



Department for Levelling Up,  
Housing & Communities



# First Homes

## Getting you on the ladder

Backed by HM Government

# Local Authority Guidance Notes

Version 2 – February 2024



## Contents

Chapter 1: Introduction .....	4
Background to First Homes.....	4
Key characteristics of First Homes as set out in national policy via the WMS .....	5
National and local criteria.....	6
Methods for delivering First Homes .....	7
Support for local authorities.....	8
Residential Logbooks .....	9
Chapter 2: Overview of the role of the local authority.....	10
Chapter 3: Implementing national policy and setting local criteria.....	11
Implementing national policy .....	11
Considerations when setting the criteria.....	11
Updates to local criteria.....	13
Chapter 4: Section 106 agreements.....	15
Overview .....	15
Adapting the model section 106 clauses for local use.....	15
Delivering First Homes on land owned by the local authority .....	17
Land charges .....	18
Chapter 5: Sales Process for First Homes .....	19
New build sales: key principles .....	19
Preparing the application and conveyancer packs .....	20
New build sales: process.....	21
New build sales: suggested approaches for the local authority .....	25
New build sales: marketing periods.....	25
Additional considerations regarding buyer eligibility .....	26
Resales process .....	27
Circumstances when the First Homes criteria do not have to be met .....	30
Chapter 6: Ongoing responsibilities concerning First Homes.....	34
Lettings.....	34
Handling changes in circumstances .....	35
Inheritance .....	35
Annex A: First Homes delivered through the Early Delivery Programme.....	36
Introduction .....	36



# Department for Levelling Up, Housing & Communities

Key differences compared to delivery through the planning system.....	36
Annex B: Links to key documents .....	38
Annex C: Worked examples illustrating the Additional First Homes Contribution and Stamp Duty Land Tax Liability.....	39
Interest charges and deferment of SDLT on uncertain consideration.....	40
Calculating SDLT .....	40
Example 1 – purchase with 30% discount.....	41
Example 2 – purchase in a high value area with higher discount.....	44
Additional factors.....	46



## Chapter 1: Introduction

1. 'First Homes' is a government-backed affordable housing scheme to help more people onto the property ladder. First Homes is set to become an increasingly significant form of affordable housing across England.
2. Local authorities have a critical role to play in delivering First Homes and in maximising the benefit of the scheme to local communities. This guide provides details about the scheme and explains the role of local authorities. Updated versions of this guide will be made available in due course, as the policy is further developed.
3. The [Written Ministerial Statement](#) of 24 May 2021 (henceforth "the WMS") and accompanying [Planning Practice Guidance](#) of the same date (henceforth "the PPG") introduced the First Homes scheme into planning policy and provided details of how it is to be applied and used for planning purposes. This guide is not a statement of national planning policy but is designed to further support local authorities in interpreting and implementing the First Homes policy.
4. Delivery of First Homes will primarily be achieved through the planning system, via developer contributions and exception sites. To help launch the scheme, a grant-funded Early Delivery Programme was run from 2021 to 2023.
5. The guidance in this document focuses on delivery through the planning system. For reference, the differences between delivery through the planning system and the Early Delivery Programme are outlined in Annex A.
6. 'Local authority' and 'local planning authority' are used interchangeably in this document, and the guidance should therefore be applied as suited to local arrangements.
7. Hyperlinks to associated documents are included in this guide. For ease of reference, they have also been compiled under Annex B.

### Background to First Homes

8. The First Homes scheme was developed in response to a 2019 manifesto commitment to "...offer more homes to local families, enabling councils to use developers' contributions via the planning process to discount homes in perpetuity by a third for local people who cannot otherwise afford to buy in their area."
9. After that commitment was made, the Government undertook an initial [consultation](#) and analysis phase from February to August 2020. Responses from more than 100 local authorities were analysed, alongside responses from other stakeholders, to help set the parameters of the scheme. This was followed by a technical consultation, with a [response](#) issued on 1 April 2021. The PPG and the WMS were released on 24 May 2021, and the principles of the WMS came into effect on 28 June 2021. A future iteration of the National Planning Policy Framework (NPPF) will include the First Homes policy, as set out in the WMS.



## Department for Levelling Up, Housing & Communities

10. Building on the initial consultation processes, extensive engagement has taken place with a range of stakeholders across the first years of delivery to further shape the scheme, including with local authorities, developers, and actual First Homes owners.
11. Of critical importance, active support was secured early on from the mortgage lending sector, with a number of lenders – including major High Street names – signing up to a [statement of support](#) for First Homes in June 2021. Since then, further lenders have confirmed that they will offer mortgages for First Homes.
12. The Early Delivery Programme has already generated a wealth of experience and feedback that has been used to refine the scheme, much of which is reflected in the guidance below. The process is ongoing, and in due course will be supported by a formal evaluation of the Early Delivery Programme.

### Key characteristics of First Homes as set out in national policy via the WMS

#### 13. What are First Homes?

- First Homes are homes sold to first-time buyers with a discount of at least 30% from full market value.
- The percentage discount is passed on to future purchasers in perpetuity.
- Local authorities or neighbourhood planning groups will be able to increase the minimum discount required to 40% or even 50% if local need has been identified and evidenced.
- The maximum price of a First Home on its initial sale, after the discount has been applied, will be £250,000 (or £420,000 in London). Local authorities can set lower price caps as part of local policy, again if there is evidenced need.
- The First Homes discount is secured through a planning obligation, which runs with the land. Model section 106 (Town and Country Planning Act 1990) clauses have been published for local authorities to use. A title restriction is also placed on every First Home which prevents the transfer of the title without the express permission of the local authority.

#### 14. What type of properties are First Homes?

- First Homes should comply with any applicable planning policies and/or building regulations that apply to the rest of the development, for example those relating to space, accessibility, energy efficiency or carbon emissions.
- First Homes should not be sold as leasehold unless necessary.

#### 15. Who can buy First Homes?

- Purchasers of First Homes will need to be first-time buyers with a household income less than £80,000 per year (or £90,000 per year in London) based on the tax year immediately preceding the year of purchase.
- Purchasers should also use a mortgage to cover at least 50% of the discounted purchase price of their First Home, to help make sure these discounts are not abused by those who do not need them.
- Local authorities or neighbourhood planning groups will be able to set some aspects of the buyer eligibility criteria for their area: restricting purchases to those who are key



## Department for Levelling Up, Housing & Communities

workers and/or who meet a local connection test, and/or whose household income falls below a lower income cap. These local restrictions will be time-limited to the first three months from the start date of marketing to ensure homes do not remain unsold.<sup>1</sup>

- Local authorities or neighbourhood planning groups can determine which professions constitute 'key workers' according to local needs.
- In recognition of the unique nature of their circumstances, members of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was caused wholly or partly by their service) or veterans within five years of leaving the Armed Forces are exempt from any local connection or key worker criteria.

### 16. How can First Homes be used?

- The First Home must be the owner's only or main residential property for the duration of their ownership. Letting is always permitted for up to two years in aggregate over the course of a household's ownership of the property, subject to the terms of the mortgage agreement. The local authority can give permission to extend this period, which is intended to help people who are facing exceptional circumstances – again this is subject to the terms of the mortgage agreement. The local authority should be informed by the owner in advance of any letting.
- When the owner comes to sell their First Home, the same percentage discount must be applied.
- In order to ensure that suitable mortgages are available for First Homes, mortgage lenders should be able to enforce their security over a First Home in order to realise the full market value of the property, returning any surplus up to the value of the First Homes discount (net of any Stamp Duty Land Tax) to the local authority.

### National and local criteria

17. As noted above, local authorities and neighbourhood planning groups can set local criteria to meet local needs. Together with the in perpetuity nature of the discount, this makes each First Home a lasting community asset.
18. Any local criteria that applies to the buyer – local connection, key worker or a lower household income cap – falls away if the First Home has not been sold within three months of marketing, and national criteria would then apply, as indicated in the WMS. Please note, however, that local criteria that apply to the First Home itself – discount levels and price caps – do *not* change after the first three months of marketing. The following table sets this out:

---

<sup>1</sup> There are exceptions to this time limit – please see the section titled 'New build sales: marketing periods' from paragraph 74 for details.



## Department for Levelling Up, Housing & Communities

National criteria - First Home	Local criteria - First Home	Does the local criteria change after the first three months of marketing?
30% discount on the full market value	Can be set instead at 40% or 50%	No – the percentage discount does not change according to marketing time
Price cap of £250,000, or £420,000 in London, after the discount (initial sale only)	Can be set lower (but not higher) than the national cap (initial sale only)	No – if a local price cap has been set, this would remain in place until the initial sale is complete
National criteria - buyer	Local criteria - buyer	Does the local criteria change after the first three months of marketing?
Household income of no more than £80,000, or £90,000 in London	Can be set lower (but not higher) than the national cap	Yes – any local income cap falls away and the national cap of £80,000 (or £90,000 in London) then applies
There is no national local connection or key worker criteria	Can set local connection and/or key worker criteria	Yes – any local connection or key worker requirements would no longer apply
Only for first-time buyers	No additional local criteria can be set	Not applicable – all buyers must be first-time buyers
Buyers must have a mortgage / home purchase plan covering at least 50% of the discounted purchase value	No additional local criteria can be set	Not applicable – a mortgage covering at least 50% must always be used

19. Details on the marketing periods are described in more detail below under ‘New build sales: marketing periods’ from paragraph 74. Notably, that section explains some limited circumstances in which marketing of new build First Homes according to local and national criteria may need to be extended.

### Methods for delivering First Homes

20. First Homes are now being delivered in two ways:
- i. **Developer contributions:** The majority of First Homes are expected to be delivered as a proportion of the affordable housing provided by developers as part of their section 106 planning obligations. This delivery mechanism ensures that developers offer the homes for sale at a discount without any direct grant subsidy from either the local authority or central government. The WMS states that 25% of all affordable homes delivered by developers as part of their contributions should be First Homes and outlines how this should be planned for and achieved, with the supporting PPG. This means that there will



## Department for Levelling Up, Housing & Communities

be a steady and sustained supply of these homes, helping first-time buyers across England. The 25% requirement will be included in future iterations of the NPPF.

- ii. **Exception sites:** The WMS also replaced entry-level exception sites with First Homes exception sites. These should be First Homes-led but can allow some market housing and/or other types of affordable housing if necessary for viability or acceptability. Local authorities should again refer to the PPG for more information on exception sites. Again, the introduction of First Homes exception sites will be reflected in future iterations of the NPPF.
21. To help launch the scheme, First Homes were also delivered through an Early Delivery Programme in two phases:
- i. **Phase 1:** To help establish the scheme, several small-scale pilots were delivered on Homes England land in a few selected local authorities. The very first customers moved into their First Homes in October 2021.
  - ii. **Phase 2:** By the end of September 2023, just under £100m of funding had been used to deliver more than 1,200 First Homes across 68 local authority areas. The phase 2 programme had a number of key differences from delivery through the planning system, which are set out in Annex A below.

