New model for shared ownership – technical consultation

National Housing Federation response

17 December 2020

Summary

We welcome the clarity that this consultation paper provides around the detail of this new model of shared ownership, but are concerned about its introduction at a time of significant market and economic uncertainty.

We feel that the costs and complexity of the proposed new arrangements risk impacting negatively on housing associations' appetite and ability to build new affordable homes. The response of lenders to the consultation paper will also be critical to determining whether the new model of shared ownership is viable.

Our response addresses the questions posed in the consultation but we are calling on the government to pause the introduction of the new model, and to work with the sector to develop proposals which both meet the government's objectives on increasing home ownership and deliver a shared ownership model which has the support of both shared owners and housing associations.

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Background

The National Housing Federation (NHF) is the voice of housing associations in England. Housing associations are committed to helping people into home ownership and are the main providers of shared ownership homes in England.

In 2019/20, housing associations built more than 14,700 new shared ownership properties. However, our research suggests that we need to build around 25,000 shared ownership homes each year in order to meet housing need in this part of the market.

Shared ownership is a tried and tested product, currently allowing someone to buy a home with an initial deposit as low as 1.25% of its total value. It has also proved to be a popular product. There are more than 186,000 homes in shared ownership right across the country, and a further 134,000 which have staircased to full ownership through the scheme.

Housing associations are committed to improving the experience of shared ownership for customers, and we recognise that existing arrangements can be improved. This is why in January 2020 the sector launched a nationwide advertising campaign to help prospective purchasers better understand the product and help more people into home ownership. We have also established a steering group of housing associations to explore how we can improve the experience of shared owners. We look forward to working with the government and Homes England on delivering this shared ambition.

Introduction

We welcome the consultation paper and the opportunity to shape the detail of how the new model of shared ownership should be implemented. We also welcome the clarity that the consultation paper starts to provide which will help housing associations when preparing bids into the new Affordable Homes Programme (AHP).

However, we remain concerned about the impact of introducing a new model of shared ownership into the market at a time of huge economic uncertainty. The challenges and uncertainty surrounding the new model (some of which we explore in our response below) – on top of the uncertainty that the sector and market already faces – risks impacting negatively on housing associations' ability and appetite to build new shared ownership homes.

When combined with the Right to Shared Ownership, which the government plans to introduce alongside the new model of shared ownership, this will also be detrimental to the financing of the sector in a number of ways.

At a time when the sector should be increasing investment to deliver a counter-cyclical boost to the economy, the risk is that the introduction of a new model of shared ownership will see investment in new affordable homes being delayed or being cut.

For these reasons, the NHF has previously called on the government to delay the introduction of the new model and to work through the detail with the sector and wider stakeholders. We note that other key players in the housing market, such as Legal & General, are now making similar requests.

Given this, we would call once again on ministers to pause their plans and to work with the NHF and other stakeholders to agree an approach that will deliver ministers' priorities around increasing home ownership whilst ensuring that housing associations have the confidence and certainty to invest in new shared ownership homes and that shared owners have a genuinely better customer experience. This might be achieved by improving the current model.

Consultation questions

Whilst we would like to see the introduction of the new model delayed, we have still responded to the questions in the technical consultation paper. Our response is set out below.

Reducing the initial minimum stake to 10%

Q. What steps could we take to prevent shared owners from being exposed to unfair lending terms?

The NHF has received feedback that there is little appetite from lenders to lend at 10%. With few lenders in the market, this will impact on housing associations' ability to sell at the minimum stake and risks forcing shared owners into unfair lending terms.

As a sector committed to affordable home ownership and improving the experience of shared owners, we must not allow this to happen. **We therefore want to see tighter affordability testing and credit checks for those buying at less than 25%.**

Metro Finance has suggested reducing the current 45% debt-to-income ratio to 35% for sub-25% shares. While this would require a higher minimum income to purchase, it also reduces the risk that a buyer might fall into financial difficulty.

Some members have suggested that there might be an approved panel of lenders or brokers for shared ownership properties, to prevent reliance on unsecured lending. Some have also suggested that only secured mortgage funding or legitimate cash purchases (i.e. with evidence of the source of funds, such as inheritance, savings, etc.) should be permitted as a means of purchase.

It will also be important that prospective purchasers seek independent financial advice. Purchasers should be signposted to the Financial Conduct Authority register to ensure their chosen provider is appropriately authorised and regulated.

We note the review of affordability and sustainability guidance being undertaken by Homes England and welcome the offer to input. **To ensure there is a common understanding of the risks and challenges faced by purchasers of sub-25% shares, we think it important that the Homes England review is as open and**

inclusive as possible. Housing associations should be given maximum power to refuse to sell to customers who do not meet affordability criteria.

