

Finance Committee

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

June 2017



National Assembly for Wales
Finance Committee

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Finance Committee

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

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Finance Committee

To carry out the functions of the responsible committee set out in Standing Order 19; the functions of the responsible committee set out in Standing Orders 18.10 and 18.11; and consider any other matter relating to the Welsh Consolidated Fund.

Current Committee membership:



Simon Thomas AM (Chair)
Plaid Cymru
Mid and West Wales



Mike Hedges AM
Welsh Labour
Swansea East



Steffan Lewis AM
Plaid Cymru
South Wales East



Eluned Morgan AM
Welsh Labour
Mid and West Wales



Nick Ramsay AM
Welsh Conservative
Monmouth



David Rees AM
Welsh Labour
Aberavon

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01. Background and Overview

1. The Abolition of the Right to Buy (Wales) Bill (the Bill) was introduced by Carl Sargeant AM, Cabinet Secretary for Communities and Children (the Cabinet Secretary) on 13 March 2017.
2. The Explanatory Memorandum (EM) sets out the key purposes of the Bill as being to:
 - abolish the right of eligible secure tenants to buy their home at a discount under Part 5 of the Housing Act 1985 (Right to Buy);
 - abolish the preserved right of eligible former secure tenants to buy their home at a discount under section 171A of the Housing Act 1985 (Preserved Right to Buy);
 - abolish the right of eligible assured or secure tenants of a registered social landlord or private registered provider to acquire their home at a discount under section 16 of the Housing Act 1996 (Right to Acquire);
 - encourage social landlords to build or acquire new homes for rent, the Right to Buy, Preserved Right to Buy and Right to Acquire will not be exercisable by tenants who move into new social housing stock more than two months after the Bill receives Royal Assent, subject to certain exceptions;
 - provide for at least one year after the Bill receives Royal Assent before the abolition of the Right to Buy, Preserved Right to Buy and Right to Acquire for existing social housing stock comes into force.
3. A Regulatory Impact Assessment (RIA) is contained in the EM, which presents the estimated costs and benefits resulting from the Bill.
4. The Committee took evidence from the Cabinet Secretary on the financial implications of the Bill on 3 May 2017.

02. Financial implications of the Bill

5. The RIA compares the costs of five options:

- Option 1: No change – maintain the current legislative regime concerning the Right to Buy and Right to Acquire;
- Option 2: Abolish the Right to Buy and Right to Acquire on newly-let social housing (only) two months after Royal Assent;
- Option 3: Abolish the Right to Buy and Right to Acquire on all social housing two months after Royal Assent;
- Option 4: Abolish the Right to Buy and Right to Acquire on all social housing one year after Royal Assent;
- Option 5: Abolish the Right to Buy and Right to Acquire after one year (as with option 4) but in addition, abolish the Right to Buy and Right to Acquire on newly-let social housing from two months after Royal Assent.

6. The EM states that option 5 is the preferred choice as it:

“provides the optimal security for the social housing stock and best achieves the policy intention of protecting the existing stock from further reduction.”¹

7. The Cabinet Secretary told the Committee asked that the Bill had not been driven by finances, but was:

“about the protection of existing stock and future stock and investment.”²

8. The EM states that there will be transition costs of £342,000 between 2017-18 and 2021-22, including £57,000 for the Welsh Government, £109,500 for local authorities and £175,500 RSLs.³ The costs to the Welsh Government include communicating the change in policy to local authorities and registered social landlords, updating project and management mechanisms, Ministerial support and communications and producing guidance setting out the new policy.⁴

Costs to local authorities and registered social landlords

9. The estimated costs to local authorities include informing tenants of the change in policy, updating websites, training staff and making any relevant changes to documentation. The EM explains that the estimated costs of 73,000 in 2017-18 and £36,500 in the following year are based on the experience of the first two of the three local authorities which have suspension in place of sending individual notification to all tenants, which indicates a cost of approximately £1 per council tenancy. The estimated costs for registered social landlords of £117,000 in 2017-18 and £58,500 the following year are based on the same assumptions.⁵

