



Department for
Communities and
Local Government

Planning and Affordable Housing for Build to Rent

A consultation paper



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Contents

Scope of the consultation	4
1. Introduction	5
2. Background	7
3. Build to Rent - Overview of Policy Proposals	12
4. Implementing Build to Rent and Affordable Private Rent	20
Annex A: Summary Equalities Statement	30
Annex B: Consultation Questions	32
Annex C: About this consultation	41

Scope of the consultation

Topic of this consultation:	This consultation seeks views on planning and affordable housing policies intended to speed up the development of large-scale, purpose-built privately rented housing – an emerging housing sector known as ‘Build to Rent’.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	The proposed policies do not impose a regulatory burden on business, so no Impact Assessment has been prepared.

Basic Information

Duration:	This consultation will last for twelve weeks from 7th February 2017 until 1st May 2017.
Enquiries:	For any enquiries about the consultation please contact - BTRconsultation@communities.gsi.gov.uk
How to respond:	<p>You may respond by completing an online survey at: https://www.surveymonkey.co.uk/r/5YTPVT3</p> <p>This is the preferred method for responding to this consultation.</p> <p>Alternatively you can email your response to the questions in this consultation to BTRconsultation@communities.gsi.gov.uk</p> <p>If you are responding in writing, please make it clear which questions you are responding to.</p> <p>Written responses should be sent to: Housing Led Regeneration and Investment Team, 3rd Floor, Fry Building, 2 Marsham Street, London SW1P 4DF</p> <p>When you reply it would be useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"> - your name, - your position (if applicable), - the name of organisation (if applicable), - an address (including post-code), - an email address, and - a contact telephone number

1. Introduction

Recent years have seen the emergence of a new sector in the housing market, namely large-scale developments purpose-built for private rent – often referred to as ‘Build to Rent’.

In part, the emergence of this sector is due to actions taken by the Coalition Government following the 2012 Montague Review¹ but it also reflects underlying demographic and economic conditions of high demand for rented housing and the abundant availability of institutional capital for investment in residential property.

The Government welcomes Build to Rent as a desirable and enduring feature of the housing market. This support is set out in the 2017 Housing White Paper².

The number of new Build to Rent homes constructed is steadily increasing, but the Government has heard from developers and investors that barriers to development remain and that the capital available for investment could be deployed faster if those barriers are overcome. Acquisition of land, the predictability and speed of planning decisions for this emerging sector and the negotiation of planning obligations relating to affordable housing are frequently cited as key barriers.

This consultation paper seeks views on planning measures intended to support Build to Rent through the planning system and make the benefits of Build to Rent more widespread. These include the availability of longer tenancies (to those tenants who want one) and facilitating a new form of affordable housing, known as Affordable Private Rent.³

We want to hear the views of developers and investors in the Build to Rent industry, local authorities and also developers and landlords of other housing tenures. This consultation will also be of interest to individuals living or intending to live in rented housing.

All responses to the paper should be submitted no later than 1st May 2017. We encourage respondents to use the online survey available at <https://www.surveymonkey.co.uk/r/5YTPVT3> although written responses can also be emailed to BTRconsultation@communities.gsi.gov.uk. To help us analyse the consultation responses, we would ask you to answer the following questions.

Questions:

Q 1: Please provide your name and contact details in the box provided, and identify whether you are responding (please tick one):

- ***as a private individual?***
- ***on behalf of an organisation?***

¹ “Review of the barriers to institutional investment in private rented homes” (2012) - <https://www.gov.uk/government/publications/private-rented-homes-review-of-the-barriers-to-institutional-investment>

² <https://www.gov.uk/government/publications/fixing-our-broken-housing-market>

³ There is currently no settled description for this approach but we are aware the term “Discounted Market Rent” has been used elsewhere.

Q 2. If you are responding as a private individual, please identify in what capacity you are replying and whether your main interest is as:

- **A person living in private rented accommodation?**
- **A person living in affordable housing?**
- **A private landlord?**
- **Other? (Please specify)**

Q 3. If you are responding on behalf of an organisation, please identify in what capacity you are replying and the main interest of your organisation (tick all that apply):

- **An investor in Build to Rent schemes**
- **A developer of Build to Rent homes**
- **A lender to Build to Rent schemes**
- **A supplier of management and/or other services to Build to Rent homes**
- **Other private landlord**
- **Social landlord (either Registered Provider or local authority)**
- **A developer of other housing tenures besides Build to Rent**
- **A trade or other representative body**
- **Local authority**
- **Other? (please specify)**

Q 4. Please specify the part(s) of England in which you live, or your organisation's activities (or members) are principally located (you may tick more than one):

- **London**
- **South East**
- **East of England**
- **South West**
- **East Midlands**
- **West Midlands**
- **Yorkshire & Humber**
- **North East**
- **North West**
- **Other (please specify)**

2. Background

Introduction - The emergence of Build to Rent

The sector that we now refer to as 'Build to Rent' originally started in the 1920s and 30s when financial investors, such as insurance companies, started to develop and own purpose-built housing for private rent.

The sector declined in the post-war era as a result of rent controls and other regulations on tenancies. These undermined the financial viability of new privately rented housing and led to deterioration of privately rented properties, as rents barely covered maintenance costs. Institutions stopped developing, and gradually sold off their portfolios, with the result that, by 2010, landlords owning 100 or more rented properties accounted for just one tenth of one per cent of all landlords⁴.

In the place of institutional investors, local authorities and housing associations became large scale developers and owners of rented housing. Despite the relaxation of rent controls and regulations in the 1980s, the institutional housing sector failed to revive. Key reasons for this include long-term memories of the risks of adverse regulation, the decline in the reputation of the private rented sector, and other factors such as the greater availability of mortgages for owner occupiers.

Recognising the supply and other potential benefits of the Build to Rent sector, as evidenced by the "multifamily housing" industry in the US and elsewhere, the Coalition Government instituted a review into the barriers to institutional investment in housing (the Montague Review)⁵ in 2012.

A number of measures were undertaken following the Montague Review. These included:

- The formation of a time-limited task force charged with kick-starting the sector.
- Publication of guidance for industry and also for local authorities.⁶
- Facilitating access to short-term and long-term debt finance through the Build to Rent Fund, the Private Rented Sector housing guarantee scheme, and more recently the Home Building Fund.
- Amendments to national planning guidance, in particular viability assessment⁷.

⁴ Private Landlords Survey, 2010 - <https://www.gov.uk/government/statistics/private-landlords-survey-2010>

⁵ "Review of the barriers to institutional investment in private rented homes" (2012) - <https://www.gov.uk/government/publications/private-rented-homes-review-of-the-barriers-to-institutional-investment>

⁶ "Build to Rent: guide for local authorities" (DCLG, 2015) - <https://www.gov.uk/government/publications/build-to-rent-guide-for-local-authorities>

⁷ <https://www.gov.uk/guidance/viability>

The demographic and market drivers of Build to Rent are strong. With household formation outstripping house building, demand for rented housing is high. PWC, a consultancy firm, has predicted that 25 per cent of households will be living in the private rented sector by 2025⁸, up from 19 per cent in 2014-15⁹. The attractive returns from residential property, compared with other investments, have also attracted institutional investment. The British Property Federation estimates that there is almost £50 billion of capital available for Build to Rent¹⁰.

