



# Clarifying the Right to Buy Rules

## Summary of consultation responses





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Department for Communities and Local Government  
Eland House  
Bressenden Place  
London SW1E 5DU  
Telephone: 020 7944 4400  
Website: [www.communities.gov.uk](http://www.communities.gov.uk)

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# Introduction

On 22 August 2007, the Department for Communities and Local Government published a consultation on its proposals to clarify the Right to Buy rules. These proposals were reflected in the Housing and Regeneration Bill introduced in the House of Commons on 15 November 2007.

The proposals aim to reduce regulation, widen the range of payment options that landlords can offer to assist their leaseholders, improve the administration of the scheme and clarify interpretation of the Right to Buy rules. They do not affect the terms under which social tenants can buy their homes under the Right to Buy scheme.

The consultation closed on 31 October 2007. The Department would like to thank the 62 individuals and organisations who contributed their views. A list of those who responded is at Annex A.

This is a summary of the responses made to each of the proposals. All responses were considered in deciding how best to take the proposals forward.

## Overview of responses

There was strong support for most of the proposals from the majority of respondents. On some proposals, respondents expressed qualified support. For example, on the transfer of approval of lenders for Right to Buy purposes to the Financial Services Authority, most respondents supported the proposal but raised some concerns.

# Responses to the questions

## Response analysis – Question 1

### **Do you agree that tenants who are subject to ‘postponed’ possession orders – i.e. orders which do not initially specify a date for possession – should not be able to exercise the right to buy?**

Number of replies	57
Positive responses	55
Negative responses	2

**Summary:** There was strong support for this proposal, with a number of respondents being particularly anxious to ensure that where a possession order had been issued on the grounds of anti-social behaviour, other residents and the wider community should not be adversely affected by the exercising of the Right to Buy by the tenant who was subject to the possession order. Some respondents also made the point that tenants who were subject to a possession order because of arrears on their rent might be more likely to experience financial difficulties if they chose to exercise their Right to Buy.

## Response analysis – Question 2

### **Do you agree that approval of lenders for Right to Buy purposes should transfer to the Financial Services Authority (FSA)?**

Number of replies	51
Positive responses	47
Negative responses	4

**Summary:** While there was strong support for the process of approving lenders for Right to Buy purposes to be combined with Financial Services Authority authorisation, 15 respondents expressed concern about the activities of ‘Right to Buy lenders’ and mortgage brokers, including the advice they provide and the fees they charge. Two respondents considered that both Communities and Local Government and the Financial Services Authority should (i) do more to ensure that tenants were provided with sound financial advice and guidance and (ii) closely monitor the activities of those who specialise in marketing Right to Buy.

## Response analysis – Question 3

### If yes (to question 2):

- i. do you agree that lenders who are authorised to carry on business regulated by the Financial Services Authority should automatically be approved lenders for Right to Buy purposes as defined by section 156 of the Housing Act 1985? or*
- ii. do you think that FSA-authorised lenders should have to apply for a separate approval under section 156? If so, why?*

Number of replies	47
Positive responses to <i>part i.</i>	37
Positive responses to <i>part ii.</i>	4
No view	6

**Summary:** The majority of respondents were content that authorisation by the Financial Services Authority should automatically confer Approved Lender status for Right to Buy purposes. The 4 respondents who supported *part ii* did so on the grounds that ‘Right to Buy lenders’ should be more strictly regulated, and should have to fulfil more stringent criteria than lenders who did not specialise in the Right to Buy market. They felt that this would provide better protection for tenants, whose decision to exercise the Right to Buy might not always be based on a sound understanding of all that purchasing their home entailed.

## Response analysis – Question 4

### **Do you agree that local authorities should be able to buy shares in properties in order to give assistance with payment of major works bills? If not, why not?**

Number of replies	50
Positive responses	37
Negative responses	13

**Summary:** Although there was clear support for this proposal, a number of the respondents expressed reservations as to how it would work in practice. The 13 respondents who disagreed with the proposal did so on the grounds that it would be costly, complex to administer, risky for landlords and poor value for money for both landlords and leaseholders.

## Response analysis – Question 5

### **If you do agree (with question 4), what practical issues might arise?**

The main issues raised were:

- the scheme would be complex to administer, both initially and in the longer term
- it would place a considerable financial burden on social landlords, and could have a detrimental effect on the services they provide
- the legal and administrative costs would be high and would need to be borne by the leaseholder
- concern over the availability and affordability of sound independent financial advice – it would be essential that leaseholders obtained such advice
- concern over rental payments on the landlord's share and the apportionment of responsibility for repairs and maintenance on the property

**Summary:** Despite the substantial support for the proposal relating to the purchase of shares, most respondents expressed the view that it would not be viable for landlords to offer this option to leaseholders unless there was significant financial support from the Government. They also stressed that it was essential that the proposed power should be optional for landlords rather than mandatory.

## Response analysis – Question 6

### **Do you agree that local authorities should be able to offer loans on which no interest is paid, but instead the lender receives a share of the value of the property when it is sold ('equity loans')? If not, why not?**

Number of replies	51
Positive responses	41
Negative responses	10

**Summary:** As with question 4, respondents who expressed support for this proposal were nevertheless concerned that it would be costly and complex to administer. Ten respondents felt that landlords would be vulnerable to fluctuations in the housing market, and noted that similar schemes have proved ineffective in the past.

