

Appendix A – The Homes and Communities Agency Grant Funding Conditions under the Affordable Homes Programme

Funding Conditions

Preamble

These Funding Conditions apply to both ‘committed programme’ schemes and all allocations made under the Affordable Homes Programme (AHP) 11-15 programme, including the sub programmes. They also apply to any allocations made under the Affordable Homes Guarantees Programme and under the Care and Support Specialist Housing Programme.

‘The Committed programme’ is made up of allocations made under the National Affordable Housing Programme (NAHP), or previous affordable housing programmes, and pre-allocations agreed under the 08-11 NAHP to be delivered within the 11-15 Programme Period.

The affordable housing investment provisions of the Housing and Regeneration Act 2008 came into force from 1 April 2010. Allocations for the provision of affordable housing made prior to 1 April 2010 are treated as being made under s18 of the Housing Act 1996. Allocations for the provision of affordable housing made from 1 April 2010 (including substitute allocations) are made under s19 of the Housing and Regeneration Act 2008. It is likely that a number of providers will have allocations made under both sets of powers. In addition, from 1 April 2012 the Homes and Communities investment powers within Greater London pass to the Greater London Authority (GLA) who may provide funding for housing and regeneration under sections 30 and 333ZE of the GLA Act (as amended). These Funding Conditions apply to all allocations that exist outside of London, regardless of the powers under which they were made.

The Funding Conditions apply to all Registered Providers (RPs) of social housing, including newly registered RPs and local authorities.

These Funding Conditions set out the requirements that must be met by RPs when using Social Housing Grant (SHG), Social Housing Assistance (SHA), Purchase Grant (or any successor assistance to it) provided by the Homes & Communities Agency (HCA) and its predecessor body the Housing Corporation (HC). For the purposes of these Funding Conditions, the generic term “grant” is used throughout to cover all of the above.

Grant Conditions applied to all Programmes

1. All funding is subject to either the provisions of the Housing Act 1996 or the Housing and Regeneration Act 2008 as applicable (or any amendment or re-enactment thereof) and any applicable determinations made under those Acts by the HCA.
2. All Grant applications and other scheme submissions relating to the achievement of forecast milestones must be made, and all Grants provided must be used, in accordance with the HCA's published criteria, procedures and audit arrangements; including but without limitation the Affordable Housing Capital Funding Guide. Non compliance with the HCA's requirements and procedures could result in the suspension or withdrawal of allocations or payments and recovery of Grant (plus interest where applicable). Where recovery arises within Greater London recovery will be to the GLA.
3. Grant funding is conditional upon RPs meeting the standards set by the social housing regulator under Sections 193 and 194 of the HRA 2008 including the regulator's tenancy standard. This will be monitored by the social housing regulator and assessments of providers published in accordance with the Regulatory Framework. *'The regulatory framework for social housing in England from April 2012' and associated materials can be found on the HCA's website at <http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>.*
4. Where RPs are undertaking the role of Employer/Client on developments for which Grant has been requested, funding is conditional upon RPs undertaking grant funded projects in accordance with the principles set out in the '2012 Construction Commitments - Affordable Housing Provider version'. The HCA will exercise discretion in relation to RPs undertaking small or occasional projects with insignificant construction activity.
5. All Grant paid must be applied to the provision of affordable housing and must be used as prescribed in the HCA's guidance. RPs should ensure appropriate financial appraisal of schemes to confirm their viability both during the development period and in the long term. Where RPs have specified that schemes are to be developed to higher standards the schemes must be developed to incorporate these features unless specific prior approval to waive certain aspects is granted by the HCA. The dwellings produced should meet the HCA's Design & Quality Standards (April 2007). Housing Quality Indicators (HQI) assessments should be carried out at Feasibility, Scheme Design and Practical Completion stages and recorded within the HQI section of IMS.
6. Funding is conditional on RPs either possessing a legal interest in the property already, or having entered into a binding legal agreement to acquire such an interest as part of a scheme, prior to drawing down Grant.

Where RPs are acquiring an interest in the property or where works are to be done, the property must offer good title. Property already in RP's ownership must comply with this condition. Where a leasehold interest is to be acquired, the outstanding term should be at least thirty years for rehabilitation schemes, sixty years for new build schemes, and at least 99 years for affordable home ownership schemes at the date of purchase completion.

