



Ministry of Housing,
Communities &
Local Government

Use of receipts from Right to Buy sales

Consultation



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Scope of the consultation

Topic of this consultation:	This consultation seeks views on options for reforming the rules governing the use of Right to Buy receipts from the sale of council housing, and whether we should reform the commitment that every additional home sold (as a result of the increase in discounts in 2012) is replaced on a one-for-one basis nationally.
Scope of this consultation:	This consultation seeks views on the options and invites consultees to comment as well as respond to specific questions.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	The purpose of the consultation is to seek views on options to reform the rules governing the use of Right to Buy receipts. Any policy changes brought forward as a result of the consultation would be subject to appropriate assessment.

Basic Information

To:	This consultation is open to everyone. It is primarily aimed at stock-holding English local housing authorities.
Body/bodies responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation will last for 8 weeks and will close on 9 October 2018.
Enquiries:	For any enquiries about the consultation please contact RTBconsultation@communities.gsi.gov.uk .
How to respond:	<p>Consultation responses should be submitted by online survey: https://www.surveymonkey.co.uk/r/RTBconsultation</p> <p>We strongly encourage responses via the online survey, particularly from organisations with access to online facilities such as local authorities, representative bodies and businesses.</p> <p>Should you be unable to respond online we ask that you complete the pro forma at the end of this document. Additional information or evidence can be provided in addition to your completed pro forma.</p> <p>In these instances you can email your pro forma to: RTBconsultation@communities.gsi.gov.uk</p>

Or send to:
Right to Buy Consultation Response
Right to Buy and Local Authority Housing Division
Ministry of Housing, Communities and Local Government
3rd floor,
Fry Building
2 Marsham Street
LONDON
SW1P 4DF

When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post-code),
- an email address, and
- a contact telephone number

Introduction

- 1 The Social Housing Green Paper, “A new deal for social housing”, published today sets out the Government’s vision for social housing following wide ranging and extensive engagement with social housing residents and landlords. Social housing remains central to our supply ambitions, providing a stable base that supports people when they need it. But our social housing offer must also be one that supports social mobility. The Green Paper includes a chapter on supply and supporting home ownership which sets out options to support local authorities to build more homes. These include changing the rules around how local authorities can use the money raised from Right to Buy sales in order to make it easier for them to build more homes. This consultation paper provides the opportunity to comment on these ideas, which are set out in more detail below. It also sets out options for reforming the commitment that every additional home sold (as a result of the increase in discounts introduced in 2012) is replaced on a one-for-one basis nationally.

Background

- 2 Under current Right to Buy legislation, council tenants – and housing association tenants who transferred with their homes from council landlords – have the right to buy their home at a discount, with the amount of discount dependent upon the length of time as a social tenant. Right to Buy discounts are currently a maximum of £108,000 in London and £80,900 outside of London.
- 3 In April 2012 the Right to Buy was reinvigorated by the Government and the maximum Right to Buy discounts were increased. A commitment was also introduced for the first time that for every additional sale (above the original baseline forecast under the Self-Financing Settlement), a new affordable home would be provided nationally through acquisition or new supply. Local authorities could also enter into an agreement with the Government to retain these additional sales receipts to fund the provision of the replacement stock.
- 4 Under the terms of the current agreements, made under Section 11(6) of the Local Government Act 2003, local authorities are required to spend retained Right to Buy receipts within three years, and for the receipts to fund no more than 30% of the cost of a replacement unit. Where a local authority is unable to spend receipts within three years they have to be returned to the Ministry of Housing, Communities and Local Government, together with interest of 4% above base rate, to be spent on affordable housing through Homes England or the Greater London Authority.
- 5 Statistics released in March 2018 showed for the first time that while the overall number of homes available for social rent has increased, local authorities have not been building enough Right to Buy replacements to match the pace of sales and the commitment that every additional home sold would be replaced on a one-for-one basis nationally is no longer being met. It is clear that local authorities need to increase their rate of delivery of new homes if they are to match the growth in sales.

