

## Briefing Paper

### Starter Homes

**April 2016**



#### **Are Starter Homes the answer to the housing crisis in England?**

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#### **Introduction**

The purpose of this briefing paper is to summarise and provide comment on the government's proposals for 'Starter Homes', the provisions regarding them in the Housing & Planning Bill and the contents of the government's current consultation on their detailed implementation.

The Government is committed to reversing the decline in home ownership and improving opportunities for young first time buyers. The delivery of 200,000 quality starter homes during the Parliament is a central part of this ambition. Starter homes will be exclusively available for first-time buyers under the age of forty and sold at a discount of at least 20% of the market price.

To deliver this commitment, the Housing and Planning Bill proposes a new statutory framework for starter homes, including:

- A statutory definition of a starter home
- A general duty on local planning authorities to promote the supply of starter homes when carrying out their planning functions
- The ability to set a starter homes requirement, meaning that local planning authorities may only grant planning permission for residential development if the starter homes requirement is met
- Reporting arrangements to ensure local communities, and especially first time buyers, are aware of what action local planning authorities are taking to support the delivery of starter homes
- Powers for the Secretary of State to intervene if local planning authorities fail to carry out their functions related to starter homes.

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The detailed implementation of key aspects for the statutory framework for starter homes will be set out in regulations made by the Secretary of State, including:

- Elements of the definition of a starter home
- The starter homes requirement (regulations specifying the number of starter homes to be delivered and the types of site on which the requirement should be imposed, such as those of a reasonable size)
- The reporting arrangements for starter homes delivery.

The government's explanatory note to the Housing & Planning Bill describes their reasons for initiating the starter homes policy as follows:

*"In England most of the available data shows that the aspiration to buy and own a home remains strong for the majority of households. Three fifths (61%) of private renters and around a quarter (25%) of social renters in the United Kingdom think they will eventually buy their own home. This desire to achieve homeownership is also reflected in the latest British Social Attitudes survey which reported that 86% of people want to own their own home.*

*"Around two thirds of social renters (68%) and three fifths (60%) of private renters stated, as their main or only reason for why they don't expect to buy their own home in the United Kingdom that they would be unable to afford it.*

*"The proportion of English households that owned their own home, either outright or with the help of a mortgage peaked in 2003 (71%) and has been falling ever since then. By 2013/14 only 63% of households owned their own home.*

*"Within this trend, the change in the chances of becoming a homeowner has disproportionately affected younger households. Of those households that do own their home 75% are over the age of 45 and nearly half (48%) of households in the 25-34 age group live in the private rented sector (only 21% were renting privately in 2003/04). In the last twenty years, the proportion of under-40 year-olds who own their own homes has fallen from 62% to 41% and, in 2014, the Office for National Statistics reported that 3.3million people between the ages of 20 and 34 were still living with their parents (accounting for 26% of the age group).*

*"The number of first-time buyers since the financial crash of 2007/08, as measured by the number of mortgages issued to first-time buyers, has fallen significantly. Throughout the 1980s and 1990s the number of mortgages to this group averaged over 400,000 per year but between 2008 and 2014 the average annual number of loans has been fewer than 300,000.*

*"In its manifesto the Government committed to 'build more homes that people can afford, including 200,000 starter homes exclusively for first-time buyers under 40'. The Bill will require local planning authorities to actively promote the development of starter homes for first-time buyers under 40. Starter homes will be sold at 20% below the market price to provide the opportunity for more young, first-time buyers to get onto the housing ladder."*

The government is currently carrying out a consultation on the detailed implementation of the starter homes policy prior to issuing the relevant regulations.

## **The Provisions of the Housing & Planning Bill**

The provisions of the Housing & Planning Bill that relate to starter homes can be found in chapter one of part one of the Bill.

Section one states that:

*“The purpose of this Chapter is to promote the supply of starter homes in England.”*

The explanatory note provides the following explanation:

*“This clause sets out the purpose of this chapter, which is to promote the delivery of starter homes. There are two main duties in this chapter: a general duty to promote the supply of starter homes when planning functions are being carried out, and a specific duty in relation to decisions on planning applications.”*

Section two asks the question: What is a starter home? And answers this as follows:

*“(1) In this Chapter ‘starter home’ means a building or part of a building that— (a) is a new dwelling, (b) is available for purchase by qualifying first-time buyers only, (c) is to be sold at a discount of at least 20% of the market value, (d) is to be sold for less than the price cap, and (e) is subject to any restrictions on sale or letting specified in regulations made by the Secretary of State. (2) ‘New dwelling’ means a building or part of a building that— (a) has been constructed for use as a single dwelling and has not previously been occupied, or (b) has been adapted for use as a single dwelling and has not been occupied since its adaptation. (3) ‘Qualifying first-time buyer’ means an individual who— (a) is a first-time buyer, (b) is under the age of 40, and (c) has any other characteristics specified in regulations made by the Secretary of State (for example, relating to nationality or minimum age). (4) ‘First-time buyer’ has the meaning given by section 57AA (2) of the Finance Act 2003. (5) ‘Purchase’: the reference to a building or part of a building being available for purchase is to a freehold or a leasehold interest in the building or part being available for purchase. (6) The ‘price cap’ is set out in the table.*

*“(7) The Secretary of State may by regulations amend the definition of ‘first-time buyer’. (8) The Secretary of State may by regulations amend the price cap; and the regulations may provide for different price caps to apply— (a) for starter homes in different areas in Greater London; (b) for starter homes in different areas outside Greater London.*

The table shows that the price cap in Greater London is £450,000 and outside Greater London is £250,000.

