

Tinkering with Right to Buy rules

Consultation on “Use of receipts from Right to Buy sales”

The government is consulting on changes to the rules governing how councils can use Right to Buy (RTB) receipts. The document complains that councils have not been building enough “right to buy replacements” to match the pace of sales. The government confesses that their commitment that “every additional home sold would be replaced on a one-for-one basis nationally” is no longer being met. This requires some explanation. What exactly is an “additional home”?

When 'self-financing', a new council housing finance system, was introduced in 2012 the 30 year business plans that councils had to draw up included an estimate of the likely number of homes to be sold under RTB. Each home sold is rent lost to the local Housing Revenue Account (HRA – the account through which council housing is managed). From the estimate of homes sold they determined how much rent councils would lose as a result of RTB sales over the course of the business plan.

Under the RTB rules which applied at the time less than 3,000 homes a year were being sold in England. No sooner had the new finance system been introduced than the government increased the discount for RTB sales and cut the qualifying period from 5 to 3 years. This had the result of increasing sales fivefold (see Appendixes). Councils are losing much more rent than was estimated in the business plans of their HRAs.

When the government introduced its 'enhanced RTB' it included a commitment to replace homes sold, on a “one for one” basis. However, it was not a commitment to replace *all* homes sold but only the “additional ones”; the numbers above the estimates included in the 2012 'debt settlement'. The commitment was a “national” one. In other words they did not guarantee that each council would replace their homes sold, only that the receipts would go towards building replacement homes *somewhere*. Those councils failed to use the receipts to build replacements, even if they lacked the resources to do so, had their receipts effectively *confiscated* by the government if they failed to use them within three years. To add insult to injury the government actually charges a council for confiscating their receipts, with an 'interest' charge at a rate of 4% above the Bank of England base rate. It is a punitive charge which takes no account of the financial circumstances of a council HRA.

The 30% cap

The government which bemoans 'red tape' introduced its own 'red tape'. It imposed ludicrous bureaucratic restrictions on how councils could use their receipts. They could only be used to cover the cost of 30% of each home built. The other 70% has to be found either from an HRA's own resources or from additional borrowing. The idea behind this was that it would encourage *more* building. The government now admits that *the contrary was the case*; it was “a barrier to delivery”.

“The government is aware from engagement with the sector that the current restrictions around the use of Right to Buy one-for-one receipts are a barrier to delivery.”

From this you might expect them to draw the conclusion that the necessary thing to do would be to end the restrictions. Local authorities and the Local Government Association

have long demanded that councils be able to keep 100% of the receipts. Yet instead of abandoning a policy which they admit is a “barrier to delivery” they propose to “reform” it. They are considering

- a) Increasing the cap to 50% of build costs for homes for social rent but only in areas where councils can “demonstrate a clear need for social rent over affordable rent” or
- b) Allow local authorities to top-up insufficient RTB receipts with funding from the Affordable Homes Programme up to 30% of the cost for “affordable rent”, or 50% for 'social rent' “where the authorities can demonstrate a need for social rent”, with bids for 'top-up' to be submitted to the Affordable Homes Programme.

The government has effectively barred councils for charging 'social rents', the assumption being that new builds would charge “affordable rent”. Indeed that was a condition of winning grant from Homes England.

These bureaucratic rules don't need reforming. They should simply be removed. A 'reformed' version of them will still remain “a barrier to delivery”.

Use of receipts for acquisition

Because of the ludicrous 30% cap many councils are using RTB receipts to buy existing properties, often ex-council houses/flats which were originally bought under RTB. In fact the government tells us that such acquisitions currently account for around 40% of replacement of homes. Needless to say they have to pay a 'market rate' which is more than the receipts they received for them when they were sold under RTB.

Councils have tended to use RTB receipts to buy existing properties because it is actually cheaper than building a new one. Yet the government proposes *restricting acquisitions in order to drive up new supply*. It wants councils that can't afford to build new homes to...build new homes, for which they don't have the resources!

The government proposes two bureaucratic means of adding another “barrier to delivery”.

- a) A price cap based on average dwelling build costs in the various Homes England 'operating areas' or
- b) Allowing acquisition in certain areas only, for instance, where average build costs are more than acquisition costs.

The government's preference, apparently, is for for a) because b) would produce a blanket ban in some areas. Either way the proposal would produce an *additional* “barrier to delivery”. The idea should be abandoned.

Tenure of replacement home

Housing built or acquired by local authorities by use of RTB receipts has been either 'social rent' or 'affordable rent'. However, the government says that because there can be “viability issues” in building homes with these rents (i.e. councils don't have the resources to build them) the government is considering “allowing local authorities flexibility to use receipts for shared ownership” housing as well as for 'affordable' and 'social rent'.

This needs to be vigorously opposed. It would mean *the loss of social housing for rent to*

homes for sale, albeit 'part-ownership'. They propose this even though they admit that "in some areas" it would lead to a reduction in the number of replacements at 'affordable' and 'social rent'; that is of homes that they supposedly want to increase the number of!

