



# Right to Buy: Wrong for London

The impact of Right to Buy on London's social housing



January 2019 · Tom Copley AM



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# Recommendations

## 1. The Mayor should lobby the Government to abolish the Right to Buy in London.

The findings of this report will show how the Right to Buy is failing London and Londoners. The need for homes at social rent levels is far higher than the number that are being built, while vital council homes continue to be sold at a discount. More and more of these are moving into the private rented sector, which exacerbates London's housing crisis, results in families living in worse conditions and adds a huge amount to the cost of housing benefit in the capital. To ensure that London is able to house those with the greatest need, and to encourage boroughs to build more homes again, the Government should give the Mayor the authority to abolish the Right to Buy in Greater London.

## 2. The Mayor should work with boroughs to explore ways covenants can be placed on homes sold through the Right to Buy to prevent them from being let at market rates.

Council homes are sold at a discount to the individuals and families who lived in them – the purpose of right to buy is for people to own the home they have lived in, not for them or another to profit from it by renting it privately. Similar covenants already exist, for example homes bought through Help to Buy are not permitted to be sublet,<sup>1</sup> and the deal struck between Pocket Homes and the Mayor of London requires homes sold as affordable ownership to remain at affordable levels in perpetuity.<sup>2</sup> It has been recently reported that Southwark Council are exploring options for implementing this kind of policy.<sup>3</sup> It is not clear however that this would be legal, and may require legislation before local authorities are able to impose such covenants.

## 3. Should the Government refuse to abolish the Right to Buy in London, the Mayor should lobby the Government to exempt newly built council homes from the Right to Buy.

Both the Mayor and the Government are committed to seeing more homes built by councils, through direct funding and the lifting of the borrowing cap. However, the Right to Buy acts as a disincentive as councils fear their investment will be wasted as they may be compelled to sell homes at a discount only a few years after they are built, and further money would need to be spent on housing families in need of social rent homes. To ensure the successful delivery of a "a new generation of council housing"<sup>4</sup> any newly built homes should be exempted from the right to buy so they continue to provide low-cost rented homes to those who need them.

## 4. Local authorities have the first right of refusal when Right to Buy homes come to be sold on. As well as building new council homes, the Mayor should work with local councils to effectively use ring-fenced right to buy receipts to purchase these when they can best meet local needs.

As this report shows, there is a huge need for social housing in London, and former council homes being sold to private landlords further exacerbates this problem, so London Boroughs should be encouraged to buy back homes they once owned if the appropriate opportunity arises. This could be achieved through making use of ring-fenced Right to Buy receipts, or through an authority's General Fund, so that this home cannot again be sold through Right to Buy.

# Background

In January 2014, I published a report titled “From Right to Buy to Buy to Let”, which investigated the number of homes sold under Right to Buy which were subsequently being privately let in London.<sup>5</sup>

Five years on from my previous report, I am re-visiting the issue of former council homes ending up in the private rented sector. The increase in this phenomenon further highlights how nearly forty years of the Right to Buy has led to a transfer of wealth from the many, to the few.

In 2014, my investigation focused on the wider costs of the Right to Buy policy on London Boroughs and the pressure it puts on housing in the capital. At least 36% of all homes sold by councils in London were being privately let in 2014.<sup>6</sup>

These findings came after the Coalition Government had “reinvigorated” the Right to Buy in March 2012, with potentially much larger discounts available to council tenants of up to £100,000 of the value of their property.<sup>7</sup> The then Housing Minister, Grant Shapps, said, “we are also determined to maintain the number of affordable homes for rent - so for the first time, every additional home that is sold will be replaced by a new affordable home on a one-for-one basis.”<sup>8</sup>

While the Government did initially meet this replacements target, with its own caveats, by March 2018 it had fallen behind. Nationally since 2012, 17,072 additional replacements were required to meet the promise to replace, within three years, all the additional homes sold, but the number of homes started or acquired was below 16,000. Overall, 63,518 homes had been sold by English councils.<sup>9</sup>

My previous report highlighted that this was not working in London. Actual numbers of new council homes were far below the number being sold. Furthermore, there was no requirement that the

replacement be the same tenure or size as the home sold. A four-bedroom social home at social rent levels could be sold to fund a one-bedroom flat at “affordable” rent levels, i.e. those at 80% of market rate and beyond the means of many families with a need for a council home. I recommended that there must be genuine one-for-one replacement of all council homes sold under Right to Buy, and that these must also be like-for-like in terms of rent, size and tenure specification.

