

## **An offer to extend Right to Buy discounts to housing association tenants**

This document sets out the terms of an offer the National Housing Federation has made to the Government for a potential agreement that would give all 2.3 million housing association tenants the opportunity of home ownership through Right to Buy discounts.

This offer would provide a significant increase to the supply of new homes in England by ensuring that every home sold is replaced with a new property.

In return, housing associations would be fully compensated by the Government for the cost of the discount. There would be a presumption that housing association tenants would have the right to purchase a home at Right to Buy level discounts, but associations would have discretion not to sell the home under some circumstances in order to manage their business and charitable objectives. This means that in some cases, housing association tenants would be offered a portable discount to purchase an alternative property to the one that they live in. Housing associations would have the freedom to replace the properties sold with alternative tenures such as shared ownership where this is more appropriate.

To spread the benefits offered by home ownership even more widely, the National Housing Federation and its members would also continue to work with the Government to develop new and innovative products so that every tenant can buy a stake in their home.

In summary, this offer would enable the following:

- Every housing association tenant<sup>1</sup> would have the right to purchase a home at Right to Buy level discounts, subject to the overall availability of funding for the scheme. The presumption is that housing associations would sell the tenant the property in which they live.
- Housing associations would have discretion not to sell, for example where a property is in a rural area and could not be replaced, or where it is adapted for special needs tenants. In that event, housing associations would offer tenants the opportunity to use their discount to buy an alternative home from either their own or another association's stock.
- The Government would compensate the housing association for the discount offered to the tenant and housing associations would retain the sales receipt to enable them to reinvest in the delivery of new homes.
- Housing associations would be able to use sales proceeds to deliver new supply and would have flexibility to replace rented homes with other tenures such as shared ownership.

Under the terms of this offer, the Government would implement deregulatory measures to support housing associations in their objectives to support tenants into home ownership and deliver additional supply of new homes. This would include removing any regulatory barriers to associations disposing of their homes to tenants.

The Government and the National Housing Federation and its members would work together on the implementation of this agreement, and an operational document would be published in due course.

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<sup>1</sup> This will only apply to tenants living in a social or affordable rented home

## **Chapter One: The Right to Buy**

1. Since the Right to Buy was introduced in the 1980s, nearly 2 million people have used it to get on the property ladder. The reinvigoration of the policy since 2012 has shown that the appetite of social tenants for home ownership is still very strong. However, not all tenants are able to access these opportunities. The legislation only applies to tenants of council-owned stock, or ex-council tenants who moved to housing associations as part of a large scale voluntary transfer. Social tenants in housing association homes either have the much lower Right to Acquire discount or no purchase rights at all.
2. To extend Right to Buy level discounts to housing association tenants to enable more people to buy a home of their own, the National Housing Federation, in discussion with the Government, propose the following:
  - Extending to all 2.3 million housing association tenants the right to purchase a home, at the level of discount to which they would be entitled if they had the Right to Buy. Current discount levels and eligibility criteria are set out at Annex A.
  - There is a presumption that housing associations would sell the tenant the property in which they live. The housing association would have discretion not to sell the home under particular circumstances. These circumstances would be similar to, but not limited to, the exclusions from the Right to Buy and Right to Acquire, such as; where the property in question is particularly difficult to replace (such as in certain rural areas); if the property is integral to the operation of a service provided (such as sheltered accommodation); or if the property was built with exclusively charitable funds.
  - It may be possible for housing associations to offer their tenants the opportunity to use their discount to purchase an alternative property from either their own or another association's stock. It would be at the tenant's discretion whether to take up the portable discount offer, or to purchase their existing home.
  - Any sale would be at open-market value. The Government would compensate the housing association for the full value of the discount, in line with the practice introduced by the Right to Acquire.
  - In discussion with the Government, this offer includes some broad circumstances where a housing association could exercise discretion to decline a sale, set out in the table overleaf. This does not mean that a housing association would automatically decline to sell the particular property in these circumstances but these are examples of where the case to do so is likely to be clear. There may be other limited circumstances where it would be reasonable for a housing association to decline a sale.