We think there is also a role for Homes England to engage the lender community more broadly, with a view to bringing more lenders into the shared ownership market. This could mitigate some of the risks faced by shared owners of sub-25% shares from a lack of competition in the lender market. It could also help address the specific lack of lenders in some parts of the country or practices that reduce potential purchasers (such as requirements for 15% deposits). As part of this, the government might leverage its relationships with larger lenders to encourage their entry into the market.

It is in the best interests of shared owners that they maximise their stake in the property, including those who may initially be attracted to a 10% stake. **Housing associations will therefore continue to encourage purchasers to buy the maximum share they can afford. Housing associations should also be free to continue to market to a range of buyers, and at a range of price points.** This will be important to ensure that developments remain viable and that purchasers are able to make informed choices.

Q. How will a smaller initial stake impact the relationship between lenders and providers and are there any steps we need to take to address this?

There is real uncertainty about the response of lenders to the new model. We think there is currently little appetite amongst lenders to lend at the reduced ownership stake. And some housing associations have flagged concerns about existing lenders exiting the market. As such, it will be important that the lender market gives a clear view on whether it is prepared to offer mortgages at sub-25% levels. **MHCLG needs to work with lenders to provide this clarity before the new model is launched.** The details of the new model lease, particularly the mortgage protection provisions, will also need to be discussed with current lenders to ensure that they are comfortable with the details.

A number of housing associations have highlighted concerns that the new shared ownership model could cause difficulty for them in being able to borrow. Some funders already cap the amount of shared ownership homes that can be used as security against loans. The new model could exacerbate this issue as it presents a higher risk of default. If funders are unwilling to lend, this will impact on the sector's ability to build new homes.

Lenders' investment is largely protected through the Mortgage Protection Clause. If a smaller initial minimum stake results in more shared owners falling into financial difficulties, then this increases the risk to housing associations (as any debt owed to the lender will be deducted from the housing association's equity share). More robust affordability testing and credit checks should mitigate this risk. Some members have suggested a limit to be set for the Loan to Value (LTV) and for very clear rules around what costs lenders can claim in repossession situations. We have also received suggestions that the government considers giving providers the ability to repurchase the share from the lender so as to retain the shared ownership unit.

1% staircasing

Q. Do you agree that HPI valuations should be valid for 3 months, if no, then how long should they be valid for? Are there any specific circumstances where local authority HPI data may not be appropriate and regional HPI data or other would be preferable?

Some members support a House Price Index (HPI) approach, but we need to accept that there are limitations using HPI data.

For example, we have seen reports that local authority HPI data can quickly become dated, or that a small number of high value transactions can result in the data becoming skewed. An HPI approach may also prove challenging in a turbulent market.

However, we recognise that this needs to be set against the benefits of an approach which is relatively simple and straightforward, for both housing associations and shared owners, and which keeps costs to a minimum.

If MHCLG goes ahead with this approach, it should ensure that HPI data is published and readily available from a central source, whether from local authorities or the Greater London Authority. It will also be essential that MHCLG secures lenders' support on valuations.

Q. Is there a risk that 1% gradual staircasing will conflict with housing associations' charitable obligation to sell assets at best value?

It is possible that housing associations won't always get the best valuation by using local authority HPI data. However, this needs to be offset against the costs of a system that requires a new valuation every time the shared owner wants to buy an additional 1% share. At 1%, the differences involved are also likely to be quite modest.

One way to minimise the risk of conflict would be to cross-check against market values and comparable transactions to reflect market sentiment on a periodic basis (e.g. every couple of years) in order to ensure best value.

To provide clarity, however, MHCLG should seek further guidance from the Charity Commission on the proposed approach.

Q. Do you have any further views on how best to implement the 1% gradual staircasing model?

Metropolitan Thames Valley Housing Association (MTVHA) already has a 1% staircasing model called SO RESI Plus. In our 2019 response to the MHCLG consultation on a New National Model for Shared Ownership we suggest using the MTVHA approach as the basis for developing a national 1% staircasing model.

Under the MTVHA model, the shared owner opts into the scheme and every year decides whether or not to staircase by 1%. There is no obligation to staircase and administration costs are kept to a minimum. The price of the 1% share is set at year 1 and then increases by 3% annually. This provides certainty over future pricing and avoids the need for a new valuation upon each equity purchase.

The additional equity share is recorded in the Memorandum of Staircasing, and MTVHA writes to the lender informing them of the transaction. There are no additional legal costs. The shared owner is able to register their additional share with the land registry at their own cost but they are under no obligation to do so. The lease and land registry are updated when the shared owner exits the scheme (which they can do at any point up to 15 years).