Unfortunately, national policy in regard to Right to Buy has changed very little since my first investigation five years ago. In London, however, the new Mayor has taken steps to increase the number of council homes being built after years of decline, to tackle the lack of affordable homes in the city. The Mayor is clear: “The failure to replace homes sold through the statutory Right to Buy policy is a key contributor to the loss of affordable homes in London.”<sup>10</sup>

The Mayor has pledged to start 10,000 new council and Right to Buy replacement homes by 2022, and has introduced a new “ring-fence offer” for London councils. Currently, there are strict rules on how councils can use receipts from Right to Buy sales, and if they cannot meet these, then the proceeds must be returned to the Government, who in turn give them to the Greater London Authority (GLA). The Mayor will now act, for councils signing up

to the offer, as “custodian” of these funds for the council to use to fund its own social housebuilding programmes.<sup>11</sup> This is a welcome step, and along with the recent Government decision to remove the cap on council borrowing for housebuilding, will go some way to creating a new generation of council homes in London.

While the Right to Buy remains, however, what is given with one hand can be taken away by another, leading to us treading water or even still going further backwards in terms of social housing provision in London.

## Explainer: the Right to Buy

The Housing Act 1980 was one of the flagship pieces of legislation of Margaret Thatcher’s first Government, and it introduced the statutory Right to Buy for council tenants. Initially, there was a three-year minimum tenancy requirement for a 33% discount, rising to a 50% discount for tenants of 20 years. A provision was included for the discounts to be repaid if homes were sold on within 5 years.<sup>12</sup> Further legislation in the 1980s increased the discount available: the minimum tenancy was reduced to two years, when a 32% discount was applied, or 44% for flats, and the maximum discount was increased to 70%, available after 15 years’ tenancy. The maximum discount available was £50,000. In the first 20 years of the policy, more than 2.2 million council homes were sold.<sup>13</sup>

The new post-1997 Government reduced the maximum discount available, after finding that the Right to Buy had a cost of £400 million, mostly in terms of finding replacement housing for those in need. Following consultation, maximum discounts were capped regionally, from £22,000 in the North East to £38,000 in London.<sup>14</sup> In 2003, the maximum discount was further reduced in London (except Barking and Dagenham), to £16,000.<sup>15</sup>

The 2012 decision to “reinvigorate” the Right to Buy came as annual sales were running at all-time lows, only 2,600 per year, compared to a 21st century peak of 69,500 in 2003-04.<sup>16</sup> Following consultation, the cap was increased to £75,000 across England in April 2012. The Government found that high property prices meant the take-up was lower in London than anticipated, and in 2013 further increased the maximum discount to £100,000, and from 2014 would increase annually in line with inflation.<sup>17</sup>

Until 2012, local authorities could keep a portion of Right to Buy receipts to pay for sale costs and any works done in the three years before the sale, but then had to return 75% of receipts to the Treasury, and could keep 25% for any of their own capital expenditure. Following the 2012 reforms, local authorities were given greater freedom to retain receipts, although there were still restrictions on how these could be spent. For example, a 30% limit was set on the use of Right to Buy receipts for replacement homes. With the further increased discounts from 2013 came the clarification that one-for-one replacement would apply only to additional homes sold (the number sold above the number projected to have been sold had the discounts not increased).<sup>18</sup>

Right to Buy became a devolved issue after 1999, and the Scottish Government abolished the policy in 2017. The Abolition of the Right to Buy and Associated Rights (Wales) Act 2018 received Royal Assent in January 2018, and will end the Right to Buy in Wales from January 2019.<sup>19</sup>

