

REFORMING RIGHT TO BUY

OPTIONS FOR PRESERVING AND DELIVERING NEW COUNCIL HOMES FOR THE TWENTY-FIRST CENTURY

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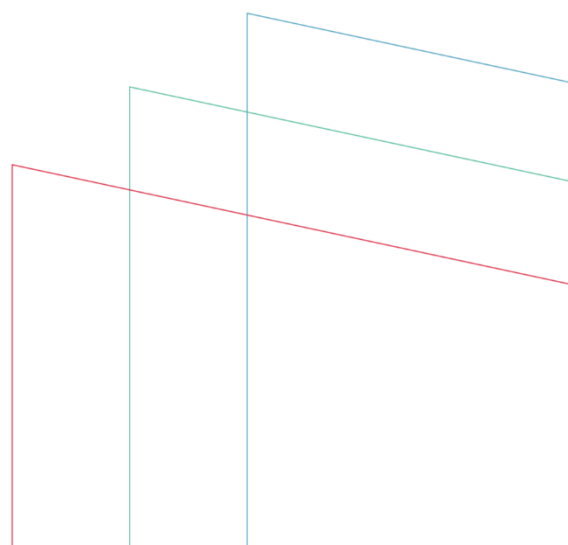
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EXECUTIVE SUMMARY

Over almost four and a half decades since its introduction in 1980, the right-to-buy scheme has had a transformative impact on our homes and our lives. Over two million homes have been sold to around 4.5m sitting tenants, allowing them to own their own homes and access wealth to which they had hitherto been denied.¹ For those who have benefitted from the scheme and for those who one day hope they might, right to buy offers a clear path to gaining financial security for them and their children, with greater control over their future as a result.

There is a clear tension, however, between right to buy's enduring appeal on the one hand, and its role in reducing the number of homes for social rent, which lies at the heart of our housing crisis. Right to buy has come at the huge cost of emaciating what had been one of the UK's greatest national assets: its social housing stock.

The strings attached to right to buy have bound councils' hands, preventing them from replacing sold homes. Moreover, it has triggered a seismic loss of confidence and ability on the part of local authorities to build new homes. Partly because of the impact of right to buy, councils went from being at the vanguard of developing new homes in the decades immediately following the Second World War, to being bit-part players thereafter.

The task for policymakers is to navigate a path that recognises the role that right to buy has played in providing low-cost home ownership while reforming the policy to strike a better balance. The goal of these reforms should be to reform right to buy so that, instead of contributing to this current housing crisis, it can become part of the solution to it.

This report outlines a package of reforms underpinned by a suite of powers that should be devolved from Westminster to local government. These would give councillors the ability to make decisions regarding the future of their council housing stock and give them greater control over the tenure balance of homes in their area. England's current one-size-fits-all approach to right to buy has exacerbated affordable housing shortages in high-demand areas. Devolving right to buy to councils, however, would place more decision-making powers and accountability in the hands of local politicians, who know their areas best. It would also help them to capture the multiple benefits of devolution. Crucially, by reforming right to buy so that one of the key barriers to council housebuilding is removed, councils can deliver local economic growth while better

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addressing local housing needs. Powers should therefore be devolved to allow councils, if local circumstances demand, to:

- suspend right to buy where it can be demonstrated that the policy is contributing to affordable housing shortages;
- end right to buy in respect of newly built or acquired homes;
- prevent sold homes from being let in the private rented sector (PRS); and
- reduce discounts and extend qualifying periods beyond the pre-2012 levels, which should be returned to as a new baseline across the country.

Furthermore, Treasury rules should be amended to allow councils to use receipts to better provide replacement stock:

- The Treasury Share should be abolished.
- The cap on the use of receipts should be abolished.
- Councils should be allowed to combine receipts with other forms of grant funding.
- Councils should be permitted to transfer receipts to Arms Length Management Organisations (ALMOs) and housing companies.
- The cap on using receipts to acquire homes on the open market should be lifted.

Underpinning the Treasury's justification for imposing restrictions on the use of receipts is a scepticism that, left to their own devices, councils will fail to replace sold homes.² The risk of councils misusing these additional powers is minimal. Crucially, it is the current rules themselves that are preventing councils from replacing sold homes.

This report highlights a wide range of reform options for the government so that right to buy is fit for purpose in the current housing crisis. Devolving right-to-buy powers will help councils tailor it to local circumstances while giving them the confidence to get building again. It should therefore be a pre-requisite and priority for any government seeking to rapidly upscale social housing delivery and provide a path out of the housing crisis.

1. INTRODUCTION

Right to buy is both loved and loathed. To the 4.5m former tenants who the policy helped to fulfil their dream of home ownership, as well as to those who one day hope they may benefit from it, it is immensely popular.^{a,3} It has provided one of the few means by which working-class families can accumulate wealth and pass this down to their children. Right to buy offers financial security to many for whom this has proved elusive, giving tenants greater choice and control over where they live. It typified Margaret Thatcher's government's brand of free-market populism and continues to shape our housing system to this day. One of its principal architects, Michael Heseltine, was correct when he predicted it would lay "the foundations for one of the most important social revolutions of this century".⁴ Over 2m social homes have been sold so far across its nearly 44-year duration,⁵ with the proportion of social renters almost halving from 31% of English households in 1980 to 16% by 2022/23.⁶

But to its critics, it has fundamentally undermined one of the nation's most prized assets: our social housing stock. As these homes became let in the PRS, right to buy instead propelled us towards the expanding quagmire of rising rents and poor standards in our current PRS. At the same time, it fatally undermined council housing, which had been the safe, secure, and affordable foundation on which millions of working-class families had built their lives. Homeownership is a vital means to gain access to security of tenure, which right to buy has of course supported. But through the rising private letting of former right-to-buy homes, the policy has replaced millions of homes of secure tenure and affordable rent with insecure tenure and unaffordable rent, driving rising housing need and higher housing benefit costs for taxpayers. New research from the New Economics Foundation (NEF) shows that 41% of homes sold under right to buy are now let on the private market, equating to around 820,000 homes, a rise of over 100,000 since 2015. This transfer to the PRS costs taxpayers millions more in additional housing benefit costs.

Each year, England's pool of social housing shrinks, as the new social homes we build are outnumbered by the existing homes we sell. It is both inadequate supply *and* right to buy that explains this. Furthermore, right to buy has downgraded the status of social rent; arguably there has been no policy that has contributed more to the stigmatisation of social housing.⁷

^a 56% support extending full Right to Buy to housing associations, which has increased from 46% in 2019

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Right to buy's most damaging consequence, however, has been the impact it has had on local authorities' ability and motivation to build new council homes. Even if they can overcome the myriad financial and practical challenges to building new homes, why would councils do so when the home could be sold at a substantial discount at any moment?

In conjunction with the Homes for Us alliance of grassroots organisations and campaigners, NEF is developing policies to fix England's broken housing system. Balancing the tension between the policy's popularity on the one hand, and its damaging impact on our housing system on the other, we have identified several vital reforms to right to buy that would enable it to become part of the solution to the housing crisis.

At the heart of these reforms lies part of a suite of devolved powers, which would grant local authorities options to reform right to buy in the area, if local circumstances demand it. This would mean that decisions regarding the treatment of council assets could be taken by local politicians who know their areas best. This would also enhance local authorities' ability to exercise greater control over their assets and the tenure balance of the homes in their communities. It would allow them to coordinate housing policies across a range of other policy areas, foster place-based policymaking, and, by encouraging councils to get building again, help deliver local economic growth. This report outlines a menu of options for reform, including suspension, ending the right for newly built or acquired homes, preventing homes from ending up in the PRS, as well as expanding powers regarding discounts and qualifying periods.

Empowering local authorities to pursue these options – some of which are of course mutually exclusive – would allow them to tailor their right-to-buy policies to suit local circumstances. For example, a council with high rates of homelessness and demand for social housing could encourage (or even guarantee) retention of the ownership of their homes; those who wanted to prevent the growth of the PRS could take a firmer approach to prevent the private letting of sold homes; those with low demand for social rent homes but high demand for low cost home ownership could adopt fewer (or none) of these measures.

