



Department for  
Communities and  
Local Government

# Starter Homes Regulations

Technical consultation



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Department for Communities and Local Government  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF  
Telephone: 030 3444 0000

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# Scope of the consultation

Topic of this consultation:	This technical consultation document seeks your views on the details for the regulations to support the starter homes clauses in the Housing and Planning Bill.
Scope of this consultation:	We are keen to hear the views of all parties with an interest in the starter homes proposals.
Geographical scope:	These proposals relate to England only.
Impact Assessment and Equalities Statement	An impact assessment and Equalities Statement for these regulations will be published shortly to help inform the consultation. We would welcome views on these and any additional evidence to support the assessments.

## Basic Information

To:	This is a public consultation
Body/bodies responsible for the consultation:	This consultation is bring run by the Housing Supply Directorate of the Department for Communities and Local Government
Duration:	This consultation will last for 8 weeks from 23 March to 18 May 2016.
Enquiries:	For any enquiries about the consultation please email your query to: <a href="mailto:starterhomestechnicalconsultation@communities.gsi.gov.uk">starterhomestechnicalconsultation@communities.gsi.gov.uk</a>
How to respond:	<p>You may respond by completing an online survey at: <a href="https://www.surveymonkey.co.uk/r/Starter_homes">https://www.surveymonkey.co.uk/r/Starter_homes</a></p> <p>Alternatively you can email your response to the questions in this consultation to <a href="mailto:starterhomestechnicalconsultation@communities.gsi.gov.uk">starterhomestechnicalconsultation@communities.gsi.gov.uk</a></p> <p>If you are responding by email, it would be helpful if you could use the summary of questions provided in word format.</p> <p>When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"> <li>- your name,</li> <li>- your position (if applicable),</li> <li>- the name of organisation (if applicable),</li> <li>- an address (including post-code),</li> <li>- an email address, and</li> <li>- a contact telephone number</li> </ul>

# Ministerial foreword

We are taking forward ambitious measures to increase the supply of housing and improve prospects of home ownership for many. We aim to deliver 1 million new homes to boost housing supply significantly. We want to ensure young people are not denied that which their parents took for granted – the opportunity to buy their own home, settle down and enjoy the security that home ownership brings. That is why we have committed to building 200,000 high quality starter homes exclusively for young first time buyers under 40, to be sold at a minimum of 20% below the open market value.

We want to see starter homes built on housing sites across the country. The Housing and Planning Bill sets out the statutory framework for the delivery of starter homes, and will be supported by changes to national planning policy, which were subject to public consultation ending on 22 February 2016. We announced a £2.3 billion funding package to support the delivery of up to 60,000 starter homes. Of this funding £1.2 billion will - in the first instance – be made available to remediate or assemble brownfield land to deliver at least 30,000 starter homes through the Starter Homes Land Fund.

This technical consultation document seeks your views on the details for the regulations to be made under powers contained in the Housing and Planning Bill, including options for the Starter Homes requirement on reasonably sized sites. We want to hear views so the resulting regulations are feasible, proportionate and effective. I am confident that these reforms will help a generation of young people into home ownership.

A handwritten signature in black ink, appearing to read 'Brandon', with a long horizontal flourish extending to the right.

**Brandon Lewis MP, Minister of State for Housing and Planning**

# Section 1: Introduction

The Government is committed to increasing 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 40 and sold at a discount of at least 20 per cent of the market price.

To deliver this commitment, the Housing and Planning Bill (currently before Parliament) 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; and
- powers for the Secretary of State to intervene if local planning authorities fail to carry out their functions related to starter homes.

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) ; and
- the reporting arrangements for starter homes delivery.

This technical consultation sets out the Government's proposed approach for these regulations and seeks views from developers, local planning authorities and other partners about our proposals.

Consultation responses will help to inform the preparation of the regulations following the Housing and Planning Bill's Royal Assent.

In December 2015, the Government also published a consultation on further changes to national planning policy to complement these legislative reforms. This included a proposal to amend the definition of affordable housing for the purposes of national planning policy<sup>[1]</sup>. That consultation closed on 22nd February 2016. The consultation

document proposed to broaden the definition of affordable housing so it encompasses a fuller range of products that can support access to home ownership, including starter homes. Paragraph 11 of that consultation mentioned the Government's intention to consult on the percentage requirement for starter homes on reasonably-sized sites.

In light of the proposals now set out in this consultation document relating to the percentage requirement for starter homes we want to provide a further opportunity for respondents to make any additional representations on the proposed changes to the definition of affordable homes for the purpose of national planning policy. Any comments should be sent to [planningpolicyconsultation@communities.gsi.gov.uk](mailto:planningpolicyconsultation@communities.gsi.gov.uk) by no later than Friday 22 April.

[1] See

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/488276/151207\\_Consultation\\_document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488276/151207_Consultation_document.pdf)

## Section 2: What is a starter home?

Clause 2 of the Housing and Planning Bill defines a starter home as a new dwelling only available for purchase by qualifying first-time buyers and which is made available at price which is at least 20% less than its market value but which 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 which a person must fulfil to be eligible to purchase a starter home. These include that the purchaser is a first-time buyer (falling within the statutory definition) and that he or she is under the age of 40. 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 40 criterion. This section seeks views about our proposed approach on each of these elements.

