

Affordable Housing and Islamic Home Finance in the UK

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Affordable Housing in the UK

- There is a shortage of affordable housing in the UK
- Affordable rented housing
- Affordable homes for purchase
 - Key workers
 - Rural areas – second homes
 - Overheated housing market
- Housing has moved much higher up the government's policy agenda



Affordable Housing in England

Government Policy

- Policy is to encourage home ownership and make accessible to as many people as possible
- An adequate supply of rented housing at affordable rents – social housing
 - Decent homes standard
- Social rented housing provided by
 - Local authorities
 - Registered Social Landlords (Housing Associations)
- The Housing Corporation – The National Affordable Homes Agency



Affordable Home Ownership

- Right to buy – Council tenants
- Right to acquire – some housing association tenants
 - Qualifying period as a public sector tenant
 - Discount from open market value
 - Discount repayable if property sold within 5 years



Affordable Home Ownership

A variety of schemes are available to make home ownership accessible to those on lower incomes

■ Homebuy

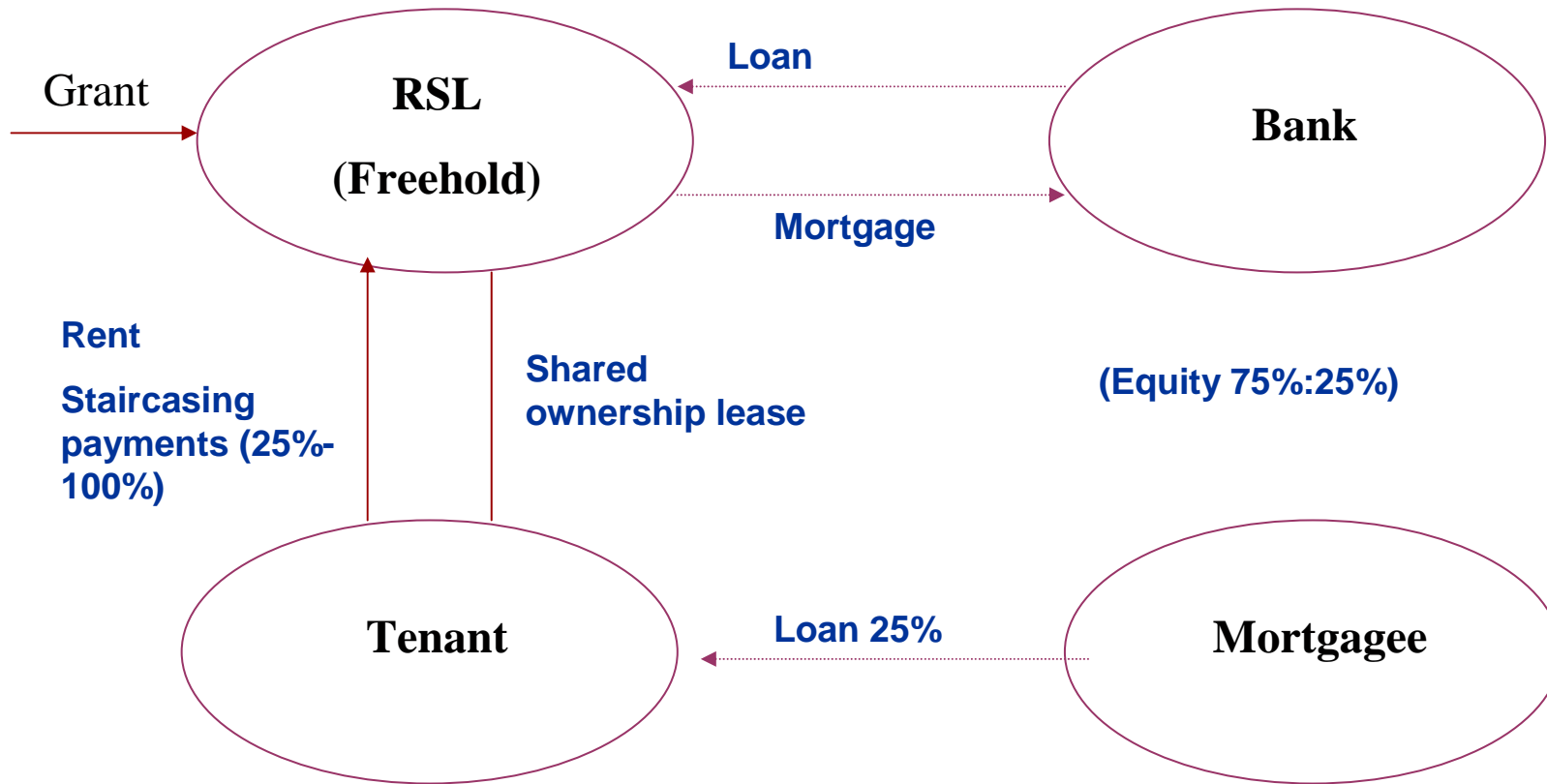
- New Build Homebuy – shared ownership
- Open Market Homebuy – equity loan
- Social Homebuy – shared ownership