¹ Explanatory Memorandum, paragraph 6.5

² National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 24

³ Explanatory Memorandum, Table 18

⁴ Explanatory Memorandum, paragraph 6.115

⁵ Explanatory Memorandum, paragraphs 6.117 and 6.118

10. The RIA identifies a wide range of potential costs or benefits resulting from the impact of the Bill on the finances of local authorities and RSLs. The results of the modelling carried out to assess the financial impact of a restriction on sales demonstrates that between 2017-18 and 2026-27, this ranges from a potential benefit of £57.4 million present value to a potential cost of £75.3 million present value.⁶

11. The RIA details how this work looked at a wide range of assumptions, including:

- Modelling the impact of 20% and 50% increases in the number of Right to Buy and Right to Acquire sales in the year following Royal Assent.
- Considering the impact of the rental surplus against capital receipts from sales of properties, with different scenarios for the rental surplus being presented based on the average rent, maintenance and repair costs, management costs and useful lifetime of properties.

12. Table 2 in the RIA sets out the three different scenarios used in the modelling by the Welsh Government. These are then used as the basis for modelling the impacts of different levels of increases in the level of Right to Buy and Right to Acquire sales following Royal Assent, and also different lengths in the useful lifetime of sold properties. These scenarios take into account that the Right to Buy and Right to Acquire have been suspended in three local authorities - Carmarthenshire, Isle of Anglesey and Swansea. The scenarios do not take account of the suspension of the Right to Buy in two further local authority areas – Flintshire and Denbighshire, as suspension in these areas occurred following the preparation of the RIA.

13. Based on these potential scenarios, tables 3 and 4 in the RIA set out the assessments of the impact of the Bill on local authorities and RSLs. In the scenarios where local authorities and RSLs are currently financially benefitting from Right to Buy and Right to Acquire sales, it is estimated that the impact of the Bill over the ten years following it receiving Royal Assent would be negative, whereas in the scenarios where they do not financially benefit from sales the Bill will have a positive impact.⁷ The Cabinet Secretary said he thought scenarios B or C were more likely to happen, but could not be completely sure.

14. The Cabinet Secretary subsequently wrote to the Committee on 17 May and provided further details of the modelling used by the Welsh Government to measure the financial impact of the Bill on social landlords. The Cabinet Secretary's letter is attached as Annex 1 to this report.

15. The Cabinet Secretary explained to the Committee that the variability was due to being unable to predict what stock would be sold and the condition of that stock. Despite the variability, the Cabinet Secretary told the Committee that he was confident that the figures in the RIA are accurate.⁸ The Cabinet Secretary went on to say that although the variability in the costs and benefits was great, as it would be borne and across all RSLs and local authorities, it would be "quite a small amount in relation to each body".⁹ He confirmed that the Welsh Government would "not be seeking additional funding to be transferred to RSLs if they have financial risk in this".¹⁰

16. The Cabinet Secretary explained that the experiences of Flintshire and Denbighshire had not been taken into account as the suspension of Right to Buy and Right to Acquire in those areas had

⁶ Explanatory Memorandum, paragraphs 6.119 - 6.123

⁷ Explanatory Memorandum, Tables 19 and 20

⁸ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 10

⁹ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 23

¹⁰ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 26

only occurred in February and March 2017. In relation to the three local authority areas whose suspension had been taken into account, he said that it had provided them with the opportunity to build over 500 new properties. In response to questioning from the Committee the Cabinet Secretary confirmed that the cost of building new properties is substantially greater than the value likely to be achieved by sale.¹¹

17. In relation to questions from the Committee on landlords' reliance on Right to Buy sales receipts to fund capital investment and repair work, the Cabinet Secretary said that there was very little evidence that local authorities used this as a main source of support for maintenance within the housing sector.¹²

