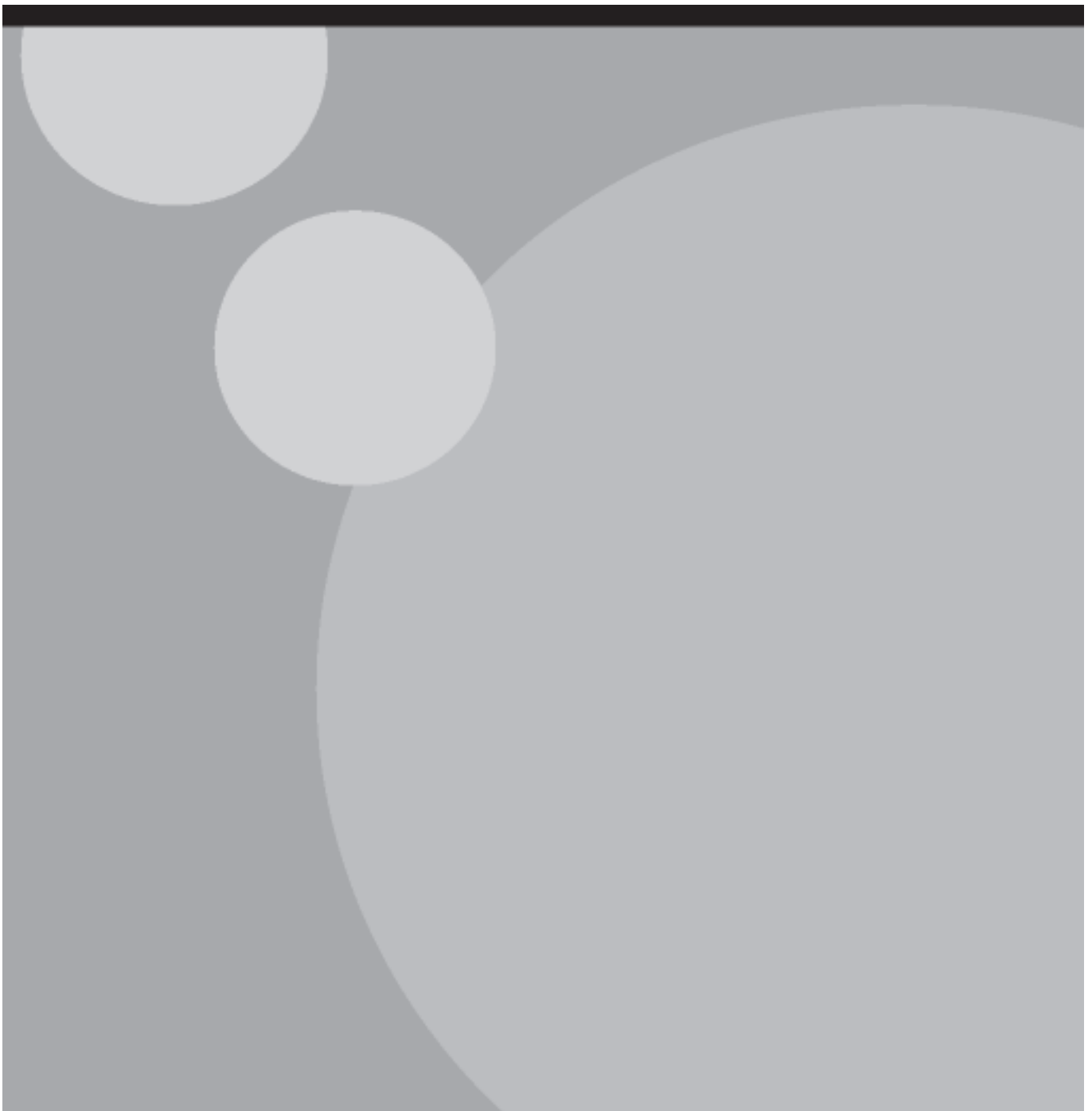




# Reinvigorating Right to Buy and One for One Replacement

Fact Sheet for Lenders





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## Fact Sheet for Lenders

March 2012  
Department for Communities and Local Government

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Any enquiries regarding this document/publication should be sent to us at:

Department for Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU  
Telephone: 030 3444 0000

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## Introduction

The Government is revitalising the Right to Buy scheme by increasing the discounts available to tenants from 2 April 2012.