Alongside this package of devolved powers, debilitating Treasury rules around receipts should be significantly recalibrated to enable councils to better replace sold stock. Removing these restrictions would allow councils to be in a far better position to undertake the task that the central government asks of them: to build replacement homes. Alongside this, councils should be provided with first buyer rights for all homes

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previously sold under the right-to-buy scheme, no matter how long it has been since the home was sold.

There is growing appetite to reform right to buy so that it can be part of the package of solutions to the housing crisis.^{8,9,10,11,12} This report highlights the wider range of reform options for the government, which will be a pre-requisite for ministers seeking to deliver an ambitious programme of new genuinely affordable housing supply. Without reforming right to buy, we cannot resolve the housing crisis.

2. THE LEGACY OF RIGHT TO BUY

Social tenants' ability to buy their homes did not originate with right to buy in 1980. Late nineteenth-century housing legislation required that council-built dwellings in redevelopment areas should be sold within 10 years of completion.¹³ Following the Housing Act 1936, local authorities were permitted to sell their housing stock to sitting tenants with ministerial consent. The House Purchase and Housing Act 1959 removed the requirement for ministerial consent, yet tenants remained unable to purchase their homes without agreement from the local authority.¹⁴ But none of these measures resulted in significant numbers of homes being sold. Between 1957 and 1964, fewer than 3,000 homes were sold on average per year. The number of sales rose in the late 1960s and 70s, however, reaching 46,000 by 1972.¹⁵ But Thatcher's 1980 reforms were transformative:

- They gave all council tenants of at least three years the right to buy their home, without requiring ministerial or local authority approval.
- They extended discounts to tenants subject to the length of their tenancy, the minimum of which was 33%, increasing by 1% for every year of the tenancy above three years, with the discount capped at £50,000 (the equivalent to £200,000 in 2022 prices). The discount had to be repaid if the home was re-sold within five years.
- They gave tenants the right to access a local authority mortgage.

Sales soared as pent-up demand was satisfied: In the first full decade following the introduction of right to buy in October 1980, an average of over 107,500 homes were sold per year. In the years following, adjustments were made by the Thatcher and Major governments to increase discounts, reduce qualifying periods, and relax any repayments further to the advantage of buyers. Housing association tenants were granted the Right to Acquire their homes in 1996, but its limited discounts meant this has not been taken up on a comparable scale.^{b,16,17,18} Council tenants who lived in homes that were transferred to housing associations retain a preserved right to buy, which has accounted for 16% of the total right-to-buy sales since data began being collected in 1996/97.¹⁹

But by then, the heyday of right to buy was already over. The Labour government reduced discounts in 1999 and 2003 to a maximum of £16,000 (up to £38,000 in the higher value areas within London and the South East), and qualifying periods were increased to five years in 2004. Alongside this, sharp house price rises meant the

^b Wholesale extension of Right to Buy to housing association tenants has been mooted by Conservative governments since, but to little avail.

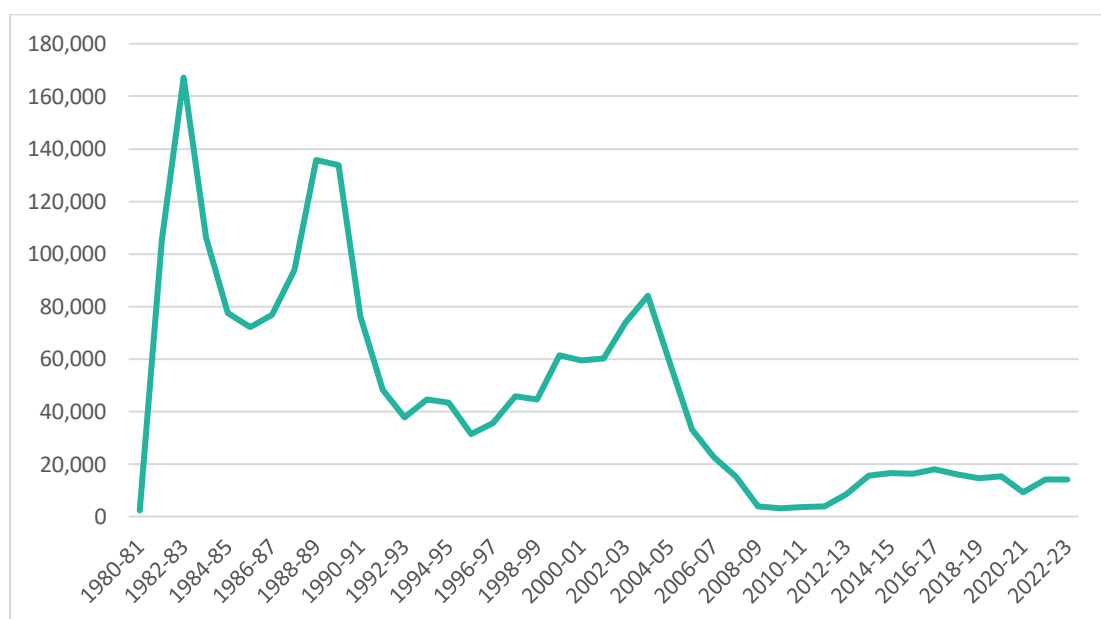
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reduced discounts on offer became of even less value as a proportion of the purchase price. As Figure 1 shows, this resulted in the number of tenants exercising their right to buy falling dramatically from the 1990s to an average of 39,000 per year in the two decades leading up to 2012.

The coalition government introduced reforms in 2012 designed to increase the scheme's uptake, raising the maximum discount to £75,000 (£100,000 in London) and reversing the qualifying tenancy period back to three years.²⁰ This resulted in a moderate uptick in the number of homes sold. As outlined in Figure 1, in the decade following the 2012 reforms, over 14,000 homes on average per year were sold, compared to an average of little more than 3,500 per year in the four years between the global financial crisis and the 2012 reforms.

Figure 1: Right-to-buy sales soared in the 1980s, before falling sharply in the 1990s and early 2000s, rising moderately following the coalition's reforms.

Right-to-buy sales, local authorities and housing associations, England, 1980/81 to 2022/23



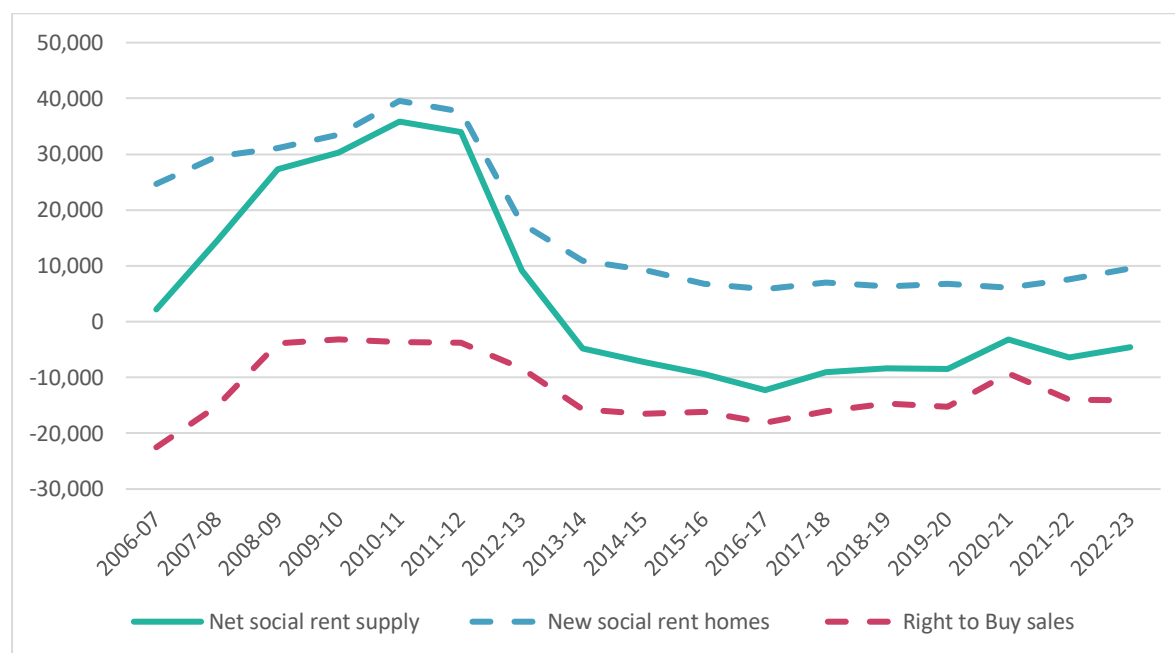
Source: Department for Levelling Up, Housing and Communities, *Table 678: annual social housing sales by scheme for England*

The moderate rise in sales since 2012 has combined with a catastrophic fall in the supply of new social homes following the coalition's devastating cut to grants for affordable housebuilding and their pivot away from using central government grant funding to build social rent homes.²¹ As a result, the total volume of social homes has been decreasing each year since 2013/14 (Figure 2).

