



Reinvigorating the Right to Buy and one for one replacement

Consultation



© Crown copyright, 2011

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.communities.gov.uk

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

December 2011

ISBN: 978-1-4098- 3291-1

Contents

Scope of the consultation.....	2
Summary	4
Introduction and background	4
The Government's proposals for tenants	6
Proposals for caps, discount rates and eligibility	6
Protecting tenants who exercise their Right to Buy	7
Preventing abuses	9
Tenants without a Right to Buy	10
Other home ownership schemes.....	10
Rural areas.....	11
Exclusions	11
The Government's proposals for <i>councils</i>	12
Use of Right to Buy receipts: proposals on allowances and deductions	12
Proposals for apportioning Right to Buy receipts	16
Proposals for changes to the Local Authority (Capital Finance and Accounting) Regulations 2003	18
Proposals for delivering Right to Buy replacement homes for Affordable Rent.....	19
The Government's proposals for <i>housing associations</i>	24
How Right to Buy will work in the housing association sector	24
The Government's proposals for <i>lenders</i>	27
Lenders and mortgages	27
Housing Benefit	27
Annex A: Protecting council and Government's projected shares of receipts.....	29
Annex B: New Burdens - covering local authority transaction and administration costs	32
Annex C: Attributable debt on additional sales	38
Annex D: Proposals for apportioning Right to Buy receipts	40
Annex E: Consultation criteria.....	45
Annex F: Summary of consultation questions.....	47

Scope of the consultation

Topic of this consultation	Changes to the Right to Buy which were set out in <i>Laying the Foundations: A Housing Strategy for England</i> .
Scope of the consultation	This consultation sets out proposals to increase the cap on Right to Buy discounts; and options for meeting this Government's commitment to ensure that every additional home sold under Right to Buy is replaced with a new home for Affordable Rent.
Geographical scope	England
Impact Assessment	A draft impact assessment is being published alongside this consultation document. We would welcome comments on the impact assessment by 2 February 2012

Basic information

To	This consultation is aimed primarily at local authorities, large scale voluntary transfer Private Registered Providers, and people who have the Right to Buy or Preserved Right to Buy.
Body responsible for the consultation	Department for Communities and Local Government
Duration	This is a six week consultation, beginning on 22 December 2011 and finishing on 2 February 2012
Enquiries	For any enquiries regarding this consultation document contact: <p style="text-align: center;">Annemarie Ward on 0303 444 3786 Andrew Lipinski on 0303 444 1685</p> Or by email: RTB@communities.gsi.gov.uk
How to respond	The Government would be pleased to receive any comments on this document. Comments should be sent to: Right to Buy Consultation Affordable Housing Regulation and Investment Division Zone 1/B3 Eland House Bressenden Place London SW1E 5DU

	<p>Or by email to: RTB@communities.gsi.gov.uk</p> <p>If you are responding by email please insert Right to Buy Consultation in the subject line.</p> <p>It would also be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.</p>
Additional ways to become involved	<p>We are engaging with the Local Government Association, National Housing Federation, Tenants' and Residents' Organisations of England, Tenants Participation Advisory Service and Chartered Institute for Housing through the consultation process. Otherwise, if you have any questions, please contact us using the details provided above.</p>
After the consultation	<p>A summary of the responses to consultation and the Government response will be published on the Department's website following consideration of the responses.</p>
Compliance with the Code of Practice on Consultation	<p>The consultation period has been set at six weeks in order to provide the opportunity for interested parties to respond to these proposals with the aim of their introduction as soon as possible, subject to the outcome of the consultation and Parliamentary approval of the changes to secondary legislation. These are changes to an existing programme and have been trailed in advance by Government in the housing strategy.</p>

Background

Getting to this stage	<p>The Government has made clear its intention to improve the levels of discount and to use receipts from additional Right to Buy sales for the paying down of debt and the provision on a one for one basis of homes for Affordable Rent</p>
Previous engagement	<p>Since the announcement in the housing strategy we have engaged with key partners on the details of the proposals on which we are consulting.</p>

Summary

The Housing Strategy

1. In its paper *Laying the Foundations: A Housing Strategy for England*, the Government announced its intention to increase the caps on Right to Buy discounts and “hence the average discount received by buyers in England would be up to half the value of their homes – which would be roughly double the current average discount”.
2. The strategy also set out Government’s commitment to ensuring that every additional home sold under the Right to Buy is replaced by a new home for Affordable Rent and that additional receipts from sales will be recycled towards the cost of replacement.

Introduction and background

Current arrangements

3. Under the 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 discount¹. Where a council makes a Right to Buy sale, the receipts² are subject to pooling. The council may retain the administrative costs of the sale and the costs incurred on improving the dwelling up to three years before the sale. After those costs have been taken into account, the council may retain 25 per cent of the remaining receipts and the balance of 75 per cent is paid to government.

¹ Right to Buy is available to secure tenants of local authorities and non-charitable housing associations. Assured tenants of housing associations who were secure tenants and have been transferred with their homes as part of a stock transfer from a local authority to a housing association also have the Right to Buy - this is known as Preserved Right to Buy. Broadly the same terms apply to both schemes.

² Apart from homes covered by an agreement between the local authority and the Secretary of State under section 80B of the Local Government and Housing Act 1989, which, in the main, are new homes built since July 2008

Proposed arrangements

4. The Government now intends that net receipts from sales (after allowable costs, repayment of housing debt and currently forecast receipts for councils and central government) should be used to replace the additional homes sold as a result of the higher discount levels. That is, all Right to Buy sales above current predicted levels will be replaced by new homes for Affordable Rent funded (in part) by the additional Right to Buy receipts.
5. The receipt needed to fund replacement will only be a fraction of the cost of a new home. This is because most of the funding for new affordable rented homes comes from borrowing by the provider against the future rental income stream and, in many cases, cross-subsidy from the landlord's own resources, including land.

This consultation

6. This document sets out this Government's detailed proposals to change the caps on discounts and the rates that will apply to Right to Buy sales.
7. We are consulting on:
 - our proposals to increase caps on the Right to Buy discount
 - protections for tenants who exercise their Right to Buy
 - preventing abuses
 - rural areas
 - exclusions
 - our proposals for councils on allowances and deductions from Right to Buy receipts
 - our proposals for councils in apportioning Right to Buy receipts
 - our proposals for changes to the Local Authority (Capital Finance and Accounting) Regulations 2003
 - our proposals for delivering Right to Buy replacement homes for Affordable Rent
 - how Right to Buy will work in the housing association sector
 - working with lenders.

The Government's proposals for tenants

8. To qualify for Right to Buy or Preserved Right to Buy, tenants must have spent five years as public sector tenants. Once eligible, current discount rates are:
 - for houses: 35 per cent of the property's value plus 1 per cent for each year beyond the qualifying period up to a maximum of 60 per cent
 - for flats: 50 per cent plus 2 per cent for each year beyond the qualifying period up to a maximum of 70 per cent.
9. In practice, most Right to Buy discounts are limited by caps set in secondary legislation. These currently range from £16,000 in most parts of London to £38,000 in parts of the South East. The effect of the caps is that the average discount rate received by buyers in England is around 25 per cent - ranging from 13 per cent in London to 32 per cent in the North West.