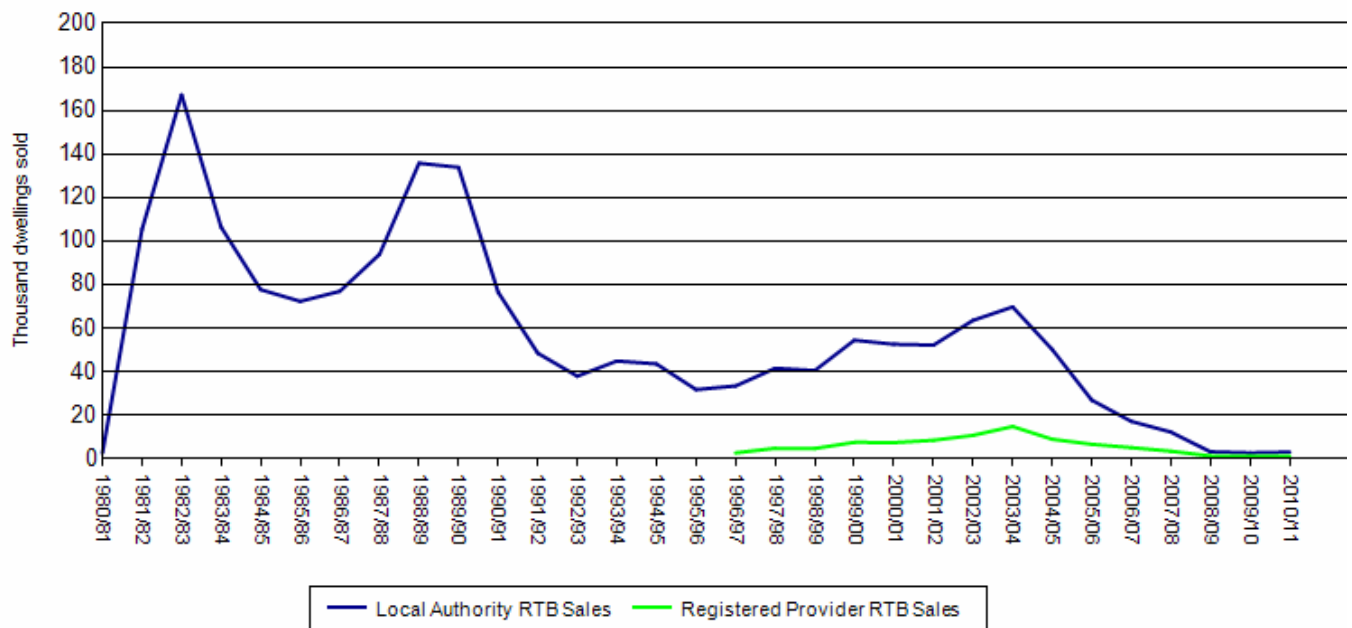
This fact sheet aims to provide information on the Government's proposals for lenders that are currently providing mortgage finance to Right to Buy purchasers, or considering entering this market.

## Background

The Right to Buy scheme was introduced in 1980 to help social tenants achieve their aspiration of home ownership. Just under 2 million homes have been bought under the scheme to date.

However, over the last few years sales have declined substantially from just over 84,000 in 2003/04 to under 3,700 in 2010/11. In part, this is due to the falling value of the Right to Buy discount.

**Chart 671 Social housing sales: Local Authority and Registered Provider stock sold through Right to Buy**



The Right to Buy discount increases with the length of tenancy up to a maximum limit. For houses, the discount is set at 35% of the property value plus 1% for each year beyond the qualifying period up to a maximum of 60%. For flats, the discount starts at 50% and rises by 2% each year up to a maximum of 70%. But the maximum discounts are subject to a monetary cap (see below) which has resulted in the average discount received on a Right to Buy sale falling to around 25%, ranging from 13% in London to 32% in the North West.

In its paper, *Laying the Foundations: A Housing Strategy for England* published in October 2011, the Government announced its intention to substantially increase the caps on Right to Buy discounts to give more social tenants the opportunity for home ownership.

### **Increasing the discount**

A consultation paper titled *Reinvigorating the Right to Buy and one for one replacement*, which detailed the Government's proposals, was published on 22 December 2011. The proposals involved increasing the cap on Right to Buy discounts from the current regional levels which range from £16,000 in most of London to £38,000 in the South East, to a national level of £50,000. A key feature was that the receipts from every additional home sold would be used to fund a replacement home for Affordable Rent on a one for one basis.

The document is available on the Department for Communities and Local Government website at:-

[www.communities.gov.uk/publications/housing/reinvigoratingrighttobuy](http://www.communities.gov.uk/publications/housing/reinvigoratingrighttobuy)

The Government has now announced its plans to implement a £75,000 cap. We have laid an Order before Parliament, with the intention of enabling tenants to take advantage of the increased discount from 2 April 2012.

A summary of the responses to the consultation, which closed on 2 February, is also available on the Department for Communities and Local Government website together with a copy of the final Impact Assessment

It is anticipated that some 20,000 additional Right to Buy sales will take place over the next 3 years as a result of the increased discounts.

