

# Affordable Homes Programme 2021-26

## INDICATIVE HEADS OF TERMS

**THE TERMS SET OUT IN THESE HEADS OF TERMS ARE NON-BINDING AND INDICATIVE ONLY. THESE TERMS DO NOT CONSTITUTE OR IMPLY A COMMITMENT TO PROVIDE GRANT FUNDING BY THE HOMES AND COMMUNITIES AGENCY (TRADING AS HOMES ENGLAND) (“HOMES ENGLAND”), NOR A REPRESENTATION THAT SUCH FUNDING WILL BE MADE AVAILABLE. ANY SUCH COMMITMENT WILL BE SUBJECT TO CONTRACT, THE AVAILABILITY OF HOMES ENGLAND FUNDS AND SATISFACTORY DUE DILIGENCE AND DOCUMENTATION.**

### 1. Introduction

This document provides more detail on the anticipated contractual framework applicable to housing providers who intend to access funding from the Affordable Homes Programme 2021-26 (**AHP 21-26**) via the Continuous Market Engagement (**CME**) route, and should be read in conjunction with the [Fund Guidance](#), the [Capital Funding Guide](#) and the applicable **Recovery Determination** for your organisation type.

These Heads of Terms summarise the key contractual terms and conditions applicable under the CME contracting route and identify where it is anticipated that specific or additional provisions will apply. All AHP 21-26 CME funding allocations will be made subject to providers entering into a grant agreement with Homes England which embody these terms and, together with the main fund guidance, the Capital Funding Guide and Recovery Determination, constitute the AHP 16-21 contractual framework.

In common with the previous Homes England’s affordable homes grant programmes, there will be a suite of final form grant agreements which will include different and/or additional provisions to reflect the specific nature of the Grant Recipient (e.g. Registered Provider, Local Authority, unregistered provider) and/or to reflect any consortium or delivery and long-term ownership arrangements.

The grant agreement will be entered into between Homes England and the Grant Recipient (as defined below), establishing a contractual link between the parties (the **Grant Agreement**). The Grant Agreement will make references to the Capital Funding Guide (which contains the rules and procedures for all providers delivering affordable housing through one of Homes England’s affordable homes grant programmes) and the relevant Recovery Determination (which deals with the circumstances and terms for any future grant recovery). Pursuant to the Grant Agreement, parties will agree that certain information will be input, agreed and processed by the parties via Homes England’s online Investment Management System (**IMS**).

### 2. The New Model for Shared Ownership: Technical Consultation

On 8 September 2020, the Government proposed a new national model for shared ownership and, at the time of opening for AHP 21-26 CME bidding, is seeking views through a consultation ahead of final implementation.

The [New model for Shared Ownership: Technical Consultation](#) is open until 17 December 2020 with full findings not anticipated to be known until early 2021, and in particular the new Shared Ownership Product and the Right to Shared Ownership Model have not been finalised and published. Therefore, any grant allocation awarded in the period between opening for CME bidding and publication of the consultation findings can be withdrawn unilaterally by the bidder in the event that the published outcome of the consultation leads to the scheme becoming unviable. However, for the avoidance of doubt, Homes England shall not be responsible for any costs incurred during the intervening period by the bidder.

**3. Timetable for publication of final form suite of contracts**

The timetable for the publication of the suite of final form contracts (including the grant agreements) will be made available once the outcome of the technical consultation is known, anticipated to be in early 2021. This will include the publication of a new model Shared Ownership lease.

<p><b>Definitions</b></p>	<p>In this document:</p> <p><b>Grant Recipient</b> means an entity party to a grant agreement with Homes England (either as a single entity or member of a consortium) in order to receive grant funding. Grant Recipient includes the <b>Lead Partner</b> and/or the <b>Consortium Member</b> (in case of a consortium agreement) and <b>Developer</b> (in case of an Agreed Transfer agreement).</p> <p><b>Contract</b> means the relevant standard form of Grant Agreement to be entered by the Grant Recipient/s with Homes England, depending on their type and proposed delivery arrangements.</p> <p><b>Developer</b> means, in circumstances where a developer is delivering a scheme to transfer to another organisation at completion (known as the <b>Agreed Transfer</b> model), the party delivering the scheme before transfer.</p> <p><b>Lead Partner</b> means the party bidding and managing a consortium bid, whether in an active or coordinating role bid.</p> <p><b>Consortium</b> means the Consortium Members jointly.</p> <p><b>Consortium Member</b> means each party to the consortium contract (other than Homes England) including the Lead Partner.</p> <p><b>IMS</b> means Homes England’s online Investment Management System (IMS) which will be used to enter and process bids.</p> <p><b>Recovery Determination</b> means the relevant form of 2017 “Recovery of Capital Grants and Recycled Capital Grant Fund General Determination 2017” as applicable to the Grant Recipient/Landlord type and any successor Determination. In defined circumstances, capital grant is subject to recovery by Homes England. There are two Recovery Determinations – one for Registered Providers and one for unregistered providers. The Recovery of Capital Grants and Recycled Capital Grant Fund General Determination 2017 makes provision for the repayment/recycling of grant by all classes of Registered Provider including non-profit or profit-making. The Recovery of Capital Grant from Unregistered Providers General Determination 2017 makes provision for the repayment of grant from organisations which are not Registered Providers and, where relevant, includes a proportionate increase in any uplift</p> <p><b>Investment Partner</b> means a party who has been awarded the status of Investment Partner for the programme further to application and assessment by Homes England in accordance with the published criteria.</p> <p><b>Acquisition</b> has the meaning given to such term in the Capital Funding Guide.</p>
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	<p><b>Start on Site</b> has the meaning given to such term in the Capital Funding Guide.</p> <p><b>Practical Completion</b> has the meaning given to such term in the Capital Funding Guide.</p>
<p><b>Single entity bids</b></p>	<p>The organisation making a bid to Homes England for funding under AHP 21-26 must be the Grant Recipient entering the Grant Agreement i.e. the bidding entity in IMS is required to match the entity in the contract.</p> <p>It is expected that the Grant Recipient will be the intended long-term owner of scheme/s to be delivered under AHP 21-26 unless otherwise indicated in the submitted bid. In the Agreed Transfer model, the form of contract will reflect this delivery model and the Grant Recipient will be defined as the Developer.</p> <p>The Grant Recipient will be expected to satisfy the relevant requirements for ownership and/or security interests in the land, dependent on the delivery model proposed, as set out in the Capital Funding Guide.</p> <p>The Grant Recipient will be required to be a Homes England Investment Partner before any claim is made for grant funding under a Grant Agreement.</p>
<p><b>Consortium bids</b></p>	<p>A group of organisations can work together in consortium arrangements with a nominated Lead Partner. It is expected that the Lead Partner will submit the bid in IMS on behalf of its Consortium Members and must ensure the parties set out in the IMS bid match those set out in the Investment Partner award and to be included in the Contract. Where the requirements for a claim for grant funding are satisfied, the funding will be awarded by Homes England to the Lead Partner who will then distribute the funds to the relevant Consortium Member.</p> <p>Each Consortium Member will be a party to the Contract so as to assume specific obligations under it in relation to individual schemes developed by it or on its behalf and to acknowledge that (a) monies received by the Consortium Member from the Lead Partner (together with utilised RCGF) in connection with the Contract constitute social housing assistance for the purposes of Sections 31-35 of the Housing and Regeneration Act 2008, (b) that the terms of the Contract constitute the "events" for the purposes of Section 32 of that Act and (c) that the Contract's terms represent the conditions upon which Homes England's financial assistance is given.</p> <p>In a consortium, only the Lead Partner needs Investment Partner status, unless other partners also intend to apply for funding on their own.</p> <p>Any changes to the membership of the Consortium will require prior Homes England approval. Any additional or replacement Consortium Member will</p>