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Figure 2: There has been a net negative supply of homes for social rent since 2013/14

Net social housing supply, England, 2006/07 to 2022/23



Source: Department for Levelling Up, Housing and Communities, *Affordable housing supply, table 1000*, and *Right to Buy sales and replacements, England 2022 to 2023, table 691* (note: does not contain demolitions or other types of sales)

The era of mass right-to-buy sales may be over, but its impact is not. Between 1980 and 1997, 1.3m council homes were sold under right to buy, contributing significantly – alongside the introduction of mortgage subsidies and liberal mortgage finance – to a rise in owner occupation from 9.7m households (57%) to 13.6m (69%) over that period. In later years, as increasing numbers of former council homes became let – aided by the introduction of buy-to-let mortgages – right to buy contributed to the PRS almost doubling in proportionate size between 1996 and 2022/23.^{22,23} It has therefore played an instrumental role in shifting tenures away from social homes to the PRS, driving rising housing need in England over recent decades.²⁴ The starkest illustration of the shortage of social homes is the 105,750 households, including almost 140,000 children, who currently reside in temporary accommodation (TA) awaiting a permanent home.²⁵

Some councils are even forced to rent homes previously sold under right to buy to provide TA, because of the lack of available social homes into which to place households – circumstances which are of course driven partly by right to buy itself. It costs London local authorities alone £22m a year to rent properties they previously owned.^{26,27} Instead of hamstringing local authorities and worsening their ability to respond to the housing

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crisis, the time has come to devolve right-to-buy powers to councils so they can amend the policy to become part of the solution.

3. EMPOWERING COUNCILS: DEVOLVING REFORMS TO RIGHT TO BUY

Devolving right-to-buy powers would empower local politicians to adapt their policies to local housing circumstances. Local authorities should have more control over the type of homes – including in relation to tenure – that exist in their area.^{c,28} As well as being able to better tailor local affordable housing supply to demand, devolving these powers would also better allow councils to coordinate housing policies alongside those regarding transport, school and early years provision, green spaces, and other amenities, engendering a more place-based approach. It would cultivate leadership within councils, and encourage innovation and fresh thinking. Allowing councils to tailor their right-to-buy policies would therefore help them to capture these multiple benefits of the devolution agenda. Crucially, as the following section of the report outlines, these devolved powers can encourage councils to get building again, delivering much-needed council housing and local economic growth.²⁹

A menu of reform options should therefore be devolved to local authorities to exercise in accordance with local housing conditions.

3.1 SUSPENDING RIGHT TO BUY

Between 2011 and 2019, Welsh local authorities could apply to the Welsh government to the Welsh government to suspend right to buy within their council area.^{d,30} For an application to be granted, the local authority had to demonstrate to the Welsh government the acute housing pressure it faced and explain its plan to reduce this.³¹ Identical provisions had been in place in Scotland from 2001 to 2010. But between 2010 and 2016, however, Scottish local authorities were given powers to make, amend, and revoke ‘pressured area designations’, within which councils themselves could choose to suspend right to buy for up to 10 years. To make such a designation, councillors were required to demonstrate the existence of an imbalance between supply and demand in such areas, and that right to buy was exacerbating housing shortages. In Aberdeen, for instance, the council suspended right to buy in 2012 on the back of 18,000 homes having

^c For example, some analysts have suggested introducing ‘housing pressure zones’ to achieve this.

^d This was the policy of the Welsh government from 2011 until right to buy’s abolition there in 2019, during which it was suspended in Anglesey, Carmarthenshire, Denbighshire, Flintshire, Powys, Swansea and Cardiff.

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been sold since 1980, contrasted with an annual average of 5,500 new social housing applicants.³²

Local authorities know their areas best and should be trusted to design housing policies that best meet local circumstances. For that reason, local authorities in England should be granted similar powers to those in Scotland between 2010 and 2016, and given the ability to suspend right to buy.^{e,33} These powers should be subject to clearly drafted statutory guidance that outlines the lawful application of such designations only in high-pressurised areas in which right to buy is exacerbating housing shortages.

Given the breadth and depth of the housing crisis, there will of course be many local authorities in which such a threshold could be cleared, and where it can be demonstrated that right to buy has worsened the imbalance between affordable housing demand and supply. In Southwark, for instance, over 21,000 homes have been sold since 1980 (over 550 of which were sold in the last five years), while almost 1,600 households were assessed as being owed a homeless relief duty in 2022/23, a rate of almost 12 households out of every 1,000. In Manchester, almost 4,200 households were assessed as homeless last year (more than 19 out of every 1,000), while almost 25,800 homes have been sold under right to buy (almost 850 in the last five years). Doncaster has sold almost 20,400 homes (almost 600 in the last five years), and last year assessed almost 1,400 households as homeless (over 10 out of every 1,000).^{34,35} Such councils would be able to present a robust case that right-to-buy sales continue to exacerbate the already stretched affordable housing supply in their area.

In other local authorities, however, establishing this link would prove more challenging. In East Suffolk, for instance, there have been just 68 sales since 1980, with almost 400 homeless households in 2022/23 (around 3.5 out of every 1,000).^{36,37} These geographical discrepancies highlight why the powers to suspend right to buy ought to be devolved to local authorities. Just as Scottish local authorities had been empowered to, if English councils can evidence that right to buy is contributing to a lack of affordable housing supply in the face of significant demand, they should, pursuant to statutory guidance, be permitted to do so.

^e The Mayor of London has argued that he should be given powers to suspend Right to Buy

