

ARTB 14

Bil Diddymu'r Hawl i Brynu a Hawliau Cysylltiedig (Cymru)

Abolition of the Right to Buy and Associated Rights (Wales) Bill

Ymateb gan: Tenantiaid Cymru

Response from: Welsh Tenants

## Welsh Tenants



### About Welsh Tenants

The Welsh Tenants is the representative body for tenants in Wales. Formed in 1988 we have over 350 member groups consisting of federations, representative tenant & resident associations and panels. Our membership and support covers the full range of mixed communities. Over the past ten years this has included a developing private rented sector. We believe that Wales can lead the way in developing a new less restrictive more vibrant form of renting that extends opportunity while providing adequate protection for renters.

### Our mission

Is to enhance and promote the rights, representations and housing standards of all tenants in Wales.

This paper relates to

<b>The Equality, Local Government and Communities Committee inquiry</b>	ABOLITION OF THE RIGHT TO BUY AND ASSOCIATED RIGHTS (WALES) BILL	Reforming right to buy and right to acquire in Wales	As presented by the Minister for Communities and Tackling Poverty	Bill
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Welsh Tenants is the representative body for people who rent in Wales. WT undertook two consultation exercises in 2011, 2015 and has taken a number of queries on the abolition since it was announced in the manifestos prior and post May 2016. The subject matter is always raised by informed tenants and presents a marmite issue for renters. Over the past decade we have spoken to tenants from urban, semi-urban and rural communities. Included among these profiles were people who had purchased their homes, leaseholders, people with disabilities and those for and against abolition.

## **ABOLITION OF THE RIGHT TO BUY AND ASSOCIATED RIGHTS (WALES) BILL**

### **1. General principles of the Abolition of the Right to Buy and Associated Rights (Wales) Bill to deliver the stated policy intention.**

- 1.1. While there are pressures on the housing system, we do not see abolition of RTB/RTA/PRTB as a primary reason for the pressure. Councils have stated that removal of RTB is not a key determinant in the continued supply of social housing<sup>1</sup>. The greater threat to social housing is Local Housing Allowance rates (LHA) rent modelling, available land supply, ending of the HRASS (achieved), investment and other factors.
- 1.2. In our consultation of 2015, and our joint statement with TPAS Cymru. 100% of tenants agreed that Welsh Government needed to do more to increase social housing supply. In those consultations, 60% of tenants stated they did not want to see an end to RTB but supported restrictions on discounts and temporary suspension where there was a demonstrated need.
- 1.3. Although we supported the Housing (Wales) measure 2011, the policy has been shown to be controversial in regards the extent of consultation local authorities and social landlords are required to undertake to seek consent to suspend. Under the 2011 policy, the cost benefit has meant it is more effective to call for a whole authority suspension than on a ward basis, and that suspension is largely determined by whether the local authority has the resources to properly consult. The 2011 measure can also create differentials in approaches across Wales. We also note that only 3 councils have been granted suspension with other applications pending. Total abolition will therefore overcome this barrier.

### **The need for legislation to deliver the stated policy intention, i.e. to protect the supply of social housing from further erosion in the face of a high level of demand and a supply shortage.**

- 1.4. The Welsh Government argues that legislation is required to curb the threat to the decline in social housing. While historically the net pool of social housing has reduced, the properties have not gone away but undergone a change in tenure to 139,000 properties between 1981-2015. The extent of sales over that period were however directly related to the extensive discounts available. With current allowable discounts combined with the 2011 measure, it is unlikely that we will see a return to those peaks.