	<p>be obliged to execute a deed of adherence to record its acceptance of its obligations under the Contract.</p> <p>Consortium Members may be released from the Contract subject to the Consortium:</p> <ul style="list-style-type: none"> <li>(a) satisfying Homes England that the release of the relevant party will not affect the Consortium's ability to deliver the approved bid; or</li> <li>(b) renegotiating an approved bid satisfactory to Homes England; and</li> <li>(c) completion of a deed of release.<sup>1</sup></li> </ul>
<b>Grant Giver</b>	<b>Homes and Communities Homes England (trading as Homes England)</b> , a body corporate under Section 1 of the Housing and Regeneration Act 2008, of One Friargate, Coventry, CV1 2GN (including any statutory successor) ( <b>Homes England</b> )
<b>Purpose of Grant</b>	<p>Grant is available under AHP 21-26 to support the capital costs of developing the following affordable housing products<sup>2</sup>:</p> <ul style="list-style-type: none"> <li>(a) Social Rent;</li> <li>(b) Affordable Rent;</li> <li>(c) Shared Ownership; and</li> <li>(d) Rent to Buy.</li> </ul> <p>The Regulator of Social Housing's Rent Standard and Tenancy Standard will apply to Rent dwellings. Where a Grant Recipient intends to own schemes comprising Social Rent or Affordable Rent, it must be a Registered Provider (RP) before completion/first let.</p>
<b>Allocated Grant [£]</b>	<p>This represents the maximum amount of capital grant allocated by Homes England in relation to the bid submitted in IMS (<b>Approved Bid</b>) by the Grant Recipient and represents the aggregate capital grant payable across the agreed firm schemes and indicative schemes referenced within the Contract.</p> <p>Capital grant is payable only in relation to expenditure falling within the heads of expenditure referenced in the Development Costs (as set out below).</p>
<b>Development Costs</b>	All capital costs and expenses properly and reasonably incurred by the Grant Recipient in carrying out the Firm Scheme as set out in the scheme details, including, but not limited to land, housing-related infrastructure costs, construction costs, professional fees, sales and marketing costs, legal costs,

<sup>1</sup> The forms of Release Deed and Deed of Adherence will be included in the Consortium Contract.

<sup>2</sup> Affordable housing, as defined by the [National Planning Policy Framework](#) is housing for sale or rent for those whose needs are not met by the market. Please see the information on how to [apply for the Affordable Homes Programme 2021 to 2026](#) and [the Capital Funding Guide](#) for more detail on the tenures.

	any non-recoverable VAT and interest and administration charges incurred in connection with any senior finance.
<b>Monitoring and Reviews</b>	
<b>Review meetings</b>	<p>Performance against the Approved Bid and its constituent schemes will be monitored throughout the <b>Term</b> (being the period from the date of signature until 31 March 2026 (subject to earlier termination)).</p> <p>The Grant Recipient must attend regular meetings (<b>Review Meetings</b>) with Homes England each year at which the Grant Recipient's Development Director (or another member of its executive management team) shall attend.</p> <p>At each Review Meeting, the parties shall review the following items (without limitation):</p> <ul style="list-style-type: none"> <li>(a) the Firm Schemes including, inter alia, details of Development Costs, progress against agreed delivery milestones and agreed scheme composition information;</li> <li>(b) the Indicative Schemes including progress against the indicative data in relation to delivery timelines</li> <li>(c) cost information and scheme location and composition submitted by the Grant Recipient in IMS;</li> <li>(d) progress against the wider strategic objectives for the fund<sup>3</sup> and</li> <li>(e) plans for the Grant Recipient to bring forward additional schemes.</li> </ul> <p>In advance of each Review Meeting, the Grant Recipient must supply such information as Homes England may reasonably request.</p> <p>Annually, the parties shall meet to assess overall strategic performance of the Approved Bid (including any threats to future delivery), all variations made during the previous financial year and potential future adjustments.</p> <p>The parties shall work in good faith to seek to resolve issues which impact on the Grant Recipient's ability to deliver the Approved Bid.</p> <p>For consortium contracts, the Lead Partner shall attend the Review Meeting on behalf of the Consortium Members.</p>
<b>Provision of Information</b>	The Grant Recipient must provide Homes England with such information (and certification of such information) as it shall require from time to time to

<sup>3</sup> As set out in the information of how to [apply for the Affordable Homes Programme 2021 to 2026](#) and [the Capital Funding Guide](#) the fund also supports wider strategic objectives including significant focus on and investment in Modern Methods of Construction (MMC), encouraging uptake of the National Design Guide, improving efficiency and sustainability of new affordable housing supply and encouraging the use of SME contractors.

	<p>allow Homes England to monitor the Grant Recipient's performance under the Contract and to conduct evaluation of the programme.</p> <p>Failure to provide such information will be a Specified Default (see "Default Events").</p>
<b>Scheme submission and change procedures</b>	
<b>Approved Bid</b>	<p>The bid approved by Homes England will contain Firm Schemes (i.e. named schemes) only, Indicative Schemes (i.e. specified schemes which the Grant Recipient anticipates bringing forward as firm schemes in the future only (e.g. Home Ownership for people with long-term disabilities (HOLD) or Empty Homes activity), or a combination of Firm Schemes and Indicative Schemes.</p> <p>The Approved Bid will be summarised in the Contract and further detailed in IMS.</p>
<b>Indicative Schemes</b>	<p>The Grant Recipient must submit on IMS such details of Indicative Schemes as Homes England requires.</p> <p>If accepted by Homes England, a capital grant figure will be allocated to the Indicative Scheme. Once confirmed on IMS, the Indicative Scheme becomes deliverable in accordance with the terms of the Contract (ie obligations will be imposed upon the Grant Recipient to use all reasonable endeavours (a) to ensure that the Indicative Scheme becomes a Firm Scheme with a Start on Site achieved by 30 September 2025; and (b) to notify Homes England of any likely delay to the scheme transition to a Firm Scheme).</p> <p>The Grant Recipient may propose changes to any Indicative Scheme at any time prior to it becoming a Firm Scheme. Homes England will be entitled to accept or reject such changes. If Homes England rejects the proposed changes, the Grant Recipient will have 10 Business Days to notify Homes England whether it wishes to proceed with the Indicative Scheme on the original basis or to withdraw it. If the Indicative Scheme is withdrawn, Homes England will be entitled to withdraw the grant allocation from the Grant Recipient in relation to the withdrawn scheme.</p>
<b>Withdrawal of Indicative Scheme grant allocation</b>	<p>The Grant Recipient must notify Homes England promptly on becoming aware of any likely delay in the Indicative Scheme reaching Firm Scheme status and achieving a Start on Site by 30 September 2025. On receipt of such notification (or on otherwise becoming aware of a delay), Homes England will be entitled (in its sole discretion) to withdraw the grant allocation in relation to that Indicative Scheme.</p>
<b>Firm Schemes</b>	<p>The Grant Recipient must submit details on IMS of individual named schemes in respect of which it is seeking to drawdown capital grant. Such details (which must be consistent with the Approved Bid) must be entered into the IMS system in good time prior to the Start on Site date. Grant payment in</p>