Proposals for caps, discount rates and eligibility

10. There is a balance to be made between offering generous discounts and having enough receipts to fund the building of replacement homes.
11. We propose to raise the upper limit (the cap) on the Right to Buy discount entitlement to £50,000 throughout England. This will be implemented by an order made under section 131 of the Housing Act 1985. This more than triples the cap currently applied in most of London and provides a substantial increase in the rest of England.
12. We are interested in views on whether there is a case for changing the minimum and maximum discount rates applying to houses and flats, or the rate at which tenants qualify for increased percentage discounts.
13. We do not intend to change the qualifying period for eligibility.
14. The proposed changes will also apply to the Preserved Right to Buy.
15. Subject to the outcome of the consultation and Parliamentary business, we plan to implement these changes in April 2012.

Q1: We would welcome views on the proposals outlined above

Protecting tenants who exercise their Right to Buy

The tenant experience and the responsibilities of home ownership

16. The responsibilities of home ownership are different from those facing tenants. The increased discounts offer new opportunities but it is important that tenants have clear information on what is involved in entering home ownership so that risks of them being unable to sustain owner occupation are mitigated.
17. The Department's booklet for tenants, *Your Right to Buy your Home*, which is available in both hard copy and on the website, will be updated. It currently includes advice on the costs and responsibilities of home ownership and the importance of obtaining independent legal and financial advice before deciding whether to buy. The booklet also provides a chart allowing tenants to compare the costs of renting or buying their home. In addition, free advice to help tenants understand what home ownership means is available through organisations such as the Money Advice Service.
18. The **Money Advice Service** provides free tailored money advice to help people make informed choices on financial matters. The service was set up by Government and is financed by a levy on financial services firms. It can be accessed online, over the phone or face to face.
19. The **Citizens Advice Bureau** also provides free information to tenants to help them understand the practical implications (both day-to-day and long term) of the change from being a council tenant to becoming a home owner. In addition, both the Citizens Advice Bureau and Shelter provide training to local authorities to enable their staff to give basic money advice to tenants.
20. In taking up the Right to Buy most tenants will fund their purchase through a mortgage. The discount offered reduces the mortgage required and means that the lender is able to offer a loan to value below that which would normally be required.
21. The **Financial Services Authority** currently requires firms to take account of consumer's ability to pay when providing mortgage finance. It is undertaking a wide ranging review of its mortgage regulation, the Mortgage Market Review, which includes proposals to strengthen rules to protect consumers. It published a consultation paper - http://www.fsa.gov.uk/pages/Library/Policy/CP/2011/11_31.shtml on 19 December 2011 with a number of proposals in the areas of responsible lending and the distribution of mortgages. The measures will apply to Right to Buy lending and will help prevent Right to Buy borrowers from getting into financial difficulty on their mortgage.

Leasehold service charges

22. Flats currently comprise around half of all local authority stock. Where a tenant buys a flat, they have to pay service charges which include costs for routine maintenance and for any major works. In some cases, major repair costs for blocks of flats have resulted in financial difficulties for some Right to Buy purchasers. In particular, major renovation programmes to improve local authority properties generated significant major works bills for a small number of Right to Buy leaseholders. Right to Buy purchasers may also find it harder to sell their home in the future if subsequent purchasers are likely to face large major repair bills.
23. A package of measures to assist leaseholders was introduced between 1997 and 2008 including:
- 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 providing for mandatory and/or discretionary reduction of service charges
 - the requirement for local authorities to provide loans for service charges
 - a financial incentive for local authorities to operate a Buyback³ scheme
 - statutory rights for leaseholders to be consulted about major works and to challenge service charges.
24. Together these have reduced the risk of Right to Buy leaseholders being faced with unexpected and unaffordable bills.
25. Tenants thinking of purchasing their flat under Right to Buy can obtain free advice and information from the **Leasehold Advisory Service**, a specialist body funded by the Department for Communities and Local Government to give independent advice on a wide range of residential leasehold issues.
26. In addition, the Department's booklet, *Thinking of buying a council flat?* provides information for tenants on the particular responsibilities associated with owning a flat.

Q2: Do you agree that information currently provided to prospective Right to Buy purchasers is sufficient? If not, what else should be included?

³ See paragraphs 55-57

Purchasing with family members

27. Family members may join in the 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.
28. Family members are defined in section 186 of the Housing Act 1985 and include children, aunts and uncles, and nephews and nieces.
29. 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.
30. There has been anecdotal evidence of family members encouraging tenants to exercise their Right to Buy and then persuading them to sell in order to realise the asset, resulting in the former tenant needing to be re-housed by a social landlord. 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.

Q3: Are there further steps which could be taken to ensure that tenants who purchase under Right to Buy know about and understand the implications of home ownership, including their obligations on becoming a leaseholder?

Preventing abuses

31. In the past companies have offered tenants a lump sum to take up their Right to Buy, leave the property having leased it to the company (who then sublet it at market rates), and agree to sell to the company after the end of the period for repayment of discount (a sale and lease agreement); and encouraged tenants to employ them to administer their Right to Buy purchase, often charging over the odds for their services.
32. Research by Heriot-Watt University on this issue, commissioned by the Department in 2003, concluded that this was almost entirely an inner London problem; that it was a cheap way for companies to build up a portfolio of private rented properties; and that it particularly attracted tenants in high rise blocks or on problem estates, and those who needed sub-prime mortgages.
33. The Housing Act 2004 made several changes to discourage Right to Buy exploitation:

- agreements to resell were defined 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
 - the period during which discount was repayable was extended from 3 years to 5 years
 - the amount of discount repayable changed from a ‘percentage of discount received’ to a ‘percentage based on the resale value of the property’
 - a right of first refusal was introduced, requiring Right to Buy owners to offer their home back to a social landlord first, when they wanted to sell.
34. These changes make sale and lease agreements less attractive. In addition, the Department’s booklet for tenants, *Your Right to Buy your Home*, carries warnings for tenants about approaches from Right to Buy companies
35. We want to strike a balance between guarding against abuse, and over-limiting the rights of individuals buying their own homes through the Right to Buy.
36. The Government considers that the current legislation on resale agreements and discount repayment, which have been introduced since the last peak in Right to Buy sales, are a proportionate response to the exploitation issue but will keep this under review.

Tenants without a Right to Buy

37. Not all social tenants have a Right to Buy their rented home. Some housing association tenants benefit from a Right to Acquire with slightly different terms and discount arrangements. The proposals for Right to Buy discount do not apply to the Right to Acquire. Some landlords may offer discounted voluntary sales schemes, including Social HomeBuy, to assist those tenants without a Right to Buy.

Other home ownership schemes

38. Irrespective of whether tenants have a Right to Buy, they will want to make informed choices about the range of home ownership options available, including other Government funded schemes such as shared ownership (part buy/part rent) and the FirstBuy equity loan scheme for which social tenants have priority. Further information on these schemes can be obtained from HomeBuy Agents. A list of HomeBuy Agents and their contact details is available at:

www.homesandcommunities.co.uk/homebuy_agents

Rural areas

39. Over the years, concern has been expressed over the impact of Right to Buy on rural areas where the original stock of council housing was small and high house prices made owner occupation inaccessible for many local people. A number of measures (under section 157 of the Housing Act 1985) ensure that properties sold under Right to Buy in rural areas remain in the ownership of local people. For example, where homes are sold under Right to Buy in National Parks, Areas of Outstanding Natural Beauty or areas designated as rural by the Secretary of State, social landlords can impose restrictions on their resale. The restrictions are either:
- that the property can only be resold to someone who has been living or working locally for at least three years; or
 - that if the owner wishes to resell within 10 years of the Right to Buy sale, they must first offer the property to the original social landlord.

Q4: We would welcome evidenced assessments of the impact on rural affordable housing of the proposed changes to Right to Buy discounts.

Exclusions

40. Some properties are excluded from the Right to Buy. These include, among others, homes which are suitable for occupation by older people, sheltered housing for older people and those with disabilities. There are no plans to change the rules on properties excluded from Right to Buy.