Costs of Local Housing Allowance resulting from the current policy

18. The EM refers to evidence from across the UK that some properties purchased under the Right to Buy or Right to Acquire end up in the private rented sector, and are subject to Housing Benefit claims under the local housing allowance. It notes that the Welsh Government conducted a study across eight local authorities¹³ to assess the extent to which this has increased costs to the UK Government in increased Housing Benefit payments to properties sold since 1997-98, compared to if the properties had remained in the social rented sector. It says that extrapolating the model to calculate an estimate for Wales, the study estimates that the additional cost as a result of Right to Buy and Right to Acquire is approximately £4.4 million per financial year from 2010-11, although the estimate is based on a number of assumptions and the RIA advises that it be treated with some caution.¹⁴

19. The Cabinet Secretary told the Committee that the data-matching exercise across the eight local authorities showed that almost 12.5 per cent of those properties ended up in the private rented sector and were in receipt of housing benefit, which equates to around 9,000 properties across Wales. He added that:

“We think the estimated additional cost per claim is around £2,300, and therefore £22 million over five years, or £4.4 million per annum. But that is a very general assessment based on the eight.”¹⁵

20. Subsequently, in his letter of 17 May, the Cabinet Secretary provided further details:

“The research undertaken by the Welsh Government looking at housing benefit claims was based on past Right to Buy sales (those since 1997) and estimated an annual cost to the public purse of £4.4 million. The research was not extended to look at the potential savings from preventing future Right to Buy sales. Given the evidence in the research it does seem likely that, if the Right to Buy were allowed to continue, some properties sold under the scheme in the future would eventually find their way into the private rented sector and be

¹¹ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraphs 16 & 17

¹² National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 48

¹³ Welsh Government, [Study into the level of transfer of former Local Authority Stock into the Private Rented Sector following sale via the Right to Buy and the additional costs to the public purse in terms of Housing Benefit payments](#), March 2017

¹⁴ Explanatory Memorandum, paragraphs 6.41 – 6.44

¹⁵ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 63

subject to a claim for housing related benefits. This would add to the existing cost to the public purse.”¹⁶

Staffing costs included in the Bill

21. The Bill provides for the Right to Buy to be abolished at least one year after the legislation receives Royal Assent, so eligible tenants would have a period of one year to make an application to the scheme.

22. The Chartered Institute of Housing Cymru (CIH Cymru) have expressed concerns that, given the possibility of an increase in the number of Right to Buy and Right to Acquire enquiries and applications, there may be an impact on staffing in the short-term. In its written evidence to the ELGC Committee, it referred to the experience in Scotland where the number applications to the Right to Buy scheme had increased following the passing of legislation to end the scheme there. It stated:

“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.”¹⁷

23. Community Housing Cymru also referred to a possible increase in the number of applications to the Right to Buy scheme in its consultation response:

“We believe the only unintended consequence of the Bill as it is currently drafted is the potential for a spike in Right to Buy and Right to Acquire sales in the interim period between the Bill being enacted and the rights ceasing to exist. Steps to prevent this could include reducing the discount in the interim period, or ensuring that tenants are aware of the other low cost home ownership options available to them, including those offered by housing associations.”¹⁸

24. The RIA notes that £650 is used as the average administrative cost of a completed Right to Buy or Right to Acquire application. The costs provided by a range of local authorities and RSLs indicates that there is a range of between £300 and £900 per application made, depending on whether in-house legal support is available or not, and also the stage that the application reaches.¹⁹

25. The Cabinet Secretary told the Committee that he was aware that the principle of the policy change would cause an additional spike in applications, however he said:

“There is little I can do about that and we’re just going to have to live with it.²⁰ I don’t think, even with a surge, it’s going to be that onerous in terms of an RSL or local authority being able to deal with that.”²¹

¹⁶ [Letter from the Cabinet Secretary for Communities and Children to the Finance Committee, 17 May 2017](#)