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<sup>1</sup> Study into the influence of the Right to Buy and related Rights on the development of social housing by Local Authorities March 2017, WG30783 Digital ISBN: 978 1 4734 8613 3

- 1.5. There is no net gain when restricting the right to buy. “You cannot let a property already occupied”. There is also a lack of evidence as to the cost benefit from a public social and economic benefit to society as a whole.
- 1.6. WT sees the threat to social housing as not being RTB under current provisions but about failing to meet the demand for genuinely social rents below market rent for low income earners, the elderly, disabled, single people and low income earners. Failure to reinvest receipts from sales to build more homes and more recently risks from central government regarding Local Housing Allowance caps pose a greater threat, not as a direct consequence of the policy itself. We conclude there is no net gain of social housing dwellings from abolition. But there is a net social mobility loss.
- 1.7. We recognise the Bill to end the Right to Buy is one of the priorities in Taking Wales Forward and is claimed to be aligned with the sustainable development principle of the Wellbeing of Future Generations (Wales) Act 2015 however, this can be equally be applied to pro-RTB arguments.
- 1.8. What we do know, is that there are quantifiable significant benefits that have accrued from RTB. Parents are the 9<sup>th</sup> biggest contributor to help with mortgages contributing 6 ½ billion to support children to buy their homes<sup>2</sup>. Tenants who have exercised their RTB in the 80-90s and who are now mortgage free, are able to support children into owner occupation with ‘guarantees’ or ‘cash support’. It is important to emphasise that around 50% are still owner occupied.
- 1.9. WT members who are pro and anti-RTB are more concerned about the application of the policy as opposed to the policy itself, which they say has enriched the lives of many and freed them from generational social housing dependency with countless cases where older people live more enriched lives as a consequence of being mortgage free or having reduced accommodation outlay.
- 1.10. The current numbers pre the abolition has also been manageable with several hundred, as opposed to several thousand when discounts percentages were much higher. In fact the slow-down has been considerable since devolution. Where the policy is at the moment, with the ability to suspend and the discount restriction of £8k, we do not see the necessity for abolition, thus restricting an aspiration for many low income earners who may not be able to afford access to open market ownership on low incomes.

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<sup>2</sup> <http://www.telegraph.co.uk/business/2017/05/01/bank-mum-dad-now-equivalent-ninth-biggest-mortgage-lender-paying/>

- 1.11. We also recognise that even with zero discount, tenants who can afford to purchase their home may still want to do so because of local connections, caring obligations, human rights considerations and other factors. This policy prevents tenants from doing so raising serious concerns.
- 1.12. We do appreciate that the Labour government outlined its commitment in the Labour party manifesto and therefore has a mandate to deliver this policy from the public as the government. The argument is again made that there is an increased cost to the public purse through higher rents in the private sector, however none take into account the increased number of jobs, taxes paid by private landlords/letting agents, the regeneration improvement effects to housing and communities, and the combined contribution to revenue for the exchequer offsetting additional costs of higher HB.
- 1.13. As much as it may displease many, we at least acknowledge that the policy has delivered a regeneration effect evident in communities with more mixed tenure. Without RTB/PRTB/RTA many of these homes would not have been afforded to be regenerated. We know this from the current costs of WHQS improvements to existing stock and the time it has taken to improve the remaining social housing stock. If RTB hadn't occurred we would still be faced with 50% of all social housing stock in Wales struggling to meet standards such as WHQS.
- 1.14. We are therefore in alignment with tenants views who both support the policy and those who do not. The lack of long term and in-depth assessment of the policy impacts on Wales and its wider social economic policy benefits leads us to conclude that the case as presented has not been made, with the consequences of abolition being generational, and potentially trapping social housing tenants into an increasingly unaffordable social rent model indefinitely for most.

## **2. The provisions of the Bill**

### **2.1. Restriction on exercising the right to buy and the right to acquire (sections 2 to 5);**

- 2.1.1. Effective communication of the impact of the bill is critical to enable people to understand changes to their rights. The bill as presented would be hugely simplified if there were one qualifying period of 12 months from the date of Royal Assent for all qualifying tenants.

