

Briefing

The impact of the Right to Buy in Scotland

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Shelter

Introduction

The Right to Buy (RTB) was initially established in 1980 to give public sector tenants the opportunity to purchase their houses at discounted rates. Since its introduction, almost 457,000 public sector properties have been sold in Scotland, which represents 43 per cent of 1979 stock sold¹. A quarter of these (122,000) have been sold since Labour took office in May 1997. The transfer of such a large stock of dwellings from public to private use has inevitably had major implications for the availability of housing in the public sector in Scotland. There is now growing concern over the continuing usefulness of the RTB, particularly in the light of its potential to further reduce the supply of good quality rented accommodation in the public sector and therefore contribute to the shortage of affordable housing in Scotland.

Background

The RTB was introduced with the explicit aim of extending home ownership. Before 1980 local authorities already had the discretion to sell public sector properties and in some areas these sales were on a significant scale. The RTB legislation in 1980 created a new national framework for the sale of public sector housing that replaced local discretion with a statutory RTB and national scales of discount on the property's valuation price. In terms of home ownership, the RTB has achieved its initial objective; the proportion of owner occupation has risen from 36 per cent to 66 per cent between 1981 and 2004. Although not all of this can be attributed to RTB, this change is dramatic.

How RTB operates and the effect of changes introduced in 2001.

The Housing (Scotland) Act 2001 made substantial changes to the RTB. The new scheme as amended under this Act is known as the 'Modernised RTB'². These changes came into force on 30th September 2002. The Act began to limit the RTB in the following ways:

- by introducing the power for local authorities to declare a pressured housing area where RTB could be suspended for new tenants for up to 5 years.
- by varying the terms of all new RTB sales by increasing the qualifying period for new tenants from 2 to 5 years and reducing the discount available on properties.

However, it also extended the application of the RTB to all tenants of registered social landlords (RSLs), although most sales are suspended until 2012³.

¹ Scottish Executive, Housing Statistics Unit

² Modernised RTB and the original RTB will be continue to be referred to as 'RTB' throughout this report.

³ The suspension does not apply to new build properties.

With a RTB, a tenant can apply to buy his/her home as long as they have no rent or council tax arrears and have not been involved in anti-social behaviour. If they gained the RTB on or after 20 September 2002 they can apply after 5 years of continuous occupation with a landlord, or after 2 years if the tenancy predates the changes.

For tenants who gained the RTB on or after 30 September 2002, discount for all house types starts at 20 per cent and rises by 1 per cent a year, up to a maximum of 35 per cent of the market value or £15,000, whichever is the lower. In general, tenants with a RTB prior to 30 September 2002 retained the RTB on their existing terms, although if they move house voluntarily they would transfer onto the modernised RTB⁴.

A former tenant can sell the house they bought under RTB whenever they like but in order to prevent people making a quick profit from public housing, if they sell within 3 years they will have to repay some of the discount. During the first year after buying, the whole of the discount must be repaid, two-thirds must be repaid in the second year and one-third will have to be repaid in year three. After that they can sell without repaying any discount.

The 2001 Act made it possible for Scottish Ministers, on a proposal from a local authority, to designate specific parts of that local authority's housing as 'pressured areas' because of fears about the impact of RTB on the supply of affordable rented housing. If a designation is made then the RTB will be suspended in those areas for up to 5 years for all new tenancies. The authority can apply to have this period extended. Landlords can also apply to refuse an application on a house that is scheduled for demolition.

Some tenants of RSLs such as housing associations may have had a RTB prior to 30th September 2002, but the majority did not. The 2001 Act gave the RTB to all tenants of RSLs⁵ but deferred it for a period of 10 years (although the landlord can decide to shorten this period of time or apply to have it extended). In addition, some registered housing associations with charitable status had their houses exempt from the RTB. The changes introduced in 2001 were in the most part to restrict the use of the scheme but by extending it to tenants of Housing Associations an estimated 80,000 additional homes are due to come under the RTB in 2012⁶.

⁴ Scottish Executive 2002 *Your Right to Buy Your Home* Information leaflet.

⁵ Except RSLs registered as charities prior to the 18th July 2001 unless you had the RTB as a tenant of this landlord before 30th September 2002.

