

Reforming the Right to Buy

Response from the Northern Housing Consortium

About us

The Northern Housing Consortium (NHC) is a membership organisation based in the North of England. We are the 'Voice of the North' working with local and combined authorities, housing associations and ALMOs to develop insight, influence and solutions to create better homes and places.

Introductory comments

While the Right to Buy (RTB) scheme has benefited tenants, it has also led to a significant loss of social housing.

Far more social homes are being lost each year than are being built, and these losses are accumulating. From the 32,559 homes in the North that have been sold as Right to Buy since 2012/13, there have been only 4,737 starts and acquisitions.¹ This is a replacement rate of 1 in every 7.

These losses, coupled with the failure to build new social homes, has caused homelessness to double over the same period. There are now almost 1.3 million households on social housing waiting lists and over 117,000 homeless households in temporary accommodation.

Amid rising living costs and the ongoing depletion of social housing, it is crucial to take stronger measures now to prevent further losses and ensure these essential homes are preserved for those who need them most.

To effectively tackle the housing crisis and help the Government reach its goal of "*delivering the biggest boost to social and affordable housing in a generation*", the Right to Buy policy needs a major overhaul to prevent further loss of social rented homes.

We welcome the proposed reforms to the Right to Buy policy, including the flexibilities introduced in July 2024 and the measures effective following the Autumn Budget. Reverting to regional discounts better reflects local housing markets. Some lower value areas in the North of England where discounts could be higher than the rent paid have experienced significant losses of social housing.

Given the scale of the losses, the modest adjustments will only provide limited help.

¹ MHCLG Replacements of Right to Buy Sales of Local Authority Stock (2023-24) Live Table 693

MHCLG estimates are that the recent changes could prevent 25,000 homes from being sold under the scheme over 5 years. However, over 14,000 homes were sold in 2022/23 alone. This means the recent adjustments are unlikely to make a significant difference in addressing the housing shortage.

Problems identified by members include:

- **RTB leads to a shortage of social housing.** Homes that were intended to be for social rent are sold at significant discounts, making it impossible to replace them on a one-to-one basis. The recent changes to discount levels will reduce sales, but for the sales that proceed, they are unlikely to be replaced on a one-to-one basis.
- **RTB in the Private Rented Sector.** The policy has led to over 40% of all homes sold under RTB being let in the private rented sector, often at unaffordable rent levels. As a result, many of the original tenants, who were meant to benefit from becoming homeowners, are no longer the beneficiaries.
- **RTB is outdated.** When it was introduced over 40 years ago, Right to Buy was the only way for low-income households to become homeowners. In that time, it has had only minor adjustments. There are now other Government programmes to help people get onto the home ownership ladder such as shared ownership, rent to buy or discounted market housing that offer support to get onto the housing ladder.
- **RTB policy is frequently abused.** Often, the people who benefit aren't the original tenants but other family members or private companies and landlords who profit from the public discounts. It is a risk that large discounts provide an incentive to profit from the system dishonestly and vetting procedures for local authorities are resource-intensive with our members already struggling to cope with the increase in applications arising from last year's reforms.
- **RTB Fraud.** The consultation is an opportunity to improve fraud prevention. Where finance is raised through ways other than the tenant, it raises concerns about possible fraud. The risk of fraud raises significant workload issues for local authorities in administering the scheme.

What is clear is the current Right to Buy policy is falling short of its original goal to help people achieve home ownership and is depleting the overall supply of social rented homes.

Fine-tuning the current Right to Buy policy will slow down the numbers of sales, but it will not stop the ongoing scale of loss of social homes. Alternative approaches are more likely to achieve significant net increases in social housing, thereby providing

advantages for the government, social housing tenants, housing associations, and local authorities.

Our suggestions include:

- **Devolving more decisions on key aspects of Right to Buy.** Local government must play a leading role in the supply of housing and achieving like-for-like replacement homes lost through Right to Buy.
- **Tailored Policy on Discounts.** Local decision making would allow local authorities to tailor discount policy to local markets, which is in addition to the new flexibilities of keeping 100% of sales receipts and removing restrictions on how much can be spent on replacement properties.
- **Spending Receipts.** Allowing local authorities to retain all the revenue from Right to Buy sales will help to improve their ability to build replacement homes. However, rising costs for land, labour, and materials, coupled with the added costs of meeting standards such as the Future Homes Standard and the Building Safety Levy, make it difficult to build enough new homes to replace those sold. The way that Right to Buy receipts are treated may help to support the delivery of new homes but do not go far enough and there is a role for devolved decision making whereby funding that is generated locally is retained locally.

It's clear that a more radical change is needed to reverse the loss of social housing through the Right to Buy scheme. This would increase the supply of social rented homes, meet the housing demand, and provide a fairer system to help more people achieve their ambitions of home ownership.