¹⁷ Written evidence, Equality, Local Government and Communities Committee, [ARTB 10, Chartered Institute of Housing Cymru](#)

¹⁸ Written evidence, Equality, Local Government and Communities Committee, [ARTB 03, Community Housing Cymru](#)

¹⁹ Explanatory Memorandum, paragraph 6.24

²⁰ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 65

²¹ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 69

26. The official accompanying the Cabinet Secretary explained that tenants would be able to make an application up until the day before the scheme is abolished, but that the completion of a sale could occur following abolition. The Cabinet Secretary accepted that should a large number of applications be submitted on the final day before abolition, it would take a period of time to complete those applications and confirmed that the modelling included in the RIA covered that period.²²

Costs to the Welsh Government

27. The RIA estimates the additional costs to the Welsh Government as being £57,000, made up of £42,000 in 2017-18 and £15,000 in 2018-19. These implementation costs will cover staff costs for producing guidance setting out how the law has changed, and communicating the policy change to social housing tenants. The RIA does not provide a detailed breakdown of the costs of these individual elements.

28. The Cabinet Secretary told the Committee that the estimated figures covered the costs of updating websites and writing to all landlords to inform them of their duty to inform their tenants of the policy change.²³

The Cabinet Secretary subsequently provided the Committee with a breakdown of the estimated staff costs for the Welsh Government, which is included in his letter of 17 May as an annex to this report. He also explained that estimated costs for Year 2 cover:

“envisaged residual enquiries, calls for clarification from social housing landlords and responding to new applicants and tenant communication/enquiries and the potential need for a follow-up exercise prior to expiration of the one-year period.”²⁴

Financial impact on tenants

29. The RIA does not include figures to quantify any financial impacts on tenants. It notes that, following the one-year notice period, they will lose their right to purchase their home under the Bill’s proposals. It notes that the alternative options for tenants are to continue paying rent in social housing, or to secure a mortgage to purchase a home in the owner-occupied sector. Page 50 of the RIA notes that the average mortgage payment per month is estimated to be £642 in Wales, based on the average house price in 2016 of £122,000 and a 10% deposit. However, the RIA does not detail the extent to which this is different from the average mortgage that would be payable on a property purchased under the Right to Buy or Right to Acquire, or quantify other costs such as moving costs, repair and maintenance costs. The RIA also notes that the average selling price for properties sold under the Right to Buy scheme was £73,800 in 2015-16, with purchasers receiving an average discount of £15,400.

30. A further area in relation to tenants that has been discussed in Plenary²⁵ and in the Scottish Parliament’s scrutiny of the Housing (Scotland) Act 2014 is the possible financial impact on tenants who purchase their properties in the year prior to the Right to Buy being abolished. Concerns were expressed in Scotland about the financial and other impacts on people who purchase their properties, for example that they may be subsequently unable to afford to improve or maintain properties, leading to issues such as fuel poverty.

²² National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraphs 81 - 85

²³ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraphs 73-75

²⁴ [Letter from the Cabinet Secretary for Communities and Children to the Finance Committee, 17 May 2017](#)

²⁵ National Assembly for Wales, Plenary, [Record of Proceedings](#), 14 March 2017

31. The Cabinet Secretary told the Committee:

“we would want to ensure that the information we share with landlords includes financial advice for all individuals that may be seeking to purchase. We have an eye on the issue of rogue investors, making sure that they don’t see this as a prospecting opportunity, but that is captured by the five-year rule anyway. So, if anybody was to consider buying in that certain length of time there’d be a safeguarding in that. But you can’t get away from the fact that there will be some people there preying on more vulnerable people than others, because of the financial interests in property. But we will be issuing guidance to landlords for them to distribute to all their tenants. So, we think we are providing enough information, and I’ve shared that with committee. If they feel that that should be more robust, then I’m happy to do that. I think it’s only right that we help and support tenants.”²⁶

