



Portfolio Holder for Housing and Communities

Item

September 2018

Report of	Assistant Director of Corporate and Policy	Author	Tina Hinson ☎ 506903
Title	Response to the Government's consultation paper "Use of receipts from right to buy sales"		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Government is seeking views on options for reforming the rules for using money raised from the sale of council housing under the right to buy, to make it easier for local authorities to build more homes. They also asking whether they should reform their commitment that every additional home sold under the right to buy should be replaced on a one-for-one basis nationally
- 1.2 The consultation paper proposes a number of changes to the existing rules and regulations around right to buy receipts including:
 - Extending the period of time local authorities can hold unspent receipts they are currently holding before they have to pay them back from 3 year to 5 years (but this would not apply to any newly generated receipts).
 - Allowing a greater proportion of right to buy receipts to be used to provide new homes – currently a maximum of 30% of total scheme costs can be paid for from right to buy receipts.
 - Allowing local authorities to bid for affordable homes programme grant (administered by Homes England) to help pay for new affordable homes where the local authority does not have enough funding from right to buy receipts.
 - Whether to restrict the use of right to buy receipts to buy homes to be used as affordable homes, rather than build them.
 - Whether right to buy receipts arising from the sale of social rented homes could be used to provide new shared ownership homes.
 - Should local authorities be allowed to transfer land from their General Fund to their Housing Revenue Account at no cost.
 - Letting local authorities transfer their right to buy receipts to their arm's-length management organisations (ALMOs) or their housing companies.
- 1.3 The consultation also seeks views on whether the Government should change its commitment that for every additional council home sold as a result of the increased discounts introduced in 2012, a replacement home would be provided nationally through acquisition or new build.
- 1.4 The response to the consultation is a joint response from Colchester Borough Council and its arm's-length management organisation, Colchester Borough Homes.

2. Recommended Decision

- 2.1 To respond to the consultation paper as shown in Appendix A.

3. Reason for Recommended Decision

- 3.1 The consultation provides the Council with the opportunity to influence Government proposals about the use of right to buy receipts from the sale of Colchester Borough Council owned housing under the Right to buy legislation.

4. Alternative Options

- 4.1 To choose to not respond however, by not responding Colchester Borough Council would lose its opportunity to influence the outcome of the consultation.

5. Background Information

- 5.1 Under current Right to buy legislation, council tenants have the right to buy their home at a discount, with the amount of discount dependent upon the length of time they have been social housing tenant. Right to buy discounts are currently a maximum of £108,000 in London and £80,900 outside of London. In Colchester in 2016/2017 and 2017/2018 a total of 97 properties were sold under the right to buy. The average sale price was £91,288 and the average discount was £73,037.
 - 5.2 In April 2012 the Right to buy was reinvigorated by the Government and the maximum right to buy discounts were increased. A commitment was also introduced for the first time that for every additional sale above an original baseline forecast by Government, a new affordable home would be provided nationally through acquisition or new supply. Local authorities could also enter into an agreement with the Government to retain these additional sales receipts to fund the provision of the replacement stock. Colchester Borough Council entered into one of these agreements and used its right to buy receipts to build the first council homes in Colchester in 20 years.
 - 5.3 Under the terms of the current agreements, local authorities are required to spend retained right to buy receipts within three years, and for the receipts to fund no more than 30% of the cost of a replacement home. Where a local authority is unable to spend receipts within three years they have to be returned to the Government, together with interest of 4% above base rate. These funds are then used by Homes England or the Greater London Authority for affordable housing.
 - 5.4 Statistics released in March 2018 showed that for the first time while the overall number of homes available for social rent has increased, local authorities have not been building enough right to buy replacements to match the pace of sales and the commitment that every additional home sold would be replaced on a one-for-one basis nationally is no longer being met. The Government feels that it is clear that local authorities need to increase their rate of delivery of new homes if they are to match the growth in sales.
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- 5.5 The Government has gone some way to recognise that more needs to be done to help councils deliver replacement homes and have already taken some action. Local authorities in high affordability pressure areas are able to participate in a one-off bidding round for additional Housing Revenue Account borrowing which can be used alongside their unspent right to buy receipts to build new homes. The Government also set a longer-term rent deal to provide investment stability, following the previous four years of a 1% rent reduction which stalled many local authorities' development ambitions.
 - 5.6 However there are a number of barriers which hinder the spending of right to buy receipts and therefore new development. These include: lack of developable land owned by the housing revenue account; lack of development expertise and capacity within local authorities; inability to secure the remaining 70% of development costs due to a lack of borrowing headroom in the housing revenue account; inability to plan properly and develop a pipeline of development due to the need to return RTB receipts within 3 years and uncertainty about the value of future receipts. The Government is aware that the current restrictions around the use of right to buy one-for-one receipts are a barrier to delivery.
 - 5.7 To help councils build more homes, the Government believes there is a case for greater flexibility on the use of receipts from Right to buy sales and is consulting on how local authorities can use their right to buy receipts, and how to ensure that we continue to support local authorities to build more council homes.