### Support for local authorities

22. Government wishes to support local authorities to deliver First Homes. So far, we have:
- Devised a standardised sales and resales process for First Homes
  - Prepared a number of standard documents for local authorities to use, including:
    - a. [Model section 106 clauses](#) for delivery through the planning system
    - b. [Template application form and customer conveyancer packs](#) for delivery through the planning system
    - c. A [customer guide](#)
  - Released the PPG
  - Held open sessions for local authorities, including with the Local Government Association, District Councils' Network, and the Planning Advisory Service
23. We are working to increase our support yet further. The guidance for local authorities and standard documentation will be refined and expanded to address further questions as experience is gained. Consideration is being given to streamlining the purchase process. Template resales packs and instructions for estate agents will be made available. Further guidance will also be released to support the full range of stakeholders involved, with the goal of making the process as clear and seamless as possible for all concerned. In addition, further efforts will be made to promote awareness and understanding of First Homes among the general public, commensurate with the increase in delivery expected over the coming years.
24. For each First Homes sale in phase 2 of the Early Delivery Programme, £150 was paid to the local authority. Drawing on the experience of that Programme, we are striving to understand the





## Department for Levelling Up, Housing & Communities

ongoing resource implications for local authorities and how best to meet this need, particularly in relation to the processing of applications both for new build sales and resales.

25. If further guidance or support is needed, local authorities can contact officials at the Department for Levelling Up, Housing and Communities (DLUHC) by writing to [firsthomes@levellingup.gov.uk](mailto:firsthomes@levellingup.gov.uk)

### Residential Logbooks

26. Local authorities can, if they wish, mandate the use of residential logbooks for each First Home delivered. This would need to be agreed with each developer. Information about residential logbooks can be found on the official website of the [Residential Logbook Association](#).
27. Logbooks have the potential to support the First Homes scheme in several ways, such as easily retaining and passing on information about the First Homes discount and monitoring lettings periods.
28. The application and conveyancer packs to purchase a First Home (which are discussed in detail from paragraph 59 below) include passages to help facilitate the mandating of residential logbooks. Local authorities can choose to keep or delete these passages, as required.



## Chapter 2: Overview of the role of the local authority

29. Local authorities are responsible for several aspects of the First Homes scheme, which are summarised as follows:

A. Implementing national policy and setting local criteria (see chapter 3)

First Homes is part of national planning policy, as set out in the WMS, and should therefore be taken into account when preparing plans and determining planning applications.

Local authorities (and neighbourhood planning groups) can, if they wish, set local criteria concerning minimum discount levels and price caps on the First Homes in their area. They can also set restrictions – local connection tests, key worker criteria and/or lower household income caps – on who is eligible to buy First Homes within the first three months of marketing.

B. Section 106 agreements (see chapter 4)

The WMS indicates that local authorities should include First Homes clauses in their section 106 agreements. [Model clauses](#) have been developed for this purpose. These ensure the discount is secured and set out other key features of the scheme, including eligibility criteria, restrictions on use and the mortgagee exclusion clause.

C. Sales process (see chapter 5)

For every First Homes sale, including resales, the local authority will need to actively confirm whether a buyer is eligible. On occasion, local authorities may also need to consider requests to switch First Homes into open market sale homes.

D. Ongoing responsibilities concerning First Homes (see chapter 6)

Local authorities will need to log lettings requests, and on occasion may need to grant an owner a longer period of letting. From time to time, local authorities may also need to apply to HM Land Registry to make certain changes in ownership exempt from the First Homes provisions. Breaches in the terms of use would be handled by local authorities just as they would any other breach in the section 106.



## Chapter 3: Implementing national policy and setting local criteria

### Implementing national policy

30. Local authorities should implement national policy as set out in the WMS, and with the support of the PPG. Local authorities should note in particular:
- i. As of 28 June 2021, the WMS should be read alongside the NPPF as a statement of national planning policy when determining planning applications. It also means that First Homes should be taken into account when preparing a Development Plan Document, including local plans and neighbourhood plans. Local authorities should also refer to relevant parts of the PPG for further detail.
  - ii. Developments which incorporate First Homes should seek to capture the same value of contribution for affordable housing as set out in any existing local policies. This means that incorporating First Homes should be considered part of the affordable housing mix, and not in addition to it. The PPG outlines how this should be achieved.
  - iii. The new policy requirement for 25% of affordable homes to be First Homes contributes to, but does not replace, the existing policy expectation that 10% of all homes delivered should be for affordable home ownership.

### Considerations when setting the criteria

31. In keeping with national policy, local criteria can be set by local authorities (or neighbourhood planning groups) in the following areas:
- i. **Discount levels** for First Homes must be a minimum of 30% against the market value. Local authorities can, however, set a deeper minimum discount at either 40% or 50%. These deeper discounts are intended to help ensure that First Homes are accessible to first-time buyers in parts of the country where house prices are particularly high. It is not a sliding scale – the First Homes discounts should be set at a minimum of 30%, 40% or 50%. (This does not prevent local authorities from agreeing deeper discounts with developers on individual sites, as explained in the PPG.)
  - ii. **Price caps** on new build sales can be set lower (but not higher) than the national default of £250,000 (£420,000 in London) after the discount has been applied. This flexibility is given to local authorities so that they can make sure the First Homes built in their area are suitable for first-time buyers.
  - iii. **Household income caps** can be set lower (but not higher) than the national default of £80,000 (£90,000 in London), and this cap would apply for the first three months of marketing (on both new build sales and resales). The intention of this flexibility is to enable local authorities to target First Homes to those who wouldn't otherwise be able to buy on the open market.



## Department for Levelling Up, Housing & Communities

- iv. **Local connection eligibility criteria** can be set, which applies for the first three months of marketing (on both new build sales and resales). The local authority can choose how to define their local connection criteria in accordance with the needs in their area. Local connections may include (but are not limited to) current residency, employment requirements, family connections or special circumstances, such as caring responsibilities.
- v. **Key worker eligibility criteria** can be set, which applies for the first three months of marketing (on both new build sales and resales). The local authority can choose how to define their key worker criteria in accordance with the needs in their area.

**The phase 2 programme had some important differences in respect to the setting of local criteria – please see Annex A below for details.**

32. Policies on local eligibility criteria (as listed above) should be underpinned by relevant and up-to-date evidence in keeping with the WMS. For further information, please refer to the PPG.
33. Irrespective of any local criteria, all purchasers must be first-time buyers and, if no local household income cap has been set, they should meet the national household income eligibility requirements, as indicated in the WMS. Those with a connection to the Armed Forces, as defined in paragraph 15, should always be exempt from needing to meet any local connection or key worker criteria; they should, however, still be first-time buyers and should still satisfy the relevant household income cap.
34. In setting local criteria, local authorities will naturally wish to consider the balance between meeting local needs and ensuring that First Homes generally do not remain unsold.
35. From experience to date, it is suggested that local authorities give due regard to the following when setting any local connection and/or key worker criteria:
  - i. Having simple local connection criteria, such as living or working in the local authority district, should help secure local buyers and will be more easily administered and understood by purchasers. To this end, we recommend either having just one set of criteria that covers the whole district area, or if it necessary to have different criteria in different parts of the district, to keep any such subdivisions to a minimum. The criteria can, for example, be refined with the addition of a minimum residence period and can be broadened further so that the local connection is satisfied by moving into a district by virtue of a family connection already resident in the area.
  - ii. If existing local connection or key worker criteria has already been set in connection with other areas of work, the local authority may wish to consider whether it would be suitable to apply this to the First Homes scheme.
  - iii. Proximity to centres of employment, even if they are outside of the local authority boundary, could be considered.
  - iv. Key worker criteria can be qualified by, for example, a minimum number of hours worked per week, or a minimum proportion of work time if the applicant has more than one occupation. Upfront clarity on questions of this kind will help ensure that prospective buyers are clear on whether they are eligible. This will likely reduce the number of queries directed to the local authority.



## Department for Levelling Up, Housing & Communities

36. It is also recommended that local criteria be unambiguous, capable of consistent, standard administration by local authorities, and therefore be defensible and resistant to challenge in connection with any individual application. The purchase process will also work best if, to the extent possible, sales teams and potential buyers are clear whether they can satisfy all eligibility requirements before an application is submitted. To this end, it is suggested that local authorities set out what evidence they would regard as acceptable, and to reflect this where indicated in the application form. Such evidence might, for example, include:

### **Income caps**

- P60 form
- Payslips
- Copy of signed contract with employer
- Employer's letter confirming recent pay agreement

### **Local connection criteria (either for the individual or connection through relatives)**

- Rent books
- Landlord references
- Utility bill
- Council tax bill
- Bank statement
- Driving Licence

### **Key worker criteria**

- Employee identification cards
- Letters from employers
- Payslips

### **Armed Forces criteria**

- Payslips
- Armed Forces ID Card
- Death certificate (in the case of buyers who are related to those Armed Forces members who have passed away because of their service)

37. If a local connection or key worker eligibility test requires applicants to satisfy a condition over a period of time (for example being employed in the area for at least the last three years), it would again be helpful for the local authority to set out what proof it would require. In this case, a payslip (or other evidence) from at least three years ago, and another piece of evidence that is recent, may, for example, be regarded as sufficient. Experience to date suggests that requiring applicants to provide comprehensive evidence – covering, for example, every month or every year of the required period – can be unduly onerous.

## Updates to local criteria

38. Updates to local criteria can be carried out periodically. Local authorities would be advised to seek their own legal advice on how and when these updates can be achieved.
39. The model section 106 clauses include provisions that mean any amendment in local buyer eligibility criteria will apply to the resale of existing First Homes in the area, not just new First Homes. We recommend that local authorities use the model clauses in their section 106



## Department for Levelling Up, Housing & Communities

agreements in this way, and the reasons for this are noted in paragraph 48 below. On this basis, local authorities will naturally wish to give due regard to existing First Homes owners when considering any amendments to the local buyer eligibility criteria.

40. It should also be remembered that any local buyer eligibility criteria expires after three months and, if a First Home cannot be sold within six months, it can be released onto the open market to ensure owners are not trapped in an unsellable home. It is therefore not in anyone's interest, including that of the local authority, to implement restrictions that would make a home difficult to sell. When setting or updating local criteria, authorities should consider the balance between targeting areas of housing need and restricting the pool of buyers.
41. It would not be desirable for any existing sales processes – whether on new developments or resales – to have to end part way through because of a change in criteria. Local authorities are advised, therefore, to ensure that suitable transition periods are built into any change in local criteria. For large, long-term developments, it may be prudent for the local authority to agree with the developer a suitable opportunity for the revised requirements to come into effect, for example between site delivery phases.
42. Local authorities will naturally wish to ensure that the updated local criteria are clearly and easily accessible, including to relevant stakeholders and potential buyers.



## Chapter 4: Section 106 agreements

### Overview

43. As indicated in the WMS, local authorities should secure the discounts on First Homes in perpetuity through agreements under the powers of section 106 of the Town and Country Planning Act 1990. Section 106 agreements are being used for this purpose because they run with the land and do not expire, and because they will in most cases be needed for developments where affordable housing contributions are secured from the developer, so are generally well understood.
44. Model section 106 clauses have been developed for use by local authorities. Two versions of the model section 106 have been released:
  - i. One for delivery through planning. This is the main version to use for all future First Homes delivery. It is envisaged that the clauses would normally be suitably incorporated into the section 106 that is being created for the development, though it may also be possible to append it to any existing section 106 through a deed of variation. This can be accessed [here](#).
  - ii. A bespoke version that was used specifically for phase 2 of the Early Delivery Programme. In case needed for reference, this can be accessed [here](#).
45. The model section 106 clauses include information that will likely be needed for the First Homes on a development: the quantum, type and distribution of houses; development standards; the eligibility of buyers; restrictions on ownership; the mortgagee exclusion clause; and the wording of the restriction that should be placed on the title of every First Home.