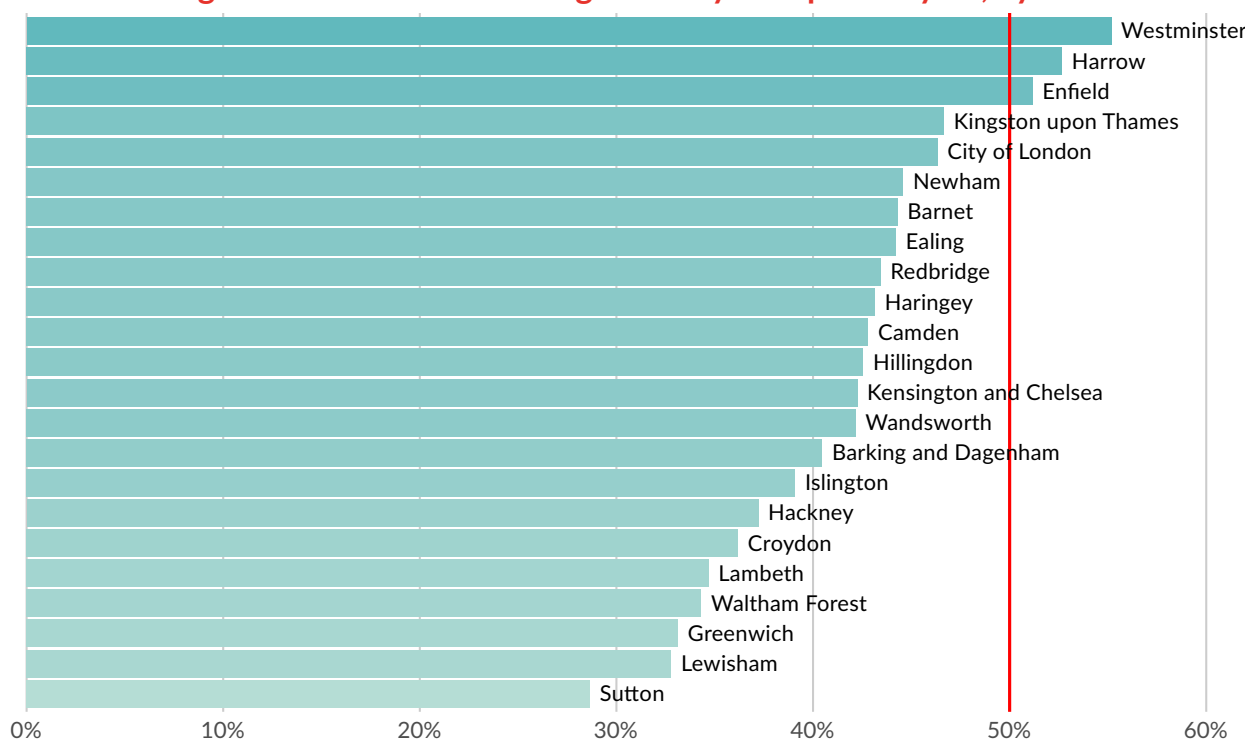
# Key Findings

## The scale of Right to Buy to Private Rent

In the five years since my previous report, at least 11,825 more homes sold through Right to Buy are being privately rented in London. That alone is more than seven times the number of homes built by local authorities in London in the same period (1,670).<sup>20</sup>

- In London there are more than 54,000 homes which were sold through Right to Buy now being privately let.
- This now represents 42% of former council homes in London, up from 36% in 2014. (Please see methodological note on page 13 for more details, but these percentages refer to the responses given by local authorities, and this does not necessarily reflect the total number of Right to Buy homes sold according to MHCLG data).
- In 2014, there was only one borough (Tower Hamlets) where more than half the council homes sold were then owned by private landlords. There are now at least three (Westminster, Harrow and Enfield, while Tower Hamlets was not able to provide figures on this occasion, but it is likely that it is still the case in that borough also).

### Percentage of homes sold under Right to Buy now privately let, by London Borough



Source: Tom Copley AM FOI requests to local authorities

Furthermore, there is a growing pool of private landlords profiting from portfolios of former council homes: 466 individuals or companies have the leasehold for at least five Right to Buy homes each. This represents a minimum of 2,330 individual homes, and given that many of these portfolios are likely to have more than five properties, and that single landlords may operate across borough boundaries, this could be significantly larger.



Since 2010, homelessness has risen significantly in London. There are now 54,540 households living in temporary accommodation in the capital, including 87,310 children. Of this type of accommodation, 38% is leased by authorities from the private sector.<sup>21</sup>

In addition to former council properties being let out by private landlords, there are now 2,333 properties where the local authority pays private landlords to house homeless families across London, with 808 of these being in Newham alone. These were once owned by the local authority and sold through Right to Buy. From the figures provided by eighteen councils, £19,821,143 is being spent per year across London on rent to private landlords for this purpose.<sup>22</sup>