The main benefits of Build to Rent

Boosting supply. Build to Rent can boost housing supply for a number of reasons. The availability of institutional investment creates an additional and, compared to building for sale, less cyclical source of capital to support housing development. On larger sites, Build to Rent schemes can be developed faster than homes built for sale because they can be absorbed by the market more quickly. The investor's desire for a rapid income stream means they are likely to utilise modern methods of construction (such as offsite construction) that can complement and enhance the supply chain for housing development. Build to Rent developers will also tend to favour town-centre sites that are less attractive for housebuilders and, where permitted, will be aiming for higher housing density than housebuilders, because they are usually aiming at a younger client base than traditional housebuilders.

Quality and choice. Whilst most individual private landlords offer an acceptable service, Build to Rent schemes are built and professionally managed on a scale that typically allows a higher level of services (e.g. on-site concierge) and amenities (e.g. communal space) to be offered to their customers. For apartments, the investor is incentivised to maintain not only the apartment itself, but also the building and the wider public realm; and, because the business model is primarily based on income rather than capital gains, to attract and retain customers by offering a good service. That income-driven model also means that Build to Rent landlords are typically willing to offer longer term tenancies to those customers who want one. This is particularly helpful for families with children.

Economic growth. By speeding up development on sites that might not otherwise come forward, Build to Rent schemes can contribute to town centre regeneration and accelerate local authority revenues in the form of council tax, new homes bonus and business rates and monetising surplus public sector land. A number of cities have seen Build to Rent as a way to attract and retain the skilled mobile labour force that their local economy needs.

Investment appetite. Once completed, Build to Rent schemes provide a relatively low-risk and predictable income stream, which is well suited to the needs of investors such as pension funds seeking to match their inflation-linked pension liabilities.

⁸ <https://www.pwc.co.uk/assets/pdf/ukey-section3-housing-market-july-2015.pdf>

⁹ English Housing Survey 2014 to 2015: private rented sector report – <https://www.gov.uk/government/statistics/english-housing-survey-2014-to-2015-private-rented-sector-report>

¹⁰ <http://www.bpf.org.uk/sites/default/files/resources/Autumn-Statement-BPF-submission-Oct-2016.pdf>

As a result of these demographic and market conditions, and the measures implemented following the Montague Review, the Build to Rent market has started to grow. The British Property Federation estimates that 10,400 Build to Rent homes have been completed in England since 2012, with 26,200 under construction and a further 35,600 with planning permission¹¹. Around half of these homes are in London, although the proportion outside London (mainly the wider south east and major regional cities such as Manchester, Liverpool and Birmingham) is growing.

The outlook for Build to Rent

Given the progress made over the past four years, the Government considers that Build to Rent is now becoming established and that it will continue to develop and spread out across a broader customer base and geography.

Industry sources have referred to the potential, with the right level of government support, for supply of Build to Rent homes to reach 10,000 homes per year by 2020¹² and for the level of investment appetite to grow beyond the £50 billion that has been posited by Knight Frank¹³ and others. The growth of the industry in the USA over the past three decades gives an indication of the potential.

However, we have also heard clear concerns expressed by the growing industry that there are still barriers that are getting in the way of Build to Rent development. The Government wants to increase the rate of housebuilding and considers that there are policy changes that could help speed up delivery of Build to Rent and increase the number of houses built each year, as well as unlocking the wider benefits that Build to Rent has to offer.

Barriers and the case for intervention

As an emerging industry facing a number of market and regulatory failures, Build to Rent is not yet sufficiently established to compete to its full potential against established housing developers. A number of barriers have been cited by industry. These include:

- **Policy uncertainty** – the need for a clear signal of Government support for Build to Rent as an enduring feature of the housing market.
- **Teething issues** associated with a new industry – the need to ramp up supply chains in management and operations; the absence of industry benchmarking data (making cost and income assessment difficult); the varying approaches by surveyors to valuing Build to Rent schemes; the lack of consumer awareness; and the absence of an established secondary market in the trading of Build to Rent developments and portfolios.
- **Marginal financial viability and unpredictability of planning outcomes** – the uncertain outcome of negotiations around S106 agreements, affordable housing

¹¹ The British Property Federation's map of Build to Rent schemes across the UK is available at <http://www.bpf.org.uk/what-we-do/bpf-build-rent-map-uk>

¹² "Residential Development - Who will build the homes we need?" (Savills 2015)

¹³ <http://content.knightfrank.com/research/588/documents/en/jan-2016-3464.pdf>

requirements and housing mix can make it difficult for Build to Rent developers to bid for land in competition with housebuilders intending to build homes for sale.

- Finally, the methodology for ascertaining viability for Build to Rent is less well understood by local planning authorities than for other tenures. The Build to Rent model differs from build for sale in that it is based on a long term income stream and does not generate an early capital sum to pay for affordable housing. This creates difficulties in assessing viability at the outset.

Market and regulatory failure

Market failure arises where the market does not and cannot be expected to deliver an efficient outcome. In the case of Build to Rent, this is a new sector of the housing market where barriers to entry are high and established “build for sale” developers may therefore be able to exert significant **market power**.

Another market failure is **imperfect information**, i.e. the absence of the information needed for the market to operate efficiently and / or the unavailability of that information to all participants. For example:

- As a new product, with low customer awareness, it is difficult for Build to Rent investors to build into their financial modelling the rental premium the services and amenities provided should command, relative to the private rented sector as a whole.
- Since this is a new market in this country the cost of capital to Build to Rent schemes, and the terms on which capital will be available, are not yet well understood, and these terms are themselves exacerbated by lack of information based on long term financial performance. The establishment over time of a secondary market (as is happening for purpose built student accommodation) and greater familiarity in the lending markets (following on from government-led lending schemes) will assist this. A secondary market should also help establish income-based valuation methodologies, and so avoid the need for investors to record their assets at a discount to vacant possession.

Finally, Build to Rent schemes may generate benefits for other parties which are not fully priced into the income received by the investor. Examples of such **externalities** could include: earlier tax revenues for local authorities from faster development; the macro-economic benefit arising from a cyclically resilient form of investment; and, on larger regeneration schemes, the catalytic role of Build to Rent in galvanising development on the site and nearby town centres, and the stewardship role of the owner in the public realm.

Regulatory failure arises where the regulatory environment creates unintended barriers to the market. A lack of familiarity of planning authorities with the characteristics of Build to Rent might be an example of regulatory failure, as it can lead to delays in obtaining planning approval (with a consequential impact on viability). This can reduce investors’ willingness to invest, creating a more uncertain planning outcome compared to more established forms of housing.