### Adapting the model section 106 clauses for local use

46. When integrating the First Homes model clauses into a section 106 agreement, local authorities are encouraged to consider how to adapt parts of the text to align with local First Homes policies – these are generally marked in square brackets. In some cases, the passages in square brackets may not be relevant to a particular local authority and can be removed. Changes may be needed in some areas, even outside of the square brackets, to integrate the clauses into an existing section 106, or to adapt it to local needs. There are also areas where we strongly advise that no changes be made.

#### **Areas where amendments are encouraged (in square brackets)**

47. Local authorities are able to determine the local criteria for First Homes (discount levels and price cap) and for buyer eligibility in the first three months of marketing (local connection and/or key worker criteria and household income cap).
48. We expect that local authorities will wish to word the section 106 such that any eligibility restrictions that apply will be based on that local authority's policies at the time of sale, and not at the time of the initial purchase. This is because First Homes are intended to last indefinitely, and over time it will likely become necessary for local authorities to update their eligibility



## Department for Levelling Up, Housing & Communities

policies to meet changing local circumstances. This approach aligns with the information that will be provided to stakeholders and the public about First Homes, and should also help simplify the resale process (meaning, for example, that local authorities can set out and easily update one version of the buyer eligibility criteria for their area). For these reasons, even if a local authority chooses not to set local eligibility criteria at this time, we expect that local authorities will wish to indicate that any such criteria *can* be set by the local authority and would then apply to all First Homes in the local authority area. The wording of the model section 106 clauses reflects this expectation.

### **Areas where additional amendments may be needed (outside of the square brackets)**

49. The model clauses will usually need to be integrated into a larger section 106 agreement, and this may mean that other changes are needed for text outside of the square brackets. For example, local authorities will wish to ensure that definitions are consistent (for instance some might use 'landowner' instead of 'owner').
50. Some passages, such as the section on clustering and development standards, may be redundant if they are already dealt with as part of wider affordable housing requirements, so they may need to be deleted or suitably adapted.
51. Certain additions may be warranted – for example:
  - i. The standard application and conveyancer documents, as well as the customer guide, set a clear expectation that incentives offered on a new-build First Home be capped at 5% of the purchase price. This was a binding rule in the phase 2 programme and, as needed, this may be incorporated into future statements of government policy on First Homes. If deemed necessary to ensure compliance with this point, local authorities can include this cap in their section 106 agreement.
  - ii. The standard application and conveyancer documents set a clear expectation that any reservation fee on a new-build First Home be capped at £500 and be repaid in full in the event that the local authority deems an applicant not to meet the relevant First Homes criteria at the point of the initial application. Again, this was a rule in in the phase 2 programme and it may be incorporated into future statements of government policy on First Homes if the need becomes clear. If necessary to ensure compliance with this point, local authorities can include these stipulations in their section 106 agreement.

### **Areas where we strongly advise that no amendments be made**

52. Where a clear expectation has already been set among the stakeholders and the public concerning First Homes – for example where aspects of the scheme have been set out in national policy, official customer information or in other messaging from central government – we ask that the relevant provisions in the model clauses remain substantively unchanged. This includes the clauses concerning:
  - i. National eligibility criteria (including first-time buyer status, income caps and price caps)
  - ii. Marketing periods for which local criteria applies, including the timing of when marketing according to local or national criteria can cease
  - iii. Armed Forces local connection and key worker eligibility exemptions





## Department for Levelling Up, Housing & Communities

- iv. Exempt disposals and related inheritance rules
  - v. Valuation requirements
  - vi. The wording of the restriction to be added to the title of the First Home (see paragraph 54 below)
  - vii. The circumstances and process by which a First Home can be turned into a normal open market home
  - viii. Restrictions on use of the First Homes – including that it should remain the only or main residence of the owner, and restrictions on letting
  - ix. Mortgagee exclusion clause
53. The mortgagee exclusion clause (section 8 in the model clauses) is part of the national policy for First Homes as set out in the WMS. In summary, it means that in the event that the mortgagee wishes to enforce its security, it can, having notified the local authority, sell the property at open market value. In this event, once the mortgagee has retrieved its principal sum (together with interest and reasonable expenses), the discounted value of the home would be returned to the local authority, net of any additional Stamp Duty Land Tax (SDLT) including any interest owed. The protection this offers to mortgage lenders has been instrumental in enabling them to commit to participating in the scheme. Should a local authority amend this provision, it could prevent lenders from offering mortgages to buyers in that area. For this reason:
- The clause should always be included.
  - Any amendments should be confined to normal integration into the section 106 (for example aligning the wording with existing definitions).
  - If necessary, 8.4.2. can be suitably amended by those local authorities that would not be able to allocate monies received towards the provision of affordable housing.

For further information on the order of payments and SDLT, in the event that a First Home is converted into market sale, please see Annex C below.

54. The wording of the restriction on title should be completed where indicated, but should not otherwise be changed. Any variation to the agreed wording could mean the restriction becoming non-standard for the purposes of the Land Registration Rules 2003, which would require an application in form RX1 and a separate fee. The wording has been agreed with HM Land Registry as follows:

*“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by [Local Authority] of [address] or their conveyancer that the provisions of clause XX (the First Homes provision) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition”*

### Delivering First Homes on land owned by the local authority

55. If a local authority wishes to deliver First Homes on land that it owns, it will not be possible for it to put in place a section 106 agreement with the First Homes provisions in the normal way as the local authority cannot enter into a legal agreement with itself. This can be overcome by, for



## Department for Levelling Up, Housing & Communities

example, using a chain of deeds of covenant with First Homes purchasers or entering into a section 106 agreement with individual purchasers. In both examples, the form of deed or section 106 will need to include the standardised First Homes provisions as set out in the model section 106. Examples of the documentation required can be shared by DLUHC on request.

56. Local authorities may also become aware of other circumstances in which a section 106 cannot be used. Such cases should be referred to DLUHC for guidance ([firsthomes@levellingup.gov.uk](mailto:firsthomes@levellingup.gov.uk)).

### Land charges

57. First Homes section 106 obligations would be registrable as local land charges in the usual way.



## Chapter 5: Sales Process for First Homes

### New build sales: key principles

58. The Government has developed a standard sales process for First Homes. We strongly recommend that local authorities adopt this, not least to ensure consistency in the implementation of the scheme and for the benefit of those stakeholders who will be involved in First Homes sales across different local authority areas. The standard sales process has a number of key principles and characteristics:

- i. **The First Homes purchase process is essentially reservation-led:** customers should have reserved their home before submitting their application to the local authority for consideration. This means that local authorities do not administer any “waiting lists” of eligible buyers, nor do they make comparisons of prospective buyers on the same home – it is the first proceedable, eligible purchaser that can progress their application.
- ii. **Standard documents should be used:** these include an application pack and a conveyancer pack. The application pack is constructed to capture all the purchaser and First Home plot purchase information required by the local authority to consider eligibility. The conveyancer pack contains the key documents that local authorities will issue in connection with a sale, including:
  - An ‘Authority to Proceed’ (ATP), which provides an initial confirmation that a buyer is eligible.
  - An ‘Authority to Exchange’ (ATE) which confirms to the purchaser’s conveyancer that the purchase can proceed.
  - A ‘Compliance Certificate’ which confirms to other parties that the purchase can proceed.

Consistency in the use of these packs will help ensure that all parties – including conveyancers, developers, estate agents, mortgage advisors, mortgage lenders and local authorities – will become familiar and comfortable in engaging with the First Homes sales process.

- iii. **The application pack should always include all the agreed First Homes criteria from the completed section 106 agreement:** this helps ensure that potential purchasers can provide the supporting evidence (as applicable) and make the signed legal declaration as to their eligibility before the pack is submitted to the local authority for consideration. For more information on this point, please see the section on preparing the application and conveyancer packs from paragraph 59.
- iv. **Responsibility for marketing rests with the developer:** there is no requirement for the local authority to participate in this. Marketing should not commence for specific First Homes until the First Homes section 106 agreement has legally completed.
- v. **Any local eligibility criteria set by the local authority applies only for the first three months of marketing:** after three months, potential purchasers only need to meet the national eligibility requirements to reserve and apply (subject to availability on site). There are, however, some limited circumstances in which marketing of new build First Homes according to local and national criteria may need to be extended - see ‘New build sales:



## Department for Levelling Up, Housing & Communities

marketing periods' from paragraph 74 for details. See also 'national and local criteria' from paragraph 17.

- vi. **Only fully completed applications, with all the required supporting evidence, should be submitted to the local authority for consideration:** and it is the house builder and mortgage advisor (if one is being used), not the local authority, that are responsible for gathering the necessary information and evidence from the buyer. This includes getting the signed declaration, as set out in the application pack. The local authority has no responsibility for following up on incomplete applications: they can simply be rejected. Every pack includes a summary checklist which should always be signed off by the builder and, where relevant, the mortgage advisor, confirming that the application is complete.
- vii. **Only local authorities can make eligibility approval decisions and issue the ATP (as part of the conveyancer pack):** to minimise the period of uncertainty for customers seeking to buy a First Home, it is reasonably expected that the ATP will be issued within five days of receiving the application, provided there are no complicating factors.
- viii. **The eligible purchaser's conveyancer is solely responsible for ensuring compliance with the local authority's instructions:** these instructions are set out in the conveyancer pack, and would be received by the conveyancer when the ATP is issued.
- ix. **Only local authorities can issue the ATE and Compliance Certificate:** Exchange of contracts is not permitted until these documents have been completed and issued by the local authority.
- x. **For every sale of a First Home, a valuation is conducted by a valuer qualified by the Royal Institution of Chartered Surveyors (RICS):** on the initial sale, the mortgage lender's valuation satisfies this requirement. The surveyor will value the home's 100% market value before applying the First Homes discount. This sets an upper ceiling to the price of the First Home, ensuring that the discount is preserved. For new build sales, if this valuation is below the house builder's market value selling price, the First Home sale cannot proceed. The purchaser's conveyancer gives an undertaking to the local authority in all new build sales that this has been complied with.

### Preparing the application and conveyancer packs

59. There are three template versions of the application and conveyancer packs:
  - a. [For new-build First Homes delivered through the planning system](#)
  - b. For resales of First Homes, which can be used for First Homes initially delivered either through the planning system or the Early Delivery Programme: these will be made available in due course.
  - c. [For new-build First Homes delivered through the Early Delivery Programme](#)
60. We recommend that local authorities first create general templates of both the application and conveyancer packs for the local authority area. These can then be used, as and when needed, to create more specific templates for each site, including references to the section 106 agreement.
61. To create the general templates of the application and conveyancer packs for the local authority area, the local authority should complete as many of the parts in **yellow** as possible and follow the instructions in **red** (which can then be deleted).



## Department for Levelling Up, Housing & Communities

62. Some parts in yellow, such as the specific section 106 references, will remain; these can be completed when creating the templates for a specific site.
63. Once the local authority has created the templates for a specific site, the application pack (only) can then be shared with the relevant developer. The developer will then complete the parts highlighted in blue and the application form can then be used with customers.
64. The local authority's conveyancer pack should be shared only after an application is received. Sections in green should be completed by the local authority when handling a specific application (schedule 1 of the conveyancer pack after the application from an eligible buyer is received, and schedule 7 once the customer's conveyancer has submitted their undertaking).
65. It is important for local authorities to ensure that the form of restriction to be registered at HM Land Registry by the purchaser's conveyancer, as well as the specific section 106 agreement and the First Homes Provisions, are fully referenced in the application and conveyancer packs. This is critical to ensure the First Homes restriction on the property title is enforceable and that it is linked back to the legal agreement for First Homes (the section 106).

