

Agenda – Equality, Local Government and Communities Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: Thursday, 11 May 2017

Meeting time: 09.00

For further information contact:

Naomi Stocks

Committee Clerk

0300 200 6565

SeneddCommunities@assembly.wales

Pre-meeting (09.00 – 09.15)

1 Introductions, apologies, substitutions and declarations of interest

2 Abolition of the Right to Buy and Associated Rights (Wales) Bill – evidence session 4

(09.15 – 10.15)

(Pages 1 – 24)

- Matthew Dicks, Director, Chartered Institute of Housing Cymru
- Matthew Kennedy, Policy & Public Affairs Manager (Wales), Chartered Institute of Housing Cymru

3 Abolition of the Right to Buy and Associated Rights (Wales) Bill – evidence session 5

(10.15 – 11.15)

(Pages 25 – 28)

- Jim McKirdle, Housing Policy Officer, Welsh Local Government Association
- Shaun Couzens, Chief Housing Officer, Caerphilly County Borough Council
- Simon Inkson, Head of Housing, Powys County Council
- Robin Staines, Head of Housing, Public Protection and Care & Support, Carmarthenshire County Council



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Break (11.15 – 11.30)

**4 Abolition of the Right to Buy and Associated Rights (Wales) Bill –
evidence session 6**

(11.30 – 12.30)

(Pages 29 – 43)

- Steve Clarke, Policy Advisor to Welsh Tenants
- David Lloyd, Deputy Director, TPAS

5 Paper(s) to note

**Letter from the Chair of the External Affairs and Additional Legislation Committee
in relation to the Great Repeal Bill White Paper**

(Pages 44 – 46)

**Correspondence from the Cabinet Secretary for Communities and Children in
relation to the Abolition of the Right to Buy and Associated Rights (Wales) Bill**

(Pages 47 – 88)

**6 Motion under Standing Order 17.42 (vi) and (ix) to resolve to
exclude the public from the remainder of the meeting and from
the meeting on 17 May 2017**

**7 Abolition of the Right to Buy and Associated Rights (Wales) Bill –
consideration of evidence received under items 2, 3 and 4**

(12.30 – 13.00)

Document is Restricted



Evidence Submission to the Equalities, Communities & Local Government Committee

Abolition of the Right to Buy and Associated Rights in Wales

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org

In Wales, we aim to provide a professional and impartial voice for housing across all sectors to emphasise the particular context of housing in Wales and to work with organisations to identify housing solutions.

For further information on this response please contact
Matthew Kennedy, policy & public affairs manager
at the above address or email matthew.kennedy@cih.org

Introduction

CIH Cymru welcomes the opportunity to provide a view on the Abolition of the Right to Buy and Associated Rights (Wales) Bill.

Our response is informed by feedback from our members, our knowledge of the housing industry and expertise from our policy and practice teams.

General Comments

CIH Cymru supports the development of Welsh policies, practices and legislation that aim to address the key housing challenges we face, to improve standards and supply, promote community cohesion, tackle poverty and promote equality. We promote a *one housing system* approach that:

- places the delivery of additional affordable housing at the top of national, regional and local strategies as a primary method of tackling the housing crisis;
- secures investment to ensure the high and sustainable quality of all homes in a sustainable framework;
- improves standards and develops the consumer voice within the private rented sector
- promotes the concept of housing led regeneration to capture the added value that housing brings in terms of economic, social and environmental outcomes;
- recognises that meeting the housing needs of our communities is a key aspect of tackling inequality and poverty;
- ensures that that there are properly resourced support services in place to prevent homelessness and protect the most vulnerable;
- uses current and potential legislative and financial powers to intervene in housing markets and benefit schemes;
- promotes consumer rights & tenant involvement;
- and supports the continued professional development of housing practitioners.

1. Introduction

- 1.1 CIH Cymru welcomes the opportunity to provide evidence to the Equalities, Communities and Local Government Committee as it considers legislation to abolish the right to buy and associated rights in Wales. Social housing is a vital force in supporting economic growth, addressing homelessness and enhancing community well-being. We are in favour of abolishing the right to buy in the interest of protecting social housing stock that continues to be in high demand and ensure that efforts to build new homes can have the maximum impact.
- 1.2 We fully support the drive towards home ownership. Products such as Homebuy and other low-cost home ownership products can be used to meet the aspiration of home ownership. Abolishing the Right to Buy in Wales is an opportunity to raise awareness of these products and ensure alternative options to home ownership are well-recognised.
- 1.3 A report on the Future Need and Demand for Housing in Wales estimated that over the period 2011 to 2031 an additional 174,000 homes will be needed, or 8,700 a year ; of which, 63% would be in the market sector (5,500 a year, 109,000 over the period), and 37% in the social sector (3,300 a year, 65,000 over the period).¹
- 1.4 The alternative projection leads to a higher estimate of need and demand: 240,000 homes over the period, or 12,000 a year; of which 65% would be in the market sector (7,800 a year, 156,000 over the period) and 35% in the social sector (4,200 a year, 84,000 over the period).²
- 1.5 Maintaining and increasing the supply of social housing in Wales is in everyone's interest. High quality housing that is affordable to maintain and heat can have a significant impact on individual/family well-being. Ensuring social housing stock levels are not adversely impacted by the sale of homes through Right to Buy is important in allowing social landlords to maximise their role in housing potentially vulnerable groups.
- 1.6 Between 1 April 1981 and 31 March 2016 around 136,000 local authority and 3,100 housing association homes were sold under the Right to Buy and Right to Acquire schemes. (This total is equivalent to 45% of the social housing stock in 1981).³ At its peak in 2003-04 almost 7,000 homes were lost from the stock in a single year. This peak coincided with the decision to reduce the overall discount from £24,000 to £16,000.
- 1.7 Given the projected housing demand outlined above and the overall loss of homes through the Right to Buy, we believe that this legislation is the much needed step to protect the supply and availability of social housing in Wales.

2. Impact of Abolishing the Right to Buy in Wales

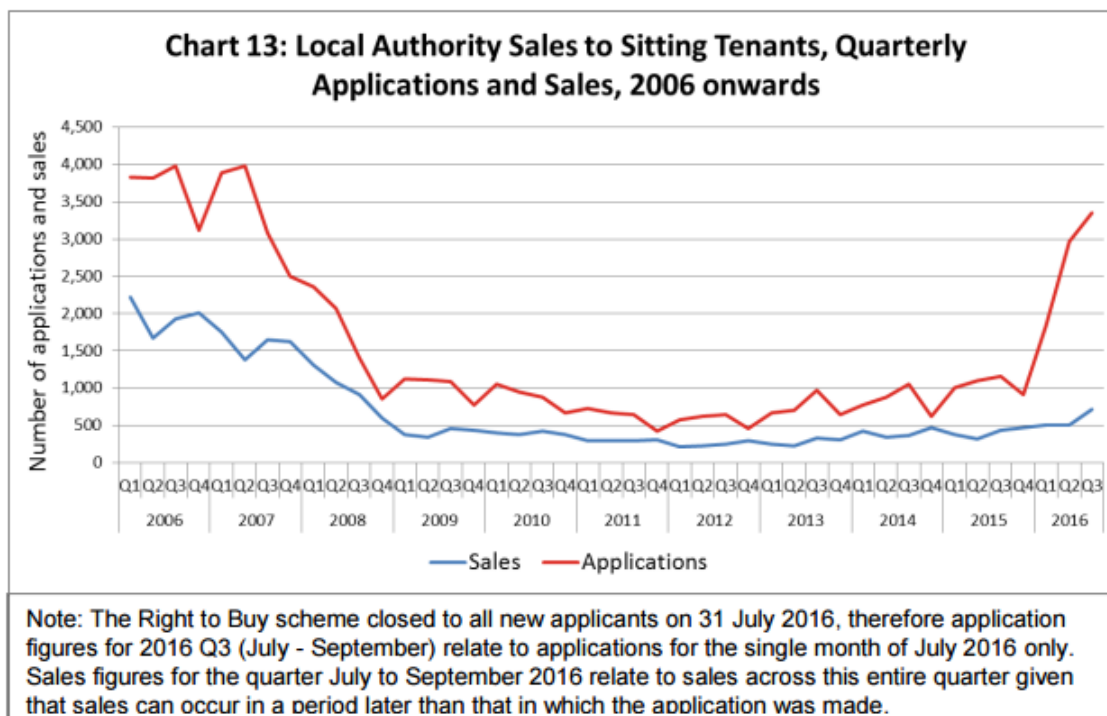
- 2.1 We welcome the provision to cease the Right to Buy (RTB) for newly-let dwellings two months after the bill receives Royal Assent. This provides greater certainty to social landlords that any new homes built will be able to realise their full impact within the social sector.
- 2.2 In terms of impact, we expect that the abolition of the right to buy will stimulate a surge in applications. In Scotland the RTB scheme closed to all new applicants on 31 July 2016, application figures presented below for the latest quarter July to September 2016 relate to applications made during the single month of July 2016 only. During this time period there

¹ <https://sites.cardiff.ac.uk/ppiw/files/2015/10/Future-Need-and-Demand-for-Housing-in-Wales.pdf>

² <https://sites.cardiff.ac.uk/ppiw/files/2015/10/Future-Need-and-Demand-for-Housing-in-Wales.pdf>

were 3,353 RTB applications, just under three times the 1,161 applications in the same quarter in the previous year. Throughout the year to end September 2016 there were 9,060 applications made, more than double the 3,890 applications made in the year to end September 2015.

- 2.4 Immediately following the initial announcement the number of applications and the number of sales between July and September 2013 both increased (by 39% and 44% respectively) compared to the previous quarter. The increases were higher than in the same quarter of 2012, where the number of applications and the number of sales increased by 5% and 7% respectively. The following graph demonstrates the trends described above:



Source: Scottish Government, People Communities and Places, National Statistics Report, Quarterly Update (Published 14 March 2017)

- 2.5 We believe that progress towards abolishing the RTB is likely to cause a spike in applications higher than levels seen in recent years. Housing associations and local authorities will need to consider carefully their approaches to dealing with applications and queries. This will need to include consideration of staff time, legal advice and tenant engagement.

3. Broader issues with the RTB

Additional costs of RTB

- 3.1 We feel the case for abolishing the RTB in Wales is strong considering the policy is in conflict with broader housing policy around boosting the supply of high quality affordable housing. The Welsh Government's own research estimated that around 4,695 properties purchased under the RTB have transferred into the private rented sector. Extrapolating the sampled data from 8 authorities to an all-Wales level, the research goes on to estimate that over the period from 2010-11 to 2014-15 an annual average of £4.4million was spent in extra housing benefit payments, a total of £21.9million over the 5 year period.⁴ This research demonstrates that despite the policy intention of RTB being driven by the desire to increase the rate of home ownership, this is not always the case.