The proportion of Right to Buy sales by area in 2010/11 was as follows:-

<u>North East</u>	<u>8%</u>
<u>North West</u>	<u>17%</u>
<u>Yorkshire and the Humber</u>	<u>15%</u>
<u>East Midlands</u>	<u>10%</u>
<u>West Midlands</u>	<u>16%</u>
<u>East</u>	<u>9%</u>
<u>London</u>	<u>10%</u>
<u>South East</u>	<u>10%</u>
<u>South West</u>	<u>5%</u>

As set out in the Impact Assessment, the Department for Communities and Local Government modelling suggests that with the enhanced discount, there will be a higher proportion of sales in London and South East.

## **Eligibility for Right to Buy**

Secure tenants of both local authorities and non-charitable housing associations have the Right to Buy if they have been public sector tenants for at least 5 years.

Assured tenants of housing associations who have transferred from a local authority to a housing association as part of a stock transfer retain their Right to Buy (this is known as Preserved Right to Buy).

There are no plans to change the eligibility criteria.

## **Suitability for Right to Buy**

The Government is providing greater opportunities for tenants to access home ownership but recognises that tenants considering Right to Buy need clear information on the costs of buying and maintaining their home, including on the responsibilities of becoming a leaseholder, if buying a flat. We want tenants to have easy access to both information and advice so that they can make informed choices about the suitability of the enhanced opportunity for their individual financial circumstances. This includes decisions on mortgage products. The aim is to mitigate the risk of home ownership becoming unsustainable.

The Department for Communities and Local Government already provides a comprehensive booklet for tenants, *Your Right to Buy your Home*, which is available on our website at:-

[www.communities.gov.uk/publications/housing/yourright](http://www.communities.gov.uk/publications/housing/yourright)

The booklet provides information on the costs and responsibilities of home ownership and is being refreshed to reflect the increased discount and to strengthen certain messages, for example, that tenants need to obtain appropriate financial and legal advice.

In addition, the Department for Communities and Local Government is planning to publish a new shorter user friendly guide for prospective Right to Buy purchasers to outline the key information tenants need to know and consider before deciding whether home ownership is right for them. Both the revised booklet and the new shorter guide will be available from the beginning of April.

The shorter guide, which will also be available in hard copy, will highlight in a clearer way the benefits, costs and risks of home ownership, including the financial responsibilities. It will strongly recommend that tenants considering purchase seek independent financial and legal advice. Tenants will be signposted to free independent advice offered, for example, by the Money Advice Service and The Leasehold Advisory Service (LEASE) for those considering buying a flat. The Department for Communities and Local Government has worked closely with the **Money Advice Service** to ensure

that their consumer information about Right to Buy is enhanced to coincide with the launch of the reinvigorated scheme.

[www.moneyadvice.service.org.uk](http://www.moneyadvice.service.org.uk)

### **The Financial Services Authority**

The Financial Services Authority currently requires firms to take account of consumers' ability to pay when providing mortgage finance, including for Right to Buy purchasers.

The Financial Services Authority is currently undertaking a wide ranging review of its mortgage regulation, the Mortgage Market Review, to enhance consumer protections. On 19 December 2011, it published a consultation paper (link below) with a number of proposals in the areas of responsible lending and the distribution of mortgages. This includes strengthened rules to ensure that mortgages, including to Right to Buy purchasers, are only provided to consumers where they are affordable – with firms having to assess the consumer's ability to pay based on their income and expenditure.

[www.fsa.gov.uk/library/policy/cp/2011/11\\_31.shtml](http://www.fsa.gov.uk/library/policy/cp/2011/11_31.shtml)

It also includes proposals for ensuring that vulnerable groups of consumers always get advice on their choice of mortgage product. It is proposed that Right to Buy consumers be included as one of these vulnerable groups of consumers, given the historically higher rate of repayment issues for these consumers compared to other borrowers.

### **Discount repayment and protection for lenders**

Where a tenant has purchased their home under Right to Buy and sells their home within 5 years of the purchase, they are required to repay to their former landlord some, or all, of the discount they have received. The amount they have to repay is based on the percentage discount they received on the purchase, how long they have owned the property and the resale value of the property.

Landlords have discretion to waive repayment of the discount if they consider it appropriate to do so, for example, where repayment would lead to demonstrable personal hardship or in the case of severe illness or where a move is essential for employment reasons. The Department for Communities and Local Government has issued a note which offers guidance on when, in the Government's view, it might be appropriate for landlords to exercise this discretion. This is available at:-

[www.communities.gov.uk/publications/housing/rtbdiscretionaryrepayment](http://www.communities.gov.uk/publications/housing/rtbdiscretionaryrepayment)

The landlord secures repayment of the discount by way of a charge on the property. However, under section 156 of the Housing Act 1985, authorised

mortgage lenders<sup>1</sup> have the first charge on the receipt from the sale of a Right to Buy property, ahead of the landlord's charge requiring repayment of discount.