### Restrictions on the sale and lettings of a starter home

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 5 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.

We propose that regulations would prevent starter homes being sold at full market value for a restricted period. We continue to 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 quickly sell to secure financial uplift. We would now like 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 which enables 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 8 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.

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 we therefore propose that the regulations will be place restrictions on renting out the property.

**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?**

## Age 40 eligibility

Starter homes are intended for purchase by first-time buyers under the age of 40. This age group has seen the most significant drop in home ownership over the last 20 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. We want to ensure that in circumstances where joint purchasers are both qualifying first time buyers but one is over the age of 40 and one is under 40, they should be able jointly to buy a starter home.

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.

We propose that the regulations should allow for injured service personnel and those whose partner has died in service to be exempt from the under age 40 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.

**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?**

# Section 3: The Starter Homes Requirement

## Statutory provisions

Evidence clearly points to a national need to support young, first time buyers into home ownership. Over the last 20 years, the proportion of under 40s who are homeowners in England has declined by over a third from 61% to 38% in 2014/15. Despite this change, expectations for home ownership remain high and 2.3 million households, currently in the private rented sector, said they expected to buy a home at some point in the future (English Housing Survey 2014/5).

To respond to this national need, 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.

It is important that the starter homes requirement is implemented in a way which does not undermine wider housing supply by making development unviable, or increase the administrative burdens on developers or local planning authorities.

The Government also recognises 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.

We would welcome views about the four key aspects of this approach which 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 which requires affordable housing contributions to be secured through section 106 agreements. We propose that the starter homes requirement applies to sites which meet at least one of the following criteria: 10 units or more or 0.5 or more hectares, This would ensure that very small sites would not have a compulsory starter homes requirement, which 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<sup>1</sup>.

An alternative would be to set a higher threshold at 25 or 50 units, to focus on larger sites only. However, this would result in fewer starter homes being delivered. We are also concerned that a higher threshold would create inconsistency with many local plan thresholds, so a scheme of 20 units would be caught by an existing affordable housing local plan policy but not the starter home requirement. A lower threshold, of for example 6 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.

**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?**

#### **b) Percentage requirement for starter homes**

The Government's intention is that the regulations for the starter homes requirement would set a clear percentage for the number of starter homes required on relevant residential developments. The starter homes requirement would be secured through a section 106 agreement. We 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 percentage will need to be set at a level which reflects:

- a national need to support home ownership for the under 40s, to address declining opportunities for home ownership in this group;
- general viability considerations for residential development so overall housing supply is not undermined; and
- 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 percentage of homes on a site which must be affordable housing varies across the country but is generally in the region of around 20 - 35%. These

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<sup>1</sup> Town and Country Planning (Development Management Procedure Order) (England) 2015

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.

We have examined the actual level of affordable housing contributions, delivered through Section 106 agreements over the last 3 years. Evidence suggests that a starter homes requirement of 20% of all homes delivered on a residential development would be viable on an average development. Annex A sets out the methodology and assumptions used.

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 percentage 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 percentage would be to reduce the likely overall level of starter home delivery and result in fewer starter homes for first time buyers.

A higher percentage of 25% would ensure most sites deliver a higher number of starter homes. There is a risk that if we set the percentage 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.

We have 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, we propose that a single national minimum requirement of 20% of all homes delivered as part of residential developments is broadly justified.

**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?**

## c) Exemptions to the requirement

### General Viability Exemption

We propose 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, we will introduce flexibility in the regulations to allow a lower percentage of starter homes to be provided.

We would particularly welcome 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.

**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?**

### Other Exemptions

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. We propose that the requirement should not apply to dedicated supported housing which provides specialist accommodation for a particular group and which 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 we propose that they are exempted.

We also recognise 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. We would welcome views on whether these schemes should be subject to the minimum starter homes requirement.

We are 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.

We would also welcome 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.

**Q8: Do you support the proposed exemptions from the starter homes 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 homes requirement warranted, and why?**

## The starter homes requirement and off site commuted sums

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, we 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.

We are seeking views on the contribution made to starter homes from purpose built private rented sector housing (for institutional investment). We 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. We 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, we propose 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. 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.

**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?**



## Section 4: Monitoring and reporting

The Government will be monitoring the delivery of starter homes across the country from March 2016 in order to identify where permissions have been sought for starter homes. We will then follow these applications to determine when development has started. DCLG 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.

We propose to set out in regulations that local planning authorities should prepare a monitoring report on starter homes which 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, we believe 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 gives 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.

**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?**

## Transitional provisions

The regulations will follow the affirmative procedure in that they will be subject to approval by both the House of Commons and House of Lords. The Government intends the regulations to apply on planning applications submitted to the local planning authority after the date the regulations come into force.

We wish to understand whether there is a strong justification for a transitional provision so that there is additional time for local planning authorities to consider the regulations and their application.