**3. The abolition of the right to buy and the rights to acquire (section 6);**

- 3.1. We understand the need to provide impacted tenants with a significant period of 12 months to consider their financial situations, including making provisions to consider what measures they may need to take to sustain their homes including making provisions for arranging mortgages, drawing down pensions and or securing savings should they wish to exercise their rights in addition to the increasingly punitive consequences should they lose employment.
- 3.2. In an anticipated surge of applications, we also recognise (based on prior experience) landlords may have to undertake extensive enquires relating to qualifications of time, prior tenancy of other public bodies, third party due diligence checks, fraudulent applications as well as valuations. There may also need to be additional staffing/training to meet the challenge of gangs using tenants RTB as a means of supporting organised crime.
- 3.3. The government will want to avoid any wholesale touting of business as occurred in the heady days where bogus companies were door knocking to encourage tenants to exercise RTB with all sorts of assumptions and claims. Consumer advice and support will be required as there will be an undoubted campaign to 'use or lose their right'. With the emergence of electronic communication fraud there may also need to ensure consumer protection initiatives are developed.

**4. The removal of the power for Welsh Ministers to make discount grants (section 7); and**

- 4.1. No comment

**5. In response to the duty to provide tenants and prospective tenants with information section 8.**

- 5.1. RTB/PRTB/RTA vs continuing to rent presents complicated financial issues for tenants in respects of the governments rent policy v's taking out a mortgage. In some circumstances a home may be more sustainable for low to medium income earners in owner occupation than under the current social housing rent and service charge policy regime. It is absolutely critical that qualifying social tenants have access to independent advice about their rights and how they will change under the bill.
- 5.2. While we welcome the provision to 'inform tenants', landlords may not be the best to provide impartial advice to do so, as the removal of the right is beneficial to them and presents a conflict of interest in both stock they may want to retain and stock they would wish to see disposed of. The risk is that

people with mental health conditions, people with disabilities, with language barriers, lack of understanding of mortgage financing, tenants may not be adequately informed of their choices, resulting in potential future legal challenges.

- 5.3. This may also include examination of whether there is a cost benefit of drawing down tax free 25% of pension coupled with the current discounts that may indeed mean significantly less mortgage repayments than rent and service charges. For some people, this may mean the difference between being able to afford care and support or indeed, being able to afford their property.
- 5.4. We would want to see specific assurances that tenants will be written too in respects of the ending of the right to buy and not just posted on the landlords website. Landlords will have just 2 months to undertake this following Royal Assent.

Recommendation: Given the above points, should the bill proceed, we would recommend that the Welsh Government adopt a Government sponsored Right to Buy help line Agent service to ensure impartiality in advice with the objective of securing the best sustainable option for the tenant.

## **6. Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them.**

- 6.1. We cite training, the adequacy of staff resources and free phone helpline and advice services can help ease implementation. It would also be useful to develop standard Q&A as implemented in England.
- 6.2. RTB/RTA/PRTB extends to public sector tenants. It needs to be made clear that you do not need to have spent the full three years in your present council home or with your present landlord. In some circumstances periods which another person (such as husband, wife or civil partner) has spent as a public sector tenant can count towards a tenants qualifying period<sup>3</sup>.
- 6.3. In some circumstances armed forces personnel can use their time in forces accommodation as qualifying period for RTB discounts, they may also need to be informed of changes. There is no mention of this as a consequence of the bill, in fact the 'public sector tenancy definition' is extensive (see appendix 1). The focus of the explanatory memorandum and the bill is on councils and housing associations with no mention of other government departments / personnel and consequential impacts for those households.

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<sup>3</sup> <https://righttobuy.gov.uk/help/questions-and-answers/>

- 6.4. A wide spread information campaign, as opposed to reliance on social landlords alone will help mitigate any potential challenges from a failure to inform and consult.

## **7. Part 6. Unintended consequences arising from the Bill**

- 7.1. We believe the bill will precipitate a flurry of RTB/PRTB applications that will substantially and predominantly impact on local authorities with retained stock and properties with the preserved right to buy (stock transfer landlords). If demand is mismatched with resources penalties may accrue that will need to be paid for delaying RTB decisions, some areas may be disproportionately impacted than others.
- 7.2. Other options open to tenants to buy - It is unlikely that social tenants will be able to meet the criteria for the rationed 'Help to buy' scheme as the qualifying affordability conditions are significantly higher than average social tenant incomes and an element of competition on affordability against higher dual wage earners. Tenants who are unable to afford access to the open market may see the restriction as trapping them in social housing with a decreased opportunity to break out of social housing dependency.

