

CLG Select Committee inquiry into the future of Housing Associations – written evidence submitted by the National CLT Network

1. Introduction to the National CLT Network

- 1.1. The National CLT Network is the Charity for Community Land Trusts (CLTs) in England and Wales. It is a membership body and provides funding, resources, training and advice for CLTs and advocates on behalf of the CLT movement to create the right conditions for CLTs to grow and flourish.
- 1.2. CLTs are non-profit community-based organisations run by volunteers that develop housing and other assets that are made available at permanently affordable levels. There are currently over 170 CLTs, half of which formed in the last two years and, by 2020, 3000 new affordable homes will have been developed by CLTs. This is in urban and rural areas.
- 1.3. Many CLTs are not registered as a Registered Provider (RP) with the Homes and Communities Agency (HCA) and so the Government's proposals to extend the Right to Buy to housing association tenants, to reduce social housing rents and for welfare reform will not affect them.
- 1.4. However, 8 CLTs have registered as RPs, three are in the process of registering and at least another 45 are working in partnership with housing associations and have granted RPs leases over their land. There are also another two CLTs that received grant before it was a requirement to register as an RP. Whilst not the Government's intention, these 58 CLTs will now be affected by the Government's proposals.
- 1.5. This submission is concerned with the impact of the proposal to extend the Right to Buy to housing association tenants and the proposal to reduce social housing rents. The evidence set out in this submission is based on an impact assessment and survey of the CLT sector.

2. Executive Summary

- 2.1. A number of CLTs have registered as a Registered Provider in order to obtain grant funding from the HCA Affordable Homes Programme. Others own the freehold of a site and have granted a Housing Association partner a long-lease over the homes.
- 2.2. Both forms of CLT will now be affected by the proposal to extend the Right to Buy to housing association tenants and the proposal to reduce social housing rents.
- 2.3. The Right to Buy threatens the ability of a CLT to meet their basic aim of keeping homes affordable in perpetuity, it poses a significant threat to the current supply of CLT homes and is already having a dramatically chilling effect on the future growth

of the CLT movement. This is just at a time when the sector has been generously supported through the Government's Localism agenda and has significant potential to grow.

- 2.4. In order to preserve the rented homes provided by CLTs as affordable, uphold the very principle of a CLT and maintain the momentum in the CLT sector, we recommend that the Government exempts all CLT tenancies from the Right to Buy.
- 2.5. The proposal to reduce social housing rents will mean that, for 8 CLTs that are RPs, they will now face an uncertain future and, in some cases, it mean they will fail financially.
- 2.6. For those CLTs that have worked, or are working, with housing association partners, all partnership projects currently in development are either on hold or are being significantly delayed. These partnerships have previously led to a significant increase in the number of CLTs and there is now a danger that this route will close because housing associations will no longer be willing to partner with CLTs.
- 2.7. We therefore recommend to Government that the 8 CLTs that are RPs are exempt from the rent reductions proposal.

3. Proposals on the Right to Buy

- 3.1. As set out above, a number of CLTs have registered as a Registered Provider (RP) with the Homes and Communities Agency and others working in partnership with RPs have granted RPs leases over their land. Both these forms of CLTs are now at risk of being affected by the Right to Buy.

3.2. The effect on the availability of affordable homes by CLTs and projections

3.2.1. Effect on the current availability of CLT homes

3.2.1.1. The Right to Buy will affect the current supply of CLT homes. Whilst CLTs support the aspiration for home-ownership and supply many such homes themselves, they are also be motivated to resupply at least a base stock of affordable rented property in communities denuded by the original Right to Buy or simply lacking it in the first place.

3.2.1.2. Just under half (269) of the 560 homes delivered to date by CLTs are rental, as are half of the 2500 homes in the pipeline. In some parts of the country, the proportion of rental CLT homes is significantly higher – in Somerset, Devon and Dorset, 91% of the 230 homes developed or being developed by CLTs are for rent.

3.2.1.3. Of the 269 existing rental properties already developed, 244 are now at risk of being subject to the Right to Buy.

3.2.1.4. CLTs are often set up in villages or neighbourhoods where a shortage of suitable affordable accommodation has led to the loss of young people and people of working age from communities, undermining the ability of these communities to thrive. It is this which drives people to set up CLTs in the first place. The limited availability of suitable sites, particularly in rural areas, means that homes lost through the Right to Buy will be difficult if not impossible to replace.

