

PERTH AND KINROSS COUNCIL

Housing and Health Committee – 15 August 2012

**THE FUTURE OF RIGHT TO BUY IN SCOTLAND – A CONSULTATION
RESPONSE BY PERTH AND KINROSS COUNCIL**

Report by Executive Director (Housing and Community Care)

ABSTRACT

This paper seeks approval for a proposed response on the Scottish Government's Right to Buy (RTB) consultation as set out in appendix 1.

1. RECOMMENDATION

It is recommended that Committee:

- 1.1 Approves the response as detailed in appendix 1.

2. BACKGROUND

- 2.1 A consultation paper has been circulated by the Scottish Government to consult on proposals to reform the RTB in Scotland. There are two main policy proposals. These are either to move tenants with preserved right to buy onto modernised terms, or to end all right to buy entitlements. In addition if RTB is retained, views on some more technical changes that could be made are being sought also. The full consultation document can be accessed at <http://www.scotland.gov.uk/Publications/2012/06/7065>. Any proposed RTB reforms will be included as part of the next Housing Bill.
- 2.2 RTB was initially introduced in 1980. However its current form was developed through the Housing (Scotland) Act 1987 ('the 1987 Act'), which was later amended by the Housing (Scotland) Act 2001 ('the 2001 Act') and the Housing (Scotland) Act 2010 ('the 2010 Act').
- 2.3 There can be exceptions in particular cases, but, in general terms, the changes made by the 2001 Act were introduced in a way that 'preserved' the entitlements of existing tenants and introduced 'modernised' entitlements for new tenancies that started on or after 30 September 2002.
- 2.4 The 2010 Act kept existing entitlements, but ended the right to buy for new tenants, those returning to the sector after a break, and for new supply houses. The right to buy entitlements which tenants currently have are detailed below.
- 'Preserved' RTB Entitlements**
- 2.5 Tenants who have right-to-buy entitlements over their current home from before 30 September 2002 can buy after a two-year qualifying period with a

'relevant landlord' (generally a local authority). For houses, the discount starts at 32% of the market value, rising by 1% a year up to 60%. For flats, the discount starts at 44% of the market value, rising by 2% a year up to 70%.

'Modernised' RTB Entitlements

- 2.6 Tenants who gained the right to buy between 30 September 2002 and 1 March 2011 have the right to buy after a five-year qualifying period with a 'relevant landlord'. The modernised discount starts at 20% of the market value after those five years and rises by 1% a year for all house types, up to 35% or £15,000, whichever is lower. In over half of all sales using the modernised entitlement, the maximum discount of £15,000 applies.

Pressured Area Status

- 2.7 The 2010 act also changed the 'pressured area' rules. This means that from 30 June 2011 local authorities rather than Scottish Ministers can designate an area as pressured. Tenants with modernised right to buy cannot exercise their right to buy if they live in an area that has been classed as 'pressured'. Perth and Kinross Council designated the whole of Perth and Kinross as a pressured area for a period of ten years starting on 1st February 2012 (report no. 12/41). If the proposal to move tenants currently on preserved right to buy onto modernised right to buy is adopted, the pressured area status and the associated suspension of the Right to Buy would apply to all tenants while the designation is in place.

No RTB Entitlement

- 2.8 From 2 March 2011, the 2010 Act ended the right to buy for new tenants and those returning after a break. From 1 March 2011, it also ended for new supply houses (those built or acquired after 25 June 2008). It did not remove any existing entitlements. Existing tenants moving to a new-supply home cannot buy that home although they do keep the right to buy if they then move to a home that is not new supply.
- 2.9 It was already the case that some tenants of registered social landlords had no entitlements to the right to buy (for example, if they live in a group housing scheme such as sheltered housing).
- 2.10 Important changes to RTB were made in 2011 when RTB for new tenants and new-supply houses was ended. This means that registered social landlords are now able to build new houses in the knowledge they will not be subject to RTB.

3. PROPOSALS

- 3.1 It is proposed that Committee approves the response as detailed in appendix 1.

4. CONSULTATION

- 4.1 The Head of Legal Services, the Head of Finance and the Head of Democratic Services have been consulted on this report

5. RESOURCE IMPLICATIONS

- 5.1 Resource implications arising directly from this report emanate from reduced receipts from RTB sales. These are more than offset by increased rental revenues.
- 5.2 Detailed resource implications will be reported to respective Council committees.