### **Data Protection**

66. To process purchase applications and administer the scheme, the local authority is classed as a data controller. This is because it is the local authority that collects the data on individual applications, and it will be the local authority that determines such matters as data use and retention. For instance, the local authority may wish to collect data on who is buying First Homes in order to review the eligibility criteria as part of the local plan-making process. Local authorities are also advised to put in place monitoring arrangements that will allow them to ensure that the requirements set out in this guidance are adhered to.
67. For this reason, the local authority will need to ensure that a suitable privacy notice is included in the application form. You may find it necessary to undertake a data protection impact assessment. As reflected in the application form, the developer should also insert, or provide a link to, its own privacy notice.
68. Suitable markings can be added to the application and conveyancer packs, as needed, to indicate that they contain sensitive personal information and should be handled accordingly.
69. DLUHC is not a data controller, as it will not be involved in handling specific cases. For this reason, local authorities should not share identifiable personal data with DLUHC.

### **Equal opportunities**

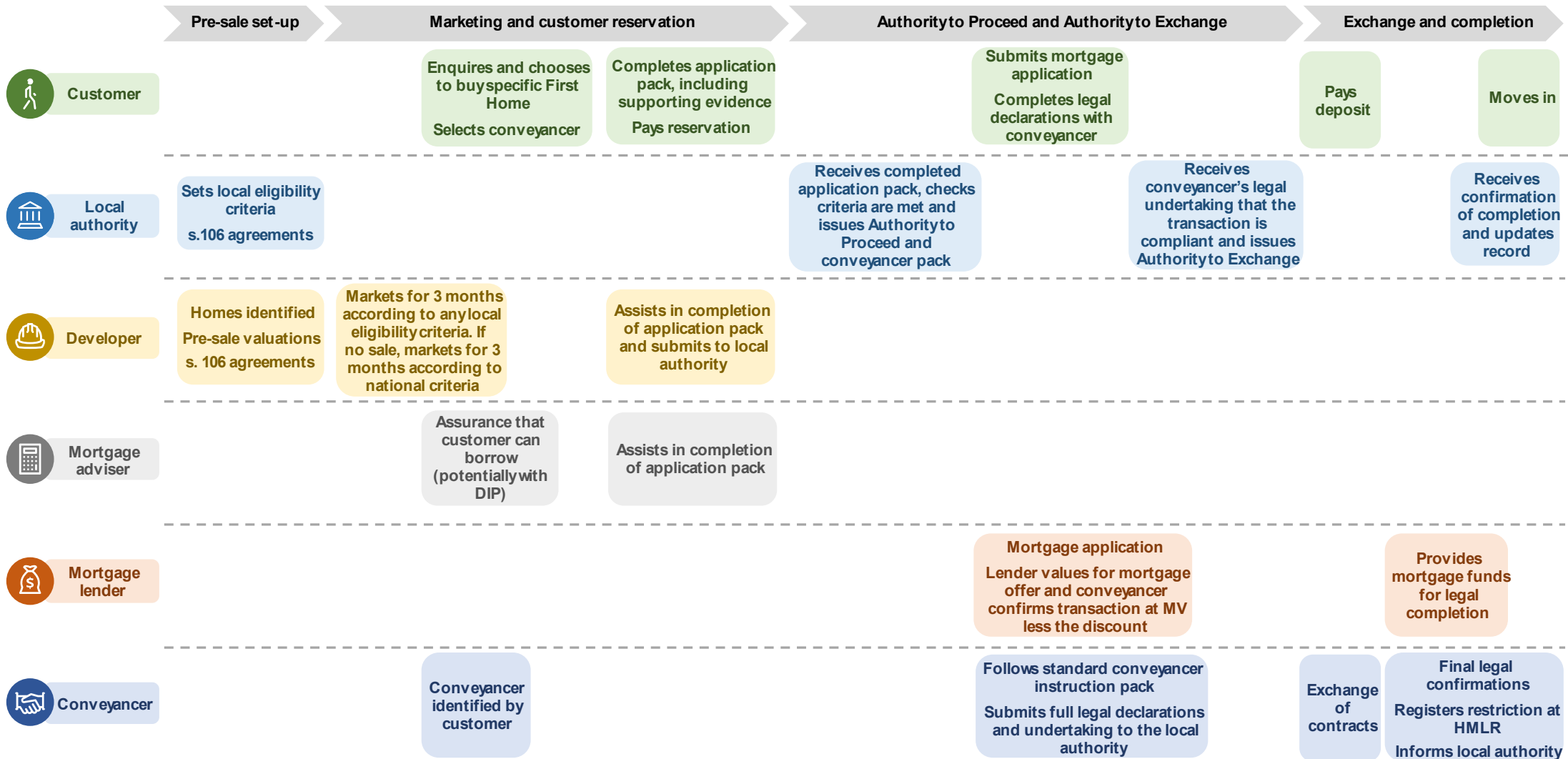
70. Local authorities may wish to add an equal opportunities section into the application pack. There is no requirement to do this, and DLUHC will not be looking to collect such data.

### **New build sales: process**

71. Alongside local authorities, the participants in the sales application process are set out below.



# Application Process for New Build Sale





## Department for Levelling Up, Housing & Communities

72. The sales process for newly built First Homes is as follows:

- i. It is suggested that the local authority agree with the developer at an early stage how documents can be submitted securely, for example through setting up a digital shared space. This space will need to be made available to others later, such as the customer conveyancer.
- ii. After the section 106 agreement is legally completed:
  - The template application and conveyancer packs can be completed by the local authority as described from paragraph 60.
  - The application form is then issued to the developer.
  - Site marketing operations can then commence.
- iii. Once a potential buyer comes forward, the builder site team, working with a mortgage advisor (as applicable), will assist the buyer to complete the application pack, including the signed declaration and compiling the necessary evidence. The application pack is constructed to capture all the purchaser and First Home plot purchase information required by the local authority to consider eligibility. It concludes with a detailed checklist confirming that all applicable items are complete, and this is signed off by the builder and mortgage advisor (as applicable) and recommended for local authority approval.
- iv. On receipt of the application pack the local authority can use the checklists and supporting evidence to make its eligibility decision. The focus on thorough pack preparation by the site team means it is not anticipated that local authorities will need to conduct further due diligence. If packs are partially completed or omit the “sign-offs” they should always be rejected by the local authority. Experience to date suggests that this approach works, leaving local authorities to concentrate on their eligibility approval. If the local authority does not judge the applicant to meet the relevant eligibility criteria (be that local or national, depending on when the application is submitted in relation to the period of marketing), it can simply decline the application.
- v. For an eligible application, the local authority uses the template conveyancer pack for the site (as described in paragraphs 60-65) and, taking the information from the application, transfers this to the ATP and eligibility approval (schedule 1). This, together with the entire conveyancer pack, is issued to the purchaser, the purchaser’s conveyancer, the developer and their conveyancer, and the mortgage advisor (if one is being used). For the avoidance of doubt, schedule 7 is left unfilled by the local authority at this stage. The ATP is the approval to commence the plot sales conveyancing and, upon receipt of the ATP, the applicant may submit their full mortgage application to the lender. It is expected that ATPs can be issued by local authorities within approximately five working days of receipt of the application, provided that there are no complicating factors.
- vi. The purchaser’s conveyancer will ensure the local authority’s instructions are complied with including:
  - Advising the purchaser of the terms of the scheme (including the requirements at resale).
  - Ensuring the purchaser makes a further signed legal declaration regarding their eligibility.
  - Ensuring the purchaser has a valid mortgage offer and the valuation and any incentives controls are complied with.



## Department for Levelling Up, Housing & Communities

- Providing a certificate of title to the local authority and ensuring the First Homes restriction is registered at HM Land Registry.
  - Ensuring that the transfer documents correctly reference the First Homes planning obligations and thereby the eligibility criteria required by the local authority.
- vii. Once the plot sale contract has been prepared and a mortgage offer received, the purchaser's conveyancer will request approval to exchange contracts by preparing and submitting their signed legal undertaking to the local authority. The undertaking confirms that the sale meets the local authority's First Homes requirements. The undertaking also confirms the controls on valuation have been complied with, i.e. the home has been independently valued and this agrees with the selling price market value before the First Homes discount is applied and that the incentives, if applicable, meet the requirements. First Homes transactions that do not meet the valuation requirements cannot proceed and the conveyancer will not submit their undertaking. Therefore, there is no role for a local authority to get involved in valuation and any requests to intervene in matters of valuation should always be declined. As in any property purchase, the buyer will be advised by their conveyancer on their purchase and this includes the scheme rules and requirements for First Homes.
- viii. It is the purchaser conveyancer's sole responsibility to comply with all the instructions from the local authority in the conveyancer pack. As with the application pack, no judgements need be made by the local authority on partially completed or amended responses from conveyancers – the instructions should be fully complied with, otherwise they can simply be rejected by the local authority.
- ix. In response to a signed and fully completed undertaking from the purchaser's conveyancer, the local authority can complete and issue the ATE and Compliance Certificate (schedule 7 in the conveyancer pack) to: the purchaser and their conveyancer, the developer and its conveyancer, and the mortgage advisor (if one is being used). This permits the purchaser to enter the binding contract with the builder. The conveyancer, by submitting their legal undertaking, also commits to ensuring the local authority is:
- Notified of the date of exchange.
  - Notified of legal completion.
  - Provided with a certificate of title.
  - Notified that the First Homes restriction is registered at HM Land Registry.
- x. Exchange should normally take place within three months of the ATP being issued. This is reflected in the standard conveyancer pack, and it is recommended as good practice for delivery of First Homes through the planning system – not least to maintain the customer's momentum in progressing with the mortgage application and the conveyancing process. Nevertheless, if an ATP has just expired but exchange is expected shortly, we anticipate that developers and local authorities will be able to take a pragmatic approach – for example by handling this simply through an informal notification. Local authorities are advised, however, to issue a formal notification of ATP extension if exchange does not look likely within a longer timeframe (e.g. six weeks or more) from the expiry of the original ATP.
- xi. Following exchange of contracts, the purchaser's conveyancer will carry out the remaining local authority instructions to complete the purchase, in accordance with the undertaking they have given.





## New build sales: suggested approaches for the local authority

73. Experience to date suggests that:

- i. It is useful for each local authority to have a designated person (or team) to take the lead in handling applications, who can then be in touch with other parties – such as the developer, mortgage advisor and customer conveyancer – as needed. As staffing structures vary between local authorities, each will need to decide for itself who, or which team within the local authority, should take responsibility for this.
- ii. Having a single, secure route through which applications can be submitted is also helpful.
- iii. At operational level, it is useful for the developer and local authority leads (or teams) to work closely together. This ensures all are clear on the eligibility requirements, which should mean that only fully completed applications are submitted to the local authority, and the status of each customer application (e.g. received, pending, approved, ATP issued etc.) can be clearly understood by both parties.
- iv. To this end, once the section 106 is concluded, a set-up meeting between the local authority and house builder can be a helpful way in which to confirm the practical operational detail and to introduce the two teams.
- v. Thereafter, regular check-in meetings between the local authority's designated lead (or team) and the housebuilder can help ensure that there is a shared understanding of the requirements of the scheme, that processes are aligned, and that any discrepancies are addressed. If a certain mortgage advisor and/or a certain customer conveyancer are taking the lead with a large number of First Homes on a given site, it may also be useful to include them in these meetings.

