

Consultation on reforms to the Right to Buy

Eligibility

The Government is committed to deliver a scheme that enables longstanding tenants, who have lived in and paid rent on their homes for many years, to buy their home whilst not eroding existing social housing stock.

However, in order to deliver a fairer scheme that represents better value for money, the Government thinks that the length of time someone needs to have been a public sector tenant should increase; a tenant occupying a property for three years is extremely unlikely to have paid rent that equates to the available discount.

The main rationale given in 2014 for reducing the qualifying period from five to three years was to drive an increase in the take up of Right to Buy sales. The Government now believes a more sustainable balance must be struck to support councils to rebuild their stock of homes and to better ensure that it is tenants who have lived in, and paid rent on, their social homes for many years that are able to own their home through the scheme.

In addition to changing the length of time someone is a tenant before they can exercise the Right to Buy, the Government welcomes views on other eligibility criteria that could be introduced in order to deliver a fairer, more sustainable scheme that represents better value for money for the taxpayer.

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

10 years

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

Yes, as the purpose of the RTB is assist households to get onto the housing ladder

3. Do you have any other views on criteria to determine eligibility for the Right to Buy?

No

Discounts as a percentage of the property value

When the Right to Buy was introduced in 1980, the legislation set out the percentage discounts that eligible tenants were entitled to, which increased with the number of years of tenancy. This ensured that minimum and maximum discounts were aligned to property values. Percentage discounts currently range from 35% to 70% of the property value for houses, and 50% to 70% of the property value for flats.

A maximum cash discount has also been in place since the scheme started. The presence of a flat cash cap, as well as the percentage discount, acts as a backstop, which can avoid excessive discounts in high value areas.

For houses, tenants currently receive a discount equivalent to 35% of the property value if they have been a public sector tenant for between 3 and 5 years. After 5 years, the discount

goes up 1% for every extra year they have been a public sector tenant, up to the maximum of 70% or the cash cap (whichever is lower).

For flats, tenants currently receive a discount equivalent to 50% of the property value if they have been a public sector tenant for between 3 and 5 years. After 5 years, the discount goes up 2% for every extra year they have been a public sector tenant, up to a maximum of 70% or the cash cap (whichever is lower).

In 2012 maximum cash discounts were significantly increased and, from 2014, they increased annually by the CPI rate of inflation. From April 2024, prior to the reduction in discounts, the maximum cash discount available was £136,400 in London and £102,400 outside of London. In 2023/24, the average discount was £72,000.

The Government is returning maximum cash discounts to their pre-2012 levels of between £16,000 and £38,000 (with the level of discount depending on the area in which the tenant lives) as a critical step to delivering a fairer and more sustainable scheme.

The lower discounts will result in fewer replacements in total compared to the current discounts (since fewer homes will be sold) but where homes are sold, councils will be in a stronger position to replace them. The overall net impact on social housing stock will therefore be positive and support councils to better meet future housing need.

The Government's review of Right to Buy discounts concluded that consideration should also be given, as part of the wider consultation, to reviewing the percentage discounts.

We propose to amend percentage discounts to better align with the new maximum cash discounts.

The table below sets out different percentage discounts as a proportion of estimated Right to Buy house prices by region and compared to the new cash caps.

Percentage discounts as a proportion of estimate Right to Buy house prices (2023-24 prices) (£)							
	1%	3%	5%	10%	15%	20%	Cash cap
North East	1,000	3,000	5,000	10,000	15,000	19,000	22,000
North West	1,000	4,000	6,000	12,000	18,000	24,000	26,000
Yorkshire/Humber	1,000	3,000	6,000	11,000	17,000	22,000	24,000
East Midlands	1,000	4,000	6,000	13,000	19,000	25,000	24,000
West Midlands	1,000	4,000	7,000	13,000	20,000	27,000	26,000
East	2,000	6,000	10,000	21,000	31,000	41,000	34,000
London	3,000	9,000	16,000	32,000	47,000	63,000	16,000
South East	2,000	7,000	11,000	23,000	34,000	46,000	38,000
South West	2,000	7,000	11,000	22,000	33,000	44,000	30,000

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

Minimum Percentage

1 percent

Maximum Percentage

10 percent

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

Yes

If you answered "No", please explain

Not applicable

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

Yes

Exemptions

Certain types of properties are exempt from the Right to Buy (specific criteria must be met for properties to be exempted). The principal rationale for excluding these properties is that they are in short supply and exemptions need to be maintained.