The Government's proposals for *councils*

Use of Right to Buy receipts: proposals on allowances and deductions

41. Right to Buy receipts include all receipts from tenants under Right to Buy legislation. Additionally, we propose to include receipts arising from voluntary sales at discounts to secure tenants, including some shared ownership sales as set out in our recent consultation *Streamlining council housing assets: Disposals and use of receipts*⁴. Receipts from Preserved Right to Buy sales are discussed later.

Loss of income to the Housing Revenue Account

42. The valuations used in calculating the self-financing settlement payments to end Housing Revenue Account subsidy include a forecast of lost surplus income arising from Right to Buy sales under the current Right to Buy policy. The methodology is set out in the consultation on *Housing Revenue Account Self-financing Determinations*, published on 21 November 2011 on the Department for Communities and Local Government's website⁵. However, under our proposals to reinvigorate Right to Buy, we expect sales to be substantially higher than the self financing projections, and we propose that a part of the Right to Buy receipt should be used to pay down the housing debt supportable from the lost income from these additional sales.
43. Our proposals for calculating the amount of housing debt that should be cleared are set out in Annex 3.

Q5: We would welcome your views on these proposals

⁴ www.communities.gov.uk/publications/housing/streamliningcouncilhousing

⁵ www.communities.gov.uk/publications/housing/draftdeterminationsselffinancing

Local authority transaction and administration costs

44. Under our proposals for increased discounts we expect take-up of the Right to Buy to be substantially higher than current levels and the costs of administering sales (successful and withdrawn) will rise correspondingly. Currently councils can deduct the actual administration and transaction costs of successful sales from Right to Buy receipts, but there is no allowance for costs relating to applications under Right to Buy which do not result in a sale.
45. We propose a simpler, fairer and more transparent system.
46. Councils will no longer need to make and justify expenses claims to central government, making a detailed retrospective allocation of staff time between successful and unsuccessful applications. This system encourages inefficiency and creates unnecessary red tape. Instead councils will be able to simply deduct and retain a flat rate per successful sale. They will continue to be able to charge administration costs to the Housing Revenue Account.
47. Flat rate allowances will be set for each region with regard to the 40th percentile of costs⁶ achieved by councils in that region over the last three years. Adopting a flat rate at the 40th percentile of costs provides a strong incentive to councils to achieve efficiency in their operations. Where councils are able to push costs below this figure they can retain the surplus.
48. The Government is considering making a further allowance to deduct the costs of handling withdrawn applications. This would be a helpful change for councils from the current position where such costs cannot be claimed. However we do not currently collect information on the number of cancelled applications and have limited evidence on the costs of administering these. We would therefore welcome any information councils can provide on actual numbers and costs incurred in managing applications which are subsequently withdrawn.
49. Annex 2 sets out the proposed flat rate allowances for transactional and administrative costs.

⁶ 40 per cent of councils have costs below the 40th percentile.

For local authorities:

Q6: What proportion of Right to Buy applications are subsequently withdrawn in your area?

Q7: What costs are incurred in managing aborted applications?

Improvement costs

50. Under current arrangements, councils can claim any costs they have incurred improving the sale property in the last three years from Right to Buy receipts. Whilst this has been an arrangement of long standing, we are no longer persuaded this is necessary or appropriate and propose to remove this allowance. To the extent that improvements increase the value of the property, this will be reflected in the market price and (at a discounted rate) in the Right to Buy receipt. Some improvement costs relate to expenditure under the Decent Homes programme which is funded by central government. Where the improvements do not increase the market value they are more of the nature of regular maintenance work which is a normal landlord responsibility.

For local authorities:

Q8: What sources of funding have you used for improvement works in your area?

Protecting council and central government projected shares of receipts

51. The Local Government Settlement was made on the basis of prudent assumptions about future receipts and these would have included council shares of Right to Buy receipts. Under current arrangements a council with retained stock can keep from any Right to Buy receipt the sale costs plus any costs incurred improving the property in the last three years. In limited circumstances they then have the option of using some of what is left to buy back former council homes. From whatever is left after that, 75 per cent is paid to government and 25 per cent is retained by the local authority which it may use for any capital purpose. In practice we understand that receipts are used for a variety of purposes including repayment of housing debt, private sector renewal and Disabled Facilities Grant.

52. We expect that councils will have made prudent projections of their share of future Right to Buy receipts in this spending review period (2011-12 to 2014-15) under current discount rates and we intend to implement arrangements which protect that income stream⁷.
53. Annex 1 sets out our calculations. These are based on published estimates of Right to Buy sales used in calculating financial arrangements for the self financing of council housing. We conclude that a reasonable estimate for local authority assumed income over the period is £253m. Some £24m has been received by councils to date in 2011-12 leaving £229m outstanding (referred to as *Local Authority assumed income* in the calculations).
54. We also intend to protect central government's projected share of Right to Buy receipts which are included in the Office for Budget Responsibility's public expenditure forecasts⁸. Central government's projected share of receipts from Right to Buy sales over the Spending Review period is £571m. Some £73m has been received by central government to date in 2011-12 leaving £498m outstanding (referred to as *Government assumed income* in calculations).
55. In respect of homes newly built or otherwise newly acquired, the Department will continue to accept applications to enter into agreements for sale receipts to be excluded from the pooling regime⁹.

Q9: We would welcome views on the proposed approach to projected receipts.

Buyback

56. Under current arrangements, councils have the option of using Right to Buy receipts to cover part of the costs of buying back former council homes. The Government is considering whether to continue to allow the use of receipts for this purpose once other costs have been covered.
57. The Buyback allowance, as currently proposed, is relatively high at 50 per cent of the cost to authorities of buying back former council homes and its extensive uptake by

⁷ This income stream can only be fully protected if receipts are sufficient to cover allowances, Local Authority assumed income and Government assumed income. Where receipts fall short, we propose that, after debt and other costs, receipts are shared between councils and Government (broadly in line with current arrangements).

⁸ Office for Budget Responsibility: November 2011 Economic and fiscal outlook

⁹ Currently such agreements are made under section 80B of the Local Government and Housing Act 1989, but post March 2012 will be made under section 174 of the Localism Act 2011.

councils would reduce funding available for replacement homes. Some homes bought under Buyback are added to the council's rental stock, but others are bought for demolition under estate regeneration schemes. Where the local authority lets a property bought under Buyback and commits to its long term use as social housing, then this would contribute to the one-for-one replacement numbers.

58. In coming to a decision on Buyback allowances, it would be helpful if councils using the scheme could provide information on the numbers of Buyback properties which have been brought back into rental use or have been demolished.

Q10: We would welcome any information councils can provide on the use of Buyback properties. We would also welcome views on this proposal.

Cost floor

59. Section 131 of the Housing Act 1985 (the cost floor) limits the Right to Buy discount to ensure that the purchase price of the property does not fall below what has been spent on building, buying, repairing or maintaining it over a certain period of time (relevant expenditure). This is to ensure that the public sector can generally recoup significant expenditure on upgrading homes. We do not propose to make any changes here.

Q11: Do you have any comments on this proposal?

Proposals for apportioning Right to Buy receipts

60. Where receipts are sufficient to cover all allowable costs and Local Authority and Government assumed income then we propose that councils should apportion Right to Buy receipts as follows:

from the receipt the council may deduct:

- housing debt supportable from the income on additional sales
- transaction and administration costs on all sales
- local authority assumed income

the council pays to central government:

- government assumed income

61. The remaining receipt is available to support funding for replacement homes. The treatment of the remaining balance will depend on decisions on Buyback and the delivery model implemented for replacement homes.
62. Our estimates of take-up for Right to Buy over the spending review period indicate that receipts are very likely to be sufficient to cover all allowable costs and local authority and government assumed income and to provide sufficient additional funding to secure one for one replacement on additional sales. However, in the event that receipts fall short, after debt and costs, the receipts would be shared between the council and government in proportion to their respective assumed incomes.
63. A more detailed explanation is at Annex 4.