⁶ SFHA 2005 *Stop the Housing Drain* p.6. This is pre-2002 stock owned by housing associations that were not registered charities by July 2001.

Impact of RTB

Shelter has expressed serious concerns about the impact of RTB since its introduction in 1980. It has been a hugely popular policy with those who have benefited from discounts and the appreciation of property values. Nevertheless, it is also argued that the RTB is popular at the expense of the most disadvantaged in society and increasingly the ability of local authorities to meet housing need.

RTB has not operated in a vacuum but within a policy environment that has seen the reduction of new building by local authorities and real increases in rents. These factors, combined with the shift towards housing benefit for individuals and away from bricks and mortar subsidy, have meant that for social sector households who do not qualify for housing benefit, the alternative of purchase has provided an increasingly attractive option.

Who wins and who loses from RTB?

The RTB has benefited many of those individuals who have been in a position to take advantage of it. Most people who have bought their council house under RTB have seen their personal wealth grow. These are people who have incomes stable and high enough to afford a mortgage or loan and have been able to purchase their council home with discounts recorded as high as £150,000.⁷ People living in good quality council owned homes have become home owners, often at substantial discounts and have been able to make significant profits by selling on their homes after the three year claw-back period.

Although RTB has benefited some people, it has left many in a worse position. Discounts given on the sale of council houses have been given at the expense of the public purse and taxpayers. These discounts have benefited those who have bought their way out of social housing but have left a legacy for the remaining smaller pool of social tenants who are left paying the loans that built the houses in the first place⁸.

Among those who took advantage of RTB there have been losers as well. Many tenants who bought their council house did so believing that their mortgage payments would be cheaper than their rent had been. In some cases, they failed to properly take into account the potential increases in mortgage interest rates and the ongoing costs of maintaining

⁷ Written Parliamentary Question S2W-13887 by Linda Fabiani (Central Scotland) (SNP) Answered by Malcolm Chisholm (8 February 2005). High discounts were a feature of the original RTB; maximum discounts under modernised RTB will be limited to 35 per cent.

⁸ Although research conducted for the CIH by Newhaven (*RTB in Scotland – Impacts of the Current Policy Framework and Options for Reform*, 2005, p27) points out that RTB sales can provide value for money if the receipts are invested for the amount time the former tenant stays in the house, most receipts have been reinvested in existing stock. Latterly, a proportion of receipts have been used to repay debt.

and running a house⁹. This has especially been the case with people who bought a flat and found that they were jointly responsible for major repairs to common parts. The result has been that many former tenants have had to pay much more than they had anticipated and in some cases have been repossessed or forced to sell. These people have had to return to social rented housing, the pool of which is ever diminishing and of lower quality as the best property is lost to the social sector through RTB.

The role of RTB in progressive housing policy

Over the last 20 years, mainstream housing policy has moved on from the days when the focus was extending home ownership. RTB was introduced as a response to the municipal monopolies that characterised housing in the 1970s. The landscape of social housing has evolved since then and other more pressing concerns have come to the fore.

Since devolution, Scotland has led the world by introducing legislation to tackle homelessness. The Housing (Scotland) Act 2001 increased the rights of homeless people, and the Homelessness etc. (Scotland) Act 2003 placed the right to a home in law. By 2012, everyone in Scotland will have a right to a home¹⁰. But this groundbreaking approach will only succeed if there are enough good quality homes to house all of those in need. At a time when affordable housing is needed more than ever, 16,500 council homes a year are being lost to social renting due to RTB¹¹.

The unpredictability of RTB sales undermines the ability of local authorities to plan effectively to meet housing need. To be able to meet the radical demands being asked of them between now and 2012, local authorities must be able to plan for the housing they need. To enable local authorities to meet their commitments the Scottish Executive must ensure that there is an adequate supply of good quality affordable housing, but just over 3 social rented homes are sold for every 1 built.¹² At this rate each of the 5,500 additional new homes a year recently announced by the Scottish Executive could be lost to the social rented sector within five years.