Our detailed responses, following member consultation, are below.

ELIGIBILITY

Question 1

How long do you think someone should be required to be a secure tenant before qualifying for the Right to Buy?

- 5 years
- 10 years
- More than 10 years ✓

We propose extending this period to 15 years, allowing local authorities the flexibility to tailor discounts to local markets, to reflect the additional years of rent payments.

Question 2

Should someone be prevented from exercising the Right to Buy if they have already benefitted from the Right or Buy or if they own another property?

- Yes ✓
- No
- Don't know

Question 3

Do you have any other views on criteria to determine eligibility for the Right to Buy?
[free text box]

Qualification period - a 10-year plus qualification period would align with proposed changes to restrictions on properties after sale and encourage people buying under the scheme to retain the property for longer. This would also encourage a commitment to the local area as well as reducing the risk of tenancies being sought as a means to quickly access discounted home ownership through Right to Buy.

Preventing Fraud - The existing Right to Buy scheme has faced significant fraud issues. Any changes to the scheme would need to include measures to prevent fraudulent applications*. This would help prevent people from exploiting the scheme for profit. The ability to purchase a property should be linked to the tenant's own ability to finance the purchase without reliance on relatives or third parties. The applicant (and sales should only be to the named tenant or joint tenants) should be required to demonstrate they have the financial capacity to be able to afford to purchase the home themselves.

*It is worth noting that, whilst welcoming the new reforms, the Autumn Budget measures, effective from 21 November 2024, led to a spike in applications with one of our members reporting 10 years' worth of applications in the few weeks leading up to the November reforms. Local authorities now have a task of vetting and confirming the legitimacy of all applications.

Reforms to Right to Buy require careful implementation to ensure fairness for tenants. To support tenants to make legitimate applications, our members suggest the establishment of a new advocacy service to support vulnerable tenants from exploitation, to ensure they were fully aware of their responsibilities and to reduce fraudulent activity.

DISCOUNTS AS A PERCENTAGE OF THE PROPERTY VALUE

Question 4

What level should the percentage discount for an eligible tenant start at and what level should the maximum percentage discount be?

Minimum percentage

- 0% ✓
- 1%

- 3%
- 5%

Maximum percentage

- 5% ✓
- 10%
- 15%
- 20%

A percentage discount can lead to dramatic reductions in lower housing markets. Ideally, any discount applied to the Right to Buy would be locally determined according to housing need and local circumstances. The levels of discount offered in the North have been too high. Whilst discount averages were 41% across the country in 2021/22, the regional variation was between 36% in the south and 48% in the north.² Discounts have been 'above the level required to achieve a reasonable level of Right to Buy take up.'³ There are now other options available, such as shared ownership, rent to buy or discounted market housing that offer support for those wishing to purchase a property but are unable to do so.

If a percentage is required, we would suggest 0% as the minimum and 5% as the maximum (as this was the best option in the proposal). Ultimately this is something that should be for local determination to better reflect local markets and local need for different types of housing.

Case Study - Portable Discounts

The RTB policy could build on some of the principles of the Right to Acquire Scheme for housing association properties. Previous tenancies can count towards the qualification period, even if they were not continuous. Tenants would be responsible for evidencing their eligibility (and this should only be the named tenant or joint tenants and not include wider family members or other individuals). With this local evaluation, tenants can use the incentive to buy a home on the open market or through low-cost ownership schemes (like shared ownership), but not to buy their current social rented home. This helps tenants move into homeownership, while protecting against the loss of social housing.

Question 5

² LGA research into RTB Savills 2023

³ LGA research into RTB Savills 2023

Do you agree that the same rules governing percentage discounts should apply to flats and houses, and that the discount should increase by 1% for every extra year that an individual has been a public sector tenant, up to the maximum?

- Yes ✓
- No [Please explain]
- Don't know

Question 6

Do you agree that cash caps should be retained alongside discounts capped at a percentage of the market value of the home?

- Yes ✓
- No
- Don't know

EXEMPTIONS

Question 7

Do you agree that the current exemptions to the Right to Buy scheme should be retained? If yes, please outline any changes that should be made to the exemptions.

- Yes ✓
[please outline if you also think there should be changes or additions]
- No
- Don't know

We agree with the commentary in the consultation document that the current criteria are outdated and should be reviewed, such as sheltered housing with resident wardens which is outdated, and clarification is needed on the position for bungalows. Bungalow accommodation could be exempted, as these are less likely to be replaced by new homes with supply continuing to decrease.

There is a view that flats could also be considered for exemption from the Right to Buy as difficulties arise in terms of maintenance and fire safety works where blocks of flats are not of the same tenure.

Additional exemptions also include new build social housing and retrofitted housing as referenced in Q8 and Q10.

