

Co-operation and Mutuality Scotland
Submission to the Rural Housing Inquiry of the
Rural Affairs and Environment Committee of the Scottish Parliament

1. Introduction

1.1 Co-operation and Mutuality Scotland (CMS) is a membership organisation with a clear and focused purpose and vision. Our purpose is to develop and extend co-operation and mutuality in Scotland's communities. Our vision is to be a strategic voice for co-operation and mutuality; to be a partner, with government and others, in the development and support of new and existing co-operatives and mutual enterprises, and to be an effective forum for co-operative and mutual enterprise.

1.2 CMS is the main umbrella organisation for the co-operative and mutual sector in Scotland; it was launched in June 2003. CMS covers the full range of co-operative and mutual enterprises – namely worker co-ops, employee owned businesses, housing co-ops, credit unions, other financial services, agriculture, fishing community businesses and consumer co-ops.

1.3 The co-operative and mutual sector has been in existence for nearly 200 years. It employs ten of thousands of people and contributes millions to the UK economy every year.

2. Co-operative Housing in Scotland

2.1 There are currently 19 registered social landlord Housing Co-operatives in Scotland, of which there are 11 non-fully mutual housing co-operatives and 8 fully mutual housing co-operatives. In both types, tenants join the co-op and have a £1 membership fee. A tenant that does this is thus both a tenant and a member. There are approximately 6919 units under housing co-operative control in Scotland.

2.2 The Housing Co-operative movement in Scotland is diverse but there are some key factors which are common to all Housing Co-operatives in Scotland

- Co-operative model epitomizes community control and empowerment as Management Committee members must be tenants.
- Provide high quality social housing provision
- Innovative and groundbreaking wider action work
- Typically have less units than other Registered Social Landlords

Co-operative Housing in Scotland (CHiS) is the strategic body and forum which represents the interests of housing co-operatives in Scotland.

2.3 CMS believes that there is a great deal of scope for the Scottish Parliament and the Scottish Government to examine co-operative and mutual models of housing provision and for the Scottish Government to promote such models to deliver an increased supply of housing across all tenures, more choice of housing that those on lower incomes can afford, housing developments that contribute to the creation of sustainable mixed communities and social housing that provides better value for public expenditure. We believe that co-operative and mutual models are particularly well-suited to the provision of housing in rural areas of Scotland. Co-operative and mutual models can play a significant role in making land available for house-building and as a mechanism to keep housing affordable.

2.4 CMS supports co-operative and mutual solutions to Scotland's housing problems because we believe that they add real value, the main benefit is that each member enjoys more control and independence, and they are bound together by common ethics and goals.

4. Co-operative Housing Models

4.1 We believe that co-operative solutions, although they have developed over the last 200 years, offer an innovative approach to dealing with the problems faced in modern Scotland. Co-operative Development Scotland has

been working with a number of organisations in an effort to develop a model for co-operative housing which addresses each of the following issues:-

- Making housing affordable for key workers in both the rural and urban settings; and, where possible, linked to earnings and the ability to pay;
- Maintaining a level of affordability for future residents by retaining equity within a community-based entity while allowing exiting tenants to take equity with them (thus enabling existing tenants to move up the property ladder);
- Attaining a level of asset lock which is compatible with the above objectives (and with particular reference to protecting land assets which have been received by way of gift or purchased at less than market value);
- Allowing recognition of “sweat equity”, where an element of self-build has been applied to make housing more affordable.

4.2 This response will deal with the contribution which co-operative models can make to making land available for house-building and keeping housing affordable. Whilst this response will not explicitly deal with the issue of environmental sustainability; it is clear that co-operative models are particularly well-suited to allowing communities to work together to make environmental sustainability a priority.

4.3 For the purposes of this response, CMS has examined the features of the Mutual Home Ownership Model developed by Co-operative Development Society in England, the rules of Gloucestershire Land for People Limited, the sample Single Family Ground Lease Agreement developed by Burlington Community Land Trust Inc and various papers exploring the Community Land Trust (CLT) and Mutual Home Ownership Society (MHOS) model.

4.4 Certain elements from each of these sources can be carried across to a Scottish context - but because of the particularities of the Scots law system, the overall framework which is developed for use in a Scottish context has to be bespoke. The Land Reform (Scotland) Act 2003 has enabled a number of

communities to purchase their land, and undertake various forms of development. CMS believes that communal ownership of land creates a real opportunity to promote community ownership of houses.