Marginal financial viability does not, by itself, provide a case for intervention. Build to Rent is a form of market housing which ought to compete on a level playing field with other forms of market housing. However, the Government recognises that, as a new market, Build to Rent may be subject to some market and regulatory failures (see box on previous page) which either merit time-limited intervention, or where policy needs adjusting to remove blockages.

Question:

Q 5: Do you consider there are market and regulatory failures impeding the rapid development of the Build to Rent market that merit national policy intervention? Please add comments.

Policy measures to support Build to Rent

The 2017 Housing White Paper sends a clear message of the Government's support for Build to Rent. This consultation seeks views on several measures which should help to improve the financial viability and the predictability of planning outcomes for the sector. The main proposed measures are:

- Placing further emphasis on Build to Rent through planning policy;
- encouraging an alternative approach to affordable housing for Build to Rent called Affordable Private Rent (sometimes referred to as Discounted Market Rent); and
- strengthening the expectation on Build to Rent schemes to offer a Family Friendly Tenancy of three years or more, to those tenants who want one.

The measures contained in this consultation will not by themselves address all of the teething issues faced by an emerging industry, such as supply chains, benchmarking data, and valuation. These are essentially issues for industry to resolve. However, the Government intends to establish a **joint committee** with industry to provide a forum in which the Government, industry, and the wider public sector can work together to ensure all play their part in overcoming hurdles within their own areas of responsibility, and address wider barriers to Build to Rent.

3. Build to Rent - Overview of Policy Proposals

Introduction and existing policy

This chapter sets out the high level proposals the Government wishes to take forward. The main objective is for planning policy to be recast to specifically support Build to Rent. Alongside that the Government also wants to promote an emerging form of affordable housing provision called "Affordable Private Rent", which is well suited to Build to Rent schemes.

The Government wants the planning system to play its part in supporting Build to Rent, alongside a broader set of planning reforms that are already underway to bring more land into the development system and speed up the conversion of applications into development activity.

Case study: London Borough of Wandsworth

The London Borough of Wandsworth's core strategy, adopted in March 2016, includes a policy on Build to Rent. It says:

"The Council supports the development of private rented sector housing and schemes offering a mixture of private and intermediate rented housing aimed at working households. Where developers are willing to enter into legal agreements securing such housing for local needs or lower to middle income households with security of tenure, any impacts on the market value of such developments will be taken into account in viability assessments."

Local authorities already have tools and powers at their disposal to support Build to Rent. For example, as part of their plan-making and decision taking processes, authorities can:

- Assess the need for market rented housing as part of preparing Strategic Housing Market Assessments.
- Identify sites in their Strategic Land Availability Assessments which might be well suited to particular types of development.
- Include policies in their local plans on particular forms of housing (see box above).
- Differentiate policies on Planning Obligations (whether S106 or Community Infrastructure Levy) by tenure. (See the box overleaf on affordable housing and viability).
- Choose whether or not to deploy the nationally described space standard, taking into account viability and need considerations. Build to Rent developers have

called for greater flexibility on space standards. The Housing & Planning White Paper commits to a review of the Nationally Described Space Standard to consider how it is working in practice and how it fits with new ways of meeting housing demand. The Government encourages responses to the forthcoming consultation from across the Build to Rent sector.

Affordable housing and viability

The requirement, in many parts of the country, to provide affordable housing alongside market housing can be a significant cost affecting the financial viability of development. Section 106 planning obligations, which may include affordable housing, have to meet statutory tests in order to be taken into account in planning decisions. Decision taking on planning applications does not normally require an assessment of viability.

However, local planning authorities may ask for a viability appraisal from applicants, or the applicant may submit one if it considers that the scale of planning obligations sought may threaten the viability of its proposals. Where the viability of a proposal is in question, national planning guidance states that local planning authorities should be flexible in applying their policy requirements where possible. This may result in a proposal proceeding with a lower level of affordable housing provision than specified in the local plan. However, the viability process can be protracted – especially where (as for Build to Rent) the economic model is not well understood or catered for in existing viability methodology and uncertainty over the outcome of that process puts Build to Rent developers at a disadvantage in bidding for land. In 2015, the viability section of national planning guidance was amended to refer to the private rented sector¹⁴. The guidance states:

“Some privately rented homes can come from purpose built schemes held in single ownership which are intended for long term rental. The economics of such schemes differ from build to sale and should be determined on a case by case basis. To help ensure these schemes remain viable while improving the diversity of housing to meet local needs, local planning authorities should consider the appropriate level of planning obligations, including for affordable housing, and when these payments are required. So these homes remain available to rent only, local planning authorities may choose to explore using planning obligations to secure these schemes for a minimum period of time. Local planning authorities should enforce these planning obligations in the usual way.”

Local authorities also have non-planning powers at their disposal through which they can support Build to Rent – such as using their own local authority land holdings. The Government published guidance for local authorities on Build to Rent in March 2015 and this featured a number of examples of how local authorities are supporting Build to Rent¹⁵. Following this consultation we will consider whether that guidance will need to be updated.

¹⁴ See <http://planningguidance.communities.gov.uk/blog/guidance/viability-guidance/viability-and-decision-taking/>

¹⁵ <https://www.gov.uk/government/publications/build-to-rent-guide-for-local-authorities>

Re-aligning National Planning Policy

The Government believes authorities should be considering the potential of the Build to Rent sector to help meet the housing needs of their area.

The Government considers, therefore, that it would be helpful to revise the National Planning Policy Framework to refer to Build to Rent as a form of housing which planning authorities should consider. This revision is necessary to ensure planning authorities are provided with clear policy guidance on how to apply the approach in their plans and in development management decisions. The issue of how to define Build to Rent, for the purposes of the National Planning Policy Framework, is discussed in the next Chapter.

Question

Q 6: Do you agree with the proposal to refer explicitly to Build to Rent in the National Planning Policy Framework?

Affordable Private Rent

The Government is aware of an emerging planning practice by some London boroughs¹⁶, and elsewhere, of Build to Rent schemes offering a proportion of homes available at a discounted level of rent (sometimes referred to as “Discounted Market Rent”) as an alternative to other forms of affordable housing provision. This offer is made using existing policy but would be greatly assisted if national policy was realigned as stated above.

A big advantage of Affordable Private Rent is that, by combining all of the market and discounted units into a single development under common control, without the separate involvement of a social landlord, efficiencies can be realised in the design, density, construction and management of schemes. These efficiencies improve financial viability. They also enable a greater number of affordable units to be provided in total than would normally be the case for an equivalent scheme delivered under conventional construction approaches. By ‘pepper-potting’ the physically indistinguishable discounted homes throughout the scheme, there may also be a broader social benefit of creating a mixed and well integrated community within the development.