7. Under the NAHP 08-11 Programme Partnering Agreement (PPA) grant can be paid via the Lead Partner to other RPs within the partnerships. In this case, the Lead Partner is simply a conduit for payment and not a grant recipient. Lead Partners do not, therefore, need an interest in the site to enable this transaction.
8. No member, employee, agent or consultant of RPs or any partner organisation should have any interest in the proposed vendor, contractor or the land or property to be acquired, including properties purchased by individuals under Affordable Home Ownership or other such schemes. This includes any firm, partnership or organisation in which they or their families are involved.
9. The HCA takes a zero tolerance approach to bribery and corruption and sets the highest standards of impartiality, integrity and objectivity in relation to the stewardship of public funds and the management of its activities. The principles contained within this policy apply to any body or organisation undertaking business with the HCA. The Agency's Anti-Bribery and Corruption policy can be accessed via the link located within the Agency's Ethical Policies website page:

<http://www.homesandcommunities.co.uk/ethical-policies>
10. For the committed programme there should be consistency between the rents, including Housing Benefit (HB) eligible service charges specified by RPs at the time of Grant allocation, with those agreed at confirmation of Grant stage and those charged from first letting or point of sale onwards. RPs will therefore charge rents, including HB eligible service charges, on first letting or point of sale which are no higher than those agreed at confirmation of Grant and thereafter it will only change its rents in compliance with standards specified by the social housing regulator. The social housing regulator standard also applies to service charges and includes requirements related to annual changes. Where this is not the case, RPs must be able to demonstrate that the service charge increase is based on cost recovery. RPs should note the rent restriction does not apply to those specific committed programme schemes where an

agreement is in place to convert these units to Affordable Rent prior to completion.

11. For the 11-15 programme RPs rents must be consistent with those agreed at programme offer (unless a programme change notice has been agreed subsequently).
12. Where a scheme is to be developed by a different RP from that which will ultimately own or manage the scheme, there must be a written agreement between the RPs on the Terms of Transfer and the rents including HB eligible service charges to be charged for the scheme.
13. The conditions above in respect of rents and service charges apply equally where affordable housing is transferred to an RP, from an unregistered body which has received funding to develop that housing, whether under s27A of the Housing Act 1996 or s19 of the Housing and Regeneration Act 2008.
14. All funding is subject to RPs complying with the EU Procurement regime.
15. RPs must ensure that house builder warranties suitable for mortgage purposes together with the accompanying 'cover note' as required under the Council of Mortgage Lenders (CML) initiative are available upon completion of homes.
16. RPs are required to commission an appropriately qualified independent consultant or auditor to undertake a programme of self-assessment procedural compliance audit.
17. For the committed programme RPs undertaking delegated development activities in partnership with a 'Lead' RP shall fully co-operate with the Lead Organisation in order to enable the Lead Organisation to discharge its functions on behalf of its partner RP.
18. For the committed programme where an RP is acting as the 'Lead' for a group of other RPs that are participating in the delivery and/or management of homes included within a PPA, then that Lead Organisation will be deemed responsible to the HCA for the following additional responsibilities and obligations on behalf of any of the participating RPs:
 - monitoring programme delivery by all RP members of the partnership and taking appropriate action to avoid slippage;
 - ensuring that the principles of the '2012 Construction Commitments AHP version' are understood and followed within the partnership;
 - determining the individual RP that will carry out development functions for specific projects;

- usage of suitable legal and procedural documentation for all partnership members including an appropriate and binding agreement between the Lead RPs and the other participating RPs that sets out the roles and responsibilities of all parties and details arrangements for resolving disputes within the partnership;
- actively and effectively undertaking the role of Design Champion and promoting good design within the partnership;
- ensuring that relevant staff are trained in the use of 'Housing Quality Indicators' (HQIs) and in the assessment of projects using the 'Building for Life' criteria;
- ensuring that house builder warranties suitable for mortgage purposes together with the accompanying 'cover note' as required under the CML initiative are available upon completion of homes;
- where necessary, providing staff training and/or skills assistance to other partner RPs participating in development activities;
- where a development is carried out on behalf of another RP within the partnership, ensuring that the build contract is assignable to the other RP on completion, together with warranties from all design consultants and sub-contractors and where relevant, obtaining consent from the social housing regulator for the transfer;
- arranging regular progress review meetings involving all members of the partnership;
- agreeing and facilitating a programme of Quarterly Review meetings with the HCA's lead investor or lead area contact;
- commissioning appropriately qualified independent auditors to undertake a programme of self-assessment procedural compliance performance tests across the partnership as agreed with the HCA in accordance with the HCA's published standardised terms of engagement.