discount

- First Time Buyer's Initiative – shared equity
- Key Worker Living – helps public sector employees in London, the South East and East of England
- Key features – shared ownership and equity loans



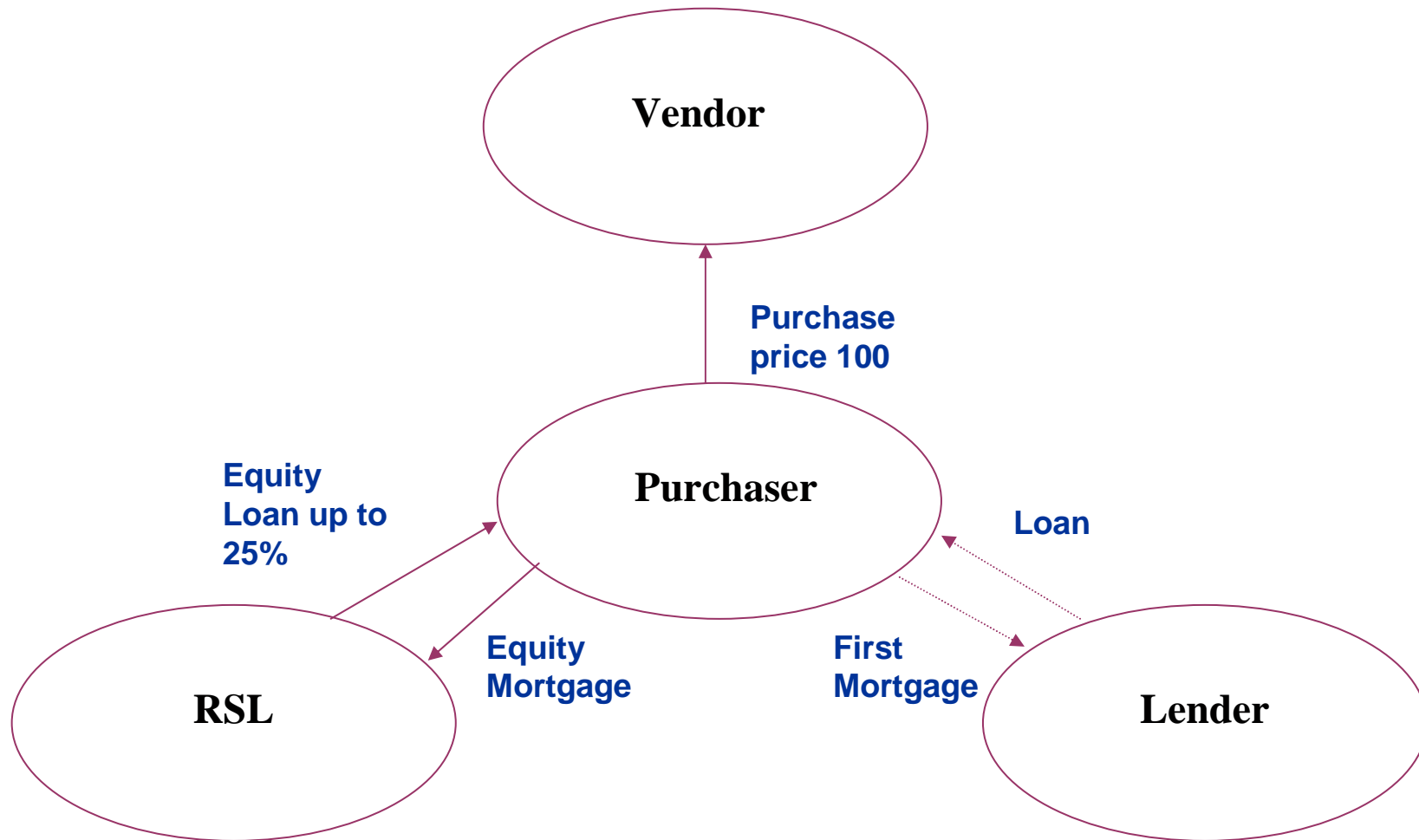
Typical Shared Ownership Structure



Very similar to Ijāra



Typical Equity Loan Structure



Equity loan must be repaid on sale by Purchaser



Muslim Housing Experiences

- 2001 Census: 1.5 million Muslims in England and Wales (2.97%)
- All local authorities (except Scilly Isles)
- All ethnic groups
- Social housing - 28% (20% for general population)
- Home owners - 51% (69%)
- Significant levels of child poverty and housing deprivation



Key Issues

- Islamic law: prohibits interest (riba)
- Bank of England Working Party
- Obstacles:
 - stamp duty – double charges
 - right to buy – could not be exercised using Islamic Finance
 - social security benefits
 - shared ownership and equity loans require additional mortgage finance
 - Islamic home finance products (ijarah and musharaka) were not FSA regulated
- Progress to date
 - Stamp duty exemptions for murabaha, ijarah and diminishing musharaka
 - FSA regulation of home purchase plans from 6 April 2007



Progress to date

Right to buy

- March 2005 - The General Consent for the Disposal of Dwelling houses to Tenants Obtaining Finance on Non-Standard Terms
- Would allow Councils to sell homes on similar terms to right to buy (including discount) where tenant wishes to use Islamic-compliant mortgages
- Does not amend right to buy legislation but would enable local authorities to sell homes voluntarily to qualifying tenants
- Consent not yet issued
- Housing Corporation was also to look into how to extend right to acquire and other low cost home ownership schemes to enable Shari'ah compliant finance to be used



Remaining Obstacles

Consumer Protection Concerns

- Legal protections for a mortgagee
 - Purchaser is registered proprietor
 - On default lender who wishes to sell the property must obtain a court order
 - Court not obliged to make an order
 - Borrower has right to have charge released at any time on repayment of loan in full
 - Borrower has right to receive any surplus on sale
 - Lender is obliged to sell at market price



Remaining Obstacles

Consumer Protection Concerns

■ Ijarah and musharaka products

- There are no equivalent legal protections
- Lender is registered proprietor
