

Consultation Response to 'Implementing reforms to the leasehold system in England'

The following response is submitted by the National CLT Network and the UK Cohousing Network. Please note that only the relevant questions have been answered.

Q7: Do you agree that there should be an exemption for community-led housing developments such as Community Land Trusts, cohousing and cooperatives?

- We support the proposed exemption for community led housing developments. In our response to the previous round of consultation, we set out the reasons why Community Land Trusts, cohousing groups and housing co-operatives might use leasehold houses, and are pleased that the Government has acknowledged these.

Q8: We would welcome views on the features or characteristics that should be included within a definition of community-led housing for the purpose of an exemption.

- As the Government notes, there is an existing statutory definition for Community Land Trusts.
- However, there is not yet a statutory definition of cohousing, and in recent years many community led housing projects have come forward with new hybrid models that combine elements of existing models or create new forms of community led housing.
- The exemption could therefore be couched in a new statutory definition of community led housing, which would have wider benefits for Government policy relating to the sector. The essential characteristics we perceive are set out in our definition, which has been adopted by the Government for the purposes of the Community Housing Fund:
 1. meaningful community engagement and consent occurs throughout the development process. The community does not necessarily have to initiate and manage the process, or build the homes themselves, though some may do;
 2. the local community group or organisation owns, manages or stewards the homes and in a manner of their choosing, and this may be done through a mutually supported arrangement with a Registered Provider that owns the freehold or leasehold for all or some of the homes; and
 3. the benefits to the local area and/or specified community must be clearly defined and legally protected in perpetuity.
- The Government's consultation proposal to define community led housing as "based around the principles of being not for profit and established for the benefit of the local community" fits within our more detailed definition, so long as "the local community" is framed correctly. Some community led housing organisations seek to benefit a geographic community of place (such as a village, town, or local authority ward). Others benefit their members (such as tenants of a co-operative, or members of a cohousing group). The latter may draw in members from a wide area based on a shared interest, rather than identifying closely with a particular local area, though they may then also provide benefits to the wider community in which they locate, as evidenced by the Older Women's Cohousing group (<http://www.owch.org.uk/>). It should therefore be up to the group to define who their "local community" is, but it is right that they should then operate without private profit and

for the benefit of that community.

- The UK Cohousing Network has recently been consulting its members on the idea of a standard definition of cohousing, based on three principles:
 1. the idea of a cohousing group being defined by its values and its community benefit objectives;
 2. the power of the group members to make their own decisions and to be accountable to their members for meeting their objectives; and
 3. the homes and other property owned by a cohousing community can only be used to fulfil the objectives.
- These principles met with very high levels of approval by the established and forming cohousing groups which responded to the consultation. Those three principles mirror the structure of the CLT statutory definition. The alignment was also intended to help groups that want to be a cohousing CLT to meet both definitions in a very similar way.
- The UK Cohousing Network board of directors and its lawyers are working on some minor revisions to the wording of the proposed definition, responding to suggestions from consultees. The board aim to share the final agreed definition with MHCLG shortly. It could then be used as either the basis of a bespoke cohousing definition or as supporting information to a single definition for CLH, to be used in any primary or secondary legislation relating to the proposed leasehold changes.

Q16: Do you represent a community-led housing provider which does not rely on ground rent income? If so, what alternative methods of funding have proved successful and could be replicated elsewhere?

- As national representative bodies for the sector, we do not charge any ground rents ourselves. But we should like to make clear why many community led housing groups will choose to charge reasonable ground rents, and how the Government might frame an exemption from its proposed cap of £10 per annum
- CLTs may charge ground rents, whether directly to individual occupying leaseholders or to a partner housing association, to cover its work as a steward of the land. The statutory purpose of CLTs is to act for the wellbeing of their wider community, and this work takes the form of wider community engagement, governance and the development of future initiatives. Modest ground rents enable CLTs to raise this money through charging for the use of their land. These activities are separate to the services they provide to the residents, and so it would be inappropriate to capture them through a service charge. As the main objective of many CLTs is to provide affordable housing, they ensure that the sum of all relevant housing costs (ground rent, service charge, mortgage, rent) remains affordable for those in housing need.
- In cohousing projects, the value of individual leaseholder's homes are increased through the use of its shared facilities/assets and the values and activities of the group. Ground rents

therefore provide a means for the cohousing entity, as freeholder, to recover and retain some of that increased value for the future benefit of their community. This is distinct from charging for services provided to the residents, which all cohousing projects also need to do. Mixed tenure cohousing groups may also enter into a partnership with a housing association, usually by means of a head lease to the housing association as the immediate landlord for social and affordable rent homes. Ground rents on such headleases provide a simple and equitable means for the cohousing entity to recover some of the costs of their community benefit activity, as well as capturing the enhanced value intrinsic to a cohousing project.

- For both CLT and cohousing projects, a further benefit of ground rents is that they are chargeable against the title, and in the event that they aren't paid as they fall due, the CLH group can at least recover them, efficiently and cheaply, from the equity value when the home is sold. Unpaid service charges are personal debts and have to be recovered through the courts, making recovery both more costly and uncertain. Ground rents, therefore, provide greater security to the CLH group, and reinforce the concept that the rent relates to the value of the land and home (which is what ground rents were originally and fairly designed to be), rather than to services provided. It also enables future ground rents to be capitalised during development to support viability of difficult schemes. Our legal advice has been that estate charges are not an appropriate or reliable mechanism for recovering the enhanced value.
- In our previous response, we proposed that regulations might allow reasonable ground rents to be charged. We provided the example of a planned partnership scheme in Dorchester, where it is proposed that the CLT will receive a ground rent of £208 per home per year. This is circa 0.2% of the discounted property value.
- One approach the Government might take might be to set a de minimis threshold below which ground rents charged by CLH groups would be permissible, and thus automatically exempt from any proposed restrictions. We would propose either £250 per year per home, with periodic increases allowable at CPI + 1% per annum, similar to the social rent regime. Alternatively, they could be fixed at a percentage of the property value.

For further information, please contact the Director of the National CLT Network, Tom Chance on tom@communitylandtrusts.org.uk or 020 3096 7791.