Costs of post-legislative evaluation and subordinate legislation

32. The RIA notes that if the Bill is passed by the Assembly then a bespoke programme of work will evaluate the impacts over time. This will include the period between the Bill receiving Royal Assent and coming into force a year later, as well as subsequent years. It says that monitoring and evaluation will allow reporting at key intervals such as a year after the Bill has been commenced.²⁷

33. The Bill also includes four powers for the Welsh Ministers to make related subordinate legislation. RIAs will be produced to show the costs and benefits when this is introduced, however they are not included in the costs and benefits set out in this Bill.²⁸

34. In response to questioning from the Committee the Cabinet Secretary said:

“we believe the RIA is correct. We don’t foresee any significant costs coming through, and any current costs that we are anticipating are either in the RIA or will be managed through the internal budgets of the department.”²⁹

Committee view

35. The Committee notes the wide variation in the figures provided in the Regulatory Impact Assessment to estimate the potential financial costs or benefits that could arise from implementing the Bill’s provisions, however it acknowledges the difficulty in developing definitive figures given the uncertainties in predicting the number of property sales, as outlined by the Cabinet Secretary. Whilst the Committee would always prefer to see legislation accompanied by robust estimates of its financial implications, it is reassured by the modelling work undertaken by the Welsh Government in relation to this Bill and the Cabinet Secretary’s assertion that the figures provided in the RIA are accurate, despite the variations.

36. The Committee notes the caution voiced by some stakeholders that a surge in applications by eligible tenants to exercise their right to buy, could result in a substantially increased workload for during the one year period following Royal Assent. Despite these concerns, the Committee is reassured by the confidence expressed by the Cabinet Secretary of the support among the housing

²⁶ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 91

²⁷ Explanatory Memorandum, paragraphs 8.1 & 8.2

²⁸ Explanatory Memorandum, paragraphs 5.1 & 5.2

²⁹ National Assembly for Wales, Finance Committee, Record of Proceedings, 3 May 2017, paragraph 97

sector for the Bill's provisions. The Committee acknowledges the potential increase in workload that could arise, but feels that at this stage there is insufficient evidence to believe that the burden this could place on the sector would be too onerous.

37. A common theme of this Committee and of its predecessor in scrutiny of several Bills has been the lack of sufficiently robust scrutiny by the Assembly to the amending of primary legislation through secondary legislation. The Committee notes the Cabinet Secretary's assurances that the figures included in the RIA are correct and that foreseeable costs are accounted for. The Committee welcomes the Cabinet Secretary's commitment to publishing updated financial information in the revised Explanatory Memorandum to be published following the completion of Stage 2 proceedings, and, in line with its previous decision to consider updated information in revised explanatory memoranda, will receive a paper to note in due course.

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-0327-17

Simon Thomas AM
Chair
Finance Committee
National Assembly for Wales

17th May 2017

Dear Simon

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

Thank you for your letter of 3 May following my attendance at the Committee's meeting earlier that day on the Abolition of the Right to Buy and Associated Rights (Wales) Bill.

In your letter, you asked for further details of the estimated staff costs to the Welsh Government and the modelling used to measure the financial impact of the Bill on social landlords. Details of both matters are set out in the annex attached.

I should also like to take this opportunity to clarify the position on research which was discussed during the meeting (and referred to in paragraphs 60 to 63 of the transcript). The research undertaken by the Welsh Government looking at housing benefit claims was based on past Right to Buy sales (those since 1997) and estimated an annual cost to the public purse of £4.4 million. The research was not extended to look at the potential savings from preventing future Right to Buy sales. Given the evidence in the research it does seem likely that, if the Right to Buy were allowed to continue, some properties sold under the scheme in the future would eventually find their way into the private rented sector and be subject to a claim for housing related benefits. This would add to the existing cost to the public purse.

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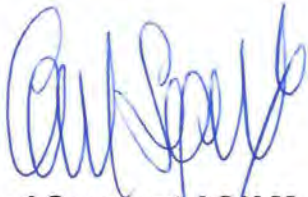
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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.

