

Springboards and safety nets

A new housing offer - fully flexible tenure



Summary report



Contents

Introduction	2
Key findings	3
Background	4
The model	4
Demand	5
Constraints and regulatory requirements	5
Finance	6
Next steps	6

About the partners

Moat, Radian and Sovereign are all actively developing housing associations, working in the South East of England. Moat also work in London, and Sovereign also work in the South West. All three associations are Zone Agents (Sovereign provides this service jointly with Westward Housing Group), and are members of CASE, the Consortium of Associations in the South East.

In our first two years of business, Altair has delivered valued and thought provoking advice to over 100 clients in the housing sector. We have successfully supported our clients while continuing to grow through these challenging time.

Devonshires Solicitors is a leading London based law firm recognised for its expertise in social housing and social infrastructure.

For further information about this project, please contact Clare Powell, at Sovereign Housing Association, or Judy Wayne at Altair.

Clare Powell
clare.powell@sovereign.org.uk
01635 572214

Judy Wayne
judy.wayne@altairltd.co.uk
07880 606067



Introduction

Recent debate about the role of social housing has pointed to negative outcomes associated with social renting, which is said to inhibit aspiration. In addition, concern has been expressed that sub-market rents for social housing may continue to be enjoyed by people with above average incomes. Meanwhile, at a time of acute housing need, social housing providers' assets are locked into rented properties and are unavailable for investment in new homes.

In April 2012, three housing associations working in the South East: Moat, Radian and Sovereign, jointly commissioned Altair Consultancy and Advisory Service (Altair) to investigate a potential solution, with Devonshires providing legal support.

The brief was to consider how property, funding and tenure could be untangled to provide an appropriate fit between people's circumstances and housing costs in a way that responded to their aspirations.

The project explored the risks, opportunities and constraints associated with genuinely flexible tenure, enabling tenants to move towards home ownership, or away from it, depending on their

circumstances. Some central principles shaped the approach:

- Social housing should provide a springboard of opportunity
- It should reinforce the idea that effort will be rewarded, not punished
- The 'deal' available to new tenants should be as fair as possible, and should not depend on luck
- Subsidy, in the form of sub-market costs, should be directed to those most in need
- Social housing initiatives should support community sustainability, and keep positive role models in communities.

Social housing should provide a springboard of opportunity.

Assets are locked into rented properties and are unavailable for investment.

Key Findings

- Strategic Housing Market Assessments in key local authorities highlighted a strong potential market for intermediate housing products.
- In principle, residents and local authorities both offered a cautious welcome to a product allowing existing social housing residents to convert to shared ownership in small increments, with a 'buy back guarantee' offering a safety net in times of difficulty.
- There was a strong desire from residents for clarity about the rules of the scheme.
- For the scheme to be viable for Registered Providers (RPs), it is essential that receipts from the sale of small 'tranches' be as free as possible from constraints. The notional income from the receipt is required to compensate the RP for the rent foregone on the sold tranche. Homes and Community Agency (HCA) support is required to achieve this.
- Support from local authorities would be needed in many cases, to resolve constraints in relation to stock transfer agreements or planning restrictions.
- As with any form of shared ownership, mortgage lenders interests would need to be protected, and the existence of the buy back guarantee offers some comfort in this area.

Background

The introduction of 'Affordable Rent' homes, at near market rent levels, targeted at social housing applicants, highlights the degree to which people's housing outcomes may be subject to chance. In some areas, two applicants with similar circumstances may find themselves, almost randomly, rehoused in either a council or a housing association home.

If both are on benefits, the first (with a substantially submarket social rent) will have a lower hurdle to overcome before they are able to leave the benefit regime and earn enough to pay their own rent. They will also have the Right to Buy, should

their circumstances improve, and, usually, a tenancy for life¹, if they choose not to buy.

Depending on the RP's policies, the second applicant may have to pay an Affordable Rent only 20% below market levels, making it harder to leave the benefits system; they are unlikely to have the Right to Buy, but may have the Right to Acquire, with a less generous discount; they may (or may not) have a tenancy for life. The first applicant may be able to acquire an asset, to pass on to future generations. The second is unlikely to have that opportunity, and may not have confidence that their home will be available for more than five years.

These inequities are not necessarily the outcome of deliberate policy. They are simply the combined result of decades of policy initiatives that have resulted in a complex and tangled social housing system.

If social housing is to remain relevant and become attractive once more, it needs to change. A balance needs to be struck between legitimate concerns in relation to lifetime tenancies, and lifetime subsidy; and the desire to reward aspiration and promote sustainable communities.