There are particular issues for building new affordable housing and family homes in rural areas and there is a case for rural housing to receive additional protections. Overall, while there can be cost advantages to building in rural areas, these are often balanced by the additional expenses and logistical challenges

unique to rural construction. Also, having small pockets of stock in rural areas which is so disparate presents challenges around stock management when the stock is depleted though Right to Buy.

This is an element of the policy where decisions could be made locally and not at a national level. For example, one of our members noted that larger family homes should be exempt as these are in demand and have been sold at a disproportionately fast rate. In some local areas, certain types of properties are highly sought after, leading to a shortage. This differs from area to area and therefore needs local determination.

Question 8 Should newly built social housing be exempt from the Right to Buy?

Yes ✓

[If yes, please explain why the existing cost-floor provisions are insufficient]

No

Right to Buy policy remains a major disincentive to local authorities building new social housing through the HRA, even with time restrictions applied and a cost floor in place.

An exemption is an appropriate reform to give confidence to local authorities in deciding, positively, to develop new social housing. Giving councils the right to end Right to Buy for new homes would be an effective way to ensure they remained in social sector as long as possible. It would do so without affecting the rights of tenants in existing homes.

Extending the cost floor up to 30 years gives a greater degree of confidence to councils that homes built would not be sold for a loss for most of the period in which they are financed. However, they could still be sold off at any point. The existing cost-floor provisions are likely to be insufficient as they do not prevent the loss of a new build home under Right to Buy. Councils cannot get the rental income they need over a 30-year mortgage if having to sell at a Right to Buy discount.

Question 9

If yes, how long after construction should newly built social housing be exempt from the Right to Buy?

- 10 years
- 15 years
- 20 years
- 25 years
- 30 years

- Permanently ✓
- Other

Question 10

How can council investment in retrofitting or improving homes to a high standard be protected under the Right to Buy scheme?

- Amendments to the cost floor [please explain]
- Exemption for homes that have been retrofitted or improved to a high standard ✓

[please explain including length of any exemption]

- Other

We support the exemption for homes that have been retrofitted or improved to a high standard, for example, where properties are improved to an energy performance rating of A or B, these should be exempt from the Right to Buy permanently.

As this would need to have values or other clear definitions on what constitutes retrofitting works as opposed to other maintenance, we propose Government undertakes an assessment as to how properties which have been retrofitted or improved should be considered financially through the scheme.

Our research, Warm Homes, Green Jobs,⁴ showed that there is a strong strategic case for keeping retrofitted homes in their current tenure. Our evidence demonstrated that there is a strong case for exempting energy efficient homes on a case-by-case basis. This is further evidence for local decision making.

Question 11

If answering on behalf of a council, would exemptions to market rent homes have a significant impact in allowing more cross-subsidy for the building of affordable housing?

- Yes
- No

N/A

RESTRICTIONS ON PROPERTIES AFTER SALE

Question 12

⁴ NHC Warm Homes, Green Jobs 2024

Should the time period in which the council has the right to ask on the sale of the property for repayment of all or part of the discount received be increased from 5 years to 10 years?

- Yes ✓
- No [Please explain]
- Don't know

Question 13

Do you have any other views on restrictions that might apply to a property following its sale under the Right to Buy? [Free text box]

One way to help Local Authorities manage this is through extending their ability to refuse or restrict Right to Buy applications in geographically targeted areas.

Councils and metro mayors should be empowered to suspend the Right to Buy in areas under pressure and where it is contributing to affordable housing shortages. Ultimately local politicians are accountable to their electorates and would need to be confident there is sufficient support for any such decision.

REPLACEMENT TARGETS

Question 14

Should there be a target for all council homes sold under the Right to Buy to be replaced, as far as possible, with a home of the same size, tenure and/or location as the home sold? Please provide detail to support your answer and indicate which consideration is the most important (tenure, size or location).

- Yes
[please explain]
- No ✓
[please explain]

Whilst we see the merit in trying to provide a like-for-like property of the same tenure, size and/or location to where the home is sold, practically, our members view is that this would be unachievable. The replacement programme continues to fail to allow replacement of the properties sold, and this is particularly marked in lower value areas in the North. Generally, homes lost to Right to Buy are social rents but due to financial viability are replaced with Affordable Rents. If homes have to be replaced with the same tenure, then this is likely to result in fewer council homes being built unless there is top-up grant funding available. In terms of location, it is not always possible to develop new homes in the same location, especially if there is a time limit for

returning receipts. A requirement to replace properties in the same locations would only work if landlords had sufficient land available in the same area and where there is demand in the same area as the home lost to Right to Buy.

There should be enough flexibility within any criteria for local authorities to spend their receipts based on local intelligence relating to housing need at the time.

Our members report they are only able to replace a fraction of units lost as a consequence of the cost of new build far exceeding the market value, let alone the discounted price of Right to Buy units. Generally, there would need to be sufficient funding available to landlords to enable costs to be topped up as required for the replacement properties.