I hope this is helpful. If you would like any further information, please let me know.

Yours sincerely



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

Details of the estimated staff costs to the Welsh Government

Set out below are details of the calculation of the estimated staff costs to the Welsh Government for the preferred option 5 in the RIA (ie £57,000 which comprises £42,000 in 2017-18 and £15,000 in 2018-19).

The following estimates identify the transitional costs, covering: the drafting and resultant communication of the policy change, the production of guidance clarifying how the law has changed as a result of the 'Act' and the impact of the legislation for social housing tenants.

<u>Year 1 (2017-18)</u>	<u>Year 2 (2018-19)</u>
Policy input – MB2 x 50% £27,044	Policy Input – MB2 x 25% £13,522
Team Support x 10% £ 2,711	Team Support x 5% £ 1,355
Legal - G7 x 10% £ 7,130	
Translation – MB2 x 5% £ 2,704	
Comms - MB2 x 5% £ 2,704	
£42,293	£14,877
rounded @ £42,000	Rounded @ £15,000

These are annual gross costs, including on-costs (NI & employer's pension contribution) using the normative methodology of daily cost of working days multiplied by the expected number of days input at each pay grade.

Year 2 costs envisaged residual enquiries, calls for clarification from social housing landlords and responding to new applicants and tenant communication/enquiries and the potential need for a follow-up exercise prior to expiration of the one-year period.

In line with the description in the Explanatory Memorandum (and RIA) the costs to the Welsh Government are estimated to require a relatively small time input from policy officials (consolidated as a single officer in a mid-range policy post) and respective input from lawyers, communications and translation officials.

*** Key**

MB2 – Management Band 2
G7 – Grade 7

Details of the modelling used by the Welsh Government to measure the financial impact of the Bill on social landlords

1. The modelling presented in the Regulatory Impact Assessment (RIA) compares the impact on Local Authority and RSL's finances of alternative options in which the Right to Buy is abolished to a baseline option in which the Right to Buy remains in place.
2. The model captures the following competing financial impacts resulting from the sale of a property under the Right to Buy. Upon selling the property, the landlord receives a capital receipt equal to the market value of the property *less* any discount which the tenant is entitled to. In addition, the landlord will no longer be responsible for managing or maintaining the property. Against this, the social landlord will incur a cost in having to administer the Right to Buy application and no longer receives a rental stream from the property.
3. The model incorporates a number of variables, including:
 - the number of sales in the baseline option;
 - the market value of properties sold under the Right to Buy;
 - the value of the discount;
 - the rent on the property (if the property is retained in the social sector);
 - the repair, maintenance and management costs that would be incurred if the property is retained in the social sector;
 - how long each property is expected to last;
 - the impact on the number of sales of a 12-month notice period (i.e. the potential spike in sales)
4. While data is available for these variables for previous years, the number of properties which will be sold under the Right to Buy in future years is clearly unknown, as are the characteristics of those properties (value, age, state of repair, rent etc.). As such, a number of assumptions were required. Given the degree of uncertainty around some of the variables, it was considered prudent to adopt a scenario modelling approach which considered alternative levels for rents, repair and maintenance costs and management costs (these scenarios are set out in paragraphs 6.27 to 6.29 and Table 3 of the RIA). Alternative periods of 30, 40 and 50 years for the remaining useful life of the properties (the period over which the rental surplus would continue to accrue if a property was retained in the social sector) were also included in the modelling. Finally, 'spikes' of 20% and 50% were included in the modelling to reflect the expectation that sales will increase in the lead-up to abolition.
5. It is this scenario based approach which has resulted in the broad range of financial estimates in the RIA. The Welsh Government considers that, due to the uncertainties involved, the modelling adopted is the best approach and that presenting the potential financial impacts as a broad range is more robust than presenting a single point estimate.