The Government recognises the arguments in favour of allowing Affordable Private Rent in place of other forms of planning for affordable housing on Build to Rent schemes. The proposed revision to the National Planning Policy Framework will, therefore, make it explicit that Affordable Private Rent can count as a form of affordable housing, and that it is also particularly well suited to Build to Rent. The revision will set an expectation that

¹⁶ The Affordable Private Rent idea is endorsed in Supplementary Planning Guidance from the London Mayor dated March 2015, but is termed “Discounted Market Rent”. See paragraph 3.3.10 of <https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/supplementary-planning-guidance/housing-supplementary>

planning authorities should give consideration to asking for Affordable Private Rent in place of other forms of affordable housing in Build to Rent schemes. This revision would not replace the need for Build to Rent developments to meet any other agreed planning obligations. A potential definition of Affordable Private Rent is set out in Chapter 4.

Case Study: The Rehearsal Rooms, Ealing



In 2015, the London Borough of Ealing converted a conventional residential for sale planning consent into a consent for private rented sector properties in North Acton.

Ealing has been keen to facilitate the development of institutionally funded volume private rented sector housing and North Acton is an ideal location. The new planning consent included a section 106 agreement which provided for the affordable housing contribution to be in the form of 30 discounted private rented sector units, and managed as part of the scheme, without involving a separate Registered Provider. Eligibility for living in the discounted homes is determined on the basis of tenants' household income and a lettings and management plan is contained within the revised Section 106 agreement, that gives further clarity to how the apartments will be allocated and managed.

This 173 home development (known as The Rehearsal Rooms) is currently under construction by Hub Residential, and will be owned by M&G (an institutional investor).

Delivering Affordable Private Rent

We think the take up of Affordable Private Rent could be assisted if the Government specified the terms under which, if offered as part of a planning application, it should be accepted as a Build to Rent development's contribution to affordable housing. Developers would then be able to calculate the cost of offering a certain proportion of the homes at a

given level of discount and be able to factor that cost into their calculations when bidding for land. This would help level the playing field across the various ways in which affordable homes are provided.

The Government's proposed terms for the provision of Affordable Private Rent are a minimum of 20% of the homes, at a minimum of 20% discount, provided in perpetuity. More details about the discount calculation are set out in Chapter 4.

To meet this aim the Government intends to **set an expectation in the National Planning Policy Framework** that, where Affordable Private Rent is offered, consideration should be given to accepting it instead of other forms of affordable housing. The intention is that this should provide a sufficiently robust expectation that local authorities do not seek to require alternative affordable housing products to Affordable Private Rent in Build to Rent schemes. Where a scheme cannot sustain the level of provision indicated above, then it would be for the local planning authority to determine what type and level of affordable housing provision is warranted – whether Affordable Private Rent or otherwise.

The effect of explicitly referring to Affordable Private Rent in the National Planning Policy Framework will also be to give planning authorities confidence that Affordable Private Rent counts as a form of affordable housing in Build to Rent schemes, and enable them to confidently consider this tenure as affordable housing in plan-making and decision taking.

Changing the National Planning Policy Framework this way will also allow sufficient flexibility for developers to offer alternative approaches where appropriate. For example:

- developers could seek different Affordable Private Rent terms (e.g. greater discount but fewer discounted homes), in negotiation with planning authorities;
- developers would not necessarily be obliged to offer Affordable Private Rent homes in the first place and instead could negotiate to provide different affordable housing products on site as they deem necessary.

If it becomes evident that changing the National Planning Policy Framework is insufficiently robust as a vehicle for ensuring planning authorities only seek Affordable Private Rent in Build to Rent schemes, the Government may consider if further measures such as legislation are needed.

Notwithstanding the benefits arising from this new tenure for Build to Rent schemes, risks could potentially arise if Affordable Private Rent is widely adopted in other contexts besides Build to Rent, e.g. if widespread uptake on other types of development meant that fewer new affordable homes were made available as Affordable Private Rent or as other types of affordable housing. The Government is therefore interested to hear whether there might be unintended consequences of Affordable Private Rent and whether these would be mitigated by limiting its acceptability as affordable housing to situations where it is provided as part of a Build to Rent scheme.

Questions:

Q 7: Do you think that Government should set a policy expectation on Affordable Private Rent in the National Planning Policy Framework, or not? (Please state your reasons.)

Q 8: Will a policy expectation in the National Planning Policy Framework send a sufficiently strong signal to support Affordable Private Rent as the main vehicle for affordable housing in Build to Rent? (Please state your reasons)

Q 9: Do you consider that Affordable Private Rent could play a useful role in the delivery of affordable housing in the area(s) where you live or operate?

Q 10: Do you consider that the efficiencies arising through on-site provision of Affordable Private Rent can materially improve the viability of Build to Rent, compared to other affordable housing tenures?

Q 11: Do you consider that there could be unintended consequences of Affordable Private Rent if it is accepted as a form of affordable housing?

Q 12: If your answer to Q11 is yes, would these consequences be mitigated by limiting Affordable Private Rent only to Build to Rent schemes?

Family Friendly Tenancies

As a business model based on a long term income stream, Build to Rent lends itself well to offering longer tenancies to those tenants who want one, especially families with children. Meeting this need has become more important as the proportion of households in the private rented sector with dependent children has increased from 29 per cent in 2003-04 to 37 per cent in 2014/15¹⁷.

The Government expects that family friendly tenancies of three years (or more) will become the norm (for those tenants who want one) in Build to Rent. We are working with the British Property Federation and National Housing Federation to consolidate this approach across the sector. There are no plans to legislate that particular types of private landlord must offer longer tenancies. However, Build to Rent schemes taking up the proposals on Affordable Private Rent set out in this document should be expected to offer family friendly tenancies (to those tenants who want one, and who are eligible to live in the country for that period under the right to rent) and this can be secured through planning obligations.

¹⁷ English Housing Survey 2014/15

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/501065/EHS_Headline_report_2014-15.pdf

Family Friendly Tenancies

Many Build to Rent landlords already offer their customers Assured Shorthold Tenancies with a longer fixed period than the statutory minimum period of six months. The Government wants to see longer term tenancies of three (or more) years offered more routinely to those tenants who want one. The features of such an offer would be:

- There is no obligation on the customer to take up the offer of a three year tenancy. They may prefer a tenancy of six months or perhaps one or two years.
- Where the rent is to be reviewed during the period of the tenancy, the basis of calculating the increase (whether as a fixed percentage or tied to inflation) should be clearly set out in the agreement.
- The tenant should not be locked into the tenancy for the full period of the tenancy. The tenant should have the option to terminate at one month's notice, after the first six months, without a break fee being payable.

Case Study: East Village, Newham



In 2013, Get Living London launched its first homes for rent at the former London Olympic and Paralympic Athletes' Village. Spread across 75 acres, the East Village provides 1,439 homes for market rent.

Long-term tenancies of up to three years are available, with index-linked rental increases and the flexibility of resident-only break clauses and no fees or hidden costs to pay. At least three-quarters of residents now take up three year tenancies.

The scale of the development allows Get Living to offer a range of initiatives to help build a strong community; from supporting the E20 Football Foundation, East Village Playgroup and 'Echo' time-bank project through to offering free outdoor fitness classes and hosting community events such as Easter egg hunts and Eid fun days. Larger scale events also take place throughout the year, including the annual Summer fair, outdoor cinema season, fireworks evening and Christmas makers market.