5.8 Colchester Borough Council's response is can be found at Appendix A.

6. Equality, Diversity and Human Rights implications

6.1 The purpose of this report is to respond to the Government's consultation which seeks views on options to reform the rules governing the use of Right to buy receipts. Any policy changes brought forward as a result of the consultation would be subject to appropriate assessment which would be carried out by central government. .

7. Standard References

7.1 There are no particular references to financial; community safety; health and safety or risk management implications.

7. Strategic Plan References

7.1 The response has been written to reflect the Council's Strategic Plan 2018-2021: Wellbeing - Create new social housing by building Council homes and supporting Registered Providers.

8. Consultation

8.1 The consultation is being carried out by the Government using the Consultation Principles issued by the Cabinet Office.

9. Publicity Considerations

9.1 Colchester Borough Council's response to this consultation paper will be published on the Council's web-site and therefore available to the public and stakeholders.

Appendices

Appendix A (attached) – Colchester Borough Council's response to the Government's consultation paper "Use of receipts from right to buy sales".

Annex B: Consultation response proforma

If you are responding by email or in writing, please reply using this questionnaire pro- forma, which should be read alongside the consultation document. If you are completing the form online you are able to expand the comments box should you need more space.

Your details (Required fields are indicated with an asterisk (*))

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Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?* (please tick as appropriate)

Personal View

Organisational Response

Name of Organisation (if applicable)

Colchester Borough Council and Colchester Borough Homes

If you are responding on behalf of an organisation, please tick the box which best describes your organisation.

Local Authority (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)

Neighbourhood Planning Body/Parish or Town Council

Private Sector organisation (including housebuilders, housing associations, businesses, consultants)

Trade Association /Interest Group/Voluntary or Charitable organisation

Other (Please specify)

And Colchester Borough Council's Arms Length Management Organisation (ALMO)

Options for reforming the rules around the use of Right to Buy receipts

Timeframe for spending Right to Buy receipts

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.

Please enter your comments here

We would welcome the extension to the time limit for existing receipts. However, a 5 year limit on future receipts would be more beneficial to allow local authorities more time to deliver new build affordable housing. Whilst we are keen to deliver new homes quickly to meet pressing local housing needs, new build would usually take more than 3 years to deliver, particularly where available land is scarce, the remainder of the 70% funding needs to be secured, and there are restrictions on HRA borrowing headroom. If other changes are implemented to make it easier for local authorities to spend the receipts, (such as increasing the borrowing cap, and allowing local authorities to allocate more than 30% of RTB receipts to the total scheme cost of each replacement home) we feel a five year time limit for spending all existing and future receipts would see more homes delivered. In addition, acquisitions can be unpredictable (such as those offered back to local authorities under the right to buy back covenant or properties acquired to meet very specific housing needs) and there needs to be flexibility to enable these opportunities to be

Cap on expenditure per replacement unit

Question 2:

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

Please enter your comments here

We welcome flexibility around the 30% cap as at the current rate it significantly reduces the ability of local authorities to replace those homes that are sold under the RTB.

We would support increasing the cap to 50% of build costs for homes for social rent, homes which are being sold under the right to buy are social rent homes diminishing the supply of this truly affordable housing tenure. It is therefore appropriate for the replacement homes to be social rent. However, we would want more clarity regarding the criteria for areas where

authorities meet the eligibility criteria of the Affordable Homes Programme and can demonstrate a clear need for social rent over affordable rent.

We would also support allowing local authorities to “top-up” insufficient Right to Buy receipts with funding from the Affordable Homes Programme up to 30% of build cost for affordable rent, or 50% of build costs for social rent. Again, we would welcome clarity on the criteria, methodology or evidence required for local authorities to be able to demonstrate a need for social rent.

However, we would like to go further and use 100% of retained right to buy receipts to fund one for one replacement homes in areas of high housing need and where there is a clear need for social rented housing. The 1% rent reduction for four years has had a significant impact on our HRA Business Plan, removing £143million of rental income over a 30 year period, and removing any headroom we would have had to deliver additional Council housing. Retaining 100% of receipts would make replacement more deliverable and at a faster rate, overcoming the need to secure the proportion of development costs not met by right to buy receipts in the current funding model.

Use of receipts for acquisition

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.