3.2.2. **Effect on a CLT's ability to preserve the affordability of CLT homes and the subsequent effect on the future availability of CLT homes**

3.2.2.1. By removing CLT homes as affordable the Right to Buy goes against the very principle of a CLT. A CLT is set up to develop homes that are affordable to local people *in perpetuity*. The statutory definition of CLTs in section 79 Housing and Regeneration Act 2008 is set out below and reflects this fundamental aim and requires CLTs to ensure that assets are not 'sold or developed except in a manner which the trust's members think benefits the local community'.

3.2.2.2. The legal definition is set out in Section 79 of the Housing and Regeneration Act 2008, as follows.

A CLT is a corporate body which:

1. Is established for the express purpose of furthering the social, economic and environmental interests of a local community by acquiring and managing land and other assets in order:

- to provide a benefit to the local community;*
- to ensure that the assets are not sold or developed except in a manner which the trust's members think benefits the local community.*

2. Is established under arrangements which are expressly designed to ensure that:

- any profits from its activities will be used to benefit the local community (otherwise than by being paid directly to members);*
- individuals who live or work in the specified area have the opportunity to become members of the trust (whether or not others can also become members);*
- the members of a trust control it.*

- 3.2.2.3. It is this core principle that motivates people to invest hundreds of hours of volunteer time to bring forward new homes as a CLT.
- 3.2.2.4. It is also what allows them to overcome sometimes vociferous opposition to new development, and convince landowners to dispose of land or assets on generous terms that make the building of genuinely affordable homes possible.
- 3.2.2.5. In rural areas, CLTs are overcoming the 'NIMBY' problem by building support amongst interest groups as diverse as country landowners, conservationists, environmentalists, employers and communities themselves. Votes in favour of CLTs' preferred sites are attracting overwhelming support.
- 3.2.2.6. Furthermore, in some cases CLTs have managed to secure investment from local benefactors, either in the form of community shares or a local bond, on the basis that the homes would not be removed from community ownership and into private ownership.
- 3.2.2.7. By removing the ability of a CLT to fulfil this core purpose and its commitment to the community and landowners, the desire of such communities to actually build homes - which can be stronger even than the desire to oppose them – will be thwarted.
- 3.2.2.8. As Wickham CLT state: "The Right to Buy means that the very essence of our promise to our community ("affordable homes for local people *in perpetuity*") will be broken. That would be very bad for us in terms of local support for existing and new developments and bad for the government too – they would get the blame for making us act against community interests".
- 3.2.2.9. The threat to a CLT's ability to preserve the affordability of CLT homes is already having a disastrous impact on the future supply of CLT homes and the growth of the CLT movement.
- 3.2.2.10. CLT projects are already being suspended because of a lack of landowner support or because they can no longer guarantee support from the wider community. In Dorset, an option agreement is now being made conditional on the Right to Buy not applying to the resultant homes; should the Right to Buy apply, both the CLT and landowner will discontinue the project.
- 3.2.2.11. CLTs embody the principles of Localism and have been spurred on by the measures introduced by the previous Coalition Government and the

current Government. The movement is now at risk of being significantly hampered by the Right to Buy; potentially a huge lost opportunity in terms of garnering popular support for new housing projects, not to mention the safeguarding of other assets and activities important to communities.

