445508
E enforcement@gov.je
Monday to Friday 8.30am to 5pm

Infrastructure, Housing and Environment
PO Box 228
Jersey
JE4 9SS

APPENDIX 1

First-time-buyer duty rates

As set out in the Stamp Duties and Fees (Jersey) Law 1998, if a first-time buyer in Jersey purchases a property that is under £500,000, then a reduced amount of stamp duty or land transaction tax (LTT) is payable.

First-time buyer stamp duty rates against property values are as follows:

- 0% stamp duty up to a £350,000
- 1% stamp duty from £350,000 - £450,000
- Rate of stamp duty relief decreases incrementally from £450,000 - £500,000

There are assisted home ownership schemes where the property might be valued above £500,000 but the purchaser is funding less than £500,000 – the stamp duty reductions would apply in that case.

The Government of Jersey will complete a stamp duty review by the end of 2023 that will include first-time-buyer stamp duty rates.

APPENDIX 2

Four main types of first-time buyer development in Jersey

1. Developments which are first-time buyer in perpetuity by virtue of planning condition or obligation agreement.
2. Developments which are first-time buyer in perpetuity by virtue of planning condition or obligation agreement where purchasers must come from the Assisted Purchase Pathway.
3. Developments which are first-time buyer in perpetuity but on contractual basis rather than there being an explicit planning condition or obligation agreement on the land.
4. Developments which were first-time buyer on initial purchase but not in perpetuity.