- 6 The Government recognises that more needs to be done to help councils deliver replacement homes and have already taken action. Local authorities in high affordability pressure areas are able to [bid for additional Housing Revenue Account borrowing](#) which can be used alongside their unspent Right to Buy receipts to build new homes, and we have set a longer-term rent deal to provide investment stability.
- 7 The Government is aware from engagement with the sector that the current restrictions around the use of Right to Buy one-for-one receipts are a barrier to delivery. To help councils build more homes, the Government believes there is a case for greater flexibility on the use of receipts from Right to Buy sales. In a written Ministerial statement issued on 29 March 2018, the Government said it would consult further with the sector on how local authorities can use their Right to Buy receipts, and how to ensure that we continue to support local authorities to build more council homes.
- 8 The purpose of this consultation paper is to seek views on options for reforming the rules governing the use of Right to Buy receipts from the sale of council housing, and options for reforming the commitment that every additional home sold (as a result of the increase in discounts in 2012), is replaced on a one-for-one basis nationally.
- 9 The paper poses a number of specific questions. When responding it would be useful if you could identify which questions you are answering. The questions are set out in the attached pro forma.

Options for reforming the rules around the use of Right to Buy receipts

1. Timeframe for spending Right to Buy receipts

- 10 Local authorities are currently required to spend their one-for-one Right to Buy receipts within three years. If the receipts are not spent within three years the authority has to return them to the Ministry of Housing, Communities and Local Government together with interest of 4% above base rate. Returned receipts are used through Homes England or the Greater London Authority for the provision of affordable housing. The Government is aware that local authorities are frustrated when they have to return receipts plus interest despite having developments in the pipeline that they could be used on if they were able to keep them for longer.
- 11 The Government is not, however, minded to extend the three year deadline for all receipts as the ambition is still for local authorities to deliver replacements quickly and local authorities have now had six years since the rules were introduced in 2012 to build up their experience and capacity to develop and deliver new housing.
- 12 The Government is considering allowing local authorities to hold receipts they currently retain for five years instead of three, to give them longer to spend the receipts that they already have. This would also be helpful for those local authorities that are successful

in bidding for additional borrowing through the Housing Revenue Account [additional borrowing programme](#). It would also allow time for the other flexibilities proposed in this paper to be introduced, which will help make it easier for both existing and future receipts to be used.

- 13 If this flexibility was introduced, it would be made clear which receipts would fall under the five-year rule and which would fall under the three-year rule based on the quarter the receipts were received.

Question 1:

We would welcome your views on extending the time limit for spending Right to Buy receipts from three years to five years for existing receipts but keeping the three-year deadline for future receipts.

2. Cap on expenditure per replacement unit

- 14 Right to Buy receipts can currently fund no more than 30% of the cost of a replacement home (whether through acquisition or new build) and local authorities have to find additional funding for the remaining 70%.
- 15 The Government believes that this should be feasible for authorities in typically higher-demand areas where the rental stream is sufficient to finance the remaining (up to) 70% through borrowing. However, if an authority is in a high-demand area but up against its borrowing cap and therefore unable to borrow, or in a low-demand area where they are able to borrow but rents are too low to finance the required level of borrowing, this can provide a significant stumbling block. It can also be problematic for authorities wanting to build homes for social rather than affordable rent, as these require a greater subsidy than 30%.
- 16 The Government is therefore considering allowing greater flexibility in the following circumstances:
- a) Increase the cap to 50% of build costs for homes for social rent in areas where authorities meet the eligibility criteria of the Affordable Homes Programme and can demonstrate a clear need for social rent over affordable rent; and
 - b) Allow local authorities to “top-up” insufficient Right to Buy receipts with funding from the Affordable Homes Programme up to 30% of build cost for affordable rent, or 50% of build costs for social rent where authorities can demonstrate a need for social rent, with bids for top-up to be submitted to the Affordable Homes Programme.

Question 2:

We would welcome your views on allowing flexibility around the 30% cap in the circumstances set out above, and whether there are any additional circumstances where flexibility should be considered.

3. Use of receipts for acquisition

17 Local authorities can use Right to Buy receipts for the acquisition of existing properties as well as for new build, and acquisitions currently account for around 40% of replacements. Last-minute high-value acquisitions, where local authorities use receipts rather than have to return them to the Department together with interest, have been highlighted as one of the problems affecting replacement. This has an impact on the level of new supply being achieved through Right to Buy receipts. However, in some areas acquisition may be cheaper than new build and offer better value for money or may better reflect local needs. Acquisition can also be effective in bringing empty properties back into use. The Government does not therefore propose to implement a blanket ban on acquisition but is considering restricting acquisitions in order to help drive up new supply.

