

Annex: Mayor of London's response to *Use of receipts from Right to Buy sales* consultation

Introduction

Since the Right to Buy was reinvigorated in 2012, and despite many councils' best efforts, only 36 per cent of the 17,300 council homes sold in London through this policy have been replaced¹. Right to Buy has therefore been a key contributor to the loss of social rented homes in the capital – the stock of which forms the foundation of London's mixed communities. Our most recent housing needs assessment concluded that 30,972 new low cost rented homes are needed in London each year for the next 25 years, equating to 47 per cent of annual housing need². In this context, it is critical that homes lost through Right to Buy in London are replaced like-for-like.

The additional flexibilities proposed in the consultation will go some way towards enabling councils to deliver like-for-like replacement of homes sold through Right to Buy – particularly proposals to extend the timeframe for spending Right to Buy receipts and to raise the cap on the proportion of the cost of replacement homes that can be funded through receipts. Government should ensure they are implemented in a way that does not add further complications for councils in the context of a system that is already widely understood in the sector to be overly complex.

However, the proposed reforms fall far short of what is required. The Mayor believes that achieving like-for-like replacement of homes lost through this policy will require Government to devolve more decisions on the use of Right to Buy receipts to councils, who are best-placed to make decisions on how proceeds from the sale of their assets should be used to replace social housing locally. As a minimum, councils should be allowed to keep 100 per cent of sales receipts and unnecessary restrictions around receipt expenditure should be lifted.

Furthermore, Right to Buy receipts cannot be considered in isolation; Government should also proceed with other reforms such as agreeing a longer-term, more stable and devolved grant funding settlement for London, delivering promptly and fully on its pledge to lift restrictions on borrowing against councils' Housing Revenue Accounts, and introducing legislative reforms that would support councils to assemble land for new homes.

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.

The Mayor welcomes this proposed extension but believes it should be applied to both existing receipts held by councils and future receipts, and his clear preference would be for the time limit to be removed entirely.

Councils' ability to spend Right to Buy receipts within the current three-year period is constrained by restrictions on the usage of these receipts – and most notably the cap on expenditure per replacement unit. While some of the reforms proposed in this consultation would go some way to support more streamlined expenditure of Right to Buy receipts, the Mayor believes they fall far

¹ MHCLG: live tables 691 (quarterly Right to Buy sales, by local authority) and 693 (quarterly Right to Buy starts on site, by local authority).

² GLA (2017): Strategic Housing Market Assessment.

short of what would be required for councils to spend receipts within three years, or even within five years in some cases.

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.

The Mayor welcomes the proposal to raise the cap on the proportion of receipts that can be used to deliver replacement homes. Recent research has identified the current arbitrary cap as the biggest barrier to replacing homes sold through Right to Buy³, and as such the Mayor believes that the proposal to increase the cap to 50 per cent should be implemented as a minimum.

It is critical that the mechanism to grant this additional flexibility to councils is made as streamlined as possible. There is an overwhelming demand for social rented homes in the capital⁴, and the Mayor would like to see all councils in London be granted full flexibility to use Right to Buy receipts to fund at least 50 per cent of the build costs of replacement homes without being subjected to further burdensome checks or process.

The Mayor notes Government's view that one-for-one replacement of homes sold through Right to Buy "should be feasible for authorities in typically higher demand areas where the rental stream is sufficient to finance the remaining (up to) 70% through borrowing"⁵. This is demonstrably not the case in the capital, where only 36 per cent of the 17,300 council homes sold in London through this policy have been replaced⁶, and where councils have had to return over £50 million receipts because they have been unable to spend them locally.

Government's failure to ensure Right to Buy replacements are delivered in London is despite councils ramping up their homebuilding efforts, including many ambitious bids to the Mayor's *Building Council Homes for Londoners* programme. However, the additional flexibilities proposed in the consultation will not enable councils in London to viably replace homes lost through Right to Buy on an ongoing basis given the cost of development, limited grant rates, and constraints on land.

As such, the Mayor would welcome further flexibilities around the cap in expenditure to deliver the homes that Londoners desperately need. This should include greater flexibility to spend Right to Buy receipts beyond the 50 per cent cap currently proposed, and alongside other capital receipts held in the Housing Revenue Account and public land. In this way, councils would be put on a level playing field with housing associations, which have much greater freedom to actively manage their assets and reinvest receipts from sale of assets in a way that they see fit. Local authorities are best-placed to spend their own receipts wisely, are subject to strong statutory and political incentives to deliver more social rented homes and would use any additional flexibilities accordingly.

³ Chartered Institute of Housing, National Federation of ALMOs and Local Government Association (2015): Keeping pace – replacing right to buy sales

⁴ GLA (2017): Strategic Market Housing Assessment.

⁵ MHCLG (2018): Use of receipts from Right to Buy sales consultation (pp. 8)

⁶ MHCLG: live tables 691 (quarterly Right to Buy sales, by local authority) and 693 (quarterly Right to Buy starts on site, by local authority).

MAYOR OF LONDON

Currently, the cost floor ceiling on Right to Buy only prevents new council homes being sold at a loss for up to 15 years. This can act as a significant disincentive to council homebuilding in London, where development costs often need to be recouped over a 30-year period or longer. The Mayor would therefore support an extension of the cost floor ceiling such that council homes are never sold at below cost through Right to Buy.

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.