The explanatory note provides the following explanation:

*“This clause explains what a starter home is, and enables the Secretary of State to make regulations about the definition of a starter home. A starter home is a new dwelling which is only available for purchase by qualifying first-time buyers and which is made available at a price which is at least 20% less than the market value.*

*“The clause sets out the essential characteristics of a qualifying first-time buyer which includes that they are a first-time buyer (which is separately defined in the clause by reference to the definition in section 57AA(2) of the Finance Act 2003) and that they are under the age of forty. Section 57AA(2) provides that a first-time buyer is a person who has not previously acquired freehold or leasehold residential property in the United Kingdom, or its equivalent in Scotland or elsewhere, and who has not previously purchased property under alternative finance arrangements. The Secretary of State may also, through regulations specify additional characteristics (e.g. minimum age or nationality) that a first-time buyer must have.*

*“This clause also specifies a maximum price that a starter home may be sold to a first-time buyer: the price cap is £250,000 outside Greater London and £450,000 in Greater London. That price cap reflects the published proposed maximum threshold for the Help to Buy ISA. The Secretary of state can through regulations amend these price caps and set different price caps for different areas.*

*“The Secretary of State can, through regulations, place restrictions on the sale and letting of starter homes. The purpose of such restrictions would be to ensure that starter homes are purchased by people who wish to own their home rather than by people who wish to use the property for rental investment or short-term speculation.”*

The Housing & Planning Bill defines a starter home as a new dwelling only available for purchase by qualifying first-time buyers and that is made available at price that is at least 20% less than its market value but that is below the price cap. A price cap of £250,000 outside Greater London and £450,000 in Greater London is specified in the Bill.

The clause also sets out the criteria that a person must fulfil to be eligible to purchase a starter home. These include that the purchaser is a first-time buyer and that they are under the age of forty. The Secretary of State may also, through regulations, specify additional criteria a first-time buyer must fulfil for example nationality.

The Government proposes to introduce regulations to underpin the new statutory framework for starter homes. These will cover the restrictions on the sale and letting of a starter home and some limited flexibility on the under-age forty criterion.

The Government consulted on potential sale and lettings restrictions for starter homes as part of its development of planning policy for starter home exception sites in early 2015. The consultation established that it is important for starter homes to be regarded as homes, not as short term investment opportunities, but this has to be balanced against the need for families to move when circumstances change. The exception site policy therefore set a five-year restriction from the date of first sale of the starter home, during which time the purchaser could not sell the starter home for full market value. This aimed to achieve maximum mobility for individuals who would be free to move on without restriction.

The Government proposes that regulations would prevent starter homes being sold at full market value for a restricted period. They believe this is important to ensure starter homes are sold to those who are genuinely committed to living in an area and not to those who would simply wish to sell quickly to secure financial uplift. They are currently seeking views on whether the existing approach should be refined – to allow the proportion of market value the individual is able to realise on sale to increase gradually with the number of years they have lived in the property before the restriction is completely lifted.

The Government is seeking views on a tapered approach that would enable the starter home to be sold at an increasing proportion of market value, stepping up to 100% over time. The Government is interested in views on the implementation challenges of a tapered approach and whether it will support the wider objective to deliver home ownership opportunities. At the most, the Government does not support extending the restricted period beyond the first eight years of occupation, believing this would unreasonably limit people's ability to move on. During the restricted period, if the qualifying first-time buyer wanted to move, they could sell the starter home at a discount to another qualifying first-time buyer. The level of discount would depend on when during the restricted period the qualifying first-time buyer was selling the starter home. The new purchaser would also be required to be a qualifying first time buyer. At the end of the restricted period, the property could be sold to anyone, like any other property.

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It is also the Government's intention that starter homes should not be used as "buy to let" properties and they should not be rented out during the restricted period. These properties are intended for owner occupation and they therefore propose that the regulations will place restrictions on renting out the property.

Starter homes are intended for purchase by first-time buyers under the age of forty. This age group has seen the most significant drop in home ownership over the last twenty years. However, the Government recognises that there may be certain, limited circumstances in which the age cap may need to be varied.

The Government has introduced an amendment to the Housing and Planning Bill to allow the Secretary of State to make regulations allowing for some flexibility. They want to ensure that in circumstances where joint purchasers are both qualifying first time buyers but one is over the age of forty and one is under forty, they should be able to buy a starter home jointly.

The Government is committed to ensuring it supports the armed forces covenant. This is a promise from the nation that those who serve or have served in the armed forces, and their families, should face no disadvantage compared to other citizens in the provision of public and commercial services; and that special consideration is appropriate in some cases, especially for those who have given the most such as the injured or the bereaved.