	<p>relation to a Firm Scheme is conditional on the scheme details having been submitted within the timeframe outlined above.</p> <p>In submitting details of a Firm Scheme in IMS the Grant Recipient will be deemed to have made certain specified representations and warranties in relation to that scheme including (but without limitation) as to the nature of its landholding at the site and the planning status of the scheme.</p> <p>Homes England has no obligation to fund any Firm Scheme prior to the scheme being confirmed as such on IMS.</p> <p>Once confirmed on IMS, the Firm Scheme becomes deliverable in accordance with the terms of the Contract.</p>
<p><b>Firm Scheme Longstop Dates</b></p>	<p>All Firm Schemes must achieve Start on Site by <b>30 September 2025</b> and Practical Completion by <b>31 March 2026</b>.</p>
<p><b>Conditions to Homes England acceptance of a Firm Scheme</b></p>	<p>The following conditions are indicative and not limited to those which need to be met (in form and substance satisfactory to Homes England) prior to Homes England's acceptance of a Firm Scheme:</p> <ul style="list-style-type: none"> <li>(a) certification on IMS<sup>4</sup> that all necessary consents required to enable the Firm Scheme to be developed have been obtained or will be obtained by completion;</li> <li>(b) certification on IMS that the land ownership and/or security interest of the Grant Recipient or Developer in the property the subject of the Firm Scheme is compliant with the requirements of the Capital Funding Guide.</li> </ul> <p>Where the bidder is an unregistered organisation (i.e. not regulated by the Regulator of Social Housing), additionally Homes England may also need to be satisfied with security offered (e.g. a fixed charge over land, a guarantee or a performance bond) to enable a tranche payment. Where security is to be made available to enable tranche payments, this will be reflected in the Contract.</p>
<p><b>Changes to Firm Schemes which are not being delivered by a Developer through the Agreed Transfer model</b></p>	<p>The Grant Recipient may propose changes to any Firm Scheme at any time prior to the Firm Scheme Completion Date. Any such changes must be proposed via IMS.</p> <p>Where a change is proposed prior to the Start on Site Date and prior to payment of the first tranche of capital grant, Homes England will be entitled to accept or reject such changes or to accept them subject to adjustments.</p> <p>If Homes England:</p>

<sup>4</sup> The Contract will provide that information submitted on IMS will be regarded as a representation that the information supplied is accurate.

	<p>(a) accepts the proposed change in principle, it shall be entitled to review the capital grant allocated to the Firm Scheme by reference to the proposed change. Where the result of that review is a lower capital grant figure, Homes England will notify the Grant Recipient and the Grant Recipient will have 20 Business Days to notify Homes England whether it wishes to (i) proceed with the Firm Scheme on the basis of the revised capital grant figure, (ii) withdraw the Firm Scheme or (iii) withdraw the Firm Scheme and propose a Firm Scheme Substitution. If the Firm Scheme is withdrawn and no Firm Scheme Substitution is proposed or the Firm Scheme Substitution proposed is not accepted by Homes England, Homes England will withdraw the grant allocation for the Scheme from the Grant Recipient. If a Firm Scheme Substitution is accepted by Homes England and the Grant Recipient wishes to proceed, it must change the Firm Scheme Details in IMS accordingly. The Firm Scheme Details will be deemed to have been amended with effect from the date of Homes England's acceptance of the changed IMS information. Failure to notify Homes England within the specified period (<b>Notification Failure</b>) will (unless otherwise agreed by Homes England in writing) be deemed to be a decision by the Grant Recipient to withdraw the Firm Scheme. Homes England will take reasonable steps to contact the Grant Recipient during the specified period to remind the Grant Recipient of the need for the notification, but any failure on Homes England's part to do so will not preclude Homes England from treating a Firm Scheme as withdrawn where there has been a Notification Failure;</p> <p>(b) accepts the proposed change (including any change to the capital grant figure) as it stands, it will accept the change through IMS. The Firm Scheme Details will be deemed to have been amended with effect from the date of such acceptance;</p> <p>(c) rejects the proposed changes, the Grant Recipient will have 20 Business Days to notify Homes England whether it wishes to proceed with the Firm Scheme on the original basis or to withdraw it. If the Firm Scheme is withdrawn, Homes England will withdraw the grant allocation for the Scheme from the Grant Recipient. Failure to notify Homes England within the specified period (<b>Notification Failure</b>) will (unless otherwise agreed by Homes England in writing) be deemed to be a decision by the Grant Recipient to withdraw the Firm Scheme. Homes England will take reasonable steps to contact the Grant Recipient during the specified period to remind the Grant Recipient of the need for the notification, but any failure on Homes England's part to do so will not preclude Homes England from treating a Firm Scheme as withdrawn where there has been a Notification Failure.</p>
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Under no circumstances will Homes England be required to accept any change which would have the result of increasing the amount of the Allocated Grant or the Firm Scheme grant.

Where a change is proposed after the Start on Site Date and payment of the first tranche of capital grant but prior to the Firm Scheme Completion Date, Homes England will be entitled to accept or reject such changes or to accept them subject to adjustments.

If Homes England:

- (a)** accepts the proposed change in principle, it shall be entitled to review the capital grant allocated to the Firm Scheme by reference to the proposed change. Where the result of that review is a lower capital grant figure, Homes England will notify the Grant Recipient and the Grant Recipient will have 20 Business Days to notify Homes England whether it wishes to proceed with the Firm Scheme on the basis of the revised capital grant figure, to withdraw it or to retract the proposed change so that the Firm Scheme continues as originally contemplated. Failure to notify Homes England within the specified period (**Notification Failure**) will (unless otherwise agreed by Homes England in writing) be deemed to be a decision by the Grant Recipient to withdraw the Firm Scheme. Homes England will take reasonable steps to contact the Grant Recipient during the specified period to remind the Grant Recipient of the need for the notification, but any failure on Homes England's part to do so will not preclude Homes England from treating a Firm Scheme as withdrawn where there has been a Notification Failure;

  - (i) If the Grant Recipient wishes to proceed, it must change the Firm Scheme Details (including the capital grant figure) in IMS accordingly. The Firm Scheme Details will be deemed to have been amended with effect from the date of Homes England's acceptance of the changed IMS information. The second instalment of capital grant will be adjusted downwards to take account of any reduction in the overall capital grant figure allocated to the scheme. If the necessary adjustment would result in the second instalment being a negative figure, the Grant Recipient must repay a sum equivalent to the amount necessary to bring the second instalment to zero.
  - (ii) If the Firm Scheme is withdrawn, Homes England will withdraw the grant allocation in relation to that Firm Scheme from the Grant Recipient and the Grant Recipient must repay any capital grant received in relation to that scheme.
- (b)** accepts the proposed change (including any change to the capital grant figure) as it stands, it will accept the change through IMS.

