

BSA response to MHCLG consultation on Private Shared Ownership

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Introduction

The Building Societies Association (BSA) represents all 43 UK building societies, as well as 4 credit unions. Building societies have total assets of over £400 billion and, together with their subsidiaries, hold residential mortgages of over £315 billion, 23% of the total outstanding in the UK. They hold almost £280 billion of retail deposits, accounting for 19% of all such deposits in the UK. Building societies account for 37% of all cash ISA balances. They employ approximately 42,500 full and part-time staff and operate through approximately 1,470 branches.

This response has been prepared in collaboration with members.

General comments

1. We are aware that the consultation paper asks for proposals from firms interested in offering private forms of shared ownership (SO). However, as mortgage finance is a crucial element of SO, we feel it would be useful for MHCLG to have an understanding of the broader framework that these proposals would need to fit into.
2. Just over half of our members are currently active in the SO sector to varying degrees and are in general committed to seeing it grow. However, some members the BSA has consulted have concerns about the expansion of private shared ownership (PSO).
3. The main area of concerns are around a perceived lack of consumer protections. We note the paper states that 'Proposals requiring government loan funding (or other recoverable investment) will need to match or exceed the terms of the standard Shared Ownership lease, particularly in terms of consumer protection.' This is positive, but in our view needs to go further in ensuring that all shared owners receive the same level of consumer protection regardless of their provider's funding source.
4. Existing SO protections have evolved over decades, with changes to the standard lease, development of industry joint guidance for mortgage lenders and housing associations and regulation of the housing association sector by Homes England in its capacity as the Regulator of Social Housing. By contrast, since the rules around SO were relaxed and PSO providers allowed into the market, there has been no attempt to put a similar system of regulation in place for PSO providers. As a result, lenders have tended not to provide shared ownership mortgages on PSO developments.
5. Individually, we understand that certain PSO providers have put together service level agreements (SLAs) and Intercreditor Agreements, making commitments to standards of practice. However, in order for PSO to expand as an industry and achieve economies of scale, lenders are ultimately looking for a way bind all PSO providers to a common framework.
6. At the same time, societies have concerns about how shared ownership functions operationally with Housing Associations (HAs), particularly where consumers fall behind with rent payments. While industry guidance currently exists, building societies report a patchy experience in terms of whether HAs use it as a guide in

practice. We have also had examples provided to us of SO leases featuring some of the poor standards seen in the leasehold market, such as doubling ground rents or questionable terms around service charges and other fees and charges.

7. Societies have suggested adding elements of the industry joint guidance to the standard lease to ensure industry best practice is adhered to.
8. We appreciate this is not the main focus of the consultation. However, we are aware that a consultation is currently underway regarding the Green Paper on social housing and feel this is a good opportunity for the Government to provide remedies to issues identified in SO and PSO.
9. We recommend that the Government brings together mortgage lenders, Homes England, SO and PSO providers, and their respective trade bodies to talk through how the existing standard lease, joint guidance and regulations could be improved to ensure lenders can provide funding to both SO and PSO.
10. The lenders we have spoken to as part of preparing this response are keen to see SO grow, but that will only happen if they can have the necessary security and certainty in terms of how it operates in practice.

Private shared ownership

11. The feedback we have received from societies we have spoken to is that broadly, lenders want to lend on PSO cases. However, a number of issues have so far made this challenging in practice, such as:
 - PSO providers operate individually and as a result, make it difficult for the lender to take a standard approach, as each PSO provider might be offering products with a slight variation. It is crucial there is broad alignment so that a number of lenders are in place and able to support an active market. This is important not just in terms of the new build market but also to ensure that homes can be resold. By contrast, HAs have the benefit of standardisation, making it more straightforward for lenders to engage with HAs they have not worked with before.
 - Lenders require assurance that PSO providers will have a high degree of consumer protection in place. Lenders take some comfort that if there are issues with an HA then they can, as a last resort, engage with Homes England in its role as Regulator of Social Housing. Clearly this is not the case where PSO is concerned. This is a point that also applies to non-grant funded schemes developed by HAs.
12. One option could be to use something similar to the framework HM Treasury used for [consumer buy-to-let mortgages](#). This was brought in as a result of the 2016 European-wide Mortgage Credit Directive. A legal framework was set up by Government, which was operated by the Financial Conduct Authority (FCA), but did not come under the FCA's full rules. Essentially this established a list of registered consumer buy-to-let mortgage providers and broad standards that are adhered to.
13. Applying a similar approach to PSO providers would, in our view, require:
 - Strengthening the standard lease for both HAs and PSOs to incorporate elements of the joint shared ownership guidance

- Establishing a Register of PSO providers, managed by Homes England
- Setting out standards for PSO providers to adhere to, with reference to provisions of the existing regulatory framework for HAs, which PSO providers should also have to comply with.

14. It is the BSA's view that the above approach would drive greater standardisation across the PSO sector. This approach should also apply to non-grant funded shared ownership schemes developed by HAs, as consumers should have the same protections regardless of where the funding for the scheme has come from. This would help to drive up the public perception of shared ownership as a housing tenure in its own right.

15. Below we have expanded on some points around how shared ownership in general could be improved.

Shared ownership

16. Building societies have emphasised to us that a bigger issue than facilitating PSO, is improving the current SO offer from HAs.

17. Members have told us of a wide range of areas where they have concerns about SO, such as:

- Commercialisation starting to creep in where HAs are offering SO on non-grant funded developments.
- Issues working with HAs that have less experience in SO and may not be aware of the joint guidance, or at least do not appear to have integrated the guidance into their processes.
- A disjointed connection between Homes England's SO affordability calculator and that employed by lenders - closer alignment would provide better clarity for customers.

18. The above are just a few examples of issues lenders have experienced and where improvements could be made. In addition, building societies have made the overarching points that:

- There is a general need for better education
- Brokers need to properly explain some of the complexities of shared ownership to borrowers
- Solicitors and conveyancers need to understand shared ownership leases and be able to point out any onerous terms
- Housing associations need more education about the expectations of lenders especially in an arrears and possessions scenario
- Consumers need a better understanding of which issues relate to their landlord and which relate to the mortgage lender

19. Given the importance of SO to both the Government's affordable housing programme and HAs, many of whom have ambitious construction programmes over the next five years, this is a good opportunity for Government to bring the

Housing Association sector, Local Government, Homes England and lenders to review the standard lease and industry guidance.

20. The BSA would be happy to lead on this work, as there would be a genuine benefit to members if a meaningful improvement to standards could be made.

By Robert Thickett
Policy Manager
Robert.thickett@bsa.org.uk

York House
23 Kingsway
London WC2B 6UJ

020 7520 5900
@BSABuildingSocs
www.bsa.org.uk

BSA EU Transparency Register No: 924933110421-64

www.bsa.org.uk

The Building Societies Association (BSA) is the voice of the UK's building societies and also represents a number of credit unions.

We fulfil two key roles. We provide our members with information to help them run their businesses. We also represent their interests to audiences including the Financial Conduct Authority, Prudential Regulation Authority and other regulators, the Government and Parliament, the Bank of England, the media and other opinion formers, and the general public.

Our members have total assets of over £400 billion, and account for 23% of the UK mortgage market and 19% of the UK savings market.