Q12: We would welcome views on the calculation of allowable deductions

Proposals for changes to the Local Authority (Capital Finance and Accounting) Regulations 2003

64. The Government recently sought views on proposed amendments to the *Local Authority (Capital Finance and Accounting) (England) Regulations 2003* (Streamlining council housing asset management: disposals and use of receipts).
65. Consultation closed on 17 November 2011 and the Government expects to publish its response to the comments it has received shortly. The response will, however, be confined to those amendments relating to non-Right to Buy receipts: that is, receipts that are not the subject of this separate consultation exercise.
66. In relation to Right to Buy we propose to remove the current requirement to pool Right to Buy receipts. It will be replaced with a calculation that would apportion Right to Buy receipts as set out above.
67. The main provisions would:
 - remove the requirement to pool Right to Buy receipts as set out in the current regulations
 - provide for housing debt that is supportable from the income from additional sales
 - provide for administration and transaction costs on all sales and uplift for costs of handling withdrawn applications
 - require councils to use Right to Buy receipts up to the assumed levels (after paying housing debt and administrative costs) to pay the Government or itself the appropriate amounts
 - require councils to make Right to Buy receipts above the assumed levels (after paying attributable debt and administration costs) available to provide replacement social housing
68. A summary of the proposals and simple examples of how they would operate are at Annex 4.

Proposals for delivering Right to Buy replacement homes for Affordable Rent

Distribution of receipts from Right to Buy sales of council houses

69. Under our take-up modelling, receipts are generally greatest and sales increase the most in areas of high housing need, because these are the areas where house prices are highest and Right to Buy demand has previously been limited by setting the caps at low levels (for example £16,000 in much of London).
70. However, receipts generated locally will not necessarily secure one-for-one replacement in each area. For example, on average, our estimates suggest that receipts in the North West may be insufficient to support the funding required for one-for-one replacement while in London the receipt from a single sale could support more than one Affordable Rent replacement home.
71. This section sets out for consultation a range of possible delivery models for managing the replacement programme. These are:
- Local delivery – where receipts for replacement are left with the council where the Right to Buy sale took place for reinvestment
 - National delivery – where receipts for replacement are brought together and then allocated through the Greater London Authority in London and by the Homes and Communities Agency in the rest of England
 - Combined approaches – with some central direction on use of the receipts but leaving substantial local control.

Funding replacement homes

72. Under all models receipts used for replacement homes will need to be supplemented by borrowing, provider contributions in land or other funding. Unlike the current Affordable Homes Programme it is not intended to allow conversions¹⁰ to support funding for replacement affordable homes.

¹⁰ In the current Affordable Homes Programme, some of the additional funds for new affordable homes are generated by conversions. This allows registered providers to raise rents from lower social rents to higher Affordable Rents when the stock is re-let. The landlord can borrow against the increased rental stream providing the additional funds needed.

Replacement delivery models

Local Model

73. Receipts available for the delivery of replacement homes could be left with the local authority for investment in local priorities including new homes for Affordable Rent. Authorities could either choose to manage development themselves or to develop in partnership with neighbouring councils or to commission housing associations or other registered providers directly.
74. While we anticipate that most councils would prioritise the use of receipts for replacement homes, there may be some areas where, for example, estate regeneration or Decent Homes were considered more pressing and receipts applied for those purposes.
75. This approach is consistent with local authorities managing their own affairs and is generally consistent with replacement homes being built in areas of greater housing need. However, it would be unlikely that all the available receipts were used for replacement homes and so would be very unlikely to deliver one-for-one replacement at the national level.

Local model with Direction

76. Receipts available for the delivery of replacement homes could be left with the local authority with the requirement that they are used for investment in new homes for Affordable Rent.
77. Local authorities are well placed to decide where, what size and type of new homes for Affordable Rent should be provided and could use their own land and other resources to support development. They would be free to undertake development directly, to develop in partnership with neighbouring councils or to commission housing associations or other developers.
78. One way of directing local authorities to use available receipts for replacement homes would be to specify the uses of available receipts in the Local Government Capital Finance Regulations. Compliance could be checked by the local authority's auditor and failure to meet it would result in clawback. This Department would administer scrutiny and clawback arrangements (with consequent administration costs) and funds clawed back would be reinvested in Affordable Rent homes through the Homes and Communities Agency and the Greater London Authority.
79. In this model, councils would be free to decide the balance between receipts, their own resources and borrowing to support funding of replacement homes. There could be no obligation to use their own resources and so the proportion of receipt used for replacement would most probably be higher than necessary to secure one-for-one replacement at the national level.

80. This approach is consistent with local authorities managing their own affairs and is generally consistent with replacement homes being built in areas of greater housing need. However, while directing councils on the use of receipts is likely to increase the number of replacement homes (compared to the Local Model), it is still very unlikely to achieve one-for-one replacement across England

Local Model with Agreement

81. Receipts available for the delivery of replacement homes could be left with the local authority, subject to agreement with the Secretary of State, including agreement on the contribution to replacement costs that the council will make from its own resources.
82. The Secretary of State's agreement to leave receipts with a council could depend on a local funding plan for delivering new affordable homes. The plan would set out proposed borrowing, contributions the council would make from its own resources (land and funds) and a "maximum contribution" from available Right to Buy receipts. The maximum contribution would be agreed at a level intended to secure one-for-one replacement at a national level. The plan should also demonstrate that the council can secure value for money in its use of funding and is addressing need in the area. Under this model some areas would not be able to replace all additional Right to Buy sales while for others replacements would exceed sales.
83. Local authorities would report regularly on progress of the replacement programme to provide evidence they were delivering the replacement homes within a reasonable timeframe. If a local authority failed to meet its stated plans this Department would clawback the funding for redistribution.
84. This approach leaves receipts with local authorities which are able to demonstrate their ability to deliver good value for money in the use of receipts for replacement homes, and will secure one-for-one replacement at the national level. It is generally consistent with replacement homes being built in areas of greater housing need. However, the model adds a layer of administrative complexity and cost for both local authorities and this Department. It would require local authority proposals to be assessed, specific agreements to be drafted, and monitoring and enforcement arrangements implemented. It is likely that the delivery of replacement homes may take longer than through a national model.

National Model

85. Receipts available for replacement homes at Affordable Rent could be surrendered to this Department which would pass these to the Greater London Authority and the Homes and Communities Agency to manage replacement programmes in London and the rest of England. The programme could be managed along the lines of the previous National Affordable Homes Programme, whereby providers, including councils, would bid for

replacement funds for use in their areas on a continuous basis (known as continuous market engagement).

86. The Homes and Communities Agency would reinvest within each of their five operating areas¹¹ and within those areas give priority to local authority areas where there has been a high volume of sales and which had high levels of need. Similar arrangements could operate in London through the Greater London Authority.
87. As under the Affordable Housing Programme, local authority endorsement would be sought for proposals in their areas to ensure fit with local priorities. This approach would take advantage of the efficiencies of scale and value for money that both the Homes and Communities Agency and the Greater London Authority can achieve through the competitive process and funds could be directed to areas of higher need. However, it implies a less direct route for local decision making in allocating funds and some local authorities might be less willing to provide their own land to support development.
88. This approach would allow some redistribution of funding between council areas and provide an open and efficient procurement process through continuous market engagement. It is probably best placed to achieve one for one replacement nationally but would have less local support from councils than Local Models.