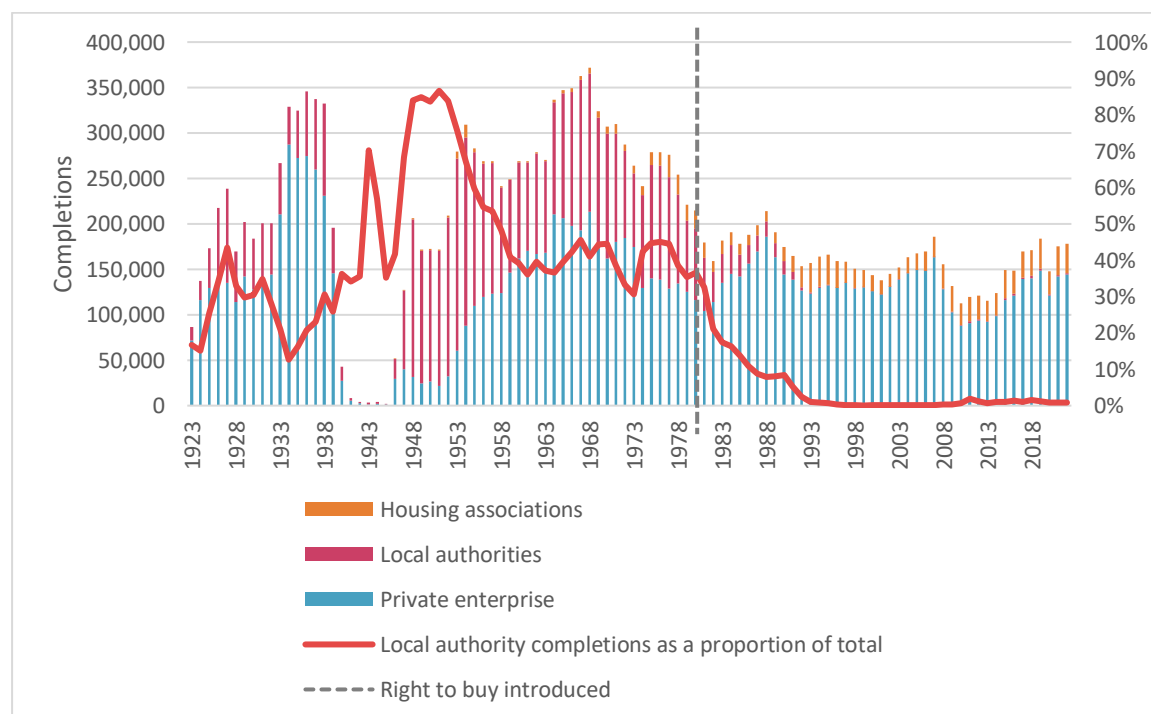
3.2 REBUILDING CONFIDENCE: ENDING RIGHT TO BUY FOR NEW BUILDS

Beyond suspension, a range of other measures should be made available to councils. Local authorities were once powerhouses of housing development. Often alongside municipal development corporations, councils spearheaded the post-war golden era of housebuilding, constructing almost 4.5m homes between the end of the Second World War and the Housing Act 1980, almost half of the 9.1m built in that period.

Local authority housebuilding may have peaked in the mid-1950s, but it was not until right to buy that it fell off a cliff edge. As detailed in Figure 3, in the 44 years since right to buy was introduced, local authorities have built little more than 300,000 new homes, just 4.5% of the total 6.75m built. This has fed through into councils' capacity to plan, develop, and build homes, shedding skills and expertise over decades.^{f38} By 1976, 49% of architects were employed directly by councils; now only 1% are.³⁹ Recent austerity has accelerated these trends: The number of public sector planners fell by 25% between 2013 and 2020, and 82% of local authorities have difficulties recruiting planning staff.⁴⁰

Figure 3: Local authorities built almost half of the new homes in the post-war period until right to buy, falling to less than 5% in the more than four decades since.

Housing completions by developer type, England & Wales, 1923-2022



Source: House of Commons Library, *Tackling the under-supply of housing in England* (19 May 2023)

^f It is this that led to Homes England establishing the Local Government Capacity Centre

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Other policies introduced alongside right to buy also undermined local authority housebuilding. In the decade following the Housing Act 1980, central government support for council housebuilding and maintenance fell by 43% from £2.1bn to £1.2bn.⁴¹ Councils' borrowing powers were also severely restricted, requiring them to use right-to-buy receipts to pay down debt, rather than borrow for construction.^{42,43} Many of those borrowing restrictions were removed in 2018, but there has been nothing more than only a very moderate rise in local authority housebuilding since.⁴⁴

But right to buy itself has also contributed significantly to the slump in council housebuilding. Arguably its most important lasting impact has been to reduce local authorities' confidence and willingness to build new homes. Why would councils go to the trouble and expense of building new homes only to be forced to sell them at a sizeable discount, and to thereafter forego the rental income? Analysts have described the continuation of right to buy as "the main disincentive to councils in reopening their Housing Revenue Accounts",⁴⁵ and as something that means councils are "put off" from building new homes.⁴⁶

Current cost floor rules are intended to offer some financial protection to local authorities. These prevent the discount on new homes from reducing the sale price below the amount that has been spent on building or buying the home within the first 15 years. Given that it often takes a 30-year or longer period for the costs of building a new social home to be recouped, the current 15-year cost floor ceiling is insufficient.⁴⁷

Extending the cost floor up to 30 years would therefore give a degree of greater confidence to local authorities that any homes built would not be sold at a loss for most, if not all of the period in which they are financed. This would better protect the financial position of local authorities. However, it would still leave the question of why they would go to great effort to build new council homes in the first place, given they could still be sold off at any point. It is no wonder that 66% of councils are concerned about right to buy damaging their ability to deliver new homes.⁴⁸

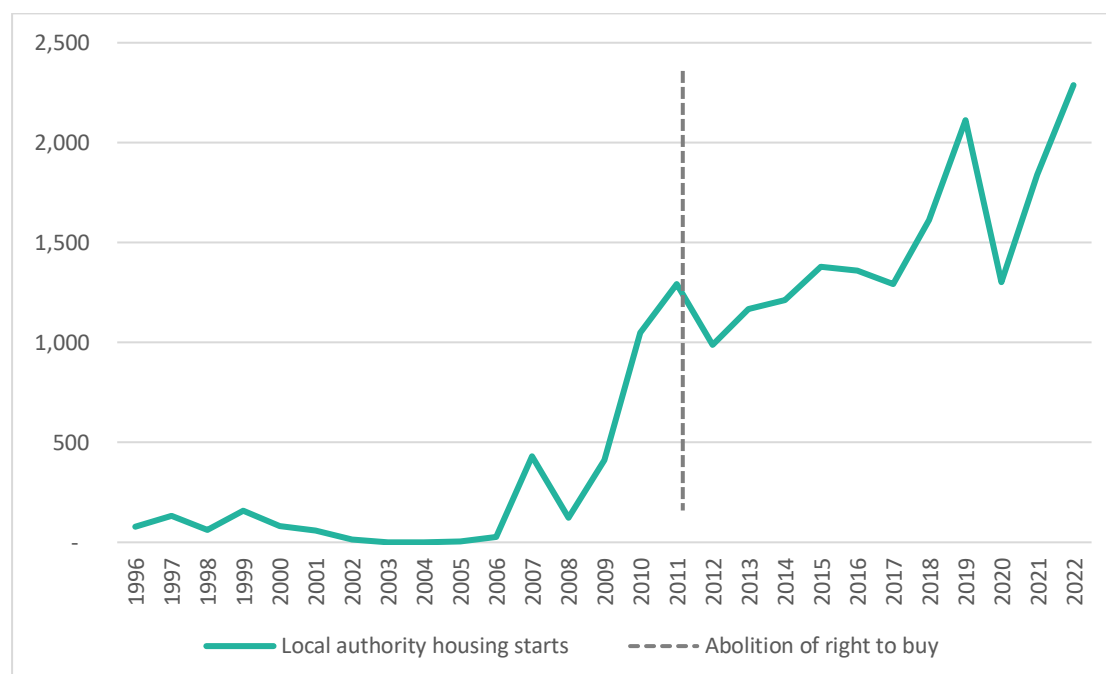
For that reason, giving councils the ability to end right to buy for newly built or acquired social homes would be an effective way to ensure they remained within the ownership of the local authority for as long as they saw fit. It would do so without removing the right to buy for tenants of existing properties. The Scottish government previously undertook this step, abolishing right to buy for newly built or acquired homes in 2011 (before ending the right in its entirety in 2016). Alongside increased grant funding, this helped deliver a renaissance of council housebuilding in Scotland.⁴⁹ As Figure 4 shows, in the 12 years prior to abolishing the right to buy for new builds, Scottish local authorities were averaging just 113 new council homes per year (including two years in

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which none at all were built). Since then, the average number of homes started by councils has risen more than ten-fold to almost 1,500 per year.

Figure 4: Scottish council housebuilding continued to rise after the abolition of right to buy

Local authority housing starts, 1996-2022, Scotland



Source: Scottish government - *Housing statistics quarterly update: new housebuilding and affordable housing supply* (19 September 2023)

The head of housing from the Fife partnership of local authorities, John Mills, described the role of removing the barrier of right to buy as:

“Pure economics. There was little point in our investing over £125,000 in a property and after a period of time having to sell at a significant discount. You are not able to get the rental income you need over a 30-year mortgage, for example, if you are having to sell at a right-to-buy discount. The rest of the tenants and the Housing Revenue Account have to pick up the tab.”⁵⁰

Giving English councils this degree of confidence is essential if we are to revitalise the local authority housebuilding rates last seen in the post-war golden era.