## New build sales: marketing periods

74. As set out in chapter 1, under the section 'national and local criteria', the criteria that applies to First Homes buyers can change according to when they buy the property in relation to the marketing start date.
75. On new builds, developers should normally be able to make known that First Homes are being built on a specific site as early as they wish – for example, a new development might note on the onsite billboards that First Homes will be available, even if the building work won't complete for several years.
76. There are however a number of considerations concerning the marketing periods of specific First Homes:
  - i. Developers can start marketing specific First Homes prior to building them, and in most instances we expect that developers will wish to commence marketing six months prior to practical completion. The phase 2 programme had an upper limit of ten months before which marketing cannot commence; there is no such limit for First Homes delivered through the planning system, though a local authority may wish to agree a limit with the developer as part of its negotiations. Marketing can of course start with less than six months to go before practical completion if the developer so chooses.



## Department for Levelling Up, Housing & Communities

- ii. Developers should not endeavour to exchange contracts for a specific First Home if there are more than six months to go before projected completion. This is because mortgage offers will typically only last for six months. Marketing of specific First Homes also should not begin before the section 106 has been completed, to avoid any doubt around the buyer eligibility criteria, unless the local authority has already made its First Homes eligibility criteria explicit.
- iii. If no local eligibility criteria have been set, there may be situations when marketing according to national criteria will need to continue for longer than six months. This is because the period of marketing according to national criteria should not expire before practical completion of the First Home. This requirement is stipulated in the model section 106 clauses, and we strongly recommend that local authorities retain this in their section 106 agreements. It means that a developer shouldn't ever request for a First Home to be converted into open market sale before the home has practically completed. For example, if no local eligibility criteria has been set, and the developer starts marketing specific First Homes eight months before practical completion, the minimum period of marketing according to national criteria (if no eligible buyer is found) will still run up to the point of practical completion – in this case eight months.
- iv. Similarly, if local eligibility criteria have been set, there may be situations when marketing according to those local criteria will need to continue for longer than three months. This is because the period of marketing according to any local eligibility criteria should not expire if there are three months or more to go before practical completion. This requirement is also stipulated in the model section 106 clauses. For example, if local criteria have been set, and the developer starts marketing specific First Homes eight months before practical completion, the minimum period of marketing according to local criteria (if no eligible buyer is found) will be five months, as it will run up to the point where there are three months or less to go until practical completion.
- v. We recommend that the marketing strategy be agreed in detail between the developer and the local authority at an early stage, during the time of the section 106 negotiation, so that all are clear on the agreed approach. Doing so will add clarity both to the period in which any local eligibility criteria applies, and to the period after which First Homes could potentially be released to the open market.

### Additional considerations regarding buyer eligibility

77. The following principles should be adhered to in all First Homes purchases:

- i. **Buyers must meet the eligibility criteria at the point of exchange:** should they become ineligible before this, they cannot buy the First Home. If a buyer's situation changes after exchange but before completion, such that they no longer meet the eligibility criteria, the purchase should be allowed to proceed.
- ii. **No nationality criteria needs to be met by prospective purchasers:** there is also no objection, within the rules of the scheme, to a First Home being purchased by someone who is subject to immigration control (meaning someone who requires leave to enter or remain in the United Kingdom under the Immigration Act 1971). It should be noted, however, that mortgages may be difficult or more expensive to obtain for those who are subject to immigration control.



## Department for Levelling Up, Housing & Communities

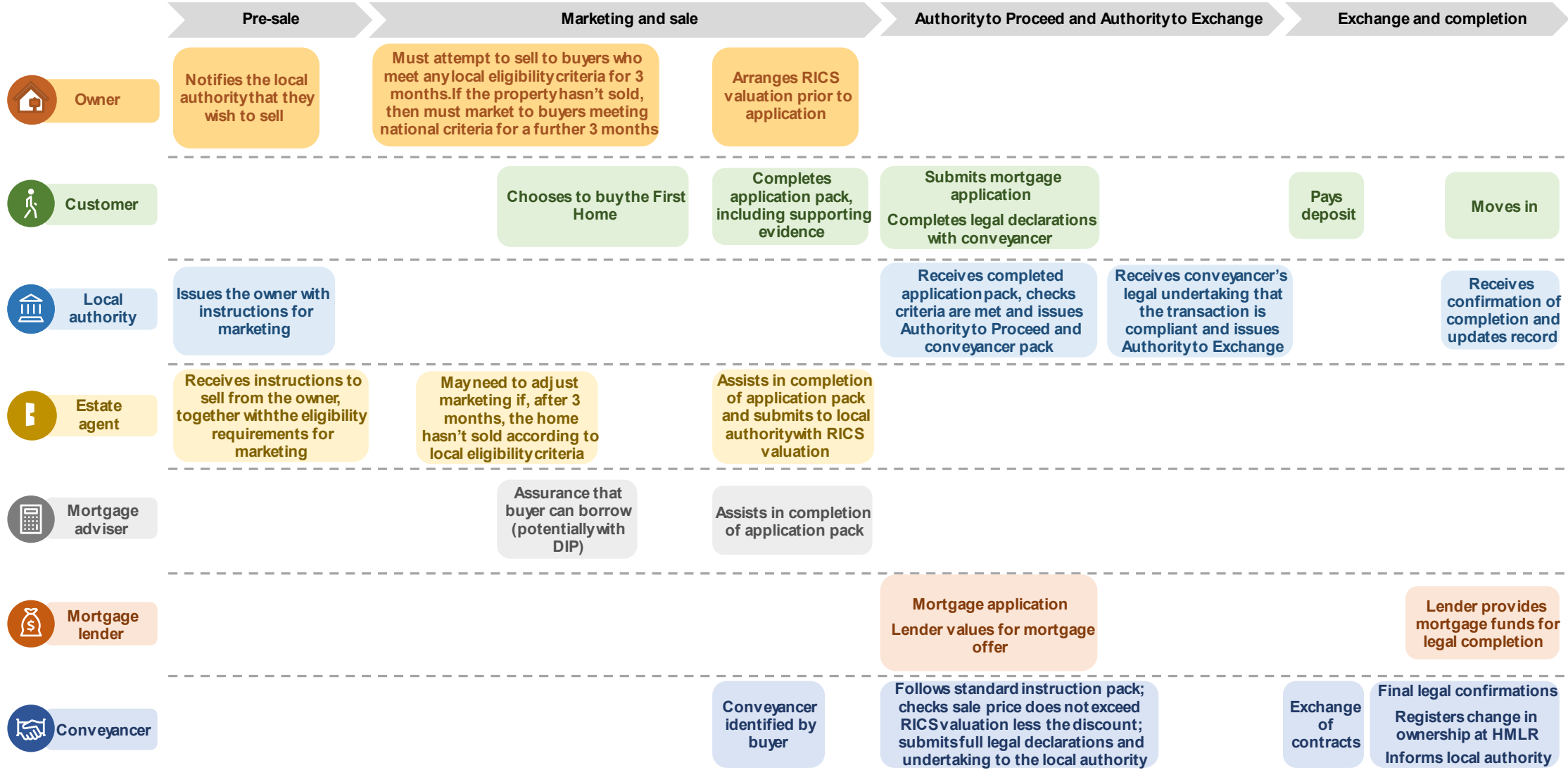
- iii. **Applications should be made from all the adult members of a household who wish to occupy the First Home.** However, if the First Home is being purchased by a couple (referencing those who are married, civil partners, or in cohabiting relationships) it is permissible for only one party to apply for the mortgage. This may happen if, for example, the other party has a poor credit rating and cannot get a mortgage. In such cases, **all** applicants must still meet the first-time buyer requirement and collectively the household income criteria. Only one applicant (even if it is not the one getting the mortgage) will need to meet any local connection, key worker or Armed Forces criteria.

### Resales process

78. In most respects, the First Homes resales process for the local authority is similar to the process for new build sales. The process is market-driven: if a potential buyer wants to buy a specific First Home, and they are eligible (as confirmed by the local authority), financially proceedable and first in the queue, then they can do so. The estate agent will work with the potential buyer to ensure that the application is fully completed, just as the site team does for new build sales. No system of pre-approved applications is needed, nor do local authorities need to actively manage allocations beyond simply checking the eligibility of potential buyers. As with new build sales, only one application should be submitted at a time to the local authority for an individual First Home resale, and therefore there is no need for the local authority to compare prospective buyers.
79. Template application and conveyancer packs specific to First Homes resales will be issued in due course. Until then, local authorities should turn to DLUHC if there are any resale requests from First Homes owners.
80. The local authority will need to use these templates to create general resales templates for the local authority area. Based on these, more specific resales templates can be created for all the First Homes associated with each specific section 106 agreement.
81. To make this approach effective, and to minimise the work needed to create the documents for resales, it is recommended that local authorities keep a clear record of the First Homes that are associated with each section 106 agreement. The specific resales templates for that site can then be used for every resale.
82. It should be noted, however, that the resales templates will need to reflect the current local authority policies in respect to buyer eligibility (which may differ from the original section 106 agreement – please see paragraph 48 for details). Discount levels should, however, always match what is in the section 106 agreement regardless of any shift in local policy.
83. Price caps do not apply to First Homes resales.
84. Alongside local authorities, the participants in the resales process are set out below.



# Application Process for Resale





## Department for Levelling Up, Housing & Communities

85. The First Home homeowner follows this process to sell their home:
- i. The current owner should first notify the local authority that they wish to sell their First Home.
  - ii. The local authority will issue the owner with instructions for marketing and confirm the eligibility requirements.
  - iii. The owner should then instruct their estate agent and give them the eligibility requirements for their marketing. The estate agent must use these requirements to ensure that they can market to eligible purchasers.
  - iv. Owners must initially attempt to sell their First Home to buyers who meet any local connection and/or key worker criteria, and any household income criteria, set by the relevant local authority. If, after three months of active marketing through an estate agent, the owner has been unable to sell their First Home, they must then attempt for a further three months to sell their property through an estate agent to buyers who meet the national criteria for purchasing First Homes.
  - v. The estate agent will check potential purchasers and complete an application pack (for resales) for the new purchaser:
    - The purchaser would need to meet all the eligibility criteria and to provide supporting evidence; be able to make an offer (subject to their eligibility); and be, in the estate agent's professional judgement and advice to the owner, the most proceedable purchaser.
    - If needed, the estate agent will supply supporting evidence that the marketing periods have been adhered to.
    - For the avoidance of doubt, no reservation fee is needed on resales.
  - vi. The owner must secure a valuation from a valuer who is qualified by the Royal Institution of Chartered Surveyors (RICS). The owner will need to pay for this. The RICS surveyor will value the home's 100% market value before the First Homes discount percentage is applied. The valuation will need to be submitted as part of the application from the potential buyer.
  - vii. The price of the First Home cannot be negotiated upwards from the discounted value confirmed by the RICS valuation. The price can be reduced, for example if the owner wishes to secure a quick sale, but the price may not be increased above the valuation point even if there are several potential buyers. This approach ensures the resale takes place based on the market value less the discount, and not a higher amount.
  - viii. There should be no objection to the First Homes seller procuring more than one RICS valuation. This may be needed if, for example, the sales process takes a long time during which market conditions change. In any case, only one RICS valuation will be submitted with the purchaser's application.
  - ix. The local authority will consider the buyer's application, including checking eligibility and that the sale price is no more than the market value less the discount. If compliant, the local authority will confirm this by completing and issuing an ATP and eligibility certificate (as part of the whole conveyancer pack) to the buyer, estate agent, buyer's conveyancer and mortgage advisor (if one is being used). The conveyancer pack for resales includes all



## Department for Levelling Up, Housing & Communities

the instructions needed for the buyer's conveyancer to proceed with the purchase. The buyer can then apply for a mortgage.

