

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Impact Assessment of Changes to Current Leasehold Enfranchisement Rules	
Stage: Final	Version: 3	Date: 1 September 2008
Related Publications: Shared Ownership and Leasehold Enfranchisement consultation		

Available to view or download at:

<http://www.communities.gov.uk>

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What is the problem under consideration? Why is government intervention necessary?

Current legislation on leasehold enfranchisement is inconsistent in relation to shared ownership. In some cases, landlords risk shared owners circumventing the terms of their shared ownership lease by enfranchising (i.e. buying their freehold) before they have bought 100% of the property through shares. This can discourage private developers from providing houses on a shared ownership basis. Also, proposals being developed to allow restrictions to the full purchase of a property in certain circumstances would make housing associations and LAs similarly vulnerable to early enfranchisement.

What are the policy objectives and the intended effects?

To allow all providers the opportunity to offer shared ownership leases for houses without the additional risk of a shared owner enfranchising early in order to avoid purchasing additional shares through their shared ownership lease.

To allow staircasing to be restricted without the risk of early enfranchisement.

The intended effect is potentially to increase the supply of shared ownership housing

What policy options have been considered? Please justify any preferred option.

- 1) Do nothing
- 2) The proposal as detailed in the above sections - the only viable option to solve the problem

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? . end 2011

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option: 1

Description: Do nothing

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£ 0.00		
	Average Annual Cost (excluding one-off)		
	£ 0.00		Total Cost (PV) £ 0.00
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		Total Benefit (PV) £ 0
Other key non-monetised benefits by 'main affected groups' .			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ 0	NET BENEFIT (NPV Best estimate) £ 0
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What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	In force			
Which organisation(s) will enforce the policy?	N/A			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£			
Will the proposal have a significant impact on competition?	Yes/No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ Nil	Decrease of	£ Nil
		Net Impact	£ Nil

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 2

Description: Changes to existing leasehold enfranchisement legislation

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' .
	One-off (Transition)	Yrs	
	£ 0		
	Average Annual Cost (excluding one-off)		
	£ 0		Total Cost (PV) £ 0
Other key non-monetised costs by 'main affected groups' .			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		Total Benefit (PV) £ 0
Other key non-monetised benefits by 'main affected groups' To allow all providers the opportunity to offer shared ownership leases for houses without the additional risk of early enfranchisement. To potentially enable affordable housing in areas where it is hard to replace to remain affordable in perpetuity. To potentially increase the supply of shared ownership houses.			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ 0	NET BENEFIT (NPV Best estimate) £ 0
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What is the geographic coverage of the policy/option?			England and Wales		
On what date will the policy be implemented?			April 2009		
Which organisation(s) will enforce the policy?			N/A		
What is the total annual cost of enforcement for these organisations?			£ N/A		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			No		
What is the value of the proposed offsetting measure per year?			£ N/A		
What is the value of changes in greenhouse gas emissions?			£ N/A		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)		
Increase of	£	Decrease of	£	Net Impact	£ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Early Enfranchisement – The Issue

Shared owners of houses have a shared ownership lease which enables them to buy shares of their property in stages over time, until they have bought 100%. However, unless the lease is granted by a housing association or local authority and the purchaser is allowed to staircase to 100% (see below), this potentially allows tenants with long leases to circumvent their shared ownership lease by buying the freehold of their home before they have purchased 100% through buying shares (i.e. staircased to 100%).

Once a tenant has bought the freehold to the property, they essentially own it all. If they have not bought all the shares to 100% and still have a shared ownership lease with the freeholder, once they become the freeholder they will in effect have a lease with themselves.

There is a risk that owners may buy the freehold of their property before they have staircased to 100%, and at a lower price than they would have had to pay to buy the remaining shares in their home. This would leave housing associations and local authorities with fewer funds to reinvest in affordable housing, and provide a disincentive for private investors to provide shared ownership housing. It is a risk for shared ownership houses only, not flats.

Under current leasehold legislation, housing associations and local authorities are protected from this risk of early enfranchisement, provided that their shared ownership leases allow purchasers to eventually staircase to 100%.

However, if staircasing was restricted, as outlined above, they would not currently be protected by the legislation above, and would be at risk of enfranchisement.

Private developers are not protected by current leasehold legislation and are at risk of enfranchisement if they provide houses on a shared ownership basis, unless they pass them to a Registered Social Landlord. As a result, many may choose not to provide houses, but flats instead, regardless of other factors.

Early Enfranchisement – Proposed Amendment

We propose to amend existing legislation to remove the ability for purchasers whose properties fit the description of a shared ownership house to enfranchise before they have purchased 100% of the property under the terms of the shared ownership lease. All new leases for shared ownership houses will need to set out how a tenant staircases to 100% and how they purchase the freehold.

Economic Costs and Benefits of the Options

1) Do Nothing

There is a possibility that without this barrier to the delivery of shared ownership houses that we may see private supply (without any government funding) increase. If we do not change existing legislation, this additional supply may not be delivered. Currently, any shared ownership housing provided by private developers is likely to be confined to flats as a result of the risk of early enfranchisement.

2) Amend the legislation

This amendment will remove a perverse barrier to the development of shared ownership houses. It will therefore result in an increase in development where other conditions are favourable. We expect any increase would be marginal in the short term but could be more significant in the longer term.

Private developers will be able to provide shared ownership houses, as well as flats, to meet their planning obligations. Developers will therefore be able to better balance their supply between flats and houses to reflect local market conditions.

It is believed that there would be no negative impacts relative to the 'do nothing' case and there are likely to be small benefits.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	No	Yes
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

Specific Impact Tests

Rural Proofing

There will be an impact on Rural Exception Sites. The current policy of maintaining shared ownership houses as affordable in perpetuity will be more straightforward to implement.

Race, Disability, Gender and other Equality

We are confident that there will not be an impact on the equality strands, as the proposals will impact on specific areas as a whole, rather than individual groups within them.

Other tests

We have considered the other specific impact tests and do not believe that this policy will have an impact.