The government proposes that the regulations should allow for injured service personnel and those whose partner has died in service to be exempt from the under age forty restriction. It is the Government's position that first-time buyers who have suffered particular hardship as a result of military service should be given the opportunity to access a starter home, irrespective of age.

Section three places a general duty on planning authorities to promote the supply of starter homes as follows:

*"General duty to promote supply of starter homes. (1) An English planning authority must carry out its relevant planning functions with a view to promoting the supply of starter homes in England. (2) A local planning authority in England must have regard to any guidance given by the Secretary of State in carrying out that duty. (3) 'English planning authority' means— (a) a local planning authority in England, or (b) the Secretary of State when exercising a function relating to the grant of planning permission on an application in respect of land in England. (4) 'Relevant planning functions' means— (a) functions under Part 3 of the Town and Country Planning Act 1990, other than functions relating to the grant of permission in principle; (b) functions under Part 8 of the Greater London Authority Act 1999; (c) functions under Part 2 of the Planning and Compulsory Purchase Act 2004. (5) The Secretary of State may by regulations— (a) amend the definition of 'English planning authority' in subsection (3); (b) amend the definition of "relevant planning functions" in subsection (4).*

The explanatory note provides the following explanation:

*"This clause requires all planning authorities in England (which for these purposes includes the Secretary of State) to promote the supply of starter homes when carrying out relevant planning functions. These functions include, for instance, preparing local plans, cooperating with neighbouring areas on strategic planning matters, and determining planning applications. Local planning authorities will also have to have regard to any guidance issued by the Secretary of State about the exercise of this duty. The Secretary of State may amend the definition of 'planning authority' and 'relevant planning function' through regulations."*



The Government's Productivity Plan published in July 2015 set out that starter homes would be required on all reasonably sized housing sites. The Housing and Planning Bill provides the Secretary of State with the power to make regulations to achieve this, allowing him to set a requirement for the provision of starter homes on residential developments. A local planning authority may only grant planning permission for these developments if that starter homes requirement is met.

This starter homes requirement is intended to ensure that starter homes become a common feature of new residential developments across England. Starter homes requirements could include the provision of a particular number or proportion of starter homes on a site or the payment of a commuted sum to the local planning authority for the provision of starter homes elsewhere. The Secretary of State will have flexibility to apply different requirements to different types of residential developments and to different areas.

The Government considers that it is important that the starter homes requirement is implemented in a way that does not undermine wider housing supply by making development unviable, or increase the administrative burdens on developers or local planning authorities. They also recognise the importance of local planning authorities' continuing to have the local flexibility to secure additional section 106 contributions beyond the starter homes requirement, for shared ownership and other forms of affordable housing where it is both viable and there is a demonstrable local need.

The Government is currently seeking views about the four key aspects of this approach that are discussed in more detail below.

(a) Minimum threshold for residential developments subject to the starter home requirement

The Government's starting point is that the starter homes requirement should apply to most residential developments. It is common practice to secure mixed tenure housing through section 106 agreements and the Government intends that starter homes will form part of that mix.

Most Local Plans now have some form of affordable housing policy in place that requires affordable housing contributions to be secured through section 106 agreements. The Government propose that the starter homes requirement applies to sites that meet at least one of the following criteria: Ten units or more or 0.5 or more hectares. This would ensure that very small sites would not have a compulsory starter homes requirement that could have an adverse impact on the form or viability of such developments. It also aligns with the planning definition of 'major development' for development management purposes. An alternative would be to set a higher threshold at 25 or fifty units, to focus on larger sites only. However, this would result in fewer starter homes being delivered. The government is also concerned that a higher threshold would create inconsistency with many local plan thresholds, so a scheme of twenty units would be caught by an existing affordable housing local plan policy but not the starter home requirement. A lower threshold, of for example six units, would further support starter home delivery but could add unreasonable burdens to very small sites, both in terms of increasing the complexity of the development and on the viability of the scheme.

(b) Percentage requirement for starter homes

The Government's intention is that the regulations for the starter homes requirement would set a clear proportion for the number of starter homes required on relevant residential developments. The starter homes requirement would be secured through a section 106 agreement. They propose that the regulations also allow for exemptions from the starter homes requirement for some forms of residential development and also in circumstances where there are overwhelming viability constraints on the site. The starter homes requirement would apply in all other circumstances. This proportion will need to be set at a level that reflects:

- A national need to support home ownership for the under forties, to address declining opportunities for home ownership in this group
- General viability considerations for residential development so overall housing supply is not undermined
- The subsidy cost for a developer of a starter home relative to other forms of affordable housing secured through section 106 agreement.

In existing local plans, the proportion of homes on a site that must be affordable housing varies across the country but is generally in the region of around 20 - 35%. These policies have been tested for general viability during the preparation and examination of the Local Plan. In higher value areas, like London, the affordable housing target is more commonly closer to 50%, and in limited cases, such as National Parks, this can be as high as 100%. The level of affordable housing agreed on an individual scheme is locally negotiated and is generally subject to viability considerations.