### Amount spent per year by borough on renting former council home as temporary accommodation



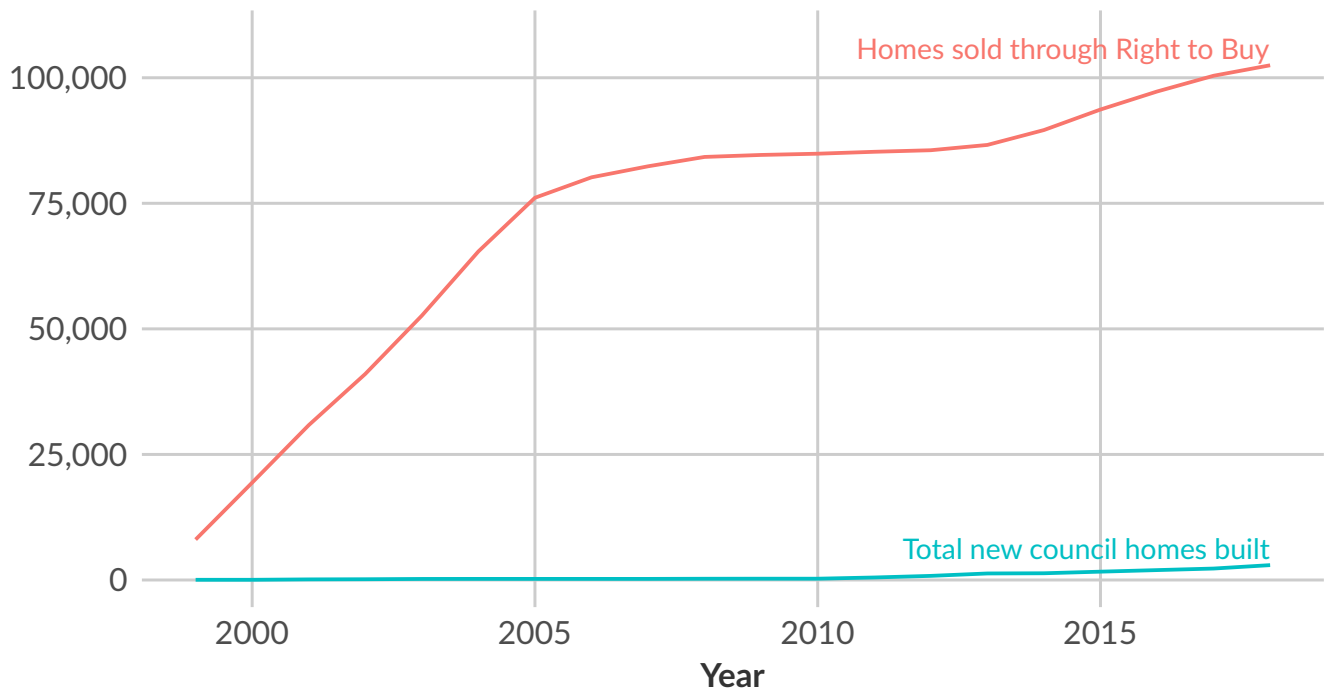
Source: Tom Copley AM FOI requests to local authorities

In order to meet need, many councils have bought back properties they had once sold. At least 1,630 of such homes have been bought back, some for meeting general needs, some as part of wider estate regeneration projects.

Ealing has bought back the most former council properties, 516 in total, although more than half were for regeneration projects. Ealing received £16,230,470 through the original sales of these homes, which were discounted by a total of £15,648,455, but has spent £107,071,333 buying these back – more than six times what they received.<sup>23</sup> Evidence from other boroughs showed similar, and that this will continue to rise as councils now use their increased borrowing abilities to buy back homes sold through Right to Buy.<sup>24</sup>

Meanwhile, council housing stock in London continues to fall as Right to Buy remains. In the last five years, 15,859 council homes have been sold in London.<sup>25</sup> Since 1998-99, when detailed annual statistics are available, 102,480 council homes were sold and only 3,000 new ones have been built.<sup>26</sup>

## Homes sold through Right to Buy and new homes built by councils in London



Source: MHCLG, 'Live tables on social housing sales - Table 685'  
and GLA, 'Housing in London 2018 - table 1.7'

## A Vicious Cycle: Right to Buy

- At some point in the past, a Borough invested in building homes and communities for their residents to live, at genuinely affordable levels of rent
- Under the Right to Buy, the Borough has been compelled to sell properties, for up to £100,000 below market value, and forgoing future rental income.
- The discount, lack of availability of grant, and limits on borrowing, have meant councils have not been able to adequately replace these, reducing the availability of stock to house those in the highest priority need.
- The properties sold move into the private rented sector, and to meet the needs of homeless families, councils have to pay private landlords to rent back homes they once owned, at a cost of millions of pounds per year.