⁴ <http://gov.wales/docs/desh/publications/170313-analysis-of-data-on-cessation-of-right-to-buy-en.pdf>

Housing management and maintenance challenges

- 3.2 In discussing some of the practical challenges around the RTB some of our members reported that some significant housing management and maintenance challenges can occur as a result. The Welsh Housing Quarterly Standard (WHQS) is the overarching improvement programme aimed at increasing the quality of social housing in Wales. This scheme, which has been particularly important in improving the condition of older housing stock in Wales had reached a completion rate by social landlords of 79% in 2016.⁵
- 3.3 Homes purchased under the RTB no longer fall under this programme of improvements and as such, our members report that in some cases there is a risk stock can fall into a poor state of disrepair as homeowners struggle to maintain and upgrade their homes. In flat blocks for example, this has caused particular challenges for social landlords in managing how improvement programmes are implemented, where there is often a mix of homes purchased through RTB and traditional social stock.
- 3.4 The return of social housing into the private rented sector following the RTB may suggest that in some instances tenants have faced significant challenges in meeting the upkeep needs of their home. This is supported by some anecdotal evidence from members who have suggested that even following the RTB being exercised, some tenants continue to seek advice and guidance on issues of maintenance and repairs.
- 3.5 Whilst we are encouraged that the relationship with social landlords continues beyond the point the RTB is exercised, there is a very limited amount that social landlords can do at this point to assist home owners with queries of this nature. We believe that further work is needed to ensure individuals/families fully realise the commitment in exercising RTB during the one year period before abolition.

4. The need to inform tenants

- 4.1 We fully support efforts to inform tenants of the abolition of the RTB and to that end, welcome the information paper produced by the Welsh Government to support tenants in ascertaining if they have the right to buy and sign-posting to further information regarding legal advice and other options for home ownership.
- 4.2 The legislation makes provision to timescales within which information must be provided to tenants on the impact of abolishing the RTB. The legislation states that landlords will need to provide information within 2 months of Section 8 coming into force or within 1 month of receiving the information published by Welsh Ministers. We recognise that this is a tight timescale considering the communication resource this will require by some social landlords. We would encourage any information to be published in a manner which allows social landlords to consider their approach to communicating this information fully. Considering that this will need to be done through organisational boards and tenant scrutiny/liaison panels.

5. Boosting housing supply

- 5.1 The discussion around abolishing the RTB further highlights the demand for and therefore the need to boost the supply of social housing in Wales. This should include consideration of how land can be best utilised for development (or re-development). The Welsh Government's Housing Land Availability in Wales report found that in 2015:
- At 1 April 2015, 17 out of the 25 local planning authorities had less than five years housing land supply.
 - By comparison, 18 local planning authorities had less than five years housing land supply in 2014, 16 of which still have less than five years supply in 2015.

⁵ <http://gov.wales/topics/housing-and-regeneration/housing-quality/welsh-standard/?lang=en>

- 12 local planning authorities have had less than five years housing land supply for three or more consecutive years.⁶

5.2 An understanding of land availability is essential for local authorities as they consider, in partnership with local stakeholder, plans for meeting housing demand. Our members are supportive of efforts outlined in Welsh Government's white paper on reforming local government to ensure land could be packaged on a regional level and felt strongly that strategic planning policy is a natural area to sit at a regional level.

5.3 We strongly welcome Welsh Government 20,000 affordable homes target and the emphasis on ensuring the right mix of housing, including support for community mutuals and cooperatives to be the right direction of travel as we work to deliver the right mix of homes to meet demand.

6. Conclusion

6.1 We hope the evidence provided will help inform the committee as it scrutinises aspects of the bill and we look forward to further engagement by providing oral evidence. CIH Cymru fully supports the policy intention of the bill and its timely introduction considering the demand for social housing across Wales.

⁶ <http://gov.wales/docs/desh/publications/161005housing-land-availability-wales-summary-2015-en.pdf>



CLILC • WLGA

INTRODUCTION

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

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. This is the WLGA's contribution to the inquiry by the National Assembly for Wales' Equality, Local Government and Communities Committee into the general principles of the Abolition of the Right to Buy and Associated Rights (Wales) Bill. The WLGA welcomes the opportunity to contribute, and we have used the format provided by the inquiry's terms of reference to structure the contribution.

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

4. The WLGA supports the general principles of the Bill, and agrees that there is a need to have legislation to protect the supply of social rented housing in Wales. Given the scale of housing need in Wales, it is essential that the stock of social rented homes is protected and increased.
5. The report published by the Public Policy Institute for Wales in 2015 on '*The Future Need and Demand for Housing in Wales*' identified that 70,000 additional social sector homes are required in the 20 years to 2031 (an average of 3,500 per year). The annual average number of new social sector homes developed over the 5 years leading up to the publication of the report was identified as being significantly below this target at 2,350 per year.
6. The need for a significantly increased supply of social rented housing across Wales is also highlighted within the Local Housing Market Assessments produced by each local authority.

7. Following the deal in 2015 which allowed the eleven landlord local authorities in Wales to buy themselves out of the former Housing Revenue Account Subsidy arrangements, most of these authorities are now building new homes, or making plans to do so. If the Right to Buy were not to be ended, there would be significantly reduced incentive to develop new homes if those homes were to be subject to the Right to Buy in the future. Therefore, the proposal to abolish the Right to Buy and Right to Acquire for newly-built social rented homes two months after Royal Assent is welcomed.
8. The arrangements for applying for suspension of the Right to Buy and Right to Acquire within an area have proved to be complex and onerous, requiring significant resources to make a successful application. This has acted as a disincentive for some local authorities where, otherwise, an application for suspension may have been forthcoming.

The provisions of the Bill in relation to:

- **The restriction on exercising the right to buy and right to acquire (sections 2 to 5);**
9. The WLGA agrees that these provisions would have the effect of restricting the Right to Buy and Right to Acquire on newly let housing as intended.
- **The abolition of the right to buy and the right to acquire (section 6);**
10. The WLGA agrees that these provisions would have the effect of abolishing the Right to Buy and Right to Acquire in Wales, and protecting the supply of social rented housing stock.
- **The removal of the power for Welsh Ministers to make discount grants (section 7); and**
11. The WLGA agrees with the proposal to remove the power for Welsh Ministers to make discount grants to RSLs.
- **The duty to provide tenants and prospective tenants with information.**
12. The WLGA agrees with the proposals within Section 8 in relation to the duty to provide tenants and prospective tenants with information, including the timescales for providing information to existing and prospective tenants.
 13. However, it is suggested that after Section 8 comes into force the period of time over which landlords will have to provide prospective tenants with a copy of the information

published by Welsh Ministers should not be unlimited. We would suggest that period should be limited.

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

14. No potential barriers to the implementation of the Bill's provisions have been identified.

Whether there are any unintended consequences arising from the Bill.

15. No unintended consequences arising from the Bill have been identified.

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

16. The financial implications of the Bill and assumptions set out Part 2 of the Explanatory Memorandum seem to be a reasonable estimate of the likely costs and benefits for social landlords, although the costs and benefits are likely to vary between individual landlords. This includes the cost of providing a copy of the information to all tenants and prospective tenants, and the cost savings associated with no longer having to process Right to Buy applications.
17. As highlighted in the Explanatory Memorandum, there is a preference among local authorities for the certainty of long-term rental income brought about by abolition of the Right to Buy, rather than a one-off capital receipt delivered by the exercising of the Right to Buy.

For further information please contact:

Jim McKirdle, Housing policy Officer
Jim.mckirdle@wlga.gov.uk

Welsh Local Government Association
Local Government House
Drake walk
Cardiff
CF10 4LG

Tel: 029 2046 8600

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

The Equality, Local Government and Communities Committee inquiry	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
---	--	--	--	------

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 housing¹. 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.

¹ 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

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.
- 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 9th biggest contributor to help with mortgages contributing 6 ½ billion to support children to buy their homes². 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

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

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.
- 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.

<p>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.</p>
--

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 period³.
- 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.
- 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

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

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 1st 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.

ARTB 06

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

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

Ymateb gan: TPAS

Response from: TPAS

The National Assembly of Wales' Equality, Local Government and Communities Committee.

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

About Us:

TPAS Cymru works to improve the lives of social housing tenants in both housing and community matters, by promoting effective participation of tenants with their landlords and with other partners in issues that affect them. We have supported social housing tenants and landlords in Wales for over 25 years and have a strong track record in developing effective participation through training, support, practical projects and policy development.

This Response is based on:

- Our experience of working with tenants and tenants groups and listening to their views.
- Our observations and dialogue with our members and partners within the HA sector and Local Authorities.
- Our work to improve partnerships between tenants and residents and their Housing Association and Local Authority landlords and other partners.

TPAS Cymru will be holding a series of public engagement sessions in conjunction with the National Assembly's Outreach Team for social housing tenants from across Wales. These events will provide the committee with the views of a diverse range of tenants on the proposed law and the implications for them.

These regional events will be held across Wales as follows:

- Newcastle Emlyn - 16th May
- Cardiff - 17th May
- Colwyn Bay - 18th May

TPAS Cymru welcomes the opportunity to respond to the Equality, Local Government and Communities Committee Consultation on the Abolition of the Right to Buy and Associated Rights (Wales) Bill and we have responded to each of the terms of reference as set out in the consultation paper;

1. The general principles of the Abolition of the Right to Buy and Associated Rights (Wales) Bill and the need for legislation to deliver the stated policy intention

1.1 TPAS Cymru strongly supports the view that as a result of the current housing crisis social housing properties need to be protected. The removal of the RTB/ RTA process would, in some small way, help tackle the shortage of social housing in Wales. The Housing (Wales) Measure 2011, which allows for the suspension of the RTB by individual Local Authorities (subject to permission being granted) has the potential to cause inequality amongst tenants as their ability to access RTB/ RTA is determined by where they live. The abolition of the RTB/ RTA process for all tenants would remove the potential for such inequality.

2. The provisions of the Bill:

2.1 The restriction on exercising the right to buy and right to acquire (sections 2 to 5):

Whilst TPAS Cymru supports the Welsh Government's decision to abolish RTB/ RTA, TPAS Cymru does have some concerns about sections 2 to 5 of the Bill. TPAS Cymru is concerned that adopting two different approaches, one for those homes let for a period of less than six months, and one for those homes let for a period of more than six months, will cause unnecessary confusion for tenants and those working within Welsh housing. Adopting one approach for all properties would allow the Welsh Government to better communicate how the Bill will impact on tenants and landlords across Wales.