The Government believes that these exemptions should continue but welcomes views on any necessary amendments or updates. It has been suggested in particular by stakeholders that some of the definitions are outdated, such as sheltered housing with resident wardens, which are not commonly used today, and that it may be helpful to clarify the position around bungalows.

The full list of properties that are currently exempted from the Right to Buy scheme is below:

- a. Properties where the landlord is a co-operative housing association.
- b. Properties where the landlord does not have sufficient legal interest to be able to grant a lease exceeding 21 years for a house or 50 years for a flat.
- c. A home that is particularly suitable for occupation by an elderly person.
- d. A home that is one of a group of homes particularly suitable for elderly people and is let to a person aged 60 or over, and where the services of a warden are provided.
- e. Tied accommodation occupied because the tenant is employed by a social landlord.
- f. A home that is one of a group of homes designed with special features for letting to people with physical disabilities.
- g. A home that is one of a group of homes let to tenants who are suffering or have suffered from a mental disorder where social services or other special facilities are provided.

- h. Properties held on Crown tenancies, where tenants do not hold an appropriate tenancy (i.e. shorthold rather than secure) and rent (minus maintenance costs) are paid direct to the HM Treasury
- i. Properties held on a license (e.g. alms-houses).
- j. The landlord has published its intention to demolish the property the tenant currently occupies within 7 years, or served a notice that it will demolish within 2 years.
- k. Properties where the landlord is a housing trust or housing association and is a charity or has not had specific grant-funding.

7. Do you agree that the current exemptions to the Right to Buy scheme should be retained?

Yes.

The Council also supports the view of the Rural Community Council of Essex that all rural areas with populations of 3,000 or less are fully exempt from all Right to Buy provisions and that there should be provision to enable rural local authorities to trigger a temporary exemption from the right to buy if the stock falls below the national average and remain in place until stock levels are at the national average. This was as set out in their consultation response.

Please outline any changes that should be made to the current exemptions

Inclusion of properties that have been significantly adapted for those with disabilities and bungalows

Newly Built and Refurbished Social Housing

There are currently no exemptions for newly built social housing. When new social housing is sold relatively soon after completion, the discount can result in the property being sold for less than the cost of construction. This disincentivises councils from investing in new housing; the stock is at risk of sale as soon as three years after being built, given current eligibility rules.

For the same reasons, councils may not be incentivised to invest in retrofitting and renovating homes since there is a risk that the investment will not be recouped through rent payments over the long term. This could have negative consequences for the quality of council homes.

The Government's manifesto committed to better protecting newly built social housing from the Right to Buy. We have already taken action to deliver on this commitment by increasing the cost floor period from 15 to 30 years. The cost floor rules are intended to offer financial protection to councils by preventing the discount on new homes from reducing the sale price below the amount that has been spent on the building, repairing or maintaining the home. It often takes 30 years or longer for the cost of building a new social home to be recouped. Extending the cost floor to 30 years will give councils greater confidence that homes built will not be sold for a loss for the period in which they are financed. This will also align the cost floor period with 30-year Housing Revenue Account business planning.

The Government is aware, however, that the cost floor is not always sufficient in itself to protect new builds, because these homes can still be sold under the scheme and may not cover all forms of investment in existing housing stock

The Government therefore welcomes views as to whether new build social housing should be exempt from the Right to Buy scheme.

We also welcome views on whether homes that have recently been retrofitted or improved to a high standard should be exempted from the Right to Buy for a period of time and whether this could alternatively be dealt with through changes to the cost floor.

8. Should newly built social housing be exempt from the Right to Buy? If yes, please explain why the existing cost-floor provisions are insufficient.

Yes

If you answered "Yes", please outline why existing cost-floor provisions are insufficient

Whilst extending the cost floor to 30 years is welcome in that it gives confidence that homes built will not be sold for a loss for the period in which they are financed and aligns the cost floor period with 30-year Housing Revenue Account business planning. However, the current cost of borrowing does not provide an incentive to build.

Additionally, this protection may not always be sufficient and these properties could be more desirable to purchase, given anticipated lower maintenance costs in the short term, thereby removing these from the Council's stock and leaving older, more expensive properties in the stock.

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

30 years

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

Amendments to the cost floor

Exemption for homes that have been retrofitted or improved to a high standard

Please explain your answer

However, there could be a difficulty in defining retrofitting or improved to a high standard with the result that an amendment to the cost floor would be a preferable option.