Please enter your comments here

We do not agree with restricting the use of Right to Buy receipts for acquisition of property.

Acquisition of existing properties is a faster affordable housing solution than the development process, and so it should remain as one of the solutions to delivering additional affordable housing through the use of Right to buy receipts, alongside new build supply.

We do not agree that there should be a price cap per unit based on average build costs. Demonstrating value for money should not be the only factor. “Deliverability” is also a factor. A property can be acquired in 3 months, a new build home can take 3 years or more when the whole development process (land acquisition, planning, procurement, remediation, and construction) are taken into consideration. So even if it may be “cheaper” to build a new home in high value areas, the delay in supply would still be a cost to the public purse.

Therefore flexibility to acquire or build should remain as it is so there are no

Although acquisitions may currently account for around 40% of replacements, this reflects the restrictions of the current model. If local authorities were given the flexibility, through an increased debt cap, to borrow and had the flexibility to spend more than 30% of RTB receipts on new social housing along with an extended time period in which to spend them, then this would be likely increase the proportion of new build replacements.

Tenure of replacement home

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.

Please enter your comments here

We see this as a matter for local authorities to determine in accordance with local needs and would welcome any additional flexibility to support this.

In Colchester there is a more than sufficient supply of shared ownership dwellings being delivered or offered for resale. There is little evidenced need to increase supply. For example, the SHMA (Dec 2015) for Colchester identifies a need for just 12 shared ownership homes a year, compared to a need for 266 social/affordable rent homes a year.

Changing the way the cost of land is treated

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.

Please enter your comments here

We welcome the flexibility to allow LAs to transfer land from their General Fund to their Housing Revenue Account and decide if they want to charge or not, giving local authorities the local decision making to best meet their local housing need.

However, locally this would have a detrimental impact on our General Fund, as it would be foregoing a much needed capital receipt. Better analysis is needed of the impact of lifting the borrowing cap and/or being able to use 50% (or even 100%) of Right to Buy receipts for new social housing as acquisition of land at its true existing value may not be a barrier to one for one replacement if these changes are implemented.

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.

Please enter your comments here

Whilst we understand why the Government may wish to impose a timeframe to the ownership of land before it can be transferred we are not clear as to how this will assist the delivery of affordable/social housing and the target of replacing homes sold under the right to buy. Where local authorities wish to transfer land from their General Fund to their Housing Revenue Account. Clearly the more flexibility afforded to local authorities, the greater chance of them being able to make decisions which will assist them to deliver affordable and social housing.

Transferring receipts to a Housing Company or Arm's-Length Management Organisation (ALMO)

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.

Please enter your comments here

Although Colchester Borough Council wishes to build new social rented homes using its housing revenue account (HRA) resources and for those homes to be held within the HRA, we recognise that we need the flexibility to respond to opportunities to develop new homes to meet local housing need as they arise. Colchester Borough Council has both an ALMO and a housing company, if the Housing Revenue Account is unable to sustain new development then we would welcome the flexibility to work with our ALMO and/or our housing company to develop new affordable homes using our RTB receipts on the Council's behalf.

Temporary suspension of interest payments

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.

Please enter your comments here

We would support measures which minimise interest costs, as this money could be invested in additional council housing supply. However, we would appreciate further clarification on the proposals in terms of both the process and ongoing provision.

Other comments

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?

Please enter your comments here

Overall we support the Government's proposals where they offer additional flexibility and remove barriers to boosting the replacement of homes sold under the right to buy. However, we feel that the proposals need to go further in order to support local authorities to meet the need for social and affordable rented housing in their areas.

We would urge the Government to consider allowing local authorities to reinvest 100% of allowable RTB receipts in the local area ideally (either directly or via local providers).

Over-time and particularly for smaller stock holding local authorities there is a danger of stock levels becoming critically low and unviable from an economy of scale point of view if there is not a pipeline for replacement. There is a danger that rental income will no longer be able to service HRA debt.

We would welcome a framework which would enable providers to take a business approach, using a debt-based view of the asset to manage the stock and support a viable pipeline of new development. In this respect we would like to see the Government consider introducing local discretion over the discount rates set for those exercising their

Reforming the replacement commitment

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.

Please enter your comments here

We would urge the Government to continue to monitor the additional homes sold and replaced, to reflect the appetite for using the receipts to boost development and promote visibility and accountability of the RTB. If the replacement commitment is lost then this undermines the basis for increasing the discounts for RTB in 2012 that is, that homes sold would be replaced. Once included in the overall supply of social housing the visibility of this is lost along with the accountability. We would also suggest alongside this a measure of the total amount of RTB receipts invested in area where they were generated.