The government has examined the actual level of affordable housing contributions, delivered through Section 106 agreements over the last three years. They have concluded that evidence suggests that a starter homes requirement of 20% of all homes delivered on a residential development would be viable on an average development.

There is an option to set the requirement at a level that is lower than this estimate, for example at 15%. This would ensure that most schemes can deliver this requirement alongside other forms of affordable housing. Councils and developers would be free to agree a larger proportion of starter homes where they agreed that viability would allow or, in these circumstances, agree a mix of affordable housing to include the starter homes requirement. However, the impact of the lower proportion would be to reduce the likely overall level of starter home delivery and result in fewer starter homes for first time buyers.

A higher proportion of 25% would ensure that most sites deliver a higher number of starter homes. The government considers that there is a risk that if they set the proportion too high, where viability is marginal, more sites will struggle to come forward and overall housing supply will be affected. This will be a particular concern in locations with lower viability where affordable housing contributions are generally lower. The higher requirement would also constrain the mix of affordable housing which could realistically be delivered on each site.

The government has also considered whether to set a varied requirement, based on regional differences in viability. This would allow for a lower minimum requirement in some locations and higher in others. However, it would not capture the variations in viability within areas and could add complexity to the requirement for land owners and developers. A single national requirement would be consistent across all areas and ensure delivery takes place across the country to maximise opportunities for first time buyers.

On balance, the government proposes that a single national minimum requirement of 20% of all homes delivered as part of residential developments is broadly justified.

(c) Exemptions to the requirement

The government proposes a general exemption to the starter homes requirement for those residential developments where it can be clearly demonstrated that the starter homes requirement would render the site unviable. This will ensure that developments with exceptionally high infrastructure costs or in particularly low demand areas are not unduly burdened by the requirement and are able to proceed. This exemption would apply only in tightly defined circumstances. It would require clear evidence from a developer that the scheme could not support the starter homes requirement and that no other affordable housing contributions are being provided. The local authority must agree with this assessment. Where the requirement cannot be met in full due to viability considerations, the government will introduce flexibility in the regulations to allow a lower percentage of starter homes to be provided.

The government is seeking views about how viability constraints can be clearly demonstrated on a site-by-site basis. One approach could be for the regulations to set out a prescriptive test which the developer and local planning authority would need to follow. An alternative approach could be to give local flexibility similar to the current approach for section 106 negotiations.

The starter homes requirement will apply to new residential developments. The Government recognises, however, that the starter homes requirement will not be appropriate for some types of residential development. The regulations will therefore identify types of development which will not be subject to the starter homes requirement.

Some types of specialist housing development could be incompatible with a starter homes requirement. The government proposes that the requirement should not apply to dedicated supported housing that provides specialist accommodation for a particular group and that includes an element of support, such as residential care homes. A starter homes requirement would have an adverse impact on the viability of such developments and the government proposes that they are exempted.

The government also recognises that there are some developments, such as estate regeneration schemes and other affordable housing led developments, where a very high proportion of shared ownership and affordable rent units are delivered by housing associations, local authorities and other providers. The inclusion of starter homes as part of these developments would help to ensure these developments have a diversity of tenures and form mixed communities, but the compulsory inclusion could alter the public subsidy required to make these developments viable. The government is seeking views on whether these schemes should be subject to the minimum starter homes requirement.

The government is also interested in views on whether purpose built student housing should be exempt from the starter homes requirement, since this type of accommodation is designed and built for a very specific purpose, often directly connected to an educational institution. A starter homes requirement is unlikely to be compatible with most student housing schemes, both in terms of design and potentially in terms of viability.



The government is seeking views about whether an exemption should be made for custom build developments (if the development is over the minimum threshold for the starter homes requirement.) Such developments involve the building of market homes and normally would be subject to section 106 affordable housing contributions (subject to viability), so arguably they should be subject to the starter homes requirement. However, it could be burdensome to require a number of starter homes on the site given the different nature of the custom build delivery models.

In most cases, the starter homes requirement should be an on-site provision of starter homes. However, the Government recognises that some flexibility on the requirement may be needed, particularly in high value areas or where development does not easily lend itself to an on-site provision. The Housing and Planning Bill allows for off-site commuted sums to be made in lieu of on-site starter home provision. Commuted sums would have to be used by the local planning authority for providing starter homes elsewhere. In line with existing practice on affordable housing contributions, they propose that the local planning authority must agree to an off-site contribution and this should be based on the cost to the developer of meeting the starter homes requirement.

The government is seeking views on the contribution made to starter homes from purpose built private rented sector housing (for institutional investment). They do not propose that this form of housing should be bound by an on-site starter homes requirement since purpose built private rented developments would, for a combination of design, property management and investment reasons, not easily support a mixed tenure scheme. They propose that private rented sector developments could contribute to starter home provision and the requirement should be met through an off-site contribution for delivery of starter homes.

Similarly, the government proposes that housing designed specifically with older people in mind (but with no additional support required) would be subject to an off-site contribution to starter homes. Again, an on-site contribution would not be compatible with the function and design of this form of housing. They consider that an off-site contribution to starter homes would be compatible with some existing practice on affordable housing contributions from specialist older people's housing. We would welcome views on the treatment of the starter homes requirement for both purpose built private rented housing and older people's housing.