	<p>The Firm Scheme Details will be deemed to have been amended with effect from the date of such acceptance;</p> <p>(c) rejects the proposed changes, the Grant Recipient will have 20 Business Days to notify Homes England whether it wishes to proceed with the Firm Scheme on the original basis or to withdraw it. If the Firm Scheme is withdrawn, Homes England will withdraw the grant allocation from the Grant Recipient. Failure to notify Homes England within the specified period (<b>Notification Failure</b>) will (unless otherwise agreed by Homes England in writing) be deemed to be a decision by the Grant Recipient to withdraw the Firm Scheme. Homes England will take reasonable steps to contact the Grant Recipient during the specified period to remind the Grant Recipient of the need for the notification, but any failure on Homes England's part to do so will not preclude Homes England from treating a Firm Scheme as withdrawn where there has been a Notification Failure.</p> <p>Under no circumstances will Homes England be required to accept any change which would have the result of increasing the amount of the Allocated Grant or Firm Scheme grant.</p>
<p><b>Changes to Firm Schemes which are being delivered by a Developer through the Agreed Transfer model</b></p>	<p>The Approved Bid may be changed by agreement between the parties to the Contract. Changes may take the form of:</p> <p>a) revisions to:</p> <ul style="list-style-type: none"> <li>i. the profile of projected Start on Site Dates and dates for Practical Completion; and/or</li> <li>ii. the type, location, number or tenure mix or the design and quality standards of SOAHP dwellings; and/or</li> <li>iii. the rent levels forecast for such dwellings included in the Approved Bid;</li> </ul> <p>b) a reduction in the Allocated Grant;</p> <p>c) the Developer or the acquiring landlord committing more of its or their own resources to underpin the delivery of the Approved Bid;</p> <p>d) fewer or more dwellings being included in the Approved Bid; or</p> <p>e) such other change as either party may propose.</p> <p>Each party must give written notice on becoming aware of a circumstance which would necessitate a change being made to the Approved Bid. The notice must identify the proposed change and the reasons for it.</p>

	<p>Where a change is agreed, the Developer must update IMS as soon as is practicable and in any event within five (5) Business Days of the date of agreement. The change is effective only after it is accepted by Homes England in IMS.</p> <p>In default of agreement, Homes England will be entitled to terminate the Contract.</p>
<b>Extension of Milestone Dates and extensions</b>	<p>The Grant Recipient will be expected to commit via IMS to specified dates for achieving Acquisition, Start on Site and Practical Completion in relation each Firm Scheme (<b>Milestone Dates</b>). Provision will be made for delays caused by events beyond the Grant Recipient's reasonable control (<b>Milestone Extension Events</b>) but all affordable homes must Start on Site by 30 September 2025 and achieve Practical Completion by 31 March 2026.</p>
<b>Firm Scheme Substitution</b>	<p>If:</p> <ul style="list-style-type: none"> <li>(a) it becomes apparent that a Firm Scheme will not meet the Milestone Dates for reasons which are not attributable to Milestone Extension Events; or</li> <li>(b) the Grant Recipient has opted to withdraw a Firm Scheme pursuant to the Changes to Firm Schemes provisions</li> </ul> <p>the Grant Recipient may request that the relevant Firm Scheme be substituted by another scheme.</p> <p>Homes England will be obliged to consider (but not accept) any such request. Where it accepts a request, the failing Firm Scheme will be replaced by the incoming substitute scheme. Any capital grant already paid out in relation to the outgoing scheme will be treated as having been paid towards the incoming scheme and the capital grant sum payable in relation to the incoming scheme adjusted accordingly.</p>
<b>Bringing forward additional schemes</b>	<p>The Grant Recipient may propose bringing new named schemes into the Contract. Details of such schemes must be submitted in IMS and will be considered by Homes England on scheme by scheme bidding through a process of Continuous Market Engagement.</p> <p>If Homes England is satisfied with the scheme information, it shall be entitled (but not obliged) to accept the proposed scheme into the scope of the agreement. From the point of acceptance by Homes England, the new scheme will be treated as part of the Approved Bid for the purposes of the Contract (<b>Additional Scheme</b>).</p>
<b>Delivery and on-going obligations of the Grant Recipient</b>	
<b>Delivery and operational obligations</b>	<p>Obligations on the Grant Recipient in respect of each Firm Scheme include but are not limited to:</p>

	<p><b>(a)</b> delivering the Firm Scheme in accordance with agreed milestones and to the standards put forward by the Grant Recipient on IMS (as confirmed by Homes England)<sup>5</sup>. All affordable homes must be delivered by 31 March 2026;</p> <p><b>(b)</b> permanently using the delivered homes for the purposes for which the grant was paid (subject to the application of the relevant Recovery Determination (or any successor determination) and as set out in the Capital Funding Guide);</p> <p><b>(c)</b> disposing of any Shared Ownership units:</p> <ul style="list-style-type: none"> <li>i only at arm's length and on market terms; and</li> <li>ii in accordance with the provisions of the Capital Funding Guide in relation to Shared Ownership products<sup>6</sup>;</li> </ul> <p><b>(d)</b> entering into an agreement and working with the Help to Buy Agent in the area in which the Shared Ownership Firm Scheme is located;</p> <p><b>(e)</b> not seeking possession of a Shared Ownership unit under Ground 8 of Schedule 2 of the Housing Act 1988 (as amended);</p> <p><b>(f)</b> complying with the requirements of the Capital Funding Guide and with the Regulator's Rent Standard and Tenancy Standard where applicable<sup>7</sup>;</p> <p><b>(g)</b> maintaining full and accurate accounts and records (including receipts and expenditure) in relation to the Firm Scheme and the grant paid in respect of it and permitting inspection (if required) by Homes England and/or its advisors. Records must be maintained for 10 years from the date of grant payment in compliance with State Aid requirements. Separate accounts to be maintained in respect of any other development at the site of the Firm Scheme which does not constitute affordable housing;</p> <p><b>(h)</b> promptly providing Homes England with all reasonably requested information and documentation in relation to the Approved Bid or any Firm Scheme;</p> <p><b>(i)</b> if required, providing Homes England (or its nominee) access to the site upon reasonable notice for inspection purposes;</p>
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<sup>5</sup> Any legislative changes (including changes to Building Regulations) which operate to enhance standards will be at the Grant Recipient's risk.

<sup>6</sup> This will include an obligation to ensure that the term of any Shared Ownership lease incorporates the prescribed "Fundamental Clauses" from the new Model Lease which will be published once the MHCLG New model for Shared Ownership: Technical Consultation findings are published in early 2021.

<sup>7</sup> The Rent Standard and Tenancy Standard will only apply to Social Rent and Affordable Rent dwellings.