18 We have considered restricting the use of receipts for acquisition by:

- a) introducing a price cap per dwelling based on average build costs at Homes England and Greater London Authority operating area level;

Table 1 – Average total scheme costs (build cost) by operating area provided by Homes England and the Greater London Authority.¹

Homes England/GLA Operating Areas	Average Total Scheme Costs (2018/19 prices)
Midlands	132,000
North East, Yorkshire and the Humber	113,000
North West	122,000
South East	167,000
South West	152,000
Inner London	268,000
Outer London	265,000

For example, in the North East or Yorkshire and the Humber areas, it may sometimes be cheaper to acquire a property for less than £113,000 rather than build a new unit. In this case, the local authority would be allowed to acquire the property rather than build a new unit.

However, in London, in most instances, it is likely to be cheaper to build a new property than to acquire one. Purchases of properties over £265,000 in Outer London and £268,000 in Inner London would not be allowed.

¹ This is based on programme data from the Affordable Homes Programme between 2015-18. These have been updated to 2018/19 prices using the Consumer Price Index (CPI) forecasts produced by the Office of Budget Responsibility from Spring Statement 2018

or

b) allowing acquisition in certain areas only, for example, where average build costs are more than acquisition costs.

Our preference is for option a) as option b) would effectively introduce a blanket ban in some areas, which would prevent acquisition of empty properties in those areas.

Question 3:

We would welcome your views on restricting the use of Right to Buy receipts on the acquisition of property and whether this should be implemented through a price cap per unit based on average build costs.

4. Tenure of replacement home

- 19 Housing built or acquired by local authorities using Right to Buy receipts has to be provided at affordable or social rent. There can be viability issues in providing homes under these tenures for some developments and the Government is considering allowing local authorities flexibility to use receipts for shared ownership housing as well as for affordable and social rent. This could help with viability in some areas and is in line with the definition of affordable housing used under the Affordable Homes Programme.
- 20 Whilst this flexibility could lead to a reduction in the number of replacements being offered at affordable or social rent in some areas, this would be a matter for local authorities to determine in accordance with local needs. We are aware from our engagement with local authorities that this flexibility is not, in any case, likely to be taken up in all areas.

Question 4:

We would welcome your views on allowing local authorities to use Right to Buy receipts for shared ownership units as well as units for affordable and social rent.

5. Changing the way the cost of land is treated

- 21 Local authorities have to account for their spending and income in a way that satisfies government regulations. Local authorities include most day-to-day spending and income within an account called the General Fund. The General Fund includes spending and income from a range of services including refuse collection, leisure facilities and community development work. Those authorities with a council-owned housing stock have a duty to maintain an additional account called the Housing Revenue Account. The Housing Revenue Account specifically accounts for spending and income relating to the management and maintenance of the council-owned housing stock.

- 22 The majority of local housing authorities (166) have a Housing Revenue Account. In other areas, all council homes have been transferred to Housing Associations. The Housing Revenue Account is governed by strict rules, set out in primary and secondary legislation which control rents and the type of tenancies that can be offered, and give tenants the Right to Buy. The Housing Revenue Account is separated from the local authority's General Fund by a "ring fence" to prevent council tax payers subsidising council housing, and vice versa.
- 23 Where local authorities want to use land in their General Fund to build housing on, they are required to compensate the General Fund from their Housing Revenue Account for the value of the land and the value of the land is not counted as a cost in calculating the authority's one-for-one expenditure. The Government is considering relaxing this restriction to allow local authorities to gift land from the General Fund to their Housing Revenue Account at zero cost, without increasing the Housing Revenue Account Capital Finance Requirement or increasing borrowing limits by the amount necessary to transfer land into the Housing Revenue Account. This will make it easier for local authorities to use land from within their General Fund for housing delivery.
- 24 We are considering limiting this to land which has been held in the General Fund for a number of years and are considering whether this should only apply to land which has not previously been developed or whether to also include land with derelict buildings.

Question 5A:

We would welcome your views on allowing the transfer of land from a local authority's General Fund to their Housing Revenue Account at zero cost.

Question 5B:

We would also welcome your views on how many years land should have been held by the local authority before it can be transferred at zero cost, and whether this should apply to land with derelict buildings as well as vacant land.