3.3 PREVENTING RIGHT-TO-BUY HOMES ENDING UP IN THE PRS

Right to buy’s enduring appeal lies principally in its widening of access to low-cost home ownership to working-class families. This involves the home moving from one form of secure tenure (social renting) to another (home ownership). Putting aside the

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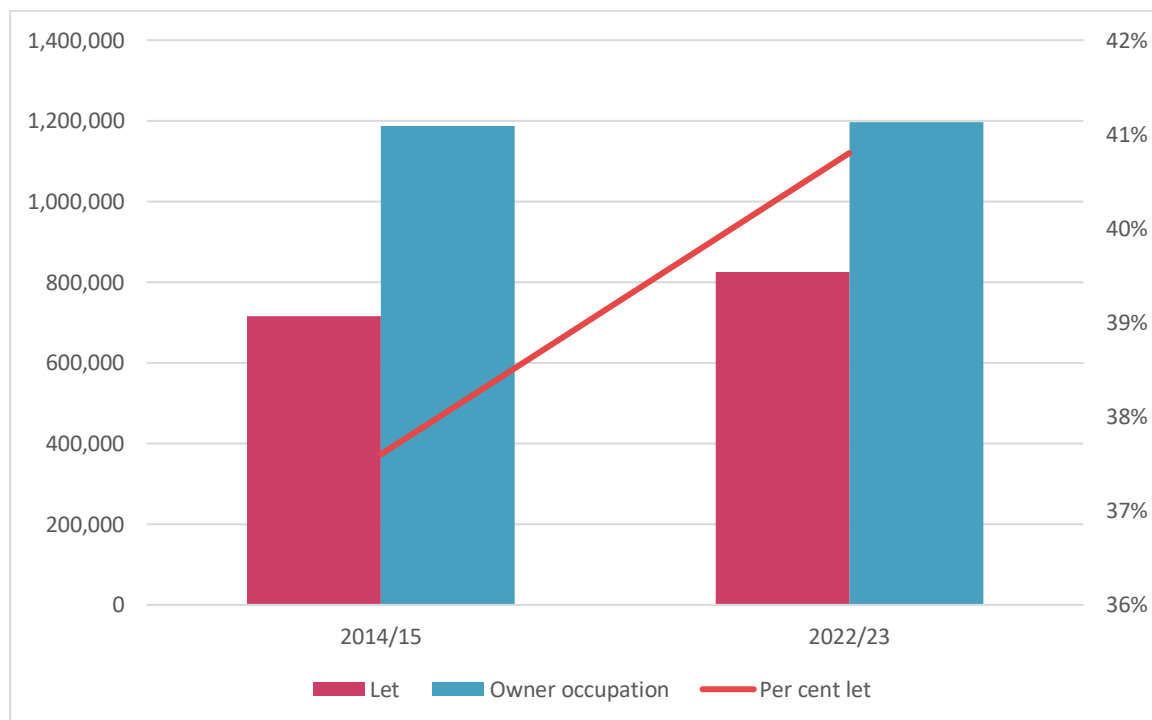
impact this has had on local government's capacity to build new social homes and replace those lost, swapping one form of secure tenure for another need not necessarily lead to deteriorating outcomes across our housing system. One of the key problems with right to buy, however, is that, as more sold homes have become privately let, it has increasingly contributed to the rise of the PRS, which has increased in actual size by 125% and by 60% in proportionate size since 1980.⁵¹

New research from NEF based on a series of Freedom of Information Act (FOI) requests shows that 40.8% of homes sold under right to buy are now being let on the private market, compared to 37.6% in 2014/15, a 3.2 percentage point increase.⁵² As shown in Figure 5, extrapolating this to the 2m homes we know have been sold to 2022/23 would mean approximately 824,000 of these sold homes are now being privately let, a rise of 109,000 homes since 2014/15.

This means that between 2014/15 and 2022/23, an additional approximate 119,000 homes were sold under right to buy. Given the purported aim of the policy is to increase home ownership it is noteworthy that this figure is only slightly higher than the additional number of homes that are now being let. In short, right to buy is increasingly failing to deliver on its stated guiding principle: to increase home ownership.

Figure 5: The number of right to buy homes being let over the last eight years is almost as great as the additional number of sold homes being privately let

Total number of sold right to buy homes being let and owner occupied, 2014/15 and 2022/23



Source: Inside Housing FOI research, NEF FOI research, DLUHC right to buy sales statistics

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These figures are almost certainly an underestimate,[§] but they demonstrate how, as a direct consequence of right to buy, affordable, secure homes have been replaced by unaffordable, insecure homes. In Brighton, the local authority with the highest proportion of sold homes being privately rented, 86% are now being let privately, while in Milton Keynes the figure is 72%. In both Southwark and Westminster, almost 5,000 sold homes are now in the PRS.

All this places additional financial burdens on taxpayers because of the higher housing benefit costs arising from the transfer of what been a socially rented property into one being privately let. Because PRS rents are far higher than social rents, the private letting of former council homes costs taxpayers an additional £50m per year in housing benefit in the 15 London boroughs who responded to our FOI requests. These higher housing benefit costs are most acute in local authorities in which there are higher proportions of former council stock now being privately let. Housing benefit expenditure in Brighton and Hove, for example, is over £1m more per year because of this stock transfer.

Councils should have the option of preventing homes sold under right to buy from being let privately. Consideration should be given to whether policies could be introduced to impose restrictive covenants on the sale of any former council homes to that effect.⁵³ Comparable restrictions have been imposed on homes bought using government Help-to-Buy equity loans, which are not ordinarily permitted to be sublet until the loan has been repaid in full.⁵⁴

If necessary, the government should legislate to clarify that restrictive covenants can be used to prevent letting of former right-to-buy homes.⁵⁵ Allowing councils to do this would be a proportionate step, if demanded by local circumstances, to help them preserve homes of secure tenure and prevent the growth of the PRS.

3.4 PRESERVING STOCK: REDUCING DISCOUNTS AND EXTENDING QUALIFYING PERIODS

Alongside the *right* of the sitting tenants to buy their property, the generous size of the discount has been the other key distinguishing feature of the 1980 reforms that have underpinned the popularity of the policy.

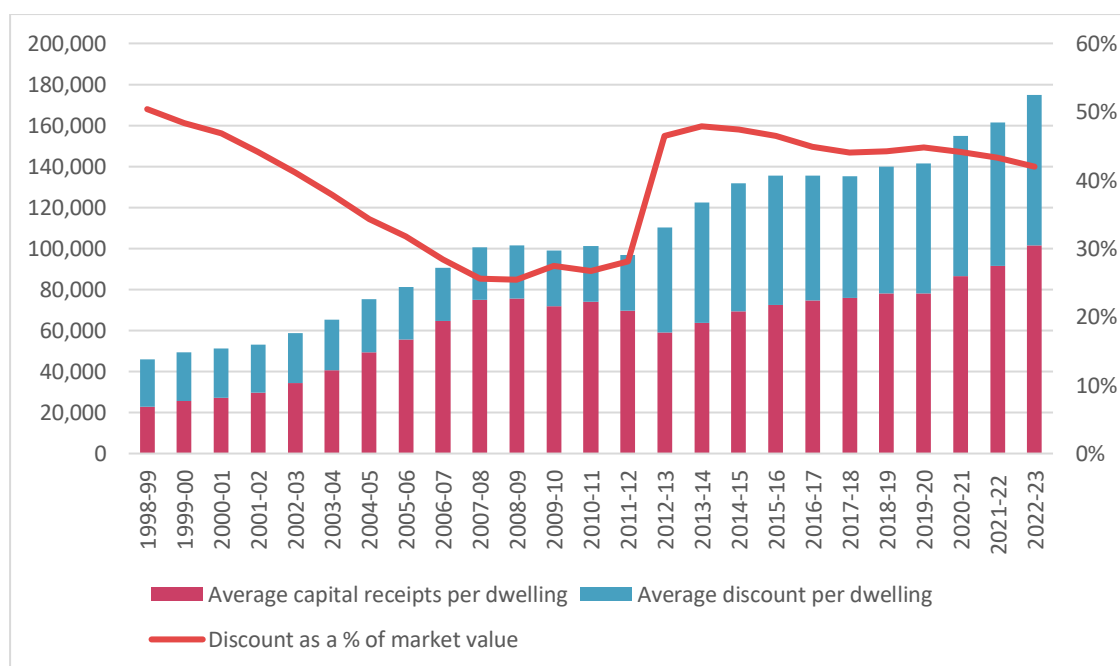
[§] These figures are almost certainly underestimates, as they only record homes for which the buyer bought only the leasehold, rather than both the leasehold and the freehold. They also do not include those homes whose owners let the property without the permission of the local authority (where the council remains the freeholder).