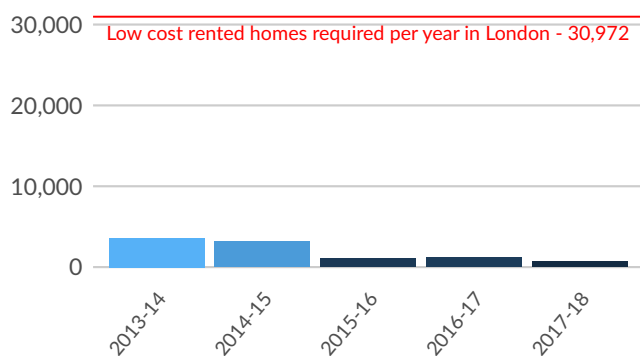


# The Cost to London

Why the transfer of Right to Buy homes into the private rented sector causes problems

The 2017 London Strategic Housing Market Assessment (SHMA), which is part of the evidence base for the new London Plan, finds that London needs 30,972 new low-cost rented homes every year – 47% of all new homes required.<sup>27</sup> If you take this to mean social rent levels or the Mayor's new London Affordable Rent definition – in line with the new draft London Plan<sup>28</sup> – the annual requirement for low-cost rented homes is several times greater than the total number of such homes that have been built in the past five years (7,905).<sup>29</sup>

New homes for social rent built in London



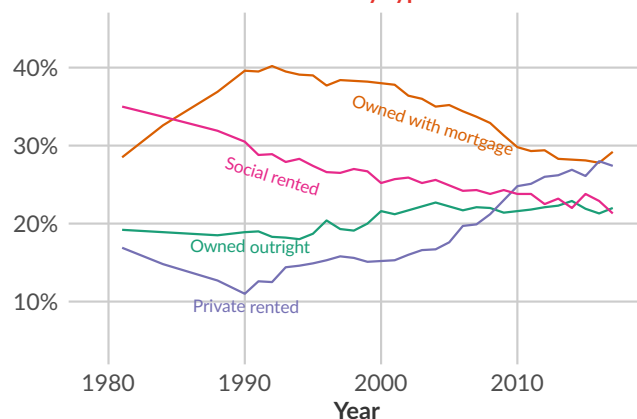
Source: MHCLG, 'Live tables on affordable housing supply - Table 1006C'

The SHMA states, "London has had sizable backlogs of housing need resulting from housing shortages throughout most of its recorded history [...] the backlog has grown substantially in recent years due to identified housing requirements not being met."<sup>30</sup> There are different causes and requirements within the overall backlog, but the backlog of need identified in the SHMA as being for low-cost rented housing is 146,511 households.<sup>31</sup>

The Right to Buy has contributed to this backlog as it has reduced the availability of council homes to meet this need.

Since 1994, the number of local authority owned homes in London has fallen by 251,650<sup>32</sup> but the total number of new homes for social rent built (by local authorities and other registered providers) in the period totals only 151,932<sup>33</sup> - a shortfall of nearly 100,000.

Households by type of tenure in London



Source: GLA, 'Housing in London 2018 - table 1.4'

Statistics on housing tenure trends in London illustrate the impact of Right to Buy. From 1981 to 2017, the proportion of London households living in the social rented sector fell from 35% to 21%. Between 1981 and 1992 – the peak years for the take-up of Right to Buy, where council tenants took ownership of their properties with a mortgage – the proportion of mortgage-owners jumped from 29% to 40%, and has declined again to below 30%.<sup>34</sup>

These tenure trends help tell the story of how the Right to Buy has contributed to the shortage of and backlog of need for low-cost rented homes. A council tenant who is able to buy their own home, at a discount, with a mortgage, has their housing needs met without requirement for support (as long as they can afford their mortgage).

