

LGA Response to consultation – Use of receipts from Right to Buy sales

October 2018



The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

The LGA welcomes the opportunity to respond to [this consultation](#) from the Ministry of Housing, Communities and Local Government (MHCLG).

Summary

The UK is suffering from a housing crisis and immediate action is required. Right now councils are housing 77,000 families and 125,000 homeless children in temporary accommodation, with a further million on waiting lists. The last time the country built enough homes councils built 40 per cent of them. We urgently need a renaissance in council house building

We welcome this set of proposals for greater flexibility on the use of Right to Buy (RtB) receipts and the recognition of the challenges councils face in replacing homes sold under the RtB. The recent announcement to lift the Housing Revenue Account Borrowing cap provides a real opportunity for councils to build more homes, which can be more fully realised with further reforms to the RtB. The Government must move quickly to implement a total lifting of the HRA cap so that councils can begin to build homes.

The LGA has long argued for reform of the rigid restrictions on the use of RtB receipts. Recent research for the LGA by Savills revealed that two thirds of councils will have no chance of replacing homes sold off under RtB on a one-for-one basis in five years' time unless a significant restructuring of the scheme takes place¹.

However proposals do not go far enough in realising the potential and aspirations of local government. In particular, it must allow *all* councils maximum opportunity to build housing. It is disappointing that accessibility to social rent grant and proposed RtB flexibilities are restricted to areas defined by such a narrow definition of affordability. The decision prevents countless councils ready to build now, and it prevents the half a million families on council waiting lists in those areas from benefitting.

All councils need freedom and certainty to find create solutions to their individual housing challenges, and they – like the private sector and housing association

¹ <https://www.local.gov.uk/sustainability-right-buy>

Submission

sector – need a stable policy and financial environment in which they can be confident in making long term investment in new and existing housing.

We welcome the opportunity to respond to the proposals in this consultation, and set out our wider ambitions for the future of council housing in response to question 8.

Consultation questions

***Question 1:** We would welcome your views on extending the time limit for spending Right to Buy receipts from three years to five years for existing receipts but keeping the three year deadline for future receipts.*

The Government should extend the five year period to all future receipts, and potentially longer for larger, more complex sites. We strongly support this proposal. While we believe that councils should be allowed to keep all receipts as a matter of principle the three year time limit is a significant barrier to building replacements, particularly if land is not immediately available. The development window may also need time to go through the planning process, development could well take around 4 to 5 years when including planning. Some councils are running out of their own land so flexibility on future receipts is also important. It will be important to closely monitor the impact of the extended time period on new supply across the five years, with a view to applying the five year deadline to all receipts.

The Government should move to annual returns with quarterly payments on account. The current system is based on quarterly returns of actuals which can lead to rushed spending each quarter – and so contributing to an increased level of acquisitions in some cases.

***Question 2:** We would welcome your views on allowing flexibility around the 30 per cent cap in the circumstances set out in the consultation paper, and whether there are any additional circumstances where flexibility should be considered.*

Ultimately these are council receipts and it should not be for the Government's to determine how they are used or to take them away. It is our view that councils must be able to retain 100 per cent of receipts to invest in new and existing stock as is needed locally.

Nevertheless we strongly support greater flexibility on lifting the cap on expenditure per replacement unit. The restriction that requires councils to fund the remaining 70 per cent of the cost of replacement – and in many cases without being able to borrow the balance - is a significant barrier to financing replacement properties.

Research by Savills for the LGA found strong evidence that varying the 30:70 funding mix/matching principle to 40:60 or 50:50 on a flexible, authority-by-authority basis, has the potential to increase replacement supply by 10 per cent².

The report estimated that 61 authorities could benefit from a change to either 40:60 or 50:50 ratios of receipt to other funding over a 5-year period, around 40 per cent of all authorities. Of these 48 are in the London and wider south/east regions reflecting the greater capacity to reinvest and there is no trend which would suggest anything other than authority-by-authority flexibility is the optimal way to maximise reinvestment.