2.2 The abolition of the right to buy and the rights to acquire (section 6):

As stated TPAS Cymru supports the Welsh Government's decision to abolish the RTB/ RTA. TPAS Cymru therefore welcomes the provisions set out in section 6 of the Bill that would see RTB/ RTA abolished. TPAS Cymru further supports the Welsh Government's decision to delay the

implementation of section 6 for 12 month. This period of time will provide tenants with an opportunity to consider whether they wish to take advantage of the RTB/ RTA before its abolition. In addition to this TPAS Cymru welcomes the greater clarity offered by the Welsh Government in its draft “Information for Tenants” document as to what must be completed within the twelve month period if a tenant is to exercise their RTB/ RTA. We believe that the approach adopted is appropriate, however, we wish to emphasise the need for this to be communicated to tenants across Wales.

2.3 The removal of the power for Welsh Minister to make discount grants (section 7):

Whilst the removal of the power of Welsh Ministers to make discount grants is to be welcomed in principle, we are concerned that this provision could reduce the effectiveness of the Welsh Government’s decision to delay the implementation of section 6 for 12 months. TPAS Cymru welcomes the decision to delay the implementation of section 6 for 12 months as this provides tenants with a period of time to decide whether they wish to utilize the RTB/ RTA. It also provides tenants with adequate time to seek independent advice and to consider all the options available to them. Removing the ability of the Welsh Minister to make discount grants before that 12 months period comes to an end could lead to a spike in the number of tenants using the RTB earlier within that 12 month period. This would reduce the benefit of delaying the implementation of section 6.

2.4 The duty to provide tenants and prospective tenants with information (section 8):

TPAS Cymru welcomes the provisions contained within section 8 that requires that information is shared with tenants and prospective tenants. We believe, however, that it is important that consideration is given as to how this information is shared in a way that provides equal access to all tenants regardless of their literacy skills and their access to the internet. TPAS Cymru believes that all information provided by landlords should be easily and freely available for all tenants, and that landlords should utilize the tenant profiling data they hold as organisations. Through using this data, landlords should be able to ensure that they communicate these changes with their tenants in the most appropriate and fair manner.

3. Any potential barriers to the implementation of the Bill’s provisions and whether the Bill takes account of them

- 3.1 As noted, the provisions set out in section 7, the removal of the power for the Welsh Minister to make discount grants, does potentially undermine the decision to delay the implementation of section 6 for 12 months. It is important that further consideration is given to this.
- 3.2 We also believe that for the provisions contained within the Bill to be effectively implemented, that there is a need for the Welsh Government to ensure that staff at Local Authorities and housing associations across Wales are adequately trained. The Bill makes it clear that there will be a duty on every qualifying landlord to communicate the change within the two months of the Bill coming into force.
- 3.3 It is important to ensure, however, that landlord staff also have an appropriate understanding of the Act so that they can address any of their tenants' queries. In addition to this, we believe that staff should also be adequately trained with regards to where additional, independent advice can be sought so as to be able to signpost tenants accordingly. It is important that tenants have access to such independent advice if they are to make informed decisions over whether to exercise the RTB/RTA. We welcome the Welsh Government's attempts to provide such guidance in its draft "Information for Tenants" document.
- 3.4 A further consideration that TPAS Cymru believes is important is whether housing association and Local Authorities in Wales have an adequate number of staff to deal with any increase in applications under the RTB/RTA. If this is not the case, this could have an impact on the ability of tenants to purchase their homes before the twelve month period came to an end.

4. Whether there are any unintended consequences arising from the Bill?

- 4.1 We believe that it important that consideration is given as to how to ensure that no pressure is placed on tenants when they are choosing whether to exercise the RTB/ RTA. Given that there will now be a deadline for tenants to be able to purchase their homes under RTB/ RTA, tenants who are eager to buy their home in the long term may feel obliged to purchase their properties before they have adequate funds in place. It is important that information is shared with these tenants as to what other opportunities are available for them to buy a home, in particular opportunities presented by schemes such as the "help to

buy". Steps should be taken, however, to ensure that such advice is provided with the best interest of the tenant, not the landlord in mind, with tenants being given adequate time to seek external, independent advice, if they so desire.

5. The financial implication of the Bill

We have no comments to make as to the financial implications of the Bill.

Agenda Item 5.1

John Griffiths AM
Chair, Equalities, Local Government and Communities Committee
SeneddCommunities@Assembly.Wales

Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau
Equality, Local Government and Communities Committee
ELGC(5)-14-17 Papur 5/ Paper 5

27 April 2017

Dear John

Great Repeal Bill White Paper

Following our discussion of Brexit issues at the Chairs' Forum on 5 April 2017, and in light of decisions taken by the External Affairs Committee at its meeting on 3 April 2017, I am writing to inform you of the work that the External Affairs Committee has planned in relation to the Great Repeal Bill White Paper.

I am also writing to invite you and your committee to contribute to this work.

The Great Repeal Bill and the UK Government's broader approach to legislating for Brexit, poses the Assembly and its committees some significant challenges.

The final shape of this Bill will have significant implications both in terms of the Assembly's role in the Brexit process and its place in the constitutional order of the United Kingdom.

The White Paper offers the Assembly its first opportunity to influence the legislation and, arguably, its best opportunity.

I see two key aspects to this scrutiny:



1. **Devolution:** ensuring the Assembly and Welsh Ministers are not prevented from taking an appropriate role in the process; and
2. **Balance of executive power:** that an appropriate balance is struck between the powers and pace needed by Welsh Ministers to complete their legislative task with the need for proper Assembly oversight.

Whilst the External Affairs Committee has been established by the Assembly to take a lead on these issues, such is the scale of the task ahead that I believe most Assembly committees will need to play a part in the Assembly's response. We will maximise the Assembly's ability to influence the final shape of legislation by working collaboratively and coordinating our work where possible.

I would welcome your views on the Great Repeal White Paper and the UK Government's broader legislative approach to Brexit. Our terms of reference are as follows:

In the context of the UK Government's White Paper, to assess whether:

- the Assembly's role in the Brexit legislative process, and in scrutinising executive functions, in areas of devolved competence is protected;
- principles of effective law making are being observed;
- the Welsh people, stakeholder and organisations have sufficient opportunity to contribute to the legislative processes established by the Bill;
- the Bill enables the Assembly to exercise appropriate control over delegated powers provided by the Bill; and
- the Welsh Government's response is sufficient.

The External Affairs Committee is preparing to gather evidence during the first half of the Summer Term, with a view to reporting in early June. Should you wish to respond to this letter, then I would be grateful for responses by Friday 2 June 2017.

We are planning to continue our scrutiny of this legislation (and the implications it has throughout and following the Brexit process) should the Great Repeal Bill be



introduced later in the year and I will write to you again should the timescales for this become clearer.

Yours sincerely

A handwritten signature in dark ink that reads "David F. Rees." The signature is written in a cursive style with a large 'D' and 'R'.

David Rees AM

Chair of the External Affairs and Additional Legislation Committee



Carl Sargeant AC/AM
Ysgrifennydd y Cabinet dros Gymunedau a Phlant
Cabinet Secretary for Communities and Children



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-L-CS-0282-17

John Griffiths AM
Chair Equalities, Local Government and Communities Committee
National Assembly for Wales

 April 2017

Dear John

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

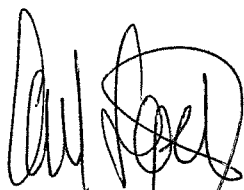
Thank you for your letter of 4 April following my attendance at the Committee's meeting on 29 March about the Abolition of the Right to Buy and Associated Rights (Wales) Bill.

In your letter, you mentioned a number of commitments I made to provide the Committee with further information. You also raised a number of additional questions.

Please find enclosed Annex A which sets out the further information I agreed to send – along with responses to the Committee's follow up questions. Also enclosed is Annex B – the Welsh Government's guidance for local housing authorities on applications to suspend the Right to Buy and related rights. I have also included the Information for Tenants document and flowchart (Annex C and D) for ease of reference.

If you would like any further information, please let me know. Otherwise, I look forward to attending the follow up meeting with the Committee which has been arranged for 25 May.

Yours sincerely



Carl Sargeant AC/AM
Ysgrifennydd y Cabinet dros Gymunedau a Phlant
Cabinet Secretary for Communities and Children

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
Gohebiaeth.Carl.Sargeant@llyw.cymru
Correspondence.Carl.Sargeant@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

**RESPONSE TO MATTERS RAISED IN THE LETTER OF 4 APRIL 2017
FROM THE EQUALITIES, LOCAL GOVERNMENT AND COMMUNITIES
COMMITTEE TO THE CABINET SECRETARY FOR COMMUNITIES AND
CHILDREN**

**1. Figures on any increase in social housing stock in local authority
areas where the Right to Buy and Right to Acquire have been
temporarily suspended under the Housing (Wales) Measure 2011**

Since the passing of the Housing (Wales) Measure in 2011 five applications for suspension have been approved: Carmarthenshire in January 2015, Swansea in April 2015, Anglesey in September 2016, Flintshire in February 2017 and Denbighshire in March 2017.

43,459 (at 2015-16 levels) social rented homes are currently protected from disposal in the suspended areas representing 23% of the total general needs stock.

Suspension also means any investment in increasing the number of affordable homes is protected. Across three of the suspended areas a further 526 new homes have been delivered to date:

- 277 in Carmarthenshire. The Council purchased 48 properties from the private sector and refurbished a former social care property to create 13 new units and their RSL partners have delivered a further 216 units.
- 198 in Swansea. The Council has refurbished 10 units and their RSL partners delivered 188 social rented units.
- 51 on the Isle of Anglesey. The Council purchased 11 former RTB homes, built 3 new homes and their RSL partners built 37 new homes on the island.

The benefit of recent suspensions at Flintshire and Denbighshire will become apparent in the months ahead.

2. A note on the eligibility criteria and procedure for applications for temporary suspensions under the Housing (Wales) Measure 2011

Section 1 of the Measure states that, before submitting an application, a local housing authority must have consulted stakeholders and, in the light of that consultation and other relevant information, concluded that the “Housing Pressure Condition” exists. That is:

- a) within the local housing authority’s area, the demand for social housing substantially exceeds its supply, or is likely to do so, and
- b) the imbalance between supply and demand is likely to increase as a result of the exercise of the right to buy and related rights.

Full details of the eligibility, criteria and procedure for applications for suspension under the 2011 Measure can be found in the Guidance to Local Authorities which is included at **annex B**.