The Mayor opposes this approach. It would create additional constraints that would further undermine councils' ability to replace homes sold through Right to Buy in London.

The consultation highlights Government's concern that Right to Buy receipts are being used to fund last-minute acquisitions. The Mayor believes this is a reflection of the number of restrictions on how Right to Buy receipts can be spent, most of which will remain in place even if all the proposals in this consultation are implemented.

Acquisition may sometimes be the quickest and most effective option to replace homes sold through the Right to Buy, including by bringing empty homes back into use and presenting cost-efficiencies for the public purse in relation to housing management (for example through leaseholder buy-backs on council owned estates). However, given that the proposed acquisition cost cap excludes land costs, it bears no relation to the cost of acquiring a home. It would therefore severely limit the use of Right to Buy receipts to fund acquisitions in London, whilst undermining council homebuilding in areas with lower land costs by incentivising acquisitions.

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.

The Mayor believes that Right to Buy replacements should be on a like-for-like basis in order to meet housing need, which is overwhelmingly for new social rented homes in London. Although the principle of enabling councils to make decisions about their own receipts is important, the Mayor believes that the priority to protect London's stock of social housing means the receipts from social rented homes sold through Right to Buy should be used to build new homes based on the same levels.

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.

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.

MAYOR OF LONDON

The Mayor welcomes this proposal. Land transfers from the General Fund to the Housing Revenue Account are subject to councils' internal processes, which take account of rules and regulations relating to due diligence. Government should therefore minimise restrictions placed on councils wishing to transfer land at zero cost, including in relation to how long the site should have been held by the authority and current land use.

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.

The Mayor does not support the current arbitrary restriction on the transfer of Right to Buy receipts to housing companies or Arm's Length Management Organisations (ALMOs).

In many areas of London, housing companies or ALMOs are the primary vehicle through which the council is planning to deliver new homes. The Mayor would therefore support flexibility for councils to transfer Right to Buy receipts to organisations for which they have a controlling interest, where these receipts would be used in a way that contributes to like-for-like replacement. Councils are currently able to transfer receipts as grants to organisations in which they do not hold a controlling interest, such as housing associations, and so it is unclear what principle is being followed by restricting them from doing so to housing companies or ALMOs in their control.

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.

The Mayor supports this proposal, but to be clear, the Mayor would prefer that interest payments on what is councils' own money should be removed entirely.

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?

When the discounts for Right to Buy were dramatically increased in 2012, Government set out that it would support social mobility and help create and sustain mixed communities⁷. The Mayor is clear that the current replacement regime is not delivering against these objectives and is contributing to the loss of social housing in London.

The incremental reforms to the proposed rules surrounding Right to Buy replacements, as set out above, would be welcome steps in the right direction. However, the Mayor believes that more fundamental reform of the rules is urgently required to empower councils to deliver like-for-like replacements – a view widely shared across the housing sector⁸.

⁷ House of Commons Library (2014): Incentivising the Right to Buy

⁸ E.g. Association of Retained Social Housing (2017); Centre for London (2018); Chartered Institute of Housing (2018); Local Government Association / Chartered Institute of Housing (2018)

MAYOR OF LONDON

This review should not consider Right to Buy in isolation from other measures that act to constrain council homebuilding, including the limited availability of grant and available land. The Mayor would welcome further discussion with Government on such reforms, which should include:

- Permitting councils to retain 100 per cent of the receipts from Right to Buy sales to replace homes. A recent Freedom of Information Act request revealed that just 47 per cent of the cash raised through the sale of 63,518 council homes since 2012 has been available to councils to deliver replacement homes. The remaining £2.57 billion has been returned to the Treasury or used to repay historic council debts or the administration of the scheme⁹. This is indefensible in the context of London's housing crisis, particularly given that this money is raised through the sale of council-owned assets through a policy over which they have no control.
- Promptly and fully lifting restrictions on borrowing against councils' Housing Revenue Accounts, which limit councils' ability to invest Right to Buy receipts and borrow sustainably to invest in new homes. The Mayor welcomes the Prime Minister's recent announcement, responding to calls that he and others have long made, to remove the arbitrary cap on council borrowing. Government should deliver on this commitment quickly and should not impose restrictions that would fetter councils' ability to prudentially borrow against their assets.
- New measures to limit the number of homes sold through Right to Buy that later end up in the private rented sector. The Communities and Local Government Committee cited evidence that almost 40 per cent of ex-council flats sold through the statutory Right to Buy are now in the private rented sector, and recommended for further investigation that any Right to Buy home re-sold within ten years be first offered to the local council and housing associations¹⁰.
- More broadly, a longer-term, more stable and devolved funding settlement that gives London the resources it needs to address its housing problems. Initial GLA estimates suggest that the real requirement for affordable housing funding may be at least £2.7 billion per year. The current settlement provides London with less than £700 million per year. Government should recognise the vital role to be played by councils in meeting London's housing targets by offering a funding package that would unlock a step-change in housing delivery.
- Legislative reforms that would support councils to assemble land for new homes. The limited availability of developable land in London is a major barrier to council homebuilding efforts. Land assembly rules should be reformed, including to streamline compulsory purchase processes and to enable councils to capture more of the land value created through development to reinvest in infrastructure and new social housing.

⁹ As reported in Inside Housing (May 2018): Less than half of £4.8 billion Right to Buy receipts used for replacement housing

¹⁰ House of Commons Communities and Local Government Committee (2016): Housing associations and the Right to Buy