² <https://www.local.gov.uk/sustainability-right-buy>

The consultation proposes that councils must meet a set of tests before the flexibilities would be granted:

- a) To increase the cap to 50 per cent to build homes for social rent councils must:
 - Prove that there is a case for building at social rent rather higher “affordable” rent
 - Meet the eligibility criteria set out in the Affordable Homes programme³. This limits funding for social rent to local authorities where there is a difference between the average private rent and average social rent of £50 or more a week.
- b) To combine RtB receipts with funding from the Affordable Homes programme councils must:
 - Demonstrate a need for social rent
 - Be in a low demand area where rents are too low to finance borrowing (it is not explained how this would be judged)

For option b) councils would apply for a top up of 30 per cent for affordable rent and 50 per cent for social rent. They must submit a bid to the Affordable Homes Programme to secure the top up funding.

Limiting the flexibility of option a) to areas of “high affordability” is a serious concern as it excludes many councils who are ready to build and would directly benefit from new flexibilities, but are not on the list of approved areas. Councils in all markets could benefit from the flexibility to reinvest greater levels of receipts, for instance councils in high demand areas might be up against their borrowing cap, while councils in low demand areas may have borrowing headroom but insufficient rents to finance the required levels of borrowing.

We are concerned that the processes above are bureaucratic and time consuming for both councils and the Government, with little if any additional gain.

Therefore every council should be able to benefit from opportunities to invest greater proportions of receipts into new homes and to mix with Affordable Homes Grant to make schemes viable.

***Question 3:** We would welcome your views on restricting the use of Right to Buy receipts on the acquisition of property and whether this should be implemented through a price cap per unit based on average build costs.*

The Government identified last minute high value property acquisitions as a problem that needs to be tackled through restricting acquisitions. In most cases this has been a direct result of the range of national restrictions on local Housing Revenue Accounts that restrict building, councils would much rather have the ability to build new homes to meet need, increase the council tax base, and generate new homes bonus.

The consultation paper recognises that using RtB receipts to buy existing properties is a valid and cost effective route for replacement. It is important to have this recognition as proposals reforming the use of receipts for acquisitions could have serious implications for the capacity for councils to meet local housing need – for instance many areas need more larger family homes that are difficult to deliver using receipts or homes suitable for adapting for more vulnerable tenants,

³ http://data.parliament.uk/DepositedPapers/Files/DEP2018-0625/AHP_social_rent_addendum_50pw.pdf

acquisitions increase supply of properties that ensure families have access to adequate housing.

The proposals for using a cap seem disproportionate and are unlikely to respond to the complexities of local markets, creating unnecessary limitations for councils using receipts as part of regeneration programmes or in sourcing temporary accommodation.

Instead the Government should continue to grant further freedoms and flexibilities so that delivery of new homes is achievable for all councils, and assess carefully how the emerging flexibilities impact on the use of receipts before determining any future action on acquisitions.

Question 4: *We would welcome your views on allowing local authorities to use Right to Buy receipts for shared ownership units as well as units for affordable and social rent.*

This flexibility is welcome, housing markets vary significantly and this measure will offer councils opportunities to adapt investments where they can deliver added value.

Question 5A: *We would welcome your views on allowing the transfer of land from a local authority's General Fund to their Housing Revenue Account at zero cost.*

We support this proposal and it is helpful that Government is looking at the wider restrictions on council housing finance.

It would also help to classify the debt adjustment on appropriation of land into the HRA as a cost for the purpose of using RtB receipts. At present, land is in effect treated for RtB purposes as ineligible for use of receipts. This should be amended to allow the value to be eligible for use of receipts even though there is no direct cost: the cost to the HRA is still there as HRA debt is increased by the value of the land – and hence the land value has to be met over time just the same as if it had been bought on the open market. The current rule gives a perverse incentive to councils to buy land (to use RtB receipts) rather than use their own land.

Question 5B: *We would also welcome your views on how many years land should have been held by the local authority before it can be transferred at zero cost, and whether this should apply to land with derelict buildings as well as vacant land.*

In principle it should be a decision for councils.

Question 6: *We would welcome your views on whether there are any circumstances where housing companies or Arm's-Length Management Organisations should be allowed to use Right to Buy receipts.*

We strongly support the proposal for councils to be able to pass receipts on to ALMOs and Housing Companies. It is an anomaly that councils can only pass receipts to housing associations - or in theory any company not owned by the council - under the current rules. Interest from housing associations for using receipts has been low, mainly as the level of funding is not sufficient for them to make development viable.