Section four considers planning permission as follows:

*"Planning permission: provision of starter homes (1) The Secretary of State may by regulations provide that an English planning authority may only grant planning permission for a residential development of a specified description if the starter homes requirement is met. (2) 'English planning authority' means— (a) a local planning authority in England, or (b) the Secretary of State when exercising a function relating to the grant of planning permission on an application in respect of land in England. (3) 'The starter homes requirement' means a requirement, specified in the regulations, relating to the provision of starter homes in England. (4) Regulations under this section may, for example, provide that an English planning authority may grant planning permission only if a person has entered into a planning obligation to provide a certain number of starter homes or to pay a sum to be used by the authority for providing starter homes. (5) The regulations may confer discretions on an English planning authority. (6) The regulations may make different provision for different areas.*

*“(7) In section 70 of the Town and Country Planning Act 1990 (determination of applications: general considerations), for subsection (3) substitute— ‘(3) Subsection (1) has effect subject to the following— (a) section 65 and the following provisions of this Act; (b) section 15 of the Health Services Act 1976; (c) sections 66, 67, 72 and 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990; (d) regulations under section 4 of the Housing and Planning Act 2016 (starter homes requirements)’.”*

The explanatory note provides the following explanation:

*“This clause contains a new duty that applies to decisions on planning applications. This follows the announcement in the Government’s Productivity Plan published in July 2015. This new requirement, to be brought into force by regulations, is intended to ensure that starter homes become a common feature of new residential developments across England. This clause provides that an English planning authority (which is either a local planning authority or the Secretary of State) will only be able to grant planning permission for certain residential developments if specified requirements relating to starter homes are met.*

*“These requirements are to be set out in regulations. The requirements could include the provision of a particular number or proportion of starter homes on site or the payment of a commuted sum to the local planning authority for the provision of starter homes. The Secretary of State will have flexibility to apply different requirements to different types of residential developments and to different areas, including conferring discretions on local planning authorities. For example, the clause would enable the Secretary of State, through regulations, to require all that in relation to applications for residential development above a certain size there must be a planning obligation (under section 106 of the 1990 Act) securing a certain proportion of starter homes on the site.*

*“The regulations may also specify that certain types of residential development should be exempt, or that certain areas should have a higher starter home requirement, or that local planning authorities should have discretion about certain requirements.”*

Section five considers monitoring as follows:

*“Monitoring (1) A local planning authority in England must prepare reports containing information about the carrying out of its functions in relation to starter homes. (2) The Secretary of State may by regulations make provision about reports under this section, including— (a) provision about their form and content; (b) provision about their timing; (c) provision requiring them to be combined with reports under section 35 of the Planning and Compulsory Purchase Act 2004. (3) The regulations may require a report to contain information about applications to which regulations under section 4 apply and details of how those applications have been dealt with. (4) An authority must make its reports under this section available to the public.”*

The explanatory note provides the following explanation:

*“This clause requires a local planning authority to prepare reports about the actions they have taken under the starter homes duties in this Chapter. This will provide transparency about how a local planning authority is delivering starter homes in its area. These reports must be made available to the public, and the Secretary of State can make regulations about the form, content and timing of the report, including whether they should combined with the existing statutory Authority Monitoring Report for local plans.”*

The Government will be monitoring the delivery of starter homes across the country from March 2016 to identify where permissions have been sought for starter homes. They will then follow these applications to determine when development has started. The Department for Communities & Local Government will also track starter home completions through Local Authority data returns, with the first data expected in 2017.

In addition, clause 5 of the Housing and Planning Bill requires a local planning authority to prepare reports about the actions they have undertaken under the starter home functions. Regulations can set out the content, form and timing of these reports, including whether they should be combined with existing Authority Monitoring Reports.

The government proposes to set out in regulations that local planning authorities should prepare a monitoring report on starter homes that should be published alongside the Authority Monitoring Report. This report should be published at least on an annual basis. As all local planning authorities should be updating their Authority Monitoring Reports, and making them available to the public, the government believes that this approach will align well with existing requirements and will not require a separate monitoring and reporting requirement. The content of these reports will include:

- number of planning applications received containing starter homes
- number of planning applications containing starter homes approved
- number of starter homes granted planning permission
- number of starter homes completed
- number of brownfield exception sites (as defined in national policy) identified
- number of brownfield exception sites granted planning permission
- starter homes granted permission as a result of the % requirement on housing sites over 10 units
- actions taken to identify opportunity for starter homes, including engagement with development sector
- number of exemptions granted from the starter home requirement

The Government also intends to set a requirement that the first report on starter homes development should be published by April 2017. This will give all local planning authorities the opportunity to consider how they will carry out their new duties on starter homes and put in place actions to support delivery.

