

Shared Ownership: Crisis Moments

Summary

Dave Cowan (Bristol), Alison Wallace (York), and Helen Carr (Kent)

There are many calls for shared ownership housing to be built at greater scale so that it can make a more significant contribution to tackling the housing crisis. But, a number of constraints are evident in this model of renting and owning, and there are concerns that satisfaction in the sector is lower than for other tenures. This summary provides a selection of the findings from *'Shared Ownership: Crisis Moments'*, a Leverhulme Trust funded research project.

Key recommendations include:

- **Clear, consistent marketing of shared ownership is required to overcome confusion about the product, reflect the experiences of the tenure, and include a nationally agreed key facts document clarifying the offer as well as its legal status.**
- **Providers should be clear about their offer to shared owners, explaining the limits and opportunities of entering into a contract with a social business as shared owners receive mixed signals and form expectations of their provider based on the latter being a social housing provider.**
- **Conveyancers are assumed by most parties to occupy an important information giving role to prospective buyers but modern conveyancing practices are ill-equipped to deliver that role. Providers should rely less on conveyancers to explain to buyers their obligations, beyond providing buyers with a copy of the lease.**
- **The twin-track nature of the lease – long lease and assured tenancy - may have advantages but is confusing, lacks logic, and is difficult to explain to a lay audience. A body like the Law Commission for England and Wales should be asked to recommend changes to the law, taking account of the interests of all of the actors.**
- **Buyers were concerned about the fees, poor resale service offered by providers and, in particular, the valuation process. Buyers should be entitled to sell their shares on the open market at any time but any purchaser from that buyer should be required to be approved by the provider.**
- **A number of practical but important changes are recommended to clarify and support buyers in respect of service charges, staircasing and the governance of some sites.**

July 2015

The Study

The study objectives were to understand more about this hybrid housing tenure through considering stakeholder, resident and housing association experiences and perceptions of the tenure. We did so through examining various events, 'crisis moments' that were said to occur and occurred during a shared owner's residence. Using this lens of 'crisis moments', the research considered what difference, if any, the unique construction of shared ownership tenure made to residents' experiences of home.

The research comprised a series of 71 in-depth interviews that explored shared owners' experiences in South England; 20 in-depth interviews with providers and key stakeholders; and a total of six weeks' observation in two housing associations, examining the day-to-day practices of managing shared ownership homes.

The policy report is timely because the Department for Communities and Local Government (DCLG) has promised that it will undertake a review of shared ownership, focusing on possible longer-term options for change, with a report to ministers in summer 2015. Our policy report provides empirical detail of the everyday lives of shared owners, their struggles and their perceptions about the shared ownership project, which should support that review.

Background

The drive to homeownership evident during the twentieth century has slowed down and has been in reverse, a trend that has continued since the global financial crisis. The Coalition government developed a number of initiatives designed to enable households to access homeownership, such as help to buy, and greater incentives to exercise the right to buy; the Conservative government is continuing with these home ownership options. Despite the relatively weak evidence base for the benefits of lower-income homeownership in the UK, shared ownership remains a politically pragmatic policy approach to combat rising entry thresholds to homeownership and weaknesses in other tenures. Shared ownership has been particularly favoured over the last 25 years in public grant funding to the social sector because of its perceived benefits, and greater output for capital investment than other general needs social housing. A significant coalition of political parties, pressure groups and other non-government organisations, including housing associations and tenants' rights groups, have now publicly endorsed the need for expansion of shared ownership.

As a result of this support, some weaknesses of shared ownership that require reform have been identified both by us and the key stakeholders. Those weaknesses have yet to be tackled. The government review will need to address these weaknesses head-on and produce action, which almost certainly should result in a legislative programme for change.

The Lease

The shared ownership lease is the key document structuring the relationship between the parties. It is a lengthy, complex document which is not necessarily easy to translate because there are many implicit elements of it, as a result of case law interpretations of words, and statutory overlays. The Homes and Community Agency's investor function requires providers to use certain fundamental terms in all leases of grant-funded properties. The most significant such term is the mortgagee protection clause (MPC).

The audience for the lease is not necessarily the parties but the lender, and ensuring consistency as well as clarity for lenders was a key concern in the 2009 redraft.

Legal responses to the lease recognise its hybrid nature. On the one hand, it is an assured tenancy, with the security provided under the Housing Act 1988; on the other hand, it is a long lease, for the purposes of other sets of statutory protections; still further, it is a contract, setting out the legal relationship between the parties. The potential problems with service charges, evident in all residential leases, are exacerbated within shared ownership, both in terms of responsibilities for all repairs and in the apportionment of charges.

About the Case Studies

Both case study providers – Greendale and Fixham – have provided shared ownership for a lengthy period. Both have a tenure neutral approach to shared ownership management, although Greendale aligns shared ownership with leaseholders, and Fixham more broadly. Both might be described as entrepreneurial organisations working at the interface between social–commercial practices. Both can evidence considerable attempts to alleviate problems among their shared owners, including downward staircasing.

Both have issues with third-party managing agents and have strategies to deal with them, albeit recognising that many of the problems are beyond their control. During the observation phase of this work, slightly different tensions became apparent in the management of the shared ownership stock. For Greendale, there were emerging issues about contracted out functions. For Fixham, there were emerging issues about shared-owner satisfaction.