- Use a form of sale contract combined with a lease – creates an assured tenancy
- Non payment of rent for 2 months is a mandatory ground for possession
- Court has no discretion
- No general right to obtain title on early payment
- Assured tenancy was not created with the intention that it would be used for Islamic home finance products



The Way Forward

- There is a political will to resolve the problem but attempts to reform the law are complex
 - Concerns about creating loopholes and unforeseen consequences
 - Law relating to tenancies is itself under review
 - Widespread consultation is needed
- Work on adapting/developing products is largely on hold



A possible solution?

Shared ownership trusts

- Developed with Housing Corporation as an adaptation of shared ownership for commonhold
- As developed to date replicates features and restrictions of shared ownership leases
- Has been given same treatment for stamp duty land tax
- Offers great flexibility and adaptability
- Does not require legislation



Shared ownership trusts

Key features

- RSL and purchaser buy property jointly as co-owners in proportion to contributions
- Property registered in names of trustees – may be co-owners or independent
- Trust deed gives purchaser sole right to occupy and he/she pays compensation to the RSL – “occupation rent”
- Purchaser has a right to purchase further portions of RSL’s beneficial interest
- Trust can specify who benefits from capital gains and in what proportions

We believe there is no intrinsic reason why such a structure would not be Shari’ah compliant



Shared ownership trust

Consumer protection

- Trusts well established in law and offer robust and fair protections
- Terms of trust would provide for property to be sold if purchaser fails to make payments
- Non payment could operate to reduce purchaser's equity in the property
- Trust should specify mechanism to determine appropriate sale price
- If co-owners do not agree on sale either party would have right to have the matter determined by court



Shared ownership trusts

- Potential to be adapted as a basis for Islamic home finance
- Co-ownership is essentially very close to musharaka
- Potential to combine affordable home ownership schemes with Islamic finance
- Trust is extremely adaptable – there could be 3 co-owners with trustees holding on trust for purchaser, RSL and funder
- More work would be required
 - Additional SDLT exemptions
 - Extension of FSA regulation