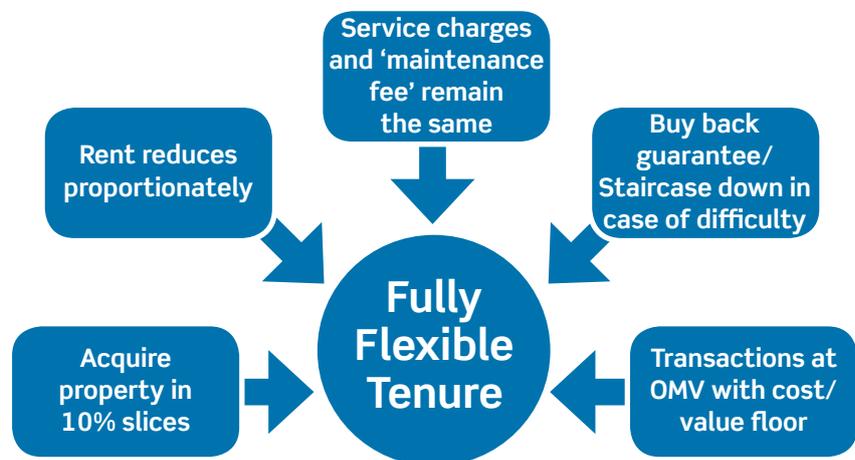
¹ Local authorities have the right to grant flexible (i.e. fixed term) tenancies under the Localism Act 2011 but so far, at least, take up of flexible tenancies by authorities has been very low compared to the housing association sector.



The model

The model developed by the project offers a system of 'shared ownership with a safety net', starting with very small shares, which is termed 'fully flexible tenure'. Modelling suggests that this approach could be sustainable on the following basis:

- Residents would be able to buy equity shares, starting as small as 10%, and increasing with an improving financial position.
- RPs would use receipts (which would be unrestricted) to offset the cost of borrowing. This would 'replace' lost rent on the purchased 10% shares.
- Residents' payment to the RP would consist of an occupancy charge, a service charge (where applicable), and a maintenance fee, based on the relevant portions of the original rent payment. The occupancy charge would be adjusted in proportion to the amount of equity purchased. The service charge and maintenance fee would be cost reflective, varying in relation to costs, but not in relation to proportion of equity



- The maintenance fee would reflect the landlord's pooled average maintenance costs, and would enable the RP to continue providing a responsive and planned maintenance service. This approach would help the resident to budget for property maintenance, and would also ensure the preservation of the asset value.
- Separately, residents would also need to fund the cost of purchasing their 10% shares.
- Residents would have a buy back guarantee, enabling them to staircase down if they were in financial difficulty; this would be acceptable to the RP because the maintenance service would have been consistent with rented properties.

The maintenance service would ensure the preservation of the asset value.

Demand

A review of Strategic Housing Market Assessments in a selection of South East local authorities revealed a strong potential market for intermediate housing products, and initial discussions with local authorities indicate a cautious welcome for the concept of fully flexible tenure. This was accompanied by understandable concerns about the use of receipts by the RP, and the sustainability of the product for participating residents.

For residents, the attractions of the scheme included: the opportunity to own their home (assuming it was one in which they were happy), and the anticipated freedoms and status

associated with home ownership; the provision of a 'safety net'; and the use of receipts to provide more homes for people in need. The scheme was viewed as a less daunting and more achievable prospect than a direct move into home ownership. There was a strong desire from residents for clarity and transparency about the scheme rules (for example, in what circumstances would downward staircasing be allowed?), and the detail of how increasing (or reducing) values would be reflected in later transactions. Transaction costs were a concern, but there was a strong view that any scheme should be available to existing tenants, rather than being simply a different 'point of entry'

for new residents. Many of the questions raised by the residents were matters of detail that would be very helpful when developing a marketable 'product' based on the fully flexible tenure model.

Constraints and regulatory requirements

Having reviewed the constraints as far as is possible at this stage Devonshires conclude that it is very helpful that the chosen model is based on the use of current forms of tenure and, in particular, relatively straightforward changes to the current form of shared ownership lease. That means that the legal and regulatory challenges are more manageable.

In order to develop fully flexible tenure as a marketable product, the following would be necessary:

- For individual sales, RPs would need to ensure that purchasers fall within the HCA/HMRC/ Charities Commission guidance on shared ownership sales. These require local comparisons to be made.
- In setting out the circumstances in which downward staircasing would be acceptable, RPs would need to be able to veto downward staircasing in circumstances where either security or funds were at risk (this would be likely to be required by mortgagees in any case).
- RPs would need local authority agreement to release any restrictive s.106 planning agreements, nominations agreements, or restrictive covenants that could restrict sales in their area.
- The HCA would need to clarify and confirm the treatment of grant, both at the point of sale and as recycled Recycled Capital Grant Fund (RCGF) in the funding of downward staircasing, or 'buyback'.
- A revised form of shared ownership lease, or a separate agreement would need to be agreed, to cover the 'buyback guarantee', and the requirement for payment of a maintenance fee.



Finance

The research project has included detailed financial modelling designed to clarify the impact of fully flexible tenure on RPs' business plans, and the affordability of the model for residents. The model has been tested with individual property data, and sensitivity testing, to ensure the robustness of its results.

Findings indicate that the flexible tenure scheme could be feasible under a number of scenarios, returning positive Net Present Values for RPs, alongside capital receipts. Depending on their current rent, and the market value of their home, the model could also work well for residents as a low risk route into home ownership, without the need to move home.

Next Steps

The commissioning associations are considering how it might be possible to translate a theoretical model into a deliverable product. Next steps will include more detailed discussions with mortgage providers, HCA and local authorities on the recommendations of the report and on the constraints which have been identified.

For viability, receipts must be free from constraints. The HCA need to clarify and confirm the treatment of grant, both at the point of sale and in case of downward staircasing.