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Between the then Labour government's reductions to the discounts in 1999 and the coalition government's increases in 2012, the average market value of a home sold under right to buy increased by 120%. Accordingly, alongside reductions to the discount itself, rising house prices meant that average discounts as a proportion of the market value of the homes sold fell from 50% to 27% over the same period. This significantly reduced the take up of right to buy. Since the coalition's 2012 reforms, however, discounts have constituted 45% of the value of all homes sold (Figure 6). When the Treasury Share – the substantial cut of the capital receipt claimed by the Treasury – is included, this means that local authorities have on average foregone over half the value of their asset once sold.

Figure 6: Since 2012, right-to-buy discounts have constituted 45% of the value of all homes sold.

Average right-to-buy capital receipts and discounts per dwelling sold, local authorities and housing associations, 1998/99 to 2022/23



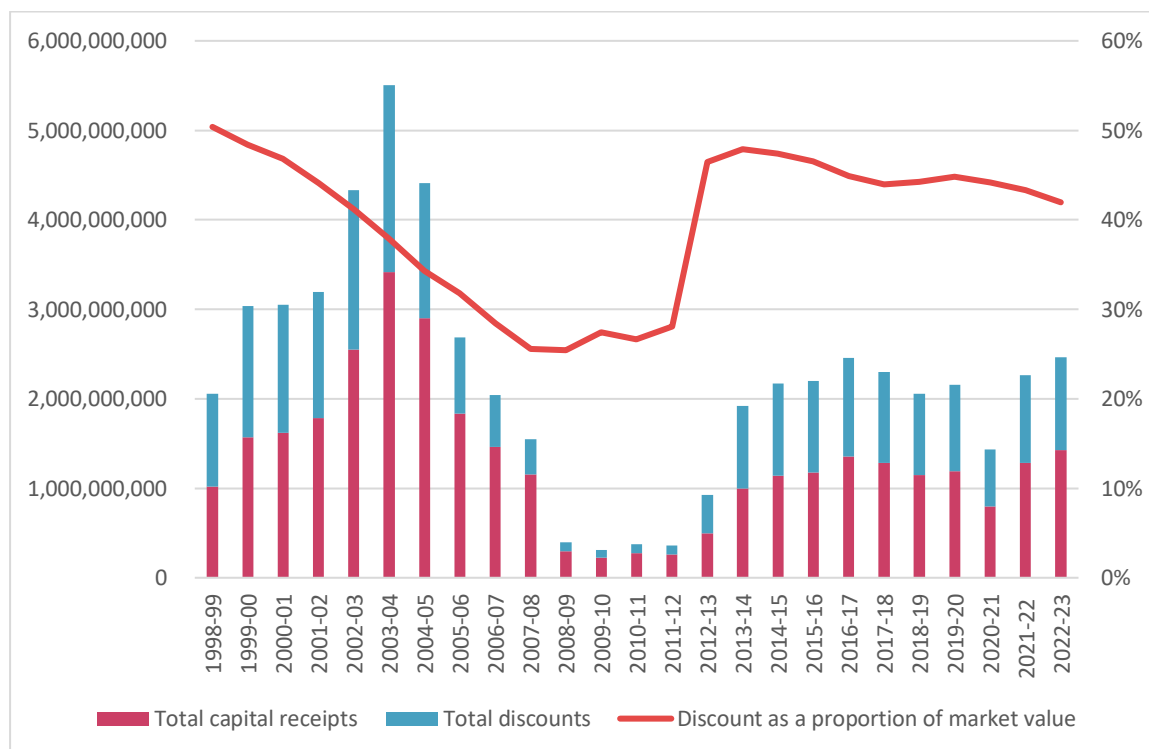
Source: Department for Levelling Up, Housing and Communities, *table 682: financial data on Right to Buy sales for England*

In cash terms, the volume of capital foregone by local authorities is also eye-watering. As outlined in Figure 7, since 1998/99, total right-to-buy discounts have cost local authorities over £17.5bn in lost assets.

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Figure 7: Right-to-buy discounts have been worth £17.5bn since 1998.

Total right-to-buy capital receipts and discounts, local authorities and housing associations, 1998/99 to 2021-22



Source: Department for Levelling Up, Housing and Communities, *table 682: financial data on right-to-buy sales for England*

Reductions to the discounts available to tenants and extensions to qualifying periods offer a straightforward way to mitigating the damaging impact of right to buy by protecting local authority assets, reducing its attractiveness to prospective buyers, and preserving existing social housing stocks. In 2003, the last Labour government reduced maximum discounts to £16,000 (£38,000 in the highest-value areas of London and the South East). This reduced annual sales from almost 70,000 in 2003/04 to fewer than 3,000 by the time of the 2008 global financial crisis. Labour has recently discussed reducing the discounts to those that existed before 2012.⁵⁶

Such reductions would be a positive step forward. As a baseline, discounts should be reduced to the pre-2012 rates across the board. The urgency of the current housing crisis

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means there is a strong case for councils to be empowered to go further if they wish, including abolishing the discount if necessary.^{h,57}

Reducing discounts will not only limit the take-up of the scheme but will also ensure that capital receipts obtained are far higher than they are currently. Combined with the reforms described below to enhance local authorities' flexibilities in their use of receipts, this will considerably improve councils' ability to deliver sufficient numbers of like-for-like replacements.

As well as reducing discounts, extending the qualification period from its current level of three years also provides a straightforward way to retain social housing stock. This was a step taken by the last Labour government in 2004 when it increased the period from two to five years. As with discounts, the qualifying period should be reversed to pre-2012 levels – five years – as a minimum, with councils empowered to extend this further if local circumstances require it.

In short, discounts and qualifying periods should be reformed to pre-2012 levels across the board, with local authorities being able to reduce discounts and extend qualification periods further if they deem local circumstances warrant this. Without this, local authorities will struggle to mitigate the outflow of social homes to the extent necessitated by the current housing crisis and the shortage of social homes.

^h Some analysts have suggested that instead of providing discounts on the purchase price, those exercising their Right to Buy could instead have the costs of the move (conveyancing and other costs) met by the local authority

4. DELIVERING REPLACEMENTS: REFORMING TREASURY RECEIPT RULES

Alongside this package of devolved powers, Treasury rules around local authorities' use of receipts should be reformed. To accompany the larger discounts announced in 2012, ministers committed to replace every additional home sold due to the higher discounts.⁵⁸ Indeed, former housing minister, Gavin Barwell, said that failure to do so would mean that right to buy was not “politically justifiable”.⁵⁹ Yet the policy has only achieved the 1:1 target in one year out of the 11 – when following the COVID pandemic, both sales and replacements fell dramatically - since the introduction of the reforms. Since 2012/13, the number of sales has outstripped replacement homes by a factor of 2.6:1 (Figure 8).

Figure 8: Right-to-buy sales have significantly outstripped right-to-buy replacement homes since 2012.

Right-to-buy sales and replacements, 2012/13 to 2022/23



Source: Department for Levelling Up, Housing and Communities, *Right to Buy sales and replacements, 2022-23*, Figures 1 and 6

Almost as many councils say that the government's reforms to receipts policy do not support them to deliver more housing (32%) as say that they do (36%).⁶⁰ Attempts to replace sold homes have failed because debilitating restrictions have prevented local

authorities from recycling receipts to build new homes. Ministers loosened some restrictions in 2021, 2023 and in the recent spring budget,⁶¹ recognising that their replacement policy had failed and that local authorities would be assisted in developing replacement homes if empowered with greater flexibility to do so.⁶² However, there are still significant areas of potential reform, which would greatly enhance local authorities' ability to deliver replacement homes.