Section six considers compliance directions as follows:

*“Compliance directions (1) The Secretary of State may make a compliance direction if satisfied that— (a) a local planning authority has failed to carry out its functions in relation to starter homes or has failed to carry them out adequately, and (b) a policy contained in a local development document for the authority is incompatible with those functions. (2) A ‘compliance direction’ is a direction that no regard is to be had to the policy for the purposes of any determination to be made under the planning Acts. (3) A compliance direction remains in force until revoked by a further direction given by the Secretary of State. (4) A direction under this section must include the Secretary of State’s reasons for making it. (5) The Secretary of State must publish any direction under this section and give a copy to the local planning authority.”*

The explanatory note provides the following explanation:

*"If a local authority is failing to comply with its starter homes duties and has a policy contained in a local development document which is incompatible with these duties then the Secretary of State may make a compliance direction directing that the incompatible policy should not be taken into account when certain planning decisions are taken. The compliance direction must set out the Secretary of State's reasons for making the compliance direction and must be published."*

Section seven covers interpretation as follows:

*"Interpretation of this Chapter. In this Chapter— 'development' has the meaning given by section 336 of the Town and Country Planning Act 1990; 'functions in relation to starter homes', in relation to a local planning authority, means the authority's functions under— (a) section 3, and (b) regulations under section 4; 'local development document' is to be read in accordance with sections 17 and 18(3) of the Planning and Compulsory Purchase Act 2004; 'local planning authority' means a person who is a local planning authority for the purposes of any provision of Part 3 of the Town and Country Planning Act 1990; 'the planning Acts' has the meaning given by section 117(4) of the Planning and Compulsory Purchase Act 2004; 'planning obligation' means a planning obligation under section 106 of the Town and Country Planning Act 1990; 'planning permission' has the meaning given by section 336 of the Town and Country Planning Act 1990; 'residential development' means a development that includes at least one dwelling; 'starter home' has the meaning given by section 2."*

## **Government Consultation**

At the time of writing the government is carrying out a technical consultation on the starter homes regulations. This asks the following questions:

Q1: Do you support restrictions on the sale and sub-letting of starter homes for 5 years following initial sale? Do you support allowing individuals to sell at a higher proportion of market value as the number of years they have lived in the home increases? If not, what other approaches can we adopt to meet our objectives?

Q2: Do you agree that flexibility over the age 40 restriction should be given when joint purchasers are looking to buy a starter home, one purchaser being under 40 years old but the other older than 40?

Q3: Do you agree that there should be an exemption from the age 40 restriction for injured military services personnel and those whose partner has died in service

Q4: Would a site size of 10 units or more (or 0.5 ha) be an appropriate minimum threshold for the starter home requirement? If not, what threshold would be appropriate and why?

Q5: Should the minimum percentage requirement be applied uniformly on all sites over 10 units to provide a single requirement across the country?

Q6: If so, do you agree that 20% represents a reasonable requirement for most areas?

Q7: Do you support an exemption from the Starter Homes requirement for those developments which would be unviable if they had to deliver any affordable housing including Starter Homes? If so, how prescriptive should the viability test be in the regulations?

Q8: Do you support the proposed exemptions from the starter home requirement? If not, why not?

Q9: Should group custom build developments and developments with a very high level of affordable housing such as estate regeneration schemes be exempt? If not, why not?

Q10: Are any further exemptions from the starter home requirement warranted, and why?

Q11: Do you support the use of commuted sums to deliver starter homes where the local planning authority agrees?

Q12: Do you support the proposal that private rented sector housing (for institutional investment) and specialist older people's housing should meet the requirement through off-site contributions?

Q13: Do you agree that Starter Homes monitoring reports should be an annex to the Authority Monitoring Report?

Q14: Do you agree that these reports establish the key actions taken to support starter home delivery and the outcomes in terms of permissions granted and completions?

Q15: Do you agree that April 2017 is a reasonable date for the first report to be published? If not, do you have alternative suggestions and why?

Q16: Do you support a transitional provision for the starter home regulations?

Q17 Is there further evidence we should be considering in our assessment of equalities implications?

Q 18

(i): How do you anticipate the open market value of Starter Homes would compare to other affordable housing products such as social rent, affordable rent and affordable home ownership?

(ii): How do you envisage the market value of Starter Homes when compared to the market value of full priced new build homes bought by first time buyers?

(iii): What is your view on the proportion of sites that would be able to deliver 20% Starter Homes without viability being affected? How would this affect other developer contributions?

(iv): Do you agree that in most instances s106 negotiations occur on residential sites of 10 or more units, regardless of whether a s106 agreement is ultimately put in place? And do you agree that before the April 2015 pooling restrictions on Section 106, infrastructure contributions (as a proportion of development activity) tended to be higher in authorities that secured relatively low s106 affordable housing contributions?

(v) To what extent do you think the starter home requirement and associated exemptions will affect site viability, if at all?

(vi) We would welcome (a) any estimates of the costs incurred by developers in negotiating s106 agreements on sites of different sizes, for example time costs, consultants or legal fees, and (b) views on the extent these costs might change as a result of the 20% starter homes requirement.

The consultation closes on 18<sup>th</sup> May 2016.



## Discounts

One issue that has arisen around starter homes is the circumstances in which a buyer would be expected to repay the discount that had been granted at the initial purchase of the starter home. The Bill as drafted provides that discounts would be returnable if a buyer were to sell a starter home within five years of purchase but not thereafter.