- x. The buyer's conveyancer will work on the purchase, including checking the registered title (and as part of that, the First Homes restriction), ensuring that the purchase is compliant and obtaining legal declarations from the buyer that they are eligible and that they understand the terms of the scheme, including restrictions on future resale.
- xi. Once the buyer's mortgage offer is made and the contract agreed between the buyer's and seller's conveyancers, the buyer's conveyancer will request approval to exchange contracts from the local authority by way of submitting a legal undertaking to the local authority that it is a compliant sale.
- xii. The local authority will check the conveyancer's legal undertaking and, if it is a compliant sale, will issue an ATE, Compliance Certificate and Title Restriction Certificate to the conveyancer.
- xiii. Upon receiving the ATE, the buyer can then pay the deposit and contracts can be exchanged. Legal completion can then take place as normal, and the new First Home homeowner can move in.
- xiv. Upon legal completion, the buyer's conveyancer will apply to register the transaction, including sending the Title Restriction Certificate to HM Land Registry as evidence that the First Homes restriction has been adhered to. The buyer's conveyancer will also comply with their undertaking to ensure the First Homes restriction remains registered on the title and confirm to the local authority that this is the case.

### Circumstances when the First Homes criteria do not have to be met

#### **Death, divorce or bankruptcy**

86. There are a number of situations where the disposal of a First Home to another person will be an 'Exempt Disposal', as set out in the model section 106 clauses, meaning that the First Homes buyer eligibility criteria do not have to be met. These are when:
- i. The owner dies and the property passes to the owner's spouse/civil partner.
  - ii. The owner dies and the property is passed to a named inheritor under the terms of a will or under the rules of intestacy.
  - iii. The property must be transferred to a former spouse/civil partner as part of a divorce settlement or any other court order following the dissolution of a marriage/civil partnership.
  - iv. The owner is declared bankrupt and the property is transferred to a trustee in bankruptcy before being sold.
87. In these cases (with the exception of bankruptcy – see paragraph 90), to ensure that the new owner can comply with the restriction on the title to the First Home, the local authority or its solicitor will need to provide a certificate to the conveyancer of the person taking ownership of the property confirming that the First Homes provisions do not apply to the disposal. This certificate can take the form of a letter or email. It should make clear which property it relates to, the title number and the specific disposition that is being registered, i.e. who the transfer is



## Department for Levelling Up, Housing & Communities

from and who it is to. Your local authority may already have a standard format for lodging certificates of compliance in connection with restrictions; if not, the following is a template email that can be sent for this purpose to the conveyancer of the person(s) taking ownership of the property:

[Date]

[Addressed to: Solicitor name]

Dear Sir / Madam,

[Local authority name] hereby certifies that the First Homes restriction on [property address and title number] has been complied with or does not apply to the following disposition:

Transfer from: [Full name(s) of current First Homes owner(s)]

To: [Full name(s) of new First Homes owner(s)]

Please include this confirmation as part of the normal registration process in respect to this transfer of ownership. If this confirmation is not included, the First Homes restriction on title will prevent the transfer from being registered.

Yours sincerely,

[Name]

On behalf of [local authority name]

88. For the most current information about HM Land Registry's practice on complying with restrictions, which is updated from time to time, please see [Practice Guide 19](#).
89. Where any of the situations set out in paragraph 86 apply (with the exception of bankruptcy), if the new owner wishes to sell the property, they will have to comply with the restrictions which apply to the sale of a First Home and will have to sell to someone who meets the First Homes eligibility criteria. If the new owner wishes to keep the First Home, they will need to abide by the conditions of living in the First Home as would any First Homes owner, including that it should be their only or main residence and adhering to lettings restrictions.
90. In the case of bankruptcy, a transfer to a trustee in bankruptcy, and any related re-vesting in the same First Homes owner, do not trigger the need for a certificate from the local authority. In addition, the trustee in bankruptcy need not comply with the conditions of living in the First Home or the requirements for the sale of the First Home. Their position is the same as a mortgagee enforcing its security (see paragraphs 98-99).

### **Transfers from joint purchasers to sole purchasers**

91. Joint purchasers may choose to transfer ownership of the First Home to just one of those joint purchasers, for example in cases of relationship breakdown. This is acceptable within the rules of the First Homes scheme, provided that the new sole purchaser was originally assessed as being eligible to buy the First Home and is therefore named on the Compliance Certificate.
92. In these specific circumstances, the change of ownership would be handled as a 'Transfer of Equity', and not as a First Homes application or resale. On this basis, there would be no



## Department for Levelling Up, Housing & Communities

requirement to re-assess eligibility in relation to the First Homes scheme, and therefore no need for the local authority to issue a new ATP, ATE or Compliance Certificate.

93. The local authority or its solicitor will, however, need to issue a certificate to the conveyancer of the person taking ownership of the property, for the purpose of the restriction on the title of the First Home, as set out in paragraph 87. The conveyancer of the person taking ownership of the property will need to include this as evidence when registering the transfer from two registered proprietors to one at HM Land Registry.

### **Sale**

94. As set out in the model section 106 clauses, the owner of a First Home can apply to the local authority to sell the First Home at full market value to someone who does not meet the criteria to qualify as a First Homes purchaser if either of the following apply:
- i. The property has been actively marketed for sale as a First Home for six months but there have been no purchasers who meet the eligibility criteria
  - ii. The owner can show that having to market the First Home for six months would cause hardship
95. In each case, the owner should apply to the local authority and obtain their approval to the sale. The local authority can do any of the following three options:
- i. Require that the property is marketed for up to a further six months if it is not satisfied that it has been actively marketed.
  - ii. Require that the property is transferred to it at the discounted rate.
  - iii. Allow the property to be sold, unrestricted.
96. Where the property is transferred to the local authority (i.e. bought at the discounted rate) the property ceases being a First Home and the local authority needs to apply to HM Land Registry to remove the restriction on the title (HM Land Registry Practice Guide 19 contains instructions on how to do this). At this point the property becomes an asset in the local authority's housing stock. If they do not already have a recent RICS valuation, it would normally be expected that the owner arrange for this (and pay for it as they would in a normal First Homes resale) in order to set the price of the home. At its discretion, the local authority may, however, choose to pay for the RICS valuation instead.
97. Where a property is sold at open market value, the owner must pay the local authority the difference between the amount received from selling the property free of the First Homes restrictions and the price that would have been received if the property had been sold at the First Homes discounted price, net of any Stamp Duty Land Tax (SDLT), including any interest (see paragraphs 100-101 below). The local authority will then apply to remove the restriction on the title, which means that the property will not have to be sold as a First Home in the future.

### **Mortgagee enforcing its security against the First Home**

98. Where an owner defaults on their mortgage (or equivalent), then the mortgagee can sell free from the First Homes restrictions provided that the mortgagee gives notice to the local authority of its intention to dispose of the First Home. The local authority will then need to apply to HM Land Registry to remove the restriction on title.





## Department for Levelling Up, Housing & Communities

99. Once this is done and the property is sold, the mortgagee may deduct from the amount received from the sale the monies owed to it under the terms of the mortgage. Of the remainder, it must pay to the local authority the difference between the sale price and the discounted value that would have applied to the First Home, net of any SDLT, including any interest (see paragraphs 100-101 below). For example, if the discounted rate is 30% then it must pay an amount up to 30% of the open market price, net of any SDLT. If the funds available after the lender has deducted their dues are insufficient to cover the full discount value being returned to the local authority, then all the remaining money should be returned to the local authority. If there is any money left after the lender and local authority have been paid in full, this would revert to the former owner of the home.

### **Stamp Duty Land Tax**

100. If a First Home reverts to market sale and a sum is returned by the seller or mortgagee to the local authority, this sum is in effect part of the payment the seller has paid in order to have owned the home. For this reason, the payment becomes a consideration for SDLT purposes. In such cases, the sums returned to the local authority should be calculated *net* of any additional SDLT liability incurred by the seller, including any interest. In other words, the sum paid out by the seller remains the same but a calculation is required to determine how much of this is returned to the local authority, and how much is paid in SDLT.
101. Details and examples of repayments in the event of a First Home being sold on the open market, including the interaction with SDLT, are set out in Annex C. This includes situations where the equity is not sufficient to cover the sums due.



## Chapter 6: Ongoing responsibilities concerning First Homes

102. Local authorities will have some ongoing responsibilities connected to First Homes in their area, which are described as follows.

### Lettings

103. First Homes should not be used as an investment opportunity. The First Homes scheme does, however, allow owners to let out their First Homes for an aggregate of up to two years, as set out in the WMS. This is to offer owners the ability to respond to changes in their circumstances, such as unexpected life events. The period of renting does not have to be continuous, and can be to different tenants. Owners should be allowed to let their home at the market rate, not least because the owners in this situation will often need to rent alternative accommodation themselves.

104. Before letting the home, owners should first notify the local authority in writing. Local authorities are advised therefore to maintain a record of letting periods so that individuals can be informed if they have reached the end of their aggregate two-year allowance. This two-year period is allowed for each span of ownership; if the First Home is resold, or inherited, the two-year period resets.

105. Owners should also be allowed by the local authority to let out their First Homes for longer than two years in exceptional circumstances, at the discretion of the local authority. While any situation could be considered by the local authority on a case-by-case basis, the WMS makes clear that consent should not be unreasonably withheld in certain circumstances, as follows, where the owner:

- Is required by their employment to live elsewhere.
- Is an active member of the Armed Services and is deployed elsewhere.
- Is at risk of harm and so has to live elsewhere.
- Has to let the First Home due to the breakdown of a relationship.
- Has to live elsewhere due to redundancy.
- Has to live elsewhere to offer care and assistance to another person.

106. In all cases – whether a letting request relates to the two-year period or to a longer period of letting with the permission of the local authority – the owner will still be subject to the terms of their mortgage. This may mean that permission is also needed from the mortgage lender to let out the First Home, or that letting simply isn't permitted. When granting permission to let out the First Home, the local authority is advised to make clear to the owner that they also need to check with their mortgage lender, and that the local authority's permission has no bearing on the restrictions that may be in place as a result of the mortgage agreement. Beyond making sure that owners are aware of this, the local authority does not need to involve itself in lettings matters between the First Homes owner and the mortgage lender.



## Department for Levelling Up, Housing & Communities

107. First Homes owners can have one or more lodgers in their home without restriction, as long as the home remains the owner's only or main residence. If, however, the owner moves out during the letting period, then they would need to inform the local authority and the duration of letting would count towards the two-year aggregate as described above. Again, all such matters would also be subject to the rules of the mortgage agreement.
108. Should a First Homes owner not adhere to the lettings restrictions, or to the stipulation that the property be their only or main residence, the local authority can take steps to remedy the situation just as it would in any other breach of a section 106 agreement. This may, for example, involve issuing a warning and, if this is not heeded, an injunction.
109. Mortgage lenders typically place limits on lettings, which may help ensure that owners do not abuse the terms of the scheme.

