



Department for
Communities and
Local Government



Homes &
Communities
Agency

Proposals to streamline the resale of shared ownership properties

Consultation: Summary of Responses



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Section 1

Introduction

1.1 On 31 January 2015, the Government published a consultation paper setting out proposals to streamline the resale of grant funded shared ownership properties through changes to the Homes and Communities Agency guidance and the shared ownership model leases.

1.2 The consultation paper is available at:

<https://www.gov.uk/government/consultations/proposals-to-streamline-the-resale-of-shared-ownership-properties>

1.3 The consultation sought views the questions below:

- Should the ability of housing providers to nominate a subsequent purchaser be retained in its current form for shared ownership and former shared ownership homes?
- Should the fundamental clause of the Pre-emption Right be revised for future shared ownership leases, to remove the ability of housing providers to nominate a subsequent purchaser for former shared ownership homes which have been fully purchased?
- Should the fundamental clause of the Pre-emption Right be revised, for future and existing shared ownership leases, to remove the ability of housing providers to nominate a subsequent purchaser for former shared ownership homes which have been fully purchased? (The application to existing leases would be through guidance for existing leases, with the expectation that the lease would be varied at the point of any future re-sale).
- Should the ability of housing providers to nominate a subsequent purchaser be removed completely for shared ownership homes, which have yet to be fully purchased, and former shared ownership homes which have been fully purchased?
- Should marketing of the property and providers' eight week nomination period happen at the same time rather than sequentially, for homes in shared ownership?
- Should the eight week nomination period be reduced to four weeks?

1.4 The Government also sought other proposals for how it might streamline the process for selling on shared ownership properties and encourage the market for second-hand shared ownership homes.

- 1.5 The consultation closed on 28 February 2015.
- 1.6 The Government have considered all of the responses received. Section 3 of this document summarises the responses. Section 4 of this document sets out changes on policy on shared ownership from the spring of 2015.
- 1.7 The Government is grateful to organisations and individuals who took the time to respond to the consultation.
- 1.8 Copies of this document are available from the Department for Communities and Local Government website at:
<https://www.gov.uk/government/consultations/proposals-to-streamline-the-resale-of-shared-ownership-properties>
- 1.9 Enquiries about the document should be addressed to:
sharedownership@communities.gsi.gov.uk

Section 2

Summary of responses

2.1 Eighty responses were received from local authorities, private registered providers of social housing, housing sector representative bodies and other organisations and individuals with an interest in shared ownership. These included the National Housing Federation, the Land Registry and the Royal College of Art. The table below sets out the origin of responses.

Responses by type of respondent

Type of respondent	Number of responses
Academic	1
Individuals	5
Lenders	5
Local authorities	16
Local, Community	2
Parliamentary	1
Policy and representative bodies	5
Private registered providers	41
Solicitors and legal	4
Total responses	80

Section 3

Responses to questions

THE PRE-EMPTION RIGHT

- 3.1 Shared ownership leases, funded through the Affordable Homes Programme, include a Pre-emption clause where the housing provider can nominate a subsequent purchaser and repurchase the property. This currently applies to both current and former shared ownership homes which have been 100% staircased. The housing provider has eight weeks to do so before the home is put on the open market. The right remains for 21 years after a householder has 100% staircased, and equally applies to any subsequent owner. The clause was introduced to retain shared ownership properties for those that might need them and who are in genuine housing need. However, providers can waive the right if they chose and many respondents stated the Pre-emption Right is rarely used.
- 3.2 It has been argued that the clause raises barriers to selling shared ownership homes, in particular for successive 100% owners, who buy some years on from final staircasing and who have never been shared owners. The Government therefore asked four questions about possible changes to the Pre-emption right.

The questions

Question 1: Should the ability of housing providers to nominate a subsequent purchaser be retained in its current form for shared ownership and former shared ownership homes?

Question 2: Should the fundamental clause of the Pre-emption Right be revised for future shared ownership leases, to remove the ability of housing providers to nominate a subsequent purchaser for former shared ownership homes which have been fully purchased?

Question 3: Should the fundamental clause of the Pre-emption Right be revised, for future and existing shared ownership leases, to remove the ability of housing providers to nominate a subsequent purchaser for former shared ownership homes which have been fully purchased? (The application to existing leases would be through guidance for existing leases, with the expectation that the lease would be varied at the point of any future re-sale).

Question 4: Should the ability of housing providers to nominate a subsequent purchaser be removed completely for shared ownership homes, which have yet to be fully purchased, and former shared ownership homes which have been fully purchased?