<b>Examples of circumstances where housing associations may exercise discretion over sales</b>
Properties in rural locations as defined by Section 17 of the Housing Act 1996. This would generally mean properties in National Parks, Areas of Outstanding Natural Beauty and places that have been designated as rural by the Government (places with fewer than 3,000 inhabitants per hectare) – this reflects the exclusions in Right to Acquire.
Supported housing as defined by Part V of the Housing Act 1985. This would generally mean a home designed with special features for people with physical disabilities; a home for people with special needs and require intensive housing support; a home for people with a mental disorder where social services or other special facilities are provided; or a home that is particularly suitable for elderly people and is let to a person aged 60 or over.
Properties provided through charitable or public-benefit resources or bequeathed for charitable or public-benefit purposes, and in the possession of the housing association before it became registered under the Housing Act 1974 (or later equivalent legislation).
Certain specialist properties of historic interest that have special significance to the community, such as almshouses.
Other categories that apply to the existing Right to Buy: <ul style="list-style-type: none"> <li>• Properties where the landlord is a co-operative housing association</li> <li>• Properties where the landlord does not have sufficient legal interest to be able to grant a lease exceeding 21 years for a house or 50 years for a flat</li> <li>• Tied accommodation occupied because the tenant is employed by a social landlord</li> </ul>
Where there are clear restrictive covenants in existing resident contracts around the protection of rural homes.
Properties held in a Community Land Trust

- Where a housing association exercises its discretion not to sell a home, the housing association would provide an alternative from its own stock (either existing or newly built) or that of another housing association. Housing associations would work together to develop joint arrangements to enable this to happen.

- If a tenant were unhappy with the alternative offered – for example, because it represented a worse housing option than the one in which they live, or was in a location that presented difficulties in terms of employment, schooling or other commitments – they would be allowed to appeal to the Regulator to arbitrate. Where the Regulator considered the association has acted fairly, it would suggest the tenant accept the offer, or subject to available funding, offer the tenant a portable discount to purchase a property on the open market. Where the Regulator considered the association had not offered a reasonable alternative, the association would agree to offer another alternative.
  - This approach would extend opportunities to purchase a home to all 2.3 million housing association tenants. Because in many cases housing associations would still choose to sell properties to their tenants, even where they fall within one of the above categories, it would create new opportunities to purchase a property for tenants who live in exempt properties and are currently excluded from the Right to Acquire or Preserved Right to Buy. It would also provide new opportunities to purchase an alternative home, for example for those tenants whose current home is unaffordable.
  - The housing association sector and Government would work together to put in place robust, transparent and timely arrangements for the selling process to help tenants navigate their way through the Right to Buy process. They would also provide statistical information to Government on sales under the Right to Buy. Where a tenant is unhappy with the length of time the housing association is taking to process a sale, they would be allowed to appeal to the Regulator to arbitrate the case. The Regulator would agree with both parties a timetable for completing the stages and final purchase. Housing associations would agree to deliver their responsibilities to that timetable.
3. Under this proposal, housing associations and the Government would work together to develop an efficient implementation process to make it easy for the tenant to navigate and minimise the burden on housing associations. This would include measures that exist in the current Right to Buy scheme, such as the cost floor and ensuring that no sale should be at a value lower than the outstanding debt on that property, but also learning from the operation of the Right to Buy, such as measures to limit fraudulent purchases. Purchasers would pay a small up-front fee for a valuation of their existing home, refunded in full on purchase. This might include a role for agents to deal with initial inquiries about the scheme, measures to limit the number of speculative valuation requests, streamlining forms, and measures to prevent fraudulent activity.
  4. In line with its manifesto commitment, we anticipate the Government would put in place arrangements to manage the financial costs of the policy to ensure that the cost of sales does not exceed the value of receipts received from the sale of high value council assets. This could include, for example, introducing an annual cap on the costs of Right to Buy discounts. The Government and housing associations would commit to working together to ensure any such arrangements operate effectively.