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

## Equalities considerations

We do not consider that the consultation proposals will have a negative impact on discrimination, good relations or equality of opportunity. In terms of the impact on people with protected characteristics the consultation proposals which could have the most impact are those relating to the way in which the starter homes requirement will be set. We will shortly be publishing an equalities statement relating to the proposals set out in this consultation and we would welcome feedback on this assessment, in particular whether there is any further evidence we should be considering in our assessment of the equalities implications or actions we should consider to mitigate the impacts.

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

## Assessment of impact

An impact assessment of these consultation proposals will be published shortly to help inform responses. We will be seeking views on the assumptions underpinning the impact assessment and have indicated relevant areas below:

**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.**

We would welcome any comments you have on any of the other assumptions in the starter homes impact assessment which will be published in due course.

# Summary of 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.

# Annex A: Securing affordable housing through planning obligations

To help inform consultation responses, this annex provides a broad summary of how much section 106 affordable housing is currently secured nationally, and our analysis about the proportion of starter homes which could be secured on average through section 106 agreements without impacting viability.

Most local plans now have some form of affordable housing policy in place which requires affordable housing contributions to be secured through section 106 planning obligations where viable.

We have examined the level of section 106 contributions to affordable housing over the last 3 years. Overall, 14,370 nil grant affordable homes secured through section 106 (i.e. affordable homes funded directly by private developers as a planning obligation) were completed in 2014/15. We estimate that in the three years from 2012-13 to 2014-15, nil grant s106 affordable housing completions made up 11% of the homes built by private developers:

	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>3 year total</b>
Completions (A)	118,540	130,340	155,080	404,000
Affordable housing completions (all) (B)	39,510	36,640	58,560	134,710
Nil grant s106 affordable housing completions (C)	7,630	11,570	14,370	33,570
Private market completions and nil grant s106 affordable housing completions (D = A-B+C)	86,650	105,280	110,890	302,820
Nil grant s106 affordable housing completions as a percentage of private market completions and nil grant s106 affordable housing completions (E = C/D)	9%	11%	13%	11%

Source: DCLG calculation using DCLG live tables 123, 1011 and 1000. Note that the numbers in this table exclude partial grant s106 affordable housing completions. Numbers may not sum due to rounding.

The percentage of affordable homes secured through section 106 is also dependent on the tenure of affordable housing being sought reflecting the different cost subsidy of each tenure for the developer; and is further complicated by the fact that some section 106 affordable housing has in the past been partly subsidised through grant.

## Average proportion of starter homes which could be secured through section 106

The cost to a developer of being required through a section 106 agreement to build starter homes is expected to be less per unit than other forms of affordable housing, as the starter homes discount is only at least 20% off market value; although the developer will face a higher sales risk as the purchaser will be an individual first time buyer rather than a housing association.

Accordingly, a higher proportion of starter homes could be expected to be secured through section 106 agreements on sites without impacting on site viability than other forms of affordable housing, although there would still be a threshold where the proportion would start to impact on viability.

To help identify this threshold on an average basis, we have estimated that, if the financial value of existing developer contributions towards affordable housing on sites of 10 or more units instead went towards starter homes, starter homes would make up approximately 22% of all private developer completions on sites of this size.

This estimate has been calculated on three years of local authority level completions data from 2012-13 to 2014-15 and takes the following into account:

- the mix of the different affordable housing types (social rent, affordable rent and affordable home ownership) funded through section 106;
- our evidence on the average discount on each of the different affordable housing types sold by developers as a percentage of market value to be<sup>2</sup>;
- whether the affordable housing funded through section 106 is nil grant or partial grant. Partial grant affordable housing was given a weighting of 30% based on an assumption that 30% of funding towards partial grant affordable housing comes from developers;<sup>3</sup> and
- DCLG analysis of data from Glenigan on the percentage of dwellings included in planning permissions for sites of different sizes.

This analysis does not imply that 22% is the maximum proportion of starter homes that any development can bear without affecting viability. It may be possible to secure a significantly higher proportion of starter homes on individual sites reflecting local market conditions and site requirements, but it does give an indication of where a percentage

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<sup>2</sup> We assume a discount of 20% for starter homes. In areas with high house prices, on some sites the discount may have to be higher in order for the starter homes to be sold below the £250k price cap outside London and the £450k price cap within London. Instances of this are likely to be lower if developers of sites in locations where property prices are very high are able to provide a commuted sum to the local authority in order for the starter homes to be built elsewhere.

<sup>3</sup> This reflects evidence in University of Sheffield, University of Cambridge and Curtin University of Technology (2010), 'The incidence, value and delivery of planning obligations in England in 2007-08'

requirement for starter homes may start on average to have an impact on site viability across England.



# About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.  
Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact DCLG Consultation Co-ordinator.

Department for Communities and Local Government  
2 Marsham Street  
London  
SW1P 4DF

or by e-mail to: [consultationcoordinator@communities.gsi.gov.uk](mailto:consultationcoordinator@communities.gsi.gov.uk)