Excluding homes for market rent

Currently local authority tenants with a secure tenancy are eligible for the Right to Buy, subject to meeting the specific eligibility criteria. This includes secure tenants in homes available at market rent, i.e. homes where the rent charged is at a similar level to the private rented market, as opposed to social or affordable rent. This could act as a disincentive for any council who is considering delivering market-rent homes, which can be used to subsidise the funding of social rent homes or to meet specific local housing needs. This is because of the risk of the property being sold, where a property let at market rents would be occupied by tenants who, by virtue of their higher income and lower social need, are better positioned to exercise the right to buy and purchase the property at a discount.

The steps the Government has taken to reduce the discounts available to tenants and the further reforms proposed in this consultation will help to mitigate this risk.

However, we are keen to explore further how local authorities can be best supported to secure alternative streams of revenue and capital income, so that they can play a bigger role in social housing supply. This would include delivering more homes to be let at a market rent, to enable cross-subsidy of homes for social rent.

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

Yes

Restrictions on properties after sale

There are certain restrictions that can apply to properties that have been sold through Right to Buy provided they are reasonable in the circumstances:

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- If the property is sold within the first five years, the council has the right to ask for repayment of all or part of the discount received, on a sliding scale depending on how many years after the original sale. After five years, the property can be sold without repaying any of the discount received.
 - If the property is sold within 10 years after the original sale, the seller will need to give first refusal to the council to purchase the property.
 - Covenants can be included which prevent the property being used a holiday let, or as student accommodation.
 - The rural designations provision that was introduced in 1985 to protect access to property for rural communities. Properties in these areas that are bought under Right to Buy can only be resold to a local person or bought by a local council. This is enforced through a covenant on the property which applies to all future sales. If this provision makes it difficult for the owner to sell, the covenant on the property can exceptionally be disapplied with the local authority's agreement.
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These restrictions were introduced to discourage early re-sales and profiteering on the scheme, and to ensure that home ownership is sustainable.

The Government is not proposing to introduce letting restrictions on properties purchased through Right to Buy or requiring any discount to be passed on in perpetuity upon sale of the property.

Restricting the letting out of properties after sale would likely be difficult for councils to monitor and enforce, would only apply to new sales, and not existing ex-Right to Buy properties.

Given the commitment to reducing discounts and increasing the minimum eligibility period, the complexity of the proposal requiring any discount to be passed on in perpetuity upon sale of the property is likely to outweigh any benefits, and it could create a small sub-market of homes with small discounts that would do little for affordability. An alternative approach, to encourage people buying under the scheme to retain the property for longer, would be to increase the time period in which the council has the right to ask for repayment of all or part of the discount received to ten years (currently five years).

The Government welcomes views on whether the time period in which the council has the right to ask for repayment of all or part of the discount received should be increased to ten years (currently five years).

We also welcome views other restrictions after sale that could be introduced in order to deliver a fairer, more sustainable scheme that represents better value for money for the taxpayer.

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

Yes

If you answered "No", please explain

Not applicable

13. Do you have any other views on restrictions that might apply to a property following its sale under the Right to Buy?

What other restrictions might apply?

Introduction of letting restrictions within specified period after sale

Replacement Targets

In April 2012, when Right to Buy discounts were significantly increased, a requirement was also introduced that for every additional council home sold as a result of the increased discounts, a replacement home would be provided nationally through acquisition or new build.

The target does not require like-for-like replacement. The replacement stock can be social rent, affordable rent, shared ownership or First Homes and of any size and location. The Government would welcome views on whether homes sold under the Right to Buy should, as far as possible, be replaced with a home of the same tenure.

We also welcome views on whether homes should, as far as possible, be replaced with homes of the same size and in the same area, and on whether there should be a specific target following the reform of the scheme to replace on a one-for-one basis all council homes sold under the Right to Buy from that point onwards.

14. Should there be a target for all council homes sold under the Right to Buy to be replaced, as far as possible, with a home of the same size, tenure and/or location as the home sold?

Yes

If you answered "Yes" or "No", please provide detail to support your answer and indicate which consideration is the most important (tenure, size or location).

YES – replacements should be on a like for like basis (or as required by up-to-date evidence of local housing need) .Tenure and size to be most important considerations to meet housing needs and finances.'

Right to Buy Receipts

When Right to Buy discounts were substantially increased in 2012 councils were able, for the first time, to keep receipts from additional sales to use towards new affordable housing (so called one-for-one receipts). Prior to that around 75% of receipts went back to the

Treasury and the remaining 25% could be used for any capital purpose (they were not ring-fenced for affordable housing).