3. Clarification on the purpose and intended effect of section 2 and 4 of the Bill

Sections 2 and 4 of the Bill restrict the Right to Buy and Right to Acquire in respect of dwellings which have not been let as social housing within the six months prior to the coming into force of these sections. As such, any new stock of the landlord first let on social tenancies after these sections come into force will not be subject to the Right to Buy or Right to Acquire. This will include new builds, newly acquired homes from the private sector, or properties which have undergone extensive renovation by the landlord and not let during that time.

These sections will help ensure that the investment in social housing stock made by landlords is protected as soon as possible, without risk of homes being purchased under the Right to Buy or Right to Acquire.

There are exceptions to this restriction in sections 3 and 5 of the Bill where a tenant is forced to move by court order. This is to ensure that where a tenant has no choice in the move, they do not unfairly lose the opportunity to exercise the Right to Buy or associated rights. It will be open to a tenant to move by choice into new stock if they wish to do so in the knowledge that they will not be able to exercise the Right to Buy in respect of that property.

The two month period before these sections come into force is in line with the convention on the coming into force of Acts of the Assembly. This convention provides that no provisions of an Act of the Assembly should be commenced earlier than two months after Royal Assent, subject to some exceptions. This ensures that those affected by legislative change have at least that period of time to become aware of the upcoming changes in the law.

4. A draft of the document containing information for tenants and prospective tenants required under section 8 of the Bill

The draft document for tenants was sent to the Committee under cover of my letter of 12 April 2017. A copy is attached at annex C and D for ease of reference.

5. Why a six month period has been chosen for the purpose of defining “previously let social housing stock” in section 2(2) and 4(2)?

The definition of “previously let stock” is limited to stock which has not been let as social housing in the previous six months. This is to cover brand new homes and to ensure that stock which has undergone extensive renovation by the landlord, lasting more than six months, is classed as “new social stock” to which the Right to Buy and Right to Acquire will not apply in order to protect the investment of the

landlord.

In addition, the period needs to be long enough to allow for the natural “churn” that is apparent in social housing stock. At any point in time there may be a number of properties that are empty between tenancies; the policy is to ensure that these “voids” were considered to be part of the existing social housing stock. Therefore, for the above reasons I considered that six months was an appropriate period.

6. Clarification on whether you intend to consult stakeholders on the draft document containing information for tenants and prospective tenants

Subject to the Bill passing Stage 1 of the scrutiny process, the Welsh Government intends to consult stakeholders on the draft information document. In the meantime, any comments which the Committee may wish to make on the document, would be welcome.

7. To provide further details on the safeguards in place, or that you intend to put in place, to protect vulnerable tenants from exploitation by companies or individuals who may seek to take advantage of the impending abolition of Right to Buy

The draft document to inform tenants about abolition of the Right to Buy and Right to Acquire (which has already been sent to the Committee for comment) includes a statement that:

“It is important to get professional advice, for example, on financial matters. You should also consider taking legal advice. Organisations such as your local Citizens Advice Bureau may be able to explain how best to go about it. This is particularly important if you have been approached by someone offering to help you buy your home (perhaps in exchange for handing over ownership of the home to that person at a later date) or offering advice in return for a fee.”

Advice, to protect vulnerable tenants from possible exploitation concerning the **Right to Buy**, is already provided on the Welsh Government's website "Buying your council house" and in the booklet 'Your Right to Buy Your Home - a guide for tenants of social landlords in Wales'. Links to the website and booklet are attached:

<http://gov.wales/topics/housing-and-regeneration/housing-supply/buying-and-selling/council-house/?lang=en>

<http://gov.wales/docs/desh/publications/150801-your-right-to-buy-your-home-en.pdf>

I have asked my officials to ensure that similar advice is added to the Welsh Government's guide to the **Right to Acquire** and the accompanying website as soon as possible.



Llywodraeth Cymru
Welsh Government

Welsh Government

Guidance

Housing (Wales) Measure 2011

Guidance for local housing authorities on applications to suspend the right to buy and related rights

Date of issue: **2012**

Contents

	<u>Page</u>
INTRODUCTION	3
PART A - General overview of the application process	
Application for a direction to suspend the right to buy and related rights	5
Supplementary information	8
PART B - Detailed guidance on the assessment of Housing Pressure and proposals to increase supply of social housing	
Introduction	12
Background Information	13
Information required to evidence housing pressure	15
Core evidence to support an application	16
Optional Supporting Evidence	20
Measures to be taken to increase supply during the suspension period	22
ANNEXES	
Annex 1 - Flowchart of stages involved in the process to obtain a direction	25
Annex 2 - Sources of Economic and Statistical data	26

INTRODUCTION

1. The Housing (Wales) Measure 2011 (the Measure) enables local housing authorities to apply to the Welsh Ministers for a direction to suspend the right to buy and related rights in areas of housing pressure for a period of up to five years.

- The right to buy is available to **secure** tenants of local authorities and Registered Social Landlords to purchase their homes at a discount, provided they meet the qualifying criteria for the scheme.
- In this context, “related rights” include the **Right to Acquire** (which provides a right similar to the Right to Buy scheme for many tenants of Registered Social Landlords to purchase their homes at a discount) and the **Preserved Right to Buy** (which “preserves” tenants’ right to buy in cases involving stock transfer to a Registered Social Landlord). Local housing authorities should consult local Registered Social Landlords before submitting an application.
- A “direction” is a legal instrument to implement a Ministerial decision.

2. The Measure amends the Housing Act 1985 in respect of the right to buy and the Housing Act 1996 in respect of Registered Social Landlords. Part 1 of the Measure gives power to a local housing authority to apply to the Welsh Ministers under section 3 of the Measure for a direction to suspend the right to buy and related rights in a local housing authority's area.

3. The purpose of the provisions is to maintain the availability of social housing by providing a mechanism to suspend tenants’ rights to purchase their homes while the supply of social housing is increased by other means.

4. This document explains how the provisions will work and consists of two main sections. Part A provides a general overview of the process and is issued under section 71 of the Government of Wales Act 2006. Part B provides detailed guidance on the information to be provided by local housing authorities in their applications and is issued under section 30 of the Measure. Authorities will wish to pay particular regard to this guidance when preparing their applications.

5. This guidance is intended to supplement existing guidance on the Right to Buy and related rights, links to which are set out below:

- Your Right to Buy your home - *A guide for tenants in Wales*
- The Right To Acquire - *A guide for tenants*
- The Right To Acquire - *A Summary of Statutory Regulations*

<http://wales.gov.uk/topics/housingandcommunity/housing/social/buying/?lang=en>

6. More general information is set out in the following documents:

- Housing Measure

<http://wales.gov.uk/topics/housingandcommunity/housing/publications/measure2011/?lang=en>

- Housing Measure 2011 - *Explanatory Memorandum and Notes*

<http://wales.gov.uk/topics/housingandcommunity/housing/publications/measure2011/?lang=en>

- Technical Advice Note 2: Planning and Affordable Housing

<http://wales.gov.uk/topics/planning/policy/tans/tan2/?lang=en>

7. Before a local authority submits an application to suspend the right to buy and related rights in all or part of its area, it is recommended that any proposals are discussed informally with the Welsh Government. This will assist officials in dealing promptly with any application upon receipt.

8. If you have any queries on the guidance, please contact Louise Owen on 0300 062 8159 or by e-mail at louise.owen@wales.gsi.gov.uk.

9. Final applications for a direction should be e-mailed to the Welsh Government Housing Directorate in Word format. They should be addressed to the Affordable Housing Team Mailbox at Affordablehousing.actionteam@wales.gsi.gov.uk

PART A

General overview of the application process

Application for a direction to suspend the right to buy and related rights

1. Section 1 of the Measure states that, before submitting an application, a local housing authority must have consulted stakeholders and, in the light of that consultation, concluded that the “**Housing Pressure Condition**” exists. That is:

- a) within the local housing authority’s area, the demand for social housing substantially exceeds its supply, or is likely to do so, and
- b) the imbalance between supply and demand is likely to increase as a result of the exercise of the right to buy and related rights.

2. The stakeholders to be **consulted** include:

- a) providers of social housing with dwelling-houses in the proposed area;
- b) bodies representing the interests of tenants;
- c) a local housing authority (or authorities’) whose area is adjacent to the area to which it is proposed the direction is to apply; and
- d) any other persons which the local housing authority considers appropriate (which could include bodies representing the interests of local residents).

3. Section 3 of the Measure sets out the requirements to be met by the authority’s application. The authority must prepare a **draft** of the **direction** that it wishes the Welsh Ministers to issue. That draft direction must clearly identify the area to which it applies, which could be the whole of the authority’s area or one or more parts of it. Further information for local authorities in preparing a draft direction is given in Part B under Core Evidence to support an application. Details of what needs to be contained in the direction are contained within section 3 of the Housing Measure.

4. The draft direction must also make clear whether the direction is to apply to every relevant dwelling-house in that area and, if not, the **type or types of relevant dwelling** house to which it is to apply (e.g. it might apply only to dwellings with three or more bedrooms). The draft direction must also state the **period** for which the proposed direction is to have effect, which can be up to five years from the date of issue.

5. An authority’s application must also provide an explanation of the reasons why the local housing authority has concluded that the **housing pressure condition** exists and an explanation of why suspending the right to buy is an appropriate way to deal with the housing pressure condition.

6. The authority must also set out the action that it intends to take, in addition to applying to suspend the right to buy, in order to **address the imbalance** between the demand for social housing and its supply.

7. Finally, the application must describe what the authority has done to discharge its **consultation** obligation. Where the application applies to dwellings owned by another social housing provider (eg a local Registered Social Landlord), the Welsh Ministers must be satisfied that the authority has complied with its obligation to consult. Applications should therefore state whether or not the social housing provider supports the application.

8. As each application for a direction is likely to be different, the Welsh Government is not providing a standard **form** for authorities to use. It is considered that authorities are best placed to prepare applications in the format they consider appropriate to their particular circumstances to meet the requirements of the Measure.

9. **Application Process - Summary**

- i) The local housing authority assesses information and prepares a proposal for consultation with tenants, stakeholders and Registered Social Landlords (More details in Part B)
- ii) Consultation takes place and an assessment of comments is made
- iii) Authority prepares draft application for informal discussion with officials in the Welsh Government Housing Directorate
- iv) Informal discussions with officials in the Welsh Government
- v) Submission of formal application for a direction

The application has the following elements:

- Core evidence to show that demand exceeds supply
 - Optional supporting evidence
 - Measures to be taken to increase supply
- vi) Consideration of application by the Welsh Ministers - local authorities will be made aware of the date on which this process takes place
 - vii) Announcement of decision by the Welsh Ministers - this will be within six months of when the Welsh Ministers first decide to consider the application

- viii) The Local Housing Authority informs its tenants, stakeholders and Registered Social Landlords of the decision and its effect
10. A **flow chart** setting out the main stages of the application process is at Annex 1.