4.1 ABOLISHING THE TREASURY SHARE

From right to buy's introduction until only recently, the Treasury has claimed significant amounts of the right-to-buy receipts obtained by local authorities. This has been known as the Treasury Share. In total, since 1980, the Treasury Share has recouped over £47bn to the Exchequer.⁶³ The original rationale for the Treasury Share was that this money would be reinvested in new social homes, but it is impossible to know with certainty how much of this money has been used in this way. Regardless, in recognition of its role in blocking replacement homes, the government suspended the Treasury Share for 2022/23 and 2023/24, allowing local authorities to keep 100% of receipts for those years.⁶⁴ However, councils still had to return any receipts to the Treasury if not spent within five years, with interest payable at the Bank of England base rate plus 4%, compounded annually.⁶⁵

However, the chancellor recently decided to reinstate the Treasury Share in its entirety from 2024/25, costing councils £200m of proceeds to invest in replacement homes.⁶⁶ The Treasury Share represents an unjustifiable transfer of local authority capital from councils to Whitehall. While the previous suspension of the Treasury Share had been welcome, its reintroduction marks a significant backward step. It should instead be permanently abolished, enabling local authorities to reinvest all receipts into new replacement homes.

4.2 LOOSENING RECEIPT RESTRICTIONS AND COMBINING RECEIPTS WITH GRANT FUNDING

Because of their lower rental income stream, homes for social rent typically require a grant of at least 50% of the total build cost, more than the lower grant needed to build a so-called affordable home (which can be let for as much as 80% of market rent).⁶⁷ In line with the coalition government's objectives to prioritise new 'affordable' homes at the expense of those for social rent, it was on this basis that ministers in 2012 capped the use of net right-to-buy receipts that councils could use to fund replacement stock at 30% (this has since been raised to 50%).⁶⁸

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The data collected by the government on replacement homes, including those cited in Figure 8, includes all types of so-called affordable housing. But replacing a sold social home with a home for ‘affordable’ rent is not a like-for-like replacement and delivers replacement homes that are not actually affordable for most tenants requiring a social tenancy.⁶⁹ In short, local authorities have only been able to replace sold social homes with a grossly inadequate number of vastly inferior ‘affordable’ and often insecure tenures, largely because of these burdensome restrictions.

While the current 50% cap offers local authorities greater flexibility than the previous 30% or 40% caps, it still renders the building of like-for-like replacement social homes extremely difficult.⁷⁰ This is particularly the case given that receipts cannot be combined with other sources of grant, such as those issued by Homes England or the Greater London Authority (GLA) under the Affordable Homes Programme, purportedly to ensure that receipts are used to “lever in new money”.⁷²

As outlined, any receipts that go unspent after five years must be returned to the Treasury at an interest rate of the base rate plus 4%, compounded annually over five years. Councils therefore face a grim choice: Do they attempt to spend receipts on replacing homes and run the serious financial risk of failing to do so, incurring significant financial penalties when returning any unspent money to the Treasury? Or do they simply return receipts to the Treasury as soon as the home is sold to preclude incurring these costs? In either scenario, the consequence is that red tape is preventing councils from using receipts to fund replacement homes, contrary to the stated objectives of the right-to-buy receipt policy.⁷³

The 50% cap on receipts should therefore be abolished, as well as the excessive interest rates to which receipts are subject, to allow councils the flexibility to build the homes the government is asking them to. Given the urgency of replacing sold social homes on a like-for-like basis, councils should also be allowed to combine receipts with other sources of funding to enhance their ability to build social homes to replace them. Finally, given the limited current capacity of some local authorities to build new homes, they should be allowed to transfer receipts to ALMOs and local authority housing companies to use the receipts to build replacement homes instead. All this would make it far easier for local authorities to replace a sold social home with a new social home in a way that the current restrictions render near impossible.

4.3 LIFTING THE ACQUISITIONS CAP

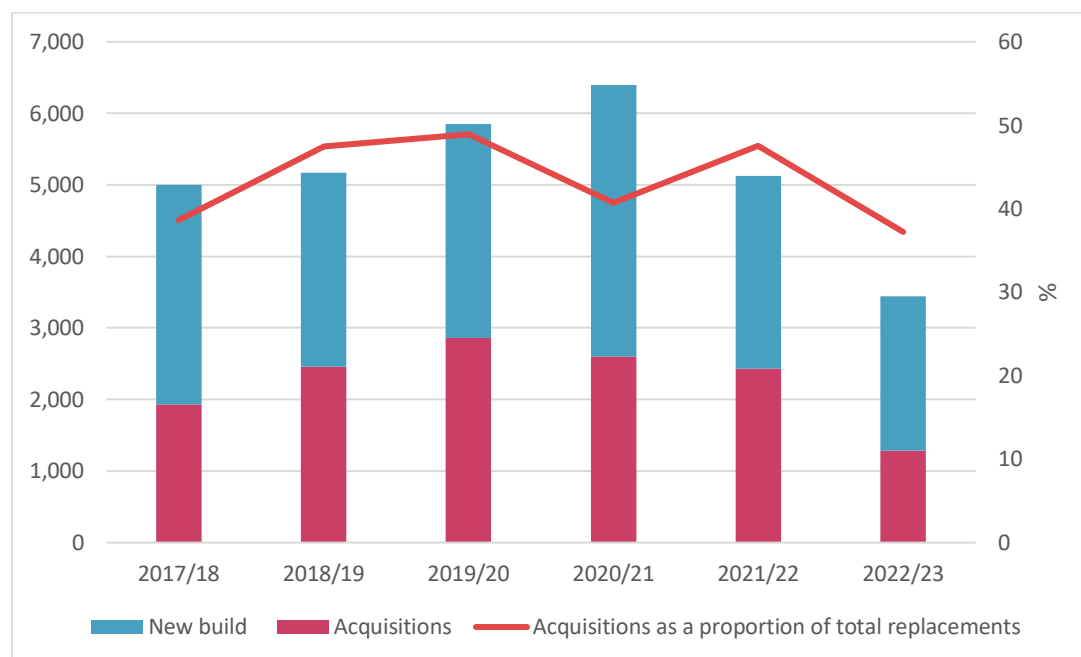
Current Treasury rules state that no more than 50% of replacement homes can be delivered as acquisitions. This cap will reduce to 40% in 2025/26 and to 30% from

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2026/27 onwards.ⁱ Since 2017/18, an average of 43% of replacement homes have been delivered through acquisitions, reaching as much as 48% in 2019/20 and 2021/22 (Figure 9). The planned reduction of the cap to 40% and then 30% will therefore curb local authorities' ability to acquire the homes they need to use their receipts efficiently.

Figure 9: Just under half of replacement homes have been delivered by acquisitions in recent years.

Replacement homes delivered through acquisitions and new builds, England, 2017/18 to 2022/23



Source: Department for Levelling Up, Housing and Communities, Replacements of Right to Buy Sales of Local Authority Stock, live tables 693c.1 and 693c.2

As we have argued concerning Affordable Homes Programme grant-making in general, Homes England's restrictions on the use of funds for acquisitions should be relaxed across the board.^{74,75,j} This would allow local authorities to act flexibly and expeditiously to buy homes for social rent or to use as TA. At a time in which rising rents and the continued presence of 'no fault' evictions are driving rising homelessness, it is pragmatic to also enable local authorities to reinvest right-to-buy receipts to acquire homes quickly, given the years it can take to develop and build new replacement homes.⁷⁶

ⁱ The 50% cap was intended to be reduced to 30% by 2024/25 onwards, but has instead been frozen for two years.

^j Labour have proposed raising the 10% cap on acquisitions as part of Affordable Homes Programme grantmaking through Homes England. The GLA currently exercises a higher 30% in London.