3.3. The steps that could be taken to minimise the effect on the availability of social housing.

- 3.3.1. In order to preserve the rented homes provided by CLTs as affordable, uphold the very principle of a CLT and maintain the momentum in the CLT sector, we recommend that the Government exempts all CLT tenancies from the Right to Buy.
- 3.3.2. The exemption would need to be wider than just tenancies provided directly by a CLT. Where a CLT owns the land and has granted a lease to an RP it will have done so on the basis that no Right to Buy applies. If the Right is now introduced, tenants who exercise the Right would acquire the outstanding terms of the lease from the RP. Not only would that remove the homes from being permanently affordable as they were originally intended but, if these homes are houses, then in some circumstances the purchasing tenant may be able to acquire the CLT's freehold interest using enfranchisement legislation.
- 3.3.3. It is difficult to propose the exact drafting of an exemption prior to the publication of the Housing and Planning Bill. However, we have recommended to Government that the following clause is included in the relevant section of the Bill: *"The right to buy does not arise if (a) the landlord is a community land trust or (b) the landlord is not such a community land trust but any superior lease or the freehold is held by a community land trust. In this [paragraph] community land trust means a community land trust within the meaning of s.79 of the Housing and Regeneration Act 2008 "*. This is based on the way in which exemptions to the statutory Right to Buy are set out in Schedule 5 of the Housing Act 1985.
- 3.3.4. The exemption would apply to tenants of organisations that meet the statutory definition of a CLT, or those who are tenants of a non-CLT housing association that has taken a lease from a CLT. There is a precedent for excluding certain types of landlord from the Right to Buy; for example, fully mutual housing cooperatives.
- 3.3.5. We understand that the Government, in considering exemptions, will be starting with existing exemptions, including for rural affordable housing. In which case, 85% of the 58 CLTs currently at risk of the Right to Buy would be protected. However, this would still leave 8 CLTs in small towns and cities that will still be vulnerable to the Right to Buy. Furthermore, the proportion of CLTs

in towns and cities is higher in the cohort of CLTs in development (25%) and is likely to continue to grow. These CLTs are not yet affected by the Right to Buy but may choose to partner with a housing association or become an RP in due course and would then be vulnerable to the Right.

- 3.3.6. CLTs in small towns experience similar housing stresses to CLTs in rural areas, caused by high property prices, difficult terrain, limited site opportunities and high levels of second home ownership. However, they would not be covered by a rural exemption. Symene CLT in West Dorset has been obliged to build homes for the rural parish of Symondsbury within the boundary of the adjacent town of Bridport because there was no land available within Symondsbury itself. These homes would be subject to the Right to Buy unless CLTs are exempt per se, albeit through the mechanism of a portable discount.
- 3.3.7. The growing number of Urban CLTs are responding to their neighbourhoods being under threat from either depopulation or displacement, and are rebuilding or protecting the community. As with CLTs in rural situations, their choice about the balance between rental and home ownership is a considered reflection of local housing need and labour market conditions.
- 3.3.8. For some Urban CLTs losing a home to the Right to Buy would impact on their ambition to foster a sense of belonging and active citizenship in urban areas often challenged by transient residents. At Bristol CLT, for example, future residents complete the works to their own homes, earning the value of labour by completing them and building a sense of community. If a renter exercises the Right to Buy the community has no control over who buys that property and there is a risk of having a household that does not want to participate in the community that has been fostered through the CLT model.
- 3.3.9. Furthermore, whilst it has been argued that the proceeds from a Right to Buy sale could be used to fund the development of a new rental home elsewhere, it cannot be expected of these CLTs to put the same volunteer input to develop a single replacement home. There is also little prospect of these CLTs being able to find a new site when they frequently operate in towns or cities where there is fierce competition for suitable sites.
- 3.3.10. If however an exemption for Urban CLTs is not forthcoming, we would like to discuss other forms of mitigation for Urban CLTs with the Government.

4. Proposals in the Budget

4.1. The effect of the cap on rents

4.1.1. The proposal to reduce rents in the social housing sector by 1% each year for four years from April 2016 will affect CLTs that are Registered Providers (RPs) themselves and CLTs that have worked with, or are currently working with, housing association partners.

4.1.2. **Impact on CLTs that are Registered Providers**

4.1.2.1. There are 8 CLTs that are RPs. For these CLTs the decision to register as an RP was driven by the conditions of applying for the HCA's grant programmes, including the Community-led housing element of the 2011-2015 Affordable Homes Programme. The same rationale applies to the two CLTs that are in the process of registering as a Registered Provider.

4.1.2.2. All these RPs have very small numbers of homes, tight business plans, very prudent running costs (some of which are delivered by volunteers at zero cost) and no other stock to help absorb the loss of income. The proposal to reduce their rents will mean that these CLTs now face a very uncertain and, in some cases, disastrous future.

4.1.2.3. For half of the 8 CLTs that are RPs, the rent reductions proposal would lead to severe financial difficulties and, in two cases, **insolvency within three years**, as follows:

4.1.2.3.1. Lyvennet Community Trust in Cumbria that has developed 12 homes for rent and 8 self-build plots. Over the period of their 25 mortgage they will lose £191,725 of planned income and have a cumulative deficit of £119,000. They are likely to be able to survive for another 3 years before becoming insolvent.