Questions:

Q 13: Do you think it is reasonable for Planning Authorities to specify minimum tenancy lengths in Build to Rent schemes? Please add your reasons, and give examples of such agreements where appropriate.

Q 14: Do you agree that Build to Rent tenancies should be for at least three years (with a one month break option for the tenant after the first six months) , for all customers in the development who want one?

Alternative planning policy support for Build to Rent

There have been a number of other suggestions from the Build to Rent industry at various times on how to promote Build to Rent via the planning system (aside from proposals on affordable housing covered in the next section). The Government has considered these suggestions and does not think that any of them are desirable or workable, for the reasons given below. The Government therefore has no plans to consult on, or to implement them. The suggestions include -

- Permission in principle in favour of Build to Rent schemes meeting certain characteristics. As currently configured, permission in Principle cannot be used to specify tenure, so it would not be effective in planning for Build to Rent.
- Presumption in favour of Build to Rent schemes meeting certain characteristics. There is already a concept of presumption in favour of sustainable development embedded within the National Planning Policy Framework.
- Permitted development rights for Build to Rent schemes meeting certain characteristics. Build to Rent developments are generally quite large and so should be considered through the planning system as per normal.
- Creation of a restrictive zone or specific planning use class for Build to Rent. This option is likely to have perverse outcomes and would limit the flexible use of land for housing.

4. Implementing Build to Rent and Affordable Private Rent

Introduction

This chapter sets out the key issues which will need to be addressed in order to implement the policy proposals set out in Chapter 3.

Definition of Build to Rent

We have heard calls from the Build to Rent industry for a definition of Build to Rent to be set in policy. Having such a definition could help the planning system support and adjust to this new type of tenure and policy, and provide more certainty for developers in negotiations on land bids and with local authorities.

The Government does not consider a detailed definition is necessary since it could be over-rigid or inflexible and constrain options in operating this new sector. However, the Government agrees that some form of definition will be needed to give effect to the policy proposals. We think that the definition will need to incorporate the following features and principles, and would like your views as to whether these encompass all the necessary characteristics:

- **tenure** – Build to Rent buildings will typically be 100 percent rented out, albeit they may form part of a wider multi-tenure development;
- **typology** – schemes can be either flats or houses, but will have to be on the same site and/or contiguous;
- **tenancy length** – schemes will as a norm offer longer tenancy agreements of three years or more (to those tenants who want a longer tenancy);
- **management and ownership** – schemes will typically be professionally managed stock in single ownership and management control;
- **Affordable Private Rent** – this will be the normal vehicle for providing the affordable homes element in schemes (as opposed to other forms negotiated through S106).

It has been proposed by some people that a definition should include a covenant to ensure that schemes should remain as rented housing for a minimum period. The Government is interested in views on this but is not minded to include a minimum covenant period in the definition. As explained in the “clawback” section on page 24, covenants may work in some parts of the country but could be too rigid an imposition universally, which is why a more flexible clawback arrangement may be more appropriate.

The Government is interested to explore whether the definition should include any quantifiable elements relating to minimum scheme size (eg. 50 units), and the pros and cons of including or excluding them. Build to Rent is a tenure that lends itself to development at scale, but viable schemes will vary in size across the country. Similarly the costs of

managing schemes and for including elements of Affordable Private Rent (or not) will differ widely according to circumstance.

Question:

Q 15: Does the definition of Build to Rent set out on page 20 capture all of the appropriate elements? (If not, please state why, and what criteria should apply).

Definition of Affordable Private Rent

The existing definition of affordable housing in the National Planning Policy Framework implicitly allows Affordable Private Rent to count as intermediate housing where the following conditions apply:

- The housing is provided to eligible households whose needs are not met by the market.
- Eligibility is determined with regard to local incomes and local house prices.
- The homes should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.
- The housing is provided at a cost above social rent but below market levels.

The Government proposes to put beyond doubt that Affordable Private Rent counts as a form of affordable housing by referring to it explicitly in the National Planning Policy Framework. The Government is considering the following definition for the specific purposes of Build to Rent, which should also be read alongside the wider affordable housing definition changes proposed in the 2017 Housing White Paper:

“Affordable Private Rent housing is housing that is particularly suited for providing affordable housing as part of Build to Rent Schemes. It is made available for rent at a level at least 20 per cent below local market rent. Eligibility is determined with regard to local incomes and local house prices. It should include provisions to remain at a discount for future eligible households or for alternative affordable housing provision to be made if the discount is to be withdrawn.

Questions:

Q 16: Do you agree that the National Planning Policy Framework should put beyond doubt that Affordable Private Rent qualifies as affordable housing in Build to Rent schemes? (If not, please state why.)

Q 17: Do you agree with the proposed definition of Affordable Private Rent set out on page 21? (If not, please state why, and what criteria should apply).

Parameters of Affordable Private Rent

Since Government is minded to support Affordable Private Rent as a national planning policy, it is also necessary, alongside providing a definition, to decide the parameters under which an offer of Affordable Private Rent should be acceptable to local authorities in place of other affordable housing. There are several elements to this:

- The minimum proportion of homes that are to be offered at a discount.
- The minimum level of discount that should be offered on those homes.
- What happens if, for any reason, the Affordable Private Rent homes should cease to be available (if, for example, homes are sold off within the development, leaving it unfeasible to manage the discounted housing on an ongoing basis).

There are trade-offs between these different elements. The Government's aim is to provide for a reasonable level of affordable housing provision without placing an undue burden on Build to Rent schemes. In the interests of simplicity and predictability, the Government is not attracted to differentiating these elements across the country, although the very specific nature of the rental market in London means that a different level could potentially be set there, in consultation with the Mayor (see page 27).

The Government is consulting on the following propositions for a national approach:

- All tenants in the development (whether paying market rent or Affordable Market Rent) are to be offered (but not required to take up) a family friendly tenancy of three or more years (see page 17).
- A minimum of 20 per cent of the homes within the scheme would be offered at Affordable Private Rent, and (to the extent practicable) the homes offered at a discount should be broadly representative of the overall development, in terms of numbers of bedrooms. Consistent with the tenure-blind ethos of Affordable Private Rent, the specific homes within the development that would be provided at a discount could be flexed over time.
- The average discount to be offered across any development would be at least 20 per cent relative to local market rent levels (i.e. the comparator would not be the market rent homes within the scheme itself). The discount would be calculated when a discounted home is rented out (or the tenancy renewed), and the rent on the discounted home would then increase at no more than inflation during the period of the tenancy. Where the level of discount is to be flexed across the scheme (e.g. some units discounted by more than 20 per cent, others at less, so as to preserve an average of 20 per cent), then this would be agreed with the local authority.
- The discount on the Affordable Private Rent homes would apply indefinitely. If, at any time, it became necessary to withdraw the discount (for example because the homes were to be sold out of the private rented sector), then there would be a requirement to make alternative provision for affordable housing in place of the Affordable Private Rent homes, by way of a commuted sum. This recognises that Build to Rent

investors need to have the possibility of an exit from the private rented sector but preserves the availability of affordable housing in perpetuity. The commuted sum payable on the Affordable Private Rent homes would be calculated according to the formula below and would need to be spent on the provision of alternative affordable housing.