	<p>(j) procuring and complying with terms of all consents and permissions required for the lawful development of the Firm Scheme;</p> <p>(k) complying with applicable legislation including applicable procurement and equalities legislation and providing evidence of such compliance on reasonable request;</p> <p>(l) promptly notifying Homes England once start on site has occurred;</p> <p>(m) acting at all times with the utmost good faith with the intent to deliver the units set out in the Approved Bid and with proper regard to the need for efficiency and effectiveness in the use of public funds;</p> <p>(n) promptly notifying Homes England in writing of any of the following:</p> <ul style="list-style-type: none"> <li>i the receipt of (or an offer of) public sector financial assistance or guarantees in relation to the Firm Scheme (other than Homes England grant)<sup>8</sup>;</li> <li>ii any event which might adversely affect the timely delivery and completion of any part of the Firm Scheme;</li> <li>iii the occurrence of any Default Event;</li> <li>iv any breach of the Contract or failure or likely failure to deliver a Firm Scheme in accordance with the Firm Scheme Details or the failure or likely failure of an Indicative Scheme to meet the Transition Date; and</li> <li>v any other information Homes England reasonably requires in relation to the Scheme.</li> </ul> <p>(o) complying at its cost with Homes England's requirements in respect of the conduct of Compliance Audit as set out in the Capital Funding Guide;</p> <p>(p) complying with Homes England's requirements from time to time in relation to communications and publicity;</p> <p>(q) supplying CORE<sup>9</sup> data in respect of all affordable homes delivered pursuant to the Contract;</p> <p>(r) complying with Homes England's requirements from time to time in relation to evaluation of the AHP 21-26;</p>
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<sup>8</sup> This includes funding, assistance or subsidy in money or money's worth

<sup>9</sup> The national information source "Continuous Recording" that records information on new AHP Housing occupiers and the properties they rent or buy.

	<p><b>(s)</b> ensuring that where applicable:</p> <ul style="list-style-type: none"> <li>i rents are not charged at a higher level than set out in IMS (excepting increases permitted by the Tenancy Standard for the relevant property type<sup>20</sup>); and</li> <li>ii Rent to Buy units are provided at an Intermediate Rent<sup>21</sup> for a minimum of 5 years after which the tenant in occupation has the first right to purchase the unit; and</li> </ul> <p><b>(t)</b> complying with Open Book and Transparency Obligations.</p>
<b>Open Book Obligations</b>	The Grant Recipient must supply details relating to the Development Costs to the reasonable satisfaction of Homes England which Homes England reserves the right to verify on an Open Book basis.
<b>Transparency Obligations</b>	<p>Where the grant received by the Grant Recipient under this or any other of Homes England's affordable housing programmes delivering outputs in 2021-26 exceeds £3m, the Grant Recipient must publish details quarterly of all expenditure in excess of £500 incurred by it in delivering Firm Schemes.</p> <p>Homes England will be entitled to publish such information as it considers appropriate in relation to the Programme including, but without limitation, details of the Approved Bid, Development Costs and funding for Firm Schemes. Entry into the Contract will be deemed to be consent by the Grant Recipient to the publication of such data.</p>
<b>Payment, withholding, adjustment and reallocation of capital grant in relation to Firm Schemes</b>	
<b>Payment of Grant by Homes England in respect of Firm Schemes where the Grant Recipient is a Registered Provider or Local Authority</b>	<p>Where the Grant Recipient is a Registered Provider or a Local Authority, Homes England will pay grant as follows:</p> <ul style="list-style-type: none"> <li><b>(a)</b> once a site has been acquired, 40% of the agreed capital grant figure will be paid to the Grant Recipient on receipt of a properly certified and completed claim and subject to satisfaction of specified conditions to grant drawdown and supported by substantiating documentation if required</li> <li><b>(b)</b> once Start on Site has been achieved, 35% of the agreed capital grant figure will be paid to the Grant Recipient on receipt of a properly certified and completed claim and subject to satisfaction of specified conditions to grant drawdown and supported by substantiating documentation if required; and</li> <li><b>(c)</b> once Practical Completion has been achieved, 25% of the agreed capital grant figure will be paid to the Grant Recipient on receipt of</li> </ul>

<sup>20</sup> Applicable only to any Social Rent and Affordable Rent dwellings

<sup>21</sup> A definition of Rent to Buy and Intermediate Rent is set out in the Capital Funding Guide.

	<p>a properly certified and completed claim and subject to satisfaction of specified conditions to grant drawdown and supported by substantiating documentation if required.</p> <p>Homes England will make payment within 15 Business Days of receipt of a correctly certified and completed claim.</p> <p>Homes England will have no obligation to pay any tranche of grant prior to the payment date set out and accepted in IMS.</p> <p>Homes England reserves the right to amend the percentages attributable to tranche payments. Such right will not be exercisable, however, in relation to any Firm Scheme which has started on site and in respect of which the first tranche of grant has been paid.</p>
<p><b>Conditions to drawdown of grant in relation to a Firm Scheme where the Grant Recipient is a Registered Provider or Local Authority</b></p>	<p>The following conditions are indicative and not limited to those which need to be met (in form and substance satisfactory to Homes England) prior to drawdown of capital grant in relation to a Firm Scheme:</p> <ul style="list-style-type: none"> <li>(a) Registered Provider Status (for applicable Firm Schemes<sup>12</sup>) and Investment Partner status maintained;</li> <li>(b) completion of IMS requirements;</li> <li>(c) confirmation that all consents necessary to commence the development of the Firm Scheme have been obtained or are in the process of being obtained, and</li> <li>(d) tranche specific drawdown conditions have been satisfied as set out in the Capital Funding Guide.</li> </ul>
<p><b>Payment of Grant by Homes England in respect of Firm Schemes where the Grant Recipient is NOT a Registered Provider or Local Authority (i.e. an unregistered organisation)</b></p>	<p>Where the bidder is not a Registered Provider or a public body (i.e. it is a developer or an unregistered organisation), Homes England may pay grant in either of the following ways:</p> <ol style="list-style-type: none"> <li>1. three tranche payments as per the arrangements for Registered Providers and Local Authorities on receipt of a properly certified and completed claim and subject to satisfaction of specified conditions to grant drawdown and supported by substantiating documentation if required; or</li> <li>2. in a single tranche once Practical Completion has been achieved with 100% of the agreed capital grant figure paid to the Grant Recipient on receipt of a properly certified and completed claim and subject to satisfaction of specified conditions to grant drawdown and supported by substantiating documentation if required.</li> </ol> <p>Homes England will make payment within 15 Business Days of receipt of a correctly certified and completed claim.</p>

<sup>12</sup> I.e. where the Firm Scheme is delivering sub-market Rent dwellings

	<p>Homes England will have no obligation to pay any tranche of grant prior to the payment date set out and accepted in IMS.</p> <p>Where payments are being made in tranches, Homes England reserves the right to amend the percentages attributable to tranche payments. Such right will not be exercisable, however, in relation to any Firm Scheme which has started on site and in respect of which the first tranche of grant has been paid.</p> <p>To enable tranche payments to organisations which are not regulated by the Regulator of Social Housing or a Local Authority, Homes England may need to be satisfied with security offered (e.g. a fixed charge over land, a guarantee or a performance Bond). Where security is to be made available to enable tranche payments, this will be reflected in the Contract.</p>
<p><b>Conditions to drawdown of grant in relation to a Firm Scheme where the Grant Recipient is NOT a Registered Provider or Local Authority (i.e. an unregistered organisation)</b></p>	<p>The following conditions are indicative and not limited to those which need to be met (in form and substance satisfactory to Homes England) prior to drawdown of capital grant in relation to a Firm Scheme:</p> <ul style="list-style-type: none"> <li>(a) Investment partner status is maintained;</li> <li>(b) completion of IMS requirements;</li> <li>(c) confirmation that all consents necessary to commence the development of the Firm Scheme have been obtained or are in the process of being obtained;</li> <li>(d) registration of a restriction on the title of the scheme site prohibiting disposal unless specific conditions are met<sup>13</sup>. Where land is transferred to a third party, the transferee may be required to enter into a prescribed form of Deed of Covenant with Homes England protecting the user and grant contained within the grant funded units; and</li> <li>e) tranche specific drawdown conditions have been satisfied as set out in the Capital Funding Guide.</li> </ul> <p>Additionally, where a developer is using the Agreed Transfer model:</p> <ul style="list-style-type: none"> <li>f) save where the Site is already in the ownership of the acquiring landlord, an Agreed Transfer as contemplated in IMS (i.e. with the acquiring landlord details) has been executed and delivered in escrow, conditional only on payment of the Firm Scheme Grant and payment of the stipulated consideration by the Landlord (if any);</li> <li>g) where applicable, the acquiring landlord has Registered Provider Status (for applicable Firm Schemes<sup>14</sup>); and</li> </ul>