6. Transferring receipts to a Housing Company or Arm's-Length Management Organisation (ALMO)

- 25 Local authorities are increasingly setting up housing companies as a means of developing expertise and capacity in delivering new housing. Local authorities are not currently allowed to transfer Right to Buy receipts to a housing company or to an Arm's-Length Management Organisation as the homes built through these organisations do not come under the Housing Revenue Account and are, therefore, not subject to the same protections which residents in council homes enjoy. This means that rents are not set according to government policy and residents are not guaranteed a right to buy their homes.
- 26 The Government believes that, in general, social and affordable housing should be built and managed within a local authority's Housing Revenue Account so that residents' rights are protected and they have access to the Right to Buy. Maintaining this

provision also guarantees the integrity of the ring-fence, protecting both council tenants and Council Tax payers from their money being used for purposes that will not benefit them. However, Government recognises that there are occasions where delivering affordable housing through housing companies might be appropriate, such as where the Housing Revenue Account cannot sustain new building, and is seeking views on the use of Right to Buy receipts through these organisations.

- 27 The Government believes it is important that council social housing residents have the opportunity to realise their aspirations and become homeowners. Where housing companies are delivering and retaining affordable homes we expect them to offer an opportunity for tenants to become homeowners where feasible.

Question 6:

We would welcome your views on whether there are any circumstances where housing companies or Arm's-Length Management Organisations should be allowed to use Right to Buy receipts.

7. Temporary suspension of interest payments

- 28 If a local authority does not spend their Right to Buy receipts within three years the receipts have to be returned to the Ministry of Housing, Communities and Local Government, together with interest of 4% above base rate, to be spent on affordable housing through Homes England or the Greater London Authority. The intention is to encourage local authorities to return receipts sooner where they do not have immediate delivery plans.
- 29 We know that local authorities would prefer to spend the receipts themselves rather than return them to be spent by Homes England/Greater London Authority as returned receipts are not targeted at the local authority area they were returned from. However, there will be instances where a local authority is unable to spend their receipts within the timeframe and the Government is considering providing a short window of time during which local authorities could return receipts without interest.
- 30 If introduced, we consider that this flexibility would apply for one quarter only and that local authorities would be given advance notice of the timing to allow decisions to be taken on whether to return receipts. The period of time the flexibility would operate would tie in with the current Right to Buy pooling requirement timetable.

Question 7:

We would welcome your views on allowing a short period of time (three months) during which local authorities could return receipts without added interest.

8. Other Comments

31 We would welcome your views on other flexibilities which could be introduced to make it easier for local authorities to deliver new housing with their Right to Buy receipts.

Question 8:

Do you have any other comments to make on the use of Right to Buy receipts and ways to make it easier for local authorities to deliver replacement housing?

Reforming the replacement commitment

32 With the reinvigoration of Right to Buy in 2012, the Government committed to ensuring that, for every additional council home sold as a result of the increased discounts, a replacement home would be provided nationally through acquisition or new build.

33 Under the target as it currently stands, sales by each local authority are measured against a baseline of sales predicted pre-reinvigoration in 2012. For any sales above that baseline, councils can choose to keep a proportion of the money to invest in new housing for affordable and social rent, subject to the conditions set out earlier in the paper. If a local authority cannot meet these conditions, they must return the money to the Ministry of Housing, Communities and Local Government to be spent through Homes England or the Greater London Authority on affordable housing. The target measures these additional sales against the number of housing starts made by local authorities, Homes England or the Greater London Authority using the receipts from the additional sales.

34 The national target has now been missed for the last two quarters. This trend is set to continue. However, the measurement of the number of homes sold or acquired and the replacements built which count towards the commitment does not currently include:

- Homes sold by councils within the baseline forecast for Right to Buy sales from 2012
- Homes sold under the preserved Right to Buy
- Council homes sold other than through the Right to Buy
- Homes built by local authorities with grant and other funding
- Affordable homes built by housing associations

35 The current target focuses on the effects of one policy and does not take into account Government's other efforts to increase the net supply of social and affordable housing. The Government has a strong record of supporting the building of new social housing, which includes the £9 billion Affordable Homes Programme. As such, since 2012, the number of homes provided for social and affordable rent is 159,000, compared to local authority Right to Buy sales of 66,000. Taking into account the total net change in social and affordable rented housing stock, including the Preserved Right to Buy, other sales and losses due to demolitions, there has been a net increase of 49,000 social

and affordable rented homes since 2012. Therefore, the Government is consulting on whether it would be preferable to measure the overall effects of Government policy on social housing stock, instead of narrowly measuring it against the Right to Buy target.