Supplementary Information

Application for enlarging variation

11. The Measure contains provisions for the variation of a direction. Section 10 sets out the requirements which must be met by a local housing authority's application for an "enlarging variation". As with an application for a direction, an application for an enlarging variation involves preparing a draft of the direction that the authority wishes the Welsh Ministers to issue, an explanation of the reasons the authority considers the condition referred to in section 8 exists and why an enlarging variation would be an appropriate way to deal with it. The authority must explain what other action it will take, in addition to the suspension of the right to buy, in order to tackle the imbalance between the demand for and supply of social housing.

12. This part of the Measure is intended to provide a mechanism to address significant changes in local circumstances which the local housing authority considers should be addressed promptly (to extend the scope of the existing direction), instead of allowing the direction to run its normal course.

Application for reducing variation

13. Section 15 outlines the requirements to be contained in an application to the Welsh Ministers for a reducing variation. The authority must prepare a draft of the direction it wishes the Welsh Ministers to issue and explain the reasons why it believes the condition set out in section 14(2) exists.

14. As with provisions for an enlarging variation, this part of the Measure is intended to provide a mechanism to address significant changes in local circumstances which the local housing authority considers should be addressed promptly (to reduce the scope of the existing direction) instead of allowing the direction to run its normal course. The date when an enlarging or reducing variation ceases to have effect is the same as that set out in the existing direction.

Application for extension

15. Section 20 sets out the requirements which must be contained in a local housing authority's application for an extension of a direction. The authority must explain the reasons why it has concluded that the housing pressure condition exists, why an extension is an appropriate way to deal with it, what other action it has taken to deal with it and what other action it proposes to take to reduce the imbalance between the demand for social housing and its supply within the authority's area during the proposed period of extension.

16. The requirements of an application for an extension are similar to those for a direction under section 3. However, in recognition of the situation that:

- (a) tenants' statutory rights to purchase their homes have already been suspended for up to five years, and
- (b) the original application included an explanation of what action the local housing authority proposed to take to reduce the imbalance between the demand for social housing and its supply during that period,

the Welsh Ministers will expect to see a detailed explanation of the action taken over the period to reduce the imbalance between demand and supply and why it is considered that a further direction is required.

Application to revoke a direction

17. A local housing authority may apply in writing to the Welsh Ministers to revoke a direction provided the condition in section 23(2) exists. This is that the demand for social housing covered by the direction does not substantially exceed its supply or is not likely to, or even if that is the case, that the exercise of the right to buy is not likely to increase that imbalance. An application must explain why the authority has concluded that this condition exists.

18. Where significant changes have occurred to the Housing Pressure Condition, this provision is intended to provide a mechanism to revoke the direction to enable tenants to exercise their statutory rights promptly instead of allowing the direction to run its normal course.

Provision of further information

19. Section 27 allows the Welsh Ministers to require a local housing authority to provide further information to enable them to decide an application for a direction or for the revocation of a direction.

Joint Applications from neighbouring authorities

20. The application provisions in the Measure are designed to only consider requests for a direction from individual local housing authorities. Where two or more authorities are considering the case for a direction (eg where a local housing market straddles a number of local authority boundaries), separate applications should be submitted, although each application should refer to the other(s) so that the Welsh Ministers are aware of the situation.

21. The reason for requiring separate applications is that, if two authorities submitted a joint bid but only one part of it met the requirements of the Measure, the whole bid would have to be refused. The restriction on repeat applications would result in both authorities having to wait for two years before submitting a new application which was substantially the same as that which was refused. This could be unfair to the local housing authority whose information met the requirements of the Measure. It is therefore considered that separate applications would be preferable in such circumstances.

Effect of a direction

22. The effect of a direction is to suspend the right to buy and related rights of tenants living in the properties covered by the direction for the duration of the direction. This includes tenants who transfer into a property covered by the direction after the date on which the direction begins.

Publication of directions

23. Under section 28, an authority must publish a direction by whichever means it considers appropriate and it must take other reasonable steps to bring a direction or revocation to the attention of persons likely to be affected. Steps should also be taken to inform new tenants who may be considering moving or transferring into an area affected by a direction.

Maximum suspension period

24. Section 18 provides that the maximum duration for the suspension of any tenant's right to buy and related rights is 10 years (eg. if a direction for five years is followed by an extension for a further five years).

25. After the extension direction ceases to have effect, the local housing authority must wait for a period of two years before submitting an application for a direction which is substantially the same as a previous direction.

26. This provision is intended to allow a reasonable amount of time for tenants whose statutory rights have been suspended for a substantial period to consider whether they wish to exercise the right to buy or related rights before the local housing authority can apply for a fresh direction.

Requests from tenants to exercise the right to buy during this process

27. Requests from tenants to exercise the right to buy or related rights served on the landlord **prior** to the Welsh Ministers considering an application for a direction should proceed in the normal way. However, section 31 of the Measure provides that requests served on the landlord **after** the date on which the Welsh Ministers decide to consider the local housing authority's application for a direction shall be "**stayed**".

28. If a claim to exercise the right to buy or related right is stayed at the time the Welsh Ministers grant an application for a direction, the right to buy claim is treated as if it had never been made.

29. If the Welsh Ministers have not granted or rejected an application for a direction within six months, beginning with the date on which they decided to consider the application, the "stay" will be lifted on the day after the end of that period. Local authorities will be made aware of the first date on which the Welsh Ministers begin to consider an application.

Restriction on repeat applications

30. Section 29 states that, where the Welsh Ministers have refused to grant an application for a direction, an authority cannot apply for a direction that is substantially the same for a period of **two years** from the date of refusal.

31. Where there is a direction in place, the authority may not, during the period of the suspension or for two years after it has ended, apply for another direction that is substantially the same. Instead, it must apply for an extension (with the additional condition of demonstrating it has taken adequate action to date to address the housing pressure condition) to which there is an overall limit of ten years.

32. The restriction on repeat applications is based on a recognition of tenants' applications to exercise the right to buy and related rights being stayed during the period when the Welsh Ministers are considering an application.

Cross border issues

33. Under the terms of the Government of Wales Act 2006, the National Assembly for Wales can only make legislation for implementation within Wales. As at May 2011, a number of dwellings owned by Registered Social Landlords registered in Wales are located in England and a number of homes located in Wales are owned by providers of social housing which are registered in England.

34. Local housing authorities may only apply to suspend the right to buy and related rights within their own boundaries. Although this might include dwellings owned by a Registered Social Landlord within the county, it will not include any dwellings owned by that Registered Social Landlord which are located elsewhere (eg in England, or in any other local authority area in Wales).

35. With regard to dwellings located in Wales which are owned by a provider of social housing registered in England, it is possible for such properties to be included within an application for a direction. However, local housing authorities should consult the relevant landlord and take its comments into account in preparing the application.

PART B

Assessment of Housing Pressure and proposals to increase supply of social housing

The following guidance is provided under section 30 of the Measure. Local housing authorities should have regard to this part of the Measure when preparing an application to the Welsh Ministers for a direction to suspend the right to buy and related rights in areas of housing pressure.

Introduction

1. The Welsh Government will expect the information submitted to address **both** of the statutory criteria for areas of housing pressure, but the precise nature of the information is likely to vary according to the size and nature of the proposed pressured area.
2. The Housing Measure sets out two specific criteria which must be met before the Welsh Ministers can designate an area:
 - the need for social rented housing (ie houses provided by the local authority or Registered Social Landlords) in the area in question is, or is likely to be, substantially in excess of social rented housing; and
 - this situation is likely to be exacerbated by tenants in the area exercising their right to buy.
3. The guidance is set out in three sections:
 - 1) Background information required for an application
 - 2) Information required to evidence housing pressure
 - 3) Measures to be taken to increase supply during the suspension period.

Background Information

4. Under the provisions of the measure, it is for local authorities to make proposals for the make-up of an area to be included in a direction. **However, they should discuss any proposals informally with Welsh Government officials before they are submitted.**

5. Under Plan Rationalisation in 2006, local authorities' housing strategies have been integrated into Local Development Plans, Community Strategies and/or Health, Social Care and Well-being Strategies. However, local authorities' strategic approach to housing should still be contained within a detailed, published document. The Welsh Government will expect proposals to be consistent with a local authority's strategic housing statements.

Basic data to support an application

6. The Measure allows a local housing authority to propose the inclusion of all or any part of its area or any type of housing in a direction, provided the specified criteria are met. Assessment and analysis of housing need should be up to date. Local Housing Market Assessments should be no more than two years old and will need to be updated if necessary.

Selection of areas and Identification of boundaries

7. Although the precise boundaries should be a matter for local determination, the Welsh Government considers that these should be recognisable localities or neighbourhoods.

8. These may well be identifiable estates or neighbourhoods which may be coterminous with letting areas. This is also true in respect of areas for which an application is being made for a type of property to be suspended.

9. In most circumstances, relevant areas are likely to be a contiguous group of properties, but there may well be cases where this is not so.

Consultation

10. The Measure requires that, before submitting proposals, a local authority consults with:

- a) all social landlords with dwellings in the application area
- b) adjacent local housing authorities
- c) the housing sector in the local area and bodies which represent the interests of tenants in the area

- d) any other person they see fit, stating why such persons are relevant

Evidence of consultation

11. The Welsh Ministers will expect to see evidence of consultation, such as:

- Letters sent to Registered Social Landlords or representative bodies,
- Minutes of meetings with stakeholders;
- Communications to tenants.

Consultation best practice

12. As a matter of good practice, the Welsh Government will expect local housing authorities to undertake wide-ranging consultations locally before finalising proposals for pressured area status.

13. There is no legal requirement to inform those on the waiting list. However, the Welsh Government suggests that it is best practice to inform tenants through a newsletter or through tenants' organisations, and/or by any other appropriate means.

14. Consultation should be about the need for a direction as well as amendments relating to the details of the boundaries and timing.

15. Local housing authorities will need to bear in mind that Registered Social Landlords in particular may wish to suggest the inclusion of a particular area in an application.

16. Local housing authorities may also wish to consult local property professionals such as estate agents, solicitors, property centres etc with an expert knowledge of the local housing market.

Equality Impact Assessments

17. In order to ensure compliance with the Equality Act 2010, the local authority's proposed policy to suspend the right to buy and related rights in areas of housing pressure should undergo an Equality Impact Assessment. This is to identify any potential negative impact on people with protected characteristics and, if there is likely to be a negative impact, the local authority will need to state what it is doing to mitigate the impact.