19. For the 11-15 programme RPs should comply with the lead partner responsibilities as set out in the Framework Delivery Agreement.

RENT

20. All properties developed for letting at affordable rents on assured tenancies with SHG/SHA funding will be subject to the (Right to Acquire) provisions of section 16 of the Housing Act 1996 (or any amendment or re-enactment thereof), unless they are exempted by Part V of the Housing Act 1985 as amended by the Housing (Right to Acquire) Regulations 1997 or under one of the Housing (Right to Acquire or Enfranchise)(Designated Rural Areas) Orders 1997 or any subsequent amendments or because they are properties funded as part of a Temporary Social Housing scheme. In this context, "developed for letting at affordable rents" includes new build, rehabilitation, off the shelf, existing satisfactory purchase, purchase and repair, and re-improvement schemes.

SHARED OWNERSHIP

21. The shared ownership lease used by RPs must include the Fundamental Clauses detailed in the HCA's Affordable Housing Capital Funding Guide. Failure to include, a breach of, or variation (without the explicit consent of the Agency) of the Fundamental Clauses may be considered a Relevant Event under clause 7(e) of the HCA's The Recovery of Capital Grants and Recycled Capital Grant Fund General Determination 2012, or its replacement, for Grant recovery purposes.

EQUITY LOAN

22. For all shared equity schemes RPs must hold a valid Consumer Credit Licence and have received a Direction under section 60(3) of the Consumer Credit Act 1974 (as amended) as required by the HCA's Equity Loan procedures.

PROGRAMME MANAGEMENT/SYSTEM MANAGEMENT

23. RPs must join and fully participate in the Department for Communities and Local Government's "Continuous Recording of Lettings System" (CORE) if they have a current development programme and they own or manage either self contained homes and/or hostel/shared housing bedspaces
24. The RP must join and fully participate in recording both:
 - any lettings made; and
 - any sales of RP stock, including outright sales and shared ownership schemes, but excluding sales of additional equity shares purchased by existing shared owners (known as 'staircasing').
25. RPs must follow the processes for re-forecasting milestones and for proposing any Grant variation as set out in the HCA's Affordable Housing Capital Funding Guide. Decisions on accepting proposed variations will be made in the light of the HCA's available resources and the organisation's progress towards meeting its targets.
26. The HCA may impose sanctions including amendment or withdrawal of allocations if forecast milestones are not met.
27. In the event of RPs failing to comply with these Funding Conditions or if there is any cause for serious concern about their performance or financial viability, the HCA reserves the right to suspend funding and, where there is a serious breach of these Funding Conditions or requirements set out in the Affordable Housing Capital Funding Guide, to recover relevant Grant payments made, plus interest where appropriate.

28. If RPs should fail to comply with the conditions specified under sections 18 (3), 20 (4) and 21(4) of the Housing Act 1996, or those imposed or required under ss19 and 31 to 33 of the Housing And Regeneration Act 2008 the HCA may suspend, withhold or recover all or part of the Grant, plus interest where appropriate, in accordance with the determinations made or powers arising under the relevant Act and its published guidance - including the HCA's Affordable Housing Capital Funding Guide.
29. Where RPs receive Grant funding this will be subject to the Agency's grant recovery principles as outlined in its Recovery of Capital Grants and Recycled Capital Grant Fund General Determination 2012 as supplemented by requirements in the Agency's Affordable Housing Capital Funding Guide unless otherwise specified in the Grant Agreement or Framework Delivery Agreement (FDA). These principles will also be applied where affordable housing is transferred to an RP, from an unregistered body which has received funding to develop that housing, whether under s 27A of the Housing Act 1996 or s 19 of the Housing and Regeneration Act 2008.
30. RPs must review their security arrangements and in particular:
 - ensure that the HCA is notified immediately if a Security Administrator leaves or changes posts and responsibilities;
 - ensure that the list of IMS users and their authorities is regularly reviewed to ensure they are correct and appropriate;
 - ensure that users are removed from IMS immediately they leave the organisation or are no longer required to work on IMS; and
 - ensure that IMS passwords are not shared and that RP (RSL) users are prevented from entering IMS under a UserID other than their own.
31. Failure to comply with the above may result in the withdrawal of the RP's IMS access.
32. A copy of the relevant Committee minutes of the decision to agree to comply with the Funding Conditions must be retained by RPs for Compliance Audit/Regulatory purposes.
33. The HCA reserves the right to issue additional conditions in year as deemed appropriate and necessary.
34. The HCA reserves the right to update and amend these throughout the duration of the AHP 11-15 programme period.