### Handling changes in circumstances

110. There is no requirement on owners to continue adhering to the eligibility criteria under which they purchased the First Home, and correspondingly there is no need for local authorities to try to monitor this. For example, if an owner's household income increases above the cap after the purchase, there is no requirement for them to take any action, to inform the local authority or to sell the First Home. Likewise, if they purchased the First Home on the basis of meeting key worker criteria set by the local authority, or on the basis of the Armed Forces criteria, there is no issue to consider if they no longer meet that criteria (by, for example, changing their job) after completion of their purchase. In addition, if they re-mortgage the First Home during the period of their ownership, this can be for less than 50% of the discounted purchase price.

### Inheritance

111. First Homes owners can leave their First Home to any recipient in their Will, subject to any outstanding mortgage or home purchase plan payments. The recipient does not have to meet any First Homes buyer eligibility criteria, as explained in paragraphs 86-87 above. The recipient could sell the home according to the resale process to an eligible purchaser. Alternatively, they could keep the First Home, but would then have to abide by the terms of owning a First Home. This means it would need to be their only or main residence and they would not be able to let out the home for more than two years in aggregate without permission from the local authority. If they do not abide by these conditions, they will be in breach of the section 106 and the local authority can take action accordingly.



## Annex A: First Homes delivered through the Early Delivery Programme

### Introduction

112. The Early Delivery Programme was implemented in two phases. Phase 1 delivered 44 First Homes and served as a proof of concept for the scheme. By September 2023, phase 2 had delivered more than 1,200 First Homes for just under £100m. It allowed key elements of the First Homes policy to be tested in a live environment across many different parts of England.
113. To support the evaluation of the Early Delivery Programme, some elements of the policy were different from delivery through the planning system. This was designed to limit variables so that clear conclusions could be drawn from the data collected. A formal evaluation is underway, the outcome of which will be published in due course.

### Key differences compared to delivery through the planning system

114. Where relevant, differences between the phase 2 programme and delivery through the planning system have been noted in the above chapters. A consolidated list is set out below, as this may assist those local authorities that had participated in the phase 2 programme to now deliver First Homes through the planning system:
- i. The phase 2 programme converted housing that would have otherwise been open market sale into First Homes.
  - ii. In the phase 2 programme, any local connection and/or key worker criteria set by the local authority did not have to be fully approved through the plan-making process. Decisions in this regard did however need to be justified internally by the local authority.
  - iii. The discount level for all First Homes delivered through the phase 2 programme was fixed at 30%. Local authorities were not able to set deeper discounts of 40% or 50%.
  - iv. A price cap after the discount in England of £250,000 was applied, meaning a maximum “gross” market value (with a 30% discount) of £357,143. Local authorities were not able to set lower price caps on the First Homes delivered through the phase 2 programme.
  - v. There was a maximum household income cap of £80,000 in England for eligible purchasers on the initial sale in the phase 2 programme. Local authorities were not able to set lower income caps on the initial sale. Local authorities could, however, set caps that will apply on all future resales of First Homes delivered through the phase 2 programme. This was incorporated into the model section 106 for the phase 2 programme.
  - vi. The maximum time a developer could commence marketing in the phase 2 programme was 10 months prior to anticipated practical completion. This was set out in Clause 6.2.7 of the First Homes Funding Agreement and allowed a customer to reserve a First Homes plot more than nine months before the anticipated completion/practical completion date. For further details, see the [‘Developer Advertising Requirements’](#).



## Department for Levelling Up, Housing & Communities

- vii. In the phase 2 programme, customers were entitled to withdraw from their First Home reservation if the ATP hadn't been issued within 20 business days of receiving their application, and the reservation fee should have been refunded. (It was, however, still reasonably expected that local authorities would issue the ATP within five days of receiving a fully completed application, assuming no complicating factors.)
- viii. Developers were bound by a funding agreement with Homes England in the phase 2 programme. As part of this agreement, developers had to confirm to Homes England that the local authority had received:
  - The solicitor's Form 2 Undertaking (with the attached certificate of title completed and signed by the conveyancer acting on behalf of the eligible purchaser).
  - The eligible purchaser's final professional valuation (obtained on behalf of an approved lender) or (where not available) the eligible purchaser's mortgage offer confirming the valuation and valuing the eligible dwelling at a sum which is equal to the full purchase price or (at the discretion of Homes England) within a tolerance of that sum determined from time to time by Homes England and notified in writing by the local authority to the developer.

For this reason, local authorities needed to confirm receipt of these documents to the developer.

- ix. Local authorities received £150 from the house builder for each First Home delivered in their area through the phase 2 programme. This was to support the additional resource requirements created by participating in the programme. The question of local authority resourcing is being considered for delivery through the planning system.
- x. The phase 2 programme had its own set of model section 106 clauses, application and conveyancer packs, customer guide and advertising requirements. All of these can be accessed [here](#). In many respects these were similar to the equivalent documents that are now available for delivery of First Homes through the planning system, but with some significant differences, which mainly concerned:
  - Homes England's direct involvement in the phase 2 programme.
  - The process to follow when a First Home could not be sold.
  - The local authority's discretion to set local criteria for First Homes and buyer eligibility.



## Annex B: Links to key documents

### Policy and guidance

- [Written Ministerial Statement](#) of 24 May 2021 (referred to in the above guide as “the WMS”)
- [Planning Practice Guidance](#) of 24 May 2021 (referred to in the above guide as “the PPG”)

### Templates

- [Model Section 106 clauses](#) for First Homes delivered through the planning system
- [Application Pack](#) for new build First Homes delivered through the planning system
- [Conveyancer Pack](#) for new build First Homes delivered through the planning system

### Customer guidance

- [Customer guide](#)
- [OwnYourHome website](#) (with further public information about First Homes)

### Stakeholder statements and information

- [Mortgage lender statement of support](#)
- [RICS guidance for surveyors on First Homes](#)
- [Residential Logbook Association \(RLBA\)](#)

### Additional documents and information

- [Early Delivery Programme documents](#)
- [Consultation response: August 2020](#) (including Equality Impact Assessment)
- [Technical consultation response: April 2021](#)
- [How to buy a home](#)
- [How to sell a home](#)



## Annex C: Worked examples illustrating the Additional First Homes Contribution and Stamp Duty Land Tax Liability

The following terms are used in this section:

- **'The borrower'** is the owner of the First Home who has, for example, defaulted on the mortgage, or has been unable to sell their property as a First Home and wishes to sell it on the open market.
- **'The mortgagee'** is the regulated financial institution which has provided the funds required to purchase the property. This may be a mortgage or a home purchase plan if required to comply with Sharia law.
- **'The local authority'** is the relevant planning authority who has power of enforcement over the restrictions placed on the First Home. This authority may be a local planning authority, neighbourhood planning group or any other body which holds such power of enforcement.

In the event that a mortgagee enforces its security against a First Home, the proceeds should, in order of priority, be used to:

1. Pay off the mortgagee's interest including any reasonable costs incurred.
2. Repay the local authority as close to the value of what the discount would have been as possible, as a percentage of the sale price and net of any additional Stamp Duty Land Tax (SDLT) liability, including any interest, incurred by the borrower.
3. Any remaining profit should be returned to the borrower.

This order of priority is set out in the model section 106 clauses.

At the point when a First Home is purchased, the potential for sums to be repaid to the local authority represent an 'uncertain consideration' for SDLT calculations. If a First Home later reverts to market sale and a sum is returned by the borrower to the local authority, this sum in effect counts as part of the payment the borrower has paid in order to have owned the home. This means that this payment becomes a consideration for SDLT purposes. SDLT needs to be recalculated on the 'entire consideration', which is now the original purchase price plus any sums due to be repaid to the local authority.

The calculation is made on the basis of the SDLT conditions that applied at the time the borrower purchased the property, rather than when they sell it. These conditions include the thresholds on which SDLT is paid and any relief for first-time buyers. These SDLT thresholds may mean that no further SDLT payments are needed, even if a sum is returned to the local authority.

In cases where additional SDLT payments need to be made, the sums returned to the local authority should be calculated net of any additional SDLT liability incurred by the borrower. In other words, the sum paid out by the borrower remains the same but a calculation is required to determine how much of this is returned to the local authority, and how much is paid in SDLT.



## Department for Levelling Up, Housing & Communities

### Interest charges and deferment of SDLT on uncertain consideration

If a First Home reverts to market sale such that a repayment is made to the local authority and an additional SDLT payment is required, interest will, by default, be charged on that outstanding SDLT liability dating back to the point at which the borrower purchased their First Home. However, if the borrower's conveyancer applies to defer any additional SDLT until their property is sold, then no interest will be chargeable on the SDLT dating back to the time of the original purchase. (Please note, however, that interest may be payable from the date of the subsequent sale if the additional SDLT is not paid within 30 days). Though not compulsory, it is to the potential benefit of the local authority to instruct borrowers' conveyancers to defer SDLT. For this reason, this requirement has been included in the 'local authority requirements' section of the template conveyancer pack, and a template letter for conveyancers to use has been included as schedule 12.

Please note:

1. The deferment application (from the borrower's conveyancer) must be received by HMRC within 30 days of the purchase of the property, otherwise it will not be accepted. This is noted in the conveyancer pack.
2. If the First Home is later sold on the open market and any additional SDLT becomes due, a further return and payment of the additional SDLT must be made to HMRC within 30 days of the date they have sold the property.
3. In cases where First Homes have been sold without the deferment application, interest on any outstanding SDLT will need to be paid dating back to the date of the original purchase: this will be deducted from the amount received by the local authority. Interest is due at standard HMRC rates, which can be found at '[HMRC interest rates for late and early payments](#)'. Upon paying the additional SDLT, HMRC will determine the interest due and inform the party that paid the additional SDLT.
4. Deferment applications run with the ownership of the First Home, and not with the property itself. Therefore a deferment application should be made upon each First Home sale. If a deferment application was not made with the initial sale of a First Home, it can still be made with each subsequent resale. Likewise, if a deferment application was initially made, but on a subsequent resale was not made, then interest on any additional SDLT would be charged if the First Home is later sold on the open market.

### Calculating SDLT

In the event of a First Home being sold on the open market, the following procedure should be followed to calculate the SDLT owed:

- (1) Deduct the amount owed to the mortgagee (including reasonable expenses) from the open market sale proceeds. If nothing is left over, no SDLT is owed.
- (2) If some sales proceeds are left over, calculate the amount due to the local authority. This is the 'new consideration'. This will be whichever of the two following figures is lower:
  - a. The First Homes discount percentage multiplied by the open market sale proceeds.
  - b. The proceeds of the sale less the amount owed to the mortgagee (including reasonable expenses).
- (3) The new consideration should be added to the 'original consideration' (the original discounted purchase price) to find the 'total consideration' given for the property and charged to SDLT.





## Department for Levelling Up, Housing & Communities

- (4) Find the amount of SDLT due on the total consideration based on the rules and conditions (such as first-time buyer relief) that applied at the time when the borrower had originally purchased their First Home.<sup>2</sup>
- (5) To calculate the amount of SDLT now due, deduct any SDLT previously paid from the SDLT due on the total consideration.
- (6) Once SDLT is paid to HMRC, the local authority keeps the rest of the balance that is due to it, as calculated under step 2.
- (7) Anything that is left from the sale proceeds is kept by the borrower.

Some examples are shared below, illustrating the way the proceeds of the sale should be used in cases where a First Home is sold free of restrictions on the open market. In these examples:

- With the exception of scenario 1D, the numbering matches the steps outlined above.
- Any interest on SDLT is not included in these examples. (As explained above, interest will not be owed if a deferment application has been accepted by HMRC.)