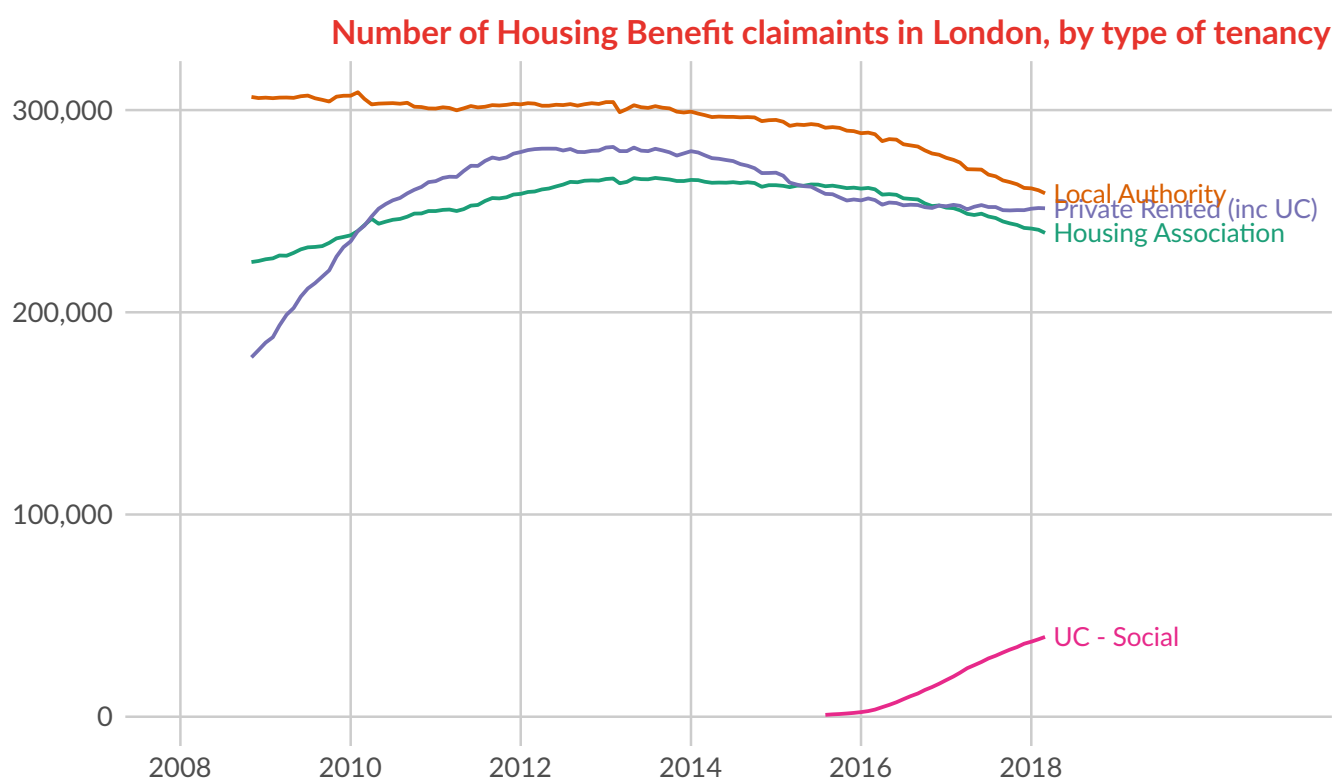
However, as the population has grown, the replacement of social rented homes sold-off was inadequate for new households in need of these kind of homes in London. As the SHMA tell us, this had led to a huge need in London for low-cost

rented homes. Not only are these not being provided, but much of the existing stock is being lost to the private rented sector – 42% is now being privately let.

This growth in the private rented sector, at the expense of council homes, has further negative consequences for London. Many households with the highest needs for affordable housing are instead having to find homes in the private rented sector, and are supported by housing benefit.

£44,354,726 is paid to those in the private rented sector – money that goes to landlords, rather than to local authorities.<sup>36</sup>

If every housing benefit claimant in London who lived in the private rented sector lived in a council home instead, there would be a saving of £938,810,772 per year in housing benefit.



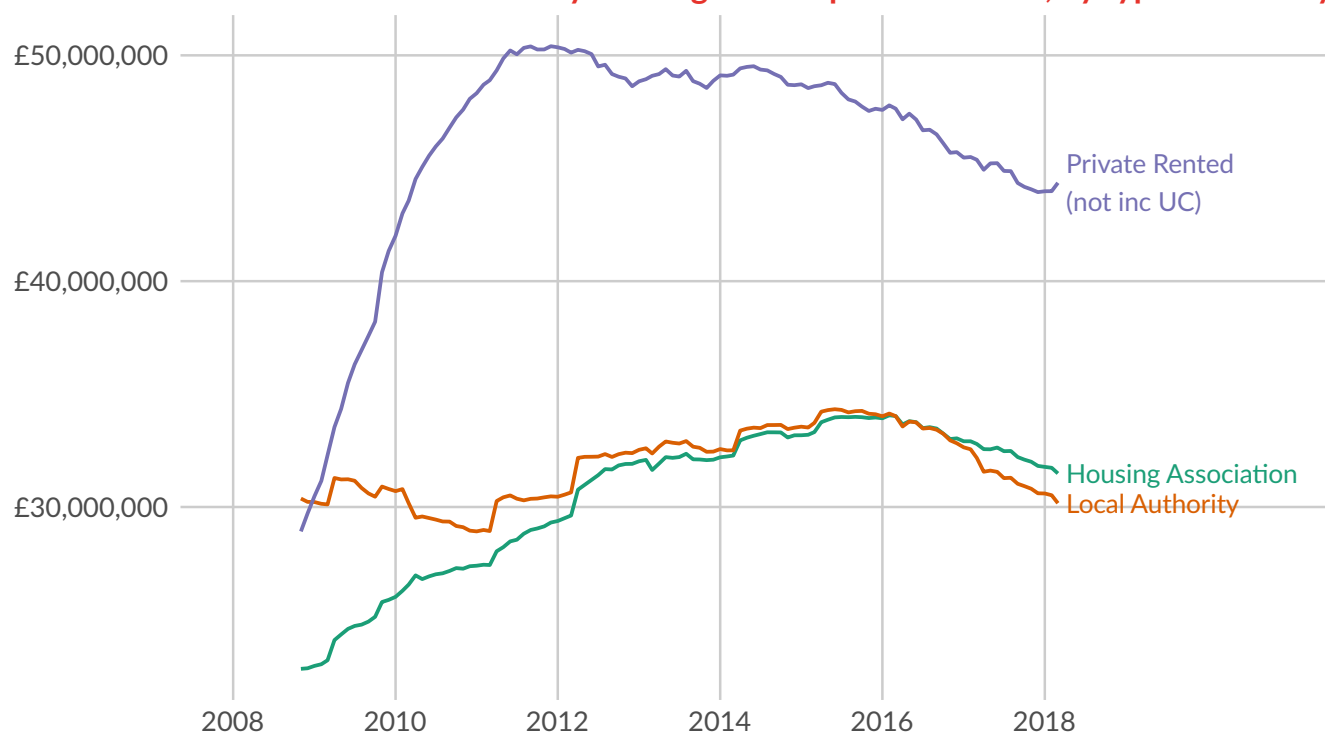
Source: Department of Work and Pensions, Stat-Xplore custom extract