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The five-year period within which councils must spend receipts is an extension of the three years to which they had previously been subject.⁷⁷ It is prudent to retain a time limit within which local authorities must spend receipts, to ensure replacement homes are delivered in a reasonable timeframe. If Treasury restrictions are reformed in the way described above, retaining the five-year time limit should, on most occasions, allow councils sufficient time to use their receipts to construct new replacement homes. However, if for whatever reason they are unable to, then lifting the cap on acquisitions will allow councils to use all hitherto unused receipts to buy homes instead and replenish stock through acquisitions.⁷⁸

Summary: flexibilities around receipts

Ministers have already loosened a limited number of the restrictions in place on local authorities, out of recognition that the previous rules were too burdensome and have hampered councils' ability to deliver replacement homes. However, these restrictions have not been abolished in their entirety due to Whitehall's concerns that giving local authorities complete freedom to use receipts as they wish will result in councils failing to develop sufficient replacement homes in a reasonable timeframe.⁷⁹

Such concerns are overstated. Allowing local authorities to take advantage of these flexibilities would be welcomed enthusiastically by many councils, where there is a clear appetite to deliver replacement homes and address rising local homelessness.^{80,81,82} Indeed, it is the restrictions themselves that are suffocating councils' ability to provide replacement homes.

5. EMPOWERING COUNCILS TO BUY BACK SOLD HOMES

Current rules dictate that those who sell their home within 10 years of purchasing it under right to buy must offer the local authority first refusal to buy it back. These homes must be sold at market value. Discounts must be repaid to the local authority if sold within the first five years on a sliding scale.

NEF has previously argued for local authorities, alongside other social landlords and community-led housing groups, to be given pre-emptive first buyer rights – a community right to buy – to encourage social housing acquisitions.⁸³ Homes previously sold under right to buy are often most advantageous for councils to buy, given they are often already situated in council-owned blocks or on council land. This reduces the likelihood of complex freehold/leasehold arrangements with third parties and delivers economies of scale to reduce subsequent management costs: 54% of councils are currently buying back former right-to-buy properties, up from 40% in 2019.⁸⁴

To allow councils to prioritise buying back homes previously sold, first buyer rights should be extended to all homes previously sold under right to buy, irrespective of whether the home was previously bought by the tenant within the prior decade. Moreover, councils should be given further financial incentives to do so. Councils outside London often rely on Affordable Homes Programme grants to undertake social housing acquisitions, which are subject to a 10% cap (a higher 30% cap is in place in London). Labour has pledged to review these if it forms the next government and raise the 10% cap to a currently unspecified limit.⁸⁵

The GLA's Right to Buy Back scheme has provided funding and enabled London's councils to act with agility, acquiring over 1,500 (mostly) former council homes, with plans to deliver an additional 10,000 homes over the next decade.^{86,87} As other NEF research has demonstrated, a ten-year acquisition programme in London will save councils and taxpayers a combined £2.2bn over the next two decades, as well as helping tackle homelessness.⁸⁸ Councils across England should be granted similar flexibilities to ensure they can buy back the homes they need in the most efficient way possible.

6. CONCLUSION AND RECOMMENDATIONS

This report is intended to draw attention to the range of options available to policymakers seeking to reform right to buy, and the importance of doing so. The package of devolved powers described above offers Westminster politicians the opportunity to modernise right to buy, help preserve vital social housing assets, advance the devolution agenda while allowing right to buy to continue to operate in areas in which low-cost home ownership should be prioritised. The proposed reforms to Treasury rules would also allow councils to better deliver on the government's current stated objectives of replacing sold homes. Above all, these reforms would help give councils confidence to get building again and play a leading role in upscaling new genuinely affordable supply that is the principal route out of the housing crisis.

We therefore recommend the following:

1. Right-to-buy powers be devolved from Westminster to local authorities, giving them the option of:
 - a. suspending right to buy if it can be demonstrated, pursuant to statutory guidelines, that the policy was contributing to housing shortages in areas of greatest demand for affordable housing;
 - b. ending right to buy for newly built or acquired council homes;
 - c. preventing sold homes from being let privately; and
 - d. extending qualifying periods and reducing discounts further than a pre-2012 baseline, which should be introduced across England.
2. Treasury rules are reformed so that:
 - a. the Treasury Share is permanently abolished;
 - b. the 50% cap on the use of receipts is abolished, alongside the excessive interest rates to which retained receipts are subject;
 - c. receipts can be combined with other sources of grant funding;
 - d. receipts can be transferred to ALMOs and local authority housing companies; and
 - e. the acquisitions cap pertaining to receipts is lifted.
3. First buyer rights should be extended to all homes previously sold under right to buy, not just those sold within the first 10 years.

APPENDIX 1: SUMMARY OF FREEDOM OF INFORMATION ACT RESPONSES ON SOLD PRIVATELY LET HOMES^k

Local Authority	Properties Sold under Right to Buy	Number now let	Percentage now let
Arun	465	165	35.5%
Ashfield	196	90	45.9%
Ashford	227	85	37.4%
Barnsley	294	117	39.8%
Bassetlaw	193	81	42.0%
Blackpool	400	187	46.8%
Bournemouth and Poole	603	306	50.7%
Brentwood	453	140	30.9%
Brighton and Hove	1,143	988	86.4%
Broxtowe	309	114	36.9%
Bury	161	36	22.4%
Cambridge	1,170	553	47.3%
Camden	9,182	4,121	44.9%
Cannock Chase	296	170	57.4%
Canterbury	391	200	51.2%
Castle Point	159	81	50.9%
Central Bedfordshire	352	118	33.5%
Cheshire West and Cheshire	331	188	56.8%

^k Out of 213 stock-owning local authorities, we received responses to our request from 87 councils.

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Chesterfield	293	127	43.3%
City of London	983	298	30.3%
Colchester	995	408	41.0%
Cornwall	418	158	37.8%
Crawley	2,493	675	27.1%
Croydon	2,482	935	37.7%
Darlington	96	35	36.5%
Doncaster	294	115	39.1%
Dover	268	159	59.3%
Dudley	1,189	444	37.3%
Ealing	4,508	2,184	48.0%
East Riding of Yorkshire	223	79	35.4%
East Suffolk	125	47	37.6%
Eastbourne	618	258	41.7%
Epping Forest	1,092	540	49.5%
Exeter	1,069	451	42.2%
Fareham	474	151	31.9%
Gateshead	970	392	40.4%
Gravesham	470	204	43.4%
Guildford	607	182	30.0%
Hackney	9,544	3,742	39.2%
Haringey	5,360	1,788	33.4%
Harlow	2,600	1,259	48.4%
Havering	2,506	1,001	39.9%
Hounslow	3,065	1,288	42.0%
Islington	13,509	4,044	29.9%
Kensington and Chelsea	2,549	1,104	43.3%

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Kingston-upon-Thames	1,679	846	50.4%
Kirklees	1,212	442	36.5%
Lewes	281	135	48.0%
Lincoln	326	140	42.9%
Manchester	530	151	28.5%
Medway	552	117	21.2%
Melton	31	10	32.3%
Milton Keynes	1,585	1,149	72.5%
New Forest	120	42	35.0%
Newark and Sherwood	172	65	37.8%
North Tyneside	972	388	39.9%
North Warwickshire	81	31	38.3%
Norwich	4,958	1,698	34.2%
Nottingham	1,470	593	40.3%
Nuneaton and Bedworth	470	239	50.9%
Oadby and Wigston	80	19	23.8%
Oldham	13	6	46.2%
Oxford	696	279	40.1%
Portsmouth	1,682	683	40.6%
Reading	2,515	1,137	45.2%
Redbridge	370	163	44.1%
Rotherham	616	250	40.6%
Rugby	54	19	35.2%
Sandwell	1,326	444	33.5%
Sheffield	2,927	1,085	37.1%
Southampton	1,923	1,109	57.7%
Southwark	15,308	4,966	32.0%

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Stevenage	1,406	764	54.3%
Stoke-on-Trent	435	190	43.7%
Tandridge	731	126	17.2%
Tendring	442	178	40.3%
Tower Hamlets	10,376	4,454	43.0%
Warwick	645	248	38.4%
Wealden	203	60	29.6%
Welwyn Hatfield	1,356	630	46.5%
West Lancashire	495	192	38.8%
Westminster	8,894	4,856	54.6%
West Northamptonshire	1,029	420	40.8%
Winchester	420	199	47.4%
Woking	435	171	39.3%
York	615	288	46.8%
TOTAL	146,810	59,857	40.8%

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