Question 7: *We would welcome your views on allowing a short period of time (three months) during which local authorities could return receipts without added interest.*

We have no objection to this proposal. This approach should apply to all future receipts and not just existing ones.

Question 8: *Do you have any other comments to make on the use of Right to Buy receipts and ways to make it easier for local authorities to deliver replacement housing?*

The Government has made a number of welcome reforms to its housing policy recently, summarised in the Green Paper and added to by the extremely welcome announcement that HRA borrowing cap will be lifted. However they can go further and faster in realising the potential and aspirations of local government.

In particular, it must allow *all* councils the opportunity to build housing. It is disappointing that restrictions on social rent grant and proposed RtB flexibilities are applied to areas defined by such a narrow definition of affordability. The decision restricts countless councils ready to build now, and it prevents the half a million families on council waiting lists in those areas from benefitting.

All councils need freedom and certainty to find create solutions to their individual housing challenges, and they – like the private sector and housing association sector – need a stable policy and financial environment in which they can be confined in making long term investment in new and existing housing.

To achieve this, the Spending Review must:

- **Implement the total removal of the HRA borrowing cap as soon as possible, allowing councils to borrow at prudential levels.** The announcement to remove the cap is extremely welcome and the Government must move quickly to implement it so that councils can get on with building homes, setting out plans to completely remove the cap in the Budget. Councils hold 1.6 million council homes with an estimate market sale value of around £231 billion, but they are only allowed to borrow up to around £30 billion against these assets - this is an enormous underutilisation of potential⁴. Savills have estimated that the cap would enable councils to comfortably build an additional 100,000 homes over ten years, but the sector's ambition is greater than that and further reforms will enable councils to go much further.
- **Create long-term rental certainty by pledging to CPI+1 rent increases in social housing for at least 30 years, and giving councils greater control on rent setting.** While rental certainty up to 2025 is welcome longer term guarantees on rents and their relationship with the welfare system will provide immediate help to develop house building programmes. Furthermore our research demonstrates that the Government should consider local flexibility to further raise rents where a case can be made in terms of building additional units and achieving reductions in private sector housing benefit caseload⁵.
- **Reform Right to Buy (RtB) to put it on a more sustainable footing, by allowing councils to retain 100 per cent receipts and set discounts locally.** In the last six years, more than 60,000 homes have been sold off under the scheme at half the market price on average, leaving councils with enough funding to build or buy just 14,000 new homes to replace them. Our

⁴ http://www.arch-housing.org.uk/media/106815/raising_the_roof_17nov2017_final.pdf

⁵

<http://d3n8a8pro7vhm.cloudfront.net/themes/5417d73201925b2f5800001/attachments/original/1519256246/CapExRents.pdf?1519256246>

modelling suggests this capacity is likely to worsen without reforms to the scheme. Councils are ambitious to build significantly more homes and should be able to: retain 100 per cent of sales receipts into building replacements; set discounts locally so that there is sufficient receipts to build new homes, and; have up to 5 years to build replacements.⁶

- **Change the time limited cost floor to a cost floor principle.** The current cost floor is too short at 15 years, especially for flats where the maximum 70 per cent discount is reached at exactly that point. It cannot be justified for any council to have to sell a property that they have invested in at less than it cost them to build it. It is therefore proposed that the cost floor is extended to have no time limit.

Taken together the above measures would enable councils to significantly increase their role in delivering new homes that have significant wider benefits for economies, communities, and public finances.

With the right conditions, the country should aim towards building 100,000 social rent homes a year within 5 years.

***Question 9:** Should the Government focus be on a wider measurement of the net increase in the supply of all social and affordable housing instead of the current measurement of additional homes sold and replaced under the Right to Buy? If the target were to change, we would welcome your views on what is the best alternative way to measure the effects of Government policies on the stock of affordable housing.*

There is a risk that the proposed change would send out the wrong message about the Government's intentions. It could be seen as a tacit admission that the RtB replacement policy has failed.

The Social Housing Green Paper highlights the importance of transparency and proposes new key performance indicators for social landlords. Government should model the same level of transparency in national statistics and for that reason we would not support a change that replaces figures on RtB replacement with a broader measure of housing supply.

⁶ <https://www.local.gov.uk/sustainability-right-buy>