Knowledge and Understandings

Shared ownership arrangements can be complex and confusing, and prospective shared owners are not necessarily best placed to understand the obligations and the extent of them. Both providers went to some lengths to communicate the nature and extent of the obligations to buyers. However, resale buyers may not receive the same level of information.

Both providers had panels of legal advisers, who had experience of shared ownership transactions. Both assumed that buyers would be given information about the lease and information about the nature and extent of their obligations. Modern conveyancing practice does not necessarily support that assumption and few buyers were provided with much in the way of advice.

While some owners clearly did not appreciate the detail of their lease, what was also apparent was that over time their position came to be one of disagreement with the lease. Claims to the provider were therefore also based on appeals to reason, and for advice and support rather than wilful misinterpretation. Providers' reaffirming the synergies between the responsibilities of shared owners and full homeowners in the wider market frequently served to emphasise the imbalance in the relationship and the misnomer of the 'shared' epithet.

Property and estate management

There were particular concerns about the quality of new-build properties in one of the case studies but the other case study was not immune from such complaints. Those concerns were exacerbated by problematic communications between the relevant parties and the defects guarantee period running out. Additionally, buyers did not appreciate having to pay an administration charge to register improvements to the property and some decided not to register the improvements at all as a result.

There were particular and egregious concerns about third-party managing agents, as regards their quality and costs. Buyers tended to blame the providers (as well as the managing agent) for the problems, even though the providers felt similarly powerless and out of control. Buyers often expressed themselves as feeling as if they were the third party and, therefore, out of the picture.

Service charges remain the most significant area of concern for shared owners, the problems ranging across: miscalculation; being charged for services not in fact provided; the lack of control they had over the service charges; and understanding their apportionment.

Few buyer participants admitted to missing a payment of rent, service charge or mortgage, but both providers had well-oiled mechanisms for assisting buyers and notifying lenders. There was some concern at the high proportion of salary being used to pay housing costs and future mortgage base rate increases may have significant effects.

Both providers had communication issues with their buyers, and buyers commonly felt that they were being treated like general needs tenants in the way that the provider communicated with them.

Managing the share: Selling on and buying up

In some respects, it appeared that resales were regarded as an afterthought or not part of the provider's core business. Models of dealing with resales of property about to be repossessed differed between the organisations. Fixham took a proactive approach and "saved" a number of properties to the tenure.

Staircasing is a selling point for the tenure. That is, the ability to staircase upwards was of particular interest to our buyer sample, at least at the outset. Buyers were savvy about staircasing. They recognised that they would find a larger share harder to sell, if they decided to do so. Additionally, there were disagreements and concerns over valuing practices and costs of staircasing and resales.

Reconciling tensions in shared ownership: Social or private?

Shared ownership is a hybrid tenure which challenges existing binary characterisations between social and private housing, but is marketed very much as a private, aspirational tenure to particular cohorts as the first rung on the property ladder.

Although shared ownership is meant to provide a tenure home for a particular set of households, some of our buyers were unclear as to why they were selected. Further, it is also the case that shared ownership properties in certain locations are pricing out low-income households.

The management of shared ownership housing tends to be different from the management of general needs social housing, with a more hands-off approach in respect of shared owners. Simple satisfaction surveys do not necessarily capture the complexity of the relationship between the buyer, the property and the provider, and one should be wary of ascribing too much influence to them.

Shared owners are clear, in general terms, that they are distinguishable from general needs social housing and do not see themselves as being part of social housing at all. They resent being treated as if they are.

Reconciling tensions in shared ownership: Owner or tenant?

The owner/tenant question is significant because shared ownership is regarded as, and marketed as, “ownership”. Most buyers saw themselves as owners; one prominent reason for this was because they were in control of their homes and many exemplified this position by saying they they would mark themselves as owners when completing forms. However, this feeling of being in control was often contradicted by the rest of our interviews, in which the buyers often had described themselves as being out of control. These contradictory feelings were particularly clearly expressed over the buyers’ lack of contact with the provider. Buyers were quizzical about this, suggesting that they believed providers would or should have taken an active interest in their capital asset; however, they were also pleased that the provider did not take such an interest.

Conclusion

Shared ownership has slowly expanded since the first shared owners took the keys to their property in 1975. As a favoured vehicle for affordable homeownership at a time when traditional homeownership seems unachievable, it is likely that its expansion will accelerate. There is political and policy consensus that shared ownership is an asset to the sector and pressure groups which previously opposed its use are now supporting it. Government grant and private equity flows into the sector and many buyers are pleased with the opportunity it offers. Yet our research suggests that there are problems with the product that lead to lower satisfaction levels than exist across social housing more generally. While our qualitative approach has highlighted that that “satisfaction” is more complex than simple surveys and questionnaires might suggest, and understandings about the tenure are contradictory (partly because the tenure itself is contradictory), we do not see lower satisfaction as inevitable. We propose a package of policy, legislative and organisational changes which we consider respond appropriately to the problems we have identified and **which should, at the least, form part of the government review of shared ownership.**

The findings are taken from: **Cowan, D., Wallace, A. and Carr, H. (2015) *Exploring experiences of shared ownership housing: reconciling owning and renting*. Bristol, University of Bristol Law School.** The full report can be obtained from:
<http://www.bristol.ac.uk/law/research/researchpublications/> or
<https://www.york.ac.uk/chp/expertise/homeownership/publications/>