Consideration of Models

89. Local Models are most consistent with arrangements where receipts are spent where they are generated. While this will not ensure one-for-one replacement in every locality, under the Local Model with Agreement it could be consistent with national one-for-one replacement.
90. Local Models are consistent with councils managing their own affairs and bringing to bear local knowledge on priorities. However, competition from developers to build replacement homes may be limited by the small scale of some local replacement requirements and a limited number of developers based in the area. To some extent this drawback would be mitigated in the Local Model with Agreement where value for money benchmarks could be incorporated into decisions.
91. Local Models may not work for all councils. Some may not wish to manage the development process and might prefer to bid into a centralised scheme for delivering replacement homes. Others may not be able to borrow to fund the full cost of development if they are operating close to their borrowing limits under self financing and some may not wish to participate in a replacement programme. If a Local Model is chosen, then arrangements through the Homes and Communities Agency and the Greater London Authority would still be required to manage available receipts of those councils who did not wish to manage locally.

¹¹ From 1 April 2012

92. The Local and National Models could be adapted to allow some redistribution from “high receipt” areas to “lower receipt” areas. In high receipt areas, local authorities would surrender “surplus” receipts to this Department but they would continue to lead on delivering their local replacement programmes funded from retained receipts. This Department could then pass the surplus receipts either to councils with lower receipt levels for use in their local replacement programmes or to the Greater London Authority in London and the Homes and Communities Agency in the rest of England to administer replacement programmes. Redistribution would be more consistent with one-for-one replacement locally, if that were an objective, but adds administrative complexity to the Models.
93. If some redistribution is agreed we will need to decide whether receipts arising in London should be ringfenced for use in London. This would limit the potential for national redistribution but might reflect the higher need for affordable housing in London.
94. Under Local Models we would have to develop arrangements for monitoring of replacements. For the Local Model and Local Model with Direction, monitoring could be implemented through completion of a new section in the annual return of the English Local Authority Statistics on Housing to this Department. This is an annual return completed by local authorities on a voluntary basis. For the Local Model with Agreement, this Department would need to set up a monitoring regime. For the National Model, monitoring would be through the Homes and Communities Agency and Greater London Authority’s existing systems.
95. Under all Models, where local authorities develop homes for Affordable Rent, they would need to gain exemption from the limit rent in order to retain the benefit of the higher Affordable Rent. Arrangements to achieve this could build on those used in the current Affordable Homes Programme where local authorities developing homes for Affordable Rent are required to gain the Homes and Communities Agency’s support. Similar arrangements enable private registered providers to deliver Affordable Rent homes without grant from the Homes and Communities Agency; these arrangements would need to be adapted to support the provision of council funded Affordable Rent homes by private registered providers.

Criteria for decisions

96. The critical issues in deciding between these models will be the extent to which the arrangements:
 - can secure competition and value for money in commissioning replacement homes
 - provide assurance that, for England as a whole, one-for-one replacement is secured
 - secure replacement in a reasonable timeframe
 - deliver replacement homes in areas of higher housing need, and

- are administratively simple and transparent.

Q13: Which model for delivery of replacement housing do you consider the most appropriate, and why?

The Government's proposals for *housing associations*

How Right to Buy will work in the housing association sector

Tenants benefiting

97. Assured tenants of housing associations who were secure tenants of a local authority and have transferred with their homes as part of a stock transfer from the local authority to a housing association also have a right to buy – this is known as the Preserved Right to Buy.
98. Eligibility, discount rates and caps applying to Right to Buy automatically apply to Preserved Right to Buy.
99. The number of tenants with Preserved Right to Buy is not known directly but on the basis of a number of reasonable assumptions we estimate that about 620,000 tenants in the housing association sector are eligible.

Allocation of receipts

100. Arrangements for distributing receipts from Preserved Right to Buy sales in the housing association sector are varied and depend on the local agreements made with transferring councils. In most cases Preserved Right to Buy sale receipts are shared between the housing association and council but for early transfers (pre 1991-92) associations generally retain the full receipt. Where receipts are shared the portion retained by the association covers sales costs and compensates for lost rental income. This is important so that the sale has a minimal impact on the association's business plan and it can continue to meet loan covenants.

101. Again, we do not have precise figures for the number of Preserved Right to Buy tenants in associations with sharing agreements but we have estimated the figure at around 530,000 – about 85 per cent of the tenants eligible for Preserved Right to Buy.

Arrangements for replacement

102. As housing associations are independent organisations, we do not wish or intend to mandate what associations do with any receipts they retain. In practice, any surplus receipts (after costs and compensation for lost rental income) retained by associations are likely to be recycled to support new build and other public benefits. We estimate that around 70 per cent of tenants (440,000) with Preserved Right to Buy are in associations with development programmes participating in the Affordable Homes Programme.

103. However we want to consider whether there are further steps we could take to incentivise the use of surplus receipts for replacement. For associations delivering new homes under the Affordable Homes Programme, options include:

- giving associations who invest Right to Buy receipts in replacement homes priority to any extra funds available in the Affordable Homes Programme resulting from slippage
- giving priority in any future funding to associations who have used receipts for replacement, and
- where surplus Right to Buy receipts are insufficient to fund one-for-one replacement and the association has a value for money proposal, the Homes and Communities Agency would seek to prioritise funds to make up the shortfall if resource were available.

104. As ever, all funding decisions would also take account of comparative value for money and deliverability of proposals.

105. For providers who are not developing under the main Affordable Homes Programme, the Homes and Communities Agency could incentivise reinvestment of proceeds in replacements by offering to broker working with an investment partnership delivering under the main programme to assist in development and identification of schemes.

106. Where receipts are shared with councils it is our expectation that associations will work with them to develop replacement homes.

Q14: How can housing associations and councils be further encouraged to use receipts from Preserved Right to Buy sales to support provision of replacement homes?

107. At the next spending review we will review progress achieved in replacing homes sold under Preserved Right to Buy.

Management costs

108. Under our proposals to increase average discounts on Right to Buy and Preserved Right to Buy sales, we expect take-up of the right to be substantially higher than current levels and costs of administering sales (successful and withdrawn) will rise correspondingly. Where associations retain all receipts, our modeling indicates overall receipts will be sufficient to cover administration and transaction costs as well as any attributable debt on properties sold.

109. Where associations share receipts with councils, under current arrangements, they can deduct sale costs from receipts and this will continue to be the case. Such associations cannot claim for costs of failed or withdrawn applications and it is likely that these will rise in line with sales when discounts are made more generous. However, whilst costs will rise compared to current low levels of Preserved Right to Buy activity, take up modeling indicates that sales will still be below levels when most transfer deals were negotiated. Again estimates based on regional averages for costs, debt and projected receipts show that receipts should more than cover administration costs and attributable debt.

For housing associations:

Q15: If there are any exceptions where administration and debt costs cannot be covered, please provide details.

The Government's proposals for *lenders*

Lenders and mortgages

110. In taking up their Right to Buy, most tenants will fund their purchase through a mortgage. The discount offered reduces the mortgage required and means that the lender is able to potentially offer a loan to value below that typically required by first time buyers.
111. A portion of the discount is required to be repaid if the property is sold within the first five years, based on a percentage of the resale value of the property.
112. The Government would expect that all lenders ensure that any mortgage granted takes proper consideration of the consumer's affordability and creditworthiness, and makes an appropriate assessment of risk.
113. The Government wants to ensure that all creditworthy borrowers have access to a choice of mortgages from a range of different competing providers. However, the Government recognises that decisions concerning the pricing and availability of mortgages remain commercial decisions for individual banks and building societies, and does not seek to intervene in these decisions.