## **8. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).**

- 8.1. As a consequence of abolition, tenants will see the bill as a 'final once in a lifetime opportunity to owner occupation' either directly, or with the support of family members. Several councils and large scale voluntary transfers associations have reported extensive increases in RTB enquiries as a result of the announcement. We believe there will be a huge surge to RTB as a consequence of abolition.
- 8.2. Of course landlords have covenants which enable them to buy-back existing properties at Tenant Market Value substantially below the market price / converting home ownership back to rent. Many landlords are exercising this option in leasehold properties as a value for money exercise. In addition they are buying on the open market with non-social housing grant and then re-letting at market rents, thus not adding them to the common register pool. Current policy therefore will not guarantee an increase in the social rent pool.
- 8.3. There is a risk that tenants who have been with a social landlord / parish council tenant or public department for many decades holding a Rent Act Tenancy with significantly lower rent than those in the current common rent

policy. These may be first to rush to exercise their RTB due to now being part of the common rent pool policy (from 1<sup>st</sup> April 2017). We have recently had cases where Rent Act tenants will see substantial increases of £30+ per week as a consequence of bringing them into alignment with social rent policy regime. These are often last to have WHQ improvements, and may be better off exercising their RTB.

- 8.4. The sale and re-investment in homes are a useful source of capital finance to boost supply of cheap to build homes such as modular build, offsite mobile developments, single room properties, converting low demand properties into high demand ones. Ending RTB will end any potential to use these receipts to reinvest.



**Appendix 1. Public sector landlords are defined as:**

Source: <https://righttobuy.gov.uk/wp-content/uploads/documents/rtb1.pdf>

Community councils, Local Authorities, New town corporations  
Parish councils, Urban development corporations, Housing Action Trusts, Registered social landlords (but not co-operative housing associations), Government departments, Ministers of the Crown, Secretary of State (in some circumstances)  
Area electricity boards, Fire and rescue authorities, Internal drainage boards, National Health Service trusts and foundation trusts, Passenger transport executives  
Police authorities, Water authorities, AFRC Institute for Grassland and Animal Production, Agricultural and Food Research Council, British Airports Authority, British Broadcasting Corporation, British Coal Corporation, British Gas Corporation, British Railways Board, British Steel Corporation, British Waterways Board, Central Electricity Generating Board, Church Commissioners, Civil Aviation Authority, Coal Authority, Electricity Council, English Sports Council, Environment Agency, Historic Buildings and Monuments Commission for England, Housing Corporation, Lake District Special Planning Board, Lee Valley Regional Park Authority, Medical Research Council, National Bus Company, Natural England (in some circumstances), Natural Environment Research Council, Peak Park Joint Planning Board, Post Office, Science and Engineering Research Council, Sports Council, Transport for London, Trinity House (in some circumstances), United Kingdom Atomic Energy Authority, United Kingdom Sports Council

**In Wales:**

Countryside Council for Wales, National Assembly for Wales (in some circumstances)  
National Library of Wales, National Museum of Wales, Sports Council for Wales

**In Scotland:**

Councils, Development corporations, Housing associations (in some circumstances)  
Water authorities, Commissioners of Northern Lighthouses, Highlands and Islands Enterprise, North of Scotland Hydro-Electric Board, Scottish Homes, Scottish Natural Heritage, Scottish Sports Council, South of Scotland Electricity Board, In Northern

**Ireland:**

District councils, Education and Library Boards, Registered housing associations  
Fire Authority for Northern Ireland, Northern Ireland Electricity Service, Northern Ireland Housing Executive, Northern Ireland Policing Board, Northern Ireland Transport Holding Company, Sports Council for Northern Ireland,

In respect of housing co-operative agreements, In England and Wales, a local housing authority, new town corporation, or the Development Board for Rural Wales. In Scotland, a local housing authority.

And any predecessor of these landlords.