4.1.2.3.2. Similarly, Bristol CLT, who are currently on site with their scheme of 5 homes for rent and 7 shared ownership, will now show a permanent deficit from year four, and this is without any funds set aside for planned repairs.

4.1.2.3.3. For Glendale Gateway Trust, a Trust with 18 rental properties, the rent reductions will have a significant effect on their bottom line – by year four they will be losing £10,000 a year, whereas this year they are forecasting a surplus of just £4,000.

4.1.2.3.4. Wickham CLT in Hampshire, who have four rental properties out of a total of 8, have reported that the rent reductions will heavily impact, but not endanger, their long-term viability. However, the CLT will have to draw on their reserves to the extent that it would raise their risk levels to an unacceptable level. Such a depletion of reserves

would put at risk the financial 'headroom' required by the Trust itself and by the HCA's Governance and Viability Standard. Their plans to develop another scheme have now also been abandoned.

4.1.2.4. For the remaining four existing RPs, the rent reductions would have a concerning but not a disastrous impact, for example:

4.1.2.4.1. Beer CLT, which has 3 rented properties out of a total of 7, will have to renegotiate and extend their loans, which is yet untested.

4.1.2.4.2. Homes for Wells, a Trust in Norfolk that completed 12 homes for Affordable Rent earlier this year, had planned to employ a member of staff to relieve the volunteer board from the day to day running of the Trust, including repairs and maintenance. However, in order to maintain a net positive cash flow each year they will now have to abandon such plans and continue to rely on the goodwill of volunteers. They will also now no longer be able to develop any further affordable homes.

4.1.2.4.3. For Keswick CLT, a Trust of 20 rental properties, including 15 in development, they will now have to set their starting rents at 12% higher than originally planned, which makes it significantly less affordable for the population they are set to serve. They will also have to extend the length of their loan, which is yet untested.

4.1.2.5. There are also another two CLTs that are currently in the process of registering as an RP. One has since decided to withdraw their application due to the potential impact of the proposed measures. Another, Grade Ruan CLT in Cornwall, has put their application on hold.

4.1.2.6. The Welfare Reform and Work Bill states that this rent reduction will not apply to RPs where the Regulator determines that compliance would jeopardise their financial viability.

4.1.2.7. However, we are very concerned that the suggested remedy for small organisations with viability problems is to merge with a large housing association. For CLTs, as legally constituted organisations working a defined community area and where volunteers have invested hundreds of hours of volunteer time to develop their own affordable housing projects, a merger with a large housing association would undermine their core ethos.

4.1.2.8. We therefore recommend to Government that the 8 CLTs that are RPs are exempt from the rent reductions proposal.

4.1.3. **Impact on CLTs that partner with an established housing association (or RP)**

4.1.3.1. Many CLTs have decided to avoid the regulatory burden of becoming an RP, preferring instead to work in partnership with an established housing association. The success of these partnership approaches, particularly in the South West, has led to a healthy pipeline of future schemes. However, these are mostly or wholly schemes for rented housing because they are located in rural locations or small towns where property costs are high, average wages are low, construction costs are higher than elsewhere and many affordable rented homes have been lost through the original Right to Buy. Such schemes are now significantly less viable due to the proposed rent reductions with the result that in the future RPs are less willing to partner with local CLTs.

4.1.3.2. Furthermore, where CLTs have begun to work with a housing association and are part-way through the development process, in nearly all cases the work has been put on hold whilst the housing associations review their business plans. There is a danger that some of the housing associations may be unable to continue with the pipeline projects due to viability issues.

4.1.3.3. Whereas housing associations are largely planning to compensate for the rent reductions by providing fewer rented and more shared ownership properties, there is very limited scope for this on CLT schemes due to the factors mentioned above and the scarcity of lenders to shared owners on rural exception sites and to CLTs in general where they use the preferred 'resale price covenant' disposal method.

4.1.3.4. We therefore recommend that, subject to the outcome of the associations' revised business planning, the Government provide an incentive to established housing associations to maintain their engagement with community-led housing organisations; potentially following the success of the Community-led Development Grant initiative in the 2011-2015 Affordable Homes Programme.