18. The Equality Act 2010 clearly defines characteristics which are protected by law from all forms of discrimination, including indirect discrimination. Public bodies have a duty to take into account the needs of people with these characteristics when designing and delivering services and to take steps to promote equality of opportunity.

19. The Welsh Language is spoken in many rural and urban areas and the Welsh Ministers are keen to see Welsh speaking communities sustained. Affordable housing can be important in providing housing for local Welsh speaking households. The impact on the Welsh language of right to buy sales in communities should also be detailed and how suspension of the right to buy and related rights would safeguard the Welsh language. This may be taken into account by the Welsh Ministers.

Information required to evidence housing pressure

20. Three types of evidence are expected to be considered for inclusion in an application for a direction to suspend the right to buy:

Core Evidence - this sets out the information that is expected to be of central importance to evidence that demand for social housing exceeds supply. Applicants will wish to pay particular attention to the evidence covered in this section when preparing their case. If, in the view of the applicant, the case for a direction as illustrated by the core evidence is exceptionally strong, then the applicant may consider that there is less of a requirement to strengthen that case through the presentation of supporting evidence.

The Welsh Government supports this approach, but suggests that, in all cases, potential applicants discuss the nature of their proposed application with officials in advance. A draft direction should also be included.

Information which should be provided in all applications is detailed here. This section will look at properties and tenants potentially affected and the impact of the suspension of the right to buy on housing need.

Optional Supporting Evidence – illustrates the type of evidence which would be considered as supporting and optional rather than core. Supporting evidence will be of greater significance in the assessment of those applications where the case for a direction, as illustrated by the core evidence, is less clear cut. In those circumstances, it is anticipated that applicants will wish to devote more attention to the supporting evidence in order to strengthen the application. Homelessness data can be included here.

Measures Taken to Increase Supply – this section must be included in all applications because the Housing Measure itself states that steps should be taken during any suspension of the right to buy to increase the supply of social housing.

Core evidence to support an application

21. Some pieces of evidence are considered more important than others to enable an application to be assessed fully and fairly. Without these specific pieces of information in the application, it is likely that the Welsh Ministers may be unable to come to a view or, more likely, will need to make further requests for information which could cause delay. **The objective of this part of the guidance is for local authorities to evidence that demand for social housing exceeds supply or is likely to do so.**

Ratio of waiting list applicants to number of lets

22. In over half of local authority areas, common waiting lists have been established. This should mean that more accurate analyses of annual lettings in relation to those on the waiting lists can be established.

- The ratio of the number of applicants on the waiting list to the annual number of lets will be a consideration in the assessment process. Local housing authorities should provide, wherever possible, the waiting list to lets ratio for the last three years, so that trends can be seen. This should be in financial years where possible. Where this is not possible, for whatever reason, an explanation should be provided.
- Applications may be presented on the basis of local lettings areas; others could look at Council wards. The geographical area should include the area where an application for suspension is being made and be recognisable to current and potential tenants as a neighbourhood and/or a housing search area.
- Local authorities should ensure that the waiting list data which they use to determine these ratios is as up to date and accurate as possible. Transfer applicants can be included. Where there is not a common housing waiting list, Registered Social Landlord waiting lists should also be included in calculations.
a
- Local authorities should provide details of the last review of its waiting list (this may be an annual process) and of the waiting lists of Registered Social Landlords operating in the application area. Other commentary on and description of the waiting list data should be given. It is understood that waiting list criteria may vary between local authority areas.
- Local housing authorities may wish to be aware of how the ratios in their areas compare with the national average in Wales. It is our understanding that this is currently somewhere between 5:1 and 4:1 but may fluctuate over time. We understand that there may be some duplication and that this is not a wholly accurate figure.

- If a local housing authority wishes to apply to suspend in a specific area it should, if possible, supply evidence for that specific area and the wider local authority area.
- It should not be assumed that areas with ratios above the national average will necessarily be stronger candidates for suspension, nor that areas with lower ratios will inevitably be unsuccessful. The ratios will not be the sole determining factor to be taken into account for each area. The ratio for the specific area or type of housing where the right to buy and related rights are proposed to be suspended should be given.
- The legislation also allows for specific types of housing to be included in the application, e.g. four-bedroom larger family houses or three bedroom houses across the whole of a local authority area or within a certain area e.g. a community council area in rural areas. Housing waiting list information directly related to households waiting for this type of housing would also need to be prepared. This would show the ratio of lets to applications for the type of housing in that area.

Distinction between urban and rural areas

23. Some relevant data may not be available at the level of very small community councils and settlements. It may be that the lack of available social rented property in a particular area has a distorting effect on the waiting list information (ie no-one puts this area down as a choice for being housed because they are aware there are no rented properties in this area). In these circumstances, Rural Housing Enablers and housing officers may be able to commission or provide results of Local Housing Needs Surveys (Community Level Assessments) to evidence or gauge local demand.

Information on how to prepare a draft direction

24. Details of what should be involved in a draft direction are given in Section 3 (2)(a) of the Housing Measure and the draft direction should be included in the application process. The Measure can be accessed through this link:

http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/bus_legislation_measure_housing.htm

25. Details of what to include in the draft direction are given in section A of the Guidance. The draft direction will be a separate document and will include details of:

- The area where it is proposed that the right to buy and related rights should be suspended
- Details of what types of properties will be affected
- The proposed period of the suspension.

26. There are some key pieces of information regarding the areas applied for and the wider local authority area, which will help provide context for the evidence submitted. The Welsh Ministers will expect to see the information detailed below included in all applications. This element of the guidance gives local housing authorities the opportunity to show evidence that the imbalance between supply and demand is likely to increase as a result of the exercise of the right to buy and related rights.

27. It is assumed that local housing authorities will have access to local intelligence or data sources. However, authorities may find economic and statistical data published by the Welsh Government useful and these are listed in Annex 2. Local housing authorities should have a Local Housing Market Assessment not older than two years.

28. There are some pieces of factual information which can help in gaining a picture of both the area applied for and the wider local authority area, and to understand the context for the evidence provided. Local housing authorities will need to take a decision on how they interpret housing need as being substantially in excess of provision.

Social Housing Stock and Tenancy Information

29. The following should be included in all applications and are listed below:

For each of the areas being applied for:

- the number of social housing units; and
- the total number of tenancies/tenants that would immediately be affected, split into:
 - Local authority tenancies; and
 - Registered Social Landlord tenancies

For each house type being applied for:

- the number of social rented units of that type; and
- the total number of tenancies that would immediately be affected, split into:
 - Local authority tenancies and
 - Registered Social Landlord tenancies

30. If a local authority is applying to suspend the right to buy and related rights across the whole of its area, then the information on units and tenancies would need to be for the whole of the area.

31. Where a local housing authority has transferred its housing stock and wants to suspend the right to buy and related rights in an area of housing pressure, it will need to work closely with the stock transfer Registered Social Landlord on the indicators referred to in this guidance and with other Registered Social Landlords in the area. Local housing authorities who are working towards the Welsh Housing Quality Standard through their approved business plans need to ensure that the suspension would not have an adverse effect on the ability of the organisation to meet its commitments.

Historical and Projected Right to Buy Activity

32. The following information is required to evidence that the imbalance is likely to increase as a result of the exercise of the right to buy and related rights:

- the total number of social rented units;
- the number of sales under the right to buy and related rights for each of the previous three years, working backwards from the last available statistics;
- an assessment of whether the current annual average sales are likely to change over the period of the direction with the reasons for this assessment;
- evidence of the impact or likely impact of sales under the right to buy and related rights and, in particular, whether sales and re-sales have led, or are likely to lead, to a shortage of housing for households in housing need; and
- how the suspension of the right to buy and related rights will assist in tackling housing need in areas of housing pressure.

Evidence of Housing Need

33. The estimated affordable housing need per annum for the next five years, disaggregated at an appropriate sub-area level where possible, obtained from a Local Housing Market Assessment or Local Housing Needs Survey which should be less than two years old.

34. A statement is required on the expected number of additional affordable units (through new build, acquisition, lease or refurbishment, including older persons' accommodation) to be completed for rent or low-cost home ownership for the next five years.

35. This will include units within and external to the area(s) of the proposed direction(s). This information should be consistent with other data supplied to the Welsh Government. It should be consistent with the annual affordable homes data collection and housing targets in Local Development Plans (LDPs). Inconsistencies in data will be one of the first issues to come to light in the case of which further clarification will be

sought. Information on the number of social rented homes expected to become available for let to households on the waiting list including transfers should be given.

Estimated Number of Sales

36. It is helpful for the Welsh Ministers to know the local housing authority's view of the estimated number of sales which would be suspended during the course of the designation period. It is acknowledged that this will be an estimate because sales will always be subject to tenants' future intentions, which may be influenced by the economy and external factors. It is therefore recommended that a best estimate, based upon recent trends, is provided, together with an explanation of how the estimate was determined. It should be taken into account that, once it is publicly known that the right to buy and related rights may be suspended, there may be an increase in applications to buy prior to any application for suspension.

Pressure in the private sector

37. It is also relevant to examine evidence of pressure in the private sector, arising from the demand by households for the available private housing stock or a reduction in the supply of private sector housing. Relevant evidence might be above average increases in private sector rents and in private house prices in the area in question compared to the average for that area, similar areas and/or the Wales average.

38. Trends in the house price to earnings ratios will also be essential as an indication of housing pressure. This should include ratios for the area where the right to buy and related rights are proposed to be suspended in comparison with other parts of the local authority area, other similar areas and the Wales average. Advice on obtaining some of this information is given in Appendix 2.

Optional Supporting Evidence

39. The paragraphs below illustrate the type of evidence which would be considered "supporting" rather than "core". Supporting evidence will be of greater significance in the assessment of those applications where the application for a direction, as illustrated by the core evidence, is less clear cut. This information is entirely optional for local authorities to provide.

40. Other supporting evidence of local demand can be included here. This may include those on the housing register who would be unable to afford access to either home ownership or intermediate housing in the locality. Data on the changing nature of the social housing stock (including evidence of turnover rates within the proposed area, average letting times and anticipated time which those in priority need might expect to have to wait for re-housing).

Area development plans and strategies

41. Supporting evidence is also important in terms of making a robust application to the Welsh Ministers. It is also the case that corroborating evidence could strengthen an application.

42. Local strategic housing documents should be submitted. It is advisable that a local authority that wishes to apply for suspension of the right to buy and related rights should continue to prepare a strategic housing document to support its application.

43. The relevant parts of the Local Development Plan (LDP) referring to housing should be submitted together with affordable housing targets, which should be consistent with other figures in the application.

Maps

44. For ease of reference - and to give a spatial dimension to the proposals - local authorities may wish to provide the Welsh Ministers with a map or maps showing the boundary of any proposed area of housing pressure.