The number of housing benefit claimants in London has remained fairly constant since 2008, but the number of these in the private rented sector has risen from 177,000 to more than 225,000, and was higher still in the mid-2010s.<sup>35</sup>

The number of claimants for council homes has fallen, and the mean weekly award for local authority claimants is much lower than private rented sector claimants (£116 vs £196), which means that while £30,167,335 is paid in housing benefit each week to those in local authority rents,

Not only is more money being spent on housing families in the private rented sector, conditions in the market sector are worse than any other. The Decent Home Standard sets basic minimums for quality of a home, that it should be free from hazards, in a reasonable state of repair with reasonably modern facilities, and have efficient heating and insulation – it applies legally only to council and housing association homes, but is also measured for homes of all tenures in the English Housing Survey (and other studies). Since the Housing Act 2004 introduced many reforms aimed

### Total weekly housing benefit paid in London, by type of tenancy



Source: Department of Work and Pensions, Stat-Xplore custom extract

at improving the quality of housing, the proportion of homes classified as “non decent” has fallen across England, in all tenures.<sup>37</sup>

While the proportion of non-decent social homes in London has fallen from 37.1% in 2006 to 14.8% in 2015, in the private rented sector, 23.9% of homes are still non-decent.<sup>38</sup>

Although the proportion of private rented homes being non-decent has fallen, given the fact that the number of people living in private rented homes has increased, the total number of private rented homes that are non-decent has actually increased over the past decade.<sup>39</sup>

Efforts to tackle poor standards in the private rented sector have begun to uncover the scale of the problem. This year, the Mayor of London introduced a “rogue landlord checker”, which all boroughs have signed up to, to name and shame landlords who have been found guilty or fined for breaching housing regulations. It names 572 landlords and

agents in London<sup>40</sup> who are the worst offenders, but this is likely to represent very few of the total number of households living in poor quality conditions, as most cases are very unlikely to come forward, either for fear of eviction, or because local authorities do not have the resources to take on the requisite caseload.

The loss of social housing in London is pushing more people into the private rented sector, which is both more expensive to them and to the taxpayer. The turnover of council homes into the private market means that many private landlords are benefitting from homes that were built by local authorities – collecting rent that is sometimes even paid for by the very same authorities. It also means households are often living in worse conditions, with less legislation in place to compel landlords to improve properties. Social rented housing is better regulated than private rented, and indeed with the Government’s recent Social Housing Green Paper, the gap in standards between social and private rented homes could well increase further.

# Conclusions

This report has shown how London has a huge need for low-cost rented homes that is being exacerbated by the Right to Buy and the trend of Right to Buy homes being sold to private landlords.

Michael Heseltine, when introducing the second reading of the Housing Bill 1980, said of the Right to Buy that “no single piece of legislation has enabled the transfer of so much capital wealth from the State to the people.”<sup>41</sup>

It is clear, however, that nearly forty years on, the long-term consequences of the Right to Buy have not built a property owning utopia, but have instead concentrated a significant portion of state funded assets into the ownership of private landlords. Steps must be taken to prevent this from continuing.

London boroughs are best placed to know where the demand for new social homes is greatest, and what types of home are needed. Recent investment in new building programmes is very welcome, but the Government and the Mayor should work with councils to make it easier to buy back homes that they once owned.