The 2012 changes followed the Housing Revenue Account Self-Financing Settlement, which aimed to ensure that council finances were sustainable in the long term, based on net rental income and without any further subsidy payments to or from central government.

Since 2012, the level of an authority's receipts available to fund replacement housing in any year (replacement receipts) is the total amount of its receipts arising from Right to Buy sales, net of the discount (which is paid to the tenant) and the following 5 elements:

- **Transaction costs** (retained by authority unconditionally): a set amount per Right to Buy sale to partially cover the authority's costs of administering the Right to Buy scheme:
- **Allowable debt** (retained by authority unconditionally): calculated to cover the housing debt that the council is obliged to pay off in addition to that allowed for in the 2012 Housing Revenue Account Self-Financing Settlement.
- **Local authority share** (retained by authority unconditionally for any capital purpose): calculated to approximate what authorities would have retained had the pre-2012 system continued when they retained 25% of all net Right to Buy receipts.
- **Treasury share**: calculated to approximate what authorities would have paid the Treasury, had the pre-2012 system continued when authorities paid 75% of all net Right to Buy receipts. Local authorities were able to retain the 'Treasury share' in 2022-23 and 2023-24, to bolster their efforts to replace those homes sold under the Right to Buy, and the Government confirmed at the Autumn Budget that councils will continue to be able to retain 100% of their receipts.
- **Buy-back costs** (retained by authority unconditionally): a small portion of the receipts which councils can use towards the cost of buying-back former council homes. Some homes bought under Buy-back are added to the council's rental stock, but others are bought for demolition under estate regeneration schemes.

○ The authority is required to spend the remainder of the receipts on replacement social housing within 5 years, either by building new homes or acquiring existing properties. If the receipts are not spent in 5 years, then they are returned to the Government to be spent by Homes England or the Greater London Authority for the provision of affordable housing.

There are other rules governing how these replacement receipts can be spent: they cannot be combined with other forms of grant funding and there have been restrictions on how many acquisitions are permitted or how much of a replacement home can be funded through the receipts as opposed to borrowing.

In July, the Government increased flexibilities on the use of these receipts:

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- The maximum permitted contribution from Right to Buy receipts that can be used for replacement affordable housing has increased from 50% to 100%.
 - Right to Buy receipts can be pooled with section 106 contributions, enabling councils to use Right to Buy receipts to purchase discounted affordable homes delivered by private housebuilders in new housing developments under Section 106 of the Town and Country Planning Act 1990.
 - The 50% cap on the percentage of replacements that can be delivered as acquisitions each year has been lifted.
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The flexibilities will be in place for an initial 24 months and will then be subject to review.

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

No specific evidence but believe that this would be the case.

Combining receipts with other forms of grant funding

Right to Buy receipts can now be pooled with section 106 contributions, but we know that many councils would like the ability to combine receipts with other forms of grant funding to support investment in new social homes.

The Government has committed to setting out detail of future investment in affordable and social housing at the Spending Review and welcomes views on the impact that combining receipts with other forms of grant will have on viability of local development schemes.

Permitting grant funding and replacement receipts to be combined without any restrictions could effectively result in double subsidy for one affordable home and a high effective grant rate, which may limit the total volume of new affordable supply that can be delivered.

We welcome views as to how permitting combination of Right to Buy receipts with other forms of grant funding would support the delivery of affordable homes whilst representing value for money for the public purse.

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

No specific evidence.

Time Period for spending replacement receipts

The rationale for requiring replacement receipts to be spent within 5 years is to encourage councils to build as soon as possible or return them to be used by Homes England or the Greater London Authority to fund new affordable homes.

However, the Government recognises that it is not always feasible to secure the necessary additional financing and agreements to deliver replacement housing within 5 years, although we expect that the new flexibilities in spending receipts will mitigate this.

If receipts cannot be spent by the local council, they are redistributed to Homes England or the Greater London Authority. Where receipts are returned, we are keen to better ensure that they support the delivery of replacement homes in the area in which properties were sold.

We welcome views on creating a similar arrangement to that which exists with the GLA with other Mayoral Combined Authorities. For those councils not covered by a Mayoral Combined Authority, the receipt would continue to be returned to Homes England for redistribution.

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

More than 10 years. This should provide security with regards to the amount of time that schemes can take to progress to development.

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

Don't Know

If you answered "Yes" or "No", please explain your answer

Not currently applicable to this authority. Although with the potential local government reorganisation that might go ahead, the answer to this question would have been NO, as it should be for any receipts to be spent in the locality/area that requires it.