Also in the event of repossession by a lender within the 5 year discount repayment period, the requirement to repay discount is not binding on the lender (by virtue of section 156(3A) of the Housing Act 1985).

### **Buying a leasehold property**

Leasehold properties, the vast majority of which are flats, currently make up around half of all local authority stock; this ranges from 78 per cent in London to 28 per cent in the North East.

In the past, major renovation programmes to improve local authority blocks of flats have generated significant service charge bills for a small number of Right to Buy owners.

Landlords are required to provide Right to Buy applicants with an estimate of any service charge they will have to pay during the first five years of their lease and cannot charge more than this figure during the first five years, except to take account of inflation.

The Department's booklet, *Thinking of buying a council flat?* provides information and guidance for tenants on the particular responsibilities associated with owning a leasehold property.

The booklet is available at:

[www.communities.gov.uk/publications/housing/thinkingbuying](http://www.communities.gov.uk/publications/housing/thinkingbuying)

The Department's new summary guide for tenants will also highlight key information for leaseholders and where prospective purchasers can go for advice, such as their landlord and The Leasehold Advisory Service.

Over the years a package of further measures has been introduced to assist leaseholders. This includes:-

- a good practice guide to help local authorities improve their management of service charges, and to avoid leaseholders being presented with unexpectedly or unreasonably high bills
- directions which require landlords to reduce service charges to no more than £10,000 in specific circumstances
- directions which allow landlords to voluntarily reduce service charges to £10,000

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<sup>1</sup> Authorised mortgage lenders are defined in section 622 of the Housing Act 1985 and include 'a person who has permission under Part 4 of the financial services and Markets Act 2000 to enter into a regulated mortgage contract as a lender'



- the requirement for local authorities to provide loans for service charges in the first 10 years following the Right to Buy purchase
- a financial incentive for local authorities to operate a Buyback scheme
- statutory rights for leaseholders to be consulted about major works and to challenge service charges

Together these have reduced the risk of Right to Buy leaseholders being faced with unexpected and unaffordable bills.

In addition to supporting leaseholders, the Buyback scheme empowers landlords to buy back any home which they have sold under the Right to Buy. Landlords are free to decide who to help, for example an owner facing difficulty in sustaining home ownership, and on what terms.

The Government will continue to provide some financial support for Buyback by meeting up to 50% of the costs incurred by local authorities in buying back properties. 45 local authorities indicated in responding to the question on buy back in the consultation that they had used this either to facilitate regeneration schemes or to provide for continued use of the property as social housing stock.

### **Exploitation of the Right to Buy scheme**

The Government recognises that, in the past, there has been potential for exploitation of the Right to Buy scheme. In particular, the substantially discounted price of Right to Buy homes led to some companies offering incentives to tenants to buy their homes and leave via a sale and lease back arrangement.

Several changes have been made to Right to Buy legislation to combat this. They include:

- defining agreements to resell as 'relevant disposals'. This means that, where tenants agree to a resale agreement, they must repay some or all of the discount based on the date the agreement was entered into
- extending the period during which discount is repayable from 3 years to 5 years
- changing the amount of discount repayable from a 'percentage of discount received' to a 'percentage based on the resale value of the property'
- introducing a right of first refusal requiring Right to Buy owners to offer their home back to a social landlord first, when they want to sell within 10 years. Landlords exercising their right of first refusal are required to buy back at market value.

These changes make sale and lease agreements less attractive. In addition, the *Your Right to Buy your Home* booklet carries warnings for tenants about approaches from Right to Buy companies, and advises them to talk to their

landlord or an advice service before signing up to any deal. The new summary guide will provide warnings about this issue also.

The Government will keep the issue of exploitation of the Right to Buy under review.

### **Purchasing with family members**

Family members may join in the Right to Buy purchase if they are on the tenancy agreement or if they have lived in the property (as their only or principal home) for at least 12 months immediately prior to the Right to Buy application being made.

Family members are defined in section 186 of the Housing Act 1985 and include children, aunts and uncles, and nephews and nieces. The landlord can, if they wish, allow any family member to join in purchasing a property under Right to Buy even if they do not meet the qualifying criteria.

There has been anecdotal evidence of exploitation of the Right to Buy by family members resulting in the Right to Buy owner experiencing difficulty in meeting their mortgage payments. The *Right to Buy your Home* booklet has been amended to highlight all the issues which a tenant should take into account when deciding whether to exercise their Right to Buy. The new shorter guide will also highlight the risks to the home owner if the arrangement of purchasing and sustaining home ownership with a family member subsequently breaks down.

### **Further information**

Contact details at Department for Communities and Local Government:

[rtb@communities.gsi.gov.uk](mailto:rtb@communities.gsi.gov.uk)

0303 444 3798