6. COUNCIL CORPORATE PLAN OBJECTIVES 2009-2012

The Council's Corporate Plan 2009-2012 lays out five objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. The following are relevant to this report:

- (i) A Safe, Secure and Welcoming Environment.
- (ii) Healthy, Caring Communities.
- (iii) A Prosperous, Sustainable and Inclusive Economy.
- (v) Confident, Active and Inclusive Communities.

7. EQUALITIES ASSESSMENT

- 7.1 An equality impact assessment needs to be carried out for functions, policies, procedures or strategies in relation to race, gender and disability and other relevant protected characteristics. This supports the Council's legal requirement to comply with the duty to assess and consult on relevant new and existing policies.
- 7.2 The function, policy, procedure or strategy presented in this report was considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome: Assessed as not relevant for the purposes of EqIA.

8. STRATEGIC ENVIRONMENTAL ASSESSMENT

- 8.1 Strategic Environmental Assessment (SEA) is a legal requirement under the Environmental Assessment (Scotland) Act 2005 that applies to all qualifying plans, programmes and strategies, including policies (PPS).
- 8.2 The matters presented in this report were considered under the Environmental Assessment (Scotland) Act 2005 and no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

9. CONCLUSION

The purpose of this report is to seek approval for the proposed response on the Scottish Government's RTB consultation as set out in appendix 1.

DAVID BURKE

Executive Director (Housing and Community Care)

Note: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

Contact Officer: Stephen Rankin, Ext. No. 76174,
Email: StephenRankin@pkc.gov.uk

Address of Service: 5 Whitefriars Crescent, PERTH, PH2 OPA

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Council Text Phone Number 01738 442573

APPENDIX 1

CONSULTATION QUESTIONS

1. Do you agree that further restrictions to the right to buy are needed?

Yes ☒ No ☐

Where demand for social housing is far outstripping supply, further restrictions to the right to buy are required in order to safeguard as much of the remaining social housing stock as possible.

The right to buy legislation is also extremely complex for both landlords and tenants to understand and for landlords to administer so any restriction which might simplify this process would be welcomed.

2. Do you agree with the proposal to end the right to buy altogether?

Yes ☒ No ☐

This proposal would ensure that current and future stock is safeguarded as well as removing the complexities of the current right to buy legislation.

3. If so, what notice period should we give?

Two Years ☐ Three Years ☐ Five Years ☐ Other ☒

A 12 month period would seem an acceptable period of notice as this would allow an adequate amount of time to pursue the sale if people wished to exercise their right.

4. Do you agree with the proposal to move all those with a preserved entitlement onto modernised terms?

Yes ☐ No ☒

This proposal would still enable social housing stock to be sold (unless a pressured area designation was in place) albeit at a lower discount than preserved right to buy thus contributing towards longer waiting lists for many people in need.

The level of income received from sales is often much lower than the capital required to build new properties in their place, so although this proposal addresses the level of capital receipts received for properties, it fails to address the shortage of social housing in Scotland.

However if the Scottish Government does not propose to end the Right to Buy this would be our second preference.

Additionally, this proposal would fail to fully address the complexity of the legislation. It would become simpler in the sense that you would only have to distinguish between tenants with a modernised right to buy and new tenants after 1st March 2011. However, this is often a more complex task than it first appears to be as whenever a tenant transfers property or succeeds to a tenancy for example the initial date of entry changes to the date the change has taken place. From a practical perspective, this proposal would still require a great deal of work to establish whether a tenant had a right to buy or not. This task would become even more complex as time passes as more and more tenants would be transferring tenancy and succeeding to tenancies at the same time new tenants to social housing are beginning tenancies.

5. If so, what notice period should we give?

Two Years ☐ Three Years ☐ Five Years ☐ Other ☐

N/A

6. Which option do you prefer?

Ending right to buy ☒ Moving from preserved to modernised ☐

Perth & Kinross Council has already seen over 9,100 of its properties sold through right to buy since the legislation was introduced. At 1st February 2012, there were 6,162 tenants with a right to buy eligibility and 4,869 applicants on the housing waiting list at 31st March 2012 (excluding duplicate applications). The demand for social housing in the PKC area is much higher than the number of properties becoming available each year. By ending the right to buy, we can start to build our stock base once again and try to house as many people in housing need as possible.