<sup>13</sup> The above principle will apply equally to the requirement to register a restriction on the title of the scheme site.

<sup>14</sup> I.e. where the Firm Scheme is delivering sub-market Rent dwellings

	<p>h) where the acquiring landlord is not a Registered Provider, the Developer has procured that they will enter a restriction on the title in favour of Homes England in a prescribed form; and</p> <p>i) the acquiring landlord will enter into a Deed of Adherence<sup>15</sup> (in a prescribed form) on practical completion, which sets out the ongoing obligations of the landlord to Home England in relation to the grant funded units. The Deed of Adherence duly executed by the acquiring landlord must be provided together with irrevocable authority from the landlord permitting Homes England to complete the deed following its execution by Homes England.</p>
<p><b>Withholding of payment by Homes England</b></p>	<p>Payment of any tranche of grant may be withheld in circumstances which include the following:</p> <p>(a) in relation to any and all Firm Schemes where there is a Default Event of the following kind:</p> <ul style="list-style-type: none"> <li>i Prohibited Act (ie fraud);</li> <li>ii Insolvency Event;</li> <li>iii Grant Recipient ceases operation;</li> <li>iv Loss/removal/relinquishment of Grant Recipient's Investment Partner status;</li> <li>v Regulator directs/recommends that no capital grant should be paid to the Grant Recipient;</li> <li>vi Grant Recipient's conduct (or that of its agents/subcontractors) harms Homes England's or Programme's reputation;</li> <li>vii Grant Recipient has failed to comply with its reporting or repayment obligations;</li> <li>viii Grant Recipient is in material breach of any other obligation under the Contract and has not taken satisfactory steps to remedy such breach;</li> <li>ix Any units are not delivered by 31 March 2026<sup>16</sup></li> <li>x For applicable Firm Schemes<sup>17</sup> the loss/removal/relinquishment of Registered Provider status; and/or</li> </ul>

<sup>15</sup> The Deed of Adherence is required to create a contractual nexus for the grant between the acquiring landlord and Homes England. The Deed of Adherence to be entered into on practical completion will include (but not be limited to) representations by the Landlord in relation to the Agreed Transfer transaction and sets out the delivery and operational obligations the acquiring landlord will need to adhere to. These are the same as those for direct grant recipients included in this document. Where the acquiring landlord is not a Registered Provider, there is also an obligation to register a restriction on title in a prescribed form against its title.

<sup>16</sup> 31-3-2026 is the end of Affordable Homes Programme 2021-26. Homes England has no guarantee of available resource for the programme after that date.

<sup>17</sup> I.e. where the Firm Scheme is delivering sub market Rent dwellings

	<p style="margin-left: 40px;">xi Any consent required to enable the Grant Recipient to deliver the Firm Scheme is withdrawn or revoked;</p> <p style="margin-left: 40px;">(each a <b>General Withholding Event</b>)</p> <p><b>(b)</b> in respect of any Firm Scheme, where:</p> <p style="margin-left: 40px;">i the Firm Scheme is not delivered in accordance with the Firm Scheme Details or to the standards approved by Homes England via IMS;</p> <p style="margin-left: 40px;">ii conditions for drawdown of grant in relation to a Firm Scheme are not satisfied;</p> <p style="margin-left: 40px;">iii where the Grant Recipient has failed to meet an agreed milestone date and Homes England has not agreed a revised date on IMS<sup>18</sup>; and/or</p> <p style="margin-left: 40px;">iv where the Grant Recipient is in material breach of any other obligation in relation to the relevant Firm Scheme and has not taken satisfactory steps to remedy such breach; and/or</p> <p style="margin-left: 40px;">v any consent required to enable the Grant Recipient to deliver the Firm Scheme is withdrawn or revoked</p> <p style="margin-left: 40px;">(each a <b>Scheme Withholding Event</b>).</p> <p>In the event of the occurrence of a General Withholding Event of the type described in sub-paragraphs (a) (i-vi) and (ix-xi), Homes England shall be entitled permanently to withhold and reallocate all capital grant allocated but as yet unpaid to the Grant Recipient under the Contract.</p> <p>In the event of the occurrence of a General Withholding Event of the type described in sub-paragraphs (a) (vii and viii), Homes England shall be entitled to suspend payment of all capital grant allocated but as yet unpaid to the Grant Recipient under the Contract until the Grant Recipient has complied with the relevant obligation or taken satisfactory steps to remedy the relevant breach within (in each case) such timescale as Homes England shall reasonably require. Failure to comply or take the necessary steps within the prescribed timescale will entitle Homes England permanently to withhold and reallocate such grant.</p> <p>Failure by the Grant Recipient to comply/remedy within the required period will entitle Homes England to terminate the Firm Scheme and reallocate the unpaid capital grant.</p>
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<sup>18</sup> Homes England would not seek to refuse a revised date provided it would not (a) materially and adversely affect the delivery of the Approved Bid, the Firm Scheme and/or Homes England's spend profile nor (b) occur after 31-3-2026.

In circumstances where Homes England's right permanently to withhold and reallocate capital grant has arisen, Homes England shall (depending on the nature of the General Withholding Event) be entitled to recover either (i) all grant already paid to the Grant Recipient; or (ii) any grant paid to the Grant Recipient other than in relation to completed Firm Schemes (**Completed Firm Schemes**).

In the event of the occurrence of a Scheme Withholding Event of the type described in sub-paragraph (b)(i), Homes England shall (subject to any agreed adjustment under the implementation of any adjustment<sup>19</sup>) be entitled permanently to withhold and reallocate all capital grant allocated but as yet unpaid to the Grant Recipient in relation to that Firm Scheme.

In the event of the occurrence of a Scheme Withholding Event of the type described in sub-paragraph (b) (iii), Homes England shall be entitled permanently to withhold and reallocate all capital grant allocated but as yet unpaid to the Grant Recipient in relation to that Firm Scheme and recover any capital grant already paid in relation to that scheme.

In the event of the occurrence of a Scheme Withholding Event of the type described in sub-paragraphs (b) (ii iv and v), Homes England shall be entitled to suspend payment of all capital grant allocated but as yet unpaid to the Grant Recipient under the Contract until the Grant Recipient has satisfied the relevant condition or taken satisfactory steps to remedy the relevant breach within such timescale as Homes England shall reasonably require in each case; Failure to satisfy the condition/remedy within the relevant timescale will entitle Homes England to terminate the Firm Scheme, re-allocate any unpaid grant and recover any capital grant already paid in relation to that scheme.