Housing Benefit

114. Under Right to Buy, any tenants currently receiving Housing Benefit (where housing benefit is taken to be the housing element of universal credit or pension credit) who choose to purchase their home would lose their entitlement to Housing Benefit. This would reduce the longer term housing benefit costs associated with losing a social unit and replacement with an Affordable Rent unit.
115. The impact assessment estimates the potential Housing Benefit implications of changes to the Right to Buy policy and, within this, the Department modeling currently uses a central assumption that the equivalent of 15 per cent of Right to Buy purchasers will be on full Housing Benefit. Given the high degree of uncertainty associated with this assumption, the Department has undertaken sensitivity analysis with the assumed proportion ranging from nil to 25 per cent of Right to Buy purchasers on full Housing Benefit.

Q16: Based on your experience, are you able to provide any evidence on the likely percentage of Right to Buy purchasers on Housing Benefit?

Annex A: Protecting council and Government's projected shares of receipts

A 1. This annex sets out:

- the Government's estimate of reasonable projections for councils' share of future Right to Buy receipts in this spending review period (2011-12 to 2014-15) under current discount rates. This is referred to as **Local Authority assumed income**. The calculation below is done at the national level for illustration. We have published estimates for each local authority at:

www.communities.gov.uk/documents/housing/xls/2051863.xls

- The Office for Budget Responsibility's estimates of the Government's share of national Right to Buy receipts incorporated in public expenditure forecasts referred to as **Government assumed income**. We intend to allocate these amounts at local authority level in the same proportions as Local Authority Assumed income. The calculation below is done at the national level for illustration. We have published estimates for each local authority at:

www.communities.gov.uk/documents/housing/xls/2051863.xls

Local Authority assumed income

A 2. An allowance for debt on Right to Buy sales under current discounts has been incorporated in the self financing arrangements¹². Right to Buy projections were made for 30 years and the projections for England in the spending review period are in the top row of the table below.

A 3. Under current arrangements councils take from Right to Buy receipts any costs associated with administering the disposal (average £2,000 per dwelling) plus any costs they have incurred improving the property in the last three years (approximate average £700 per dwelling). They then have the option of using some of what is left to buy back former council homes. From the remainder the council retains 25 per cent and 75 per cent is paid to central government.

A 4. In 2011-12, to date, councils have already retained £24m but, following the Prime Minister's announcement of proposals to increase discounts, Right to Buy sales are likely to be delayed until the new policy is implemented next financial year. It is likely

¹² The consultation on the draft self financing determinations is available on the Department for Communities and Local Government website at:

www.communities.gov.uk/publications/housing/draftdeterminationsselffinancing

that applications withdrawn will be submitted once the higher caps are in place and sales lost this year will be achieved early next year. We have adjusted for the loss of income to councils this year by increasing the Local Authority assumed income estimate for 2012-13 in the table below.

A 5. Based on the average capital receipts pooled by authorities in the last three years¹³; the current caps and discounts; and with average effective discount rates remaining unchanged, the projected council share of national receipts over the spending review period would be:

Calculation of Local Authority assumed income	2011-12	2012-13	2013-14	2014-15	Total
Projected sales	2,410	2,955	3,458	3,878	12,700
Projected total receipts £m	194	238	279	313	1024
admin costs £m	5	6	7	8	25
improvement costs	2	2	2	3	9
Buy back costs					
Available for pooling	187	230	269	302	988
LA retain for capital purposes - 25% pooled funds	48	59	69	77	253
Receipts to date (December 2011)	24				
LA assumed income - before adjustment	24	59	69	77	229
Adjustment for loss of income in 2011-12	-24	24	0	0	0
LA assumed income	0	83	69	77	229

Government assumed income

A 6. The Office for Budget Responsibility has independently calculated the receipts expected in the Spending Review period from Right to Buy sales¹⁴. In 2011-12, to date, central

¹³ Based on P1B returns – see www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/socialhousingsales/livables/

¹⁴ Office for Budget Responsibility: November 2011 Economic and fiscal outlook

Government has received £73m but, following the Prime Minister's announcement of proposals to increase discounts, Right to Buy sales are likely to be delayed until the new policy is implemented next financial year. We have adjusted the Government's assumed income between 2011-12 and 2012-13 in the same way as for Local Authority assumed income in the table below.

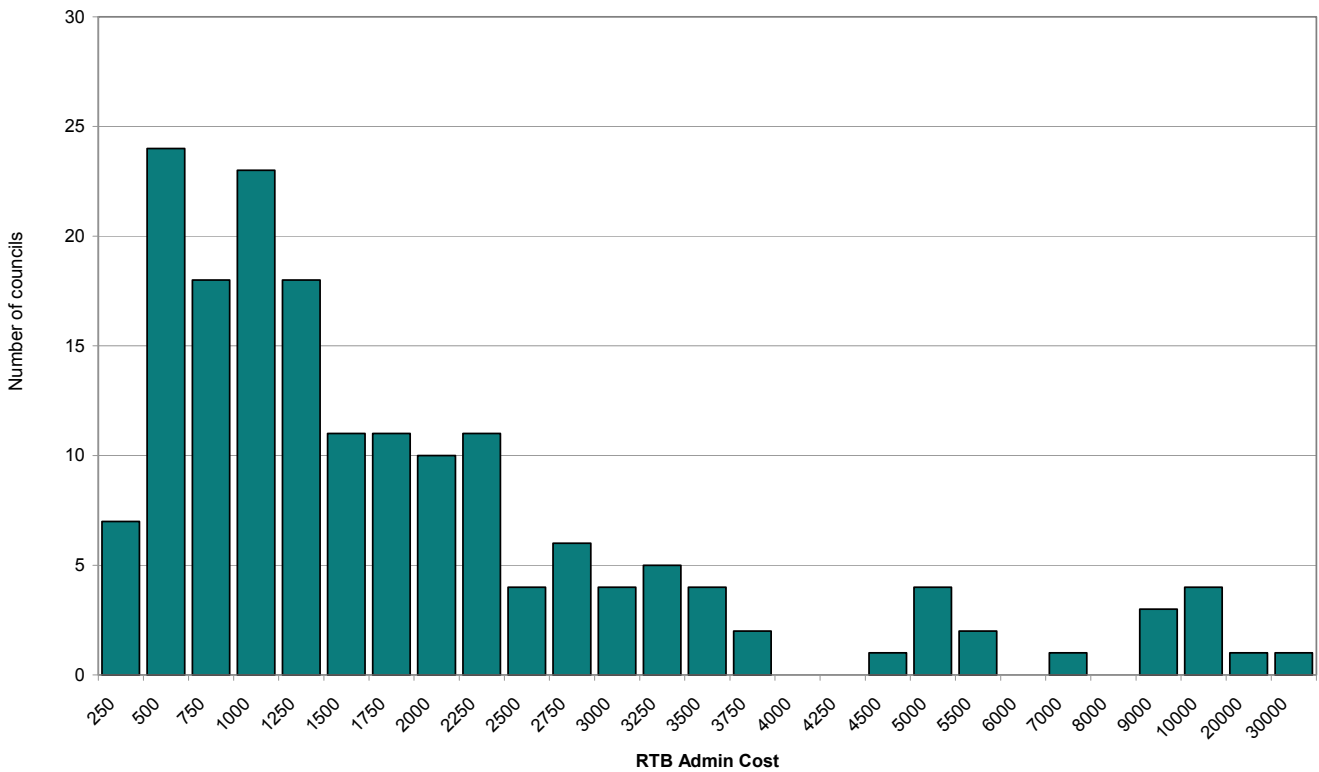
Calculation of Government assumed income	2011-12	2012-13	2013-14	2014-15	Total
Right to Buy receipts forecast £m	115	135	153	168	571
Receipts to date £m	73				
Right to Buy receipts forecast £m	42	135	153	168	498
Adjustment for loss of income in 2011-12	-42	42	0	0	0
Government assumed income	0	177	153	168	498

Annex B: New Burdens - covering local authority transaction and administration costs

B 1. This annex illustrates the range of transaction and administration costs incurred by councils in dealing with sales under Right to Buy and sets out our proposals for changes to allowances.