Most local authorities are reporting a real problem in the availability of affordable rented housing. While there may be an overall surplus of houses across Scotland many of them are run down and in places that no-one wants to live. The RTB policy has contributed to the waiting list times growing and increasing numbers of homelessness applications. It

⁹ Qualitative research commissioned by Shelter in Summer 2005 confirmed that most would-be purchasers continue to think about costs quite narrowly as mortgage outgoings rather than taking account of wider responsibilities like maintenance and insurance costs.

¹⁰ The Homelessness etc. (Scotland) Act 2003 gives every non-intentionally homeless person the right to a permanent home by phasing out priority need by 2012.

¹¹ Scottish Executive Statistical Bulletin, *Housing Trends in Scotland*. May 2005 (Taken on average from 2000 to 2004)

¹² Scottish Executive Statistical Bulletin, *Housing Trends in Scotland*. May 2005 (Taken on average from 2000 to 2004)

has impacted on people's ability to access social housing, and more specifically the right kind of housing in the right places.

The growing shortage of affordable housing has forced local authorities into looking to former RTB properties to meet housing need. Some local authorities have had to consider buying back former RTB properties at full market cost, (which may be three times the amount they were sold for) in order to assure a supply of temporary accommodation for people applying as homeless¹³. Ex-RTB properties are sometimes privately rented and so local authorities may support, through housing benefit on rent, properties sold under RTB and now leased at up to three times the social rent.

RTB can be argued to be undermining progressive housing policy in the following areas:

The impact on affordable housing provision

The RTB is not the sole cause but is one of a number of elements leading to the shortage of affordable housing. The long-term consequences of the erosion of supply of affordable housing due to RTB are more serious in places where demand for housing is high because this is also where RTB sales are high.

Sale of public housing under RTB, combined with the lack of available land in high demand areas and the low level of investment in affordable housing, severely reduce the ability of housing providers to meet housing need. In high-pressure areas where there is competition for land it is difficult and costly to replace houses sold under RTB at the necessary rate and to make it affordable. Where there are water or sewerage constraints replacing homes can be impossible.

It can be argued that the RTB serves a different purpose now than it did when it was first introduced. Buyers are younger and it is becoming a means for them to access home ownership and then move on. Evidence suggests that decreasing numbers of households are purchasing with the intention of staying in their properties in the long term¹⁴. Many of the better council dwellings have now been sold and this limits the ability of tenants to move to a better property through transfer¹⁵. The pattern of sales continues to remove the better dwellings from the council stock and private renting of previous council properties can be detrimental to creating sustainable communities in low demand areas. For some tenants living in less popular areas, RTB can become part of their strategy to move out of an area. Once they have bought they can then rent out the property at higher than council

¹³ The Herald, *Council slams the door on Right-to-Buy*, 04/05/2005

¹⁴ Professor Alan Murie, *The RTB in Context*. (Although research conducted for the CIH challenges this conclusion and suggests that caution should be used in interpreting RTB data. CIH 2005, *RTB in Scotland: Impacts of the Current Policy Framework and Options for Reform*, p.23.)

¹⁵ CIH 2005, *RTB in Scotland – Impacts of the Current Policy Framework and Options for Reform*, P.30. A survey of local authorities showed that they felt RTB had a negative impact on the range of property types and sizes available.

rent or sell at full market value giving them an income to move into a more desirable area. Paradoxically, in some cases, their houses are being rented or bought by housing associations or councils needing to buy or rent property to accommodate households in housing need.

Rural urban tenure split

RTB has had a significant effect on the tenure structure of Scotland. In 1981, the proportion of housing that was council housing was 52.1 per cent; by 2004 it had fallen to 15.8 per cent. Although not all of this decline can be attributed to RTB since voluntary stock transfer to housing associations had a significant impact on change in tenure in 2003, the change is dramatic.

It is too narrow an analysis to assess the impact of RTB just in crude numbers. It is important to look at the impact of differential distribution of sales in certain areas and sales by house type. The areas with the highest sales relative to the size of local housing stock are rural and the lowest are urban, and the majority of sales have been houses rather than flats. This means that the consequences of stock loss through the RTB are critical to overall supply in rural areas, whereas in urban areas the most desirable properties in the most desirable locations have been sold.