45. Any map would not necessarily identify individual houses affected. However, maps should be sufficiently detailed to distinguish clearly between those houses which are within and those which are outside the area of housing pressure. This could be particularly important in rural areas where homes are more widely dispersed. Maps should be emailed in pdf format.

Best use of own stock

46. Local authorities may want to enclose relevant indicators relating to efficient use of the local authority's own stock and that of its partners. This is readily available information on the Welsh Government website and details are given in Appendix 2.

47. Vacancy rates in social landlord stock may be presented. If indicators are not within the top two quartiles of local authority and Registered Social Landlord performance indicators, then an explanation should be provided. For instance, it may be that refurbishment and/or demolitions are taking place in some areas or there may be hard to let units which are part of out-dated sheltered accommodation which is under review.

48. The current averages for local authority and Registered Social landlord levels of voids could be used as comparisons. The Welsh Government figures show that, at 31 March 2010, 1.7% of social housing stock was vacant.

49. A local authority may have additional information available on levels of homelessness which it wishes to submit in support of an application to suspend the right to buy and related rights, that additional information should comprise the following:

- numbers of homelessness presentations in the last three years and numbers of households found to be statutorily homeless over the last three years;
- the number of households that are currently unintentionally homeless and in priority need; and
- the average time it is taking for a homeless household to be housed in permanent accommodation.

Measures to be taken to increase supply during the suspension period

(This section is a requirement and must be included).

50. The Welsh Ministers fully recognise that, when a direction is issued, tenants' aspirations to own their homes will not be able to be met, albeit for a temporary period. Ministers need to be assured that, while the direction is in operation, local housing authorities and their partners are doing all they can to increase the supply of social housing in the area. Evidence of a planned increase in the numbers of affordable units being provided during the suspension period should be shown.

51. Previous references in the guidance have been to social housing but, in describing actions to be taken to increase supply, wider affordable housing initiatives can be referenced. Provision of intermediate rented properties and low cost home ownership units will normally increase supply of social rented properties and a percentage of social rented tenants are likely to take up the opportunity offered by the intermediate market property. However, figures for different tenures should be specified.

52. A statement on the expected number of additional **affordable** (including social rented) **units** to be delivered over the next five years should be shown. This should take into account new build housing, acquisition, leased and refurbished properties. **This will need to be consistent with Local Development Plan and other affordable housing targets.**

53. The methods used to both provide and increase the supply of affordable housing will include mechanisms detailed in the Guidance on Affordable Housing Delivery Statements (2009)

<http://wales.gov.uk/topics/housingandcommunity/housing/publications/affordablestatements/?lang=en>

and information in the Affordable Housing Toolkit (2006).

<http://wales.gov.uk/topics/housingandcommunity/housing/publications/affordablehousingtoolkit/?lang=en>

All of these are available on the Welsh Government website.

54. Some of the means to deliver and increase affordable housing supply are listed below. Evidence of action to be taken to increase supply should be demonstrated. Affordable housing is defined in Planning Policy Wales and Technical Advice Note 2 on Planning and Affordable Housing.

<http://wales.gov.uk/topics/planning/policy/tans/tan2/?lang=en>

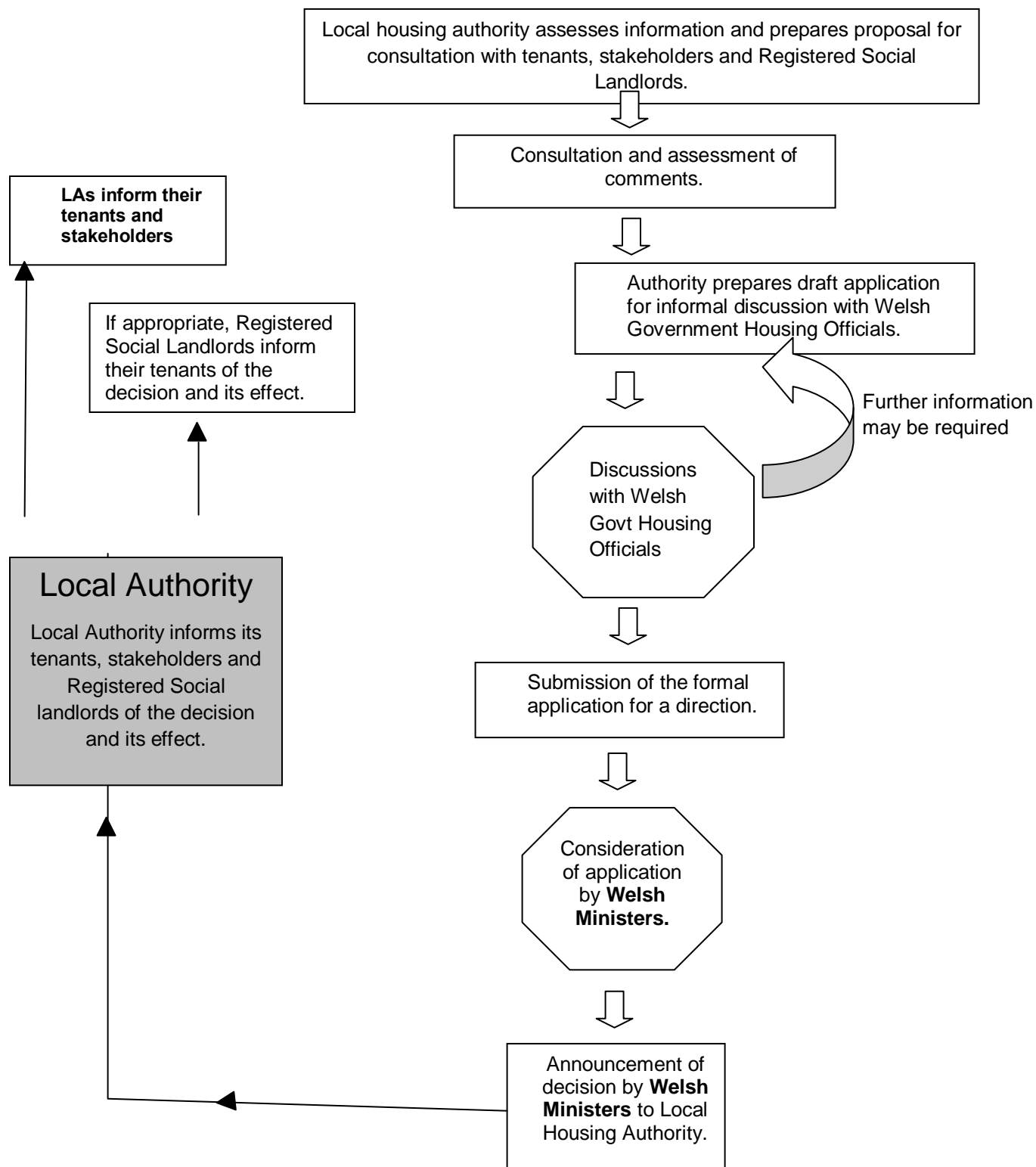
55. Where targets are set for affordable housing build (in the Local Development Plan and projected figures given for the affordable housing data collection), these must be practical and achievable. The Welsh Government will carry out a review by way of a request for information and a meeting after three years of the suspension period (where it has been successfully granted) to ensure that plans to increase supply of affordable housing are progressing. Local authorities should also closely monitor affordable housing targets and supply.

56. Some or all of these mechanisms may be used. There may also be others which are not included on this list, such as:

- use of Social Housing Grant from Welsh Government and expenditure of full allocation on a regular basis;
- greater use of local Registered Social Landlords' own resources;
- active use of Section 106 Planning Agreements for affordable housing;
- bringing empty properties back into use for affordable housing;
- leasing schemes to supplement a local housing authority's or a Registered Social Landlord's own stock;
- use of land owned by the Welsh Government, the local authority or other public sector land for affordable housing;
- making Social Housing Grant go further by use of lower grant level products such as Rent First intermediate housing where this meets housing need;
- effective use of Rural and Regional Housing Enablers to bring sites forward for affordable housing and engage with communities;
- use of Low Cost Home Ownership models targeting those on the housing waiting list;
- addressing under-occupation in social landlord stock;

- reviewing hard to let stock and considering appropriate redevelopment for affordable housing which meets housing need;
- consideration of alternative methods of housing provision including use of Community Land Trusts and/or Co-operative or Mutual Housing; and
- use of local housing authority's own capital programme for affordable housing.

STAGES INVOLVED IN THE PROCESS TO OBTAIN A DIRECTION



A Guide to Sources of Economic and Statistical data

It is assumed that local housing authorities will have access to local intelligence or data sources. However, authorities may find the following economic and statistical data published by the Welsh Government and other Government departments/agencies useful. Links are given to the latest versions of the statistics available at the time of publishing this guidance. Local authorities should check whether more recent information is available at the time of compiling their evidence.

Household estimates and projections - for Wales and the 22 Welsh local authorities are produced and published by the Welsh Government. They are based on ONS's population estimates. Latest household estimates for the period 1991 to 2010 including information on average household size and household type are available at the following link:

<http://wales.gov.uk/topics/statistics/headlines/housing2011/111006/?lang=en>

Latest available Household projections for 2008 to 2033 are available at:

<http://wales.gov.uk/topics/statistics/headlines/housing2010/100929/?lang=en>

Information can also be downloaded from the Welsh Government's interactive StatsWales website at:

<http://www.statswales.wales.gov.uk/TableViewer/tableView.aspx?ReportId=28725>

<http://www.statswales.wales.gov.uk/TableViewer/tableView.aspx?ReportId=25024>

Housing Need - current and projected housing need and demands for Wales between 2006 and 2026 at a local authority and all Wales level is available from the research report *Housing Need and Demand in Wales: 2006 to 2026* published in 2010 and available at:

<http://wales.gov.uk/topics/housingandcommunity/research/housing/needanddemand/?lang=en>

House Prices - these are available by house type, mean and lower quartile from the Land Registry. The data set does not provide size of property but does provide new and second hand prices separately. Where authorities have address/postcode information on properties they sold under the right to buy, the Land Registry can provide information on who owns the property and the price paid if sold since April 2000.

<http://www1.landregistry.gov.uk/house-prices>

http://www.landregistry.gov.uk/wps/portal/Property_Search

House price and mortgage information is also available on the Department for Communities and Local Government website at:

<http://www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/housingmarket/livetables/>

From April 2012 the Office for national Statistics (ONS) will take over responsibility for the publication of a number of the live tables on house prices: These comprise:
Live Tables: 502-508, 511-517, 521,523, 534,-540, 557,571,572, 590 to 594.

