

Right to Buy Board Paper

Context

This paper has been developed for the board to consider an offer on Right to Buy which the Federation has formally made to the Government. This offer has been shaped by discussions with the Government, but also through detailed discussions with members over the past few months. This offer has been discussed and agreed by the Federation Board, which unanimously recommends it.

1. Purpose

This paper sets out the terms of an offer to the Government, following a period of consultation with members, and negotiation between the Government and the National Housing Federation on the implementation of the Government's manifesto commitment to extend Right to Buy to housing association tenants.

The proposal is designed to:

- Preserve the independence of boards to make decisions – an independence that would be undermined by a compulsion to sell
- Establish a positive, constructive new relationship with Government that positions us as trusted partners in delivery rather than a sector to be controlled with imposed solutions
- Secure the best achievable deal for the sector in terms of compensation and in terms of the flexibility to exempt certain properties, and to replace them with homes that work in a range of different markets.

For this offer to progress, avoiding the imposition of Right to Buy legislation, the Government has required us to demonstrate that an extremely high proportion (by stock) of housing associations agree to it by **2 October 2015**.

This paper sets out the terms of this offer, and why the Federation believes it is the best way forward for the sector. It seeks your agreement to support it. The formal offer document is attached as **Annex A**.

Due to the Government's timetable for bringing forward legislation, we require a formal written response to the offer document by 2 October 2015. Please note, given the importance of this decision for the sector, we require a response whether you accept or reject the proposal (set out as Option A and Option B below and on the attached pro forma).

2. Decision required

There are two options that each housing association must consider:

- **Option A:** That this Board agrees to support the proposal for a voluntary agreement between the Government and the National Housing Federation to voluntarily extend Right to Buy discounts to our relevant tenants. This means that the Government will not bring forward primary legislation imposing the Right to Buy in the Housing Bill this autumn. For the Government to agree to this proposal we will require a high proportion of Housing Associations (by stock) to agree.
- **Option B:** That this Board does not agree to support the proposal for a voluntary agreement with the Government and the National Housing Federation to voluntarily extend Right to Buy discounts to our relevant tenants and understands that the alternative is that the Government will bring forward primary legislation in the Housing Bill (due in mid October) to compel you sell your properties.

If the proportion of housing associations agreeing to Option A is sufficient to convince the Government that the sector is committed to this proposal, then that will be how the new Right to Buy scheme is implemented and they will not legislate for a Right to Buy, including for any individual association that may itself have opted not to support Option A. If not, the legislative route to Right to Buy will be taken.

Recommendation

That we support the deal negotiated by the National Housing Federation on behalf of its members in order to avoid a legislative solution which is likely to be more detrimental to us, and to the wider sector, than the negotiated agreement (Option A).

3. Background

The Conservative Government, elected in May of this year, had a clear manifesto commitment to extend Right to Buy to housing association tenants. Since the election, senior ministers, including the Prime Minister, have repeatedly made it clear that they intend to implement this commitment. Advice the National Housing Federation has sought makes clear that there are no significant legal or parliamentary obstacles that are likely to prevent this.

Since the election the National Housing Federation as your trade body, has been in negotiations with the Government to try and develop an alternative voluntary offer on Right to Buy that would prevent legislation being implemented, and provide essential flexibility to members. Their key drivers were:

- Preserving the independence of boards to make decisions – they were clear that a compulsion to sell would undermine this independence
- Establishing a new relationship with the Government that positioned us as partners in delivery rather than as a 'problem to be solved'
- Securing the best achievable deal for the sector in terms of compensation and flexibility. Housing associations get the full market value of the homes they sell. They will also have flexibility over which homes they sell and how and where they replace them.

The offer that the National Housing Federation has negotiated, which it is recommending to us, in its view, the best compromise possible. The Federation has been testing ideas with members and has, it says, seen a number of improvements in the terms on offer, as a relationship based on trust has evolved. These improved terms may not be available through the legislative alternative – for example, while there may be some exemptions, boards would not have the same level of discretion over individual properties and, fundamentally, your independence could be compromised.

The key question we have to address is not 'is this deal perfect?' – rather it is 'is this deal better than a legislative alternative?' It is clear through the negotiations that the legislative option is likely to be much less flexible in terms of exemptions and replacements, and will certainly reduce the ability of boards to take independent decisions about the conduct of their business.

4. Key elements of the offer

The offer is attached as **Annex A** along with a more detailed Q and A as **Annex B**. Fundamentally, at the heart of the proposal, is a desire to find a way for the Government to deliver Right to Buy discounts without compromising the role of our board and its ability to make decisions that are in the best interest of our business and our tenants.