Sustainable communities

The RTB may have brought benefits to some communities by increasing the mix of tenures but it can now be argued that the benefits in this respect have reached a limit. The evidence of supply and demand in certain RTB neighbourhoods suggests that it is undermining moves to create balanced and mixed communities. The purchase and subsequent sale of RTB homes suggests that it is being used as a strategy to move away from low demand areas. New tenants that intend to purchase at some point in the future will aim to be housed in good properties in good locations. This reinforces the avoidance of less popular locations. In low demand areas, RTB has created a new supply of private lets in former social housing stock. Poor standards of management combined with high levels of turnover of tenancies further undermine the popularity of an area and the sustainability of communities. Tenants that are evicted from local authority housing for anti-social behaviour may move into rented private housing in the area and undermine local authorities' anti-social behaviour strategies.

Exploitation of RTB

There has been much public attention in recent years on abuses of RTB and on exploitation of vulnerable tenants by commercial companies or relatives. There are two types of companies that exploit the opportunities presented by RTB: those that offer

services to tenants to assist them in purchasing and those who provide incentives to tenants to buy and then leave via a sale and lease arrangement.

Service companies can cause an increase in sales by using direct publicity aimed at low income families. Typically they offer help with filling in forms and arranging mortgages and charge around £2000. There are fewer companies offering to buy the property from a tenant for cash. ODPM research¹⁶ has suggested that these companies are confined to inner London although there is evidence of some companies operating nationally including Scotland.

Potentially, a larger problem for Scotland may be the exploitation of the elderly by relatives who may provide funds for RTB. This can lead to elderly people requiring re-housing by local authorities at a later date, when their homes are sold off to realise the capital. At the moment, this remains an un-researched area in Scotland.

Connections between the sale of public housing and homelessness

Shelter has been among a number of organisations including SCSH, the CIH and the SFHA that have argued that the loss of housing for rent which results from the RTB has fuelled the growing homelessness problem in Scotland.¹⁷ The loss of good quality, affordable rented housing has been one of the fundamental reasons for homelessness increasing. Shelter's research has shown that local authorities that have sold more houses have seen the biggest increases in homelessness.¹⁸

Of course there are many other complex social and economic factors and the mixture of these mean that RTB cannot wholly be blamed for causing homelessness. Nevertheless the direction of impact is clear. There are over 188,000¹⁹ people currently on waiting lists for housing in Scotland and yet we currently sell council housing at three times the rate we build new ones. The impact of RTB on homelessness and waiting lists may have a delayed effect since people often stay in their homes for several years before selling them on. The 'lagged' impact of RTB on the flow of affordable homes for rent may only be beginning to show. The consequences for the availability of affordable homes and for the ability of local authorities to meet their commitments under homelessness legislation may be more significant in the future. As it is, over 12,500 homes in the social rented sector were lost in 2004 due to the RTB. If this rate were to continue a further 100,000 homes will no longer be available for public use, severely impacting the commitments to give everyone a home by 2012.

¹⁶ Professor Colin Jones, *Exploitation of the RTB*, Heriot Watt University. (Research reported in CIH/IPPR Briefing, *The RTB – A Symposium for Debate*. May 2003)

¹⁷ Shelter Scotland Briefing, *The RTB and Homelessness*.

¹⁸ Shelter, *The RTB and Homelessness*. 1999

¹⁹ Scottish Executive Statistical Bulletin, *Housing Trends in Scotland*, November 2005.

The case for change

After 25 years of the RTB, it is time to look critically at how this blanket policy can be reformed to bring it into step with housing policy for 21st century Scotland. This paper has outlined the ways in which the RTB contradicts a number of strands of government policy; impacting on its ability to meet its targets such as an end to bed and breakfast use for homeless families, to narrow the gap between deprived neighbourhoods and the rest of the country, and to create sustainable communities and to provide more affordable housing in high demand areas. 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.

Reforming the RTB should be done in the context of making it more compatible with wider housing policy goals. It is time to bring the RTB, the single most significant housing instrument of the last 25 years, into line with the rest of housing policy in Scotland. 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.²⁰

²⁰ See Shelter briefing, *The RTB in Scotland: Options for Reform*, 2005.
<http://scotland.shelter.org.uk/policy/policy-421.cfm/ct/2/pg/2/plitem/193>