This approach has been criticised, not only by people who regard the arrangements included in the bill as excessively generous and unfair, but by financial institutions that fear that the subsidies involved would cause the housing market to 'overheat'.

The government has therefore come under pressure from some major lenders to increase the discount period on Starter Homes from the currently proposed five years. Lenders have been pressuring ministers to extend the discount period from five years to ten to fifteen years to prevent the market overheating. Some lenders have refused to support the scheme unless the conditions are changed.

In March 2016, Brandon Lewis ruled out perpetuity for Starter Homes discounts, but said that the government would consider increasing the discount period to ten or fifteen years. He said:

*"There will be no discount in perpetuity. If you say to the buyer you can never realise the full value, you could argue that's not really a discount... I wouldn't rule out anything other than perpetuity. I will look at the consultation and I will take a view. You can see from my record as Minister, I am willing to listen in consultations."*

## Response of the Local Government Association

The Local Government Association has responded as follows:

*"Councils are keen to support home ownership. Starter Homes are being promoted by the Government as an alternative to other housing tenures, such as shared ownership, social rent, discount market rent. Councils need the powers and flexibility to shape the supply of genuinely affordable homes to meet needs of different people in their area, in line with their local plan and the National Planning Policy Framework."*

*"The delivery of 200,000 Starter Homes will put additional pressure on local infrastructure. Exempting Starter Homes from Community Infrastructure Levy and other tariff-based contributions to general infrastructure pots will reduce the amount of funding for infrastructure in some areas. Furthermore, delivery through the planning system will create significant new burdens on council planning teams, and so should be fully funded."*

*"It is planned that Starter Homes can be resold or let at open market value five years after the initial sale. In our view the restrictions on re-sales and letting at open market value should be in perpetuity. This model already exists through Low Cost Home Ownership schemes run by many councils."*

In February 2016 the Local Government Association published research that suggested that discounted starter homes could be out of reach for the majority of families in need of an affordable home in many parts of the country. The Local Government Association said the starter homes scheme could help some people onto the housing ladder but that crucial details are yet to be confirmed. It is concerned it will help the fewest numbers of people in areas where the housing affordability crisis is most acute and will be out of reach for many people in need of an affordable home in the majority of local areas.

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Although house-builders will be able to build and sell starter homes below the price caps, councils are concerned that this could be difficult for developers to achieve without compromising on quality, particularly in areas with higher house prices. Town hall leaders are calling for the flexibilities to decide on the number, type and quality of starter homes so that they meet the needs of local communities. The Local Government Association also argues that councils need powers to provide affordable rented homes that are crucial for enabling people to save money towards a deposit, and the means to secure investment in vital infrastructure that new home buyers will expect and will rely on.

The Local Government Association's research reveals that discounted Starter homes prices will be out of reach for all people in need of affordable housing in 220 council areas (67%) and are out of reach for more than 90% of people in need of affordable housing in a further 80 (25%) of council areas. People in need of affordable housing are defined as those who would have to spend more than 30% of their household income to rent or buy a home. For the average earner with a minimal deposit (5%) looking to buy an average priced house, a 20% discount would make it possible to borrow enough to buy a starter home in just 45% of all council areas in England. This includes all average priced homes in the North East of England, 95% of the North West and 90% of the East Midlands. being able to save a 20% deposit would make an average priced home with a 20% discount affordable to buy in a further 29% of local areas. This includes a third of council areas in Yorkshire and Humber and the West Midlands. the average earner living in 85% of London boroughs, 49% of council areas in the south East and 40% in the South West would need a deposit greater than 20% to be able to buy an average priced home with a 20% discount. The 20% discounts for new buyers would be funded by exempting developers from paying Section 106 contributions towards affordable rented housing and Community Infrastructure Levy contributions.

In its own analysis, the Government has suggested that should 100,000 starter homes be built through the planning system, between 56,000 and 71,000 social and affordable rented homes would not be built.

The Local Government Association argues that councils should be allowed to continue to ensure a mix of affordable homes based on local needs and to ensure that councils have the means to invest in the vital infrastructure home buyers and communities will rely on. Discounts on starter homes should also be applied to them when they are resold to benefit future generations and help them also get on the housing ladder.

Councillor Peter Box (Labour), Local Government Association Housing spokesman, said:

*"The shortage of houses in this country is a top concern for people who are finding that buying their first house is increasingly out of reach. Councils support measures to boost home ownership and starter homes are one of the ways this can be achieved. This new analysis shows that starter homes will be out of reach for the majority of people that are in need of an affordable home. Not everybody is ready to buy, and it is crucial that councils are still able to ensure there is a mix of homes that are affordable for those people that need them. In some places, such as the North-East and Midlands, the scheme will give people better chance to get on the housing ladder. However, a national scheme will not work for every area and fewer people will benefit from Starter Homes in areas where the housing crisis is most acute. Councils must have the flexibilities to shape the number, location and types of starter homes to ensure that they meet local need, and the powers to secure vital investment in associated roads, schools, health and other community services that people will rely on. The private sector has a key role to play in solving the housing shortage, but it cannot build the 230,000 needed each year alone."*

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*"Councils need to be able to ensure genuine affordable homes continue to be built for rent and sale across the whole country for future generations and the millions of people stuck on waiting lists."*

### **Demand for Starter Homes**

In March 2016, the government revealed figures showing demand for Starter Homes by county. At that time there were 81,522 households on the government's Starter Homes register of expressions of interest. There were 28,724 households in Greater London that had expressed an interest in the discounted homes, more than eight times the number interested in Essex, that has the second-highest demand with 3,193 households on the register. The lowest number is in Rutland, where only twenty households have joined the register.