Local Authority share of receipts and Buy-back allowance

The Government welcomes views as to whether the local authority share and buy-back allowance should be removed and incorporated within replacement receipts.

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

Yes

Simplifying the calculation of attributable debt

The calculation to determine the debt supported by the net rental income of the homes of a local authority sold under Right to Buy ("the attributable debt") requires a lot of administrative effort. The debt the 2012 Self-Financing Settlement assumed the authority would have to pay off ("the assumed debt") is normally subtracted from the attributable debt to give the allowable debt. Local authorities need to enter three or four items of data for every Right to Buy sale onto one spreadsheet which then calculates the attributable debt using formulae that is complex. Errors can sometimes be discovered years later if the wrong data is entered. We propose to calculate the total attributable debt by multiplying the average attributable debt of each authority's housing stock by the number of homes sold under Right to Buy. This will simplify the calculation to reduce the demands made upon councils and central government and eliminate the need for attributable debt to be individually calculated.

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

Don't know

Whilst simplifying the calculation of attributable debt is welcomed, without carrying out a financial analysis, we are unable to assess whether the alternative proposed would be beneficial.

Abolishing the return of 75% of mortgage repayments that relate to pre-2012 sales

When the Right to Buy was established, tenants had the right to a mortgage from their local authority to help with the purchase. The Leasehold Reform, Housing and Urban Development Act 1993 removed the right to a local authority mortgage.

When a local authority receives a Right to Buy mortgage repayment or a repayment of a Right to Buy discount that relates to a sale that took place before 1 April 2012, 75% of those receipts are still returned to central Government. These amounts are now small, less than £400k was collected last year.

We propose to suspend this requirement meaning that all authorities without a Housing Revenue Account in 2012 would no longer have to return 75% of mortgage repayments.

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

Yes

Proposal to introduce a power to set the rules governing the use of receipts by general determination

Whenever changes are made to Right to Buy receipt rules a revised section 11(6) retention agreement usually has to be issued to every stock-holding council.

We welcome views as to whether the Secretary of State should be provided with a power to set the rules governing the use of receipts by general determination, with special determinations as necessary. This would mean it would no longer be necessary to issue a revised section 11(6) retention agreement to every stock-holding council or lay amendment regulations whenever they are changed. Instead, the Secretary of State could amend one legal document, a general determination.

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

Don't know. Whilst welcoming the general principle, the impact of not being issued with a revised retention has not been able to be adequately assessed.

Allowing Right to Buy receipts to be passed to Arms-Length Organisations

Local authorities are not currently allowed to transfer Right to Buy receipts to a housing to an Arm's-Length Management Organisation (ALMO) as the homes built through these organisations do not come under the Housing Revenue Account and are, therefore, not subject to the same protections which residents in council homes enjoy. This means that rents are not set according to government policy and residents are not guaranteed a Right to Buy their homes.

Building and managing council housing within a local authority's Housing Revenue Account ensures that residents' rights are protected, and they have access to the Right to Buy. The Housing Revenue Account is ring-fenced from the council's wider budget meaning that tenant's rent cannot be used to subsidise other council activity or vice-versa, which is an important safeguard.

However, the Government understands that there may be occasions where delivering affordable housing through ALMOs might be appropriate. Savills research for the Local Government Association has suggested that allowing ALMOs to reinvest Right to Buy

receipts could increase replacements, by allowing replacements to come forward which might otherwise not be viable

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

Yes

24. Do you have any other views on the rules governing Right to Buy receipts that have not been covered by the questions above?

Consideration to be given to increasing the certainty rate' – discount for borrowing from PWLB to 2% to act as a boost to development to accompany these proposals.

Consideration to also be given to the pooling of DFG budgets with the HRA

Public Sector Equality Duty

The Equality Act 2010 requires the government to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

We anticipate no direct discriminatory impact on individuals with protected characteristics since any changes made by the proposed reforms will be applied to all council tenants equally. However, there may be indirect discrimination (both positive and negative) as women, older people, people with disabilities and people from BAME backgrounds are disproportionately represented in the social rented sector, meaning individuals attempting to buy under the scheme may be impacted, but the proposed reforms are intended to reduce the impact of Right to Buy on social housing stock and thereby enable more people with those characteristics to have access to housing when at present they are in less suitable accommodation.

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

Age

Disability

Sex

Gender reassignment

Marriage or civil partnership

Pregnancy and maternity

Race Religion or belief

Sexual Orientation

If you selected a characteristic, please explain your answer

We do not believe that any of the proposals could negatively or positively impact individuals who have a protected characteristic.