Responses to the consultation

- 3.3 There was a strong response that the Pre-emption Right in general played a vital role in retaining affordable home ownership properties for those that needed them. There was support for it to be removed where a property had been staircased to 100% ownership but there was also a strong that the right should be retained on properties where the shared owner's share remains below 100%. Some considered that the Pre-emption right was burdensome and placed restrictions on how properties were used, and should be removed entirely.
- 3.4 Some local authority respondents were opposed to any changes, particularly in regard to the Pre-emption right, and removal would restrict shared ownership opportunities for new eligible households. Some stated that the Pre-emption right was in principle useful as it allowed providers to buy back former shared ownership properties for further affordable housing. However, in practice the right was not exercised and is considered to be more of a hindrance than a help.
- 3.5 Some responses countered this argument by saying it was much more cost effective to channel any resources into the provision of new shared ownership properties rather than using it for buy back.
- 3.6 Of those respondents who supported the removal of the Pre-emption right for future shared ownership properties which have staircased to 100% ownership nearly all also supported the removal of the right from existing shared ownership properties which have staircased to 100% ownership. A small number were supportive of the former but concerned that the latter would have cost implications for providers.
- 3.7 A significant majority of more than two to one of respondents considered that the right should be retained for properties where the provider still holds a share.
- 3.8 A significant majority of more than three to one of respondents supported the removal of the Pre-emption right from future properties which are 100% staircased. Additionally, a significant majority of more than three to one of respondents also supported the removal of the Pre-emption right from existing properties which are 100% staircased.

Rural

- 3.9 There was a strong but sceptical response from some rural organisations that feared that the removal of the Pre-emption right might impact on Designated Protected Areas. There was also some concern that there may be impacts in Rural Exception Sites and the removal of the right may have an impact in areas where land had been gifted with a covenant to protect them for the local area.
- 3.10 On the proposal to remove the Pre-emption right on shared ownership homes which had staircased to 100%, most rural providers took the view that the

right was simply not relevant in rural areas with restrictive staircasing arrangements that are typically capped at 80%.

Government response

- 3.11 The Government believes that removing the Pre-emption right from existing and future shared ownership leases, where the owner has 100% staircased, will help to streamline the resale process and make the repurchase of former shared ownership properties a more attractive prospect.
- 3.12 Changes to the Pre-emption right would only impact on properties where owners have staircased to 100% ownership. Rural protected areas prevent staircasing above 80%, so the change would not impact in these areas.
- 3.13 The Chancellor announced in the Budget on 18 March that the Pre-emption right would be removed from the model lease for future shared ownership properties and that guidance would be amended to recommend that providers should remove the restriction against either the title for freehold former shared ownership properties or from within the lease for leasehold former shared ownership properties. Changes will come in to effect in the Spring of 2015.

THE EIGHT WEEK NOMINATION PERIOD

- 3.14 Providers currently have eight weeks to nominate new purchasers for an existing shared ownership home before it can be put on the open market. The consultation asked for views on two proposals, allowing shared owners to market the property concurrently rather than sequentially and reducing this period from eight weeks to four.

The questions

Question 5: Should marketing of the property and providers' eight week nomination period happen at the same time rather than sequentially, for homes in shared ownership?

Question 6: Should the eight week nomination period be reduced to four weeks?

Responses to the consultation

- 3.15 There was a very strong majority in favour of retaining the nomination right for those properties where the provider retains a share of the property. Those who opposed the changes did so very strongly and a particular concern was that any reduction in the time providers had to nominate new shared owners could severely limit the availability of shared ownership homes for those that needed them.
- 3.16 It was strongly felt by rural providers that it was essential to retain the nomination right in circumstances of restricted staircasing, such as

Designated Protected Areas where staircasing is not permitted above an 80% share.