The Mayor has already set-up a “ring fence offer” for Right to Buy receipts in London, to be reinvested in social homebuilding, and this could be extended to buying back homes for social rent. Allowing councils first refusal increases the prospect of these homes again providing homes for social rent, rather than becoming private rented homes.

# Methodology

In order to gather the information used in this report, I sent a series of Freedom of Information requests to the 33 local authorities in London in August 2018.

Authorities were asked:

- How many residential properties they hold the freehold of;
- How many they hold the freehold of, but not the leasehold (this gives an indication of how many Right to Buy properties there are in a borough);
- How many of the above have a leaseholder with a different correspondence address to the property (which indicates that the owner is not a resident of the property).

Of course, these figures are not necessarily comprehensive. Firstly, in some instances local authorities will have sold the freehold as well, meaning they have no connection to the property. Secondly, there is no requirement for the Government or local authority to track the tenure status of former council homes after they have been sold. Thirdly, owners are not required to provide the local authority for an “away address” for correspondence, which is the information we have asked for. These points mean that it is likely that the number of homes sold by councils through Right to Buy that are now being privately rented is greater than this report finds.

All 32 boroughs and the City of London were sent the same requests, however I have not received full responses from all 33. Where comparisons are made with figures from the 2014 report, these are only comparing boroughs that have responded. For example, we did not receive the number of leasehold homes with away addresses from 10 London Boroughs, four of which are no longer stock-owning authorities, having transferred their council homes to housing associations. This again means that the scale of Right to Buy to private rent is much greater still than this report presents.

The above two factors also may mean that the statistics presented in this report do not always align. For example, the report finds that at least 54,000 Right to Buy homes are now being privately let, representing 42%. This is 42% of the number local authorities have told us they own the freehold of. It is not 42% of the total number of homes MHCLG say have been sold in London under Right to Buy since 1980, which is 287,303. The discrepancy between these two figures could be for any number of reasons: the local authority has sold the freehold, the home has since been demolished, a home may have been sold and then bought back by a council.

In some instances, information was provided by councils’ Arms Length Management Organisations rather than the local authority itself.

## Update 8 February 2018:

The original version of this report included an error of calculation which has now been corrected. With regard to the amount of money spent by councils to rent back homes they had sold through Right to Buy, the report mistakenly included these as £3,035,996.40 per year in Havering and £77,513.76 per year in Waltham Forest. In fact, these figures are £252,999.70 and £335,892.96 respectively. The total amount spent by London Boroughs on this is therefore £19,821,143 and not £22,345,760 as initially stated. The numbers and graphs on page 7 have been changed to reflect this. I would like to apologise for this error, but re-iterate that the total Londonwide figure remains an underestimation as 16 boroughs were not able to provide any information on the amount they spent on renting back homes they used to own.

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- 33 Ministry of Housing, Communities and Local Government, "Live tables on affordable housing supply - Table 1006C: Additional social rent dwellings provided by local authority area - Completions", <https://www.gov.uk/government/statistical-data-sets/live-tables-on-affordable-housing-supply>
- 34 Greater London Authority, "Housing in London 2018", Table 4.1, <https://data.london.gov.uk/dataset/housing-london>
- 35 Department of Work and Pensions Stat-Xplore, "Housing Benefit Caseload", custom statistical extract, <https://stat-xplore.dwp.gov.uk>
- 36 As of August 2018, there are 84,574 households in London which receive Universal Credit and have a housing entitlement as part of that. The chart on page 10 includes the number of these UC claimants living in private rented accommodation as part of the Private Rented total, but the statistics from DWP group all social rented claimants together, not separating local authority and housing association tenants. The statistics also do not share how much the housing entitlement component of Universal Credit is, so these sums are not included in the chart on page 11. The total amount of benefit paid for housing in London will therefore be higher when taking UC into account.
- 37 Julie Rugg and David Rhodes, "The Evolving Private Rented Sector: Its Contribution and Potential", University of York, Centre for Housing Policy, 2018, <http://www.nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf>
- 38 Greater London Authority, "Housing in London 2018", Table 6.10
- 39 Rugg and Rhodes, "The Evolving Private Rented Sector: Its Contribution and Potential", 2018
- 40 Andrew Dismore AM, "Rogue Landlords register", Question to the Mayor of London, 13 September 2018, <https://www.london.gov.uk/questions/2018/2208>
- 41 HC Deb 15 January 1980 vol 976 cc1443-575, <https://api.parliament.uk/historic-hansard/commons/1980/jan/15/housing-bill>

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