### Example 1 – purchase with 30% discount

#### ORIGINAL PURCHASE

- A property to be sold as a First Home is given an open market value of £320,000.
- The borrower purchases from the developer at £224,000, which includes a discount of 30%.
- The borrower puts down a deposit of £20,000 and takes out a mortgage of £204,000 from the mortgagee.
- The property was purchased by the borrower on 1 February 2023, meaning the following SDLT thresholds apply:
  - a. First-time buyers
    - i. No SDLT up to £425,000
    - ii. 5% SDLT on the portion from £425,001 to £625,000
    - iii. If the price is over £625,000, first-time buyer relief will not apply.
  - b. Non-first time buyers
    - i. Zero SDLT on the first £250,000
    - ii. 5% on the next £675,000 (the portion from £250,001 to £925,000)
- No SDLT was due at the time of the initial purchase.

#### **Scenario 1A – significant house price rise – all parties paid in full from proceeds of sale and additional SDLT liability incurred**

- The property is released from its First Homes restrictions (e.g. because the borrower defaults and the mortgagee sells using power of sale, or the borrower is unable to sell the property after six months of marketing and taking all reasonable measures to sell as a First Home, or requiring the First Homes borrower to market their property as a First Home for six months is likely to cause undue hardship, such as bankruptcy).
- The property is sold for £700,000 at open market value.
- At this point, £180,000 is still owed to the mortgagee (including reasonable costs).

---

<sup>2</sup> Current thresholds can be found [here](#). Past thresholds can be found [here](#).



## Department for Levelling Up, Housing & Communities

### Mortgage repayment

1. The first priority is to pay off the mortgagee's interest in the property: **£180,000** is therefore paid to the mortgagee from the proceeds of the sale.

### Local authority repayment

2. The amount due to the local authority will be the lower of either the First Homes discount multiplied by the open market sale price, or the sale proceeds less the amount taken back by the mortgagee. In this case:
  - a. The original discount is 30%, meaning the discount on the sale price is £210,000 (£700,000 x 30%).
  - b. The proceeds of the sale (£700,000) less the mortgagee's interest (£180,000) is £520,000. £210,000 is lower and is therefore the 'new consideration', i.e. the amount owed to the local authority.
3. For SDLT purposes, the total amount paid is the original purchase price (£224,000) plus the additional amount paid to the local authority (£210,000). This gives a total consideration of £434,000.
4. The SDLT threshold (including first-time buyer relief) at the time of the original purchase is £425,000, with anything above this charged at 5%.
  - a. SDLT therefore needs to be paid on £9,000. (£434,000 entire consideration minus the £425,000 threshold on which no SDLT is paid.)
  - b. £9,000 x 5% = **£450**. This is the amount of SDLT that needs to be paid.
5. No SDLT was paid previously, therefore £450 is the total amount of SDLT to pay.
6. The amount owed to the local authority is £210,000. The amount paid to the local authority net of SDLT arising on the total consideration is £210,000 - £450 = **£209,550**.

### Remaining profit

7. The borrower keeps the remaining **£310,000** from the sale proceeds.

### Scenario 1B – house price rise – all parties paid in full from proceeds of sale but no SDLT liability incurred

- The property is released from its First Homes restrictions.
- The property is sold for £400,000 at open market value.
- At this point, £180,000 is still owed to the mortgagee (including reasonable costs).

### Mortgage repayment

1. The first priority is to pay off the mortgagee's interest in the property: **£180,000** is therefore paid to the mortgagee from the proceeds of the sale.

### Local authority repayment

2. The amount due to the local authority will be the lower of either the First Homes discount multiplied by the open market sale price, or the sale proceeds less the amount taken back by the mortgagee. In this case:



## Department for Levelling Up, Housing & Communities

- a. The original discount is 30%, meaning the discount on the sale price is £120,000 (£400,000 x 30%).
- b. The proceeds of the sale (£400,000) less the mortgagee's interest (£180,000) is £220,000.

£120,000 is lower and is therefore the 'new consideration', i.e. the amount owed to the local authority.

3. For SDLT purposes, the total amount paid is the original purchase price (£224,000) plus the additional amount paid to the local authority (£120,000). This gives a total consideration of £344,000.
4. The SDLT threshold (including first-time buyer relief) at the time of the original purchase is £425,000, with anything above this charged at 5%.
5. No SDLT is therefore owed (and none was paid previously).
6. **£120,000** is returned to the local authority in full.

### Remaining profit

7. The borrower keeps the remaining **£100,000** from the sale proceeds.

### Scenario 1C – house price fall – insufficient proceeds to pay all parties in full (other than mortgagee)

- The property is released from its First Homes restrictions.
- The property is sold for £240,000 at open market value.
- At this point, £180,000 is still owed to the mortgagee (including reasonable costs).

### Mortgage repayment

1. The first priority is to pay off the mortgagee's interest in the property: **£180,000** is therefore paid to the mortgagee from the proceeds of the sale.

### Local authority repayment

2. The amount due to the local authority will be the lower of either the First Homes discount multiplied by the open market sale price, or the sale proceeds less the amount taken back by the mortgagee. In this case:
  - a. The original discount is 30%, meaning the discount on the sale price is £72,000 (£240,000 x 30%).
  - b. The proceeds of the sale (£240,000) less the mortgagee's interest (£180,000) is £60,000.

£60,000 is lower and is therefore the 'new consideration', i.e. the amount owed to the local authority.

3. For SDLT purposes, the total amount paid is the original purchase price (£224,000) plus the additional amount paid to the local authority (£60,000). This gives a total consideration of £284,000.
4. The SDLT threshold (including first-time buyer relief) at the time of the original purchase is £425,000, with anything above this charged at 5%.
5. No SDLT is therefore owed (and none was paid previously).
6. **£60,000** is returned to the local authority in full. The local authority has no recourse against the borrower to recover the rest of the 30% that would have been owed to them.



## Department for Levelling Up, Housing & Communities

### Remaining profit

7. All of the proceeds of the sale have been used up. The borrower therefore receives nothing.

### **Scenario 1D – significant house price fall – insufficient proceeds to pay any of the parties in full**

- The property is released from its First Homes restrictions.
- The property is sold for £160,000 at open market value
- At this point, £180,000 is still owed to the mortgagee (including reasonable costs).

### Mortgage repayment

1. The first priority is to pay off the mortgagee's interest in the property (£180,000). However, there are insufficient funds from the proceeds of the sale to cover the mortgagee's interest in the property. The mortgagee therefore retains all proceeds from the sale of the property and can take action against the borrower to recover the remaining amount owed to them in the usual way.

### Local authority repayment

2. Nothing remains after the mortgagee has been paid, meaning the local authority receives nothing and has no recourse against the borrower to recover the 30% that would have been owed to them.
3. As nothing is paid to the local authority, no additional SDLT is payable.

### Remaining profit

4. All of the proceeds of the sale have been used up. The borrower therefore receives nothing.

## Example 2 – purchase in a high value area with higher discount

### ORIGINAL PURCHASE

- A property to be sold as a First Home is in Greater London and is given an open market value of £840,000.
- The borrower purchases from the developer at £420,000, which includes a discount of 50%.
- The borrower puts down a deposit of £40,000 and takes out a mortgage of £380,000 from the mortgagee.
- The property was purchased by the borrower on 1 June 2022, meaning the following SDLT thresholds apply:
  - a. First-time buyers
    - i. No SDLT up to £300,000
    - ii. 5% SDLT on the portion from £300,001 to £500,000
    - iii. If the price is over £500,000, first-time buyer relief will not apply.
  - b. Non-first time buyers
    - i. Zero SDLT on the first £125,000
    - ii. 2% SDLT on the next £125,000 (the portion from 125,001 to £250,000)
    - iii. 5% on the next £675,000 (the portion from £250,001 to £925,000)
- The SDLT paid at purchase was £6,000, based on the following:
  - i. First-time buyer rates apply
  - ii. £420,000 less the £300,000 threshold is £120,000
  - iii. 5% of £120,000 is £6,000



## Department for Levelling Up, Housing & Communities

### Scenario 2 – house price rise – all parties paid in full from proceeds of sale and additional SDLT liability incurred.

- The property is released from its First Homes restrictions.
- The property now sold for £900,000 at open market value, free of First Home restrictions.
- At this point, £350,000 is still owed to the mortgagee (including reasonable costs).

#### **Mortgage repayment**

1. The first priority is to pay off the mortgagee's interest in the property: **£350,000** is therefore paid to the mortgagee from the proceeds of the sale.

#### **Local authority repayment**

2. The amount due to the local authority will be the lower of either the First Homes discount multiplied by the open market sale price, or the sale proceeds less the amount taken back by the mortgagee. In this case:
  - a. The original discount is 50%, meaning the discount on the sale price is £450,000 (£900,000 x 50%).
  - b. The proceeds of the sale (£900,000) less the mortgagee's interest (£350,000) is £550,000.

£450,000 is lower and is therefore the 'new consideration', i.e. the amount owed to the local authority.

3. For SDLT purposes, the total amount paid is the original purchase price (£420,000) plus the additional amount paid to the local authority (£450,000). This gives a total consideration of £870,000.
4. Based on the SDLT thresholds that applied at the time the borrower purchased the First Home, the total consideration will now be above the £500,000 SDLT threshold for first-time buyer relief. SDLT is therefore due at normal, non-first-time buyer rates. As first-time buyer relief applied at the original purchase, the whole SDLT consideration and liability must be recalculated:
  - a. Entire consideration is £870,000
  - b. Total SDLT due on the £870,000 is £33,500 (no first-time buyer relief, therefore 2% needs to be paid on the £125,000 portion above the £125,000 threshold (£2,500) and 5% needs to be paid on the portion of £620,000 that is above the £250,000 threshold (£31,000))
5. £6,000 of SDLT has already been paid, meaning **£27,500** of SDLT is due.
6. Amount paid to the local authority is **£422,500** (£450,000 minus the £27,500 SDLT due).

#### **Remaining profit**

7. The borrower keeps the remaining **£100,000** from the sale proceeds.

#### **In summary, the distribution of the proceeds is as follows:**

- Amount paid to mortgagee: £350,000
- Amount paid to the local authority = £422,500
- SDLT = £27,500 (in addition to the £6,000 that had been paid in SDLT at the original purchase)
- Amount paid to borrower = £100,000

**Total = £900,000**



## Additional factors

### **Further SDLT exemptions apply where the developer is a public sector body, such as a local authority**

There is a relief from the additional SDLT under paragraph 1, schedule 9, Finance Act 2003 where the developer is a public sector body such as the local authority (or other body defined in paragraph 1 (3), schedule 9, Finance Act 2003). If these provisions apply then there is no contingent consideration and the purchaser does not have to pay any additional SDLT should the property be sold outside of the scheme.

### **Inheritance**

In cases of inheritance, the SDLT rules and thresholds that apply will date back to the time of the most recent purchase, not the point of inheritance.

For example, Mr Harrison buys a First Home, then passes away leaving the First Home to his wife, Mrs Harrison. She later sells the First Home on the open market, having not been able to sell as a First Home for six months.

The same rules will apply to Mrs Harrison as they would have applied to Mr Harrison had he not passed away. In other words, the further SDLT is due on the contingent sum that arose on Mr Harrison's purchase.

The position would be the same for any beneficiary of Mr Harrison, even if not a relative.