Right to buy receipts

Question 15

If answering on behalf of a council, do you have any evidence to demonstrate the impact of increased flexibilities around spending of Right to Buy receipts in accelerating and boosting replacement homes? [Free text box].

N/A

Question 16

Do you have any evidence to demonstrate that combining receipts with grant would accelerate and boost delivery of affordable housing and how the risk of double subsidy would be mitigated? [Free text box].

This proposal supports bringing forward brownfield redevelopment or other sites with exceptional costs, for example, cost of remediation or general viability issues.

Local authorities in the North have higher land remediation costs but ultimately, lower income from rents. This dilemma has come up time and again with our members as the investment needed to bring brownfield land to market and the complexities of each site, its potential use and viability as well as the specifics of the local market and cost to the public purse make it difficult to manage. Addressing this has been cited as being perhaps the single most important immediate measure that could be taken to accelerate the delivery of new homes in the North.

A one size fits all approach is not useful where land values are not there to trigger market-led solutions in many places.

Our research⁵ showed in the North of England, there is a massive opportunity with capacity for up to 320,000 new homes on over 6,400 hectares of brownfield land.

Right to Buy receipts should be reviewed in the context of Brownfield Funding, and this supports the Government's Brownfield First policy. Funding for unlocking brownfield land is essential to support a programme of social house building and is consistent with the new NPPF reforms and land-use policy.

Funding for the release of brownfield land, which could then be supplemented by flexible use of receipts for social housing should be considered a vital step for Government to take, and is consistent with the new planning reforms, and gives the best chance of meeting Government's overall housebuilding targets over the course of this parliament.

We welcome any acknowledgement that flexible use of grant funding to unlock this type of land, supported by receipts locally, will be key to future development and will support the building of more homes.

There is also scope for further devolution to give local government and combined authorities the flexibility to use funding where it's needed most.

The NHC research involved discussions with Mayoral Combined Authorities in the North of England. We would be keen to work with the Government to explore the options for combining RTB receipts with grant to deliver changes which will help our members to deliver more social rented housing and unleash the benefits of brownfield-first development.

Question 17

How long should councils have to spend their one-for-one receipts?

- 3 years
- 5 years (current rules)
- 8 years
- 10 years ✓
- More than 10 years
- Indefinitely

Given the significant financial challenges such as increased borrowing rates, inflationary and interest rate pressures, as well as the other restrictions on the spending on receipts, reinvesting receipts within five years has proved increasingly challenging, and we are therefore suggesting a longer period.

⁵ Brownfield First – how devolved brownfield funding can build a new generation of homes in the North

On more complex development sites, land assembly, design and planning may delay the use of receipts.

We support allowing councils to retain the receipts for a longer period provided these are reinvested in delivering new or replacement social rent homes. If a time limit is placed on this, receipts should be returned to the relevant Mayoral Combined Authority to reinvest in housing in their area.

Question 18 Should unspent replacement receipts be returned to the relevant Mayoral Combined Authority as happens currently with London Boroughs and the GLA?

- Yes ✓
- No
- Don't know

Question 19

Should the local authority share and buy-back allowance be incorporated within replacement receipts?

- Yes
- No
- Don't know ✓

Question 20

Do you agree that the total attributable debt should be calculated by multiplying the average attributable debt of each authority's housing stock?

- Yes
- No
- Don't know ✓

Question 21

Should the requirement to return 75% of mortgage repayments that relate to pre-2012 sales be ended?

- Yes
- No
- Don't know ✓

Question 22

Should the Secretary of State be provided with a power to set the rules governing the use of Right to Buy receipts by general determination?

- Yes
- No
- Don't know ✓

Question 23

Should Arm's Length Management Organisations (ALMOs) be permitted to use Right to Buy receipts to deliver new affordable housing?

- Yes ✓
- No
- Don't know

We support the flexibility for councils to transfer Right to Buy receipts to organisations for which they have a controlling interest, where these receipts would be used in a way that contributes to like-for-like replacement.

Even if there is a different financial reporting framework to consider, councils should be able to choose whether to invest receipts via their LHC or HRA.

Question 24

Do you have any other views on the rules governing Right to Buy receipts that have not been covered by the questions above? [Free text box]

Whilst it is too early to evidence the positive impact of the changes made following the July 2024 flexibilities, we would like to see greater long-term certainty around these flexibilities rather than a 24-month initial review.

Equality

Question 25

Do you believe any of the proposals set out in this consultation document could negatively or positively impact individuals who have a protected characteristic. Please explain your rationale, and evidence your thinking where possible.

- Age
In relation to exempt accommodation e.g. all sheltered housing, which should be protected from Right to Buy so it can be used by future households in need.
- Disability

In relation to exempt accommodation, which should be protected from Right to Buy so it can be used by future households in need.