B 2. The histogram illustrates the surprisingly wide distribution of costs incurred by councils in administering Right to Buy sales, even taking into account the fact that some administrative costs included here may stem from housing disposals other than Right to Buy sales. The figures are based on the annual audit forms submitted by each council with any subsequent adjustments agreed by the council, its auditor and the Department for Communities and Local Government.

Distribution of transaction and administration costs



B 3. The tables below illustrate the regional variation in average costs per Right to Buy sale and costs at various percentiles. These again show surprising variation in managing costs. The final row in each table also shows the relevant figures for all regions except London – referred to as “Rest of England”.

Right to Buy admin cost: Mean (£)				
Region	2008-09	2009-10	2010-11	3 Year Average
East	3,651	2,149	1,674	2,349
East Midlands	1,885	1,536	1,855	1,752
London	3,005	3,839	2,735	3,107
North East	1,198	1,159	1,091	1,154
North West	1,693	2,599	1,766	1,889
South East	1,666	1,568	1,672	1,633
South West	2,360	1,851	1,258	1,754
West Midlands	1,711	2,041	1,521	1,737
Yorkshire & Humberside	2,930	2,324	2,085	2,445
Total	2,188	2,123	1,839	2,049
<i>Rest of England</i>	<i>2,051</i>	<i>1,922</i>	<i>1,685</i>	<i>1,888</i>

Right to Buy Admin Cost: 25th Percentile (£)				
Region	2008-09	2009-10	2010-11	3 Year Average
East	818	526	512	771
East Midlands	745	378	393	485
London	1,213	1,037	1,791	1,325
North East	518	731	591	614
North West	628	608	485	651
South East	663	739	747	646
South West	554	491	440	456
West Midlands	660	390	540	357
Yorkshire & Humberside	969	981	939	916
Total	674	589	631	623
<i>Rest of England</i>	628	566	512	541

Right to Buy Admin Cost: 40th percentile (£)				
Region	2008-09	2009-10	2010-11	3 Year Average
East	1,627	826	927	1,242
East Midlands	1,067	611	658	876
London	1,770	2,132	2,262	1,890
North East	584	921	895	703
North West	822	870	670	815
South East	990	903	953	981
South West	768	787	555	549
West Midlands	1,071	916	882	809
Yorkshire & Humberside	1,137	1,094	1,099	1,082
Total	1,065	899	927	977
<i>Rest of England</i>	952	828	872	852

Right to Buy Admin Cost: Median (£)				
Region	2008-09	2009-10	2010-11	3 Year Average
East	2,044	959	976	1,264
East Midlands	1,215	926	823	1,060
London	1,847	3,170	2,576	2,777
North East	626	1,162	902	752
North West	1,147	1,156	708	1,133
South East	1,597	1,365	1,014	1,331
South West	847	820	879	771
West Midlands	1,134	1,388	1,028	1,000
Yorkshire & Humberside	1,490	1,282	1,437	1,375
Total	1,428	1,117	1,129	1,184
<i>Rest of England</i>	<i>1,208</i>	<i>1,086</i>	<i>975</i>	<i>1,073</i>

B 4. The broad conclusions we draw from this data is that there is significant potential for higher cost authorities to find savings and that, outside of London, the regional average costs do not vary greatly. We propose to reflect these findings in setting the flat rate allowances for London and the Rest of England at the respective 40th percentile based on the three year average.

B 5. Rounding the figures, the flat rate allowances for transaction and administration costs on sales would be £1,900 in London and £850 elsewhere.

Withdrawn applications

B 6. The Government is considering making a further allowance to deduct the costs of handling withdrawn applications. However, we do not currently collect information on the number of cancelled applications and have limited evidence on the costs of administering these.

- B 7. Rounding the figures (and factoring in an assumed uplift of 25 per cent to cover withdrawn applications), the flat rate allowances for transaction and administration costs on sales for withdrawn applications would be £2,360 per sale in London and £1,070 per sale elsewhere.**
- B 8. In finalising decisions on allowances for withdrawn applications, we would welcome any information councils can provide on actual numbers and costs incurred in managing applications which are subsequently withdrawn.

Annex C: Attributable debt on additional sales

Mechanisms for allowing pay down of associated HRA debt following RTB sale

- C 1. The Government's council housing self-financing reforms allocate a sustainable level of debt to each council's housing business. This level of debt is calculated taking account of future income (rent) and costs over 30 years in order to find the social use value of the stock. Each property has different costs depending on different factors such as its size and the type of property. Each property will also have a different income as social rents (the formula rent) are based on the number of bedrooms, local earnings and the 1999 market value of the property. Therefore, the debt which can be supported by each property is different.
- C 2. If a property is sold under the Right to Buy we must ensure the Housing Revenue Account receives a capital receipt equivalent to the amount of debt that the property could support under the self-financing methodology. This will ensure the continued viability of the council's landlord business by compensating for the lost value of the property.

Proposal: Property specific self-financing debt allocation methodology

- C 3. As outlined above self-financing allocates debt to a council's entire housing business by calculating the amount of debt that the business can service over 30 years taking account of income and costs. Our proposal would use the same methodology to calculate income and costs over the 30 years following the year of the sale of a property under Right to Buy. This methodology is outlined in *The Housing Revenue Account Self-financing Determinations - Consultation* which can be found at:
- www.communities.gov.uk/publications/housing/draftdeterminationsselffinancing
- C 4. Adopting this approach would take into account the costs of managing and maintaining different property types (for example high rise flats vs. bungalows) as well as reflecting regional cost differentials and local crime and deprivation circumstances as in the published self-financing model.
- C 5. The amount retained will grow over time as income increases faster than costs (rents increase at the Retail Price Index plus 0.5 per cent whereas we assume costs increase in line with inflation) and will be specific to the individual property sold under the Right to Buy. We are therefore proposing a mechanism, based on the self-financing methodology

that allows the retained receipt to be used to pay down the *housing debt supportable from the lost income from these additional sales*.

- C 6. The Government intends to issue a financial model that will enable councils to work out the debt supportable for each property by entering information on the property's characteristics. It is envisaged that councils will enter the year that the sale takes place, allowing the present value of the property, as social rented housing, to be calculated over 30 years following this date in 2012 prices. The council will need to provide details on the type of property (the archetype) and the number of bedrooms to enable an estimate of associated costs using self-financing methodology. The number of bedrooms, together with data on the 1999 market value of the property (held by councils) and manual earnings (held by the Department for Communities and Local Government) will be used to calculate the formula rent for the property in the year of the Right to Buy sale at 2012 prices. The present value of the difference between income and costs, calculated as above, over 30 years, represents the social use value. This will be then up rated by inflation to find the debt supportable by the property in the year of the Right to Buy sale in current prices.