The ONS website is available at the following link:

<http://www.ons.gov.uk/ons/index.html>

The Annual Survey of Hours and Earning (Office for National Statistics) - provides information on the earnings of full time adult employees at April each year, which can be analysed at local authority level by sex, manual/non-manual employment types and other categories. It is now available on the basis of place of residence as well as the place of employment. The information can be used in conjunction with house prices to produce median and lower quartile house price to earnings ratios.

<https://www.nomisweb.co.uk/query/select/getdatasetbytheme.asp?theme=25>

Neighbourhood Statistics (Office for National Statistics) - provides detailed statistics within specific geographic areas including local authority, ward level and middle and lower layer super output areas:

<http://neighbourhood.statistics.gov.uk/dissemination/>

Affordable Housing Supply - information on the provision of additional affordable housing units based on the full [Technical Advice Note \(TAN\) 2](#) definition (including general needs, supported housing, sheltered accommodation and extra care units), whether through new build, purchase, acquisition, leasing or conversion of existing dwellings. Latest Wales and local authority level information is available at:

<http://wales.gov.uk/topics/statistics/headlines/housing2011/111019/?lang=en>

This includes information on the number of additional affordable units delivered between 1 April 2007 and 31 March 2011 as well as estimates of the number planned for delivery in 2011-12 and 2012-13.

Information is also available on the StatsWales interactive website at:
<http://www.statswales.wales.gov.uk/ReportFolders/reportFolders.aspx>

Dwelling Stock estimates - Estimates of the total dwelling stock based on data from the population censuses and updated annually to take account of new house building and demolitions. The breakdown by tenure is estimated from 2001 Census information, information from the Labour Force Survey, local authority returns and registered social landlord (RSL) returns. Latest published data for 31 March 2011 is available at:

<http://wales.gov.uk/topics/statistics/headlines/housing2012/120222/?lang=en>

Information is also available on the StatsWales interactive website at:

<http://www.statswales.wales.gov.uk/ReportFolders/reportFolders.aspx>

Social Housing Stock – annual information available centrally on the amount of housing stock held by local authorities and registered social landlords across Wales at 31 March and the number of vacancies and number and type of lettings made within that stock. Latest data for 31 March 2011 available at:

<http://wales.gov.uk/topics/statistics/headlines/housing2011/111116/?lang=en>

More detailed information on the size and type of dwellings held and on tenant numbers would be available at a local level from local authority and registered social landlord records.

Social Housing Sales – annual information is available centrally on the number of social sector houses sold via Right to Buy, Right to Acquire and other schemes. Information on local authority sales includes the type of sale, the type of dwelling, the selling price and the discount applied at authority level. Information on RSL sales includes the number of sales by type of sale at individual RSL level. Latest information including trends over time can be accessed at:

<http://wales.gov.uk/topics/statistics/headlines/housing2011/110615/?lang=en>

Information is also available on the StatsWales interactive website at:

<http://www.statswales.wales.gov.uk/ReportFolders/reportFolders.aspx>

New House Building – quarterly and annual information is available centrally on the number of dwellings started and completed by tenure and local authority. This is based on the reports of local authority building inspectors and information provided by the National House Building Council (NHBC). Latest information as well as trends over time can be accessed at:

<http://wales.gov.uk/topics/statistics/headlines/housing2012/120321/?lang=en>

and on StasWales at:

<http://www.statswales.wales.gov.uk/ReportFolders/reportFolders.aspx>

Wales level information on social housing vacancy rates – this is published in the annual 'Social Housing Stock, Lettings and Vacancies' release and is available at:

<http://wales.gov.uk/topics/statistics/headlines/housing2011/111116/?lang=en>

Vacancy rates can be calculated at a local authority level by using the data shown in Table 5 of the release (Total Vacants/Total Stock * 100)

Data by individual social landlord is available on the StatsWales website at:

<http://www.statswales.wales.gov.uk/TableViewer/tableView.aspx?ReportId=35327>

and

<http://www.statswales.wales.gov.uk/TableViewer/tableView.aspx?ReportId=35328>

Waiting Lists - there is currently no information collected centrally on social housing waiting lists. Information should be taken from local authorities' own records. In areas where Common Housing Waiting lists have been established this information should be used when calculating the waiting list to lets ratio for the last three years.

INFORMATION ABOUT THE END OF THE RIGHT TO BUY AND RIGHT TO ACQUIRE

Information for Tenants of Social Landlords

Note: This sample has been produced simply to illustrate the type of information which could be issued to tenants by their social landlord if the Bill to abolish the Right to Buy and Right to Acquire is passed by the National Assembly for Wales. It has been produced to inform Assembly Members and stakeholders during the scrutiny process should questions arise on how such a change would be communicated to tenants. The production of this draft guide does not in any way presume the outcome of the Bill's passage through the Assembly.



SUMMARY

- The Right to Buy and Right to Acquire will end for all tenants of social landlords on **[insert date of abolition]**
- This guide explains what you need to know about the end of the Right to Buy and Right to Acquire and what you should do if you are thinking about buying your local authority (council) or housing association home.
- If you live in an area in which the Right to Buy and Right to Acquire has been suspended, you will not be able to buy your home under these schemes.
- This guide does not give legal advice, which you should seek separately if you want to buy your home.

Right to Buy and Right to Acquire - The Basics

If your landlord is a local authority, you may have the **Right to Buy**. The Right to Buy allows eligible secure tenants of local authorities to buy their home at a discount to the market value. The maximum discount available is £8,000.

If your landlord is a Registered Social Landlord, referred to in this guide as a “housing association”, you may have the **Right to Acquire**. The Right to Acquire enables eligible assured and secure tenants of housing associations the right to buy their home at a discount to market value. The maximum discount available is £8,000. The Right to Acquire does not apply in certain designated rural areas.

If your home used to be owned by the local authority but was transferred to another landlord, such as a housing association, while you were living in it, you may have the **Preserved Right to Buy**. This is very similar to the Right to Buy and the maximum discount available is also £8,000.

Before you start thinking about buying your home, you need to find out whether you are eligible to do so. In order to qualify for any of the above discounts you must have rented your home from a public sector landlord (e.g. a local authority, a housing association, NHS Trust) for 5 years. But it doesn't have to be 5 years in a row.

Further information on the eligibility requirements is available in the links at the end of this document, or from your landlord.

The end of the Right to Buy and Right to Acquire

The Right to Buy, Right to Acquire and Preserved Right to Buy are ending for all tenants in Wales on **[insert date of abolition]**. This is part of the Abolition of the Right to Buy and Associated Rights (Wales) Act 20[XX].

If you are able to exercise a right to buy your home, you can submit your application up to **[insert date of abolition]** and it will be considered in the usual way. Any application made after this date will not be accepted.

If you are applying close to **[insert date of abolition]**, you may wish to send your application to your landlord by recorded delivery to ensure the date it is received is noted or deliver it personally to your landlord's office to ensure it arrives by the deadline date. If you deliver it in person, you may wish to request a receipt to show the date it was received by your landlord.

You must take care to make sure that all the details on your application form are correct. If not, then your application may be turned down. With this in mind, it is better not to leave your application too late. You will want to allow as much time as possible to resolve any issues that may arise.

If you have arrears of rent or council tax when you apply to buy your home, your landlord can refuse to sell it to you. You should check that all your payments are up to date in case this causes a problem.

If there is anything you don't understand about the application form, or you are not sure what information you have to provide, your landlord will be able to help.

The end of the Right to Buy and Right to Acquire will not affect your tenancy in any other way.

Suspended Areas

In Anglesey, Carmarthen, Denbighshire, Flintshire and Swansea, the Right to Buy and Right to Acquire have been suspended. If you live in one of these areas you will not be able to buy your home under these schemes. Your landlord will be able to give you more information if you live in one of these areas.

Early abolition on new homes only

The Right to Buy, Right to Acquire and Preserved Right to Buy will end for "new homes" only on **[insert date 2 months after Royal Assent]**. A "new home" is one which has not been let as social housing for the six months before **[insert date 2 months after Royal Assent]**, for example a new build property, or a home that has been recently acquired by the landlord.

There are certain exceptions if you are forced to move into a "new home". Ask your landlord for further information if you are in this situation.

Other Ways to Buy a Home

Other means of assistance to help you buy a home may be available. Talk to your landlord or visit the Welsh Government's website <http://gov.wales/topics/housing-and-regeneration/housing-supply/buying-and-selling/help-for-buying/?lang=en> for further information.

Financial and Legal Advice

Buying a home is a big commitment. Home ownership has costs as well as benefits. The costs include: the price of the home (after the appropriate discount), legal costs, survey fees, and possibly some taxes e.g. Stamp Duty/Land Transactions Tax. After buying, there will be monthly payments for council tax and a mortgage (if you have one) as well as other on-going costs, which are currently included in your rent e.g. repairs, maintenance and buildings insurance. As the homeowner, you will have to pay for these. Remember, too, mortgage interest rates could increase at some point.

It is important to get professional advice, for example, on financial matters. You should also consider taking legal advice. Organisations such as your local Citizens Advice Bureau may be able to explain how best to go about it. This is particularly important if you have been approached by someone offering to help you buy your home (perhaps in exchange for handing over ownership of the home to that person at a later date) or offering advice in return for a fee.

Further information

The guidance booklet 'Your Right to Buy Your Home - a guide for tenants of social landlords in Wales' is published by the Welsh Government. It gives general information on the Right to Buy rules and how to apply. It can be found here:

<http://gov.wales/docs/desh/publications/150801-your-right-to-buy-your-home-en.pdf>

The Welsh Government's guidance booklet on the Right to Acquire can be found here:

<http://gov.wales/docs/desh/publications/170203-the-right-to-acquire-en.pdf>

If you want general information about the Right to Buy, Right to Acquire or Preserved Right to Buy you can contact the Welsh Government by email at righttobuy@wales.gsi.gov.uk or you can telephone on **[insert phone number]**.

If you want more specific information about buying your own home, you should contact your landlord.

Your landlord will be able to give you a Right to Buy application form, or you can download it here:

<http://gov.wales/docs/desh/publications/150122-notice-claiming-right-to-buy-en.pdf>

[insert link to Right to Acquire application form]

If you would like hard copies of any of these documents, please contact the Welsh Government at **[righttobuy@wales.gsi.gov.uk and insert office address]** or call **[insert phone number]**.

DRAFT

Are you a tenant with the Right to Buy, Preserved Right to Buy or Right to Acquire your home?

The chart below gives an overview for tenants on the availability of the Right to Buy (RTB), Preserved Right to Buy (PRTB), or Right to Acquire (RTA) if the “Abolition of the Right to Buy and Associated Rights (Wales) Bill” is passed by the National Assembly for Wales.

