

# Briefing

## The Right to Buy in Scotland: Options for reform

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# Shelter

## Reforming the Right to Buy in Scotland

The housing policy agenda has moved on significantly since the Right to Buy (RTB) was introduced in 1980. Scotland has seen the most progressive and far reaching homelessness policy in Western Europe, and the social and housing landscape has undergone significant transformation.

Since its introduction, over 400,000 public sector homes have been sold in Scotland through Right to Buy. The majority of these have been from local authority housing stock, however, housing built by registered social landlords since 2002 is now also included and the Right to Buy is due to be extended to all property of registered social landlords in 2012.

The transfer of such a large stock of dwellings from public to private use has inevitably had major implications for the availability of public sector housing. Shelter believes that the Right to Buy is out of step with current housing policies, especially the insistence that local authorities drive housing policy through the Local Housing Strategy. Without major reform, the Right to Buy will undermine the efforts being made towards housing policy objectives.

### Options for reforming the Right to Buy

There is a compelling case for reforming Right to Buy<sup>1</sup>, however the policy choices for reform are not so clear-cut. Options for reforming Right to Buy must consider both the practical and political implications. In summary, Shelter thinks that there are three groups of options for reforming RTB.

#### 1. Wholesale abolition of RTB by Scottish Ministers.

This would be a high impact option. However, research carried out for Shelter<sup>2</sup> showed that this would be a difficult option around which to gather consensus, both among those directly affected (including, importantly, waiting list applicants) and the public at large. Politically, it is difficult to see how there would be appetite for change across the whole scheme. However, the fact that 40 per cent of councillors supported outright abolition makes it possible that local political appetite might be higher (see local options below).

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<sup>1</sup> See Shelter paper 'The Impact of Right to Buy in Scotland'

<sup>2</sup> Research for Shelter Scotland by TNS System 3 in August 2005, carried out on attitudes to RTB among the public, tenants and prospective tenants.

Outright abolition would also have the risk of causing a stampede as tenants rushed to buy – pressured by relatives or door to door companies – so there is a policy as well as political risk attached to it.<sup>3</sup>

A less wholesale option would be ending the RTB for new tenancies. This was the least popular of the reform options that we put to members of the public. Further, there was very little support among current/prospective tenants for this option and focus group discussion showed that people felt that this would create an unfair inequality of rights among tenants (even though there already is such inequality in various versions of Right to Buy). Ironically, perhaps, there was even less support for abolition for new tenancies than for tenancies as a whole!

We conclude that abolition options carry little hope of commanding policy or political support.

## **2. Maintaining the RTB, but tightening up on 'abuses' such as third parties buying property through the tenant, people repeat purchasing, selling as soon as possible to make a quick profit etc.**

Our research shows that this approach would be very popular, but has two difficulties.

- It would be hard to design in policy terms (although some of our reforms on claw-back and pre-emption would indirectly address some of these issues).
- It would not make the scale of impact we would need in order to make a real difference to the availability of affordable homes to rent.

So these measures, quite in contrast to option group 1, would be relatively low impact but probably the easiest to secure support for. Shelter will look further at means of quantifying and regulating perceived abuses, but *as part of* a package of more strategic reforms.

## **3. Options to restrict and limit the RTB range from options that would comprehensively affect RTB, such as varying the discount, extending qualifying or claw-back times, to more tailored options such as refusing RTB on newly built property, and giving landlords the first opportunity to buy back former social rented sector houses when they come up for sale.**

Our research showed support among councillors and the public for social landlords being allowed to refuse RTB applications in areas where there is a shortage of rented accommodation. The range of options for restricting the RTB must be considered in terms

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<sup>3</sup> However, the risk of stampede is often overplayed: it is doubtful whether short term shifts in sales patterns would outweigh the longer term goals of policy reform.

of the impact that they will have on RTB sales, both in terms of limiting long-term sales, and in terms of the potential to provoke 'panic' buying among tenants who fear that they will lose rights.

## Providing local flexibility

Research conducted by Newhaven Research for the Chartered Institute of Housing<sup>4</sup> concludes that there is a case for giving local flexibility as to how RTB is determined, but that local authorities would need to improve how they analyse local housing markets in order to justify exercising discretion. Right to Buy would then become a tool of local housing strategy rather than riding roughshod over it and, to the extent that Right to Buy has had positive benefits, the distribution of these benefits could be shaped by public policy rather than being – as at present – the arbitrary outcome of a national scheme with no respect for local conditions.

The policy of enabling councils and other landlords to determine the properties on which the RTB should be allowed is an extension of the principle of the Executive granting pressured area status (PAS) that was introduced in the 2001 Housing (Scotland) Act. So far, very few councils have applied for PAS and the approval process is arguably onerous. Even if approved, PAS only has a limited and marginal effect. It would only last for five years and only cover new tenancies in each council area over that period.

Our proposals could allow councils and other landlords much greater discretion over which properties in which areas are covered by RTB, or how RTB affects them. Although allowing more flexibility, discretion should not equal a complete freedom to determine RTB. A local authority would still have to justify their decisions based on local housing need and set out their approach in the Local Housing Strategy, and it may be necessary to ensure that registered social landlords have to make similar justifications through submission to Communities Scotland, for example.