Table of dwelling archetypes

Pre 1945 small terrace houses
Pre 1945 semi-detached houses
All other pre-1945 houses
1945 - 64 small terrace houses
1945-64 large terrace, semi-detached and detached houses
1965-74 houses
Post 1974 houses
All other houses
Pre 1945 low rise (1-2 storey) flats
Post 1944 low rise (1-2 storey) flats
Medium rise (3-5 storey) flats
High rise (6 or more storeys) flats
Bungalows
Pre 1945 multi-occupied dwellings
Post 1944 multi-occupied dwellings ₃₉

Annex D: Proposals for apportioning Right to Buy receipts

D 1. It is proposed to apportion Right to Buy receipts in a manner that preserves income that councils and government have assumed they will receive under the current Right to Buy policy but to use surplus receipts from additional sales due to the proposed enhanced policy set out in this consultation document to provide replacement social housing. The *Local Authority (Capital Finance and Accounting) Regulations 2003* would require amendment to provide for this.

D 2. The main provisions would:

- remove requirements to pool Right to Buy receipts as set out in the current regulations
- provide for transaction and administration costs on all sales and uplift for costs of withdrawn applications
- provide for the amounts of assumed Right to Buy receipts for councils and government under the current system
- provide for debt repayment in respect of Housing Revenue Account properties sold in addition to sales already estimated and taken into account under the self financing policy.

and from Right to Buy receipts require councils to:

- pay to the Housing Revenue Account
 - housing debt supportable from the income on additional sales
 - transaction and administration costs on all sales and uplift for costs of withdrawn applications
- use remaining Right to Buy receipts equal to or below the assumed levels (and attributable to expected levels of sales under the current system) to pay the government and itself in proportion to their respective assumed incomes
- make the balance of receipts available to support provision of replacement homes for affordable rent. The precise treatment of these receipts will depend on the delivery model adopted for replacement homes.

Terminology

1. **Projected sales** - number of projected Right to Buy sales calculated per authority based on self financing assumptions
2. **Government assumed income** – assumption made by the Office for Budget Responsibility of income to central government from Right to Buy receipts – to be calculated per authority.
3. **Local authority assumed income** – assumption made by Government of income to local authority - to be calculated per authority
4. **Additional sales** – actual Right to Buy sales less projected sales
5. **Attributable housing debt** – debt attributable to a unit of Housing Revenue Account housing derived from the self-financing calculations
6. **Transaction costs** – costs attributable to the sale of the Right to Buy dwelling-house and withdrawn applications
7. **Combined assumption** – total of the Government assumed income and Local Authority assumed income
8. **Combined ratio** – ratio of the Government assumed income to the Local Authority assumed income

Calculation

From receipts:

1. local authority deducts the attributable housing debt on additional sales for the period
2. local authority deducts the transaction and administration costs on all sales and uplift for withdrawn applications from the receipt
3. local authority pays to the Government and retains in the combined ratio the receipt until the amount of the combined assumption is reached
4. where the amount of the combined assumption is reached or exceeded, the receipt is available for replacement. The precise treatment of these receipts will depend on the delivery model adopted for replacement homes.

Examples

For each of the following examples we assume:

1. Projected sales - 10 dwelling-houses
2. Government assumed income – £420,000
3. Local authority assumed income - £170,000
4. Attributable debt - £17,000
5. Transaction cost - £1,000 per sale
6. Receipt per dwelling-house - £50,000

It follows from assumptions 2 and 3 that:

7. Combined assumption - £590,000
8. Combined ratio – 2.47 (Government): 1 (Local authority)

Example 1

Actual sales **16** dwelling-houses

Additional sales = Actual sales – projected sales = 16 – 10 = 6 additional sales

Receipts = actual sales x receipts per dwelling-house = 16 x £50,000	= £800,000
Less	
Attributable debt on additional sales = 6 x £17,000	= £102,000
Transaction costs on all sales = 16 x £1,000	= £16,000
Net receipts	= £682,000

The net receipt is sufficient to pay the full combined assumption:

to Government	= £420,000
to the council	= £170,000

Balance available for replacement homes = £ 92,000

Example 2

Actual sales **8** dwelling-houses

Additional sales = none (actual sales less than projected sales)

Receipts = actual sales x receipts per dwelling-house = 8 x £50,000	= £400,000
Less	
Attributable debt on additional sales = none	= £ 000
Transaction costs on all sales = 8 x £1,000	= £8,000
Net receipts	= £392,000

The net receipt is less than the combined assumption and is paid to the Government and local authority in the combined ratio

to Government	= £279,051
to the council	= £112,949

Balance available for replacement homes = £0

Example 3

Actual sales **12** dwelling-houses

Additional sales = Actual sales – projected sales = 12 – 10 = 2 additional sales

Receipts = actual sales x receipts per dwelling-house = 12 x £50,000	= £600,000
Less	
Attributable debt on additional sales = 2 x £17,000	= £34,000
Transaction costs on all sales = 12 x £1,000	= £12,000
Net receipts	= £554,000

The net receipt is less than the combined assumption and is paid to the Government and local authority in the combined ratio

to Government	= £394,373
to the council	= £159,627

Annex E: Consultation criteria

The seven consultation criteria and this consultation

- E 1. This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Department for Business Innovation and Skills and is in line with the seven consultation criteria, which are:
1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
 2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible. Although this consultation lasts for six weeks, we believe it is still compliant with the Code of Practice. The consultation period has been set at six weeks in order to provide the opportunity for interested parties to respond to these proposals with the aim of their introduction as soon as possible, subject to the outcome of the consultation and Parliamentary approval of the changes to secondary legislation. These are changes to an existing programme and have been trailed in advance by Government in the housing strategy.
 3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
 4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
 5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
 6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
 7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Confidentiality and data protection

- E 2. Any responses to this consultation may be made public by the Department for Communities and Local Government. If you do not want all or part of your response or name made public, please state this clearly in the response. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- E 3. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- E 4. 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. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Alternative Formats under Disability Discrimination Act

- E 5. If you require this publication in an alternative format (e.g. Braille or audio) please email alternativeformats@communities.gov.uk quoting the title and product code together with your address or telephone number.

Annex F: Summary of consultation questions

Q1: We would welcome views on the proposals for caps, discount rates and eligibility

Q2: Do you agree that information currently provided to prospective Right to Buy purchasers is sufficient? If not, what else should be included?

Q3: Are there further steps which could be taken to ensure that tenants who purchase under Right to Buy know about and understand the implications of home ownership, including their obligations on becoming a leaseholder?

Q4: We would welcome evidenced assessments of the impact on rural affordable housing of the proposed changes to Right to Buy discounts.

Q9: We would welcome views on the proposed approach to projected receipts.

Q10: We would welcome any information councils can provide on the use of Buyback properties. We would also welcome views on this proposal.

Q11: Do you have any comments on the proposal to not amend section 131 of the Housing Act 1995

Q12: We would welcome views on the calculation of allowable deductions

Q13: Which model for delivery of replacement housing do you consider the most appropriate, and why?

Q14: How can housing associations and councils be further encouraged to use receipts from Preserved Right to Buy sales to support provision of replacement homes?

Q16: Based on your experience, are you able to provide any evidence on the likely percentage of Right to Buy purchasers on Housing Benefit?

For local authorities

Q5: We would welcome your views on the proposals that a part of the Right to Buy receipts should be used to pay down the housing debt supportable from the lost income from these additional sales

Q6: What proportion of Right to Buy applications are subsequently withdrawn in your area?

Q7: What costs are incurred in managing aborted applications?

Q8: What sources of funding have you used for improvement works in your area?

Q15: If there are any exceptions where administration and debt costs cannot be covered, please provide details.