This approach provides a simple and low-cost model of staircasing for low value cash transactions. It provides a high level of flexibility for customers, who are under no obligation to take up their 1% share each year and can opt out of the scheme entirely at any point.

The fixed 3% annual increase does mean the housing association could lose out on any asset price appreciation above 3% but this needs to be balanced against affordability concerns for shared owners and the administrative costs of a system which relies on market valuations. MTVHA has engaged at length with lenders who support the model.

More information on SO RESI Plus can be found here.

Repairs and maintenance

Q. Should any of the specified repairs, inside the home, not be within scope for this policy? Do you agree with the maximum costs (£500) that can be claimed by a shared owner for essential repairs inside of the home? If no, then what should the maximum be?

The NHF welcomes the cap on internal repair costs. This provides clarity and certainty for housing associations. It also represents a good deal for new shared owners.

We are broadly content with the scope of specified repairs as set out in the consultation paper but there must be a clear definition of items within scope included in the new model lease to limit the potential for disputes with leaseholders over interpretation.

We would welcome clarification around the calculation of costs. Feedback from a number of our members has suggested that an annual cost of around £250-£350 would be more reasonable for a new build property.

We have also seen the analysis undertaken by Legal & General which estimates that the average annual repair costs would be around £250 for a new house and £450 for a new flat (although costs could be more for a housing association with higher overheads).

We see value in having the same cap for all types of property. Feedback suggests this should be around £350. We would be prepared to work with MHCLG at speed to deliver a hard evidence base to inform a final decision on costs.

Q. Do you agree with the maximum roll over period (1 year) for unused repairs expenditure? If not, then what should the roll over period be?

The NHF believes that repair expenditure should be used within the given 12 month period. There should not be a roll over period.

It will be complex and bureaucratic to put a system in place to monitor and manage roll over periods. This would also complicate what would otherwise be a clear offer to new shared owners.

Q. What process should be put in place to enable shared owners to reclaim eligible repair expenditure from their landlord and resolve disputes?

It will be important that whatever processes are agreed are simple and straightforward – both to keep administrative costs to a minimum and to ensure that shared owners are able to access fund and/or make claims to their landlord quickly and easily.

There is a very real risk, however, that we will end up with a bureaucratic, resource-intensive, and process-heavy system. This would create additional costs and complexity for housing associations, and would be confusing and frustrating for shared owners.

This could also be a real source of complaints and dispute.

Given the very short consultation period, the NHF is still working through options and approaches with housing associations. **We would ask MHCLG to continue to work with the NHF and the sector on the implementation of the new model of shared ownership over the coming weeks and months.**

However, of the different approaches and options discussed with members, the rebate approach would be the simplest and least costly to administer. It would also probably be the most popular with shared owners. This annual sum could also be factored into the grant rate in a fairly straightforward way, although Homes England will need to accept this as a given when they assess bids.

The rebate approach

This approach would see the shared owner receive the full annual maximum allowance (£500 as proposed in the consultation paper) every year in cash or in-kind. This could be in the form of a rent reduction, a credit to the shared owner's service charge, or a direct payment to the shared owner.

This would be a simple, cost-effective option. It would keep the administrative burden to a minimum and would allow shared owners to use the cash or savings to pay directly for any repairs.

We recognise there may be value for money concerns around this approach. But these need to be offset against the complexity and cost, and the risk of dispute, inherent in other options.

If the rebate approach is not acceptable, then we would argue for flexibility for housing associations to adopt either a landlord-led approach or a shared owner-led approach. We will however need some common guidelines to ensure that shared owners have the same experience. We will need to ensure that we are transparent and clear upfront with the shared owner about how this will work before they purchase a home. The government will need to be clear in its communications about the product too.

The landlord-led approach

This would see the landlord take direct responsibility for external and eligible internal repairs.

For a number of housing associations, this would be the preferred option. It would allow them to oversee quality and minimise the administrative burden of a reclaims system. It would be more suited to those that deliver their own building and maintenance works.

This would also be a much simpler process for the shared owner, compared to a process where they have to organise repairs then claim back.

Some members have suggested that the landlord might take on responsibility for all repairs (not just the repairs specified in the consultation period) but for a much shorter period, perhaps four or five years.

The shared owner-led approach

This would see the shared owner organising repairs and then claiming the expenditure back from the housing association.

The shared owner would be responsible for procuring, paying and evidencing repair work to the landlord, before being recompensed up to the maximum allowed.