- 3.17 There was a mixed response to concurrent rather than sequential marketing, although the overall consensus was opposed to this proposal. Some felt this might incur additional costs for sellers who would still need to pay fees, sometimes charged by providers for marketing, while also acting through estate agents.
- 3.18 There was concern that potential market buyers could feel disappointed if a home they consider to be available freely on the market is sold to a provider nominee. Such an arrangement may also be over complex for all parties and raise questions over whether nominated or market purchasers should have priority. But, some felt the change would be a positive move in increasing the pool of potential buyers. Allowing concurrent rather than sequential marketing, which is unpopular, would open providers, sellers and purchasers to risk and have little impact.
- 3.19 Some felt concurrent marketing was acceptable as long as all parties were made aware that the provider's nominee would take priority.
- 3.20 There was concern that putting to market ahead of the nomination period could lead to estate agents selling properties as shared ownership to people who would otherwise be classed as ineligible
- 3.21 Many providers and local authorities said reducing the eight week period would make it harder to ensure properties were available for potential future shared owners. There was strong majority opposition to it being reduced to four weeks. It was said that in high demand areas the eight week period was no block as properties were sold very quickly.
- 3.22 Some providers stated that they can already chose to operate in line with the two proposals and have in practice already dispensed with the eight week period either altogether or by operating a shorter period.
- 3.23 There were a range of concerns that changes could remove some homes from shared ownership altogether. Some providers felt that reducing the period could also lead to reduced shared ownership sales as it would reduce the time to find suitable eligible purchasers. Others stated that some estate agents may rely on providers to assess eligibility and affordability and therefore, if the provider was not involved, would only consider selling to outright purchasers.
- 3.24 Some respondents wanted to retain the nomination period but were supportive of reducing the period to four weeks. Overall, the balance of opinion was that eight weeks was the right time and that to reduce it could lead to fewer completed applications in the time available.
- 3.25 In conclusion, a clear majority of nearly a quarter of respondents who answered the question opposed the eight week nomination period being concurrent as opposed to sequentially.

Government response

- 3.26 As a result of this consultation the Government concluded that any advantages of allowing shared owners to market the property concurrently rather than sequentially or reducing this period from eight weeks to four were outweighed by the potential disadvantages.
- 3.27 The Government have therefore decided not to apply the proposed changes to the nomination period for shared ownership. The existing eight week period prior to any property being put on the open market remains in place.

OTHER ISSUES

- 3.28 The consultation also sought views on other proposals for how government might streamline the process for selling on shared ownership properties and encourage the market for second-hand shared ownership homes.

Responses to the consultation

- 3.29 Some suggested the role of Section 106 contributions to shared ownership should be reviewed and reformed. That this should include reviewing, standardising and rationalising documentation.
- 3.30 One local authority suggested that providers should purchase back shares from those with higher share levels so that properties could be marketed as more affordable shared ownership properties.
- 3.31 A number of providers, particularly those in rural areas, stated that the most important area of concern for them was the availability of lending for prospective purchasers.
- 3.32 A number of respondents suggested that rather than selling the shared ownership properties, providers and prospective vendors could assign or trade the lease.
- 3.33 Some suggested extending the use of restricted staircasing to preserve shared ownership properties as affordable housing. In contrast, some respondents, including local authorities, advocated for much more use of the buy back option as an alternative to restricted staircasing, which had been known to deter lenders.
- 3.34 There were a number of suggestions that the publishing of a guide, for use by all providers, setting out the nature of the shared ownership lease and tackling misconceptions and bad practice would be useful. There were, for example, claims of bad practice or misunderstanding of practice among providers, such as requiring vendors to use their appointed solicitors.
- 3.35 A number of respondents also recommended reviewing whether existing shared owners should qualify for new shared ownership properties without local authority approval and if existing shared owners should be included in the list of priority groups for assistance.

3.36 There was a wider range of other suggestions which included but was not limited to:

- restricting Estate Agent commissions to be calculated on the basis of the share sold rather than the full market value of the property,
- introducing a form of open market purchase to encourage the mobility of existing shared owners
- extending the standard from 99 years to 125 years to encourage lending,
- mandatory guidance on equity sales and rent levels on unsold equity,
- ensuring local connection requirements; and
- creating a legal definition of shared ownership in statute.

Government response

3.37 As a result of the broad range of issues and ideas put forward for consideration, the Chancellor announced in the Budget on 18 March that the Government will undertake a Review of shared ownership in the summer. The 'Review' will consider some of the issues raised in response to the consultation and further views will be invited.

Section 4

Changes to shared ownership policy from 2015

- 4.1 The previous section summarises responses to the consultation. This section sets out changes to policy on shared ownership from April 2015.
- 4.2 As confirmed in the Budget on 18 March 2015, the Homes and Communities Agency will amend the model leases and guidance for future shared ownership properties to remove the Pre-emption right following 100% staircasing and amend guidance to recommend providers remove the Pre-emption right following 100% staircasing, for existing shared ownership leases.
- 4.3 Additionally, the Government will undertake a Review of shared ownership focusing on possible longer term options for change to report to Ministers in the Summer.