## **Chapter Two: Replacing homes sold under the Right to Buy**

5. When the discount levels for Right to Buy were increased in 2012, the Government also introduced for the first time a commitment to replace every additional sale with a new home. Local authorities were invited to enter into an agreement with the Secretary of State to deliver one for one replacement and 165 out of the 167 stock holding local authorities chose to do so.
6. Housing associations have a strong track record in the delivery of new homes, playing a major role in exceeding the Government's 2011-15 affordable homes target by delivering nearly 186,000 homes. Sales under this new Right to Buy offer for housing association tenants would generate considerable receipts which housing associations would reinvest in delivery of new housing supply. The intention is that any receipts from these sales would not be subject to transfer undertakings and agreements.
7. Housing associations and the Government share a mutual objective to ensure that replacement homes would be delivered as quickly as possible as part of this potential agreement and would aim for this to happen within two years. At a national level, associations would deliver replacement of at least one new home for each home sold.
8. This ambition would require measures to facilitate the release of land for housing and speed up the planning system. Building on the success of recent reforms, we anticipate the Government would take a number of measures in the Housing Bill to ensure that this could happen, including: ensuring that local plans are in place and kept up to date to give certainty to developers; an extension of permitted development rights; allocating sites with outline consent in local plans; and further measures to speed up the delivery of Section 106 agreements. Under this potential deal, the Government would also consider whether there are any additional measures that would further facilitate the early delivery of replacement homes.
9. It would take some time to put these measures in place and so while aiming for replacement within two years, the default position under the terms of this offer is that housing associations would have flexibility to replace homes within a three year period. In order to deliver nationally, at least one for one replacement of all homes sold within three years, in discussion with the Government, this offer includes the following terms:
  - Government would pay full compensation for Right to Buy discounts direct to housing associations. 70% would be paid on completion of the sale and the remaining 30% would be paid when there is evidence of a start on site or acquisition<sup>2</sup>.

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<sup>2</sup> "Start on site" means

- (a) excavation for strip or trench foundations or for pad footings;
  - (b) digging out and preparation of ground for raft foundations;
  - (c) vibro-floatation, piling, boring for piles or pile driving; or
- (d) drainage work specific to the buildings forming part of the scheme.

- The sales receipt would go back to the housing association and be available on their balance sheet to enable one for one replacement. The grant portion of any sale would be recycled through the Recycled Capital Grant Fund – or a similar fund.
- Housing associations would agree to use the sales receipts, the discount compensation from the Government – minus any transaction costs and debt repayment – and any other available resources to deliver replacement homes.
- The presumption would be that where they are able to housing associations replace each property on a one for one basis through building a new home. Housing associations would have flexibility to use receipts so they can respond to market pressures and local housing need. In order to facilitate this, the definition of a replacement home would be broad and include the development of Starter Homes, shared ownership homes and other part buy and part rent models.
- Additionally, in some limited circumstances, it may not be appropriate or desirable for a housing association to build a new home to replace the one sold (for example where the receipt is insufficient, or areas of particularly low demand). In these circumstances housing associations would have flexibility to buy another one or bring an empty home back into use to replace the home sold.
- Housing associations would retain any grant element from any homes sold under this deal in a Recycled Capital Grant Fund (or another similar fund) with discretion over how this money is used within certain limits set down by Government. The following general principles would apply:
  - all the proceeds from sales should be spent on new supply (or in exceptional circumstances on acquisitions);
  - associations should have flexibility in respect of the type, tenure and location of replacement properties built; and
  - any grant in the fund should be returned to the Government if unspent within the agreed three year period.
- Under the terms of the offer, the Government would commit to ensuring the disposal and asset management regimes are reformed to ensure smooth delivery of this new Right to Buy offer for tenants. This would include flexibilities on disposal consents to enable housing associations to sell their homes to tenants without requiring the Regulator's agreement each time.
- Housing associations and the Government would explore whether any additional mechanisms would be required to ensure that one for one replacement happens on a national level. For example, if non-developing housing associations need help to deliver a replacement home they could partner with a developing association. Housing associations and the Government would also work together to explore the

potential for innovative approaches to advance replacement, building out the new homes before sales take place