Homes England will not be obliged to make any payment to the Grant Recipient following any withholding of capital grant where such payment would fall after 31 March 2026.

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<sup>19</sup> See Adjustments to capital grant section below.

<b>Adjustment to capital grant</b>	<p>If at the point of receiving a claim for a second or third tranche grant, Homes England becomes aware by whatever means that the Firm Scheme has not been delivered in accordance with the Firm Scheme Details or to the standards approved by Homes England via IMS, then Homes England (at its discretion) shall have the option of adjusting the capital grant payable in relation to that Firm Scheme by such amount as it considers appropriate (acting reasonably and having regard to what has in fact been delivered) or withholding and re-allocating the amount of further tranche grant due to the Grant Recipient and terminating the Firm Scheme.</p> <p>If Homes England selects the withholding option, it shall be entitled to recover any previous grant paid to the Grant Recipient in relation to that Firm Scheme.</p> <p>If Homes England selects the adjustment option, under no circumstances will Homes England be obliged to pay more by way of capital grant in relation to the Firm Scheme than the Firm Scheme Grant allocated to such scheme in IMS (the <b>Original Grant Sum</b>). Where the effect of the adjustment would be a lower overall grant figure for the Firm Scheme than the Original Grant Sum, the further instalment of capital grant will be adjusted downwards. If the necessary adjustment would result in the further instalment being a negative figure, the Grant Recipient must repay a sum equivalent to the amount necessary to bring the further instalment to zero.</p>
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**Default, Termination and Repayment and reallocation of Capital Grant**

<b>Default Events</b>	<p>The Contract includes four classes of Default Event:</p> <ul style="list-style-type: none"> <li>(a) <b>Scheme Default</b> – a default which entitles Homes England immediately and without any liability to the Grant Recipient to terminate the Contract in relation to an individual Firm Scheme rather than terminating the entire Contract;</li> <li>(b) <b>Specified Default</b> - a default which the Grant Recipient is given the opportunity to remedy within a prescribed period but which if not remedied within such period will entitle Homes England immediately and without any liability to the Grant Recipient to terminate the entire Contract;</li> <li>(c) <b>Bid Default</b> - a default which entitles Homes England (acting reasonably) to seek to agree adjustments to the Allocated Grant and which in default of agreement entitles Homes England on notice within a prescribed period and without liability to the Grant Recipient to terminate the entire Contract; and</li> <li>(d) <b>Fundamental Default</b> – a default which entitles Homes England immediately and without any liability to the Grant Recipient to terminate the entire Contract.</li> </ul>
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	<p>A <b>Scheme Default</b> includes but is not limited to:</p> <ul style="list-style-type: none"> <li>(a) a breach of the representations/warranties which has a material adverse effect on the Firm Scheme;</li> <li>(b) any consent required to enable the Grant Recipient to deliver the Firm Scheme is withdrawn or revoked;</li> <li>(c) a breach of specified delivery and operational obligations<sup>20</sup>;</li> <li>(d) a failure to agree revised capital grant figures in relation to adjustments made to second tranche grant at claim stage (see above) or post-delivery grant adjustments following Homes England becoming aware of non-compliance with Firm Scheme Details (e.g. post Compliance Audit);</li> <li>(e) the inability of the Grant Recipient to comply with the grant drawdown conditions;</li> <li>(f) any other breach of the Contract which has a material adverse effect on the delivery of the Firm Scheme; and</li> <li>(g) a failure to deliver any Firm Scheme in its entirety by 31 March 2026.</li> </ul> <p>A <b>Specified Default</b> includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>(a) a failure to provide information in accordance with the terms of the Contract or persistent material deficiencies or inaccuracies in the provision of information;</li> <li>(b) a breach of the representations/warranties which has a material adverse effect on the Approved Bid;</li> <li>(c) a failure to comply with the Open Book Obligations in the Contract;</li> <li>(d) any other breach of the Contract which has a material adverse effect on the delivery of the Approved Bid; and</li> <li>(e) a failure by the Grant Recipient to comply with any repayment obligation.</li> </ul> <p>A <b>Bid Default</b> includes, but is not limited to Homes England (acting reasonably) determining that proper progress has not been made in delivering the Approved Bid;</p> <p>A <b>Fundamental Default</b> includes, but is not limited to:</p>
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<sup>20</sup> The specific obligations will be set out in the final Contract.

	<p>(a) an Insolvency Event;</p> <p>(b) a Prohibited Act has occurred<sup>21</sup>;</p> <p>(c) any consent required to enable the Grant Recipient to comply with the Approved Bid is withdrawn or revoked<sup>22</sup>;</p> <p>(d) the Grant Recipient ceases operating;</p> <p>(e) the Grant Recipient's status as a Registered Provider (for applicable Firm Schemes<sup>23</sup>) is lost, relinquished or removed;</p> <p>(f) the Grant Recipient's status as an Investment Partner is lost, relinquished or removed;</p> <p>(g) where the Regulator directs or recommends that grant is not to be paid to the Grant Recipient; and</p> <p>(h) the Grant Recipient brings Homes England or the Programme into disrepute.</p> <p><b>A Scheme Default</b> will entitle Homes England to:</p> <p>(a) terminate the Contract in relation to the relevant Scheme;</p> <p>(b) withhold all capital grant then due to the Grant Recipient in relation to that Firm Scheme;</p> <p>(c) re-allocate the balance of the Allocated Grant; and/or</p> <p>(d) recover the Firm Scheme Grant for affected Firm Schemes.</p> <p>Where the Scheme Default is of the type described in sub-paragraphs (a) (c) and (f), the Grant Recipient will always be afforded an opportunity to remedy the default within a reasonable or specified period, provided that such action would not materially and adversely affect the delivery of the Firm Scheme and/or Homes England's spend profile.</p> <p><b>A Specified Default</b> will entitle Homes England to:</p> <p>(a) terminate the Contract other than in relation to any Firm Scheme that has started on site and received the first tranche payment (<b>Continuing Firm Scheme</b>);</p>
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<sup>21</sup> Prohibited Act includes offences of fraud, deception or bribery.

<sup>22</sup> This provision is intended to apply to consents to the bid itself such as Board approvals or Regulatory consent. Individual scheme approvals are dealt with under Firm Scheme obligations.

<sup>23</sup> I.e. where the Firm Scheme is delivering sub-market Rent dwellings

- (b) withhold all capital grant then due to the Grant Recipient in relation to any Firm Scheme unless it is a Continuing Firm Scheme;
- (c) re-allocate the balance of the Allocated Grant; and/or
- (d) reclaim any grant already paid to the Grant Recipient other than in relation to Completed Firm Schemes;

The Grant Recipient will always be afforded an opportunity to remedy the default within a reasonable or specified period.