This would be the most complex process. There could be significant administration involved in processing and checking claims. There is also great potential for disputes between landlords and shared owners.

One way to reduce some of the administration and lessen the risk of disputes may be to provide the full 10-year cash entitlement up front, rather than on an annual basis. All repairs would be charged against this allowance until the sum is used up or until the end of the ten year period (for new builds).

Q. What steps should be taken to ensure claims are genuine?

This depends on which approach is taken. But the onus should be on the shared owner to comply with the rules.

Shared owners should made aware that qualified, appropriately insured, trades will have to be used under the shared owner-led approach. An audit trail of quotes, invoices and receipt of payment will also be required for claims.

Any auditing or checking of claims should be proportionate. A complex process will provide poor customer service and add significant administrative cost to landlords. We would like to see a light-touch process, maybe involving sample checks to provide assurance and requiring anti-fraud statement in the acknowledgement when a claim is received.

We see no evidence of any need for new complaint or dispute resolution processes.

Section 106

Q. Do you agree that we should apply the same transitional arrangements to shared ownership as the one proposed for First Homes? Please give your reasons.

The NHF welcomes the recognition of the need for transitional arrangements. This will be essential if we are to ensure the continued viability of shared ownership developments that are already underway and to maintain the pipeline of supply of new affordable homes.

Whilst we welcome the flexibility proposed in the consultation paper, we need more clarity and certainty about when the transitional arrangements will apply.

We believe that the new model of shared ownership should not be applied retrospectively. It should only apply to genuinely new projects and developments.

This would mean that any schemes that have been contracted, that have formal pre-application responses by local planning authorities (LPAs) or that have any form of planning permission agreed by the deadline are subject to the transitional arrangements.

Any schemes which have a signed S106 agreement in place or which are actively progressing S106 agreements by the deadline should be subject to the transitional arrangements.

Any planning applications which have been rejected by the deadline but where the decision is to be appealed, or where a Section 73 notice has been served, should also fall under the transitional arrangements.

We also believe that the new model should be delivered through S106 developer contributions from 1 April 2022.

The consultation paper proposes that the new model should apply to all new shared ownership homes delivered through S106 contributions from 1 April 2021. Even with the clarity that we call for in the paragraphs above, we are still concerned that these proposals will impact on development plans and on the pipeline of new affordable homes.

We are already hearing reports of our members pausing and cancelling development plans because they cannot achieve planning approval before April 2021.

We are also hearing of long delays in the planning process. The impact of coronavirus on LPAs has been significant and we are aware of at least three months' delay being reported by members who had to apply through the national planning portal during the national lockdown following requests by LPAs.

A longer transitional period would address these concerns. It would ensure that current developments can continue, and provide more time for housing associations to prepare for the new model.

It would also provide more time for LPAs, who will have medium and long-term tenure numbers based on the current policy, to amend their policies and plans.

Other issues

Q. Are there any further delivery issues we should consider ahead of implementing this approach?

Cost

The changes proposed will result in increased costs for housing associations to finance the additional repairs responsibilities, and to set up and administrate the more gradual staircasing. This will have a negative impact on the viability of schemes for social landlords. More grant funding will be required under these new arrangements to make schemes work financially.

A study by the G15, an organisation of the largest housing associations in London, estimated that landlords will need around £21,000 per unit additional grant to restore the viability of schemes. Savills estimates the impact of the repair-free period alone to be between £6,000 (for houses) and £11,000 (for flats).

This is reflected in feedback we have received from our members. Some members' financial modelling suggests that the impact of the repairs and maintenance funding will require an increase in grant in the region of £7-10,000 per new home. If sales at 10% equities is added, the additional grant requirement increases to £25-30,000 per home.

Other members have calculated that grant rates of over £50k a unit will be required to make the new model work.

We welcome the recognition in the consultation paper that the new model will be more costly. This needs to be reflected in grant rates under the new programme.

Multiple shared ownership products

Introducing the new model of shared ownership alongside the existing shared ownership model will see two different products in the market, maybe even within the same scheme. This could impact on price and on housing associations ability to sell. **We would like to see additional grant made available (for existing shared ownership properties) to support housing associations in such cases.**

Pre-emption clause and nominations period

We have some concerns about the proposal to shorten the pre-emption clause and nominations period from eight to four weeks. We want to improve the experience of shared owners but have concerns about changes which may accelerate the loss of affordable homes from the market.

Some housing associations have reported that it can take several weeks for all valuations, photos, listings etc. to come together before the property is marketed. **We would therefore like to see this period remain at eight weeks**. A four week period might be appropriate if started from the point at which valuations for the property were agreed.