### **Chapter Three: Supporting more households to own their own home**

10. The Government and housing associations are committed to working in partnership to deliver new homes that the country needs. They have a shared ambition to extend the benefits of home ownership to both existing and future tenants. Many tenants would benefit from this new Right to Buy offer but others would not be able to or may not wish to buy their home outright, even with the discount. A number of housing associations have already developed innovative approaches to enable their tenants to access the housing market, for example flexible tenancies and equity stakes.
11. Housing associations would commit to extending this work with the aim of making available to all their tenants the opportunity to acquire a stake in a home which can increase over time. The Government would work with housing associations to help to develop flexible tenure models and savings vehicles to enable this to happen. This could include tenants converting their rented properties into shared ownership, overpaying on their rent in order to take an equity share in their property, or building up a savings pot to enable them to purchase an alternative property.
12. Housing associations are committed to delivering a new supply of homes to meet a range of housing needs. Housing associations and the Government would agree to work together to increase the number of newly built properties which support households into home ownership, providing options for those for whom outright purchase is currently out of reach.
13. As a general principle, we understand the Government would like to see all newly built housing association properties incorporate an element which enables the tenant to become an owner (or part owner) over time.
14. To support housing associations to develop home ownership offers for tenants, the Government would commit to working with the sector to overcome barriers to delivery of low-cost home ownership options and make it more attractive to purchasers. This would include:
  - improving mortgage availability and working with local authorities to limit the use of restrictions which have a negative impact on mortgage availability;
  - considering ways to enable purchasers to move to full ownership more quickly; and
  - promotion of a secondary market for shared ownership sales.
15. The Government recognises that there is a case for housing associations to have greater control over their assets to enable them to deliver this ambitious agenda. The Government would therefore implement deregulatory measures which would support housing associations in their objectives to support tenants into home ownership and deliver additional supply of new homes, focusing in particular on:
  - **The disposals consent regime:** giving associations greater freedoms over asset disposals would support more efficient stock management and generate additional

receipts for reinvestment in delivery of new supply. The Government would consider how best to amend the existing requirement for the regulator to give consent prior to the disposal of stock in order to reduce bureaucracy and give associations back control.

- **Asset management:** enabling associations to convert vacant properties from social or affordable rent into other forms of tenure would enable them to better respond to the needs of their tenants and the housing market, while generating additional receipts for reinvestment. The Government would also examine whether Section 106 and LSVT agreements currently restrict and delay active asset management strategies and consider mitigations where required.
- **Allocations policies:** giving housing associations greater control over who they house would allow them to better meet housing need and drive greater efficiencies. The Government would work with the local authority sector to examine how we can ensure that nominations to housing association stock are appropriate to the properties concerned.

16. These freedoms and flexibilities, if implemented, would have the potential to transform how housing associations operate, liberating them to operate more commercially, generate more efficiencies and reinvest the proceeds in new supply.

**Annex A - Current discount levels and eligibility criteria**

	<b>Right to Buy</b>	<b>Right to Acquire</b>
<b>Eligibility</b>	<p>Council tenants with secure or flexible tenancy who have held a public sector tenancy for at least 3 years</p> <p>Secure tenants of non-charitable housing associations (i.e. tenancies pre-1989)</p>	<p>Housing association tenants living in a property built or bought by the housing association after 31 March 1997 (i.e. when the legislation came into force as it was not retrospective) and funded through a public sector social housing grant; who have held a public sector tenancy for at least 3 years</p>
<b>Person exemptions</b>	<ul style="list-style-type: none"> <li>• Tenants subject to bankruptcy proceedings or unfulfilled credit arrangements</li> <li>• Tenants subject to anti-social behaviour orders</li> </ul>	As Right to Buy
<b>Family members</b>	Up to 3 family members can join in the purchase with the tenant	As Right to Buy
<b>Amount of discount</b>	Maximum £77,900 (£103,900 in London)	£9k-£16k according to region
<b>How discount is accrued</b>	<p>Freehold – 35% for 3, 4 and 5 years tenancy, then increasing by 1% each year to a maximum of 70%.</p> <p>Leasehold – 50% for 3, 4 and 5 years tenancy, then increasing by 1% each year to a maximum of 70%.</p>	Flat rate discount of £9k to £16k according to region