## Response analysis – Question 7

### **If you do agree (with question 6), are there any practical issues which the Government should take into account in legislating?**

In addition to the issues raised in response to question 5, the following points were also put forward:

- products need to be easily understood by leaseholders, easy to access and simple to administer
- a cap should be in place to ensure that landlords did not make ‘windfall’ profits in the event of a sharply rising housing market
- adequate protection must be in place to ensure that a loan does not remain outstanding indefinitely in the case of a home being passed down under the terms of a will

**Summary:** The majority of respondents in favour of the proposal on equity loans considered that the Government should provide detailed guidance, either in legislation or through regulations.

## Response analysis – Question 8

### **Should landlords be able to charge administrative expenses when offering equity loans? If so, should these be limited to £100, as specified in the Housing (Service Charge Loans) Regulations 1992?**

Number of replies	35
Positive responses	35

**Summary:** There was full agreement from the respondents that landlords should be able to recover some or all of their administrative costs. Thirty three of the respondents were in favour of full recovery of administrative and legal costs, either directly from the leaseholder or by adding them on to the loan.

## Response analysis – Question 9

**Do you agree that the district valuer should be able to withdraw a determination of value, and replace it with a correct determination, if the facts on which it is based can be shown to be faulty? If not, why not?**

Number of replies	56
Positive responses	50
Negative responses	6

**Summary:** Respondents were heavily in favour of this proposal, considering that it was fair to tenants, landlords and the district valuer. Those who disagreed considered that provision for a further valuation was unnecessary, would cause confusion and would be open to abuse.

## Response analysis – Question 10

**If withdrawal is allowed (see question 9), should there be any limits specified in legislation – for example, that the determination should stand unless it can be shown that the correct facts would vary it by at least five per cent either way?**

Number of replies	35
Positive responses	30
Negative responses	5

**Summary:** Of the 30 respondents who were in favour of limits being specified in legislation, 11 considered that there should be set timescales, 8 considered that the degree of variation in the valuation figure should be specified, and 11 thought that both a set timescale and variation should apply. Of the 5 respondents who considered that no limits should apply, there was a general view that imposing limits would be unfair to all parties concerned.

## Response analysis – Question 11

### **Do you agree that the power to suspend or end the Right to Buy should be available if demolition is to be carried out by a body other than the landlord?**

Number of replies	49
Positive responses	46
Negative responses	3

**Summary:** Respondents were strongly in favour of this proposal with landlords in particular considering that it would be of significant benefit in planning and managing their housing stock.

## Response analysis – Question 12

### **Do you have any comments on how this provision (introduced by the Housing Act 2004 and referred to in question 11) is working?**

**Summary:** There were only 4 replies to this question – most respondents stated that they had not yet had the opportunity or need to use this provision. Three of those who responded considered that the statutory time limits on demolition notices (7 years in total) were too short, particularly where demolition was being carried out on a large estate. They suggested that consideration should be given to extending these time limits (eg, to 15 years) or leaving them open-ended.

# General Comments

The majority of the respondents limited their replies to the specific proposals raised in the consultation paper.

However, one respondent considered that both Right to Buy and Right to Acquire should be withdrawn and replaced by Social HomeBuy which they considered to be a more sustainable way of helping tenants of social landlords into home ownership.

Concern was also expressed over the ways in which tenants were encouraged to exercise the Right to Buy, and several respondents held the view that there was a need for much more robust independent financial advice for tenants who were considering purchasing their homes.

# Annex A

## List of respondents

Abbeyfield Ripon & District Society Ltd

Age Concern

Almshouse Association (The)

Amber Valley Housing

Arun District Council

Association of Chief Estates Surveyors

Birmingham City Council

Bolton Council

Bournemouth Borough Council

Bracknell Forest Borough Council

Brighton & Hove City Council

Bury Metropolitan Borough Council

Camden (London Borough of)

Canterbury City Council

Carol Parker – Greenwich leaseholder

Chartered Institute of Housing

Citizens Advice Bureau

CityWest Homes

Clifford Chance

Council of Mortgage Lenders

Crawley Borough Council

Croydon Council

Dartford Borough Council

Ellesmere Port and Neston Borough Council

Emilia Laszczyk

Griffin Homes

High Peak Borough Council

Intermediary Mortgage Lenders Association (IMLA)

John Paterson – Member of Social Sector Working Party

Law Society (The)

Leeds City Council

Local Government Association

London Councils

London Leaseholders' Network

National Housing Federation

Nationwide Building Society

New Linx Housing Trust

Northern Housing Consortium

Orbit Group

Poole (Borough of)

Raven Housing Trust

Rooftop Housing Group

Sanctuary Housing Group

Shelter

Solihull Metropolitan Borough Council and Solihull Community Housing

Stroud District Council

Surrey Federation Charitable Housing Association

Sutton Leaseholders Association

Sutton (London Borough of)

Tandridge District Council

Three Rivers Housing Association

Tower Hamlets Community Housing Ltd

Trowers & Hamlins

Wakefield and District Housing

Waltham Forest (London Borough of)

West Kent Housing Association

West Lancashire District Council

Whitefriars Housing Group

Wolverhampton City Council

Wolverhampton Homes

Wulvern Housing Association

Your Homes Newcastle