Commuted sum = D x E, where:

D is the price at which the home(s) withdrawn from Affordable Private Rent are sold;

E is the percentage discount that had been applied to the rent in respect of the Affordable Private Rent home(s) being sold.

So for example – if the home had a sale value of £500,000, and the discount level is 20%, this would generate a clawback of £100,000.

Questions:

Q 18: The Government intends to set the parameters of Affordable Private Rent as:

- **a minimum of 20 per cent of the homes to be discounted;**
- **the discount to be set at minimum of 20 per cent relative to the local market;**
- **an offer of longer tenancy of three years or more;**
- **the discount to apply indefinitely (subject to a “claw-back” arrangement if Affordable Private Rent homes are withdrawn).**

Taken as a whole, are these parameters: (i) reasonable; (ii) too onerous; (iii) insufficient? Which, if any of them, would you change and why?

Q 19: Should the parameters for Affordable Private Rent appear on the face of the National Planning Policy Framework or within Planning Practice Guidance?

Eligibility

Potentially, Affordable Private Rent can serve as a suitable form of housing both for households who are unable to afford suitable accommodation at market rent and also households saving up a deposit for the purchase of a future home.

The ability to agree different levels of discount for different homes within a scheme (subject to the average meeting the minimum parameters) creates the potential to tailor Affordable Private Rent to different household income levels, further reinforcing the suitability of this tenure for people in a range of circumstances. The Government is minded to leave the determination of income bands to be eligible for Affordable Private Rent to be negotiated between the developer and local planning authority.

In some cases, local authorities that have accepted Affordable Private Rent instead of other affordable housing have not only set the household income bands to which different levels of discount should apply but have also retained the right to nominate people to live in the discounted homes from their housing register. The Government considers that the nominations approach provides less flexibility for a Build to Rent operator, working within a private market, to attract and select its customers. The Government is interested in hearing views about how this would affect the take up of the policy.

Question:

Q 20: The Government is minded to leave determination of eligibility and nomination criteria for Affordable Private Rent to negotiation between the developer and the local authority. Do you support this position? Will it affect take-up of the policy? Please give your reasons.

Change of Use and “clawback”

The Government is aware of an emerging practice whereby Build to Rent schemes enter into a covenant with local authorities to remain in the Private Rented Sector for a minimum period, e.g. 15 years. The Government has considered this issue and:

- Recognises that Build to Rent schemes are different, in viability terms (as already referenced in planning guidance) and that local authorities want to be reassured about the purpose of the development in order to take this into account in viability calculations;
- Does not think it necessary to specify a minimum covenant period for homes to remain in the Private Rented Sector at a time when investors may still need an exit route (particularly in locations where the market for Build to Rent is not yet proven)¹⁸;
- Does not want to create a perverse incentive to developers to game the system by rapidly converting a Build to Rent planning application into a for-sale scheme (which is one reason for the practice of adopting covenants).

An alternative to specifying a fixed minimum covenant period is to make sure that there are “claw-back” arrangements in place where the developer wants to switch out of the Private Rented Sector and into other tenures. The arrangement would enable developers or owners to change use at any stage provided they make an appropriate contribution towards affordable housing provision in the area. The claw-back arrangements would be designed to reflect the contribution that would have been made towards affordable housing had the original planning application been a for-sale scheme. This is particularly relevant if the change happens before the homes are built and rented out. The Government therefore proposes that:

¹⁸ Depending on how they are structured, covenants may give rise to VAT consequences.

- Affordable Private Rent homes are to be provided in perpetuity, by definition, and the sale of individual homes from a Build to Rent scheme to other tenures should not normally lead to the withdrawal of the Affordable Private Rent homes. Where sale of the market rented homes within the development means that it is no longer practical to manage those homes as Affordable Private Rental properties, then alternative provision should be made for affordable housing in place of the homes by way of a commuted sum. This would be calculated by reference to the percentage discount on the rent at which Affordable Private Rent properties are offered multiplied by the price at which the Affordable Private Rent homes are sold (see the formula on page 23).
- Where homes are to be sold out of the private rented sector before they are first occupied, then the local authority should require the scheme's contribution to affordable housing to be re-calibrated based on the local plan affordable housing policies that were in place at the time of the original planning permission. If the developer claims that the scheme would be unviable at that level of contribution, then viability should be determined as of the time at which the application is made to remove the S106 agreement, so avoiding the need to review retrospectively market conditions at the time the permission was originally granted.
- Where homes are sold out of the private rented sector at a later date, then it would be appropriate for the local authority to seek an appropriate "claw-back" arrangement, taking into account the contribution that new homes for sale should be expected to make to affordable housing under local planning policies, and the affordable housing that has already been provided by the scheme (in the form of Affordable Private Rent or otherwise). The Government is interested in views on how best to give effect to this.

Claw-back arrangements should be specified in the S106 agreement so as to give certainty to investors as to the terms under which, if it proves necessary, a Build to Rent scheme could be converted to other tenures. Potentially, the Government could set out or give guidance on a formula for calculating the amount of claw-back, perhaps even providing model clauses for S106 agreements. Alternatively this could be left to be agreed between the local authority and the applicant.

Questions:

Q 21: The Government considers there is no need for a fixed minimum covenant period, so long as appropriate claw-back arrangements are provided for. Do you agree?

Q 22: Do you think Government should (a) prescribe the basis for calculating the amount of claw-back, (b) set a possible basis for calculating the amount of claw-back in guidance, or (c) leave the amount of claw-back to be agreed between the local authority and the applicant?

Affordable Private Rent within HCA programmes.

It should be noted that under the Housing and Regeneration Act 2008¹⁹, the Homes and Communities Agency (and, in London, the Greater London Authority) can only carry out the following activities where the landlord of low cost rental accommodation is a Registered Provider:

- Acquire, construct or convert any housing or other land for use as low cost rental accommodation.
- Dispose of any housing or other land to a person on condition that the person provides low cost rental accommodation (whether in the same or different housing or other land).
- Provide infrastructure to a person on condition that the person provides low cost rental accommodation.
- Give financial assistance on condition that the recipient provides low cost rental accommodation.

This means the Homes and Communities Agency (or, in London, the Greater London Authority) would not be able to stipulate that rented housing arising from the above activities should be used for Affordable Private Rent unless it also ensures that the landlord is a Registered Provider. There are no current plans for the Homes and Communities Agency to stipulate that Affordable Private Rent must be incorporated on sites within its programmes or to amend the above legislation to permit this.

London

The Government is aware that the Greater London Authority (GLA) has recently published Supplementary Planning Guidance for consultation on viability and Build to Rent²⁰. The GLA's approach has some similarities and differences to the proposals in this consultation. Some of the key similarities are:

- A recognition of the viability challenges faced by Build to Rent and the need for a way to provide planning predictability for Build to Rent and housing in general.
- Recognition of Affordable Private Rent (referred to as Discounted Market Rent) as a form of affordable housing well suited to Build to Rent.
- Encouragement of offering longer tenancies as a feature of Build to Rent schemes.