This approach may be more acceptable as it is an extension of existing powers to designate pressured areas and existing exemptions to certain types of housing. Our research showed that publicly, and among current/prospective tenants, there is some awareness that the RTB could be contributing to shortages of affordable housing for rent<sup>5</sup>. This is matched, however, with a strong level of self-interest among participants wanting to see a continuation of RTB, and a strong distrust of the ability of councils and other social landlords to administer a variable RTB fairly and effectively. This approach would inevitably create an inequality of rights among tenants, which the research showed was unpopular. However, there was also a very low level of awareness among those people

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<sup>4</sup> Newhaven Research (October 2005) Right to Buy in Scotland: Impacts of the Current Policy Framework and Options for Reform

<sup>5</sup> Research for Shelter Scotland by TNS System 3 in August 2005.

involved in the research of the current levels of inequality (for example, between the original and modernised) in how the RTB is applied at the moment.

The approach we take to reforming the RTB must be able to command political consensus, must involve a level of raising public awareness, and should incorporate a clear assessment of the impact that the changes will have. Changes to RTB should be seen and communicated within the context of other measures to secure the availability of affordable housing. Giving landlords flexibility about how to apply the RTB would reinforce their ability to plan to meet housing need.

## Detailed options

Within the context of providing local flexibility, there are a range of options that local authorities and registered social landlords have to better manage the supply of housing stock and vary the application of the Right to Buy. We need not become fixed on a set number of options, as this is inimical to the idea of giving greater discretion. Parameters to the options must be set, but this is a highly dynamic policy area where new options or variations on options will emerge and we need to be able to absorb them. We have not focused on some of the reform options that are to do with securing repair or participation in improvement or regeneration schemes, this is not to dismiss the importance of such options: just that our main interest is in the supply of affordable housing.

### Option set 1: vary the terms of RTB

#### a) Landlord power to vary discounts between 1 and 99 per cent

This would give landlords the freedom to restrict discounts in areas where there was already high demand but to increase them in areas of regeneration, for example. The Newhaven modelling suggests that reducing discounts has a modest impact on overall sales numbers. But it might influence *where* sales happen. And, of course, it would generate higher per-unit receipts to redirect back into investment. The guiding principle should be that discounts are made value for money and that receipts should be re-invested into new stock where there are no constraints on land or infrastructure.

#### b) Extend qualifying period for discounts: eg up from five to 10 years

The impact of this is untested but as an option it chimes with focus groups' sentiment<sup>6</sup> that Right to Buy should really be for longer term tenants who are loyal to an area.

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<sup>6</sup> Research for Shelter Scotland by TNS System 3 in August 2005, carried out on attitudes to RTB among the public, tenants and prospective tenants.

### **c) Extend claw-back period from three to 10 years**

In the first five years, anyone selling a house would repay all discount; in the next five years that would be reduced by stages of 20 per cent until after 10 years the house could be sold with no claw-back. Like (b) this would resonate with our focus groups who said that people who buy should not be using it to make a quick profit.

### **Option set 2: allow exemptions to be extended**

We should pursue option set 1, but in areas of the highest demand there will still be strong incentives to buy. In some of those areas it will be necessary to retain housing stock, especially where land or service constraints mean that homes are not easily replaced. This can only be done by exempting some homes from Right to Buy, as is already done for some pressured areas and some types of specially built or adapted houses.

#### **d) Exempt areas**

In our public survey, 60 per cent supported councils being able to exempt homes from RTB in areas where there was pressure. This is a general affirmation of the principle in the 2001 Housing (Scotland) Act and should be taken as a signal that the Scottish Executive is being unduly restrictive in deciding how councils should determine exempt areas. We believe that councils should take a lead, working with RSLs, to determine exempt areas without needing to get approval from the Scottish Executive. Scottish Ministers could retain a reserve power to 'call in' a proposal (as in the planning system) where there was significant evidence that a social landlord was acting against the community interest.

#### **e) Exempt new homes**

The cost-floor rule already prevents a new house being sold at full discount, but the house can still be sold and, in principle, it acts as a disincentive to landlords seeking to build in the most attractive locations. New homes built and those substantially improved after a certain date could be exempted for a specific period.

#### **f) Other exemptions**

There are two other types of exemption that we have not yet tested. These are exemptions for other types of house: for example, large family homes where there is evidence of mismatch. There is also the possibility of extending exemptions to types of landlord: for example, RSLs that registered as charities *after* July 2001 are not exempt from RTB at present.

### **Option set 3: enabling recovery of former RTB property**

#### **g) Right of pre-emption**

This would give social landlords first refusal to buy back a former socially-rented house at market price. It would act as a backstop for areas where there were real physical difficulties in building replacement housing. In our survey there was 64 per cent public support for this, although people in the focus groups had some misgivings about whether the seller would get a fair price. It would also have budget implications for the landlord.

### **Conclusion**

After 25 years of the Right to Buy, it is time to look critically at how this blanket policy can be reformed to bring it into step with housing policy for 21<sup>st</sup> century Scotland. Legislation is increasingly requiring local authorities to manage housing stock across all tenures, and groundbreaking homelessness laws have made the capacity to manage housing supply more vital than ever. Shelter argues that local authorities and other social landlords should be given back discretion over the pace and scale of sales of remaining housing stock, allowing local flexibility to meet local circumstances.

This paper has set out a number of options that social landlords have for varying the application of the right to buy. These options are not intended to be a definitive list, but to illustrate the variety of ways that social landlords can take back control over housing stock sales. The ability to plan supply to meet demand through Local Housing Strategies has become central to the emerging role of local authorities as overseeing housing across all tenures. It is time to bring the Right to Buy, the single most significant housing policy of the last 25 years, into line with the rest of housing policy in Scotland.