4.5 The Community Land Trust (CLT) has the primary function of acting as effectively the *guardian* of the land assets which are transferred into the mutual home ownership project. In particular, the intent is that the CLT should be able to preserve the underlying ethos of the project into the indefinite future, i.e. so as to eliminate the possibility that the members of the Mutual Home Ownership Society (MHOS) might at a future date sell the property on the open market in order to achieve what could be a very significant financial return. That outcome would be particularly unpalatable in a case where the land for the housing had been contributed to the project by way of gift or for a price which fell significantly below market value. It has been suggested that a further aspect of the model which it was essential to preserve (and in relation to which the CLT might have a role, as an external guardian) would be ensuring that the eligibility criteria remained focussed on the target market¹, and that the selection of participants was in line with principles of openness and transparency.

4.6 Assuming the intention is that the entity which lets out homes to individual tenants should be a Registered Social Landlord (RSL), we would suggest that the body having that function - the Mutual Home Ownership Society (MHOS) - should take the form of an industrial and provident society, using a housing co-operative model. Under that model, each of the tenants must be a member of the MHOS - and, equally, the MHOS would be able to let the homes only to individuals who were members of the MHOS. If the MHOS is structured in this way, that would mean that, as a housing co-operative, the tenants would not qualify under the right-to-buy legislation - which (subject to the possibility of a future change in the law within this area)

¹ (broadly, those who were able to afford payments in excess of social housing rents, but were unable to obtain or service a mortgage to fund a conventional property purchase; in addition – and particularly in a rural context – there could be eligibility criteria directed towards giving priority to people who were taking up employment, or intending to run their own business, in the local community)

removes the risk that an individual tenant might undermine the whole intent of the model by exercising his/her right-to-buy i.e. acquiring outright ownership.

4.7 The model which was developed in England & Wales (albeit not implemented to date) envisaged that the CLT would grant a long lease at a peppercorn rent to the MHOS, and on the basis that the lease would contain the required provisions to ensure that the MHOS did not depart from the fundamentals of the model by e.g. selling outright ownership of the properties to third parties or indeed to its own members. Certainly, a lease arrangement represents a very effective way of entrenching restrictions of this nature - since (subject to statutory restrictions on a landlord's right of irritancy, which are unlikely to be problematic in this context), the landlord under a lease would have power to terminate the lease (and thus recover unencumbered ownership) if the tenant (in this case, the MHOS) committed a serious breach. In the context of the model developed in England & Wales, it is understood that the provisions of the lease impose a very significant financial disadvantage in relation to any departure from the fundamentals of the scheme – in that the effect would be that a full market rent (and reflecting the full land value) would be taken to have applied from day one, and with interest being due on that additional rent accordingly. The difficulty in a Scottish context, however, is that land tenure legislation in Scotland prohibits the grant of any lease of residential property for a period in excess of 20 years; the restriction relates to the nature of the property, and therefore a lease to a corporate body, rather than to an individual occupier, would still be within the scope of the prohibition.

4.8 A lease of less than twenty years is unlikely to be viable by reference to the overall requirements of the model, for two reasons:

- if the intention was that the MHOS would borrow the requisite funds to acquire the housing, a commercial lender would undoubtedly ask for security - and a security cannot be granted

(again as a matter of Scots law) over a lease which is of less than 20 years' duration

- an arrangement whereby the MHOS would lose its property interest within a period of 20 years from acquisition is unlikely to form a sufficiently robust foundation for the build-up of property values which is required to enable the MHOS to make the necessary equity pay-outs to departing tenants.

4.9 The detail of the equity purchase scheme would require to be analysed and refined to fit the requirements of a particular project. We can say, however, that the essential features, as envisaged by the model developed in England & Wales, could readily be applicable in a Scottish context; in its basic form, the key features would be as follows: -

- the overall portfolio owned by the MHOS would be “unitised”, i.e. divided into units of property equity (probably with each unit being at a reasonably substantial figure, e.g. £1,000);

4.10 CMS believes that the above model would be able to make a major contribution to the government's priorities of increasing the supply of housing, providing more choice of housing, creating sustainable and mixed communities, and providing better value for public expenditure. CMS believes that the co-operative model outlined in this paper could make a practical difference to the housing market in rural areas of Scotland.

5. Conclusion

5.1 CMS sees that co-operative and mutual solutions can make a real contribution to future provision of housing in Scotland and in particular in rural Scotland. Co-operative and mutual solutions could help to increase the supply of housing, provide more choice of housing for those on lower incomes, create sustainable and mixed communities, and provide better value

for public expenditure. In the rural context CMS believes that our proposals can make a real difference by providing a model which makes land available for house-building. Co-operative models also make housing more affordable for people in rural communities.