- 36 One option would be for the Government to drop the current target and to focus on a broader measurement that takes into account all the social and affordable housing that has been sold or lost against the total number of additional social and affordable housing so that it is clear whether there has been an increase rather than loss overall. This would mean that all properties sold under the Right to Buy would be included rather than just those above the baseline forecast in 2012, as well as new social housing bought or built by local authorities and housing associations, regardless of how this has been funded.

Question 9:

Should the Government focus be on a wider measurement of the net increase in the supply of all social and affordable housing instead of the current measurement of additional homes sold and replaced under the Right to Buy? If the target were to change, we would welcome your views on what is the best alternative way to measure the effects of Government policies on the stock of affordable housing.

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex A.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Annex A: Personal data

The following is to explain your rights and give you the information you are entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name, address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gsi.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a Government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest, e.g. a consultation.

3. With whom we will be sharing your personal data

Personal data will not be shared outside of MHCLG. Any data that is shared beyond MHCLG will be anonymised.

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation.

5. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. The Data you provide directly will be stored by SurveyMonkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system. Data provided to Survey Monkey will be moved from there to our internal systems by March 2019.

Annex B: Consultation response proforma

If you are responding by email or in writing, please reply using this questionnaire proforma, which should be read alongside the consultation document. If you are completing the form online you are able to expand the comments box should you need more space.

Your Details (Required fields are indicated with an asterix(*))

Family Name (Surname)*	
First Name*	
Title	
Address	
City/Town*	
Postal Code*	
Telephone Number	
Email Address*	

Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?* (please tick as appropriate)

Personal View

Organisational Response

Name of Organisation (if applicable)

If you are responding on behalf of an organisation, please tick the box which best describes your organisation.

Local Authority (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)

Neighbourhood Planning Body/Parish or Town Council

Private Sector organisation (including housebuilders, housing associations, businesses, consultants)

Trade Association /Interest Group/Voluntary or Charitable organisation

Other (Please specify)

Options for reforming the rules around the use of Right to Buy receipts

Timeframe for spending Right to Buy receipts

Question 1:

We would welcome your views on extending the time limit for spending Right to Buy receipts from three years to five years for existing receipts but keeping the three year deadline for future receipts.

Please enter your comments here

Cap on expenditure per replacement unit

Question 2:

We would welcome your views on allowing flexibility around the 30% cap in the circumstances set out in the consultation paper, and whether there are any additional circumstances where flexibility should be considered.

Please enter your comments here

Use of receipts for acquisition

Question 3:

We would welcome your views on restricting the use of Right to Buy receipts on the acquisition of property and whether this should be implemented through a price cap per unit based on average build costs.

Please enter your comments here

Tenure of replacement home

Question 4:

We would welcome your views on allowing local authorities to use Right to Buy receipts for shared ownership units as well as units for affordable and social rent.

Please enter your comments here

Changing the way the cost of land is treated

Question 5A:

We would welcome your views on allowing the transfer of land from a local authority's General Fund to their Housing Revenue Account at zero cost.

Please enter your comments here

Question 5B:

We would also welcome your views on how many years land should have been held by the local authority before it can be transferred at zero cost, and whether this should apply to land with derelict buildings as well as vacant land.

Please enter your comments here

Transferring receipts to a Housing Company or Arm's-Length Management Organisation (ALMO)

Question 6:

We would welcome your views on whether there are any circumstances where housing companies or Arm's-Length Management Organisations should be allowed to use Right to Buy receipts.

Please enter your comments here

Temporary suspension of interest payments

Question 7:

We would welcome your views on allowing a short period of time (three months) during which local authorities could return receipts without added interest.

Please enter your comments here

Other comments

Question 8:

Do you have any other comments to make on the use of Right to Buy receipts and ways to make it easier for local authorities to deliver replacement housing?

Please enter your comments here

Reforming the replacement commitment

Question 9:

Should the Government focus be on a wider measurement of the net increase in the supply of all social and affordable housing instead of the current measurement of additional homes sold and replaced under the Right to Buy? If the target were to change, we would welcome your views on what is the best alternative way to measure the effects of Government policies on the stock of affordable housing.

Please enter your comments here