¹⁹ See section 31 of the Housing and Regeneration Act 2008 - <http://www.legislation.gov.uk/ukpga/2008/17/section/31>

²⁰ https://www.london.gov.uk/sites/default/files/draft_affordable_housing_and_viability_spg_2016.pdf

There are, however, some differences in approach. The Government's approach is designed to provide predictability by identifying the key characteristics of Build to Rent, and by setting out the Affordable Private Rent parameters which must be accepted in Build to Rent schemes (in place of other affordable housing). By contrast, the Greater London Authority's approach is that whereas viability appraisals will not ordinarily be required for build-for-sale schemes offering at least 35 per cent affordable housing (ie. the so-called "threshold approach"), viability appraisals should always be required for all Build to Rent schemes.

A further difference with the Government's approach is that the Greater London Authority proposes a covenant period of 15 years for Build to Rent schemes, albeit with a mechanism allowing claw-back arrangements if buildings or individual units are sold out of the Build to Rent market during the covenant period.

There are a number of reasons why it might be appropriate for the arrangements in London to differ from a national approach. In particular:

- The viability of Build to Rent relative to other tenures may be different in London, reflecting the generally high values of land and property and low rental yields in the capital;
- The attractiveness of London as a destination for investment, and the scale of the PRS market in London, may make a 15 year covenant less of a deterrent for investors than in parts of the country where Build to Rent is less well established.

The Government is therefore interested in views on whether a different approach should be taken in London as opposed to the rest of the country.

Questions:

Q 23: Should the Government's Build to Rent and Affordable Private Rent policy be identical across the whole of England or does it need to be set differently between London and the rest of England? If it should be set differently, please use the comments box to tell us how and why the policy should vary in London from the rest of England.

Other Implementation Issues

The Government wants to set the right balance between creating a predictable and workable framework for Affordable Private Rent and allowing local innovation to thrive. One possibility would be for the Government to work with Build to Rent developers and the planning community to produce model clauses (which would not be mandatory) that could be used in Section 106 agreements to give effect to Affordable Private Rent approaches. The Government is interested to know whether this would be helpful.

The Government recognises that developers and local authorities will need some time to reflect the approaches outlined above into their planning applications and decision taking processes. The Government is minded to set a transitional period of six months from the

date on which the policy is incorporated into the National Planning Policy Framework for the policy to take effect.

Assuming the benefits posited for Build to Rent and Affordable Private Rent are realised, then it is likely that local authorities will become familiar with the approaches set out in this consultation and more inclined to plan proactively for these tenures in their local plans without the need for national policy prescription to remain in place. The Government considers it is right to review progress of these proposals after a period of five years, with a view to discontinuing, revising or renewing them.

Questions:

Q 24: Would it be helpful for Government to produce model clauses (which would not be mandatory) that could be used in Section 106 agreements to give effect to Affordable Private Rent?

Q 25: Is a transitional period of six months appropriate for the introduction of the policies proposed in this consultation? (If not, why not?)

Equalities

The measures proposed above, whether legislative or to be set out in planning policy, are intended to encourage more Build to Rent development to come forward over time. The measures will have the effect of increasing the provision of both Build to Rent and Affordable Private Rent and so may, at the margins, reduce the provision of other forms of affordable housing, including starter homes, affordable rent, shared ownership and other affordable housing tenures.

Given the current size of the Build to Rent market and the affordable housing sector, the Government believes that the overall impact of the policy proposals on the composition of the affordable housing stock should be very modest. Nonetheless, it is recognised that this could potentially have some impact on the provision of housing for people with protected characteristics under the equalities legislation. Given the range of possible outcomes to this consultation, it is premature to be too definitive about these impacts. However, the Government has prepared a summary equalities statement (see Annex A) and is interested in views on this. The equalities statement will be updated in light of the responses to this consultation and the final policy decisions taken.

Question:

Q 26: Does the summary Equalities Statement in Annex A represent a fair assessment of the equalities impacts of the policy proposals in this consultation? Please provide any further evidence on this issue, including how any negative impacts might be minimised and positive impacts enhanced.

Families

A family test is to be carried out when policies impact upon families (as distinct from individuals and communities). If there are impacts, then a series of questions is to be considered²¹.

The Government considers that, in overall terms, the impact of these proposals on families will be positive. The private rented sector is a flexible form of housing that can help household formation and help families adapt to anticipated and unanticipated changes in circumstances. The promotion of longer term tenancies, through the policies being consulted upon, will help provide greater security and stability to families with children²².

²¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/368894/family-test-guidance.pdf

²² The Family Test for this Build to Rent consultation is available on request.

Annex A: Summary Equalities Statement

Purpose of this assessment

The Equality Act 2010 requires government to assess the impact of new or revised policies against the requirements of the public sector equality duty. The duty requires Ministers to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. It covers people who share certain protected characteristics (age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion or belief, sex and sexual orientation).

An Equalities Impact Assessment helps to ensure the needs of people are taken into account during the development and implementation of a new policy or service or when a change is made to a current policy or service. This is a summary statement based on proposals set out in the consultation on *Planning and Affordable Housing for Build to Rent – a Consultation Paper*. It provides a summary of the initial assessment of the impacts on people with protected characteristics²³. It will be revised and updated based on evidence gathered through responses to the consultation and the final policy decisions taken.

The policy proposals

The policies being consulted on are changes to planning policy to promote the uptake of Build to Rent by:

- Encouraging local authorities to plan proactively for Build to Rent
- Facilitating Affordable Private Rent as a form of affordable housing on Build to Rent schemes in place of other types of affordable housing, together with the offer of longer, family friendly tenancies.

These policies are intended to result in additional Build to Rent housing being built, a significant proportion of which should be additional to other market housing supply that would otherwise have come forward. It will also result in more Affordable Private Rent homes – an affordable housing rental tenure provided by the private landlord rather than a Registered Provider or local authority landlord.

The policies also encourage the provision of longer tenancies (with flexibility on the part of the tenant), both for homes provided at market rent and at Affordable Private Rent.

The effects of the policies are therefore expected to be:

- An increase in the number of Build to Rent homes (only a proportion of which will displace housing that would otherwise have been built for sale);
- An increase in the number of homes built for Affordable Private Rent;

²³ The full version of the initial Equalities Impact Assessment is available on request.

- Some reduction in the proportion of homes built under other affordable housing tenures (including affordable rent, shared ownership and starter homes);
- Greater availability of longer tenancy agreements (for those tenants who want one).

Summary impact

It is difficult to give precise estimates of the numbers of each of the above effects at this stage, in advance of receiving responses to this consultation. However, the British Property Federation estimates that around £15bn of capital has already entered this market, resulting in around 68,000 Build to Rent homes across the UK. The BPF also estimate that approximately £50bn of further investment capital could enter this market, which could imply an additional 200,000 new homes in England. If half of these schemes were to take up the Affordable Private Rent proposals over the next 10 years, with 20% of homes rented at a discount, this could amount to some 2,000 new Affordable Private Rent homes per annum.