7. Do you think there would be any unexpected issues with either option?

Yes ☒ No ☐

If all tenants with a preserved right to buy entitlement were moved onto modernised right to buy, then local authorities would require guidance as to whether these tenants would automatically be subject to any pressured area designations which are currently in place. Perth & Kinross Council currently has a pressured area designation in place which covers the entire local authority area. Would all tenants moving from a preserved right to buy have to be notified of the designation prior to the move or would this automatically apply?

Similarly, if the right to buy was ended, would the designation have to be lifted for a period of time in order to allow anyone wishing to buy their property to exercise this right within the notice period or would these people lose this opportunity as a result of the designation being in place?

8. What financial effect would our proposed changes have on social landlords, particularly over the longer term?

PKC has already factored into the HRA Business Plan that it is unlikely any significant funding from right to buy sales will be received in the future. Therefore, any funding received from any sales would be additional funding in that financial year. If those on preserved right to buy moved onto modernised, the reduction in discounts would result in a larger receipt to deliver on improving existing stock.

If right to buy was removed altogether then this would not alter our HRA Business Plan projections.

9. What steps could landlords take to reduce any negative effects?

There would be no real negative impact on PKC as a social landlord if RTB is ended.

10. Do you support the proposal to repeal section 69 and delegate decision-making to landlords?

Yes ☒ No ☐

Perth & Kinross Council fully support the proposal to delegate the decision making to local authorities on whether properties provided for tenants of 'pensionable' age can be sold.

Further guidance would however be appreciated on whether these properties could be covered by a pressured area designation or whether these properties would still need to be dealt with on a case by case basis should the proposal to move tenants with a preserved right to buy onto modernised right to buy be implemented.

11. Do you have any views on the 10-year suspension and possible future changes?

It is preferable that a blanket suspension for all registered social landlords should be implemented from 30th September 2012 until the right to buy can be ended altogether. This would safeguard as much social housing stock as possible.

12. Are there any other right-to-buy issues which you think should be tackled?

Yes ✓ No ☐

There appears to be a loop hole in that tenants who buy their property through right to buy can return to social housing again at some point in the future after benefiting from the sale of their original council property.

13. What groups do you think would be affected – positively or negatively – by the proposed reforms?

If modernised right to buy is retained, it is more likely that inequality will exist between different groups of tenants. Whilst the situation for tenants with a modernised right to buy entitlement would not change, tenants who previously were entitled to preserved right to buy will experience a smaller level of discount than was previously awarded. Similarly, new tenants on secure tenancies and all tenants on non-secure tenancies are placed at a disadvantage by not being entitled to buy either as a result of the type of tenancy or the date on which they entered their tenancy.

If right to buy was ended then all tenants would be treated equally in terms of not being entitled to buy their property. It would also benefit housing applicants including homeless households.

14. What could we do to avoid any negative effects?

If right to buy is ended altogether, it is felt that negative effects could be minimised.

15. Do you have any comments on the partial Equalities Impact Assessment?

The partial Equalities Impact Assessment contains useful information on tenant profiles.

16. Do you have any views on the effect these proposals may have on your business?

If right to buy were ended, staff time efficiencies could be actioned.

At present, the net stock increase each year is often much lower than the total number of new build completions as a result of right to buy sales. If the right to buy were eliminated the full number of new build completions could be fully reflected within the stock base.

The pressure on homeless services and waiting lists may also be eased if right to buy were ended as a result of housing stock numbers starting to increase again.

However, should preserved tenants be moved onto modernised right to buy, there may be an increase in the number of transfer requests and higher

demand placed on the services which facilitate this. This might be a result of preserved tenants currently opting not to move property as they would move onto a modernised right to buy entitlement. If this proposal were implemented, then tenants' rents would also possibly be at risk of increasing due to a diminishing stock base.

17. Do you have any comments on the partial Business and Regulatory Impact Assessment?

The partial Business and Regulatory Impact Assessment contains a useful summary of the proposals and the effect each of these would have on social landlords and tenants.