A **Bid Default** will entitle Homes England to:

- (a) terminate the Contract other than in relation to any Continuing Firm Scheme;
- (b) withhold all capital grant then due to the Grant Recipient in relation to any Firm Scheme unless it is a Continuing Firm Scheme;
- (c) re-allocate the balance of the Allocated Grant; and/or
- (d) reclaim any grant already paid to the Grant Recipient other than in relation to Completed Firm Schemes;

Prior to the exercise by Homes England of any entitlement following a Bid Default, Homes England will notify the Grant Recipient of its intention to call a Bid Default. The parties will agree to meet within ten (10) Business Days of the date of such notification to discuss and agree in good faith whether any changes need to be made to the Approved Bid and/or the Allocated Grant to reflect the Grant Recipient's under performance in relation to delivery of the Approved Bid.

Where such changes are agreed, IMS will be updated accordingly and the Contract will continue. In default of agreement within a reasonable time, Homes England may exercise the rights described in sub-paragraphs (a) to (c) above. Homes England considers that a reasonable time should not exceed fifteen (15) Business Days from the date of the meeting.

A **Fundamental Default** will entitle Homes England to:

- (a) terminate the Contract;
- (b) withhold all capital grant then due to the Grant Recipient in relation to any Firm Scheme;
- (c) re-allocate the balance of the Allocated Grant; and
- (d) reclaim grant already paid to the Grant Recipient in accordance with the methodology in the Contract, which will specify the

	amount of grant recoverable according to the nature of the Fundamental Default.
<b>Consequences of Termination</b>	<p>Wholesale termination of the Contract will:</p> <ul style="list-style-type: none"> <li>(a) absolve Homes England from any future obligation to make payment to the Grant Recipient in respect of any new supply under the Approved Bid other than a Continuing Firm Scheme which has been approved on IMS and where start on site has occurred;</li> <li>(b) not absolve the Grant Recipient from complying with post termination obligations<sup>24</sup>;</li> <li>(c) unless (and to the extent that) the Regulator prescribes otherwise, not preclude a Registered Provider Grant Recipient from charging an Affordable Rent in respect of the Rent dwellings delivered under the Approved Bid;</li> </ul> <p>Wholesale termination or partial termination (following Scheme Default) of the Contract will entitle Homes England to require repayment and/or reallocation of Grant in the circumstances specified in the Contract.</p>
<b>Repayment of Grant</b>	<p>The Grant Recipient may be required to repay grant paid (plus interest)<sup>25</sup> under the Contract in circumstances where:</p> <ul style="list-style-type: none"> <li>(a) a Prohibited Act has occurred;</li> <li>(b) the conduct of self-assessment procedural compliance tests reveals that the Firm Scheme has not complied with the relevant IMS details or a material misrepresentation has been identified in which case Homes England can (depending upon the nature of the misrepresentation) recover all the grant paid from the Grant Recipient or agree an adjustment to the grant amount with the Grant Recipient;</li> <li>(c) the relevant Recovery Determination (or any successor determination) applies – in which case the Grant Recipient may recycle or be required to repay in accordance with its terms;</li> <li>(d) an overpayment has been made or a payment has been made in error or following a misrepresentation;</li> <li>(e) an Insolvency Event has occurred in relation to the Grant Recipient;</li> </ul>

<sup>24</sup> E.g. duty to use stock for the agreed purposes, grant repayment obligations etc.

<sup>25</sup> The rate of interest will be set out in the Contract.

	<p>(f) Termination Events<sup>26</sup> have occurred; and</p> <p>(g) breaches of specified obligations have occurred<sup>27</sup>.</p>
<b>State Aid</b>	<p>The AHP 21-26 is provided with the intention that it is lawful and complies with the requirements of the European Commission’s Decision on Services of General Economic Interest dated 20 December 2011 (2012/21/EU) (the <b>SGEI Decision</b>). If Homes England is required pursuant to the SGEI Decision in relation to public sector compensation granted to certain undertakings entrusted with the operation of services of general economic interest to recover any amount of overcompensation (as described in the SGEI Decision) Homes England will be entitled to recover any such amount from the Grant Recipient. Public sector compensation includes payments through CIL.</p>
<b>Nil Grant Units</b>	<p>It is anticipated that Nil Grant Units will be made available as part of the Approved Bid. Further detail is provided in the Capital Funding Guide.</p>
<b>Acknowledgements, Representations and warranties</b>	<p>Specified acknowledgements in relation to capital grant will be required from the Grant Recipient.</p> <p>Representations and warranties by the Grant Recipient that are usually included in grant documentation including but not limited to:</p> <p>(a) performance of obligations under the Contract will not breach or conflict with any law, regulation or other agreement;</p> <p>(b) vires;</p> <p>(c) enforceability of obligations;</p> <p>(d) no Prohibited Acts;</p> <p>(e) no default under any law or other agreement which may affect the Grant Recipient's ability to perform its obligations under the project documents or finance documents;</p> <p>(f) no litigation, arbitration or administrative or regulatory proceedings taking place, pending or, to the Grant Recipient's knowledge, threatened against the Grant Recipient or its assets which may have a material adverse effect;</p> <p>(g) full disclosure and accuracy of all information that might reasonably be thought would influence Homes England's decision to make financial accommodation available to the Grant Recipient;</p>

<sup>26</sup> A Termination Event is any event which triggers termination of the Contract either in whole or in part.

<sup>27</sup> The form of contract will identify the relevant circumstances.

	<p>(h) solvency of the Grant Recipient;</p> <p>(i) all required authorisations have been and are being complied with and remain current</p> <p>(j) no overlap in provision between AHP 21-26 units and those contracted to be provided under earlier Homes England programmes, and</p> <p>(k) for consortia, that a binding consortium agreement (or equivalent) is in place.</p>
<b>VAT</b>	<p>The payment of any Allocated Grant is inclusive of Value Added Tax.</p> <p>In all other cases:</p> <p>(a) the amount of any payment or the value of any supply is expressed exclusive of VAT properly chargeable on it; and</p> <p>(b) where any payment or taxable supply falls to be made pursuant to the Contract VAT properly chargeable on it will be paid in addition by the recipient of the supply for which payment (if any) is consideration on the provision of a valid VAT invoice for it.</p>
<b>Assignment</b>	<p>Homes England may transfer or assign all or part of the Contract at any time.</p> <p>The Grant Recipient may not transfer or assign all or any part of the Contract at any time without the prior written consent of Homes England.</p>
<b>Boilerplate</b>	<p>The Contract will include standard boilerplate provisions, including but not limited to, confidentiality, FOIA, intellectual property, information provision, health and safety, waiver, dispute resolution, notices, amendments, Construction Industry Scheme, CDM regulations, set off and severability.</p>
<b>Governing law</b>	<p>Laws of England and Wales.</p>
<b>Other</b>	<p>All other terms and conditions standard or desirable for a Grant Allocation of this type shall be included.</p>

**THE TERMS SET OUT IN THESE HEADS OF TERMS ARE NON-BINDING AND INDICATIVE ONLY. THE ABOVE TERMS DO NOT CONSTITUTE OR IMPLY A COMMITMENT TO PROVIDE GRANT FUNDING BY HOMES ENGLAND, NOR A REPRESENTATION THAT SUCH FUNDING WILL BE MADE AVAILABLE. ANY SUCH COMMITMENT WILL BE SUBJECT TO CONTRACT, THE AVAILABILITY OF HOMES ENGLAND FUNDS AND SATISFACTORY DUE DILIGENCE AND DOCUMENTATION.**