Affordable Private Rent homes are likely to represent only a very small proportion of total affordable housing provision, and not to have any negative impact on overall affordable housing provision. The Government considers that the greater availability of rented homes as a result of these policies, both at market rent and Affordable Private Rent, will improve housing outcomes for people living in rented housing, including people with protected characteristics²⁴, notwithstanding some level of reduction in the number of affordable homes to be delivered by Build to Rent schemes under other tenures.

Further development of the Equalities Statement

The Government will continue to develop its thinking on the equalities aspects of the policies in light of responses to the consultation, and welcomes further evidence on the issues raised above.

Whilst it is considered that the policies are generally positive for people with protected characteristics, the Government is interested to hear how any negative impacts might be minimised and the positive impacts enhanced.

²⁴ Age, Disability, Sex, Marriage and Civil Partnership, Pregnancy and maternity, Race, Religion.

Annex B: Consultation Questions

Q 1: Please provide your name and contact details in the box provided, and identify whether you are responding as (please tick one):

- A private individual?
- On behalf of an organisation?

Q 2. If you are responding as a private individual, please identify in what capacity you are replying and whether your main interest is as:

- A person living in private rented accommodation?
- A person living in affordable housing?
- A private landlord?
- Other? (Please specify)

Q 3. If you are responding on behalf of an organisation, please identify in what capacity you are replying and the main interest of your organisation (tick all that apply):

- An investor in Build to Rent schemes
- A developer of Build to Rent homes
- A lender to Build to Rent schemes
- A supplier of management and/or other services to Build to Rent homes
- Other private landlord
- Social landlord (either Registered Provider or local authority)
- A developer of other housing tenures besides Build to Rent
- A trade or other representative body
- Local authority
- Other (please specify)

Q 4. Please specify the part(s) of England in which you live, or your organisation's activities (or members) are principally located (you may tick more than one):

- London
- South East
- East of England
- South West
- East Midlands
- West Midlands
- Yorkshire & Humber
- North East
- North West
- Other (please specify)

Q 5: Do you consider there are market and regulatory failures impeding the rapid development of the Build to Rent market that merit national policy intervention? Please add comments.

- Yes
- No
- Don't know

Q 6: Do you agree with the proposal to refer explicitly to Build to Rent in the National Planning Policy Framework?

- Yes
- No
- Don't know

Q 7: Do you think that Government should set a policy expectation on Affordable Private Rent in the National Planning Policy Framework, or not? (Please state your reasons).

- Yes
- No
- Don't know

Q 8: Will a policy expectation in the National Planning Policy Framework send a sufficiently strong signal to support Affordable Private Rent as the main vehicle for affordable housing in Build to Rent? (Please state your reasons)

- Yes
- No
- Don't know

Q 9: Do you consider that Affordable Private Rent could play a useful role in the delivery of affordable housing in the area(s) where you live or operate?

- Yes
- No
- Don't know

Q 10: Do you consider that the efficiencies arising through on-site provision of Affordable Private Rent can materially improve the viability of Build to Rent, compared to other affordable housing tenures?

- Yes
- No
- Don't know

Q 11: Do you consider that there could be unintended consequences of Affordable Private Rent if it is accepted as a form of affordable housing?

- Yes
- No
- Don't know

Q 12: If your answer to Q11 is yes, would these consequences be mitigated by limiting Affordable Private Rent only to Build to Rent schemes?

- Yes
- No
- Don't know

Q 13: Do you think it is reasonable for Planning Authorities to specify minimum tenancy lengths in Build to Rent schemes? Please add your reasons, and give examples of such agreements where appropriate.

- Yes
- No
- Don't know

Q 14: Do you agree that Build to Rent tenancies should be for at least three years (with a one month break option for the tenant after the first six months), for all customers in the development who want one?

- Yes
- No
- Don't know

Q 15: Does the definition of Build to Rent set out on page 20 capture all of the appropriate elements? (If not, please state why, and what criteria should apply).

- Yes
- No
- Don't know

Q 16: Do you agree that the National Planning Policy Framework should put beyond doubt that Affordable Private Rent qualifies as affordable housing in Build to Rent schemes? (If not, please state why).

- Yes
- No
- Don't know

Q 17: Do you agree with the proposed definition of Affordable Private Rent set out on page 21? (If not, please state why, and what criteria should apply).

- Yes
- No
- Don't know

Q 18: The Government intends to set the parameters of Affordable Private Rent as:

- a minimum of 20 per cent of the homes to be discounted;
- the discount to be set at minimum of 20 per cent relative to the local market;
- an offer of longer tenancies of three years or more;
- the discount to apply indefinitely (subject to a “claw-back” arrangement if Affordable Private Rent homes are withdrawn).

Taken as a whole, are these parameters: (i) reasonable; (ii) too onerous; (iii) insufficient? Which, if any of them, would you change and why?

- Reasonable
- Too onerous
- Insufficient
- Don't know

Q 19: Should the parameters for Affordable Private Rent appear on the face of the National Planning Policy Framework or within Planning Practice Guidance?

- National Planning Policy Framework
- Guidance
- Not helpful to specify parameters
- Don't know

Q 20: The Government is minded to leave determination of eligibility and nomination criteria for Affordable Private Rent to negotiation between the developer and the local authority. Do you support this position? Will it affect take-up of the policy? Please give your reasons.

- Support position
- Do not support position
- Will affect policy take-up
- Will not affect policy take-up
- Don't know

Q 21: The Government considers there is no need for a fixed minimum covenant period, so long as appropriate claw-back arrangements are provided for. Do you agree?

- Yes
- No
- Don't know

Q 22: Do you think Government should (a) prescribe the basis for calculating the amount of claw-back, (b) set a possible basis for calculating the amount of claw-back in guidance, or (c) leave the amount of claw-back to be agreed between the local authority and the applicant?

- (a)
- (b)
- (c)
- Don't know

Q 23: Should the Government's Build to Rent and Affordable Private Rent policy be identical across the whole of England or does it need to be set differently between London and the rest of England? If it should be set differently, please use the comments box to tell us how and why the policy should vary in London from the rest of England.

- Identical across the whole of England
- Different for London
- Don't know

Q 24: Would it be helpful for Government to produce model clauses (which would not be mandatory) that could be used in Section 106 agreements to give effect to Affordable Private Rent?

- Yes
- No
- Don't know

Q 25: Is a transitional period of six months appropriate for the introduction of the policy? (If not, why not?)

- Yes
- No
- Don't know

Q 26: Does the summary Equalities Statement in Annex A represent a fair assessment of the equalities impacts of the policy proposals in this consultation? Please provide any further evidence on this issue, including how any negative impacts might be minimised and positive impacts enhanced.

- Yes, a fair assessment
- No, not a fair assessment
- Don't know

Annex C: About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).