



Delivering new Affordable Rent homes without HCA funding

Purpose

- 1 This note provides guidance on the requirements for delivery of new Affordable Rent homes where those are not in receipt of funding from the HCA under the 2011-15 Affordable Homes Programme. The note should be read in conjunction with:
 - The 2011-15 [Affordable Homes Framework](#) published on 14 February 2011;
 - The TSA's revised [Tenancy Standard and Explanatory Note](#) published on 13 April 2011; and
 - The revised [PPS 3](#) definition published by DCLG on 9 June 2011.

Introduction

- 2 The 2011-15 Affordable Homes Programme Framework published on 14 February 2011 confirmed that Registered Providers may offer Affordable Rent homes (both new build and conversions from existing social rented homes), but **only** where that formed part of an agreement with the HCA to deliver new supply.
- 3 The TSA published its revised Tenancy Standard on 13 April 2011. This standard applies to Private Registered Providers only. It states that:

“Affordable Rent terms can only be used where a delivery agreement for new supply of social housing has been agreed under a new supply agreement entered into between a private registered provider and the HCA.” [paragraph 2.4]

- 4 Finally, revised definitions in PPS 3 , published on 9 June 2011 include the definition of Affordable Rent:

“Affordable rented housing is:

Rented housing let by registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80 per cent of the local market rent.”

Private Registered Providers

5 Under the terms of the Tenancy Standard set by the TSA, a Private Registered Provider must enter into an agreement with the HCA in order to:

- convert existing properties to an Affordable Rent; and/or
- deliver new properties where an Affordable Rent will be charged.

6 The HCA agreement may take one of two forms:

(a) **Framework Delivery Agreement (FDA)**. This applies if HCA has agreed to allocate funding to the provider in order to deliver homes as part of the Affordable Homes Programme. As part of the FDA, the HCA may also agree to the conversion of existing social rent properties in order to fund new supply. This flexibility was introduced for the new Programme in order to support the Government's delivery aspirations for affordable housing.

(b) **Short Form Agreement (SFA)**. This will apply where the provider is **not** receiving grant funding from HCA as part of the Affordable Homes Programme. The HCA will not be in a position to agree to the conversion of existing social rent properties as part of an SFA.

7 For offers that involve additional costs to the taxpayer (either through grant funding or the higher Housing Benefit costs that result from the conversion of existing social rent properties to Affordable Rent), it is imperative that the HCA ensures that offers provide value for money. This is the purpose of the FDA. For offers that do not involve these additional costs to the taxpayer, an SFA will be sufficient.

8 Circumstances in which a SFA will be required will include:

- Affordable Rent homes delivered as part of a S106 agreement without new funding from the HCA; and/or
- Affordable Rent homes which are brought forward by a Private Registered Provider voluntarily, without a S106 agreement or new HCA subsidy. Delivery may be funded through the application of Recycled Capital Grant Fund (RCGF) or Disposal Proceeds Fund (DPF) monies.

9 In all such circumstances, to meet the TSA's Tenancy Standard, the Private Registered Provider will be required to enter into a SFA with the HCA on a scheme by scheme basis. It is envisaged that the agreement will be in standard form, to confirm that the Registered Provider may charge the proposed Affordable Rent on the new homes. The key components of the SFA are listed at **Annex A**. It is anticipated that the SFA will be available from late September 2011.

10 To be clear, a Private Registered Provider will **not** be permitted to convert existing social rent dwellings to Affordable Rent as part of a SFA.

- 11 Where new Affordable Rent provision forms part of a S106 agreement, the provider will not be able to use either RCGF or DPF to fund the cost of that provision. Further guidance on the permitted uses of RCGF and DPF are outlined at **Annex B**.
- 12 The TSA's regulatory framework is currently under review and changes are expected to be implemented in April 2012, subject to the passage of the Localism Bill and any directions issued by the Secretary of State. The issues covered by this guidance will be considered as part of that review process and further guidance will be published as necessary.
- 13 This guidance covers Affordable Rent only. For the avoidance of doubt, Registered Providers are free to undertake the delivery of other types of social housing or market housing, funded entirely from their own resources (without conversions), without entering into an agreement with the HCA.

Local authorities

- 14 The Framework asked that local authorities who wished to deliver new Affordable Rent properties without recourse to HCA funding submit an expression of interest to the HCA. It is anticipated that such properties will not start on site until after April 2012 when:
 - Provisions in the Localism Bill to enable local authorities to offer flexible tenancies commence (subject to Royal Assent);
 - Local authorities will have confirmation that they have headroom under the Housing Revenue Account reforms to accommodate additional borrowing; and
 - Arrangements have been agreed with Department for Work and Pensions for new build properties where an Affordable Rent is proposed to be charged to be exempt from the Limit Rent Formula. This exemption will not be available for existing homes unless the local authority has entered into a FDA with the HCA.
- 15 The HCA's role will include providing assurance that the offers represent value for money. Further guidance will be published in due course.

Short Form Agreement

Where a Registered Provider enters a Short Form Agreement (SFA) for the delivery of new Affordable Rent homes, on a scheme by scheme basis, that agreement will require as a minimum:

- Confirmation of the Affordable Rents to be charged on the new properties;
- That the Affordable Rent will be increased by no more than RPI + 0.5% pa;
- That the Affordable Rent does not exceed 80% of the local market rent, and that, if necessary, rents will be re-based at each re-letting to ensure they remain within 80% of local market rents;
- That, on S106 schemes, no RCGF or DPF is being used to fund the scheme costs;
- That the Registered Provider is not converting any existing homes to Affordable Rent; and
- That the new Affordable Rent homes delivered will be recorded through the HCA's Investment Management System at start on site and forecasting of anticipated practical completion of the homes will be updated on a timely and regular basis.

Recycled Capital Grant Fund and Disposal Proceeds Fund

Detailed guidance on the uses of RCGF can be found in the HCA's [Affordable Housing Capital Funding Guide](#). Detailed guidance on the uses of DPF can be found in the TSA's [DPF Direction and Guidance](#). For the purposes of this guidance, Registered Providers should note that:

- RCGF and DPF may be used to fund new Affordable Rent provision, whether delivered as part of a FDA or a SFA;
- However, RCGF and DPF **cannot** be used to fund the cost of delivery of Affordable Rent homes which are the subject of a S106 agreement;
- RCGF and DPF may be used to fund delivery of new social rent and new shared ownership homes; however
- RCGF and DPF may not be used to fund delivery of intermediate rent homes or Rent to HomeBuy homes – as they are no longer eligible for new HCA funding. Further details are set out in the Framework document.

Where RCGF or DPF is used by the Registered Provider to fund the delivery of new homes as outlined above, providers should record that delivery through the HCA's Investment Management System (IMS). That will be an absolute requirement of the SFA.

Where a provider has a FDA in place with the HCA for the provision of new homes which have an allocation for new HCA funding, if additional homes of any of the tenures specified above are to be delivered using RCGF or DPF only, they should be recorded on IMS and will be added to the FDA as part of an agreed Programme Change.