The terms of the proposal are as follows:

- It is a voluntary offer from housing associations to extend Right to Buy discounts to tenants. With this proposal, the Government would commit not to bring into force any legislation that forces the sale of homes.
- It is a new offer – it will operate differently from, and is completely separate to, Preserved Right to Buy and Right to Acquire. The Federation has made it clear in discussions with the Government, and the Government agrees, that this new arrangement should not be caught up by any existing arrangements to share receipts with local authorities, that housing associations will receive 100% of the compensation due from the properties they sell.
- Tenants will have access to a discount to buy a home. However the proposal introduces discretion for housing associations not to sell a home in particular circumstances (some examples of these circumstances are set out in the attached Q and A).
- There is a clear presumption that we will sell a tenant their existing home where possible, but there are also clear expectations of we may exercise our discretion not to sell. The decision ultimately rests with the housing association, but the agreement is not to withhold a sale without specific good reason.
- Where the discretion not to sell a tenant their current home is exercised, we will work with the tenant to find them another home to buy with their discount, through existing or new homes, or from another housing association.
- We will be fully compensated for any homes we sell. The cost of the discount will be covered by the Government (70% at point of sale and 30% when replaced). Homes will be sold at full open market value.
- The sector is committed to delivering one for one replacement at a national level within three years, with an ambition to do it quicker where possible and where the

conditions are right. At a local level there is no requirement for 1 for 1 replacement so this is a sector-wide commitment rather than an individual organisational commitment.

- We will have flexibility to use the receipt in the most effective way possible to deliver replacements. Where possible, we will build new homes to replace those sold either for rent or shared ownership.
- Valuation fees will be paid up front and in full by the tenant.
- The sector will collectively work with the Government to ensure this new voluntary offer is implemented in a way that helps manage fraud, ensure applications are genuine, and deal with demand.

The Federation is aware that this deal is not perfect. In some areas we know replacements will be difficult with market values below rebuild costs. In others there will potentially be challenges in terms of cash flow with delays to part of the compensation paid. However, the key question is not 'is this deal perfect?', it is 'is this deal better than the likely result of a Right to Buy set out in primary legislation in the Housing Bill?'

5. Political implications

The Federation reports that there are also political advantages to the sector coming to a voluntary arrangement with the Government. There are clearly some voices in the Government who are not convinced that the housing association sector is a partner ready to work with them to deliver on their priorities. Recent comments by both the Chancellor and the Prime Minister have focused on perceived inefficiencies in the sector, and the Office of National Statistics, and Ministers, have made it clear that the 'status' of housing associations as independent private bodies is something that they are prepared to see change.

The importance of this potential deal goes beyond the specific detail of Right to Buy. Demonstrating that the sector can be a partner in delivery rather than a 'problem to be solved' is absolutely critical given the role that we can potentially play working alongside the Government to deliver the housing and support to communities that the country desperately needs. It is important that we demonstrate that we are an independent sector with whom the Government can work on a voluntary basis, rather than a sector that the Government seeks to compel to do certain things through legislation.

Given the widely reported discussions around the future status of housing associations, the most significant impact of choosing Option B (the legislative route) would potentially be a reclassification of associations as public bodies by the Office for National Statistics (ONS). While a voluntary deal does not preclude this risk, it is possible that a legislative solution would increase the risk of housing associations being reclassified as public bodies by the ONS.

6. Next steps

The Federation has been involved in a constructive dialogue with the Government and with member support, it is confident that this can progress this to become a formal arrangement with the Government. However, to be accepted and implemented, the Government will

rightly wish to see that there is strong commitment to make a voluntary deal work. It is that commitment that we are now seeking.

You need to look at this offer and decide if you believe that practically and politically it is a better option.

Whether we agree or disagree, we need to complete the pro forma (attached as **Annex C**) and return it to righttobuy@housing.org.uk by **2 October 2015**.

While the terms of the attached offer are clear, if agreed, there would then be a further process of detailed dialogue with the Government and the regulator about the practical development and implementation of this policy – looking at the detail of the specific mechanisms that will make this work in practice. The Federation will continue to work with us to ensure that our interests are properly understood and the solutions work.

More details on the likely timeframe for any new Right to Buy arrangement going live are set out in the detailed Q and A.

7. Recommendation

That we support the offer negotiated by the National Housing Federation.

24 September 2015