Changing the way the cost of land is treated

The only positive proposal in the entire document (and even this has some questions) is a suggestion that if land owned by a council's General Fund is used by an HRA for house building then the HRA has to compensate the GF. The government is considering allowing councils to gift land from the GF to HRA at zero cost. This would help in cutting costs of some council housing building.

Presumably the government would have to amend the rules on "ring-fencing" of the HRA. The HRA is a "ring-fenced account" formally inside the GF but the "ring-fence" prevents council tax or other GF money being used for council house building and prevents HRA income being used for purposes other than council housing.

The government suggests that this gift could either be any GF land or land that had been held for x number of years. It questions whether this should apply to land with derelict buildings as well as vacant land.

If it is to be done it should apply to any GF land. However, we would have to be careful that the "ring-fence" was not otherwise breached so that council rents did not end up being used for services other than those related to the maintenance and management of council housing. Before the ring-fence was introduced some councils used council house rents to support services other than housing.

Transferring receipts to a Housing Company or Arms-Length management Organisation

The document mentions that councils are setting up housing companies "as a means of developing expertise and capacity in delivering new housing". They are currently not allowed to transfer RTB receipts to a housing company or an Arms Length Management Organisation (ALMO) as any homes built through them do not form part of the HRA. The government says that "in general, social and affordable housing should be built and managed within a local authorities HRA so that residents rights are protected and they have access to RTB. Maintaining this provision also guarantees the integrity of the ring-fence..."

However, it says that it recognises that there are occasions where delivering "affordable housing" through housing companies "might be appropriate", such as when an HRA cannot afford new building or a council doesn't have an HRA.

The remedy, of course, is to fund councils to build council housing but the May government is not prepared to countenance this since it still clings to home ownership like one of the tablets from the mount. At any rate the transfer of HRA funds, be it RTB receipts or any other sources, to private housing companies **should not be allowed**.

Housing companies have, in fact, been set up for differing reasons. Some councils see them as a vehicle for building homes for sale or private rent, which would provide a revenue stream for their GFs which are progressively being starved of central government grants. Others have seen them as a means of building council homes which will circumvent the RTB rules. In other words they will not have to offer them to tenants for sale. However, the government is proposing that "Where housing companies are delivering

and retaining affordable homes we expect them to offer an opportunity for tenants to become home owners where feasible". This, of course would defeat the purpose of setting up the companies in the first place (see from page 9 of this [pamphlet](#) for as discussion on local housing companies) at least for those who want to build council homes.

Ever benevolent the government is considering "a short window" where councils could return the receipts without the punitive "interest" charge.

Reforming the replacement commitment

Given the failure to achieve the commitment to replace the "additional" homes the government has come up with a wheeze to remove this rather embarrassing statistic by doing away with it and using a different measurement. By changing the criteria the government could be found to be succeeding rather than failing! The document says that since 2012 there has been a net increase of 49,000 social and affordable rented homes. This of course, ignores the fact that individual councils are losing stock and the number of council homes in England has declined by 184,000 since the Tories came to power.

By combining social and "affordable housing" which includes homes to own, the government would be able to prevent a picture of success, whereas it has failed even its own criteria. In fact even if all homes lost to RTB sales were replaced it would simply be a standstill position whereas we need more homes. The consultation is merely tinkering with the rules.

Conclusions

Right to Buy has had disastrous social consequences. It has been a key reason for the shortage of genuinely affordable homes to rent. If you look at the figures for England, despite a minimal increase in 'social housing' numbers the fact is that the available 'social housing' as a percentage of housing stock has declined from 17.36% to 16.88%, whilst the expensive private rented sector has increased from 17% to 20% (see below).

Tinkering with RTB rules will achieve nothing. So far as we are concerned there is a need to dispense with RTB which has been a disaster. Obviously the consultation is just about the use of receipts. So long as RTB remains in place then councils should be able to keep all the receipts. The government should take nothing. The 2012 'debt settlement' was supposed to be a final one yet central government is still fleecing local authorities. All the bureaucratic restrictions on how and when councils use these receipts should be ended. Moreover, councils should not be obliged to charge 'affordable rent' for replacements if using RTB receipts. They should be able to charge 'social rent' which is easier on the tenant and requires a lower housing benefit payment.

This is the message which the government should receive in the consultation. The deadline for responses is October 9th. Comments should be sent to:

RTBconsultation@communities.gsi.gov.uk

Appendices

Local authority RTB sales and demolitions, England

Year	RTB sales	Demolitions
2010-11	2,758	4,580
2011-12	2,638	2,720
2012-13	5,944	1,870
2013-14	11,261	4,360
2014-15	12,304	3,040
2015-16	12,246	3,730
2016-17	13,416	2,500

Dwellings by Tenure, England

	Ownership	Private Rent	Housing Associations	Local Authorities	Total
2010	14,895,000	3,912,000	2,180,000	1,786,000	22,839,000
%	65.21%	17.12%	9.54%	7.82%	
2017	15,062,000	4,786,000	2,444,000	1,602,000	23,950,000
%	62.88%	19.98%	10.20%	6.68%	