By region, demand is lowest in the North East area, where only 4,852 households have registered an interest. The second-lowest demand is in the North West area, where 5,727 households have expressed an interest. In London and the South East area this number increases dramatically, with 49,345 interested in Starter Homes.

### **Some Thoughts**

One of my concerns about the direction of government policy on housing is its emphasis on reversing the decline in owner-occupation by providing subsidies to buyers. My fear is that this approach will prove both expensive and ineffective. The reason why I think this will be the case is that the supply of private sector housing appears to be what economists call 'inelastic'. This means that an increase in demand will result in higher prices rather than increased supply. Evidence for this includes the fact that the supply of new private sector housing has remained remarkably constant ever since the 1950s despite there being significant fluctuations in economic activity and the fact that the significant increase the value of the national stock of housing since the 1990s has been mainly due to increased values rather than to an increase in the numbers of houses. If my analysis is correct, the subsidies that the government is offering to owner-occupiers will simply inflate prices leaving owner-occupation still unaffordable for people with modest incomes while the national shortage of housing will remain. Paradoxically, spending less on subsidising owner-occupation may make owner-occupation more affordable and save the government money!

**Adrian Waite**  
**April 2016**

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# **The Housing & Planning Bill The Implications for Housing and Local Government**

**April 2016**

The Housing & Planning Bill received its third reading in the House of Commons on 12<sup>th</sup> January 2016 and is now at the committee stage in the House of Lords with the expectation that it will become law in the spring of 2016. Some commentators have predicted that the Bill will lead to the end of social housing as we know it, but is this really the case? What are the implications for housing and local government and what are the threats and opportunities that the Bill presents?

The Bill contains a number of significant proposals for housing and local government including:

- Starter Homes
- The 'voluntary' right to buy for housing association tenants.
- The sale of 'high value' council homes.
- Near-market rents for social tenants on 'high incomes'
- Reducing Regulation of Social Housing
- Phasing out of lifetime tenancies
- Measures to tackle rogue landlords
- Neighbourhood Planning
- Planning reforms including automatic planning permission on brownfield sites and to support small builders.

The seminar will consider the implications of the Bill for Housing Associations, Local Authority Housing and Planning services and Local Authorities generally – including what the government is likely to do by regulation and what needs to be done to implement the Bill when it is passed. It is accompanied by a very useful guide entitled: "The Housing & Planning Bill – The Implications for Housing and Local Government"

## **Who should attend?**

All those with an interest in housing and / or planning, including: Councillors; Housing Association Board Members; Housing Managers and Accountants in Local Authorities and Housing Associations; Tenant Representatives and others.

## **Venues and Dates:**

**London:** Novotel Hotel, Waterloo – Tuesday 12<sup>th</sup> April 2016.

**North:** Novotel Hotel, Leeds – Tuesday 26<sup>th</sup> April 2016

For further information or to make a booking please click here:  
<http://www.awics.co.uk/h&pbill.asp>

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## Our other Seminars

Details of all our seminars are available on our website at:  
<http://www.awics.co.uk/seminars2016.asp>

Our seminars include:

- All You Want to Know about Housing Association Finance
- All You Want to Know about Scottish Social Housing Finance
- All You Want to Know about Local Authority Housing Finance
- All You Want to Know about Service Charges in Social Housing

Our seminars are held at venues in Cardiff, Edinburgh, Leeds and London.

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## About 'AWICS'

'AWICS' is a management consultancy and training company. We specialise in providing support in finance and management to clients in local government and housing in England, Scotland and Wales. We are well known for our ability to analyse and explain complex financial and management issues clearly.

Our mission statement is 'Independence, Integrity, Value'. We therefore provide support to clients from an independent standpoint that is designed to help the client to achieve their objectives. We are passionate about working with the utmost integrity. We believe that we offer the best value for money that is available today!

For more information about us and our services please visit our website at [www.awics.co.uk](http://www.awics.co.uk) or contact Adrian Waite at [Adrian.waite@awics.co.uk](mailto:Adrian.waite@awics.co.uk)

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- Interim Management – <http://www.awics.co.uk/interimmanagement.asp>
- Regional Seminars — <http://www.awics.co.uk/Seminars2016.asp>
- Webinars – <http://www.awics.co.uk/webinars.asp>
- In-House Training — <http://www.awics.co.uk/inHouseCourses.asp>
- Independent Residents' Advice — <http://www.awics.co.uk/IndependentTenantAdvice.asp>
- Technical Books — <http://www.awics.co.uk/publications.asp>
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